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CFPB and Other Regulators Warn Banks about Customer Deposit Errors

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On May 18, 2016, five federal banking agencies issued guidance on how banks and other financial institutions should handle customer account deposit discrepancies. In their Interagency Guidance Regarding Deposit Reconciliation Practices, the agencies stated that they expect financial institutions to adopt policies and practices to avoid and resolve discrepancies to treat deposit customers fairly.

That the banking agencies – the Federal Reserve Board, the CFPB, the FDIC, the OCC and the National Credit Union Administration – have chosen to highlight this issue means depository institutions should be prepared for this issue to be tested on examinations.

As explained in the guidance, discrepancies occur any time an amount that a bank credits to the account differs from the actual amount deposited. Examples of credit discrepancies include typographical errors on deposit slips, poor image quality, damaged items and encoding errors. The agencies report that in some instances, financial institutions do not sufficiently research or correct errors, which can result in the customer not receiving the amount of the actual deposit. According to the agencies, banks that do not appropriately and timely reconcile credit discrepancies may run afoul of the Expedited Funds Availability Act, Regulation CC, Section 5 of the Federal Trade Commission Act and/or the Dodd-Frank Act.

The guidance warns that deposit discrepancy practices that fail to comply with applicable laws and regulations could lead to liability and possible enforcement actions. Notably, the CFBP's announcement about the new guidance mentioned the enforcement action brought by the CFPB, OCC and FDIC in 2015 against Citizens Bank, N.A., for failing to credit consumers the full amounts of their deposited funds. The consent order required Citizens Bank to pay a total of $18.5 million in refunds to consumers and a penalty for the violations.

The agencies expect banks (1) to adopt policies and practices to avoid, reconcile and resolve discrepancies such that customers are not disadvantaged; (2) to manage their reconciliation processes to comply with applicable laws and prevent harm to customers; (3) to provide accurate information to customers about deposit reconciliation practices; and (4) to implement compliance management systems including internal controls, training and oversight, and review processes.

Banks and other regulated institutions should view the new guidance, coupled with last summer's enforcement action against Citizens Bank, as a clear signal that the agencies will be focusing more closely on credit discrepancies. To avoid adverse findings on exams and potential liability, financial institutions should make sure to have appropriate policies and procedures in place and to add this issue to the top of their audit and testing checklists, no matter what their asset size. Financial institutions should also review their customer complaint data to determine whether customers are complaining about deposits not being properly credited and then take steps to address those issues. If you have questions regarding the new guidance or how to prepare for your next exam, please contact a member of Baker Donelson's CFPB Team.