

Interagency Guidance Issued Regarding Deposit Reconciliation Practices

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Federal banking agencies have advised financial institutions to adopt deposit reconciliation policies and practices for customer accounts and to effectively manage the institution's deposit reconciliation practices to comply with applicable laws and regulations. A financial institution's failure to maintain effective deposit reconciliation practices can result in civil fines as well as regulatory action by the agencies.

This guidance was issued jointly by the Board of Governors of the Federal Reserve Board, the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, the National Credit Union Administration and the Office of the Comptroller of the Currency (OCC), and sets forth the agencies' supervisory expectations for customer account deposit reconciliation practices at financial institutions.

The guidance discusses situations in which a customer makes a deposit to an account and the amount credited by the financial institution differs from the amount deposited. Common circumstances where such discrepancies can occur include inaccuracies on a deposit slip, encoding errors or poor image capture. The guidance states that to the extent possible, financial institutions should reconcile accounts to the true amounts deposited.

Various laws and regulations apply to deposit reconciliation practices. For example, the Expedited Funds Availability Act (EFAA), as implemented by Regulation CC, requires that financial institutions make funds deposited into a transaction account available for withdrawal in certain prescribed time limits. The EFAA also requires a depository institution to provide customers with disclosures describing the institution's funds availability policy as well as a notice stating when funds will be available for withdrawal if funds will be delayed in relation to the disclosed policy. The guidance notes that a financial institution's policies or practices that do not appropriately reconcile credit discrepancies within the prescribed time frames may raise Regulation CC concerns if such discrepancies leave customers without timely access to the correct amount of funds.

The guidance also notes that failure to maintain adequate deposit reconciliation practices can lead to a violation of Section 5 of the Federal Trade Commission Act (FTC Act) and/or Sections 1031 and 1036 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 5 of the FTC Act prohibits financial institutions from engaging in unfair or deceptive acts or practices while sections 1031 and 1036 of the Dodd-Frank Act prohibit unfair, deceptive, or abusive acts or practices.

An example of an FTC Act violation for deposit reconciliation practices occurred after Citizens Bank, National Association did not properly reconcile deposit accounts for various customers for a period of several years. In 2015, the OCC required Citizens Bank to make full reimbursement to all eligible customers, pay a \$10 million civil money penalty and complete a comprehensive action plan that involved independent consultants looking back through the affected transactions. Our advisory on the Citizens Bank Consent Order can be found [here](#).

The guidance sets forth the following supervisory expectations regarding deposit reconciliations:

- Financial institutions should adopt deposit reconciliation practices and policies that are designed to avoid or reconcile discrepancies, or designed to resolve discrepancies such that customers are not disadvantaged;
- Financial institutions are expected to effectively manage their deposit reconciliation practices to comply with applicable laws and regulations and to prevent potential harm to their customers;
- Information provided to customers about the financial institution's deposit reconciliation practices should be accurate; and
- Financial institutions should implement effective compliance management systems that include appropriate policies, procedures, internal controls, training, and oversight and review processes to ensure compliance with applicable laws and regulations and fair treatment of customers.

If you have any questions regarding deposit reconciliation practices, please feel free to contact Joseph D. Simon at 516-357-3710 or via email at jsimon@cullenanddykman.com, Kevin Patterson at 516-296-9196 or via email at kpatterson@cullenanddykman.com, or Diana R. Acosta at 516-357-3739 or via email at dacosta@cullenanddykman.com.

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