

FDIC Issues Guidance on New Deposit Insurance Advertisement Requirements

August 22, 2024

The Federal Deposit Insurance Corporation (“FDIC”) has published a series of [Questions and Answers \(“Q&As”\)](#) related to the final rule governing FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC Name or Logo (“Part 328”). The Q&As are a collection of the most frequently asked questions that the FDIC has received to date from stakeholders, including banks, trade associations, technology companies, vendors, and other entities.

The final rule revised Subpart A of Part 328 and made material amendments to Subpart B. Subpart A describes the official signs and advertising statement and prescribes their use by insured depository institutions (“IDIs”), as well as other signs to prevent customer confusion in the event non-deposit products are offered by an IDI, while Subpart B addresses false advertising, misrepresentation of insured status, and misuse of the FDIC’s name or logo. Our earlier advisory summarizing the final rule can be found [here](#). The final rule took effect on April 1, 2024, but full compliance is not required until January 1, 2025.

The Q&As cover five main implementation topics: physical premises; digital channels (e.g., websites or apps); technical assistance; compliance and effective dates; and advertising for non-deposit products. Due to the increased concerns from financial institutions on how to comply with the requirements relating to digital channels, this advisory will summarize some of the key answers provided by the FDIC relating to websites and apps.

I. Digital Channels

Placement and Display of Official Digital Sign

Under Part 328, the FDIC official digital sign must be displayed on “digital deposit taking channels,” which includes IDIs’ websites and web-based or mobile applications that offer the ability to make deposits electronically and provide access to deposits at IDIs. The FDIC official digital sign must state: “FDIC-Insured - Backed by the full faith and credit of the U.S. Government.”

The FDIC official digital sign must be displayed on the (1) initial or homepage of the IDI’s website or application, (2) landing or login pages, and (3) pages where a customer may transact with deposits. Examples in the Q&As of “pages where the customer may transact with deposits” that require the display of the FDIC official digital sign include, but are not limited to: mobile application pages that allow customers to deposit checks remotely; and,

pages where customers may transfer deposits between deposit accounts held within the same IDI (e.g., checking to savings or vice versa).

According to the Q&As, the official digital sign could be displayed above the IDI's name, to the right of the IDI's name or below the IDI's name, but under all circumstances, the official digital sign continuously displayed near the top of the relevant page or screen and in close proximity to the IDI's name would meet the clear and conspicuous standard under the rule. It should be noted that the FDIC has indicated that placing the official digital sign in a footer of an IDI's webpage would not meet the clear, conspicuous, and continuous display requirement.

Non-Deposit Signs

An IDI must clearly and conspicuously display a non-deposit sign on each page relating to non-deposit products if the IDI offers both access to deposits and non-deposit products. The non-deposit sign must indicate that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. This signage must be displayed continuously on each page relating to non-deposit products.

Regarding placement of the sign, an example in the Q&As of clear and conspicuous placement of the non-deposit sign is to place it in close proximity to where access to a non-deposit product is provided on each page relating to non-deposit products. With respect to which specific webpages the non-deposit signs must be displayed, when an IDI offers both access to deposits and non-deposit products on its digital deposit-taking channels, it must display the non-deposit sign. The FDIC has indicated that placing the non-deposit sign in a footer of an IDI's webpage would not meet the clear, conspicuous, and continuous display requirement. In addition, the sign may not be displayed in close proximity to the FDIC official digital sign.

If an IDI's digital deposit-taking channel offers access to non-deposit products from a non-bank third party's online platform, and a logged-in IDI customer attempts to access such non-deposit products, an IDI must provide a one-time per web-session notification on the IDI's deposit-taking channel before the customer leaves the IDI's digital deposit-taking channel. According to the Q&As, the one-time notification may include, for example, an IDI using a "pop-up", "speedbump", or "overlay" that must be dismissed by an action of the IDI's customer before initially accessing the third party's online platform. The notification must clearly and conspicuously indicate that the third party's non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.

Use of Advertising Statement on Digital Channels

The advertising statement (e.g., "Member FDIC") must be displayed on advertisements, consistent with 12 CFR § 328.6. The Q&As state that this requirement is not intended to overlap with the official digital sign, and the advertising statement is not required on web pages where an IDI displays the official digital sign, such as a bank's homepage. However, an IDI is not prohibited from displaying the advertising statement on a page that also includes the official digital sign, so long as the use of the advertising statement on that page is otherwise consistent with the official advertising statement requirements in 12 CFR § 328.6.

Automated Teller Machines or Like Devices

Automated teller machines (“ATMs”) or like devices owned and operated by an IDI that accept deposits and are put into service after January 1, 2025, must display the official digital sign electronically (with no option to satisfy the requirement through display of the physical official sign).

According to the Q&As, ATMs currently in service, or that will be put into service on or before January 1, 2025, that receive deposits but do not offer access to non-deposit products may comply with the official sign requirement in one of two ways:

1. Post or attach the physical official FDIC sign (as described in 12 CFR § 328.2) on the ATMs, or
2. Display the FDIC official digital sign as described in § 328.5 on its ATMs home pages or screens and on each transaction page or screen relating to deposits.

If the ATM or like device that receives deposits for an IDI also offers access to non-deposit products, the ATM must clearly, continuously, and conspicuously display the FDIC official digital sign on its homepage or screen and on each transaction page or screen relating to deposits.

When an ATM or debit card from another institution is used to log into an ATM, the IDI’s ATM may be unable to identify or verify non-customer information, including whether the non-customer is accessing FDIC-insured deposit accounts, or non-deposit products. In this scenario, if the IDI is unable to identify or verify the non-customer information, the IDI’s ATM is not required to display the official FDIC digital sign or the non-deposit sign after the non-customer uses their card and PIN to access the ATM.

II. Conclusion

The Q&As provide clarifying information on the final rule to support stakeholders in the implementation of Part 328. Please note that the FDIC is making additional resources available to further assist stakeholders with implementation, including presentation slides from [banker webinars](#) on Part 328. More information about Part 328 can be found in the [Press Release](#), [Financial Institution Letter \(FIL\) 65-2023](#), and the [Final Rule \(PDF\)](#).

This advisory is a general overview of the Q&As and is not intended as legal advice. If you have any questions about this advisory, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154, or via email at emurphy@cullenllp.com, or Gabriela Morales at (516) 357-3850 or via email at gmorales@cullenllp.com.

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