

# DODD-FRANK'S 'INTERESTING' DEVELOPMENT HAS COMPLIANCE IMPACT TOO

Interest on checking may mean no change, or many changes, depending on your bank

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It seems that the deposit side of compliance doesn't get as much press time as the loan side-particularly in the last few years. Going back over the historical Common Sense Compliance blog entries, lending issues have definitely monopolized our "air time." But, maybe that's changing. A number of recent compliance developments have awakened the deposit compliance monster.

Dodd-Frank ends an era

One of those new developments concerns the impending repeal of the statutory prohibition against paying interest on demand deposits. Included in the Dodd-Frank Act is a small provision that repeals the sections of the FDIC Act and the Federal Reserve Act that required FDIC and the Fed to issue regulations that prohibit banks from paying interest on demand deposits. The Dodd-Frank Act provision takes effect on July 21, 2011.

Now, the FDIC and the Fed are proposing to eliminate their regulations in this area.

Regulation Q is the Fed's regulation and the FDIC's regulation is referred to as Interest on Deposits (12 CFR 329). The Fed's regulation applies to all Fed member banks and federal branches or agencies of a foreign bank, and FDIC's regulation affects state nonmember banks and state branches of insured foreign banks.

The regulations are in proposed form, but the change will happen by July 21st regardless of the regulatory actions as mandated by statute. So, you can count on this one taking place.

"Repeal of a prohibition"

Since the action involves a repeal of a prohibition, the effect of the change is to allow banks to decide for themselves what impact this will have on their operations.

A bank could choose to continue to offer noninterest bearing demand deposits with no change.

Or it could start paying interest on demand deposits that were previously noninterest-bearing.

Whether there is any compliance impact on a bank will depend on what the bank decides to do with its demand deposit products.

## FDIC approach versus the Fed's

It's interesting to note the different focus the two agencies took in their notices of proposed rulemaking for this change.

The Fed is seeking comments on all aspects of the proposal, including the big picture issues concerning competitive impact, balance sheet impact, and market impact.

Meanwhile, FDIC is also seeking comment on every aspect of the proposed rule, but with particular focus on how they can make the proposal easier to understand (organization of the material, clarity of the material, formatting, and use of jargon).

On the compliance side, the impact is going to focus on:

- Truth in Savings Act disclosures and system changes
- Marketing/advertising copy
- Premiums offered in conjunction with checking accounts (The free toaster is back!)
- NOW account eligibility monitoring
- Monitoring for excessive withdrawals on savings and money market accounts
- IRS reporting of interest
- Customer Identification Program risk assessment

The impact is not necessarily going to be negative. Some of those compliance responsibilities may go away. But, there will have to be an analysis of the impact and the compliance officer needs to be involved in any decision relating to such a product change— or nonchange.

What are your bank's plans and preparations for interest on corporate checking? Tell us below

## About Nancy Derr-Castiglione

"Lucy and Nancy's Common Sense Compliance" is blogged by both Lucy Griffin and Nancy Derr-Castiglione, both ABA Banking Journal contributing editors on compliance.

Nancy, a Certified Regulatory Compliance Manager, is owner of D-C Compliance Services, an independent regulatory compliance consulting services business that has provided expertise in compliance training, monitoring, risk assessment, and policies and procedures to financial institutions since 2002.

Previously, Nancy held compliance positions with Bank One Corporation and with United Banks of Colorado.

In addition to serving as a Contributing Editor of ABA Banking Journal, Nancy has served on the ABA Compliance Executive Committee; National and Graduate Compliance Schools board; conference planning committees, and the Editorial Advisory Board for the ABA Bank Compliance magazine. She can be reached at [nancycastiglione@comcast.net](mailto:nancycastiglione@comcast.net)

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