Advertisement of Membership—Part 328 of FDIC Rules and Regulations

Introduction

These examination procedures were developed to assist examiners in the review of advertisements and signs for compliance with Part 328 of the FDIC Rules and Regulations and adherence to FDIC guidance regarding advertisement of membership during the period of the temporary increase in the standard maximum deposit insurance amount (SMDIA).[1]

The regulation contained in this part describes the official sign of the FDIC and prescribes its use by insured depository institutions. It also prescribes the official advertising statement insured depository institutions must include in their advertisements. For purposes of Part 328, the term "insured depository institution" includes insured branches of a foreign depository institution. The regulation does not apply to non-insured offices or branches of insured depository institutions located in foreign countries.

Examination Objective

The objective of the examination is to:

- Determine whether public advertisements and signs comply with applicable regulatory requirements and adhere to FDIC guidance.

Examination Procedures

1. Determine whether the official sign is properly displayed at each station or window where deposits are received, in accordance with the requirements of §§ 328.1 and 328.2, including the requirements for varied signs in § 328.2(a)(2).
2. During the period of the temporary increase in deposit insurance amount, ensure that institutions are using one of these three signage options:
   a. the FDIC official sign prescribed in 12 CFR Part 328,
   b. the following statement posted or affixed to a sticker next to the FDIC official sign, "FDIC deposit insurance temporarily increased from $100,000 to $250,000 per depositor through December 31, 2013.", or
   c. the temporary sign.[2]

   Verify that the content of the posted statement or sticker is consistent with the above text. Also, verify that the design and content of a temporary sign produced by the institution are consistent with the design and content of the temporary sign that can be ordered from the FDIC.

   NOTE: Display of the official sign at automated teller machines (ATMs) is not required.

   NOTE: Banks may use their own materials in any format to post the statement or affix the sticker mentioned above in "2.b." Also, banks may use their own materials to produce the temporary sign mentioned above in "2.c."

   NOTE: If required posters, signs, etc., are missing or obsolete, inform management of the availability of these items from the FDIC Warehouse upon request and may be obtained by faxing a written request on bank letterhead to:

   FAX: (703) 516-5201

   Or via FDICconnect at:

   https://www2.fdicconnect.gov

   Requests should indicate the number of each requested item needed and the name and address of the financial institution.

3. If the financial institution sells, on-premises, nondeposit investment products or insurance products, determine whether such activities (including any promotional materials) do not mislead consumers as to the products' insured status and comport with the requirements of the Interagency Statement on Retail Sales of Nondeposit Investment Products and Part 343 of the FDIC Rules and Regulations (Consumer Protection in Sales of Insurance).
4. Determine whether the official advertisement statement (as set forth in § 328.3(b)) is properly included in all advertisements (as defined in § 328.3(a)) that either promote deposit products or promote non-specific banking products and services, unless an exception in § 328.3(d) applies. Review for compliance with the restrictions in § 328.3(e) on using the official advertising statement when advertising nondeposit products.

   NOTE: During the time the FDIC permits use of the temporary sign mentioned above in "2.c.", institutions using the symbol of the Corporation in advertisements may substitute the current line of text above "FDIC" (i.e., Each depositor insured to at least $100,000) with the two

1 A Financial Institution Letter issued on May 22, 2009 (FIL-22-2009) informed FDIC-insured institutions about the extension of the temporary increase in deposit insurance coverage and also encouraged them to take certain actions to inform their depositors about the coverage. The temporary increase in the SMDIA to $250,000 per depositor was extended through December 31, 2013. On January 1, 2014, the SMDIA is to return to $100,000 per depositor for all account categories except Certain Retirement Accounts (includes Individual Retirement Accounts), which were increased permanently to $250,000 per depositor in 2006.

2 The FDIC has produced a temporary sign that reflects the temporary increase in the SMDIA; institutions may order this sign from the FDIC (See: http://www.fdic.gov/regulations/resources/signage).

lines of text above "FDIC" in the temporary sign (i.e., Each depositor insured to at least $250,000; Temporarily increased from $100,000 to $250,000 through 12/31/2013).

5. If the official advertisement statement "Member FDIC" is in a language other than English, determine whether prior written approval of the translation was obtained from the FDIC. (§328.3(f))
6. Verify that the institution informs its depositors that the increase in deposit insurance coverage to $250,000 is temporary and effective only until December 31, 2013, particularly when depositors open new accounts and certificates of deposit maturing after December 31, 2013. Also, ensure that the information provided to depositors is accurate and easily understood.
7. Provide a comment in the Report of Examination for any deficiencies noted during the examination.

References

FDIC Rules and Regulation Part 328; Advertisement of Membership

FDIC Rules and Regulation Part 343; Consumer Protection in Sales of Insurance

Interagency Statement on Retail Sales of Nondeposit Investment Products

FIL 22-2009: FDIC Insurace Coverage: Extension of Temporary Increase in Standard Maximum Deposit Insurance Amount

FDIC Legal Advisory Opinions

Advisory Opinion 93-2: Advertisements Soliciting Deposits and Non-Deposit Obligations Should Clearly State Which Investments Are Insured

Advisory Opinion 00-10: Whether the Rules Regarding the Use of the FDIC Logo Apply to Insured Institution Web Sites

Advisory Opinion 95-12: "Federal Deposit Insurance Corporation" Should not be Translated into Non-English Equivalent on Advertising

Advisory Opinion 94-17: Night Depositories and Official Bank Signs

Advisory Opinion 93-42: Official Bank Sign Need not be Displayed on Night Depositories

Advisory Opinion 92-15: Official FDIC Sign Need not be Black or Gold, but Text and Symbol

Advisory Opinion 90-77: Savings, Loan and Mortgage Charts Listing Both Insured and Uninsured Institutions Need not Include Official FDIC Advertising Statement

Advisory Opinion 96-7: Whether an Insured Depository Institution Can Operate Branch Under a Name that is Different Than That of the Insured Institution

Advisory Opinion 92-22: Whether FDIC Logo may be Displayed on Lapel Pin Worn by Bank Employees