



# Compliance Corner

FEDERAL RESERVE BANK OF PHILADELPHIA

*Prepared for institutions supervised by the Consumer Compliance & CRA Unit*

## Web Site Compliance Issues

by Eddie L. Valentine, Supervising Examiner

This article highlights some key web site compliance issues and can be used as a guide to assist financial institutions in evaluating the overall effectiveness of their compliance management program for electronic banking delivery systems.

All electronic banking delivery systems, regardless of size or complexity, should be integrated into a financial institution's compliance management process. The major elements of an effective compliance management system are as critical to electronic banking as they are to banking through traditional delivery systems. An effective compliance management system contains two key components—board and management oversight and a compliance management program.

### Board and Management Oversight

A financial institution's board and management should recognize the consequences associated with non-compliance and devote sufficient resources to insure that the compliance program covers electronic banking systems. Management is also responsible for instilling a compliance cul-

ture throughout the organization, including the administration of electronic banking systems.

### Compliance Management Program

A carefully devised, implemented, and monitored compliance management program will provide a solid foundation for ensuring compliance in an electronic banking system. Compliance policies and procedures should be developed to provide comprehensive guidance for all personnel who develop, maintain, and/or administer these systems. In addition, the policies should address the bank's compliance, audit, and/or internal control systems. Specifically, all banks should have some process in place for reviewing the electronic element of the products they offer. Audit, legal, and compliance, or some combination of these three divisions, should be involved in the compliance review of electronic products.

### Common Compliance Issues

The compliance risk associated with an electronic banking site can be related to the degree of complexity of services provided. However, even a basic web site can contain violations

## IN THIS ISSUE

Web Site Compliance Issues ..... CC1

Stop the Complaining!  
How to Establish and Maintain an Effective Consumer Complaint Resolution Process ..... CC3

Regulation C and HMDA:  
What's Changing and When ..... CC5

## CIRCULATE TO:

- Compliance Officer
- Compliance Manager
- Compliance Staff
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

of consumer regulations. While reviewing web sites for compliance with consumer regulations, Federal Reserve examiners have identified three areas of specific weakness in addition to general web site requirements—loan advertisements, deposit advertisements, and non-deposit investment products. Not surprisingly, many weaknesses in web site compliance are also weaknesses in general compliance processes.

### **General Web Site Requirements**

- All electronic advertisements must be clear, conspicuous and not misleading.
- The Equal Housing Lender Logo is required on a financial institution's home page and all pages advertising housing-related loans.
- The FDIC Membership Statement or symbol must appear on a financial institution's home page and every page that includes deposit product advertising.
- *E-Sign Act* requirements must be met prior to providing consumers electronic disclosures and applications (refer to the 2nd Quarter 2001 edition of *SRC Insights* and *Compliance Corner* for more details on the *E-Sign Act*).
- Links to other web sites should be carefully considered for potential legal and reputation risks. In particular, links to real estate brokers and kids' web sites could pose compliance problems related to the *Real Estate Settlement Procedures Act* (RESPA) and the *Children's Online Privacy Protection Act* (COPPA), respectively.

- Loan and deposit calculators provided on web sites should provide accurate calculations.
- A financial institution's online privacy policy should be consistent with the paper-based policy provided to customers in mailings and at branches.

### **Loan Advertisements**

- Web site loan advertisements should not discourage applicants from applying for loans based on any of the "prohibited bases" listed in the *Equal Credit Opportunity Act*.
- Advertisements for loans stating a rate of finance charge must state it as an "Annual Percentage Rate," using those three words. Furthermore, when a simple annual rate is shown, it must not appear more conspicuously than the APR.
- For open and closed-end loans, certain loan terms in an advertisement trigger legal requirements to disclose certain other terms of the loan.
- When variable rate disclosures are made available online, the annual percentage rate advertised must be the one in effect within the last 30 days.

### **Deposit Advertisements**

- Web site deposit advertisements must reflect the terms and conditions in the financial institution's deposit agreements.
- If an online deposit advertisement states a rate of return, it must state the rate as an "Annual Percentage Yield," using that term. The abbreviation "APY" can be used pro-

vided the term "Annual Percentage Yield" is stated at least once in the advertisement.

- Whenever the "Annual Percentage Yield" is stated in a deposit advertisement, the advertisement should state information about (i) variable rates; (ii) the time the annual percentage yield is offered; (iii) minimum balance; (iv) minimum opening deposit; (v) effect of fees; and (vi) features of time accounts, including time requirements, early withdrawal penalties, and required interest payouts.
- A deposit advertisement should not refer to or describe an account as "free" or "no cost" if any maintenance or activity fee may be imposed on the account.

### **Non-Deposit Investment Products**

Financial institutions advertising or selling non-deposit investment products on-line should ensure that consumers are informed of the risks associated with non-deposit investment products. On-line advertisements should minimize the possibility of customer confusion and prevent any inaccurate or misleading impression about the nature of the non-deposit investment product or its lack of FDIC insurance. Specifically, web sites advertising non-deposit investment products should comply with the following provisions.

- Disclosure must be made to customers in a conspicuous manner that these products are not insured and may lose value.

*continued on page CC4*

# Stop the Complaining!

## How to Establish and Maintain an Effective Consumer Complaint Resolution Process

by John D. Fields, Supervising Examiner

The Federal Reserve System has instituted formal procedures for receiving and responding to consumer complaints regarding state member banks. Consumer complaints about state nonmember banks, national banks, credit unions, and other financial institutions are referred to the appropriate regulatory agency.

This article discusses some of the major consumer complaints received by the Federal Reserve Bank of Philadelphia during 2001. The article also provides information that can enhance a bank's complaint resolution process.

### Checking Accounts

The primary complaints regarding checking accounts concern (i) increasing the amount of and/or imposing service charges and overdraft fees and (ii) check truncation policies and procedures.

- To minimize complaints regarding bank fees and service charges, it is recommended that changes to charges be mailed promptly to all depositors and be prominently displayed in the customer service and teller areas of the bank.
- To reduce check processing and record keeping costs, some banks have implemented a check truncation policy. Since these policies represent a major shift in a bank's procedures, it is recommended that any advertisements or brochures

that are used to describe changes to the bank's policies include a set of detailed instructions for the customer. The instructions should fully describe the procedures that a customer must follow in order to obtain copies of paid checks and any fees that may be charged.

### Credit Cards

The primary consumer complaints regarding credit cards concern (i) changes in the bank's interest rate, late fees or other terms and conditions and (ii) lack of adequate or timely resolution to complaints regarding incorrect charges or other billing errors.

- Typically, as required by Regulation Z, a bank sends a written notice to consumers detailing changes in the interest rate or terms of its credit card products. In addition to the required notice, management often issues a letter explaining any major change(s) to its credit products. It is recommended that this information be reviewed for accuracy as to the amount of the increase in the interest rate and the effective date for the change in the interest rate or other terms. Bank correspondence that is poorly worded or that lacks key information exposes the institution to legal, reputation, and compliance risks.
- Consumers who contact this Reserve Bank regarding billing errors

related to their credit cards complain about a lack of effective customer service when attempting to resolve the complaint with their bank. It is recommended that management review the following items to improve customer service:

- Ensure that customers are not subjected to excessive delays when using toll-free numbers.
- Ensure that the bank has effective procedures and policies to accept, process, respond to, and document consumer calls and correspondence.

### Electronic Fund Transfers

The primary consumer complaints regarding electronic funds transfers concern (i) incorrect electronic fund transfers from an account and (ii) computational or bookkeeping errors by the bank.

Regulation E, which implements the *Electronic Funds Transfer Act*, describes specific procedures for resolving errors regarding electronic funds transfers. Within specific time periods, the bank must investigate the alleged error and provide notice to the consumer of the results of the investigation. To comply with the provisions of the Act, the following procedures are recommended:

- Establish specific timeframes for bank employees to respond to and resolve complaints.
- Maintain ongoing contact with the complainant to report the status of the investigation.
- Maintain documentation of the analysis, investigation, and correspondence regarding the complaint.
- Analyzing complaints to obtain information that will improve customer service or enhance existing policies, procedures, or internal controls.
- Compiling statistics and other information regarding complaints by branch office, type, volume, or frequency of occurrence.
- Utilizing information from complaints to improve customer service training for departmental or branch office personnel.
- Developing an ongoing relationship with the primary bank regulator that includes regular contact with the regulatory staff responsible for the review and investigation of consumer complaints.

For information regarding the consumer complaint function at the Federal Reserve Bank of Philadelphia, contact one of the following staff in the Consumer Compliance and Community Reinvestment Act Examinations Unit:

Connie H. Wallgren, Manager  
(connie.wallgren@phil.frb.org)  
(215) 574-6217

John D. Fields, Supervising Examiner  
(john.d.fields@phil.frb.org)  
(215) 574-6217

Denise E. Mosley, Consumer Complaint Specialist  
(denise.mosley@phil.frb.org) (215) 574-3729 ■

## Complaint Resolution

### Best Practices

Bank management must continue to develop effective and comprehensive procedures for accepting, reviewing, and resolving consumer complaints. The following recommendations and suggestions are offered as best practices to improve a bank's overall complaint resolution process:

- Identify and assess the legal, compliance, and reputation risks associated with consumer complaints.
- Develop a self-assessment and review process for the consumer complaint function that includes:
  - Identifying key bank personnel from the lending, deposit, and operations departments of the bank who can be contacted to assist in the resolution of consumer complaints.
  - Developing a consolidated approach to the resolution of consumer complaints that involves a coordinated effort between the legal, compliance, and operating departments of the bank.

## “Web Site Compliance Issues” *continued from page CC2*

- The “Member FDIC” statement should not appear anywhere on the pages where non-deposit investment products are advertised.
- plex compliance issues associated with web site advertisements. Those delineated in this article provide a basic framework for financial institutions to evaluate the overall effectiveness of their current compliance program for electronic delivery systems.

### Conclusion

The issues presented in this article are guidelines that can be used to determine how well financial institutions stack up in their compliance efforts with respect to electronic delivery systems. However, there are several com-

If you have any questions regarding compliance programs for electronic banking delivery systems, please contact Supervising Examiner

Eddie L. Valentine (eddie.valentine@phil.frb.org) at (215) 574-3436 or Connie Wallgren, Consumer Compliance/CRA Examinations Unit Manager (connie.wallgren@phil.frb.org) at (215) 574-6217. ■

# Regulation C and HMDA: What's Changing and When

The Federal Reserve Board published revisions to Regulation C, which implements the *Home Mortgage Disclosure Act*, on June 21, 2002. As a result of some industry commenters' concerns about the proposed changes, the Board delayed the effective date of some aspects of the final rule to January 1, 2004.

These revisions to Regulation C:

- Set the **thresholds** for determining the loans for which financial institutions must report loan pricing data. Institutions will report the rate spread (between the annual percentage rate on a loan and the yield on comparable Treasury securities) if the spread equals or exceeds 3 percentage points for first-lien loans and 5

percentage points for subordinate-lien loans.

- Require lenders to report the **lien status** of applications and originated loans.
- Require lenders to **ask applicants** their ethnicity, race, and gender in applications taken by telephone.

Compliance with the amendments relating to thresholds and lien status is mandatory on January 1, 2004. The amendment requiring lenders to ask telephone applicants for monitoring information is effective for applications taken on and after January 1, 2003.

In addition, effective January 1, 2003

financial institutions are required to use 2000 census data for all HMDA reportable loans. Given the many changes that have occurred since the 1990 census, the use of 2000 census tracts and demographics will produce more accurate and useful data in the HMDA disclosure statements and aggregate reports.

The Federal Reserve Bank of Philadelphia will be conducting training on the changes to HMDA as part of its outreach program for 2003. In the interim, if you have any questions about these amendments and the effective dates, please contact Connie Wallgren, Consumer Compliance/CRA Examinations Unit Manager ([connie.wallgren@phil.frb.org](mailto:connie.wallgren@phil.frb.org)) at (215) 574-6217. ■



FEDERAL RESERVE BANK  
OF PHILADELPHIA

**The views expressed in this newsletter are those of the authors and are not necessarily those of this Reserve Bank or the Federal Reserve System.**

---

Editor.....Cynthia L. Course

*Compliance Corner* is published quarterly and is distributed via *SRC Insights* to institutions supervised by the Federal Reserve Bank of Philadelphia. *SRC Insights* is available on the Federal Reserve Bank's web site at [www.phil.frb.org](http://www.phil.frb.org). Suggestions, comments, and requests for back issues are welcome in writing, by telephone (215-574-3760), or by e-mail (Cynthia.Course@phil.frb.org). Please address all correspondence to: Cynthia L. Course, Federal Reserve Bank of Philadelphia, SRC - 7th Floor, Ten Independence Mall, Philadelphia, PA 19106-1574.