

YOUR MONTHLY COMPLIANCE NEWSLETTER



FINDINGS FROM OUR CONSULTING WORK

We like to kick off each monthly newsletter with some common issues we find. This month, we are discussing a recent deposit issue and how fees are showing up on periodic statements.

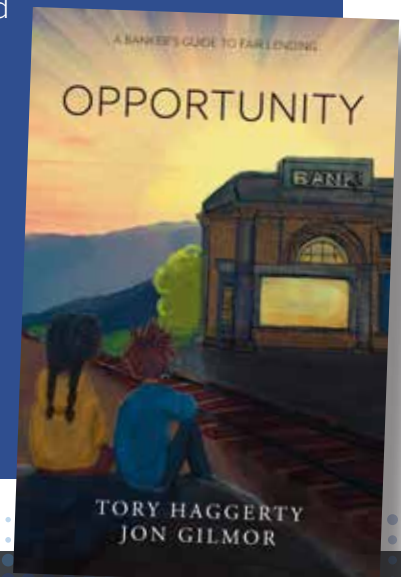
The Truth In Savings Act (TISA) and Regulation DD tell us how to disclose deposit accounts. In those requirements, we need to give up front disclosures, clearly explain fees, and provide periodic statements. While you need to dig into the

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NEW FAIR LENDING BOOK AVAILABLE FOR FREE DOWNLOAD ON APRIL 7

Tory is publishing his third book on fair lending, and this time he brought along a colleague and former FDIC examiner Jon Gilmore. Together, they take an in-depth review of the loan lifecycle of risks as modeled in Tory's first book *Unfair Lending*, but this time, we go much deeper. The book is filled with all new content, real-world case studies, and it is written especially for the lending community.

You can certainly purchase a copy online, but we are offering a free digital download from Amazon on April 7th. All you have to do is log into Amazon and "purchase" the free book. This is only available for free on that day, so set your calendars!





REPUTATIONAL RISK REMOVED FROM NEW GUIDANCE

In an effort to remove reputational risk from regulatory examinations, two more agencies have joined the effort consistent with Executive Order 14331.

FinCEN has updated the BSA/AML Exam Manual to remove references to reputational risk. The Exam Manual can be found [HERE](#).

The Federal Reserve has a proposed rule to also remove reputational risk from examinations.

Comments can be submitted until April 27th. You can find their press released [HERE](#) and the proposed rule [HERE](#).

LAUNCHING FAIRBORROW.AI

We are excited to announce our latest venture in the world of fair lending – FairBorrow.

Ai. Our founder Tory Haggerty

has teamed up with banking executive and engineer Praful Mainker to launch a new fair lending software platform.



FairBorrow.AI offers fair lending tools that are simple to use and understand along with actionable content that helps you not only identify fair lending risks, but how to mitigate them.

Tory has spent years creating a world-class fair lending training program, and our students love how simple we make fair lending. We are adopting that same concept and applying it to fair lending software. We have an aggressive development plan to continue expanding our product offerings.

If you are interested in a free, no obligation demo of our HMDA data analytics tools, simply send Tory an e-mail and he will reach out to schedule a demo slot – tory@fairborrow.ai

COMMUNITY REINVESTMENT ACT – PUBLIC FILE REMINDER

We had this in last month's newsletter, but we wanted to include it again in case you missed it. We are at the time of the year when your CRA public file needs to be updated. If you missed the April 1 deadline, do not stress. Get it updated now, and you should be just fine.

The best time to do it is when your fourth quarter call report is completed. Ensure you update your quarterly loan-to-deposit ratios for all of 2025. It's also a good time to make sure your branch and account information is current, your assessment areas are correct, and your most recent performance evaluation is in there. Any public comments need to be included for the current year and each of the prior two calendar years.

For a full list of public file requirements, check out Section 228.43 link [HERE](#).

FINDINGS

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regulatory weeds for all of the requirements, there is a general overarching theme of TISA: disclosures should be clear and conspicuous. Clear means you need to clearly explain the terms of the deposit accounts and all fees that will be charged. Conspicuous means they need to be easy to read and disclosed up front, not buried in fine print.

If you charge a fee, that fee needs to be clearly listed on the periodic statement. Generally, you want the fee names to match. If you call the fee a maintenance fee on the account opening disclosures, do not call it a service charge on the periodic statements. Those do not match at all.

We do a full TISA disclosure review about once a month, so

we see a lot of disclosures. For the most part, organizations that offer deposit accounts do a good job of creating and providing disclosures, but there are often little things missing. However, we have noticed one big thing lately we feel you should know about.

The issue we have been seeing is that a fee is being charged at the same time as a withdrawal, but the fee is hidden in the periodic statement. In one recent example, a bank had a \$30 Early Account Closure Fee. Their customers had \$100 left in their account, and they wanted to close the account. The transaction was listed as a \$100 Withdrawal on the periodic statement, but that is not what happened. The customer left with \$70, and they paid the \$30 fee. Since the statement just showed a \$100 withdrawal, it looks like the customer walked

away without paying a fee. It should be disclosed as a \$70 withdrawal and a \$30 Early Account Closure Fee.

We saw the same issue come up with the sale of a cashier's check. A customer purchased a cashier's check for \$200, and there was a \$10 fee for the check. On the statement, it only showed as a \$210 withdrawal, when in fact, it was a \$200 withdrawal and a \$10 Cashier's Check Fee.

The takeaway is to not hide fees within a withdrawal transaction. That is not clear and conspicuous, and you could face regulatory scrutiny if/when examiners find the issue. Ensure you always disclose fees properly on periodic statements and that they are not combined and hidden inside another transaction.

YOUR MONTHLY FAIR LENDING CORNER NEWSLETTER



The focus of the April Fair Lending Newsletter is monitoring. Your Compliance Management System (CMS) has many key components. Regulators want to ensure you have adequate oversight, well written policies and procedures, and that your people are trained, but how do you know if those parts are working like they are supposed to?

One way is to perform an audit. An audit looks at your program as a whole, analyzes data, and tells you if you are on the right track. However, audits are expensive, they are not timely, and you are at the mercy of the auditor's skills and knowledge. Is there a way to get more timely feedback so you can make course corrections as you go instead of

waiting until you are already lost?

That is where monitoring comes in. This is usually someone or a team of individuals in the compliance department that are periodically checking to make sure your people are making loan decisions the right way.

The easiest example of monitoring (and most common we see when we perform fair lending audits) is a secondary review of denials. You can do both a technical review to ensure your adverse actions follow regulatory requirements as well as a secondary underwriting review to ensure procedures were followed and all applicants

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received a fair credit decision.

You can follow the same logic on approved loans. Periodically, grab a sample of approved loans and review the credit/underwriting and pricing decision. Did the decisionmaker follow all underwriting guidelines? If there was a policy exception, was an approval requested and documented? Did they follow the rate sheet and quote the correct interest rate?

These are simple ways you can stay on top of your fair lending program by ensuring your lending staff are following approved policies and procedures. It is also a great way to ensure their training is effective.

When you monitor, ensure you are always grabbing loan files and denials from different branches and lenders. We have seen too many times that the person doing the monitoring works

at an institution's main location, and they always seem to pull files from lenders in that location. That means they really only know how local lenders are doing. If you periodically grab files from all parts of your institution (different branches, lenders, and departments), you will always have your finger on the pulse of your organization's lending activities. When you spot issues, ensure you report appropriately.

Last piece of advice – write this stuff down. Nothing needs to be overly formal or in a checklist, but ensure your examiners know what you are doing. This will be viewed as a strength of your CMS. Often examiners do not know all of the great things you do unless you tell them. Do not be shy about all of the great work you do to ensure your customers are treated fairly and your program is strong.

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Our Fair Lending School was authored by a team of commissioned examiners.



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FAIR LENDING EXPERT GROUP (FLEX)

Expand your knowledge and expertise in Fair Lending



- Open to all compliance, fair lending, and audit professionals
- We have banks, credit unions, and mortgage companies from across the United States
- We meet quarterly for 2 hours
- One Annual fee gets all of your people in the group (Pricing starts at \$800/organization)
- We submit all meetings for 2.5 hours of CRCM credit (earn up to 10 CPE hours every year)
- We focus on different fair lending training topics at each meeting
- Ask our experts your fair lending questions
- Keep updated on changes in regulations and the latest guidance
- Share fair lending exam and audit findings so you stay ahead on what the regulators are seeing
- All meetings are recorded if you miss the live broadcast



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