Truth in Lending (TIL) Restitution Verification

Examination Objectives

1. Determine during PEP whether the prior Report of Examination included a request for restitution pursuant to Section 108(e) of the Truth in Lending Act.

2. Become familiar with the nature of the violations and the extent of the file search necessary to identify affected loans.

3. Review the correspondence file to determine if the financial institution has reported completion of the restitutions or if there are any unresolved issues pending, such as a formal request for relief from restitution.

4. Perform the following examination procedures during PEP in those instances where the number of loans subject to restitution is relatively small and requesting the institution to provide relevant documentation would not be burdensome.

   The objectives are to:
   - Determine that a complete file search was conducted.
   - Verify that restitution calculations and worksheets from the financial institution are accurate and conform with violations cited.
   - Verify that restitutions were made to all entitled customers and dispersed correctly.

Verification Procedures

The following procedures are to be used when reviewing an institution's compliance with restitution requested as a result of Truth in Lending (TIL) / Regulation Z violations subject to restitution cited at the previous compliance examination.

1. Identify the person(s) responsible for making the calculations and providing restitution.

2. Discuss the method used to determine which loans were subject to restitution.

3. Determine that an appropriate file search and any subsequent restitutions were completed in accordance with direction received from the FDIC through the prior Compliance Report of Examination and transmittal letter sent to the financial institution.

4. Consider the following items when determining the scope of the review:
   - Number of affected loans identified;
   - Effectiveness of overall compliance program;
   - Management's willingness to correct prior violations;
   - Nature of violations; and
   - Time constraints.
5. Review restitution documentation for accuracy.

6. Review restitution documentation for the following items:
   - Restitution calculations;
   - Canceled restitution checks (When reviewing canceled checks be sure to look at the endorsement(s) on the back of the checks to ensure the checks have been endorsed by the appropriate individual(s)); and
   - Verify, through a sample of checks, the validity of the endorsement signature.

7. Compare the list of restitution exceptions, maintained in the prior Compliance Examination workpapers, with the file search and actual restitutions made by the financial institution.

8. If either the file search or restitutions were not handled correctly, immediately inform the Field Supervisor and the Regional Office.

9. The examiner must complete appropriate workpapers, in accordance with instructions, and attach them to the appropriate documentation of the financial institution's restitution calculations.

References

Joint Statement of Policy: Administrative Enforcement of the Truth in Lending Act—Restitution

FIL 19-97: Requests for Relief from Reimbursement under the Truth in Lending Act

FIL 20-98: Reimbursable Violations of the Truth in Lending Act

Attachment to FIL 20-98: Interagency Questions and Answers Regarding Corrective Action Time Periods under the Truth in Lending Act Policy Guide