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New Requirement to Post Notice in Banking Institution Branches

December 9, 2019

The New York Banking Law has been amended to require banking institutions in the state to post a notice in branches setting forth the toll-free consumer hotline of the New York State Department of Financial Services ("DFS") where a consumer who is not satisfied with the institution's services can file a complaint. This new requirement is effective February 26, 2020. While this requirement purports to apply to all banks and credit unions, there is an argument that federally-chartered institutions do not have to comply with the requirement.

Banking Law Section 14-f currently requires a "banking institution" that posts a notice in the public area of its offices about the availability of consumer transaction accounts, to post an equally conspicuous notice regarding the availability of the institution's basic banking accounts. A basic banking account is a low-cost checking account that such institutions are required to offer to customers.

Under this new amendment to Banking Law Section 14-f, a banking institution that posts a notice of the availability of basic banking accounts is required to also post an "equally conspicuous notice in such public areas" that discloses DFS's toll-free consumer hotline telephone number "where consumers can file a complaint if a consumer is not satisfied with the services a banking institution provides."

The existing requirement to provide a basic banking account and this new requirement to provide the DFS hotline number applies to "banking institutions." That term is defined in the Banking Law as "any bank, trust company, savings bank, savings and loan association, or credit union, or branch of a foreign banking corporation the deposits of which are insured by the Federal Deposit Insurance Corporation, which is incorporated, chartered, organized or licensed under the laws of this state or any other state or the United States, and, in the ordinary course of its business, offers consumer transaction accounts to the general public or, in the case of a credit union, to its members." While this language purports to include federally-chartered financial institutions, these institutions have an argument that the new requirement is not applicable to them. The argument is that the underlying requirement to provide basic banking accounts impacts a federal institution's deposit-taking activities and should therefore be viewed as preempted by federal law, and since the new requirement to post the DFS hotline number is tied to the state law requirement to offer basic banking accounts, the new requirement is not applicable to federally-chartered institutions.

In addition, as a general matter, requiring a federally-chartered institution to post a hotline number for an agency that generally has no regulatory authority over that institution is illogical and could confuse consumers.

If you have any questions regarding this new requirement, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at **jsimon@cullenanddykman.com,** Elizabeth A. Murphy at (516) 296-9154 or via email at **emurphy@cullenanddykman.com,** or Mandy Xu at (516) 357-3850 or via email at **mxu@cullenanddykman.com**.

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