

FDIC Revisits Rule on Deposit Insurance Signage

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On August 19, the FDIC Board unanimously approved issuance of **a proposed rule** that seeks to amend advertising disclosures and signage regarding deposit insurance. In 2023, the FDIC updated its rules regarding required advertising disclosures for deposits and representations related to the insured status of deposits. These updated rules are found at 12 CFR § 328, Subparts A and B. **Subpart B** took effect on January 1, 2025. **Subpart A** was originally supposed to take full effect on May 1, 2025, but the FDIC extended the compliance date for the portions of the rules related to disclosures for ATM withdrawals (12 CFR § 328.4) and during digital deposit-taking (12 CFR § 328.5) to March 1, 2026, pursuant to FIL-5-2025. The proposed rule addresses the disclosures in Subpart A for which the compliance date was extended, and proposes to further extend compliance until January, 2027.

As background, Subpart A of 12 CFR § 328 applies to “insured depository institutions” (“IDIs”), and does not apply to non-IDIs, nor to “non-insured offices or branches of [IDIs] located in foreign countries.” § 328.0. Subpart B of 12 CFR § 328 (which, again, is already in effect) applies to non-IDIs that are making any statements regarding deposits in the United States. Importantly, Subpart B also applies to an IDI, to the extent the IDI “aids or abets” others, including its own non-insured offices or branches in making any statements regarding deposits in the United States that are not in compliance with Subpart B’s requirements.

Stating that the purpose of the proposed rule is to “address implementation issues and sources of potential confusion” resulting from the previous final rules, the proposed rule introduces more flexibility to IDIs in how they go about complying with Subpart A in their digital properties and on ATM screens. Comments to the proposed rule can be made until October 19, 2025 (60 days following publication of the proposed rule in the Federal Register).

Citing a variety of challenges that many major IDIs have already dealt with to meet the initial compliance deadlines, the proposed rule loosens things up again, which may be useful for future adjustments to bank websites and online banking pages. By our reading of the proposed rule, the introduced flexibility should not cause banks that have already made changes to comply with the previous Subpart A to have to commence another round of changes, unless such changes are preferred by the institution.

Specifically:

- IDIs needed to use a particular digital image file that had prescribed fonts, wording and colors on their digital properties. The proposed rule gives IDIs “additional flexibility with respect to the color, font and size” required when IDIs display the FDIC official digital sign. Importantly, “[a]lthough the proposed rule would no longer provide for a specific font size, the FDIC official digital sign would have to be displayed in a clear and conspicuous manner, which would ensure its legibility.”
- The proposed rule seeks be clear that the FDIC official digital sign should be present on log-in pages that lead to the IDI’s digital deposit taking channel, but that it is not necessary on all landing pages that do not have a log-in present.
- The proposed rule steps back the requirement that the FDIC official digital sign needs to appear on “pages where the customer may transact with deposits” such that it need only appear “at the deposit account opening stage.”
- The FDIC proposes that “the display of non-deposit signage only on pages and screens that are primarily dedicated to one or more non-deposit products” should be sufficient. As the proposed rule states, “For example, an IDI would be required to display non-deposit signage on the IDI’s website page providing detailed information on annuities or pages where a consumer could purchase a non-deposit product.”

- Previously, IDIs were required to “display a one-time notification when a bank customer logged into an IDI’s digital deposit-taking channel attempts to access non-deposit products through a hyperlink (or similar web-linking feature) to a non-bank third party platform.” The proposed rule retains the one-time notification requirement when moving from an IDI to a non-bank and from an FDIC-insured deposit area to a non-deposit area. However, the means by which the notification is presented is less onerous, meaning that instead of requiring a customer to click on the notification to move on, the notification can be “dismissed automatically after the customer has been provided a reasonable opportunity to read the notification’s content”, which the proposed rule says means the notification must show for a period of time that is “no less than three seconds.”
- For deposit insurance signage at ATMs, the proposed rule similarly provides flexibility regarding how and when the disclosure is presented:
 - The disclosure need only be presented in a manner that mitigates “potential consumer confusion” which means that it need appear “only on the initial screen of an IDI’s ATM or like device”.
 - The exception for certain ATMs to not have to comply with the FDIC official signage requirements is proposed to be expanded, such that ATM owners may rely upon a physical sign, in lieu of making changes to the ATM’s digital screens.
 - Similar to the requirements for digital properties, “the proposed rule would require the display of non-deposit signage on fewer pages and screens.”

Again, many major banks with complex product offerings have already made changes to their web properties to comply with the previous Subpart A. Should the proposed rule be adopted as a final rule in a substantially similar form, we do not think that such banks would need to commence new projects to reflect the flexibility offered by the new rule. We do think that such banks would be able to more confidently move forward, especially as they continue to innovate and offer non-deposit products like payment stablecoins alongside deposit accounts.