

MEMORANDUM

To: Subscribers to Bank Compliance Expert on CD
From: Sheshunoff Information Services
Subject: 05.4 Update

Enclosed is the 05.4 update to Bank Compliance Expert on CD. **REMEMBER TO FIRST INSTALL THE UPDATED CD BEFORE USING; OTHERWISE, YOU WILL RECEIVE AN ERROR MESSAGE. To install, click on Start, then Run, and type *d:\setup.exe* (if D is your CD-ROM drive).**

VERSION 05.4

Version 05.4 of Bank Compliance Expert on CD includes new Special Reports, new articles in *Recent News Updates*, the latest issue of the *Bank Law and Regulatory Report*, and new and updated information in *Compliance Examinations Update*, *Compliance Guidance by Regulation, Policies and Procedures*, *Internal Audit Programs*, and *Federal Regulatory Forms*. The CFR and *Federal Register — Banking Agency Extract* have been updated, and new federal regulatory agency issuances and publications have been added.

SPECIAL REPORTS AND YOU CHOOSE THE TOPIC

Special Reports: Analysis of Special Developments

The following new Special Reports have been added:

- Bankruptcy Reform: Significant Implications for Financial Institutions
- One- to Four-Family Loan Documentation Charts
- Perspective on 2004 Developments Significantly Affecting 2005 and Beyond
- 2005 Compliance Calendar
- Bank Secrecy: USA PATRIOT Act Changes Still Make Their Mark
- Check 21 After October 28
- FACT Act: Are You in Compliance Now ... and Ready for More?
- Servicemembers Civil Relief Act
- Management of IT Systems
- Managing Retail Payment Systems Risks from the FFIEC

ANALYSIS FROM OUR WASHINGTON DESK

Recent News Updates

The following new articles have been added:

FED APPROVES RATE INCREASE (3/30/05)

HUD ISSUES FINAL RULE ON ADJUSTABLE-RATE MORTGAGES (3/29/05)

SEC APPROVES IMPOSITION OF FINES FOR MINIMUM FINANCIAL STANDARDS (3/29/05)

AGENCIES PROPOSE CHANGES TO CLASSIFICATION OF COMMERCIAL CREDIT EXPOSURES (3/28/05)

AGENCIES ADOPT FINAL CRA REGULATIONS (3/28/05)

AGENCIES ISSUE REPORT ON DIFFERENCES IN ACCOUNTING AND CAPITAL STANDARDS (3/25/05)

FICC CHANGES MEMBERSHIP REQUIREMENTS FOR NON-U.S. MEMBERS (3/23/05)

NCUA PROPOSES RULE TO AMEND CUSO AUDIT REQUIREMENTS (3/23/05)

AGENCIES ISSUE GUIDELINES ON RESPONSE PROGRAMS (3/23/05)

FED RAISES FEDERAL FUNDS RATE (3/22/05)

FDIC ISSUES FYI TO BANKERS ON HOMEOWNERSHIP FOR HISPANICS (3/22/05)

AGENCIES ISSUE FAQ GUIDANCE ON REGULATIONS AND INTERAGENCY STATEMENT (3/22/05)

SEC APPROVES NSCC RULE TO ELIMINATE CERTAIN MEMBERS FROM MATRIX SURVEILLANCE (3/21/05)

WILLIAMS HIGHLIGHTS CHANGES IN RETAIL CREDIT PRODUCTS AND RISKS (3/21/05)

IRS MAKES SUPPLEMENTARY GRANT AVAILABLE FOR LOW INCOME TAXPAYER CLINICS (3/18/05)

IRS FINAL RULE ON DIVIDEND INCOME IS NOW EFFECTIVE (3/18/05)

FIRST QUARTER CALL REPORTS DUE (3/17/05)

NASD FILES PROPOSAL ON TRACE DATA FEES (3/16/05)

SEC APPROVES GUIDANCE ON MATRIX RATINGS (3/16/05)

SEC APPROVES RULE CHANGE FOR LOSS ALLOCATION (3/16/05)

CIVIL MONEY PENALTIES ADJUSTMENT FOR FARM CREDIT ACT (3/15/05)

SEC ORDERS EXTENSION OF “BROKER” DEFINITION (3/14/05)

OCC REPORTS INCREASE IN DERIVATIVES VOLUME (3/11/05)

WILLIAMS SAYS REGULATORY BURDEN RELIEF SHOULD BE A NATIONAL PRIORITY (3/11/05)

SPRING ISSUE OF FDIC OUTLOOK FOCUSES ON INTEREST RATE RISK MANAGEMENT (3/10/05)

FED ISSUES FINAL RULE ON RISK-BASED CAPITAL STANDARDS (3/10/05)

TREASURY PROPOSES RULE ON TRANSACTIONS WITH NO NET VALUE (3/10/05)

ALERT ON COUNTERFEIT U.S. POSTAL MONEY ORDERS (3/9/05)

HUD SELLS MULTIFAMILY AND HEALTHCARE LOANS (3/8/05)

OCC CONCLUDES STATE LAWS TAKE PRECEDENCE OVER NATIONAL BANK ACT (3/7/05)

BANKS MAY PARTICIPATE IN GOVERNMENT LOSS ALLOCATION SYSTEM (3/7/05)

BANKS MAY BUY AND SELL GOLD SHARES UNDER 12 USC 24 (7) (3/7/05)

HUD ADJUSTS DEBENTURE INTEREST RATES (3/4/05)

FRB PROPOSES RULES FOR “REMOTELY CREATED CHECKS” (3/4/05)

FDIC WARNS BANKS OF CHANGE IN CUBAN CONTROL REGULATIONS FDIC (3/2/05)

OCC PUBLICATION HIGHLIGHTS INDIVIDUAL DEVELOPMENT ACCOUNTS (3/2/05)

IRS PROPOSES ROTH 401(K) CHANGES (3/2/05)

OTS ANNOUNCES FINAL CRA RULE (3/2/05)

FDIC AMENDS GUIDANCE ON PAYDAY LENDING PRACTICES (3/1/05)

FRB ADOPTS FINAL RULE ON TRUST-PREFERRED SECURITIES (3/1/05)

BANK REGULATORS REITERATE CONFIDENTIALITY OF CAMELS RATINGS (2/28/05)

FINCEN RELEASES STRATEGIC PLAN (2/28/05)

AGENCIES CHARGE TITLE INSURANCE FIRM, BANKERS IN ALLEGED KICKBACK SCHEME (2/28/05)

FRB JOINS OCC, FDIC IN CRA PROPOSAL (2/25/05)

Bank Law and Regulatory Report

Vol. 10, No. 12 of *Bank Law and Regulatory Report* includes the following articles:

- Agencies Issue Guidance on Security Breaches
- Senate Passes Bankruptcy Reform Bill
- Privacy Issues Grow
- Williams on Retail Lending
- Delinquency Rates Down
- ACB Submits FDICIA and Tax Petitions
- Fed to Citi: Slow Down
- Regulatory Burden Troubles Acting Comptroller
- Greenspan Reassures about Basel II Implementation
- HMDA Trouble Coming?
- Latest Predatory Lending Bill Introduced
- Deposit Insurance Reform in the House — Again
- OCC Interpretation Sustains State Power
- FDIC Tightens Payday Guidance
- CAMELS Reminder
- RESPA Violations to Cost Chicago Title, Bank Officers Also Charged
- *Briefs*
 - FDIC to Hold Public Hearing on Interstate Activities
 - Call Report Changes
 - Court Upholds Mandatory Arbitration Clauses
 - Whistleblower Case Ruling Forces Bank to Reinstate CFO

Compliance Examinations Update

The update includes new and updated information on the following topics:

Chapter 3: Truth in Lending

- TILA Requires Prepayment Penalty and Rebate Disclosures, as Applicable, 12 CFR 226.18(k)
- Creditor May Not Require Consumer to Sign Certificate of Non-Rescission at Same Time Notice of Right to Cancel is Provided, 12 CFR 226.15 and 12 CFR 226.23

Chapter 5: Housing

- OCC Issues Residential Mortgage Lending Guidelines, 12 CFR 30, Appendix C

Chapter 7: Deposit Accounts — General

- Federal Banking Agencies Issue Final Guidance on Overdraft Protection Programs, 70 Fed. Reg. 9,127 (Feb. 24, 2005)

Chapter 9: Financial Privacy

- FinCEN Eliminates Need to File Duplicate OFAC Blocking and Suspicious Activity Reports, 69 Fed. Reg. 76,847 (Dec. 23, 2004)

EXPERT GUIDANCE AND ANALYSIS

Compliance Guidance by Regulation

The update to *Compliance Guidance by Regulation* includes the following new and updated information:

- **Fair Credit Reporting Act, 15 USC 1681.** The Fair Credit Reporting Act (FCRA) requires consumer reporting agencies to provide consumers with summaries of rights under the FCRA. The Fair and Accurate Credit Transactions Act (FACT Act) mandated substantial changes to the content of the summaries; accordingly, the FTC revised its model summaries in 2004. The revised summaries are effective as of January 31, 2005. See Chapter 16.
- We have added new Chapter 20, **FTC Telemarketing Rules; Guidance on Overdraft Protection Programs**, which covers the following:

FCC Telemarketing Rules (47 CFR 64). Congress enacted the Telephone Consumer Protection Act in 1991. That act gave the Federal Communications Commission (FCC) the authority to adopt regulations to carry out the purposes of the act. The FCC adopted consumer protection rules some time ago. In recent years, however, telemarketing has increased, to the point that further protection was deemed necessary.

In 2003, based on congressional action and consent, the FCC and the Federal Trade Commission jointly established a national do-not-call directory, and adopted rules designed to offer certain levels of protection to consumers that seek to avoid telemarketing calls. While both of these agencies adopted rules that apply to telemarketing, only the rules of the FCC apply to bank solicitations. Most of the provisions of the FCC regulations became effective on October 1, 2003. The caller identification rules became effective as of January 29, 2004.

Joint Guidance on Overdraft Protection Programs. In February 2005, the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation issued a joint guidance document concerning bounced-check and overdraft protection programs offered by banks. The National Credit Union Administration adopted the same guidance document for federal credit unions. The guidance does not address the practices of banks in connection with procedures whereby checks that would overdraw an account might be paid or returned, at the bank's discretion. The guidance also does not address any charges that are imposed by banks (i.e., non-sufficient funds fee) in cases where checks are either paid or returned. Instead, it addresses the circumstances where banks actively promote the service of paying checks that overdraw an account.

Policies and Procedures

The following Policies and Procedures have been updated or added (to locate the updated sections, please search for “zzz”):

- Anti-Money Laundering Policy and Procedures (Updated)
- Conflict of Interest/Code of Ethics Policy and Procedures (Updated)
- Domestic Teller Policy and Procedures (New)
- Information Security Policy and Procedures (Updated)
- Sale of Consumer Insurance Products Policy and Procedures (New)
- Transactions with Affiliates Policy and Procedures (New)

Internal Audit Programs

The following Internal Audit Programs have been updated or added (to locate the updated sections, please search for “zzz”):

- Bank Bribery/Conflict of Interest/Code of Ethics Audit (Updated)
- Bank Secrecy Act Compliance Audit — Financial Recordkeeping (Updated)
- Domestic Teller Compliance Audit (New)
- Information Security Compliance Audit (Updated)
- Sale of Consumer Insurance Products Compliance Audit (New)
- Transactions with Affiliates Compliance Audit (New)

Federal Regulatory Forms

The update to *Federal Regulatory Forms* includes the following new and updated information:

- **OCC Licensing Manual.** The OCC has revised the “Charters,” “General Policies and Procedures,” and “Investment in Subsidiaries and Equities” booklets in its Comptroller’s Licensing Manual series. See chapters 1, 2, and 8.

FEDERAL LAWS AND REGULATION

Code of Federal Regulations

The CFR has been updated to reflect changes made through April 1, 2005.

Federal Register — Banking Agency Extract

The *Federal Register — Banking Agency Extract* has been updated to reflect changes made through April 1, 2005.

AGENCY DOCUMENTS, MANUALS, AND ISSUANCES

The following federal regulatory agency publications and issuances have been added:

Interagency Statements

- Frequently Asked Questions on the Appraisal Regulations and the Interagency Statement on Independent Appraisal and Evaluation Functions 3/05
- Interagency Advisory on the Confidentiality of the Supervisory Rating and Other Nonpublic Supervisory Information 2/05
- Joint Guidance on Overdraft Protection Programs 2/05

Federal Deposit Insurance Corporation

- FDIC Issuances: Financial Institution Letters FIL-11-2005 through FIL-18-2005 (3-17-2005)
- FDIC Issuances: FYI Electronic Bulletins 3-22-2005
- FDIC Issuances: Press Releases PR-16-2005 through PR-25-2005 (3-16-2005)
- FDIC Issuances: Special Alerts SA-15-2005 through SA-32-2005 (3-17-2005)

Federal Financial Institutions Examination Council

- FFIEC Supplemental Instructions 3/05
- FFIEC Issuances: Press Releases 3-9-2005

Federal Reserve

- Federal Reserve Issuances: Press Releases 2-23-2005 through 3-28-2005
- Federal Reserve Issuances: Supervision and Regulation Letters SR 05-3 through SR 05-5 (3-22-2005)
- Federal Reserve Regulatory Service

Office of the Comptroller of the Currency

- Comptroller's Licensing Manual
 - Investment in Subsidiaries and Equities
- OCC Issuances: Alerts 2005-4 and 2005-5 (3-17-2005)
- OCC Issuances: Bulletins 2005-4 through 2005-7 (3-24-2005)
- OCC Issuances: Interpretive Letters #1018 through #1023 (March 2005)
- OCC Issuances: News Releases 2005-20 through 2005-35 (3-23-2005)

Office of Thrift Supervision

- OTS Issuances: CEO Memorandums #212 and #213 (3-22-2005)

- OTS Issuances: News Releases 05-05 through 05-10 (3-23-2005)

Financial Crimes Enforcement Network

- FinCEN Issuances: News Releases 2-28-2005 through 3-8-2005
- FinCEN's 314(a) Fact Sheet (3/15/05)

The Agency Index and Subject Index have been updated to reflect these additions.

DAILY FEDERAL REGISTER ON THE INTERNET

The *Federal Register* on the complianceexpert.com Web site is updated daily to give you immediate access to the federal agencies' regulations and legal notices that apply to banks. Sixty days' worth of *Federal Register* updates are available for your reference. To receive daily *Federal Register* summaries, sign up for the e-mail service on the complianceexpert.com Web site.

ASK YOUR PEERS ON THE INTERNET

The complianceexpert.com Web site includes a discussion group for you to exchange information with and ask questions of other Compliance Expert subscribers. This discussion site is an open forum for you to communicate with other bankers and with us.

INTERNET INSTRUCTIONS

Accessing Web Site Using Links on CD

To access the complianceexpert.com Web site using the links provided on the Compliance Expert CD, you must have an Internet connection and an Internet browser installed on the computer you are working from.

Accessing Web Site Directly

To access the complianceexpert.com Web site directly, rather than using the links provided on the Compliance Expert CD, you will need to use the following user name and password:

User Name: 05sppbce02
Password: FACTACT

INSTALLATION

Please install the updated version as soon as you receive it to ensure that your Bank Compliance Expert on CD is always up-to-date.

Bank Compliance Expert on CD will run on a 486 or higher personal computer (Pentium recommended) and requires 16 MB of memory. You will need 10 MB of hard drive space to run Bank Compliance Expert from the CD or 650 MB to install all files.

PRODUCT SUPPORT HELP LINE

If you have questions about Bank Compliance Expert on CD or need help with the installation, please call the Sheshunoff technical support staff at no additional charge at 1-800-456-2340 or e-mail us at propubs.support@sheshunoff.com.

