

OCTOBER 2024 FREE COMPLIANCE NEWSLETTER

CFPB ORDERS TD BANK TO PAY \$28 MILLION FOR BREAKDOWNS THAT ILLEGALLY TARNISHED CONSUMER CREDIT REPORTS

The CFPB ordered TD Bank to pay \$7.76 million to tens of thousands of victims of the bank's illegal actions. The CFPB indicated that for years, the bank repeatedly shared inaccurate, negative information about its customers to consumer reporting companies. The information included systemic errors about credit card delinquencies and bankruptcies. In addition to the redress, the CFPB is ordering TD Bank to pay a \$20 million civil money penalty. You can find more information and the consent order [HERE](#).

The complaint says that specifically, TD Bank harmed consumers by:

- Failing to fix its credit card reporting errors;
- Sharing fraudulent information with consumer reporting companies; and
- Failing to investigate and resolve consumer disputes.

The Fair Credit Reporting Act has been around for decades, so it's easy to forget that we should periodically go back and ensure the program is still operating as designed. Every lender that reports to the credit bureau needs to have a program to prevent inaccurate data from being reported. When is the last time you have taken a serious look at your program and tested the accuracy of your data?

CFPB TAKES ACTION TO STOP BANKS FROM HARVESTING OVERDRAFT FEES WITHOUT CONSUMERS' CONSENT

The CFPB published guidance to help federal and state consumer protection enforcers stop banks from charging overdraft fees based on phantom opt-in agreements. Phantom opt-ins occur when banks claim they have customers' consent to charge overdraft fees but there is no proof they actually obtained that consent. Under the Electronic Fund Transfer Act, banks cannot charge overdraft fees on ATM and one-time debit card transactions unless consumers have affirmatively opted in.

What does this actually mean? It appears to mean that if you have an opt-in program for the one-time POS and ATM transactions, you must have some concrete evidence that your customers have opted in. Most financial institutions we have worked with that have an opt-in program give customers the opt-in disclosure, have them sign the bottom, and keep a copy for their records. If you have an opt-in program without either a customer signature or some type of electronic consent, you are likely not compliant with the newest guidance. You can find the CFPB's circular on this topic [HERE](#).

CFPB RELEASES FREQUENTLY ASKED QUESTIONS (FAQS) GUIDANCE ON BUY NOW, PAY LATER PRODUCTS

Most of you do not have these types of products, but for those of you that do or if you are looking into them, you can find the newly released FAQs [HERE](#). FAQs can be a wealth of important information and are frequently used to find guidance that is not explicitly within the regulations.



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2025 HMDA FILING INSTRUCTIONS GUIDE (FIG) IS NOW AVAILABLE

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P.O. Box 91815 | Sioux Falls, SD 57109 | 605.651.3877 | tcconsulting.us

