Office of Thrift Supervision
Department of the Treasury

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MEMORANDUM FOR: Chief Executive Officers

FROM: Richard M. Riccobono

SUBJECT: Interagency Guidance on Electronic Financial Services and Consumer Compliance

The Federal Financial Institutions Examination Council (FFIEC) has issued the attached *Guidance on Electronic Financial Services and Consumer Compliance*. This guidance provides financial institutions with information on the application of federal consumer protection laws and regulations to emerging electronic financial services. It also seeks to promote compliance with the relevant laws and regulations. The FFIEC issued this interagency guidance in response to industry requests for information on the appropriate manner to address electronic services under the existing regulatory framework.

The regulatory environment is evolving in response to the introduction and implementation of new electronic banking technologies. For example, the Board of Governors of the Federal Reserve System recently published proposed rules that may result in additional changes to relevant consumer protection regulations. Subsequent regulatory revisions, policy statements, and guidelines may be issued to address other aspects of the new electronic technologies being employed to deliver financial services.

The guidance contains two sections:

- "Compliance Regulatory Environment," which summarizes relevant sections of the federal consumer protection laws and regulations that address electronic financial services, and includes interim compliance policy guidance with practical examples for applying existing consumer laws and regulations; and

- "The Role of Consumer Compliance in Developing and Implementing Electronic Services," which discusses the need for compliance officer involvement in the design, development, implementation, and monitoring of electronic banking operations.

As you know, management is ultimately responsible for ensuring that the institution's electronic banking operations comply with all applicable laws, regulations and policies. Steps should be taken to ensure that the institution's compliance program is modified to account for the type and level of

technology used by the institution. Management should also ensure that a solid training program and an effective monitoring system are implemented to cover all forms of electronic banking operations.

The attached interagency guidance is available on the Internet at http://www.ots.treas.gov/ebanking.html or http://www.ffiec.gov. If you have any questions, please contact your appropriate OTS Regional Office, or Paul J. Robin, Program Analyst, Compliance Policy, at (202) 906-6648.

Attachment

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

GUIDANCE ON ELECTRONIC FINANCIAL SERVICES AND CONSUMER COMPLIANCE[1]

INTRODUCTION

Federally insured depository institutions are developing or employing new electronic technologies for delivering financial products to improve customer service and enhance competitive positions. Some of those institutions have asked regulators questions regarding the application of existing consumer protection laws and regulations to electronic product delivery methods. It is clear from these questions that these institutions are uncertain about the appropriate manner to address electronic services under the existing regulatory framework. Accordingly, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision (collectively, the "Agencies") are providing federally insured depository institutions with some basic information and suggested guidance pertaining to federal consumer protection laws and regulations and their application to electronic financial service operations.

This issuance is intended to assess the implications of some of the emerging electronic technologies for the consumer regulatory environment, to provide institutions with an overview of pertinent regulatory issues, and to offer suggestions on how to apply existing consumer laws and regulations to new electronic financial services.

The term "electronic financial service" as used in this guidance includes, but is not limited to, on-line financial services, electronic fund transfers, and other electronic payment systems. On-line financial services, stored value card systems, and electronic cash are among the new electronic products being introduced in the market. Financial institutions are establishing Internet web sites that advertise products and services, accept electronic mail, and provide consumers with the capability to conduct transactions through an on-line system. Services and products can be accessed through personal computers connecting to the institution via proprietary software, commercial on-line services, and the Internet, or through other access devices including, for example, video kiosks and interactive television. Financial institutions should be advised that many of the general principles, requirements, and controls that apply to paper transactions may also apply to electronic financial services.

This guidance letter contains two sections: 1) The Compliance Regulatory Environment,

[1] This document does not serve as an Official Staff Commentary or shield institutions that comply with this guidance from civil liability for violations under the various statutes addressed.

and 2) The Role of Consumer Compliance in Developing and Implementing Electronic Services. Examples relating to compliance issues are used for illustrative purposes; institutions are encouraged to use the concepts underlying these examples when implementing an electronic services technology plan. It should be understood that existing consumer laws and regulations generally apply to applicable transactions, advertisements and other services conducted electronically. It should also be understood, however, that not all of the consumer protection issues that have arisen in connection with new technologies are specifically addressed in this guidance. Additional communiqués may be issued in the future to address other aspects of consumer laws and regulations as the financial service environment evolves.

COMPLIANCE REGULATORY ENVIRONMENT

This section summarizes and highlights the most recent changes in the relevant sections of federal consumer protection laws and regulations that address electronic financial services, and notes other relevant provisions of law. This information is not intended to be a complete checklist for consumer compliance in the electronic medium. It does not address a number of open issues surrounding the application of consumer rules to new electronic financial services that are currently being considered by the appropriate agencies. It is critical that institutions providing electronic delivery mechanisms develop and maintain an in-depth knowledge of the relevant statutes and regulations. Moreover, it should be kept in mind that additional changes to relevant laws and regulations arising in response to the new electronic service technologies may occur. The rapid development of technology and new products will require updating of this information.

Generally, the regulatory requirement that disclosures be in writing and in a form the customer can keep has been met by providing paper disclosures to the customer. For example, a bank would supplement electronic disclosures with paper disclosures until the regulations have been reviewed and changed, if necessary, to specifically allow electronic delivery of disclosures. Some of the consumer regulations were reviewed and changed to reflect electronic disclosures. These changes are summarized in this section. Also, attached to this guidance is a matrix entitled "Compliance Issues Involving Electronic Services" that highlights some of the principal compliance issues that should be considered by financial institutions when developing and implementing electronic systems.

DEPOSIT SERVICES

Electronic Fund Transfer Act (Regulation E)

Generally, when on-line banking systems include electronic fund transfers that debit or credit a consumer's account, the requirements of the Electronic Fund Transfer Act and Regulation E apply. A transaction involving stored value products is covered by Regulation E when the transaction accesses a consumer's account (such as when value is "loaded" onto the

card from the consumer's deposit account at an electronic terminal or personal computer).

In accordance with §205.4, financial institutions must provide disclosures that are clear and readily understandable, in writing, and in a form the consumer may keep. An Interim rule was issued on March 20, 1998 that allows depository institutions to satisfy the requirement to deliver by electronic communication any of these disclosures and other information required by the act and regulations, as long as the consumer agrees to such method of delivery.

According to the Federal Reserve Board Official Staff Commentary (OSC) §205.7(a)-4, financial institutions must ensure that consumers who sign-up for a new banking service are provided with disclosures for the new service if the service is subject to terms and conditions different from those described in the initial disclosures required under §205.7. Although not specifically mentioned in the commentary, this applies to all new banking services including electronic financial services.

The OSC also clarifies that terminal receipts are unnecessary for transfers initiated on-line. Specifically, OSC §205.2(h)-1 provides that, because the term "electronic terminal" excludes a telephone operated by a consumer, financial institutions need not provide a terminal receipt when a consumer initiates a transfer by a means analogous in function to a telephone, such as by a personal computer or a facsimile machine.

Additionally, OSC §205.10(b)-5 clarifies that a written authorization for preauthorized transfers from a consumer's account includes an electronic authorization that is not signed, but similarly authenticated by the consumer, such as through the use of a security code. According to the OSC, an example of a consumer's authorization that is not in the form of a signed writing but is, instead, "similarly authenticated" is a consumer's authorization via a home banking system. To satisfy the regulatory requirements, the institution must have some means to identify the consumer (such as a security code) and make a paper copy of the authorization available (automatically or upon request). The text of the electronic authorization must be displayed on a computer screen or other visual display that enables the consumer to read the communication from the institution. Only the consumer may authorize the transfer and not, for example, a third-party merchant on behalf of the consumer.

Pursuant to §205.6, timing in reporting an unauthorized transaction, loss, or theft of an access device determines a consumer's liability. A financial institution may receive correspondence through an electronic medium concerning an unauthorized transaction, loss, or theft of an access device. Therefore, the institution should ensure that controls are in place to review these notifications and also to ensure that an investigation is initiated as required.

Truth in Savings Act (Regulation DD)

Financial institutions that advertise deposit products and services on-line must verify that proper advertising disclosures are made in accordance with all provisions of §230.8. Institutions

should note that the disclosure exemption for electronic media under §230.8(e) does not specifically address commercial messages made through an institution's web site or other on-line banking system. Accordingly, adherence to all of the advertising disclosure requirements of §230.8 is required.

Advertisements should be monitored for recency, accuracy, and compliance. Financial institutions should also refer to OSC §230.2(b)-2(i) if the institution's deposit rates appear on third party web sites or as part of a rate sheet summary. These types of messages are not considered advertisements unless the depository institution, or a deposit broker offering accounts at the institution, pays a fee for or otherwise controls the publication.

Pursuant to §230.3(a), disclosures generally are required to be in writing and in a form that the consumer can keep. Until the regulation has been reviewed and changed, if necessary, to allow electronic delivery of disclosures, an institution that wishes to deliver disclosures electronically to consumers, would supplement electronic disclosures with paper disclosures.

Expedited Funds Availability Act (Regulation CC)

Generally, the rules pertaining to the duty of an institution to make deposited funds available for withdrawal apply in the electronic financial services environment. This includes rules on fund availability schedules, disclosure of policy, and payment of interest. Recently, the FRB published a commentary that clarifies requirements for providing certain written notices or disclosures to customers via electronic means. Specifically, the commentary to §229.13(g)-1a states that a financial institution satisfies the written exception hold notice requirement, and the commentary to §229.15(a)-1 states that a financial institution satisfies the general disclosure requirement by sending an electronic version that displays the text and is in a form that the customer may keep. However, the customer must agree to such means of delivery of notices and disclosures. Information is considered to be in a form that the customer may keep if, for example, it can be downloaded or printed by the customer. To reduce compliance risk, financial institutions should test their programs' ability to provide disclosures in a form that can be downloaded or printed.

Reserve Requirements of Depository Institutions (Regulation D)

Pursuant to the withdrawal and transfer restrictions imposed on savings deposits §204.2(d)(2) electronic transfers, electronic withdrawals (paid electronically) or payments to third parties initiated by a depositor from a personal computer are included as a type of transfer subject to the six transaction limit imposed on passbook savings and MMDA accounts.

Institutions also should note that, to the extent stored value or other electronic money represents a demand deposit or transaction account, the provisions of Regulation D would apply to such obligations.

LOAN/LEASING SERVICES

Truth in Lending Act (Regulation Z)

The commentary to regulation Z was amended recently to clarify that periodic statements for open-end credit accounts may be provided electronically, for example, via remote access devices. OSC §226.5(b)(2)(ii)-3 states that financial institutions may permit customers to call for their periodic statements, but may not require them to do so. If the customer wishes to pick up the statement and the plan has a grace period for payment without imposition of finance charges, the statement, including a statement provided by electronic means, must be made available in accordance with the "14-day rule," requiring mailing or delivery of the statement not later than 14 days before the end of the grace period.

Provisions pertaining to advertising of credit products should be carefully applied to an on-line system to ensure compliance with the regulation. Financial institutions advertising open-end or closed-end credit products on-line have options. Financial institutions should ensure that on-line advertising complies with §226.16 and §226.24. For on-line advertisements that may be deemed to contain more than a single page, financial institutions should comply with §226.16(c) and §226.24(d), which describe the requirements for multiple-page advertisements.

Consumer Leasing Act (Regulation M)

OSC §213.2(b)-1 provides examples of advertisements that clarify the definition of an advertisement under Regulation M. The term advertisement includes messages inviting, offering, or otherwise generally announcing to prospective customers the availability of consumer leases, whether in visual, oral, print, or electronic media. Included in the examples are on-line messages, such as those on the Internet. Therefore, such messages are subject to the general advertising requirements under §213.7.

Equal Credit Opportunity Act (Regulation B)

OSC §202.5(e)-3 clarifies the rules concerning the taking of credit applications by specifying that application information entered directly into and retained by a computerized system qualifies as a written application under this section. If an institution makes credit application forms available through its on-line system, it must ensure that the forms satisfy the requirements of §202.5.

OSC §202.13(b)-4 also clarifies the regulatory requirements that apply when an institution takes loan applications through electronic media. If an applicant applies through an electronic medium (for example, the Internet or a facsimile) without video capability that allows employees of the institution to see the applicant, the institution may treat the application as if it were received by mail.

Fair Housing Act

A financial institution that advertises on-line credit products that are subject to the Fair Housing Act must display the Equal Housing Lender logotype and legend or other permissible disclosure of its nondiscrimination policy if required by rules of the institution's regulator (OTS §528.4, FDIC §338.3, NCUA §701.31, FRB Fair Housing Advertising and Poster Requirements, 54 Fed. Reg. 11,567 (1989)).

Home Mortgage Disclosure Act (Regulation C)

OSC §203.4(a)(7)-5 clarifies that applications accepted through electronic media with a video component (the financial institution has the ability to see the applicant) must be treated as "in person" applications. Accordingly, information about these applicants' race or national origin and sex must be collected. An institution that accepts applications through electronic media without a video component, for example, the Internet or facsimile, may treat the applications as received by mail.

Fair Credit Reporting Act

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Public Law 104-208, §2408, 110 Stat. 3009 (1996)) amended Section 610 of the Fair Credit Reporting Act (15 U.S.C. §1681h), to allow consumer reporting agencies to make the disclosures to consumers required under Section 609 by electronic means if authorized by the consumer. Consumers must specify that they wish to receive the disclosures in an electronic form, and such form of delivery must be available from the credit reporting agency.

Any participant in an electronic service system who regularly gathers or evaluates consumer credit information or other information about consumers for the purpose of furnishing consumer reports to third parties (for monetary fees, dues, or on a cooperative nonprofit basis) is considered a consumer reporting agency. In such cases, the participant must comply with the applicable provisions of the FCRA.

MISCELLANEOUS

Advertisement Of Membership (FDIC 12CFR §328) (NCUA RR 740)

The FDIC and NCUA consider every insured depository institution's on-line system top level page, or "home page", to be an advertisement. Therefore, according to these agencies' interpretation of their rules, financial institutions subject to §328.3 (NCUA RR §740.4) should display the official advertising statement on their home pages unless subject to one of the exceptions described under §328.3(c) (NCUA RR§740.4(c)). Furthermore, each subsidiary page of an on-line system that contains an advertisement should display the official advertising

statement unless subject to one of the exceptions described under §328.3(c) (NCUA RR §740.4(c)). Additional information about the FDIC's interpretation can be found in the Federal Register, Volume 62, page 6145, dated February 11, 1997.

The official bank sign (FDIC §328.2), official savings association sign (FDIC §328.4), and NCUA official sign (NCUA RR 740.3) are currently not required to be displayed on an institution's on-line system.

Fair Debt Collection Practices Act

According to Section 803(2) of the Fair Debt Collection Practices Act (15 U.S.C. §1692a(2)), "communication" means conveying information regarding a debt directly or indirectly to any person through any medium. Financial institutions acting as debt collectors for third parties are permitted to communicate via electronic means, such as the Internet, to collect a debt or to obtain information about a consumer. In such instances, financial institutions must ensure that their communications and practices are in keeping with the requirements of the Act.

Flood Disaster Protection Act

The regulation implementing the National Flood Insurance Program requires a financial institution to notify a prospective borrower and the servicer that the structure securing the loan is located or to be located in a special flood hazard area. The regulation also requires a notice of the servicer's identity be delivered to the insurance provider. While the regulation addresses electronic delivery to the servicer and to the insurance provider, it does not address electronic delivery of the notice to the borrower.

COMPLIANCE POLICY GUIDANCE

The following discussion provides specific interim compliance policy guidance regarding advertising, disclosures/notices, applications, stored value cards, and record keeping. This guidance is intended to discuss the regulations' requirements as presently written in the context of the electronic financial services environment and, to the extent possible, to provide practical examples for application of this guidance. This guidance may have to be reconsidered and revised at such time as applicable regulations are amended or clarified. Institutions may however, find it useful to apply the concepts underlying the examples in this guidance to their own electronic financial service operations. The electronic financial services environment is dynamic thus, the guidance outlined in this letter could also evolve based on developments in technology and the continuation of deliberations regarding appropriate policies.

Advertisements

Generally, Internet web sites are considered advertising by the regulatory agencies. In some cases, the regulations contain special rules for multiple-page advertisements. It is not yet

clear what would constitute a single "page" in the context of the Internet or on-line text. Thus, institutions should carefully review their on-line advertisements in an effort to minimize compliance risk.

In addition, Internet or other systems in which a credit application can be made on-line may be considered "places of business" under HUD's rules prescribing lobby notices. Thus, institutions may want to consider including the "lobby notice," particularly in the case of interactive systems that accept applications.

Disclosures/Notices

Several consumer regulations provide for disclosures and/or notices to consumers. The compliance officer should check the specific regulations to determine whether the disclosures/notices can be delivered via electronic means. The delivery of disclosures via electronic means has raised many issues with respect to the format of the disclosures, the manner of delivery, and the ability to ensure receipt by the appropriate person(s). The following highlights some of those issues and offers guidance and examples that may be of use to institutions in developing their electronic services.

Disclosures are generally required to be "clear and conspicuous." Therefore, compliance officers should review the web site to determine whether the disclosures have been designed to meet this standard. Institutions may find that the format(s) previously used for providing paper disclosures may need to be redesigned for an electronic medium. Institutions may find it helpful to use "pointers[2]" and "hotlinks[3]" that will automatically present the disclosures to customers when selected. A financial institution's use solely of asterisks or other symbols as pointers or hotlinks would not be as clear as descriptive references that specifically indicate the content of the linked material.

Several regulations also require disclosures and notices to be given at specified times during a financial transaction. For example, some regulations require that disclosures be given at the time an application form is provided to the consumer. In this situation, institutions will want to ensure that disclosures are given to the consumer along with any application form. Institutions may accomplish this through various means, one of which may be through the automatic presentation of disclosures with the application form.

Regulations that allow disclosures/notices to be delivered electronically and require institutions to deliver disclosures in a form the customer can keep have been the subject of questions regarding how institutions can ensure that the consumer can "keep" the disclosure. A consumer using certain electronic devices, such as Web TV, may not be able to print or

[2] A "pointer" is a declarative statement that refers to the location within the system at which additional important information begins.

[3] A "hotlink" is an electronic connection between two or more electronic documents that are not in sequential order.

download the disclosure. If feasible, a financial institution may wish to include in its on-line program the ability for consumers to give the financial institution a non-electronic address to which the disclosures can be mailed.

In those instances where an electronic form of communication is permissible by regulation, to reduce compliance risk institutions should ensure that the consumer has agreed to receive disclosures and notices through electronic means. Additionally, institutions may want to provide information to consumers about the ability to discontinue receiving disclosures through electronic means, and to implement procedures to carry out consumer requests to change the method of delivery.

Furthermore, financial institutions advertising or selling non-deposit investment products through on-line systems, like the Internet, should ensure that consumers are informed of the risks associated with nondeposit investment products as discussed in the "Interagency Statement on Retail Sales of Non Deposit Investment Products." On-line systems should comply with this Interagency Statement, minimizing the possibility of customer confusion and preventing any inaccurate or misleading impression about the nature of the nondeposit investment product or its lack of FDIC insurance.

Electronic Stored Value Products

Electronic stored value products are retail payment products in which value is recorded on a personal electronic device or on a magnetic strip or computer chip in exchange for a predetermined balance of funds. Electronic stored value products may include stored value cards, smart cards, and electronic cash recorded on a personal electronic device, such as a personal computer. Electronic stored value cards can be either disposable or reloadable. Disposable cards are purchased with a specific electronic value embedded on the card that can be used for transactions until the electronic value is depleted. A reloadable card permits a user to increase, as necessary, the value on the card at an electronic terminal or device that accepts currency or that allows the user to transfer funds from an account to the card.

The Federal Reserve Board of Governors, in its Report to the Congress on the Application of the Electronic Fund Transfer Act to Electronic Stored-Value Products, for purposes of the study, describes electronic stored value products as retail payment products intended primarily for consumer payments that generally have some or all of the following characteristics:

- A card or other device that electronically stores or provides access to a specified amount of funds selected by the holder of the device and available for making payments to others.
- The device is the only means of routine access to the funds.
- The issuer does not record the funds associated with the device as an account in the

name of (or credited to) the holder.

The application of certain consumer protection laws and regulations to these products has not been determined. However, financial institutions that issue electronic stored value products may wish to provide information to consumers about the operation of these products to enable consumers to meaningfully distinguish among different payment products, such as stored value cards, debit cards and credit cards. Additionally, consumers likely would find it beneficial to receive information about the terms and conditions associated with the use of electronic stored value products, to ensure their informed use of these products. Some financial institutions that issue stored value products have provided consumers with a variety of disclosures including:

- federally insured or non-insured status of the product,
- all fees and charges associated with the purchase, use or redemption of the product,
- any liability for lost or stolen electronic stored value,
- any expiration dates, or limits on redemption of the electronic stored value, and
- toll-free telephone number for customer service, malfunction and error resolution.

FDIC General Counsel Opinion No. 8, dated July 16, 1996, states that insured depository institutions are expected to disclose in a clear and conspicuous manner to consumers the insured or non-insured status of the stored value products they offer to the public, as appropriate. Some financial institutions have also printed some of this information, such as expiration date and telephone number, directly on the card.

Financial institutions should also consider establishing procedures to resolve disputes arising from the use of the electronic stored value products.

Record Retention

Record retention provisions apply to electronic delivery of disclosures to the same extent required for non-electronic delivery of information. For example, if the web site contains an advertisement, the same record retention provisions that apply to paper-based or other types of advertisements apply. Copies of such advertisements should be retained for the time period set out in the relevant regulation. Retention of electronic copies is acceptable.

THE ROLE OF CONSUMER COMPLIANCE IN DEVELOPING AND IMPLEMENTING ELECTRONIC SERVICES

When violations of the consumer protection laws regarding a financial institution's electronic services have been cited, generally the compliance officer has not been involved in the development and implementation of the electronic services. Therefore, it is suggested that management and system designers consult with the compliance officer during the development and implementation stages in order to minimize compliance risk. The compliance officer should

ensure that the proper controls are incorporated into the system so that all relevant compliance issues are fully addressed. This level of involvement will help decrease an institution's compliance risk and may prevent the need to delay deployment or redesign programs that do not meet regulatory requirements.

The compliance officer should develop a compliance risk profile as a component of the institution's online banking business and/or technology plan. This profile will establish a framework from which the compliance officer and technology staff can discuss specific technical elements that should be incorporated into the system to ensure that the online system meets regulatory requirements. For example, the compliance officer may communicate with the technology staff about whether compliance disclosures/notices on a web site should be indicated or delivered by the use of "pointers" or "hotlinks" to ensure that required disclosures are presented to the consumer. The compliance officer can also be an ongoing resource to test the system for regulatory compliance.

Compliance officers will need to review their existing compliance policies and procedures and make appropriate modifications based upon the types of products, services, and operating features of the institution's online system. The compliance program may not need to be revamped, but merely extended to address the new level of technology employed by the institution. Staff should be trained and a monitoring system implemented to review continually the content and operation of the online programs to prevent inadvertent or unauthorized changes that may affect compliance with the regulations.

Management should review and revise the institution's electronic financial services as the regulatory environment changes and electronic delivery mechanisms evolve. This will help to ensure that the institution maintains an effective compliance program.

CONCLUSION

This guidance provides information for institutions to consider during the design, development, implementation and monitoring of electronic banking operations. Financial institutions are responsible for ensuring that their electronic banking operations are in compliance with applicable laws, regulations, and policies, including both federal and state provisions.

Financial institutions need to adapt to a changing technological environment so that compliance with consumer protections laws are maintained, while allowing the financial institution industry to continue to make effective use of new technology. Due to the continuing evolution of the technological environment and the associated regulatory environment, proposed changes to federal laws and regulations will undoubtedly affect the content of this letter in the

future. The regulatory agencies are interested and willing to discuss these issues with financial institutions during the design and development of their electronic banking programs. Additionally, regulatory agency Internet sites may also contain information helpful to financial institutions.

COMPLIANCE ISSUES INVOLVING ELECTRONIC SERVICES

ON-LINE SERVICES: INTERNET, PERSONAL COMPUTER, INTERACTIVE TELEVISION OR VIDEO KIOSKS, ETC.

Advertising and Information Only Systems

Includes advertising of loans, leases, deposit services -- Truth in Lending Act, Equal Credit Opportunity Act, Consumer Leasing Act, Truth in Savings Act and Fair Housing Act apply.

- Unfair or Deceptive Advertising -- Consider state laws that may apply
- FDIC official advertising statement and Equal Housing Lending logo
- Information displayed as a on-line "lobby board" or scrolling message may constitute an advertisement

On-line Depository Services

Electronic Fund Transfer Act, Expedited Funds Availability Act, Truth in Savings Act, and Regulation D (Reserve Requirements of Depository Institutions) apply.

- Major areas for consideration: delivery of disclosures; notices; periodic statements; error resolution procedures
- Ensure appropriate account authorization, including signature issues
- Determine appropriate manner of delivering written notices and/or other information to and from the customer with an on-line account
- Ensure disclosures are delivered in a timely manner and are "clear and conspicuous"/ "clear and readily understandable" as required
- Ensure that correspondence and requests for information received from consumers via on-line or electronic communication are responded to in accordance with the regulations
- Consider BSA "Know your customer" implications

Lending and Leasing Services

Equal Credit Opportunity Act, Home Mortgage Disclosure Act, Consumer Leasing Act, Truth in Lending Act, Unfair and Deceptive Practices Act, Community Reinvestment Act, Fair Credit Reporting Act, and the Fair Housing Act apply.

- Major areas for consideration: delivery of disclosures; notices; periodic statements; error resolution procedures
- Determine appropriate manner of delivering "written" notices and/or other information to and from the customers in an on-line environment
- Ensure that disclosures are delivered in a timely manner and meet the "clear and conspicuous" standard as required
- Ensure timely delivery of Adverse Action Notices in an appropriate manner
- Ensure that on-line products are offered and evaluated on a nondiscriminatory basis and that no illegal discouragement exists
- Determine that monitoring information and/or data collection requirements of Regulation B, C, and BB are handled appropriately
- Ensure that applications taken on-line receive the information required by the regulation
- Ensure that correspondence received from consumers via electronic communication are responded to in accordance with the regulations

Non-Deposit Investment Products

Includes securities, mutual funds, and annuities
See Interagency Statement on Retail Sales of Non-deposit Investment Products.

- Ensure appropriate notices are provided or posted indicating the services are not FDIC-insured, not guaranteed by the bank, and subject to loss of principal
- Consider whether non-deposit investment sales are appropriately segregated from where retail deposits are solicited in an on-line environment