

# Common Exam Violations and New Issues in 2002

*Regulatory Risk Monitor* presents this checklist from consultant Tim Tedrick, principal, LindgrenCallihanVanOsdol, Sterling, Ill., to help compliance officers steer clear of pitfalls in upcoming exams.

## Regulation Z

- \_\_\_\_\_ a. Not checking the “yes” boxes for credit life/accident and health insurance on installment, real estate mortgage and indirect loans.
- \_\_\_\_\_ b. Not having the customer sign requesting the credit life/accident and health insurance on installment, real estate mortgage and indirect loans.
- \_\_\_\_\_ c. Inaccurate finance charges on construction loans – not using Appendix D.
- \_\_\_\_\_ d. Loan fees not included in finance charges on installment, consumer single pay and construction loans.
- \_\_\_\_\_ e. Draw fees not included as part of the finance charge.
- \_\_\_\_\_ f. Not including as part of the finance charge the cost of a required closing agent.
- \_\_\_\_\_ g. Not providing 2 copies of rescission and 1 copy of TILA disclosure to each borrower.
- \_\_\_\_\_ h. Rescindable transaction funds disbursed before 3 business days elapsed.
- \_\_\_\_\_ i. Not checking box and indicating collateral by type or item when taking security interest in other than goods or property being purchased.
- \_\_\_\_\_ j. “My deposit account” box marked in Fed Box when no security interest taken in customer’s deposit accounts.
- \_\_\_\_\_ k. Not complying with the new rules for private mortgage insurance.
- \_\_\_\_\_ l. Not including life-of-loan flood determination coverage as a finance charge.
- \_\_\_\_\_ m. Interest is charged on an open-end line of credit on payment amount even though the statement shows the payment was credited as of date of payment. Results in overcharge of interest. (Auto-sweep accounts from checking.)
- \_\_\_\_\_ n. Credit cards applications/disclosures have not been changed to reflect the new 12-point type for required disclosures. APR for purchases not in 18-point type. (226.5a(b)(1))

## Adverse Action Notices

- \_\_\_\_\_ a. Not checking box on denied-loan form to indicate denial based on consumer reporting agency report.
- \_\_\_\_\_ b. Adverse action notices did not include credit bureau address.

- \_\_\_\_\_c. Adverse actions did not have boxes checked showing reason for denial.
- \_\_\_\_\_d. Using an incorrect address for FDIC or OCC. (New address for FDIC effective July 1, 2002 is FDIC Consumer Response Center, 2345 Grand Boulevard, Suite 100, Kansas City, Mo. 64108)
- \_\_\_\_\_e. Not sending a notice to each applicant for joint applications when the loan is denied based on information received on the credit bureau report.

### **Consumer Protection Rules**

- \_\_\_\_\_a. Not providing the required disclosures when credit life and disability insurance is sold (effective Oct. 1, 2001).
- \_\_\_\_\_b. Not dating the insurance disclosures.

### **Regulation B**

- \_\_\_\_\_a. Not providing notices to customers of their right to receive appraisals.
- \_\_\_\_\_b. Monitoring information not collected when it should be; and collected when it should not be.
- \_\_\_\_\_c. Offering preferred loan rates based on age to those under the age of 62.

### **Regulation C**

- \_\_\_\_\_a. Denied loans not recorded on HMDA-LAR.
- \_\_\_\_\_b. Home equity loans inappropriately recorded on HMDA-LAR.
- \_\_\_\_\_c. Home improvement loans inappropriately recorded on HMDA-LAR when the Bank does not otherwise classify home improvement loans internally.

### **Regulation X**

- \_\_\_\_\_a. Required providers and business relationship not shown on good faith.
- \_\_\_\_\_b. POC items required by lender not disclosed by name or amount on HUD-I or HUD-IA (including items in which the cost is paid by the Bank, for example, credit bureau).
- \_\_\_\_\_c. Cost of hazard insurance not identified on the good faith estimate and HUD-I or HUD-IA. (All regulators).
- \_\_\_\_\_d. One year's property tax amount not identified on the good faith estimate and HUD-I or HUD IA. (All transactions for banks regulated by FRB – Chicago; refinance and subordinate liens for banks regulated by OCC; not presently required for banks regulated by the FDIC).

- \_\_\_\_\_ e. Annual flood insurance premium and annual mortgage insurance premium not identified on the GFE and HUD-I or HUD-IA. (All transactions for banks regulated by FRB – Chicago; not specifically addressed in any known memo/publication for banks regulated by OCC, but presumed to be the same as hazard insurance; all transactions for banks regulated by the FDIC).
- \_\_\_\_\_ f. Section 8 violation: Fee collected by a bank for a third-party service exceeded the amount the Bank actually paid to that third party.

## **CRA**

- \_\_\_\_\_ a. No branch closing policy.
- \_\_\_\_\_ b. CRA lobby notice – incorrect FDIC address. (Should be Suite 3300 for Illinois banks.)

## **Flood Hazard Verification**

- \_\_\_\_\_ a. Flood hazard verification not adequately documented – date of determination, map number, year and zone.
- \_\_\_\_\_ b. Not filling in part C about participating or non-participating community.

## **Regulation DD**

- \_\_\_\_\_ a. Deposit rate sheet (if provided to customers) does not contain all required disclosures for an advertisement.
- \_\_\_\_\_ b. Using more than one interest rate during the cycle when the bank is using the average daily balance to calculate the balance on which the finance charge is calculated.
- \_\_\_\_\_ c. Disclosing to customer that a fee is charged per check written when the Bank charges per debit (includes ACH, ATM and debit card transactions) and not disclosing this fee on the Reg DD or the EFTA disclosure. The Bank must disclose a fee per debit item.
- \_\_\_\_\_ d. Calculating early withdrawal penalties in a manner different from that disclosed to the customer.
- \_\_\_\_\_ e. Using a different method to calculate the balance to earn the APY compared to the balance to calculate interest. For example, a Bank cannot disclose that an account must have an average daily balance of \$XXX to earn the APY, when it uses the daily balance method to calculate interest on the account.

## **Regulation E**

- \_\_\_\_\_ a. Not changing disclosures to reflect regulatory change effective April 1, 2000: only 10 days to resolve POS errors before provisional credit must be provided (exception for new accounts). If applicable, VISA card changes to 5 days.
- \_\_\_\_\_ b. Not disclosing that Visa cardholders have no liability for unauthorized transactions.

- \_\_\_\_\_c. Not disclosing that MasterCard cardholders may have no liability for unauthorized transactions.
- \_\_\_\_\_d. Not disclosing the new language in relation to “a fee may be imposed by an automated teller machine operator if the consumer initiates a transfer from an automated teller machine that is not operated by the person issuing the card or other access means.” (Mandatory by Oct. 1, 2001.)
- \_\_\_\_\_e. Not disclosing the electronic check/draft conversion (e-checks) language (effective March 2001 and mandatory Jan. 1, 2002).
- \_\_\_\_\_f. Not sending a notice to customers about the Regulation E change relating to the electronic check/draft conversion (e-checks) (effective March 2001 and mandatory Jan. 1, 2002).

### **Regulation CC**

- \_\_\_\_\_a. Not making the first \$100 available on a case-by-case hold
- \_\_\_\_\_b. Using a large deposit exception hold, and applying the hold to the first \$5,000.
- \_\_\_\_\_c. Placing holds on checks merely because of the class of checks, such as credit-card advance.
- \_\_\_\_\_d. Delaying the availability of funds beyond the statutory limits.
- \_\_\_\_\_e. Trying to place exception holds when none of the allowed exceptions apply.

### **Bank Secrecy Act**

- \_\_\_\_\_a. Not complying with changes to the exemption procedures. (Final phase-in period ended July 2000.)
- \_\_\_\_\_b. Not making timely biennial renewal filings for unlisted businesses that have been designated as exempt persons.

### **Regulation P**

- \_\_\_\_\_a. Privacy policy does not contain dual employee language explaining information the Bank shares when joint marketing with an entity, such as an onsite brokerage firm.

### **Advertising**

- \_\_\_\_\_a. Web site does not contain required compliance disclosures.

## **Homeownership Counseling**

- \_\_\_\_\_a. Not notifying a delinquent loan customer of the availability of homeownership counseling after the loan has been delinquent for over 45 days.

## **Home Ownership and Equity Protection Act (HOEPA)/State of Illinois High Risk Home Loans**

- \_\_\_\_\_a. Charging borrowers interest rates or fees above the rates or fee percentages established by the regulations.

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