

March 24, 2020

Robert E. Feldman
 Executive Secretary
 Attention: Comments
 Federal Deposit Insurance Corporation
 550 17th Street, N.W.
 Washington D.C. 20429
comments@fdic.gov

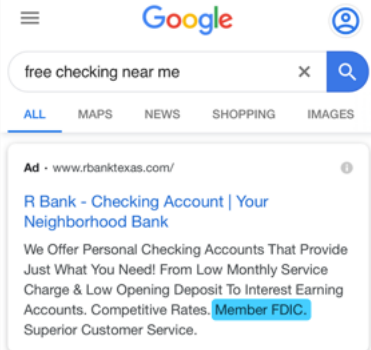
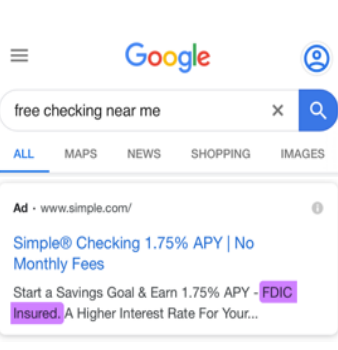
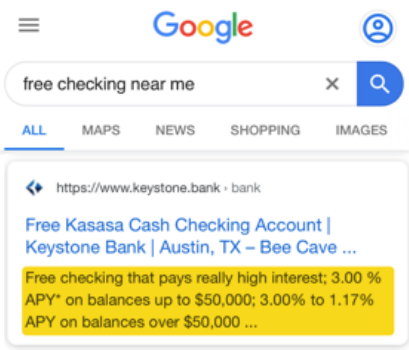
Re: RIN 3064-ZA14: Request For Information on FDIC Sign and Advertising Requirements and Potential Technological Solutions.

Dear Mr. Feldman,

In issuing its Request for Information (“RFI”) regarding the potential modernization of its sign and advertising rules, Federal Deposit Insurance Corporation (“FDIC”) leadership has raised a regulatory, marketing practices and consumer protection issue that is important to the financial services industry.

Since being originally enacted as part of the Banking Act of 1935 and most recently updated in 2006, the existing sign and advertising rule related to FDIC deposit insurance does not reflect how banks currently offer deposit products and services or how consumers connect with banks. Technology has advanced the business of banking in many ways, including how, when and through what vehicle depositors interface with banks when making deposits. Online access, smart device applications (“apps”), digital wallets and other tools have dramatically changed the way banking is conducted. Some banks have no physical branches, while other banks are embarking on full digital transformations. Remote deposit capture, introduced in the early 2000s, has become a common consumer feature. Many banks have moved away from the traditional branch/bank teller models and have embraced electronically-staffed kiosks, pop-up facilities and teller-less cafes where deposits can be accepted on digital devices. In addition, consumers may “deposit” funds with prepaid account providers or technology focused financial companies (“Fintechs”) that are not, themselves, FDIC-insured banks.

Given these industry developments, we applaud the FDIC for seeking input from industry participants on how the agency can update its sign and advertising requirements so that they align with how consumers interact with their financial institutions. As demonstrated by the three (3) marketing / search scenarios illustrated below, the FDIC has correctly identified that in today’s crowded financial services market, many consumers are having a difficult time distinguishing between (a) FDIC-insured banks, (b) nonbanks who have establish relationships with FDIC-insured institutions and (c) financial entities who misrepresent and / or deliberately omit their accounts’ insured status.

Example 1 – Actual Insured Status	Example 2 – Implied Insured Status	Example 3 – No Insured Status
		
<p>R Bank is a FDIC-insured bank, as they claim. But asides from trusting the presences of the phrase “Member FDIC,” consumers have no immediate way to verify the bank’s insured status.</p>	<p>Simple <u>is not</u> insured by the FDIC. Yet again, consumers have no straightforward way to test the claim made in the advertisement copy.</p>	<p>Keystone Bank does not get to choose the text Google uses to summarize their deposit offering because this isn’t a purchased ad. Because this snippet doesn’t mention the FDIC, consumers may be left with the mistaken impression that the bank is not an FDIC-insured institution.</p>

To address these concerns we respectfully submit the following recommendations:

- Advertising Statement:** As previously stated and as illustrated above, many consumers are having a difficult time determining if deposits are insured by the FDIC. Commonly accepted implementations of the FDIC’s current advertising statement do not seem to provide consumers with the clarity they seek. Thus, we respectfully propose an alternative that aligns with the way consumers want to engage with their bank.

As shown below, we recommend an enhancement to the FDIC’s current rule. Our solution would require the FDIC to develop and FDIC-insured banks to adopt a new notification / verification process that would leverage technology currently available in the marketplace.

	<p>Since the “Member FDIC” terminology / image alone is not enough to verify FDIC-insured status, we recommend the implementation of a modern standard for all electronic media advertisements / promotional materials, wherein consumers would be “taught to click” on an enhanced “FDIC seal” that would connect the user to the FDIC’s website or another FDIC officially maintained data repository that would verify the institution’s insured status.</p> <p>The pictured “Tap To Verify” feature could be built on top of existing web standards like the HTTP “referrer” header that tell websites where users are linked <i>from</i>, or even perhaps something as a simple URL parameter like "https://fdic.gov/verify?ref=keystone.bank", or both.</p> <p>To foil potential hackers and to address industry participants who falsely portray themselves as FDIC-insured institutions, the agency could, on a periodic basis, alter the official database / site, provide specific communications and / or list the names of industry participants that are not covered by the Deposit Insurance Fund.</p>
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If adopted, this solution would enable consumers to verify the insured status of deposits held with an insured depository institutions via a simple click of a button. And, while the FDIC’s “BankFind” site is helpful, this “tap to verify” solution provides a better user experience for today’s digitally-oriented consumers. We believe the FDIC’s FDITech team could implement, maintain and refresh such a site / app to match the user experiences that consumers have come to expect in today’s digitally oriented world.

- Official Sign:** We recommend that the FDIC official sign continue to be prominently displayed at all physical deposit-accepting facilities (e.g. branch office, cafés, pop up locations) and at any physical banking device (e.g. ATM, kiosk) deployed by an FDIC-insured bank in a public setting that can be used to accept deposits. Displayed physically or digitally during all business hours, the sign: (a) shall not alter the “symbol” of the Corporation as described in 12 C.F.R. Part 328.2(b) or the language as currently presented; (b) be of appropriate physical dimensions to draw attention; (c) feature clearly legible font sizes and colors; and (d) be located in a prominent place within the physical setting or on the device so that it can be easily identified and viewed by consumers who enter a facility or utilize a device prior to executing an initial deposit transaction at the time of their visit or their use of that particular device.

While it should remain an option for FDIC-insured banks, we do not think the official sign should be required to be displayed on an FDIC-insured bank’s website or mobile applications. Instead, such digital media should contain, at minimum, the FDIC’s advertising statement (i.e. “Member FDIC”) on its “home page” and every “product page” that describes a specific deposit account, as well as on the “login screen” of any FDIC-insured bank’s mobile app that consumers can use to place funds into their deposit accounts at that institution.

While not specifically mentioned in its RFI, we believe the FDIC would be well served to address a related “consumer transparency” regulatory requirement that, as currently implemented, does not align with modern banking practices and consumer preferences.

American consumers are blessed to have a wide variety of financial products and services available to them. We believe consumers are best served when prior to selecting any financial product or making any financial decision they have access to detailed information (including regulatorily required disclosures) that describes how each offering works and the benefits the consumer can expect to receive should they select or purchase that offering.

Unfortunately, as currently constructed, Section 1030.8 of Regulation DD (Truth In Savings) makes it difficult, if not near impossible, for banks, credit unions and financial technology (“fintech”) companies to include regulatorily required information within digital or electronic advertisements - i.e. online banner, Facebook, Twitter, social media, etc. Space constraints, inherent to these media formats, simply do not allow for all of the required regulatory disclosures to be adequately presented.

While Section 1030.8 allows for seven (7) specific “trigger term” disclosures to be “one click away,” if the advertiser is using for specific types of media. However, these exemptions do not apply to social media and advertisements posted on the Internet. For example, there is no analogous one-click away flexibility for the official advertising statement requirements under 12 C.F.R. 328.3 (“Member FDIC”). Adhering to the disclosure requirements in digital and electronic media is challenging as Tweets on Twitter are limited to a total of 280 characters, and Facebook limits advertising headlines to 25 characters, marketing content to 90 characters and “link” descriptions to no more than 30 characters.

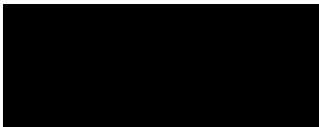
Given the regulatory requirements mandated by TISA and the space limitations associated with popular digital marketing formats, financial institutions and fintech providers are caught between a rock and a hard place – they can either (a) abandon popular marketing channels due to space constraints, or (b) exclude required regulatory information from their digital and electronic advertisements. Financial institutions shouldn’t have to make such a “trade-off.”

Fortunately, there is a very simple solution that aligns with current regulatory practices. As discussed above, Section 1030.8 of Regulation DD already permits the use of “links” to connect consumers with specific regulatory information. As such, for all digital and electronic media advertisements, we recommend the FDIC work with the CFPB to adopt the following electronic media regulatory practices:

	<ul style="list-style-type: none"> • “One Click Away”: All required regulatory disclosure information be no more than “one click away.” • Prominently Displayed & Titled “Links”: All digital and electronic media contains a prominently displayed and appropriately titled (i.e. “Tap for Full Account Info” or “Tap Here For Full Details”) link that upon activation will connect the consumer to all of the detailed information. • ADA Compliant: By separating the regulatorily required information from the marketing content of the advertisement, the CFPB can mandate that all regulatory disclosures must adhere to the American with Disabilities Act’s visual impairment requirements. This would improve consumer access to and understanding of the required regulatory information regardless what type of the digital device (computer, tablet, phone) they utilize.
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We believe the recommendations above will improve consumer understanding and use of innovative financial products and services and align with the Presidential Executive Order on Core Principles for Regulating the United States Financial System that President Trump issued on February 3, 2017.

Sincerely,



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