



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-44-2014
August 22, 2014

Interagency Guidance Regarding Unfair or Deceptive Credit Practices

Summary: The FDIC, the Board of Governors of the Federal Reserve System (Board), the Consumer Financial Protection Bureau (CFPB), the National Credit Union Administration (NCUA), and the Office of the Comptroller of the Currency (OCC) (collectively, the Agencies) are issuing guidance regarding certain consumer credit practices. The authority to issue credit practices rules for banks, savings associations, and federal credit unions was repealed as a consequence of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act); however, institutions should not construe the repeal to indicate that the unfair or deceptive practices described in these former regulations are permissible. These practices remain subject to Section 5 of the Federal Trade Commission (FTC) Act.

Statement of Applicability to Institutions Under \$1 Billion in Total Assets: This Financial Institution Letter applies to all FDIC-supervised financial institutions.

Distribution:

FDIC-Supervised Institutions

Suggested Routing:

Chief Executive Officer
Chief Compliance Officer
Chief Loan Officer

Related Topics:

Federal Trade Commission Act, 15 U.S.C. § 45 (unfair or deceptive acts or practices)
Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. §§ 5531 and 5536 (unfair, deceptive, or abusive acts or practices)
FTC Credit Practices Rule, 16 C.F.R. §§ 444.1-.5

Attachment:

Interagency Guidance Regarding Unfair or Deceptive Credit Practices

Contact:

Glenn Gimble, Senior Policy Analyst, at (202) 898-6865 or ggimble@fdic.gov; or Phoebe Morse, Counsel, at (202) 898-6758 or pmorse@fdic.gov

Note:

FDIC Financial Institution Letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2014/index.html.

To receive FILs electronically, please visit <http://www.fdic.gov/about/subscriptions/fil.html>.

Paper copies may be obtained through the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (877-275-3342 or 703-562-2200).

Highlights:

- The Agencies' credit practices rules generally prohibited (1) the use of certain provisions in consumer credit contracts, (2) the misrepresentation of the nature or extent of cosigner liability, and (3) the pyramiding of late fees.
- In 2010, the Dodd-Frank Act repealed the rulemaking authority of the Board, the NCUA, and the Office of Thrift Supervision (formerly the Federal Home Loan Bank Board) under the FTC Act (the FDIC had no such rulemaking authority). As such, the specific credit practices rule once applicable to FDIC-supervised institutions no longer exists.
- The credit practices described in these former regulations remain subject to Section 5 of the FTC Act. The Agencies believe that, depending on the facts and circumstances, if banks engage in the unfair or deceptive practices described in the former credit practices rules, such conduct may violate the prohibition against unfair or deceptive practices in Section 5 of the FTC Act and Sections 1031 and 1036 of the Dodd-Frank Act.