

MEMO

TO: The Board of Directors

FROM: Mark Pearce
Director, Division of Depositor and Consumer Protection

DATE: October 17, 2024

RE: Delay of Compliance Date for Subpart A Amendments to FDIC Official Sign and Advertising Rule

RECOMMENDATION

Staff recommends that the FDIC Board of Directors (the Board) authorize publication of the attached notice in the *Federal Register* delaying the compliance date for amendments to 12 CFR Part 328, Subpart A, made in the FDIC’s December 20, 2023 final rule, titled *FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC’s Name or Logo* (“final rule”). The compliance date for amendments to Part 328, Subpart B, relating to misrepresentations of deposit insurance, would remain January 1, 2025.

SUMMARY

Through this *Federal Register* document, the FDIC would extend the compliance date for amendments made by the final rule to Subpart A that governs use of the official FDIC signs and insured depository institutions’ (IDIs) advertising statements. In the final rule, the FDIC required compliance for the Subpart A amendments by January 1, 2025. Through the attached Federal Register notice, staff recommend delaying that date to May 1, 2025. This delay would apply to the rules requiring: (1) the use of the FDIC official sign, official digital sign, and other signs differentiating deposits and non-deposit products across all banking channels, including physical premises, automated teller machines (ATMs) and digital channels, and (2) the establishment and maintenance of written policies and procedures to achieve compliance with Part 328.

Delay of Compliance Date

Staff recommend that the Board issue a notice in the *Federal Register* that delays the compliance date for the amendments to Subpart A of Part 328.

Since adopting the final rule amending Part 328, the FDIC has received questions about the new sign and advertising requirements under Subpart A and feedback concerning efforts to Concur:

meet the January 1, 2025 compliance date. In response to specific questions, the FDIC has provided clarifying information through two Bankers' Webinars in which FDIC staff provided overviews of the final rule's requirements and discussed related questions raised by bankers and others. The FDIC also published two sets of "Questions and Answers"¹ addressing the most frequently asked questions that the FDIC has received from final rule stakeholders. However, despite these efforts, some IDIs and other industry participants have continued to raise questions about the application of the rule to certain scenarios as well as concerns with updating their software for digital deposit-taking channels and ATMs by the January 1, 2025 compliance date. To that end, to the FDIC has received requests to extend the compliance date beyond the January 1, 2025, to allow IDIs additional time to implement the new regulatory requirements under subpart A.

To provide additional time for IDIs to put in place processes and systems and make technological updates to bring their digital deposit-taking platforms and ATMs into compliance with the amendments to subpart A, staff recommend that the Board delay the compliance date for amendments to Subpart A from January 1, 2025, to May 1, 2025. A delay of the compliance date would also give the FDIC an opportunity to review recently submitted questions and consider providing further clarifications to IDIs about Subpart A through publishing additional "Questions and Answers," as necessary. In order to facilitate effective compliance by the proposed May 1, 2025 compliance date, staff would seek to make any additional "Questions and Answers" available by November 30, 2024.

Staff recommends that this delay not apply to the amendments to Subpart B, for which compliance is still required by January 1, 2025.

CONCLUSION

The delayed compliance date is intended to provide IDIs with additional opportunity to ensure that they are fully compliant with the revised sign and advertising requirements. FDIC staff recommends that the Board approve the publication of the attached Federal Register notice.

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¹ The FDIC published a set of answers to questions it received following issuance of the final rule, available here: [Questions and Answers Related to the FDIC's Part 328 Final Rule | FDIC](#).

