

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

COMMISSIONERS: Jon Leibowitz, Chairman
Pamela Jones Harbour
William E. Kovacic
J. Thomas Rosch

FTC Matter No. P094205

ORDER TO FILE SPECIAL REPORT

Pursuant to a resolution of the Federal Trade Commission dated _____, entitled “*Resolution Directing Use of Compulsory Process*,” a copy of which is enclosed [insert **institution name**], hereinafter referred to as “the institution,” is ordered to file a Special Report with the Commission no later than [insert **date 30 days after date of Order**], containing the information and documents specified herein.

The information provided in the Special Report will assist the Commission in determining industry compliance with the disclosure requirements for non-federally insured depository institutions specified at 12 U.S.C. § 1831t.

The Special Report should restate each item of this Order (listed below) before each corresponding answer. If the institution cannot respond to any item fully, it must provide the information that is available and explain in what respects and why the answer is incomplete. **The Special Report and all accompanying documentary responses should be bates-stamped. The institution may file the Special Report in electronic format.**

1. Briefly (in a paragraph or two) explain the steps your institution takes to comply with the requirements of 12 U.S.C. § 1831t(b) (See Appendix).
2. Provide a sample of each non-identical periodic statement of account, signature card,

¹ Under the Paperwork Reduction Act, as amended, 44 U.S.C. §§ 3501-3521, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

passbook, certificate of deposit, and shared certificate disseminated since [**Insert date three months prior to Order**]. Redact any individual consumer names, signatures, addresses, account numbers, or any other personally identifying information from the submitted samples.

3. Provide information (*e.g.*, photographs) indicating whether your institution posts the disclosure required by 12 U.S.C. § 1831t(b)(2) at each station or window where deposits are normally received, your institution's principal place of business and all your institution's branches where deposits are accepted or accounts opened (excluding automated teller machines and point of sale terminals).
4. Provide a non-identical sample of all advertising² issued or continued in use after [**Insert date three months prior to Order**].
5. Provide a sample of each non-identical card, form, or other written material your institution has disseminated since [**Insert date three months prior to Order**] to comply with the signed acknowledgment requirements for new depositors pursuant to 12 U.S.C. § 1831t(b)(3). Redact any individual consumer names, signatures, addresses, account numbers, or any other personally identifying information from the submitted samples.³

* * * *

For each of the above requests, provide copies of documents and materials within the control of your institution, its agents and affiliates, including its advertising agencies. Please submit complete copies of all documents and materials requested. Your response should: (a) be keyed to specific paragraphs enumerated above, and (b) be signed by an officer of the institution authorized to speak on the institution's behalf.

If you decide to withhold all or any portion of any responsive material for any reason, including an applicable privilege or judicial order, please identify each item withheld and state individually for each item: the names, addresses, positions, and organizations of all authors and recipients of the item; a description of the subject matter the item contains; and the specific

² As used in this Order, the term "advertising" means any communication that your institution uses in the solicitation of business including, but not limited to, printed materials, your institution's main internet page, radio advertisements, video advertisements disseminated via television, the Internet or any other means of online communication, and solicitations conducted via telephone. The institution may provide video, radio, or telephonic advertising in written form (*e.g.*, a script).

³ The documents requested by this Order exclude any information for which prior customer authorization is required under the Right to Financial Privacy Act, 12 U.S.C. § 3401, *et seq.*

reason(s) for withholding the item.⁴

We have tried to limit the materials sought in the Order to reduce the burden on your institution in complying with this Order. For any information or material that would be responsive to any portion of this Order, but which you contend is not within your possession, custody or control, describe the material and state the name, address, telephone number, title and business of each person who may have such information or material in his or her possession, custody or control, or who may be aware of a source of such material.

Penalties may be imposed under applicable provisions of federal law for failure to file Special Reports or for filing false reports.

By direction of the Commission.

Jon Leibowitz
Chairman

SEAL

Date of Order:

The Special Report required by this Order, or any inquiry concerning it, should be addressed to the attention of:

Hampton Newsome
Division of Enforcement
Federal Trade Commission
Washington, D.C. 20580
(202) 326-2889 phone
(202) 326-2558 facsimile
hnewsome@ftc.gov

⁴ Under Section 21(f) of the Federal Trade Commission Act, 15 U.S.C. § 57b-2(f), all documents and information provided voluntarily in lieu of compulsory process in law enforcement investigations will be exempt from public disclosure under the Freedom of Information Act, 5 U.S.C. § 552(b)(3)(B). Furthermore, under Commission Rule 4.10(d), any material you provide which is marked “**CONFIDENTIAL**” will be given the same confidential treatment as material provided in response to compulsory process. The Commission's procedures concerning public disclosure and confidential treatment can be found at 15 U.S.C. §§ 46(f) and 57b-2(f), and Commission Rules 4.10 - 4.11, 16 C.F.R. §§ 4.10 - 4.11.

APPENDIX

Disclosure Requirements for Non-Federally Insured Depository Institutions: 12 U.S.C. § 1831t(b)

* * * *

(b) Disclosure required

Any depository institution lacking Federal deposit insurance shall, within the United States, do the following:

(1) Periodic statements; account records

Include conspicuously in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or share certificate a notice that the institution is not federally insured, and that if the institution fails, the Federal Government does not guarantee that depositors will get back their money.

(2) Advertising; premises

(A) In general

Include clearly and conspicuously in all advertising, except as provided in subparagraph (B); and at each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main Internet page, a notice that the institution is not federally insured.

(B) Exceptions

The following need not include a notice that the institution is not federally insured:

(i) Any sign, document, or other item that contains the name of the depository institution, its logo, or its contact information, but only if the sign, document, or item does not include any information about the institution's products or services or information otherwise promoting the institution.

(ii) Small utilitarian items that do not mention deposit products or insurance if inclusion of the notice would be impractical.

(3) Acknowledgment of disclosure

(A) New depositors obtained other than through a conversion or merger

With respect to any depositor who was not a depositor at the depository

institution before October 13, 2006, and who is not a depositor as described in subparagraph (B), receive any deposit for the account of such depositor only if the depositor has signed a written acknowledgment that—

- (i) the institution is not federally insured; and
- (ii) if the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

(B) New depositors obtained through a conversion or merger

With respect to a depositor at a federally insured depository institution that converts to, or merges into, a depository institution lacking federal insurance after October 13, 2006, receive any deposit for the account of such depositor only if—

- (i) the depositor has signed a written acknowledgment described in subparagraph (A); or
- (ii) the institution makes an attempt, as described in subparagraph (D) and sent by mail no later than 45 days after the effective date of the conversion or merger, to obtain the acknowledgment.

(C) Current depositors

Receive any deposit after October 13, 2006, for the account of any depositor who was a depositor on that date only if—

- (i) the depositor has signed a written acknowledgment described in subparagraph (A); or
- (ii) the institution has complied with the provisions of subparagraph (E) which are applicable as of the date of the deposit.

(D) Alternative provision of notice to new depositors obtained through a conversion or merger

- (i) In general Transmit to each depositor who has not signed a written acknowledgment described in subparagraph (A)—
 - (I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and
 - (II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

(E) Alternative provision of notice to current depositors

- (i) In general Transmit to each depositor who was a depositor before

October 13, 2006, and has not signed a written acknowledgment described in subparagraph (A)—

(I) a conspicuous card containing the information described in clauses (i) and (ii) of subparagraph (A), and a line for the signature of the depositor; and

(II) accompanying materials requesting the depositor to sign the card, and return the signed card to the institution.

(ii) Manner and timing of notice

(I) First notice Make the transmission described in clause (i) via mail not later than three months after October 13, 2006.

(II) Second notice Make a second transmission described in clause (i) via mail not less than 30 days and not more than three months after a transmission to the depositor in accordance with subclause (I), if the institution has not, by the date of such mailing, received from the depositor a card referred to in clause (i) which has been signed by the depositor.