

TRUTH IN LENDING RESTITUTION VERIFICATION

OVERVIEW

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

Examination Objective(s)

The objectives are to:

- Determine that a complete file search was conducted
- Verify that reimbursement calculations and worksheets from the financial institution are accurate and conform with violations cited
- Verify that reimbursements were made to all entitled customers and dispersed correctly

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PRE-EXAMINATION PLANNING (PEP) PROCEDURES

Perform PEP Procedures
<p>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.</p> <p><i>NOTE: Refer to</i></p> <p><i>“Further Guidance on Finance Charge Tolerances Provided in 1995 Amendments to Truth in Lending Act” memorandum to Regional Directors, dated March 1, 1996.</i></p> <p><i>“Further Guidance on Finance Charge Tolerances Provided in 1996 Amendments to Truth in Lending Act” memorandum to Regional Directors and Deputy Directors, dated October 2, 1996.</i></p>

**PEP
PROCEDURES
(cont'd)**

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 reimbursements or if there are any unresolved issues pending, such as a formal request for relief from reimbursement.

NOTE: Refer to the "Requests for Relief from Reimbursement Under the Truth in Lending Act," FIL #19-97, dated 3/10/97.

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.

**EXAMINATION
PROCEDURES**

Verify TIL Reimbursement

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

2. Discuss the method used to determine which loans were reimbursable.

3. Determine that an appropriate file search and any subsequent reimbursements 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
- Time constraints

5. Review reimbursement documentation for accuracy.

**EXAMINATION
PROCEDURES
(cont'd)**

6. Review reimbursement documentation for the following items:
- Reimbursement calculations
 - Canceled reimbursement 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)
 - Verify, through a sample of checks, the validity of the endorsement signatures

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

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

**WORKPAPER
STANDARDS**

The examiner must complete appropriate workpapers, in accordance with instructions, and attach them to the appropriate documentation of the financial institution's reimbursement calculations. Refer to Workpaper Standards, Appendix K, in this manual.



**FDIC LAW,
REGULATIONS,
& RELATED
ACTS**

Applicable Rules

Truth in Lending Act, Volume 2, Page 6565

**Advisory
Opinions**

None

**Statements of
Policy**

Administrative Enforcement of the Truth in Lending Act B Restitution, Volume 2, Page 5049

**DCA
MEMORANDA**

Additional Guidance on Reimbursable Violations of Truth in Lending and Immediately Preceding Examination, Memorandum to Regional Directors, dated 7/20/99

Guidance on Reimbursable Violations, Memorandum to Regional Directors, dated 5/19/99

Additional Guidance on "Immediately Preceding Examination" for Purposes of Truth in Lending Restitution, Transmittal #98-030, dated 12/23/98

Procedures for Determining When a "Pattern or Practice" Exists for Certain Violations of Regulation Z (Truth in Lending Act), Transmittal #98-021, dated 9/11/98

Calculating APRs for Periodic Statements in Accordance with Regulation Z (Truth in Lending Act), Transmittal #98-020, dated 7/31/98

Restitution Procedures for Regulation Z (Truth in Lending Act), Transmittal #97-030, dated 9/18/97

Further Guidance on Finance Charge Tolerances Provided in 1996 Amendments to the Truth in Lending Act, Memorandum to Regional Directors and Deputy Directors, dated 10/2/96

Further Guidance on Finance Charge Tolerances Provided in 1995 Amendments to the Truth in Lending Act, Memorandum to Regional Directors, dated 3/1/96

Calculation Date for Truth in Lending Reimbursement for Fixed-Rated Loans with Understated APRs, Transmittal #92-027, dated 2/19/92

Effect of Subsequent Compliance Examinations on Truth in Lending Reimbursement Actions, Transmittal #89-159, dated 11/28/89

Examination Transmittal Letters to Banks Involving Truth in Lending Reimbursement, Transmittal #89-047, dated 4/14/89

Truth in Lending Reimbursement Questions and Answers, Transmittal #86-122, dated 7/1/86

Requests for Relief from Reimbursement, Transmittal #83-055, dated 4/7/83

**FINANCIAL
INSTITUTION
LETTERS (FIL)**

Reimbursable Violations of the Truth in Lending Act, Letter #20-98, dated 2/25/98

Truth in Lending: Requests for Relief from Reimbursement under the Truth in Lending Act, Letter #19-97, dated 3/10/97
