

OCTOBER 2022 FREE COMPLIANCE NEWSLETTER

CFPB ORDERS REGIONS BANK TO PAY \$191 MILLION FOR ILLEGAL SURPRISE OVERDRAFT FEES

Overdrafts continue to be one of the hottest topics in compliance right now. We just had the recent FDIC representment guidance, and we have seen many banks get cited recently on OD practices. Here is another example. In this case, customers were told they had sufficient funds but ended up paying these surprise OD fees after ATM and debit card transactions. You can read the consent order [HERE](#).

ABA, TRADE GROUPS SUE CFPB FOR EXCEEDING ITS STATUTORY AUTHORITY

The ABA, along with six other trade groups, are pushing back against the CFPB for its March update to the exam manual specific to UDAAP. The collective agencies take issue with the bureau's expansion of the "unfair" prong to also encompass discrimination. We won't get into our personal thoughts on this, but there are three issues spelled out in the complaint. It's a shorter article, but you can read more on it [HERE](#).

CFPB SUPERVISORY EXAMINATIONS FIND VIOLATIONS OF FEDERAL LAW BY STUDENT LOAN SERVICERS AND UNIVERSITY-OWNED LENDERS

We realize most of you don't do student loans, but it's always good to keep up on the lending industry as a whole. The CFPB recently released highlights on recent exam findings for student loan servicers and schools that lend to students directly. In some cases, schools had improper blanket policies of withholding transcripts to force students to make payments. You can read the supervisory highlights [HERE](#).

UNFAIR LENDING: WHY DISCRIMINATION IN BANKING STILL EXISTS AND HOW TO PREVENT IT

We try and keep our newsletters to regulatory updates and shy away from marketing, but I felt we should at least mention this here. For those of you that don't know, Tory has written a book on fair lending that was published back in May. It attacks the problem from a loan lifecycle concept, and he tells many stories and gives ways to build prevention into your fair lending program. It's the first ever book specifically on fair lending and made the Amazon best-sellers list. If you are interested in purchasing a copy, you can order directly from our website [HERE](#) – scroll down and click on the Fair Lending Book Order link. Tory personally signs all books ordered from our website, but he can't guarantee it will increase the value of the book on resale. You can also purchase it from Amazon [HERE](#).

ADDITIONAL THOUGHTS ON OVERDRAFTS

We have fielded so many questions on overdrafts that we wanted to offer a bit of our thoughts on the topic. For those of you that are FDIC banks, you will want to follow the recent guidance very closely. If you are not, at a minimum you should ensure your disclosures are clear. Providing voluntary restitution if you are not FDIC regulated should be a risk management decision. Ensure that your up-front disclosures (most likely your fee schedule) clearly states that fees can be assessed for each presentment. Some of the best language we have seen is to add verbiage that states "per item/per presentment", or something similar to that. Make sure your disclosures are clear, and if you need to provide restitution, get that done prior to your next exam to avoid unnecessary violations.



PART OF YOUR COMPLIANCE TEAM

FDIC CHANGES NAME OF CONSUMER RESPONSE CENTER – THIS HAS DISCLOSURE IMPACTS

The FDIC has recently changed the name of the Consumer Response Center in Kansas City to the National Center for Consumer and Depositor Assistance. If you are required to list the Consumer Response Center on any disclosures (for sure FDIC banks), you will need to update two particular areas.

You will need to update your Fair Housing Poster. The address is the same, but the name and website address will need to be updated. There are several vendors who sell these posters, but make sure you have the correct name and address prior to ordering. Make sure you also have the correct regulator. We have seen banks order the NCUA posters by accident (more than once). As a friendly reminder, the Fair Housing Poster must be 11 X 14 inches in size. If you print on normal printer paper, it will not be big enough. While not major, it's an easy violation for examiners to spot. You can find the FDIC guidance on the poster in the eCFR [HERE](#).

If you sell insurance, you also need to update your Sale of Insurance disclosure to reflect the new name and website address. Part 343 addresses this area, and if you click on this [LINK](#) and scroll to the bottom, you will find the info you need in Appendix A.