



### **Compliance News...**

#### ***Discrimination – Fraud and Active Duty Alerts***

The Federal Deposit Insurance Corporation (FDIC) recently issued a Financial Institution Letter (FIL) reminding creditors of their obligations under the Equal Credit Opportunity Act (Regulation B) with regard to fraud and active duty alerts. Specifically, the FIL reminds financial institutions that they are prohibited from discriminating against those consumers who have placed a fraud or active duty alert on their credit report. Financial institutions must establish policies, procedures and processes to ensure appropriate actions are taken when a consumer with a fraud or active duty alert requests credit [§605A(h)(1)(b) of the Fair Credit Reporting Act or page 773 of the Banker's Compliance Consulting Advanced Lending Manual].

FIL-22-2006 – <http://www.fdic.gov/news/news/financial/2006/fil06022.pdf>

Section 605A(h)(1)(b) – <http://www.fdic.gov/regulations/laws/rules/6500-1100.html#6500605A>

#### ***Check 21 Disclosure Reminder***

There seems to be a lot of confusion concerning providing Check 21 disclosures. A financial institution is required to provide a consumer with a Check 21 disclosure in each of the following occurrences:

1. When a consumer requests a copy of a check and the copy provided to the consumer is a substitute check (if feasible, the institution will provide the Check 21 disclosure at the time of the consumer's request); and
2. When a substitute check is returned unpaid to a consumer (i.e. NSF, endorsement, etc.).

An institution does not need to provide a Check 21 disclosure when a substitute check is routinely returned with a periodic statement.

## ***Federal Reserve Board Consumer Compliance Handbook***

Often bankers ask us, "What is the best source for internal audits? What checklists should we use?"

Prior to 1997, we always recommended the Federal Reserve Board's (FRB) Consumer Compliance Handbook. For some reason, the FRB stopped updating the handbook in 1997. Good news! The FRB recently released a new version of its Consumer Compliance Handbook. The information is current as of January 2006 and they indicate updates will be provided at least annually. Although the book was produced for FRB examiners, it is beneficial for all regulated banks and thrifts. This handbook provides a background and overview, examination objectives and procedures and a checklist for each regulation. The handbook is available on the FRB website at: [http://www.federalreserve.gov/boarddocs/supmanual/supervision\\_cch.htm](http://www.federalreserve.gov/boarddocs/supmanual/supervision_cch.htm) (although it is divided into several Adobe files). Bankers Online has consolidated the numerous adobe files into one, which can be downloaded to your computer (warning, it is 3.5 Mb): [http://www.bankersonline.com/tools/compliance/az\\_frbexampapers.html](http://www.bankersonline.com/tools/compliance/az_frbexampapers.html). The handbook can also be purchased in hard copy from the FRB for a very low cost of \$50.00. Information on how to order the handbook can be found at: <http://www.federalreserve.gov/pubs/order.htm>.

## ***FACT Act Medical Information Provision – Effective April 1, 2006***

The FACT Act Medical Information Provision prohibits a financial institution from obtaining or using a consumer's medical information in connection with a credit application or determination of continuing eligibility for credit. While initially this may seem like a huge undertaking, it really is not. Basically, the provision is saying that you cannot discriminate against a consumer based on medical information. This provision does not prohibit prudent underwriting. For example:

1. A consumer submits a loan application to consolidate medical debts. The loan officer can call the hospital to verify the amount of the outstanding debts. Assume also, the review of the applicant's income determines it to be insufficient for the amount of credit requested. The loan officer can deny the credit without violating this provision.
2. A consumer applies for a loan to consolidate debt. The loan officer determines that the consumer is credit worthy and has sufficient income. In the course of verifying the debt, the loan officer learns that the debts are for treatment of a terminal illness. The loan officer cannot use this as a reason to deny the loan, as this would be using medical information in a way that conflicts with the provision of this Act.

## ***Banker's Compliance Consulting Phone Services***

The primary purpose of Banker's Compliance Consulting is to assist financial institutions with their compliance needs. One of the key services we provide is telephone consultation (i.e. answering client questions over the telephone, by fax or email). Often times, bankers call us assuming we provide free consultation. Unfortunately, this just isn't possible. Our consultation is available at a prorated fee. If your institution is not a client of Banker's Compliance Consulting and you would like more information about our services and fees, please contact us toll free at (800) 847-1653 or by e-mail [consultants@bankerscompliance.com](mailto:consultants@bankerscompliance.com).