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CERTIFICATION NEWS

QUARTERLY NEWSLETTER FOR ICBA CERTIFIED COMMUNITY BANKERS

Regulation E: What to Know About This Financial Services Hot Topic

If you are losing money, you are most likely following Regulation E correctly. That's probably not what you want to hear, but that's the case for a lot of financial institutions. Regulation E—often referred to as Reg E—is a very customer-centric regulation, and that concept does not appear to be changing anytime soon.

Check out the recent communication from the Federal Deposit Insurance Corporation (FDIC). The Financial Institution Letter (FIL-32-2023), published June 16, 2023, updates previously issued FILs stating, "the current supervisory approach to *not request an institution to conduct a lookback review absent a likelihood of substantial consumer harm.*"

TRENDS ACROSS THE COUNTRY

We are seeing some changes made by financial institutions without regulation requirements driving the changes.

» Financial institutions are not charging overdrafts on transactions, debit card purchases, and ATM withdrawals.

» Removal of the continuous overdraft or extended overdraft fees.

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HOW I WORK... MARCY BERGMAN

Marcy Bergman is Executive Vice President and Compliance Officer at Northeast Security Bank in Iowa.

Q. Tell us your background/how you got here.

A. I began my banking career with Northeast Security Bank in August 1992. I started as a teller and have worked as a bookkeeper, administrative assistant, loan clerk, loan officer, branch manager, operations manager, and a real estate loan officer. My current title is executive vice president/compliance officer/internal loan auditor, and I am a member of the executive management committee.

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» Not charging any non-sufficient funds (NSF) fees; fees when items are returned.

Some other popular changes in overdraft programs and assessments of fees are:

» Decreasing overdraft and NSF fees charged to customers.

» Decreasing the daily limit of fees assessed to customers, or for financial institutions that hadn't implemented a limit, adding a daily limit.

» New or increased "cushion" before charging fees.

» New or extended grace periods (days) or amounts before charging fees.

WHAT TO CONSIDER NEXT FOR OVERDRAFTS

Incorporate overdraft oversight into your compliance management program. Consider taking and documenting a risk assessment approach to the overdraft program. Share details of your overdraft program with senior management or the board of directors; the frequency of information shared should be a risk-based approach.

Consider creating or enhancing overdraft, refund activity, and charge-offs related to negative balances for top customers, volumes, trends, and demographics.

What do your customers understand about overdrafts? Assessing customer education at the time of opt-in if you have an overdraft program is imperative. See that your account opening personnel are not just having customers sign "another disclosure."

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Q. Briefly describe how you construct your day for optimal productivity.
A. I like to consider myself detail oriented. In my mind, everything has its place and a deadline. I'm also a master at multi-tasking. I start my day by tackling my email inbox and everything gets addressed before I move forward with my plans and projects for the day.

Q. How do you keep track of what you have to do?
A. I have my own system in place using various folders to keep my things organized according to projects. Each day I retrieve all the folders and take a quick glance at what needs to get completed for the day. This is how I prioritize my time.

Q. Take us through a typical workday.
A. My day usually begins responding to emails, checking in on projects, filing, and phone calls. As time permits throughout the day, I complete our internal loan and compliance audits, attend meetings and training, provide customer service, and problem solve as issues arise.

Q. What tools/software/resources can't you live without?
A. I cannot live without access to the internet and Microsoft Word or Excel. I also rely on email access via desktop and especially my phone's email app.

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Consider educating your customers on:

» Posting order of items.

» Ledger balance versus available balance.

» How to balance your checkbook.

» POS (point of sale)/debit cards: Authorized positive and posting negative.

» Cost of overdrafts.

If your community bank has an overdraft program, evaluate your program management and customer outreach for high usage/fee volume and increase customer education on overdraft fees.

Most of our recommendations are not required (though some aspects are). But how you manage your program, communicate to your board and senior management, and most importantly how customer overdrafts are managed all factor into your compliance management program and also the oversight on Unfair, Deceptive, or Abusive Acts or Practices (UDAAP).

Another area talked about in various publications and potential rule-making is consideration from a fair lending perspective.

» Extension of credit

- Drawing an account negative is essentially creating a loan/credit.

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Q. Can you share a problem/challenge you're working on or trying to solve?
A. Currently, I am implementing E-Sign and wrapping my head around the new Small Business Lending Data Collection process.

Q. What's the best advice you have for other people in your role?
A. Be flexible and willing to pivot at any point during your day. Due to the pace of technology and our culture, many days do not go as planned. Learn to adapt to the changes as they occur.

Q. What are you currently reading?
A. I am currently reading "Rising Strong" by Brene Brown.

Q. Who are the people who help you get things done?
A. My co-workers are amazing, and we work well together. I know I can call on them to assist with any part of the projects I'm working on and can rely on their expertise and willingness to help.

Q. How does your bank use training to solve for succession planning?
A. Our bank has always had a culture of cross training and reassigning duties to keep people flexible and well trained. This gives us a greater understanding of people's capabilities and finding the right people for the right positions. We often discuss key positions and roles to ensure there is a backup person ready and able to assist when the transition occurs.

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» Use of models

- What parameters are set within the model to assist or make decisions? Are those rules ever overridden? Who has the authority to override? Are these alleviations from the model documented/tracked?

» Steering or targeting

- Having customers opt in without providing appropriate education to help them make an informed decision.

» Inconsistency

- Does your policy match your procedure and your practices?
- What oversight and reporting are done on refunds?

» Discriminatory factors

- Understanding your bank's refunds, returns, volumes of overdrafts, etc. and if those share any characteristics or outline trends in protected classes.

Reg E and overdrafts will be constantly evolving with potential changes on the horizon with a few proposed rules being discussed at various levels of legislation. Educate yourself, your team, and management.

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By Karen Leiter, Regulatory Compliance Director, CLA

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Q. What is your favorite thing about the ICBA Compliance Institute or the Annual Current Issues Certification Conference?
A. The best part of these events is being able to network with other bankers from across the country and forming lasting friendships. The group is a great resource for obtaining information and gathering ideas and processes.

Q. How has your designation affected your career/role at the bank?
A. I received my designation of CCBCO in 2017 when our organization was merging with an affiliate bank. I had overseen compliance for our organization for many years prior to this merger and I felt this designation showed a commitment and an investment in my career.

ICBA CERTIFIED COMMUNITY BANKER UNIVERSITY powered by ICBA CCBCO COMMUNITY BANK COMPLIANCE OFFICER

Did you know?

Community Banker University awards digital badges to community bankers who have successfully completed our certification programs.

For instructions, contact Julie Woida at Julie.Woida@icba.org.

Join us at the Annual Current Issues Certification Conference

Sept. 25–28, Virtual
Oct. 23–26, San Antonio, Texas

Earn group live CPE to maintain your certification and keep your finger on the pulse of key issues and trends related to Auditing, BSA/AML, Regulatory Compliance, and Security and Fraud

Attend one day or all four. Virtual and in-person registration options. Earn 8 CPE for each day you attend!

DAY 1	Auditing Issues
DAY 2	Lending & Deposit Issues
Day 3	BSA/AML Issues
DAY 4	Fraud & Physical Security Issues

ICBA Member Pricing

$1,345 (4 days)

$995 (3 days)

$695 (2 days)

$395 (1 day)

Certification Program Update

Mark your calendar for October when you'll receive the invoice for your 2023 Annual Certification Renewal Fee*.

Starting in 2024, the renewal schedule will shift. You'll receive the invoice for the 2024 calendar year on March 1, 2023.

Please contact communitybankeruniversity@icba.org with any questions.

**If you are newly certified in 2023, you will not receive an Annual Certification Renewal Fee until March 1, 2024.*

2023 Certification Calendar

ICBA Certification Institutes help achieve your career goals and earn CPE to maintain your certification. See our in-person and virtual events for 2023.

If you wish to test for certification, the testing fee is $500 in addition to the registration fee.

ICBA INSTITUTES	Dates	Delivery	CPE	ICBA Members
Audit Institute Learn everything from defining the audit function, developing a risk model and audit plan, to designing and executing the audit program by examining audit assets, liabilities, operations, and bank information systems.	Sept. 17–22	Bloomington, MN	49.5	$3,299
Bank Security Institute Ground yourself in the bank security basics and learn about situations you may not be prepared for.	Aug. 28–30	Bloomington, MN	21	$1,699
BSA/AML Institute Identify emerging areas of customer, product, and geographic risk, such as banking marijuana-related businesses and their potential effects on your bank's BSA/AML program.	Nov. 7–9	Virtual	20	$1,699
Commercial Lending Institute Learn to efficiently identify and analyze opportunities, assess, and mitigate risks, and structure and manage commercial loans.	Aug. 20–25	St. Louis, MO	47	$2,299
Compliance Institute Receive a detailed study of the relevant areas of regulatory compliance with a focus on real-life scenarios you will encounter in a compliance role.	Oct. 1–6	Bloomington, MN	44	$2,899
Consumer Lending Institute Review all aspects of the application process, financial statement analysis, credit analysis, loan structure, compliance, documentation procedures, and closing.	Sept. 10–13	Bloomington, MN	25.5	$1,699
Credit Analyst Institute Examine the evolving role of the credit analyst and critical functions such as financial analysis, overall business risk, legal liability, and customer relationship needs.	Oct. 1–4	Bloomington, MN	27.5	$1,699
IT Institute Learn how information technology solutions are evolving and allowing community banks to increase efficiency, improve service capabilities, and better safeguard customers.	Oct. 15–19	Bloomington, MN	38	$2,699

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