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New Excise Tax on Stock Repurchases

The Inflation Reduction Act Will Impose a One Percent Tax on Stock Repurchases, With Unique Implications for Banking Organizations

The Inflation Reduction Act of 2022 was passed by the Senate on August 7, 2022 and by the House of Representatives on August 12, 2022. President Biden is expected to sign the Act into law this week. The Act will, among other things, impose a new one percent tax on stock repurchases after December 31, 2022 by publicly traded U.S. companies. Stock repurchases will generally be subject to the tax, but regular dividends will not be.

Public companies generally decide whether to provide distributions to shareholders through dividends, stock repurchases or both based on a mixture of financial, business and investor considerations. For banking organizations, supervisory policy generally discourages dividends but not repurchases that exceed 40%-50% of earnings. This policy reflects a regulatory concern about the reputational impact of a banking organization's reducing the level of its regular dividend, as well as a general view that stock repurchases provide firms more flexibility in managing their capital. Bank regulation and supervision is likely to inform whether and how banking organizations revise their capital distribution practices in light of the new excise tax.

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