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FDIC Proposes to Modernize Official Sign and Advertising Requirements for Insured Depository Institutions

WRITTEN BY

Seth A. Winter | Zayne Ridenhour Tweed

On December 13, the Federal Deposit Insurance Corporation (FDIC) released a proposal to modernize the rules governing use of the official FDIC sign and insured depository Institutions' (IDIs) advertising statements — the first update to the FDIC's sign and advertising rules for IDIs since 2006. Given today's technology-rich banking environment, the new proposal updates how deposit customers do business with banks, including through digital and mobile channels, and addresses specific scenarios, which may mislead consumers as to whether deposit insurance protects their funds.

Over the past two decades, the banking environment has drastically changed. Bank customers increasingly rely on internet and mobile banking channels to access banking services, and financial technology companies — alone and in partnership with IDIs — offer customers new banking products and services. These developments can create uncertainty for depositors and consumers regarding when they are doing business with an IDI and when their funds are protected. The FDIC has observed an increasing number of instances online where firms or individuals have misused the FDIC's name or logo, or they have made false or misleading representations about deposit insurance — including circumstances where nonbanks have made unsubstantiated claims about their relationship to the FDIC.

The FDIC's sign and advertising modernization proposal contains four key points. First, the FDIC proposes three distinct signs for deposit insurance depending on the banking channel and product: (1) an update to the official FDIC sign currently displayed at IDIs' principal place of business and branches; (2) a digital sign that would apply to digital deposit-taking channels, such as online banking websites and mobile applications; and (3) a sign for non-deposit products and services, which would mitigate consumer confusion where an IDI offers both insured deposits and non-deposit products through the same channel (*e.g.,* when insured deposits and non-deposit products are offered at the same branch).

Second, the FDIC recommends limited amendments to its official advertising statement requirements. The amendments provide IDIs with the option of a shortened official advertising statement and include technical corrections to catch up to the current higher deposit insurance levels.

Third, the FDIC proposes guidance on when statements or omissions may constitute a misrepresentation regarding the availability of FDIC deposit insurance, which violates the Federal Deposit Insurance Act.

Lastly, the FDIC recommends requiring IDIs to establish and maintain written policies and procedures to comply with the FDIC's advertising regulations at Title 12, Part 328. When drafting such policies and procedures, IDIs must consider (1) the nature, size, complexity, scope, and potential risk of the deposit-taking activities they engage in and (2) as appropriate, provisions related to monitoring and evaluating activities of persons that provide deposit-related services to the IDI or offer the IDI's deposit-related products or services to other parties. To the extent a third party has a business relationship with and is serving as a deposit-taking channel for an IDI, under the FDIC's proposal, the IDI's written policies and procedures must require the IDI to ensure the third party does not misrepresent the availability of deposit insurance.

The FDIC is seeking feedback from IDIs and financial industry participants on the scope of the proposed rule and its requirements, including responses to several specific questions related to physical signage, digital banking channels, ATMs and similar devices, bank policies and procedures, and non-deposit products. Because of the importance of deposit insurance to our modern banking system, the FDIC's proposal has the potential to materially impact the ways banks conduct business. Industry participants — both bank and nonbank entities — may submit comments to the FDIC on this proposal on or before February 13, 2023.

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