

APRIL 2024 FREE COMPLIANCE NEWSLETTER

**CRA PUBLIC FILE REQUIREMENTS**

In the March 2024 newsletter, we told you that you need to get your CRA public file on your website by April 1<sup>st</sup>. By now, most of you probably are aware that guidance came out in March that is pushing that requirement back until January 1, 2026, when the rest of the rule goes into effect. So now, you have likely already put it on your website, or have put it on the backburner. There is nothing against doing it early, so if you have not done it yet, you have some breathing room. If you have it online already, that is one less thing to cross off your list.

The same goes for large banks and updating your assessment areas. The new rule no longer lets large banks take partial counties. You must now take full counties. That was supposed to have a deadline of April 1, but that has also been pushed back to January 1, 2026.

**UPDATE:** On March 29<sup>th</sup>, a federal judge in Texas issued a preliminary injunction against enforcing the new CRA rules from a lawsuit brought by the American Bankers Association and other business groups. What does this mean? Your guess is as good as ours. The rule does not go into effect until January 1, 2026, so there is time to see how this all plays out. Perhaps this will follow a similar fate as the 1071 Small Business Data lawsuit and be in limbo for some time. We will keep you posted. For now, I guess we use a critical military technique Tory learned in the Air Force – hurry up and wait. [ABA Banking Journal Article](#).

**CFPB ISSUES CREDIT CARD PENALTY FEES FINAL RULE**

This is unlikely to affect many of our readers, but it's good to know the rules and be well rounded. On March 5<sup>th</sup>, the CFPB issued a final rule that lowers the typical credit card late fee from \$32 to \$8. Here are the CFPB's words from the press release: *The rule will curb fees that cost American families more than \$14 billion a year. The CFPB estimates that American families will save more than \$10 billion in late fees annually once the final rule goes into effect by reducing the typical fee from \$32 to \$8. This will be an average savings of \$220 per year for the more than 45 million people who are charged late fees.*

The reason it will likely affect few of you is that the rule applies to the largest credit card issuers, those with more than 1 million open accounts. The rule goes into effect 60 days after publication on March 5. To read more and find the final rule, click [HERE](#).

In the spirit of everyone suing the CFPB for every new rule they make, the U.S. Chamber of Commerce filed a lawsuit a mere two days after (March 7<sup>th</sup>) stating that the "CFPB not only exceeded its statutory authority but did so by relying on the use of secret data collected for an unrelated purpose." You can read more on the lawsuit [HERE](#).

**FREE COMPLIANCE TRAINING FROM THE REGULATORS**

Outlook Live, a webinar series sponsored by the Federal Reserve, is hosting a free training titled *Compliance Resources: Learning Where to Find Answers to Your Compliance Questions*.



## PART OF YOUR COMPLIANCE TEAM

Tory has taught compliance topics for over a decade and been part of over 400 audits. The one thing he has learned is you don't have to know all the answers, but you should know where to look. If delivered well, this could be an invaluable resource and training opportunity for any compliance professional. As former examiners, we know where to find answers. Many compliance professionals do not. Take advantage of this free training if your schedule allows. The training was postponed from March and rescheduled to April 17<sup>th</sup> at 1pm Central. Sign up [HERE](#).

### HMDA MODIFIED LAR DATA IS NOW AVAILABLE

Every year, the government releases modified LAR data. The 2023 data is now available. If you want to access the data, it can be found [HERE](#).

### FDIC CONSUMER COMPLIANCE SUPERVISORY HIGHLIGHTS – MARCH 2024 ADDITION

The FDIC's Consumer Compliance Supervisory Highlights is a publication that features articles of interest to the banking industry. Its purpose is to enhance transparency regarding the FDIC's consumer compliance supervisory activities and provide a high-level overview of consumer compliance issues identified in 2023 through the FDIC's supervision of state non-member banks and thrifts. Topics include supervisory observations related to consumer protection laws, examples of practices that may be useful to institutions in mitigating risks, regulatory developments, consumer compliance resources, and an overview of consumer complaint trends. To check out the Spring 2024 highlights or prior year highlights, click [HERE](#).

### FDIC ADVERTISING OF MEMBERSHIP AND NDIP UPDATES

There are some changes to the FDIC membership advertising rules that technically take effect on April 1, 2024 with a compliance date of January 1, 2025. So, while you may be just learning about them now, you have until the end of the year to make these changes and comply.

The FDIC has made some changes, one being a new official FDIC Digital Sign. Rather than put Member FDIC or the old sign on certain digital channels, you will need to use the new digital sign they have created in areas where you take deposits via digital channels. Examples of digital channels may include your website, mobile applications, and deposit taking ATMs.

For those of you that sell non-deposit insurance products (NDIPs), there is a new disclosure requirement in the areas where you sell those products. NDIPs typically include consumer sales of insurance or investment products. You must still provide required disclosures, but new signage is required, and if you sell NDIPs via digital channels, there are also requirements on how you display disclosures.

We created an internal document covering these changes, but we then realized it would be useful to all of you as well. The next few pages outline the new guidance. This is for reference only. You should always use the regulatory source for any implementation, but this summary should help guide you where you need to go and when. We hope you find this information useful. This is the summary we comprised based on reading and interpreting the new rule changes. To find the press release and see the new digital sign, you can click [HERE](#). To find the full final rule, click [HERE](#).



**FDIC Official Signs & Advertisement of Membership**

- Modernizes and amends the rules governing the display of the official sign in branches.
- Establishes and requires the display of the FDIC official digital sign on bank websites, mobile apps, and certain Insured Depository Institutions (IDI) ATMs
- Requires the use of disclosures differentiating deposit and non-deposit products across all banking channels, including digital channels.
- Advertising updates
- Clarifies the FDIC's rules regarding misrepresentation of deposit coverage.
- Amends the definition of "non-deposit product" to include crypto assets.
- Requires banks to establish and maintain written policies and procedures which address compliance with part 328.

**Takes effect on April 1, 2024 with a compliance date of January 1, 2025.**

**Use of official signage in branches:**

- Signage requirements apply to places of business where consumers have access to, or transact with, deposits, including teller windows; electronically staffed kiosks, interactive ATMs that provide remote assistance with a teller, and teller less cafes with internet access where deposits can be accepted on tablets or through ATMs.
- If the bank does not offer non-deposit products on the premises of that location, the requirement to display the official sign at each teller window or station may be satisfied by display of the official sign in one or more locations visible from the teller window or station in a size large enough to be legible from anywhere in that area. Example: If there are 2 teller windows the sign may be displayed in between the two windows.
- If deposits are accepted in other areas of the premises other than the teller window, the bank is required to display the official sign in one or more locations in a size large enough to be legible anywhere in those deposit-taking areas.

**Use of official digital sign:**

- Will require the bank to display the FDIC official digital sign "clearly and conspicuously" in a continuous manner, near the top of the relevant page or screen and in close proximity to the bank's name.
- Must be displayed on the initial homepage of the website or app; landing or login pages; and pages where the customer may transact with deposits. Example: The FDIC official digital sign should be displayed on a bank's mobile app that allows RDC, because this electronic space is in effect a digital teller window.

**Use of signage at ATMs and ITMs:**

- If the bank's ATM receives deposits, but does not offer access to non-deposit products the signage requirement may be met by either 1) displaying the FDIC official digital sign on ATM screens or 2) by displaying the physical official sign by attaching or posting it to the ATM. However, any ATM's that accept deposits and are put into service after 1/1/25 must display the official digital sign.
- If the bank's ATM both receives deposits and offers access to non-deposit products the final rule requires that such ATMs must 1) display the official digital sign clearly, continuously and conspicuously on the home page or screen on each transaction page relating to deposits; and 2) clearly, continuously, and conspicuously indicate that non-deposit products are not insured by the FDIC, are not deposits, and may lose value on each transaction page or screen relating to the non-deposit products by 1/1/25.

- If the bank's remote facility receives deposits and is labeled an ITM (instead of an ATM) the official signage requirements apply; however, if an ITM does not accept deposits, it is not subject to the rule.

**Non-Deposit Requirements:**

- The rule defines a non-deposit product as: Any product that is not a "deposit", including, but not limited to: insurance products, annuities, mutual funds, securities, and crypto assets. For purposes of this definition, credit products and safe deposit box services are not non-deposit products.
- Banks will not be required to display the non-deposit sign in areas where they provide safe deposit boxes and offer no other non-deposit products.
- Under the final rule, the FDIC requires bank's that offer both insured deposits and non-deposit products to clearly delineate and distinguish areas where activities related to the sale of non-deposit products occur from the areas where insured deposits are taken, and display a sign in the non-deposit areas indicating that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value. This sign is required to be continuously, clearly, and conspicuously displayed and may not be in close proximity to the official FDIC sign.
- Banks will be required to display the static non-deposit signage on their digital deposit taking channels. This signage must be displayed on each bank page relating to non-deposit products and may not be displayed in close proximity to the FDIC digital sign.
- Banks will be required to display a one-time notification when a bank customer accesses non-deposit products from a non-bank third party vendor via a bank digital deposit-taking channel such as through a hyperlink. This will not apply broadly to all consumers accessing the bank website; instead, it will only apply to bank customers that have logged into their respective accounts. This notification will be required per web session. The notification could include the bank using a pop-up; speedbump; or overlay that displays the notification to the customer and the customer must dismiss before accessing the content related to non-deposit products on the third party's website.

**Advertising Update:**

- Under the final rule, banks will have the option to use "FDIC-Insured" as a short form of the official advertising statement to satisfy advertising statement requirements.
- The general advertising statement would not be required on web pages where a bank displays the digital official sign, such as a website homepage. However, banks remain responsible for complying with the official advertising requirements for other qualifying advertisements, including those on other web pages.

**Policies and Procedures:**

- As part of the final rule, banks must establish and maintain written policies and procedures to achieve compliance with part 328. Such policies and procedures must be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the bank and must include, as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the bank or offer the bank's deposit-related products or services to other parties.