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Inside

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Supervisory Insights

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Issue at a Glance

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Articles

Mobile payments have the potential to significantly change how consumers pay for goods and services. As is the case with any new banking product or service, the use of mobile payments challenges banks to deploy the product effectively and in a way that complies with existing laws and regulations. This article describes the mobile payments marketplace and examines critical issues, including the adequacy of legal protections and disclosures received by consumers.

To attract depositors, banks may offer high-yield checking accounts. However, the promotions associated with these accounts could be misleading or inaccurate. This article reviews the features of high-yield checking accounts and the problematic disclosures that may accompany their promotion. The article also highlights examination best practices that can help ensure a bank is providing customers with clear and unambiguous account information.

Regular Features

This feature provides an overview of recently released regulations and supervisory guidance.

Letter from the Director

We are happy to share this issue of ***Supervisory Insights*** with you. We hope you find the articles informative and useful.

Innovation and technology play a critical role in expanding consumer access to banking products and services. As a relatively new financial offering, mobile payments have the potential to significantly change how individuals pay for goods and services. "Mobile Payments: An Evolving Landscape" explores recent advancements in payments services performed on mobile devices, such as a smartphone or tablet computer. This article describes the range of mobile payments options, identifies potential risks associated with their use, and highlights the importance for banks that offer mobile payments services of complying with existing laws and regulations.

To attract and retain depositors, banks may offer high-yield checking accounts. The rates offered by these accounts usually are conditioned on the satisfaction of certain requirements. FDIC examiners have observed instances where the disclosures and promotions for these accounts described these requirements in ways that were inaccurate or potentially misleading. "High-Yield Checking Accounts: Know the Rules" reviews the typical features of these accounts and the disclosure issues most frequently encountered by examiners, issues that potentially can result in violations of consumer protection laws and regulations. The article also highlights the steps examiners take to help ensure a bank is providing customers with account information that is clear and unambiguous.

We welcome your feedback on these articles. Please send your comments as well as suggestions for topics for future issues to SupervisoryJournal@fdic.gov.

Sandra L. Thompson
Director
Division of Risk Management Supervision

Mobile Payments: An Evolving Landscape

As a relatively new financial service, mobile payments have the potential to significantly change how consumers pay for goods and services. Generally, mobile payments[1] are defined as the use of a mobile device—commonly, but not exclusively, a smartphone or tablet computer—to initiate a transfer of funds to people or businesses. The widespread adoption of mobile payments raises critical issues, including the extent to which financial institutions may lose payments-system market share; the adequacy of legal protections and disclosures received by consumers; and, more generally, how banks can ensure compliance with existing laws and regulations. Although the potential benefits of mobile payments have received considerable attention in the media and trade publications, less scrutiny has been given to understanding the unique risks and supervisory issues raised by this technology. This article describes mobile payments technologies, identifies the risks associated with mobile payments, and discusses the existing regulatory framework that applies to the use of these technologies.

Market Characteristics

The mobile payments marketplace is continuing to expand. More than 87 percent of the U.S. population now has a mobile phone,[2] and more than half of those mobile phones are smartphones.[3] Nearly one-third of mobile phone users in 2012 have reported using mobile devices to make a purchase. Consumers spent over $20 billion using a mobile browser or application during the year,[4] and this number is likely to grow as smartphone ownership increases and mobile payments platforms become more widespread. Mobile payments can be made at the point-of-sale (POS) or to facilitate person-to-person payments. In either case, mobile payments are facilitated by the increasing popularity of smartphones, the availability of POS terminals that are equipped to process transactions using near-field communications (NFC),[5] and the growth of alternative cloud-based mobile payment solutions. At least six NFC-equipped cell phones are for sale in the United States,[6] and 50 percent of smartphones could be NFC-equipped by 2014.[7] Projections for

[1] For purposes of this article, mobile payments do not include payments made using financial institution-sponsored online bill payment services. For a discussion of mobile banking, see Jeffrey M. Kopchik, "Mobile Banking Rewards and Risks," ***Supervisory Insights***, Winter 2011 at https://www.fdic.gov/regulations/examinations/supervisory/insights/siwin11/siwinter11-article2.pdf.

[2] Board of Governors of the Federal Reserve System, "Consumers and Mobile Financial Services," March 2012, at http://www.federalreserve.gov/econresdata/mobile-devices/files/mobile-device-report-201203.pdf.

[3] Javelin Strategy & Research, "Mobile Payments Hits $20 billion in 2012," September 2012 (private study available for a fee; also on file with authors).

[4] Ibid.

[5] NFC is a short range wireless communication using an NFC-enabled payment card or smartphone.

[6] Robin Sidel and Amir Efrati, "What's in Your Mobile Wallet? Not Much," ***Wall Street Journal***, September 26, 2012, at http://online.wsj.com/article/SB10000872396390444180004578016383395015570.html.

[7] Mercator Advisory Group, "Too Early to Call: Five Mobile Giants," May 2012 (private study available for a fee; also on file with authors).

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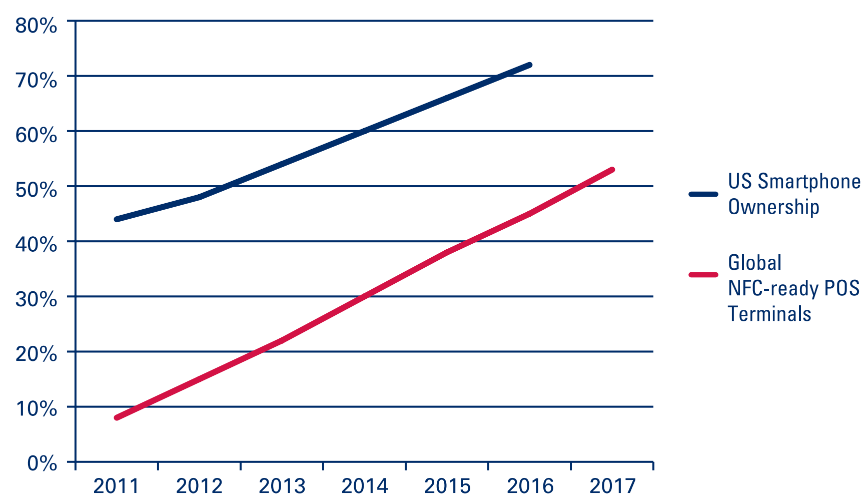
U.S. smartphone and global NFC-ready POS market penetration are shown in Chart 1.

Chart 1: Smartphone and NFC POS Market Penetration



Source: Javelin Strategy & Research (December 2011) and Cellular News (June 2012)

The four major credit card brands (MasterCard, Visa, Discover, and American Express) offer contactless payment technology at the POS, and at least six major merchants accept contactless payments in their stores.[8] In partnership with MasterCard and Visa, Google introduced a mobile wallet in 2011.[9] A mobile wallet allows users to load payment account information on their smartphones, enabling them to choose the payment option. Depending on the underlying technology, users may wave their smartphones near the POS terminal or communicate their payment credentials through a bar code or other cloud-based solution to make a payment. ISIS (a consortium of three mobile telecommunications providers) is conducting NFC mobile wallet pilot projects in Austin, Texas and Salt Lake City, Utah. According to a 2012 study conducted by *Cellular News*, 60 to 80 percent of U.S. consumers would use a mobile wallet from one of the major brands, such as Google, PayPal, or Apple, if available.[10]

Mobile Payments Technologies

Mobile payments can be initiated using different core technologies, either individually or in combination. As the mobile payments marketplace continues to evolve, it is unlikely that any one technology will become dominant in the near term. Retail merchants do not know which mobile payments technologies consumers will find preferable, creating little immediate incentive for investment in new POS terminals that can accept mobile payments. Similarly, consumers have little interest in acquiring the capability to make mobile payments until merchants accept them, or additional incentives are offered making it worthwhile for consumers to try a new form of payment. The mobile payments technologies increasing in popularity are identified in Table 1.

[8] See Mercator, *supra* n. 7 at 32 and 13.

[9] Pew Research Center, "The Future of Money in a Mobile Age," April 17, 2012, at http://www.pewresearch.org/internet/2012/04/17/the-future-of-money-in-a-mobile-age/.

[10] "If PayPal Offered a Mobile Wallet, 8 in 10 Consumers Would Use It," ***Cellular News***, June 2012, at http://www.cellular-news.com/story/54726.php.

Table 1: Mobile Payments Technologies

Near Field Communications	Cloud Based	Image Based
Wireless protocol that allows for encrypted exchange of payment credentials and other data at close range.	Leverages mobile connection to the Internet to obtain credentials not stored on the mobile device.	Coded images similar to barcodes used to initiate payments. Credentials may be encrypted within image or stored in cloud.
Carrier Based	**Proximity Based**	**Mobile P2P**
Payments billed directly to mobile phone account. Merchants paid directly by mobile carrier, bypassing traditional payment networks.	Geolocation used to initiate payments. Merchant will identify active users within range and verify identity. Credential exchange is cloud-based.	Payment initiated on mobile device using recipient's email address, mobile phone number, or other identifier. Payment is via ACH, card networks, or intra-account transfer.

Although the emerging technologies identified in Table 1 can facilitate mobile payments, established retail payments channels (automated clearing house (ACH), credit/debit networks, electronic funds transfers (EFT), and intra-account transfers) remain the principal ways mobile payments accounts are funded and transactions settled. The only notable exception is mobile carrier-based payments models, which currently have only limited adoption in the United States. Mobile payments typically require users to provide verifiable bank account information or a prepaid card to establish and fund an account. This allows mobile payments companies to leverage existing banking relationships to verify identities, satisfy federal anti-money laundering (AML) requirements, and fund accounts. Thus, with regard to the transfer of funds, the risks associated with mobile payments should be familiar to financial institutions and their regulators, and the corresponding risk controls are well established.[11]

[11] Michele Braun, James McAndrews, William Roberds, and Richard Sullivan, "Understanding Risk Management in Emerging Retail Payments," *Federal Reserve Bank of New York Economic Policy Review*, September 2008, at www.newyorkfed.org/research/epr/08v14n2/0809brau.pdf.

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Understanding and Managing Mobile Payments Risk

Mobile payments present the same types of risks to financial institutions associated with many traditional banking-related products, including Bank Secrecy Act (BSA)/Anti-Money Laundering (AML) compliance, fraud, credit/liquidity, operations/IT, reputation, and vendor management. As is the case with any new product offering, a financial institution should have a review and approval process sufficiently broad to ensure compliance with internal policies and applicable laws and regulations. However, unlike most banking products that allow institutions to control much of the interaction, mobile payments require the coordinated and secure exchange of payment information among several unrelated entities. Making matters more challenging is that much of the innovation in the mobile payments marketplace is driven by entrepreneurial companies that may not be familiar with supervisory expectations that apply to banks and their service providers. Depending on the type of mobile payment, financial institutions may find that the effective management of risks involves partnering with application developers, mobile network operators, handset manufacturers, specialized security firms, and others.

Financial institutions should be particularly conscious of the potential and perceived risk of fraud in mobile payments. Customers are more likely to adopt mobile payments if they are confident that the provider, often their bank, has taken appropriate steps to make this service secure by protecting the customer's funds and confidential account information. Encrypting sensitive information stored on the mobile device and providing the ability to disable or wipe the device clean if it is lost or stolen are examples of effective controls that should be carefully considered as part of any mobile payments service. Table 2 identifies the risks posed by mobile payments and briefly describes the challenges in mitigating those risks.

The regulatory expectations for managing mobile payments are generally consistent with those associated with other financial services delivered through more traditional channels. No safe harbors or carve-outs from coverage for mobile payments exist. Thus, mobile payments providers must determine how to comply with existing legal requirements when the application to mobile payments may not be readily apparent. For example, creative solutions may be required to display disclosures on a mobile device's small screen. As not all mobile payments give rise to the same rights, consumers could become confused about which consumer protections apply, or whether they apply at all, resulting in reputation risk. Consumers also may not understand which regulators supervise the parties providing the mobile payments service. Some mobile payments products may provide contractual rights similar to those contained in certain consumer protection statutes; however, these contractual provisions do not have the force of law as described below.

Table 2: Mobile Payments Risks

Category	Risk	Challenge
BSA/AML	Failure to satisfy recordkeeping, screening and reporting requirements intended to detect financial crimes, deter illicit cross-border payments, and prevent terrorist financing.	Ensuring emerging mobile payments models developed (and sometimes managed by third-party service providers) satisfy BSA/AML/OFAC requirements.
Fraud	Failure to prevent or deter unauthorized transactions, the interception of confidential information, or other fraudulent activity.	Ensuring adequate security of account data and other sensitive information and providing methods of "turning off" access to mobile accounts in the event of loss or theft of mobile device. Educating consumers regarding the need to password-protect and otherwise secure their mobile devices.
Compliance	Failure to comply with applicable consumer protection laws, disclosure requirements, and supervisory guidance.	Developing ways to translate disclosure and response requirements to the mobile environment.
Credit/Liquidity	Possible loss from a failure to collect on a credit obligation or otherwise meet a payments-related contractual commitment.	Managing mobile payments credit risk linked to underlying payment type (e.g., credit/debit card, ACH credits/debits, prepaid, EFT, etc.).
Operations/IT	Failure to protect confidential financial information or applications.	Ensuring mobile payments solutions satisfy requirements to safeguard customer information (e.g., Gramm-Leach-Bliley Act) and that such products are developed/configured in a secure manner.
Reputation	Negative consumer experience may reflect poorly on the bank or discourage the use of mobile payments.	Selecting and actively managing mobile payments technology partners and ensuring customer satisfaction with new products.
Vendor Management	Third party may fail to meet expectations, perform poorly, or suffer bankruptcy.	Ongoing due diligence of partner relationships with entrepreneurial companies that may be unfamiliar with operating in regulated environment.

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Legal and Supervisory Framework

To date, no federal laws or regulations specifically govern mobile payments. However, to the extent a mobile payment uses an existing payment method, such as ACH or EFT, the laws and regulations that apply to that method also apply to the mobile payment. For example, a mobile payment funded by the user's credit card will be covered by the laws and regulations governing traditional credit card payments. Table 3 provides an overview of selected federal laws and regulations with applicability to mobile payments transactions.

Mobile payments technologies that do not use the existing payments infrastructure would not be subject to laws and regulations that currently cover such payments. In addition, certain mobile payments providers may be subject to the jurisdiction of one or more federal or state regulators

Table 3: Laws and Regulations That Apply to Mobile Payments Transactions

Law or Regulation / Description	Coverage	Applicability to Mobile Payments	Key Obligations / Other Information
Electronic Fund Transfer Act (EFTA) / Regulation E[12] *Establishes rules for electronic fund transfers (EFTs) involving consumers.*	Generally includes any "transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that instructs a financial institution either to credit or debit a consumer's account." This includes transactions such as debit card transactions, direct deposits and withdrawals, and automated teller machine (ATM) transactions. The regulation generally applies to financial institutions, but certain provisions apply to "any person."	Applies when the underlying payment is made from a consumer's account via an EFT.	The rule establishes consumer rights to a number of disclosures and error resolution procedures for unauthorized or otherwise erroneous transactions. The disclosures include upfront disclosures regarding, among other things, the terms and conditions of the EFT service and how error resolution procedures will work.
Truth in Lending Act (TILA) / Regulation Z[13] *Establishes rules regarding consumer credit; intended to help consumers understand the cost of credit and compare credit options.*	Generally applies to "creditors" that offer or extend credit to consumers and includes both open-end and closed-end credit products, including credit cards.	Applies when the underlying source of payment is a credit card (or other credit account covered by TILA and Regulation Z).	Creditors are required to provide disclosures to consumers describing costs; including interest rate, billing rights, and dispute procedures.
Truth-in-Billing[14] *Requires wireless carriers to provide certain billing information to customers.*	Applies to wireless carriers.	Applies when mobile payment results in charges to mobile phone bill.	Wireless carriers must provide clear, correct, and detailed billing information to customers. This includes a description of services provided and charges made.

[12] 15 USC § 1693 et seq., 12 CFR 1005.

[13] 15 USC § 1601 et seq., 12 CFR 1026.

[14] 47 CFR 64.2401.

Law or Regulation / Description	Coverage	Applicability to Mobile Payments	Key Obligations / Other Information
Unfair, Deceptive, or Abusive Acts or Practices (UDAP) under the Federal Trade Commission (FTC) Act /Unfair, Deceptive or Abusive Acts or Practices (UDAAP) under the Consumer Financial Protection Act of 2010[15] *Prohibits "unfair or deceptive acts or practices in or affecting commerce."*	Applicable to any person or entity engaged in commerce. Made applicable to banks pursuant to Section 8 of the Federal Deposit Insurance Act.[16]	Applies to all mobile payments regardless of underlying payment source.	Prohibits "unfair or deceptive acts or practices in or affecting commerce." The Dodd-Frank Act also added the concept of "abusive" practices to "unfair" or "deceptive" ones, and gave the Consumer Financial Protection Bureau (CFPB) authority to further define abusiveness.
Gramm-Leach-Bliley Act (GLBA) Privacy and Data Security Provisions[17] *Establishes rules regarding consumer privacy and customer data security.*	The privacy rules and data security guidelines issued under GLBA apply to "financial institutions," which include depository institutions as well as nonbanks engaged in financial activities.	Applies when a financial institution handles information of a "consumer" or "customer."	Financial institutions are required to provide consumers with certain notices regarding the privacy of nonpublic personal information and allow them to opt out of certain types of information sharing. The GLBA data security provisions give guidance on the appropriate safeguarding of customer information.
Federal Deposit Insurance[18] or NCUA Share Insurance[19] *Protects funds of depositors in insured depository institutions and of members of insured credit unions in the event of failure of the institution.*	Applies to "deposits" and "accounts" as defined in laws and regulations of the FDIC and National Credit Union Administration. These include savings accounts and checking accounts at banks and share accounts and share draft accounts at credit unions.	If the funds underlying a mobile payment are deposited in an account covered by deposit insurance or share insurance, the owner of the funds will receive deposit or share insurance coverage for those funds up to the applicable limit.	Deposit insurance or share insurance does not guarantee that a consumer's funds will be protected in the event of a bankruptcy or insolvency of a nonbank entity in the mobile payment chain.

Note: This table is not exhaustive, and other laws, regulations, and policies may apply.

[15] 15 USC § 45(a); 12 USC § 5536(a)(1)(B).

[16] 12 USC § 1818.

[17] 15 USC § 6801 et seq.; 12 CFR 332 (FDIC privacy rule); 12 CFR 364 App. B (Interagency Guidelines Establishing Information Security Standards, as published in FDIC's rules).

[18] *See* 12 CFR 330.

[19] *See* 12 CFR 745.

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(e.g. including federal bank regulators, the Federal Communications Commission, and the Federal Trade Commission).[20]

Looking Forward

In the payments business, banks have traditionally served a variety of intermediary roles between merchants and consumers to facilitate non-cash payments. Banks issue payment cards for customers, process payments for merchants, manage credit/settlement risk for pending transactions, and provide a key link to the payments networks. In the near term, the majority of mobile payments in the U.S. marketplace will be funded by the customer's bank account, and financial institutions will continue to play a key role in facilitating mobile payments. However, as mobile payments evolve, non-bank mobile payments providers may start to capture greater market share from financial institutions and alter bank/customer relationships. Financial institutions should not assume their place in the new mobile payments marketplace is assured because they are an integral part of the existing payments infrastructure. Non-bank mobile payments providers are devising ways to streamline the current payments system and reduce transaction costs by limiting the role banks play in mobile payments or eliminating them from segments of the payments process altogether.

In economic terms, the elimination of an intermediary in a transaction between two parties is known as "disintermediation." Banks could increasingly find themselves displaced by non-banks in the mobile payments marketplace. This evolution could result in the gradual disintermediation of banks as the primary provider of mobile payments. This disintermediation could take several forms. One possible scenario may be a consolidation of the intermediary roles served by banks in the payments process. Nowhere is this more evident than in the payment card acquiring business where it is not unusual to have five or more banks involved in a single card payment.[21] In an alternative payments model such as PayPal, the non-bank mobile payments provider assumes at least three of these bank roles (that of issuing, acquiring, and sponsoring

[20] The FDIC, Office of the Comptroller of the Currency, Federal Reserve Board, and National Credit Union Administration supervise depository institutions and examine them for compliance with applicable laws and regulations. The Consumer Financial Protection Bureau (CFPB) has consumer protection, examination and enforcement jurisdiction over certain nonbank institutions that offer consumer financial products and services and over depository institutions with more than $10 billion in consolidated assets. The CFPB has sole rulemaking authority for most financial consumer protection laws, including the EFTA and TILA and, as such, is instrumental in the regulation of mobile payments, whether through direct supervision or rulemaking authority. The Federal Communications Commission (FCC) has jurisdiction over wireless carriers and is responsible for the Truth-in-Billing rule. Mobile payments products that include wireless bill charges as a payment method may be subject to the FCC's authority. The Federal Trade Commission (FTC) has authority to investigate and take enforcement actions under the FTC Act against almost any entity engaged in commerce, with the exception of entities carved out from FTC jurisdiction, for example, depository institutions and common carriers such as wireless providers. The Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, is the administrator of the Bank Secrecy Act.

[21] In the U.S. marketplace, there are at least five distinct roles served by banks involved in processing a single credit/debit card transaction: (1) an issuing bank that holds the customer relationship and authorizes payment; (2) an acquiring bank responsible for providing access to the payment networks; (3) a merchant business bank that holds the funds collected on payments; (4) a settlement bank that moves money among the issuing/acquiring banks; and in some cases (5) a payment card sponsoring bank used to manage bank payment card programs.

banks), thereby removing those banks from the payments process and reducing their business opportunities.

Another potential result of bank disintermediation is a loss of access to key customer data. This can occur as customers provide account credentials to an alternative payments provider to fund an account that will be used to pay for all, or a portion of, a transaction. In this scenario, the alternative payments provider and the merchant control the actual exchange of payment transaction data. Banks may never see the total value of the transaction or even know the true identity of the entity receiving the payment. Thus, detailed transaction data used to identify potential anomalous transactions or provide customized content and product offers may no longer be available to the banks in some alternative mobile payments models. It is the value of this direct connection to the customer and transaction information that is driving these new products and partnerships, as banks consider the implications of ceding this important nexus to non-bank mobile payments providers.

Conclusion

Mobile payments are poised to become an important part of the payments landscape. However, it is unclear when they will achieve popular acceptance and what forms they will take. The majority of industry observers predict a three-to-five year timeframe, and that a limited number of mobile payments models will exist in the marketplace. Both predictions appear well-founded.

The fundamentals of payments risk management should remain constant and, as emphasized in this article, banks offering mobile payments need to ensure compliance with existing laws and regulations. This is particularly important when banks are working with non-bank third-party providers that may not be knowledgeable about the regulatory environment in which financial institutions operate. As a result, banks' oversight of third-party relationships will become increasingly important as mobile payments evolve.

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High-Yield Checking Accounts: Know the Rules

In today's low interest-rate environment, many bank customers may be looking to earn higher interest rates on their deposits. In response, some banks are offering high-yield checking accounts to attract the attention of these customers. This article reviews the typical features of high-yield checking accounts, with a focus on specific aspects of disclosure that, based on examiner observations, appear most likely to contribute to customer confusion about these accounts. By providing customers with clear and unambiguous disclosures, banks can minimize the potential for customer dissatisfaction and the potential for violations of laws or regulations.

Typical Features of the High-Yield Account

High-yield accounts typically offer free checking, with no minimum balance requirements, and the potential for earning a high annual percentage yield (APY),[1] provided certain conditions ("qualifiers") are met. *(Note: The APY is not necessarily the same as the advertised interest rate).* Some common qualifiers include engaging in a certain number of debit card transactions monthly (usually 10 to 15 transactions), making at least one direct deposit or Automated Clearinghouse (ACH) payment monthly, enrolling in the bank's online banking program, and agreeing to receive electronic bank statements.

Community banks frequently offer these accounts to attract deposits and compete with larger financial institutions. The accounts permit banks to profit from interchange fee income generated through the use of the debit card. In addition, the electronic bank statement qualifier allows banks to reduce expenses associated with printing and mailing statements, and may reduce future overhead expenses as consumers shift from visiting branches to conducting online transactions.

Many banks cap the balances to which the higher APY will apply to control interest expenses. Therefore, balances above the cap amount do not earn the higher APY even if the qualifiers are met; however, these accounts may still earn an attractive APY when compared to competing financial institutions. To encourage consumers to open these accounts, banks offer a fall-back interest rate (the interest rate consumers earn when the qualifiers are not met), which may be slightly higher than current market interest rates. This rate structure makes these accounts an attractive alternative to traditional personal checking accounts.

As a hypothetical example for illustrative purposes, a bank may offer a personal checking account with a 4.01 percent APY,[2] which is much higher than the 0.10 percent APY of other banks in its area. To qualify for this higher APY, customers must: a) use their debit card a minimum of 10 times per month; b) make one direct deposit or ACH payment monthly; and c) enroll in online banking. There is no minimum balance requirement as balances below $25,000 receive the higher interest rate while balances of $25,000 or more receive an APY of

[1] Section 1030.2(c), formerly Section 230.2(c) of Regulation DD (Truth in Savings) defines *annual percentage yield (APY)* as a percentage rate reflecting the total amount of interest paid on an account, based on the interest rate and the frequency of compounding for a 365-day period and calculated according to the rules in Appendix A of this part.

[2] Ibid.

1.01 percent if the qualifiers are met each qualification period. Where the qualifiers are **not** met, an APY of 0.25 percent will be applied regardless of the account balance, which is still significantly higher than the interest rate being paid by other banks in the area.

Disclosure Issues Most Frequently Observed with High-Yield Accounts

In a number of instances, FDIC examiners have had concerns about the disclosures or promotional materials associated with high-yield accounts. In such instances, examiners have found the disclosures or promotional materials to be unclear or ambiguous about what customers need to do to earn the higher APY. Where such concerns exist, they may pertain to the Truth in Savings disclosures that explain the account terms, as well as to a bank's advertisements,[3] brochures, and promotional materials on its Web site. If these materials indicate that the higher APY can be obtained by performing a few simple tasks without fully describing the actual steps consumers must take to earn the higher interest rate, there is a potential for customer dissatisfaction and regulatory violations.

For example, the requirement that account holders must make a minimum number of transactions monthly with their debit card may not be about the account holder "using" the debit card a certain number of times, but rather about the minimum number of debit card transactions that must *post* and *settle* during the statement cycle or qualification period. These are different things as there is often a delay between the time an account holder makes a transaction and the time the transaction is posted to the account and settled by the bank. Whether the qualifier for the higher APY will be met depends on whether the minimum number of transactions, as that term is defined, happen *within the statement cycle or qualification period.*

Example: An account holder's statement cycle runs from August 1st to August 31st and the consumer needs ten debit card transactions to meet the qualifier. On August 30th the account holder realizes she has made only five debit card transactions since August 1st. To satisfy the qualifier, she purchases five candy bars (or other small-dollar items) and performs five separate Point-of-Sale (POS) transactions on August 30th. She thinks she has satisfied the ten debit card transactions qualifier, but because these five transactions do not post and settle to the account until two days later, she will be credited with only the five transactions she had prior to the candy bar purchases. The consumer fails to meet the qualifier despite having "used" her debit card ten times during the statement cycle or qualification period.

[3] Section 1030.2(b), formerly Section 230.2(b) of Regulation DD defines an *advertisement* as a commercial message, appearing in any medium that promotes directly or indirectly: (1) The availability or terms of, or a deposit in, a new account; and (2) For purposes of §1030.8(a) formerly §230.8(a) and §1030.11 formerly §230.11 of this part, the terms of, or a deposit in, a new or existing account.

High-Yield Checking Accounts

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Further complicating the issue is that some banks may disqualify small-dollar purchases made at the end of the month. FDIC examiners have heard anecdotal evidence that banks tell consumers that making several small-dollar purchases at the end of the month to obtain the higher APY is manipulating the system, and will not be tolerated. Consumers have been warned that continuing such behavior could result in their account being closed. However, this behavior and consequences was not disclosed to the consumer at the time the account was opened. Similar confusion can occur with ACH payments.

Example: An account holder pays her monthly gym membership automatically from the account on the last day of each month, but the payment does not post and settle until the first of the next month. Result: the consumer does not meet the ACH qualifier to record the requisite number of transactions within the statement cycle or qualification period.

In both of the above examples, it is important that the bank's promotional materials, Web site, and disclosures do not lead the account holder to believe that the mere occurrence of making the debit card transactions or ACH payment each month would be sufficient to meet the high-yield account qualifier. Clear and conspicuous disclosures that the transactions must post *and* settle during the account statement cycle or qualification period to qualify for a high APY would avoid this potential problem. Disclosure problems also may exist in connection with the account requirement that consumers enroll in online banking and agree to receive monthly statements electronically. Examiners frequently have observed that banks' advertisements and disclosures do not inform account holders that enrolling in online banking means logging into their online account at least once every month and viewing their periodic statement. This is information that consumers would need to know to ensure they satisfy this qualifier.

Regulatory Concerns

Regulation DD (Truth in Savings) generally (1) governs how banks disclose account terms to consumers at account opening; (2) defines what must be disclosed when subsequent events impact the account; and (3) outlines requirements for promoting accounts. In accordance with Regulation DD, depository institutions are required to make disclosures clear, conspicuous, in writing, and in a form that the account holder may retain.[4] Ambiguous disclosures may result in violations of various sections of Regulation DD, including: Section 1030.1(b) (formerly 230.1(b)), requiring depository institutions to provide account disclosures that give consumers the ability to make meaningful comparisons among institutions; Section 1030.3(b) (formerly 230.3(b)), requiring that disclosures reflect the terms of the legal obligation of the account agreement between the consumer and the institution; Section 1030.4(b) (formerly 230.4(b)), requiring that account disclosures include, as applicable, information on rates, compounding and crediting, balance information, fees, transaction limitations and bonuses; and Section 1030.8 (formerly 230.8), requiring that advertisements not be misleading, not refer to accounts as "free" or "no cost" if certain fees may be imposed, only state the APY and interest rate, and provide other information if certain triggering terms are present.

[4] See Section 1030.3(a), formerly Section 230.3(a) of Regulation DD.

When disclosures, Web sites, advertisements,[5] and promotional brochures are unclear and use ambiguous terminology, they may violate Regulation DD and may be considered an unfair or deceptive act or practice under Section 5 of the Federal Trade Commission Act (Section 5).[6] Table 1 summarizes the standards for determining whether a practice is unfair or deceptive under Section 5.

Violations involving unfairness or deception are serious because of the potential for consumer harm, as well as reputational risk to the financial institution. In such instances, a bank's compliance rating may be downgraded and formal or informal enforcement actions may be imposed. The FDIC also may require banks to conduct account-level reviews to identify harmed consumers and request restitu-

Table 1

Section 5 of the FTC Act
Standards of Unfair or Deceptive Acts or Practices (*)

Unfairness

- An act or practice is unfair if it causes or is likely to cause substantial injury to consumers.
- The injury is not reasonably avoidable by the consumer.
- The unfair act or practice is not outweighed by countervailing benefits to consumers or competition.

Public policy also may be considered in determining whether an act or practice is unfair.

Deception

- A representation, omission, or practice must mislead or be likely to mislead the consumer.
- The consumer's interpretation of the representation, omission, or practice must be reasonable under the circumstances.
- The misleading representation, omission, or practice must be material.

A deceptive representation can be expressed, implied, or involve a material omission. The key is the overall net impression created by the written disclosures. Fine print may be insufficient to correct misleading text.

(*) All standards for unfairness and deception must be met for a Section 5 violation to occur. Please refer to the following Financial Institution Letters (FILs) for more detailed information: FIL-57-2002 (*Guidance on Unfair or Deceptive Acts or Practices*) and FIL-26-2004 (*Unfair or Deceptive Acts or Practices by State-Chartered Banks*).

[5] Advertisements take a variety of forms, but some of the more common problems have been observed in lobby advertisements, bank Web sites, third-party created brochures, new account literature, radio scripts, and newspaper advertisements.

[6] The Consumer Financial Protection Bureau (CFPB) has jurisdiction over insured depository institutions with total assets exceeding $10 billion with respect to certain consumer laws and regulations, including the Truth in Savings Act and Regulation DD. The CFPB also has authority under Sections 1031 and 1036 of the Dodd-Frank Act to take action against abusive acts or practices including those that are unfair or deceptive. Thus far, the CFPB has not exercised its authority with respect to abusiveness.

High-Yield Checking Accounts

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tion be provided to adversely affected consumers. For example, paying the difference between the interest rate that should have been paid compared to what was paid or refunding Automatic Teller Machine (ATM) fees. Restitution can be costly. The FDIC also may require banks to pay civil money penalties, which can be large depending on the seriousness of the violations and the number of harmed consumers.

During compliance examinations, FDIC examiners have identified several common issues with the promotional materials and disclosures for high-yield accounts that may constitute a violation of Regulation DD or an unfair or deceptive act or practice under Section 5, depending on the specific facts and circumstances. Table 2 lists some of the more common problems noted.

Violations associated with high-yield checking accounts often stem from inadequate coordination between marketing and compliance personnel during the product development, introduction, and marketing phases of a high-yield checking account. Similarly, management may rely too

Table 2

Commonly Observed Issues with High-Yield Checking Account Promotional Materials and Disclosures (*)
Bank advertisements, promotional materials, Web sites, and disclosures may: ■ Highlight the highest APY and omit the fall-back APY. ■ Provide the highest APY and fall-back APY, but not state the qualifiers to achieve the higher APY. ■ State some, but not all of the qualifiers. ■ Represent unlimited, free, nationwide ATM access but condition free access, through the Truth in Savings disclosures, on the consumer meeting certain qualifiers and limit ATM fee refunds to a certain number per statement or qualification cycle. ■ Omit the qualifier requiring enrollment in online banking and receipt of electronic banking statements or fail to explain how the consumer can enroll. *Enrollment is not always conducted at account opening and consumers may not be aware of how to enroll.* ■ Omit the requirement that a consumer must log-on and view electronic banking statements during each statement or qualification cycle. ■ Omit the requirement that debit card/POS and ACH transactions must post and settle during the statement or qualification cycle. ■ Omit the requirement that debit card/POS transactions must be PIN-based or signature-based. ■ Fail to state ATM transactions do not count as debit card transactions. ■ Fail to explain qualifiers must be met during a certain period, i.e., statement cycle or qualification cycle, and/or not define the period. *A statement cycle may be from the 20th (a calendar day) of a month to the 20th (a calendar day) of the next month. However, some banks use a "qualification cycle" within which the qualifiers must be met. Qualification cycles may be from the 19th of a month (a business day) to the 18th of the next month (a business day). Because the statement cycle is based on calendar days and the qualification cycle on business days, the two periods may not coincide.*

(*) This list is illustrative and not all-inclusive.

heavily on third parties to ensure the product complies with applicable laws, rules, and regulations and may not involve compliance personnel in this determination. Senior management is responsible for performing proper due diligence to ensure that third-party and in-house products are implemented and administered in accordance with the law. Early involvement of compliance personnel in the origination of both developed and third-party products can greatly reduce the use of ambiguous terminology in describing account terms and qualifiers. Conversely, not involving compliance staff in the development of new products represents a significant weakness in a bank's Compliance Management System (CMS).

As an example of such issues, FDIC compliance examiners have identified problems in high-yield checking account products related to a bank's use of products developed by third parties that initially comply with regulatory requirements, but are then adjusted by the bank's marketing department in an attempt to make the program more attractive to consumers. Third-party products may state that debit card transactions need to post and settle to meet the qualifiers. However, marketing department personnel change the language to state that consumers have to simply "make" or "have" a certain number of debit card transactions per month to meet the qualifiers. Such adjustments, if not monitored and detected by the bank's compliance personnel, could result in violations of consumer protection laws and regulations.

Such issues may reflect a need for the bank to strengthen its compliance program. A proactive compliance program requires the sampling and monitoring of disclosures, advertisements, and promotional materials to ensure potential problems can be addressed early. By periodically sampling and monitoring disclosures, advertisements and promotional materials, the bank's compliance personnel can promptly detect any issues that may cause consumer confusion.

When examining a bank offering a high-yield account, examiners will:

- Closely scrutinize bank advertisements (in all forms) connected with high-yield accounts to determine whether the terms and conditions are disclosed in a manner that is clear and unambiguous for account holders.
- Check the bank's complaints and inquiries to determine whether customers have expressed confusion with the bank's explanation of the qualifiers related to the account. This is often best accomplished by interviewing front-line branch personnel who interact with customers.
- Ensure deposit disclosures clearly and conspicuously define account terms and conditions for the consumer. Terms and qualifiers should be consistent and allow a reasonable consumer to understand them. Examiners should focus on broadly defined terms such as "make," "use," or "have" etc., and how institution management defines them.

High-Yield Checking Accounts

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Best Practices

Banks can minimize exposure to violations of consumer protection laws and regulations by incorporating the following best practices into their CMS:

- Involve the compliance officer or compliance consultants in the product development, implementation, and promotional phases of the product;
- Ensure materials contain clear and conspicuous terminology. Define all terms and provide detailed information explaining how to satisfy each qualifier and note any relevant limitations (post and settlement time, qualification cycle, etc.). View materials from the perspective of a "reasonable consumer."
- Monitor consumer inquiries and complaints for signs that information in disclosures, brochures, Web sites, or promotional materials is unclear. Banks receiving such inquiries or complaints should be proactive and alert their compliance officer that consumers are expressing confusion about account terms. Tracking inquiries and complaints can help banks make modifications to ensure consumers are not misled and that promotions, Web sites, and disclosures conform to all applicable laws and regulations;
- Review training materials and scripts used in promoting accounts, including a review of promotional materials provided by third-party vendors;
- Ensure bank personnel responsible for opening accounts are properly trained in account qualifiers, understand product features, and can clearly convey this information to consumers;
- Clearly state the purpose of the account and disclose examples of inappropriate behavior or account misuse. Identify the ramifications of engaging in such behavior. For example, the bank might state that the account cannot be used for multiple small-dollar POS transactions at the end of the statement cycle to earn the higher APY; and
- Explain (clearly and conspicuously) what happens if the consumer does not meet the qualifiers.

Conclusion

When examiners encounter a bank offering high-yield checking accounts, they will closely review whether the bank's communications with consumers about these types of products are clear and conspicuous. Bank management should have devoted the time to design and implement accurate and unambiguous promotional materials, Web sites, and disclosures. Banks that invest the time will reduce the likelihood of violating consumer protection laws, rules, and regulations, and enhance their credibility with account holders by reducing customer frustration and dissatisfaction.

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Overview of Selected Regulations and Supervisory Guidance

This section provides an overview of recently released regulations and supervisory guidance, arranged in reverse chronological order. Press Release (PR) and Financial Institution Letter (FIL) designations are included so the reader can obtain more information.

ACRONYMS and DEFINITIONS	
CFPB	Consumer Financial Protection Bureau
FDIC	Federal Deposit Insurance Corporation
FFIEC	Federal Financial Institutions Examination Council
FRB	Federal Reserve Board
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC

Subject	Summary
FDIC Releases Stress Test Scenarios (PR-133-2012, November 15, 2012)	The FDIC today released the economic scenarios that will be used by certain financial institutions with total consolidated assets of more than $10 billion for the upcoming round of stress tests required under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). The economic scenarios include baseline, adverse, and severely adverse scenarios with variables that reflect economic activity, unemployment, exchange rates, prices, incomes, interest rates, and other salient aspects of the economy and financial markets. The FDIC coordinated with the Board of Governors of the Federal Reserve System and the OCC in developing and distributing these scenarios. See http://www.fdic.gov/news/news/press/2012/pr12133.html.
Regulatory Relief Meeting the Financial Needs of Customers Affected by Hurricane Sandy and its Aftermath (FIL-47-2012, November 9, 2012, and PR-132-2012, November 14, 2012)	The FDIC encourages depository institutions to consider all reasonable and prudent steps to assist customers in communities affected by Hurricane Sandy. When consistent with safe-and-sound banking practices, these efforts may include waiving fees, increasing ATM cash limits, easing credit card limits, allowing loan customers to defer or skip payments, and delaying the submission of delinquency notices to credit bureaus. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12047.html.

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Subject	Summary
Agencies Provide Guidance on Regulatory Capital Rulemakings (PR-130-2012, November 9, 2012)	The federal bank regulatory agencies issued three notices of proposed rulemaking in June 2012 that would revise and replace the current regulatory capital rules (see FIL-24-2012, FIL-25-2012, and FIL-27-2012). The proposals suggested an effective date of January 1, 2013. In light of the volume of comments received and the wide range of views expressed during the comment period, the agencies do not expect that any of the proposed rules would become effective on January 1, 2013. As members of the Basel Committee on Banking Supervision, the U.S. agencies take seriously the internationally agreed timing commitments regarding the implementation of Basel III and are working as expeditiously as possible to complete the rulemaking process. As with any rule, the agencies will take operational and other considerations into account when determining appropriate implementation dates and associated transition periods. See http://www.fdic.gov/news/news/press/2012/pr12130.html.
Supervision of Technology Service Providers and Outsourcing Technology Services (FIL-46-2012, November 6, 2012)	The FFIEC issued a revised Information Technology (IT) Examination Booklet on the Supervision of Technology Service Providers and an updated IT Examination Booklet on Outsourcing Technology Services. The federal bank regulatory agencies also issued new Administrative Guidelines, Implementation of Interagency Programs for the Supervision of Technology Service Providers. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12046.html.
Notice of Expiration: Temporary Unlimited Coverage for Noninterest-Bearing Transaction Accounts (FIL-45-2012, November 5, 2012)	Pursuant to Section 343 of the Dodd-Frank Act, temporary unlimited deposit insurance coverage for noninterest-bearing transaction accounts (NIBTAs), including Interest on Lawyer Trust Accounts, is scheduled to expire on December 31, 2012. Absent a change in law, beginning January 1, 2013, the FDIC no longer will provide separate, unlimited deposit insurance coverage for NIBTAs at insured depository institutions (IDIs). IDIs are encouraged to take reasonable steps to provide adequate advance notice to NIBTA depositors of the changes in FDIC insurance coverage. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12045.html.
International Association of Deposit Insurers Marks Tenth Anniversary and Elects New President in London - FDIC Acting Chairman Completes Two Terms as President (PR-121-2012, October 25, 2012)	The FDIC, the International Association of Deposit Insurers (IADI), the Bank Guarantee Fund of Poland, and the Financial Services Compensation Scheme announced that Acting FDIC Chairman Martin Gruenberg completed his five-year term as President of the IADI during the 11th Annual General Meeting and Conference in London. Mr. Gruenberg also served as Executive Council Chairman of the Association. During the meeting, Jerzy Pruski, President of the Management Board of the Bank Guarantee Fund of Poland, was elected IADI's President and Chairman of the Executive Council. See http://www.fdic.gov/news/news/press/2012/pr12121.html.

Subject	Summary
FDIC Approves Final Rules Regarding Large Bank Stress Tests and Large Bank Assessment Pricing and Releases An Update on the DIF Projections (FIL-44-2012, October 9, 2012, Federal Register, Vol. 77, No. 199, p. 62417, October 15, 2012, Federal Register, Vol. 77, No. 211, p. 66000, October 31, 2012)	The FDIC announced publication of its final rule regarding company-run stress testing required by the Dodd-Frank Act. The rule applies to covered institutions with total consolidated assets greater than $10 billion. The final rule implements Section 165(i)(2)(A) of the Dodd-Frank Act, which requires all financial companies with total consolidated assets of more than $10 billion regulated by a primary federal financial regulatory agency to conduct an annual company-run stress test. The final rule requires institutions with assets greater than $50 billion to begin conducting annual stress tests this year, although the FDIC reserves the authority to allow covered institutions above $50 billion to delay implementation on a case-by-case basis where warranted. The rule delays implementation for covered institutions with total consolidated assets between $10 billion and $50 billion until October 2013. In addition, the FDIC Board approved a final rule that refines the deposit insurance assessment system for insured depository institutions with more than $10 billion in assets. The final rule amends the definitions used to identify concentrations in higher-risk assets to better reflect the risk posed to institutions and the FDIC. The FDIC also updated its loss, income, and reserve ratio projections for the Deposit Insurance Fund (DIF) over the next several years and concluded that the DIF reserve ratio is on track to reach the statutory minimum target of 1.35 percent by the September 30, 2020 deadline. See http://www.fdic.gov/news/news/press/2012/pr12116.html.
New Classification System for Citing Violations in Reports of Examination (FIL-41-2012, September 25, 2012)	The FDIC revised the classification system for citing violations identified during compliance examinations to better communicate to institutions the severity of violations and provide more consistency in the classification of violations cited in Reports of Examination. Violations identified during an examination will be assigned to one of three levels based primarily on the impact to consumers. This new three-level violation system replaces the current two-level system and will be used in examinations started on or after October 1, 2012. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12041.html.
Agencies Release a Regulatory Capital Estimation Tool to Assist in Assessing the Potential Effects of Recently Proposed Regulatory Capital Rules (PR-109-2012, September 24, 2012)	The federal bank regulatory agencies announced the availability of a regulatory capital estimation tool to help community banking organizations and other interested parties evaluate recently published regulatory capital proposals (see FIL-24-2012, FIL-25-2012 and FIL-27-2012). The tool will assist organizations in estimating the potential effects on capital ratios of the agencies' Basel III Notice of Proposed Rulemaking and the Standardized Approach Notice of Proposed Rulemaking. See http://www.fdic.gov/news/news/press/2012/pr12109.html.
FDIC Holds Asset Purchaser/Investor Outreach Workshops (PR-107-2012, September 21, 2012)	The FDIC conducted outreach workshops during September and October in Chicago, Los Angeles, and New York to provide information on how to invest in or purchase assets retained from failed financial institutions. All investors, particularly small, minority- and women-owned investors interested in buying or investing in assets, were encouraged to register for the workshops. See http://www.fdic.gov/news/news/press/2012/pr12107.html.

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Subject	Summary
Deposit Insurance Coverage: Two New Deposit Insurance Resources Now Available (FIL-40-2012, September 19, 2012)	The FDIC has released two resources to help bankers and depositors understand FDIC deposit insurance coverage. Your Insured Deposits is now available in a large-print version for visually impaired individuals; and the new FDIC Deposit Insurance Coverage for Bankers, a computer-based training module, is available in an interactive format on the FDIC's Web site, on DVD, and in a Portable Document Format (PDF). See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12040.html.
FDIC Releases National Survey of Unbanked and Underbanked (PR-105-2012, September 12, 2012)	The FDIC released the results of the 2011 National Survey of Unbanked and Underbanked Households. The survey indicates that more than one in four U.S. households are either unbanked or underbanked, a slight increase from the findings of the 2009 survey. The survey, conducted every two years by the FDIC in partnership with the U.S. Bureau of the Census, provides the banking industry and policy makers with insights and guidance on the demographics and needs of the unbanked and underbanked. See http://www.fdic.gov/news/news/press/2012/pr12105.html.
FDIC Advisory on Effective Credit Risk Management Practices for Purchased Loan Participations (FIL-38-2012, September 12, 2012)	Financial institutions purchase loan participations to achieve growth and earnings goals, diversify credit risk, and deploy excess liquidity. Some institutions have successfully participated in shared credit facilities, which are arranged by bank and nonbank entities, by implementing effective due diligence and prudent credit risk management practices. However, purchasing banks' over-reliance on lead institutions, in some instances, has caused significant credit losses and contributed to bank failures, particularly for loans to out-of-territory borrowers and obligors involved in industries unfamiliar to the bank. This Advisory reminds state nonmember institutions of the importance of underwriting and administering loan participations in the same diligent manner as if they were being directly originated by the purchasing institution. See http://www.fdic.gov/news/news/financial/2012/fil12038.html.
Notice of Proposed Rulemaking on Appraisal Requirements for Higher-Risk Mortgages (FIL-36-2012, August 16, 2012,Federal Register, Vol. 77, No. 172, p. 54722, September 5, 2012)	Six federal financial regulatory agencies (FRB, CFPB, FDIC, the Federal Housing Finance Agency, NCUA, and OCC) issued a proposed rule to establish new appraisal requirements for "higher-risk mortgage loans." The proposed rule would implement amendments to the Truth in Lending Act enacted by Section 1471 of the Dodd-Frank Act. Under the Dodd-Frank Act, mortgage loans are higher risk if they are secured by a consumer's home and have interest rates above a certain threshold. Comments were due October 15, 2012. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12036.html.
FDIC Announces Regulatory Calendar for Community Banks (FIL-35-2012, July 26, 2012)	The FDIC has developed a regulatory calendar to help community banks remain current on changes in federal banking laws, regulations, and supervisory guidance. The calendar summarizes regulatory developments and highlights key dates to facilitate industry comment and compliance.

Subject	Summary
Investments in Corporate Debt Securities by Savings Associations (FIL-34-2012, July 24, 2012, Federal Register, Vol. 77, No. 142, p. 43155, July 24, 2012)	The FDIC issued a final rule that would prohibit state and federal savings associations from acquiring or holding a corporate debt security when the security's issuer does not have an adequate capacity to meet all financial commitments under the security for the projected life of the security. The final rule was issued under Section 939(a) of the Dodd-Frank Act. Savings associations must be in compliance with this rule by January 1, 2013. The FDIC also issued final guidance setting forth due diligence standards for determining the credit quality of a corporate debt security. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12034.html.
Caution Regarding Passing Deposit Insurance Assessment Fees on to Customers (FIL-33-2012, July 9, 2012)	The FDIC is aware that certain insured depository institutions (IDIs) are charging customers an "FDIC fee" or similarly described fee, apparently to compensate the IDI for some or all of the institution's FDIC deposit insurance assessment costs. This letter communicates the FDIC's concerns and expectations when IDIs assess these types of fees. See http://www.fdic.gov/news/news/financial/2012/fil12033.html.
FDIC Announces Availability of Public Sections of Resolution Plans (PR-78-2012, July 3, 2012)	The FDIC made available the public sections of the initial resolution plans submitted to the FDIC and FRB under Title I of the Dodd-Frank Act. Firms in this group include U.S. bank holding companies with $250 billion or more in total nonbank assets and foreign-based bank holding companies with $250 billion or more in total U.S. nonbank assets. The public summaries are available at www.fdic.gov/regulations/reform/resplans/index.html. Also see http://www.fdic.gov/news/news/press/2012/pr12078.html.
Banking Agencies Issue Host State Loan-to-Deposit Ratios (PR-75-2012, June 29, 2012)	The federal bank regulatory agencies issued the host state loan-to-deposit ratios the agencies will use to determine compliance with Section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. These ratios update data released on June 30, 2011. See http://www.fdic.gov/news/news/press/2012/pr12075.html.
Agencies Release List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies (PR-74-2012, June 29, 2012)	The federal bank regulatory agencies announced the availability of the 2012 list of distressed or underserved nonmetropolitan middle-income geographies where revitalization or stabilization activities will receive Community Reinvestment Act consideration as "community development." See http://www.fdic.gov/news/news/press/2012/pr12074.html.
Consolidated Reports of Condition and Income for Second Quarter 2012 (FIL-29-2012, June 29, 2012)	The FFIEC advised that a limited number of Call Report revisions take effect this quarter. The new data items will help the banking agencies and state supervisors better understand certain risk exposures and address data needs for deposit insurance assessments. Institutions may provide reasonable estimates for any new Call Report item initially required to be reported as of June 30, 2012, for which the requested information is not readily available. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12029.html.

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Subject	Summary
Interagency Guidance on Mortgage Servicing Practices Concerning Military Homeowners with Permanent Change of Station Orders (FIL-28-2012, June 21, 2012)	The federal financial institution regulatory agencies issued guidance to address unique circumstances involving some military homeowners after they receive Permanent Change of Station (PCS) orders. The guidance highlights concerns about practices with the potential to mislead or otherwise cause harm to homeowners with PCS orders, and reminds mortgage servicers to ensure appropriate risk management policies, procedures, and training are in place. See http://www.fdic.gov/news/news/financial/2012/fil12028.html.
Regulatory Capital Rules: Standardized Approach for Risk-Weighted Assets; Market Discipline and Disclosure Requirements (FIL-27-2012, June 18, 2012, Federal Register, Vol. 77, No. 169, p. 52888, August 30, 2012)	The federal bank regulatory agencies jointly issued a Notice of Proposed Rulemaking that would revise the measurement of risk-weighted assets by implementing changes made by the Basel Committee on Banking Supervision to international regulatory capital standards and by implementing provisions of the Dodd-Frank Act. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12027.html.
Risk-Based Capital Rules Final Rule on Risk-Based Capital Standards: Market Risk (FIL-26-2012, June 18, 2012, Federal Register, Vol. 77, No. 169, p. 53060, August 30, 2012)	The federal bank regulatory agencies jointly issued a final rule modifying the risk-based capital standards for market risk. The final rule incorporates improvements to the current trading book capital regime as proposed by the Basel Committee on Banking Supervision in Revisions to the Basel II Market Risk Framework published in July 2009 and The Application of Basel II to Trading Activities and the Treatment of Double Default Effects published in July 2005. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12026.html.
Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, and Transition Provisions (FIL-25-2012, June 18, 2012, Federal Register, Vol. 77, No. 169, p. 52792, August 30, 2012)	The federal bank regulatory agencies jointly issued a Notice of Proposed Rulemaking that would revise the general risk-based capital rules to incorporate certain revisions by the Basel Committee on Banking Supervision to the Basel capital framework. The proposed rule generally would revise the definition of regulatory capital components and related calculations. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12025.html.
Regulatory Capital Rules: Advanced Approaches Risk-Based Capital Rule; Market Risk Capital Rule (FIL-24-2012, June 18, 2012, Federal Register, Vol. 77, No. 169, p. 52978, August 30, 2012)	The federal bank regulatory agencies jointly issued a Notice of Proposed Rulemaking that would amend the advanced approaches risk-based capital rules to incorporate revisions to the Basel capital framework published by the Basel Committee on Banking Supervision and would remove references to credit ratings, consistent with Section 939A of the Dodd-Frank Act. It also would propose to apply the market risk capital rule to state savings associations. See https://www.fdic.gov/news/inactive-financial-institution-letters/2012/fil12024.html.

Subject	Summary
Agencies Sign Memorandum of Understanding on Supervisory Coordination (PR-61-2012, June 4, 2012)	The federal financial institution regulatory agencies released a Memorandum of Understanding that clarifies how the agencies will coordinate supervisory activities, consistent with the Dodd-Frank Act. Section 1025 of the Dodd-Frank Act requires that the CFPB and the prudential regulators (FRB, FDIC, NCUA, and OCC) coordinate important aspects of their supervision of insured depository institutions with more than $10 billion in assets and their affiliates. Such coordination includes scheduling examinations, conducting simultaneous examinations of covered depository institutions unless an institution requests separate examinations, and sharing draft reports of examination for comment. See http://www.fdic.gov/news/news/press/2012/pr12061.html.
Agencies Clarify Supervisory Expectations for Stress Testing by Community Banks (PR-54-2012, May 14, 2012)	The federal bank regulatory agencies issued a joint statement to clarify expectations for stress testing by community banks (banks, savings associations, and bank and savings and loan holding companies with $10 billion or less in total assets). The agencies clarified that community banks are not required or expected to conduct the types of stress testing required of larger organizations. See http://www.fdic.gov/news/news/press/2012/pr12054.html.
Agencies Finalize Large Bank Stress Testing Guidance (PR-53-2012, May 14, 2012, Federal Register, Vol. 77, No. 96, p. 29458, May 17, 2012)	The federal bank regulatory agencies issued final supervisory guidance regarding stress-testing practices at banking organizations with total consolidated assets of more than $10 billion. The guidance highlights the importance of stress testing at banking organizations as an ongoing risk management practice that supports a banking organization's forward-looking assessment of risks and better equips the bank to address a range of adverse outcomes. See http://www.fdic.gov/news/news/press/2012/pr12053.html.

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