



# Division of Depositor and Consumer Protection

## Dallas Region Quarterly Newsletter

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### FDIC's COVID-19 Webpage

The FDIC continues to assist financial institutions and their customers by providing information, guidance, and resources related to the COVID-19. To make resources readily available, the FDIC regularly updates the [COVID-19 webpage](#) on its public website. A few of the updated items included on this webpage are highlighted below. We encourage you to check the webpage for updates.

#### Frequently Asked Questions for Financial Institutions and Bank Customers

As discussed in the last edition of the newsletter, the FDIC developed two sets of frequently asked questions (FAQs) for those impacted by COVID-19, [one for financial institutions](#) and [one for their customers](#). Both FAQs were updated recently to address a variety of issues that have arisen as financial institutions work with customers and communities affected by COVID-19. The FAQs for financial institutions were updated to address topics such as credit reporting, flood insurance, and the Community Reinvestment Act. The FAQs for bank customers were updated to address questions about Economic Impact Payments.

#### FDIC Consumer News

In April 2020, the FDIC issued a special edition of the FDIC Consumer News called [COVID-19 and Your Financial Health](#). The edition is available in both [English](#) and [Spanish](#). The .pdf document includes a

space on the back page so banks can include applicable contact information before providing it to customers in hard copy or linking it from their websites.

#### Connecting Consumers to Banking

The FDIC remains committed to supporting Americans' efforts to make informed financial decisions, which includes providing information on the different banking services available for varying economic needs during COVID-19. While many consumers know to turn to the FDIC with deposit insurance concerns, they may not be aware of the many resources available to those who are unbanked or underbanked. A few examples of resources the FDIC has made available recently are detailed below.

- The [FDIC Economic Impact Payments website](#) provides information on how consumers can choose the right bank account for their financial needs and avoid scams.
- The FDIC developed a [banker resource](#) on ways to support consumers looking to open a digital bank account.
- An FDIC Consumer News article asking "Is Digital Banking for Me?" is available in both [English](#) and [Spanish](#) and explains what digital banking is and what it offers to a consumer.

### **FDIC Works to Preserve and Promote Minority Depository Institutions**

When Jelena McWilliams joined the FDIC as Chairman in 2018, she made it a priority to increase the agency's efforts to promote and preserve minority depository institutions (MDIs). MDIs play a vital role in assisting minority populations in the communities they serve. Learn more about the FDIC's [MDI Program](#).

On June 10, 2020, the FDIC released a report submitted to Congress that chronicles the efforts the agency made to preserve and promote MDIs in 2019. This report provides a summary profile of MDIs as of the end of 2019, a description of the FDIC's MDI program, and detailed information on the FDIC's 2019 initiatives supporting these institutions. Read [The FDIC Report to Congress for 2019](#).

## Senior Safe Act: Resources for Preventing Elder Financial Exploitation

Financial exploitation of seniors is a complex problem sometimes covering multi-state jurisdictions. The [Senior Safe Act](#) ("Act") is a type of "Good Samaritan Law" that protects covered financial institutions and certain eligible employees from civil or administrative liability concerning a report of potential financial exploitation to a covered agency.

On the one-year anniversary of the Act's enactment, the Securities and Exchange Commission, the North American Securities Administrators Association, and the Financial Industry Regulatory Authority issued a fact sheet to help raise awareness of the Act and how the Act's immunity provisions work. The document addresses a variety of related topics such as recordkeeping, timing of training, differences in individual and institutional immunity, and the extension of immunity to third parties. See <https://www.sec.gov/news/press-release/2019-75>.

The law requires that reports of suspected exploitation be made in good faith and with reasonable care. The Act does not require training to be provided to any employee, but provides a safe harbor for certain eligible employees and covered financial institutions when training is in place. Training may be given to employees who are eligible for immunity and those who may come into contact with a senior citizen as a regular part of their professional duties or may review or approve the financial documents, records, or transactions of senior citizens in connection with providing them financial services. The training specified under the Act must be appropriate to the responsibilities of the employee receiving the training and cover how to identify and report suspected exploitation of a senior internally or externally, including common indications of financial exploitation of senior citizens. It must also discuss the need to protect privacy and respect the integrity of customers.

Among other topics, *Money Smart for Older Adults*, developed by the Federal Deposit Insurance Corporation (FDIC) and Consumer Financial Protection Bureau (CFPB), provides awareness training for older adults and their caregivers on how to prevent elder financial exploitation. It is available for download here: <https://catalog.fdic.gov/money-smart-older-adults-download>. *Money Smart for Older Adults* is free from copyright restrictions. While the Money Smart program does not address all of the elements of the

Act's training requirements, it can be easily modified or branded for a facet of the training.

Further, networks in many communities bring together financial institutions with law enforcement and adult protective services to safeguard seniors from financial exploitation. These networks can provide professional training to help bank staff identify signs of elder financial abuse, while also being helpful for community outreach initiatives. Consider reaching out to adult protective services or a member or local law enforcement to identify collaborative opportunities. You can also [watch a webinar](#) the FDIC and CFPB cohosted in July 2019 entitled *Building Collaboration to Prevent and Address Elder Financial Abuse*. The webinar outlines strategies to prevent and respond to elder financial exploitation with a focus on the benefits of collaboration between financial institutions and law enforcement.

Senior Safe Act training can be an excellent resource to complement the bank's existing efforts to fight financial exploitation of our elder population. More information regarding this important topic can be found in the CFPB's July 2019 publication, [Reporting of Suspected Elder Financial Exploitation by Financial Institutions](#)

*...networks in many communities bring together financial institutions with law enforcement and adult protective services to safeguard seniors from financial exploitation.*

## Back to Basics with Bonuses

In the past, financial institutions offered a toaster as an incentive or bonus to open a new deposit account; however, today some financial institutions are offering more valuable bonuses, such as high dollar gift cards, to entice customers. Although the regulatory requirements regarding bonuses have not changed in recent years, examiners have identified instances of noncompliance with advertising and disclosure requirements at institutions. Moreover, examinations have found some common issues among institutions regarding the payment and communication of bonuses.

Section 1030.2(f) of the Truth in Savings regulation, Regulation DD, 12 C.F.R. Part 1030, defines a bonus as “a premium, gift, award, or other consideration worth more than \$10 (whether in the form of cash, credit, merchandise, or any equivalent) given or offered to a consumer during a year in exchange for opening, maintaining, renewing, or increasing an account balance.” In today’s economy, most gifts or awards will be considered a bonus as they will likely exceed the \$10 threshold. However, the regulation provides some exceptions to the bonus definition, such as the waiver or reduction of fees (see the official interpretation of Section 1030.2(f) in Supplement I to Part 1030).

Financial institutions typically promote their bonus offers in an effort to increase deposits and market share. When advertising deposit account-related bonuses, Section 1030.8(d) of Regulation DD outlines specific requirements. When a bonus is disclosed in an advertisement, the advertisement must include the following information, as applicable:

1. The “annual percentage yield,” using that term;
2. The time requirement to obtain the bonus;
3. The minimum balance required to obtain the bonus;
4. The minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and
5. When the bonus will be provided.

Also, remember that when an annual percentage yield is stated in an advertisement, this generally triggers the following *additional* required disclosures in Section 1030.8(c) of Regulation DD, as applicable:

1. *Variable rates*: For variable rate accounts, a statement that the rate may change after the account is opened.
2. *Time annual percentage yield is offered*: The period of

time the annual percentage yield will be offered or a statement that the annual percentage yield is accurate as of a specified date.

3. *Minimum balance*: The minimum balance required to obtain the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier must be stated in close proximity and with equal prominence to the applicable annual percentage yield.
4. *Minimum opening balance*: The minimum deposit required to open the account, if it is greater than the minimum balance necessary to obtain the advertised annual percentage yield.
5. *Effect of fees*: A statement that fees could reduce the earnings on the account.
6. *Features of time accounts*: The term of the account, any early withdrawal penalties, and any required interest payouts, as applicable.

Financial institutions that are aware of the various advertising requirements regarding bonuses will be better able to avoid compliance issues. For example, if a financial institution promoted a bonus on its website for all checking account types and most of the checking accounts were interest-bearing, the advertising requirements would be quite extensive. The website would need to include the bonus-related advertising requirements in addition to the annual percentage yield advertising requirements, as applicable, for each of the interest-bearing checking accounts. However, certain exemptions to some or all of the requirements may apply where certain forms of media such as television or radio are used to promote the bonus (see Section 1030.8(e)(1) of Regulation DD). Also, a general reference to the bonus (e.g. “Get a bonus when you open a checking account!”) does not trigger the bonus advertising disclosures (see official interpretation of Section 1030.8(d) in Supplement I of Part 1030).

In addition to triggering specific advertising requirements, deposit bonuses must also be included on the initial account disclosure. Financial institutions often inadvertently overlook the initial disclosure requirements as they are more focused on advertising the bonus. According to Section 1030.4(b)(7) of Regulation DD, the initial disclosure must indicate the amount or type of any bonus, when the bonus will be provided, and any minimum balance and time requirements to obtain the bonus.

While complying with advertising and disclosure require-

## Back to Basics with Bonuses (cont'd)

ments is important, it is also important that financial institutions actually provide the deposit bonus to customers in accordance with the advertising and disclosure statements. This is especially true when the bonus will be provided at a later date. For example, if the advertisement states that the bonus will be provided to the customer after the account has been open for six months, then the financial institution should ensure it tracks this bonus and pays it punctually in the future. An effective compliance management system generally considers oversight of the promotion and the procedures and processes for providing the bonus. It also includes monitoring or audit efforts to verify that the bonus is paid appropriately. Oftentimes the payment of bonuses is manually tracked by the financial institution, which makes having an effective compliance management system all the more critical.

Finally, before implementing a bonus, financial institutions should ensure that they are accurately conveying their intentions regarding the bonus qualifications or restrictions.

For example, if a financial institution offers a \$250 gift card for opening a new account, but only intends to offer this bonus to consumers whose accounts remain open for at least six months, then this should be clearly stated. Otherwise, if the financial institution fails to disclose this requirement, a customer could close an account the day after it is opened and still maintain that he or she is entitled to the bonus as disclosed. This would defeat the financial institution's efforts to increase deposits and market share and could prove quite costly. Other nuances to consider when developing advertisements and disclosures include whether the bonus will be limited to one per household or available to existing customers or business accounts.

Bonuses can be a great way to generate new business. Just be sure that advertisements and disclosures meet regulatory requirements, bonuses are paid accordingly, and bonus requirements and restrictions are thoughtfully considered and communicated.

## Amendments to Regulation Implementing the Home Mortgage Disclosure Act (HMDA)

In April 2020, the Consumer Financial Protection Bureau (CFPB) issued a final rule that adjusts the HMDA coverage thresholds stated in Regulation C ([2020 HMDA Thresholds Rule](#)). The thresholds generally determine whether an institution must collect, record, and report HMDA data. A few highlights of the 2020 HMDA Thresholds Rule and information about available compliance resources follows.

### Closed-End Mortgage Loans

Effective July 1, 2020, the origination threshold for closed-end mortgage loans will increase from "at least 25" to "at least 100" originations in each of the two preceding calendar years. If your institution currently is a covered financial institution but originated fewer than 100 closed-end mortgage loans in either 2018 or 2019, note the timing differences in the phasing out of different requirements indicated below.

For these newly exempt institutions:

*Collection of 2020 HMDA data for closed-end mortgage loan applications is required until July 1, 2020. However, there*

are other laws or regulations that require collection of data on home loan activity in specific cases. For example, institutions are required under the Equal Credit Opportunity Act and Regulation B to collect demographic information in connection with certain loans secured by a principal residence.

*Recording closed-end mortgage data for the first quarter of 2020 on a Loan/Application Register is required by April 30, 2020. Even though newly exempt institutions must continue to collect 2020 HMDA data through the second quarter, they are not required to record that data on a Loan/Application Register.*

*Reporting 2020 HMDA data for closed-end mortgages (in March 2021) is not required. If the institution reports this data voluntarily, it must report data for the entire year, not only the partial year when data collection or recording was required.*

## Amendments to Regulation Implementing the Home Mortgage Disclosure Act (HMDA) cont'd

### Open-End Lines of Credit

Effective January 1, 2022, the permanent origination threshold for open-end lines of credit will increase from “at least 100” to “at least 200” originations in each of the two preceding calendar years. The current temporary threshold—at least 500 lines of credit in each of the two preceding calendar years—remains in effect for 2020 and 2021.

### CFPB Resources

The CFPB updated the [Home Mortgage Disclosure](#)

([Regulation C](#)) [Small Entity Compliance Guide](#) and made it available with other compliance resources at <https://www.consumerfinance.gov/policy-compliance/guidance/mortgage-resources/hmda-reporting-requirements/>.

Available resources include an [executive summary](#) of the 2020 HMDA Thresholds Rule, charts showing [institutional coverage](#) and [transactional coverage](#) that are effective July 1, 2020, and a [timeline](#) showing key dates of regulatory changes between January 1, 2020 and December 31, 2022.

## **FDIC Consumer Compliance Supervisory Highlights**

The FDIC released its latest [Consumer Compliance Supervisory Highlights](#) in April 2020. This publication is a retrospective look at 2019 and highlights issues relating to the FDIC’s consumer compliance examination program. Topics include consumer compliance performance, supervisory observations related to consumer protection laws, examples of practices that may be useful in mitigating risks, regulatory developments, and consumer compliance resources.

The FDIC’s *Consumer Compliance Supervisory Highlights*:

- Enhances transparency regarding the FDIC’s consumer compliance supervisory activities;
- Includes a high-level overview of consumer compliance issues identified during 2019 through the FDIC’s supervision of state non-member banks and thrifts; and
- Provides information and resources available to support supervised institutions’ efforts to manage consumer compliance responsibilities effectively and stay abreast of consumer compliance topics and regulatory developments.

This issue of the FDIC Consumer Compliance Supervisory Highlights also includes “Most Frequently Cited Violations,” “Regulatory Developments,” and “Resources for Financial Institutions.”

This publication is available on the FDIC’s website at

<https://www.fdic.gov/regulations/examinations/consumer-compliance-supervisory-highlights/documents/ccs-highlights-april2020.pdf>

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