**TOP ITEMS FROM REVIEWS**

**Truth-in-Savings (Regulation DD) 12 CFR 1030**

1. Initial disclosures and periodic statements do not contain consistent terminology when describing bank fees. *Official Staff Commentary (OSC) to section 1030.3(a)-2*

*Consistent terminology. Institutions must use consistent terminology to describe terms or features required to be disclosed. For example, if an institution describes a monthly fee (regardless of account activity) as a “monthly service fee” in account-opening disclosures, the periodic statement and change-in-term notices must use the same terminology so that consumers can readily identify the fee.*

1. Disclosures required at account opening do not contain all required elements, such as minimum balance required to open the account, balance computation method, etc*. 1030.4(b).*

*Account Disclosures shall include the following, as applicable: Rate information, Compounding and credit frequency, Balance information, Fees, Transaction limitations, Feature of time accounts, and Bonuses if offered.*

1. Certificate of Deposit (CD) renewal notices with a term longer than one year that do not renew automatically do not contain all required disclosures (i.e., maturity date and whether interest will be paid after maturity). *1030.5(c)*

***Notice before maturity for time accounts longer than one year that do not renew automatically.*** *For time accounts with a maturity longer than one year that do not renew automatically at maturity, institutions shall disclose to consumers the maturity date and whether interest will be paid after maturity. The disclosures shall be mailed or delivered at least 10 calendar days before.*

1. Deposit product brochure includes information that is misleading or does not accurately reflect the terms of an account. *1030.8(a)(1)*

*All advertisements of deposit products, including marketing brochures, must not be misleading or misrepresent the Bank’s deposit contract.*

**Spot the violation #1: CD Maturity Notice – Non-Renewable CD**

* **Answer:** CD maturity notice does not state whether interest will be paid after maturity. *1030.5(c)*

**Electronic Fund Transfers (Regulation E) 12 CFR 1005**

1. Personnel failed to document final resolution date of bank investigation of error and date on which personnel notified the customer of the investigation results. *1005.11(c)(1)*

(c) *Time limits and extent of investigation.* (1) *Ten-day period.* *A financial institution shall investigate promptly and, except as otherwise provided in this paragraph (c), shall determine whether an error occurred within 10 business days of receiving a notice of error. The institution shall report the results to the consumer within* ***3 business days*** *after completing its investigation. The institution shall correct the error within* ***1 business day*** *after determining that an error occurred.*

2. Bank uses a third party to process error resolution claims. The third party’s documentation of the error resolution does not document the date on which the investigation was completed. In addition, the third party waited the full 90 days for POS transaction errors before conducting a final review and closing the file. In some cases, the merchant had returned the disputed amount to the customer approximately 45 days after the date on which the customer reported the error yet the third party didn’t consider the investigation complete until the 90th day. ***1005.11(c)***

***(2)(iv)*** *requires the financial institution to report the results to the consumer within three business days after completing its investigation (including, if applicable, notice that a provisional credit has been made final).*

*While 90 days is the allowable time for investigating an error of this type; the intent of the rule is to conduct an ongoing investigation up to the 90 days. It appeared from case notes that the investigations were not ongoing. The vendor completed a final review at the 90 day period but case notes indicated the cardholder had funds returned by the merchant 45 days prior. In these cases, this would be when the error was final and proper notification should occur.*

*The Bank is ultimately responsible to ensure EFT error claims are resolved in compliance with Reg E. The Bank may contract the processing of EFT errors to a third party but the Bank cannot contract away violations. Personnel should periodically review documentation provided by the third party to ensure they are compliant with error resolution requirements.*

**FDIC Exam Findings – Regulation E Error Resolution:**

1. Customers who report unauthorized electronic transactions are asked to resolve the dispute transaction directly with the merchant prior to the Bank beginning its investigation. After the customer speaks with the merchant, the customer is required to come into the bank to sign a form before personnel will begin the investigation and fund provisional credit. *1005.11(c)*

*(c) Time limits and extent of investigation. (1) Ten-day period. A financial institution shall investigate promptly and, except as otherwise provided in this paragraph (c), shall determine whether an error occurred within 10 business days of receiving a notice of error. The institution shall report the results to the consumer within three business days after completing its investigation. The institution shall correct the error within one business day after determining that an error occurred.*

1. Operations staff tracks error disputes on a log. Bank does not retain documents related to customers who dispute EFTs over the phone and do not come into the Bank to sign a form. *1005.13(b)*

*(b) Record retention. (1) Any person subject to the Act and this part shall retain evidence of compliance with the requirements imposed by the Act and this part for a period of not less than two years from the date disclosures are required to be made or action is required to be taken.*

1. Bank did not send a written notice to the customer upon finding no error occurred and provisional credit was reversed. *1005.11(d)*

*(d)* ***Procedures if financial institution determines no error or different error occurred.*** *In addition to following the procedures specified in paragraph (c) of this section, the financial institution shall follow the procedures set forth in this paragraph (d) if it determines that no error occurred or that an error occurred in a manner or amount different from that described by the consumer: (1) Written explanation. (2) Debiting provisional credit.*

**Spot the violation #2: EFT Error**

* **Answer:** Failure to document the date of final resolution and the date on which customer was notified of final resolution.

**Expedited Funds Availability (Regulation CC) 12 CFR 229**

1. Personnel placed a case-by-case hold on a check. Personnel did not make the first $225 of the check available on the day following the date of deposit. *229.10(c)*

***General rule.*** *A depositary bank shall make funds deposited in an account by check available for withdrawal not later than the business day after the banking day on which the funds are deposited.*

1. Hold notice did not reflect the business day of deposit. Customer made a deposit on a Saturday, which would have a business day of deposit on the following Monday. *229.2(f) and(g)*

***(f) Banking day*** *means that part of any business day on which an office of a bank is open to the public for carrying on substantially all of its banking functions.*

***(g) Business day*** *means a calendar day other than a Saturday or a Sunday, January 1, the third Monday in January, the third Monday in February, the last Monday in May, June 19, July 4, the first Monday in September, the second Monday in October, November 11, the fourth Thursday in November, or December 25. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is not a business day.*

***229.13(g)******Notice of exception -*** *(1) In general. Subject to paragraphs (g)(2) and (g)(3) of this section, when a depositary bank extends the time when funds will be available for withdrawal based on the application of an exception contained in paragraphs (b) through (f) of this section, it must provide the depositor with a written notice.
(i) The notice shall include the following information—
(A) A number or code, which need not exceed four digits, that identifies the customer’s account.
(B) The date of the deposit;
(C) The amount of the deposit that is being delayed;
(D) The reason the exception was invoked; and
(E) The time period within which the funds will be available for withdrawal.*

**Spot the violation #3: Case-by-Case Hold**

* **Answer:** Hold notice did not reflect business day of deposit. *229.2(g), 229.13(g) and 229.16(c)(2)(i)(B)*

**Bank Secrecy Act - 31 CFR 1010 and 1020**

**Beneficial Owners/Customer Due Diligence**

1. Bank personnel did not resolve address discrepancy between address provided for a beneficial owner and the address on the verification document. *1010.230(i)(1)(ii)*

*(1) Required records. At a minimum the record must include:*

*(ii) For verification, a description of any document relied on (noting the type, any identification number, place of issuance and, if any, date of issuance and expiration), of any non-documentary methods and the results of any measures undertaken, and of the resolution of each substantive discrepancy.*

1. Bank personnel did not obtain a valid, unexpired driver’s license to verify the identity of a beneficial owner. *1010.230(b), 1020.220(a)(2)(ii)(A)(1)*

*1010.230(b)(2) Verify the identity of each beneficial owner identified to the covered financial institution, according to risk-based procedures to the extent reasonable and practicable. At a minimum, these procedures must contain the elements required for verifying the identity of customers that are individuals under §1020.220(a)(2)*

*1020.220(a)(2)(ii)(A) Verification through documents. For a bank relying on documents, the CIP must contain procedures that set forth the documents that the bank will use. These documents may include: (1) For an individual, unexpired government-issued identification evidencing nationality or residence and bearing a photograph or similar safeguard, such as a driver's license or passport;*

1. Certification of Beneficial Owner Statement dated after account was opened. *1010.230(b)(1)*

*(1) Identify the beneficial owner(s) of each legal entity customer at the time a new account is opened, unless the customer is otherwise excluded pursuant to paragraph (e) of this section or the account is exempted pursuant to paragraph (h) of this section. A covered financial institution may accomplish this either by obtaining a certification in the form of appendix A of this section from the individual opening the account on behalf of the legal entity customer, or by obtaining from the individual the information required by the form by another means, provided the individual certifies, to the best of the individual’s knowledge, the accuracy of the information.*

**Spot the Violation #4: Beneficial Ownership Form**

**Answers:**

* Checking account opened on Friday, January 14, 2022. Certification form does not contain evidence of authorized representative’s attestation of accuracy.
* Date on certification form is after checking account open date.