

FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

**Webinar for Bank Officers,
Employees, and Other Stakeholders**

July 31, 2024



Webinar Topics

- Overview, Background, and Policy Objectives
- Part 328, Subpart A Requirements (FDIC Official Signs)
 - Branches and other physical premises
 - Bank's ATMs and like devices
 - Websites and Apps
- Part 328, Subpart B Prohibitions (Misrepresentations)
 - Examples of misrepresentations and material omissions
- Policies and Procedures (Related to Subpart A and Subpart B)
- Questions and Answers

Developments in Consumer Access to Financial Products

Banks' ATMs and digital banking channels (website or mobile app) now serve as a digital teller window for many consumers.

Bank branch layouts have evolved, including use of electronically-staffed kiosks, interactive ATMs, and teller-less cafés where deposits are accepted via tablets or ATMs.

Growth in fintech companies offering new options for accessing financial products can blur the distinction between banks and non-banks, increasing the potential for consumer confusion regarding FDIC deposit insurance coverage.

Deposits and non-deposit products offered through same banking channel.

Increasingly broad array of financial products are offered through banking channels, including non-deposit products.

Final Rule Objectives

Modernize the FDIC Official Sign and Advertising Rules to ensure they keep pace with significant changes that have taken place in the banking industry and that they reflect how consumers engage with banks today.

Address risk of consumer confusion by requiring clear disclosures that enable consumers to better understand when they are interacting with an IDI and when their funds are protected by the FDIC's deposit insurance coverage.

Clarify the FDIC's misrepresentation rules to address misconduct in internet banking channels by persons misusing the FDIC name or logo and inaccurately describing deposit insurance coverage.

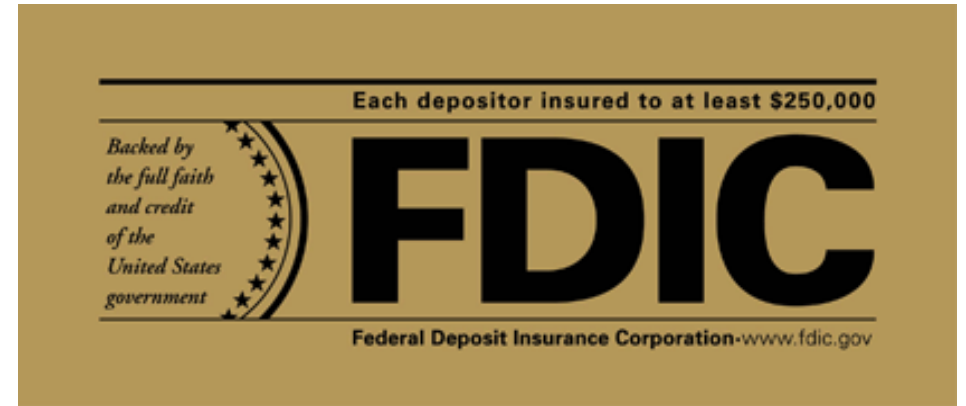
Know Your Risk. Protect Your Money.



<https://www.fdic.gov/news/campaigns/know-your-risk>

Maintaining Public Confidence in our Banking System

- The FDIC's mission is to maintain stability and public confidence in the nation's financial system by, among other priorities, insuring bank deposits.
- The FDIC has helped to maintain public confidence in the nation's banking system in times of financial turmoil, including the 2008 financial crisis, the Covid-19 pandemic, and most recently, when large regional banks failed in the first half of 2023.
- FDIC sign and advertising statement requirements for insured banks date back to the Banking Act of 1935.



Member
FDIC

FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

- In December 2023, the FDIC published a final rule that amended Part 328 of the FDIC's regulations, which includes:
 - **Subpart A** - rules governing **all FDIC-insured** banks' use of the official FDIC sign, a new FDIC official digital sign for bank websites, apps, and ATMs, non-deposit signage, and updates to the advertising statement.
 - FDIC official sign (traditional physical black and gold)
 - FDIC official digital sign (new – navy blue and black)
 - Non-Deposit signage (to differentiate insured deposits from non-deposit products)

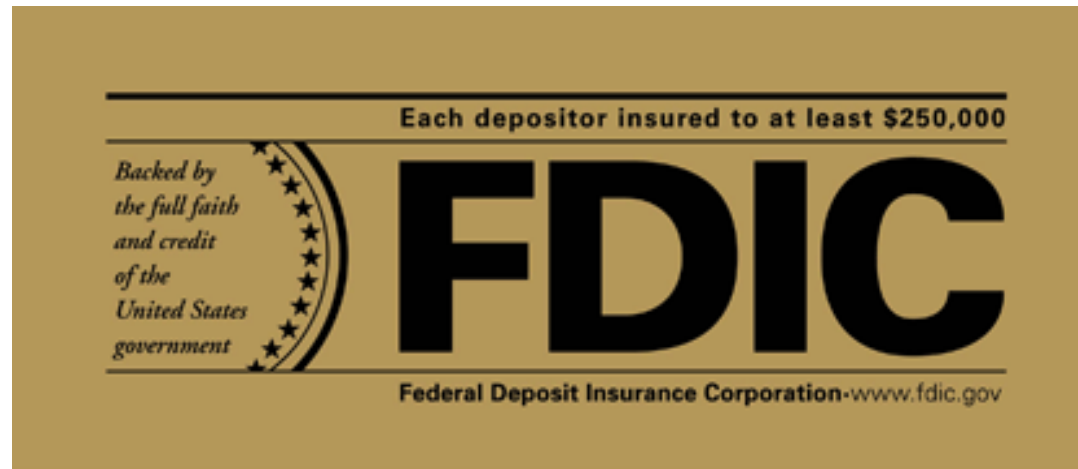
FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

- **Subpart B** - rules on misrepresentations regarding deposit insurance coverage and misuse of the FDIC's name and logo, which **apply to any person**, including banks or non-bank entities.
 - Clarify FDIC regulations regarding misrepresentations of deposit insurance by providing examples of specific situations when consumers may misunderstand or be misled about deposit insurance coverage.
 - Consumer Disclosure (i.e., display of “non-deposit sign”) by Nonbank Entities:
 - A person makes statements regarding deposit insurance in a context that involves both deposits and non-deposit products “offered on a website in close proximity”, **but fails to state that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.**
- Effective date is April 1, 2024; Compliance date is **January 1, 2025.**

Signs Required in Bank Branches and other Physical Premises

Two signs required in branches and other physical locations:

1) Black and gold teller sign:



2) Non-deposit sign indicating that: **Non-deposit products are not insured by the FDIC, are not deposits, and may lose value.**

Non-Deposit Product (NDP) Definition and Sign

- **Non-Deposit Product:** Any product that is not a “deposit”, including, but not limited to: insurance products, annuities, mutual funds, securities, **and crypto-assets**. For purposes of this definition, credit products and safe deposit box services are not “Non-Deposit Products.”
- **Bank branches and other physical premises:** At each location within the premises where NDPs are offered, clearly, continuously, and conspicuously display non-deposit signs indicating such are: **not insured by the FDIC; are not deposits; and may lose value:**
- **Segregate NDPs:** Banks generally must segregate NDP areas from areas where deposits are usually and normally accepted.

Bank Branches: Official Sign & Non-Deposit Sign

Sign requirements address potential consumer confusion where deposits and NDPs are offered in branches **with** teller windows.

- **FDIC official sign** must be displayed next to each teller windows; and
- **Physical segregation between areas where non-deposit products are offered** from areas where insured deposits are usually and normally accepted generally required; and
- **Non-deposit signs required in non-deposit areas** indicating **non-deposit products: are not insured by the FDIC; are not deposits; and may lose value**. Non-deposit signs cannot be in close proximity to FDIC official sign.

Bank Branches: Official Sign and Non-Deposit Sign (Cont'd)

Sign requirements address potential consumer confusion where deposits and NDPs are offered in locations with **no teller windows** and no well-defined deposit area.

New Requirements:

- **Deposit areas:** Required to display the official sign in one or more locations in a size large enough to be legible anywhere in deposit taking areas.
- **Non-deposit product area.**
 - **Physically segregate** the areas where non-deposit products are offered from deposit area; and
 - **Display NDP signs** indicating that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value; and
 - Don't display non-deposit signs in close proximity to the official sign.

FDIC Official Sign: Updated Requirements

Branches **with** teller windows or stations and **without non-deposit products**.

- New flexibility:
 - Display the official sign next to each teller window; or
 - Display official signs visible from teller windows that are large enough to be legible from anywhere in the deposit-taking area.
- Banks may use electronic media (e.g., TV screen or tablet) to satisfy sign requirements on a bank's premises, provided the sign is clear, continuous and conspicuous.

Answers to Common Questions

- **Physical Segregation:** Goal is to indicate that the non-deposit area is distinct and separate from the deposit-taking area. Could use separate rooms or areas, partitions, desk configuration, cubicles, railing, planters, etc.
- **Where to post official sign:** Wherever deposits are usually and normally received. Could be new accounts desk, if deposits are usually and normally received there.

New FDIC Official Digital Sign

- **New FDIC official digital sign for bank websites, apps, and ATMs**

FDIC *FDIC-Insured - Backed by the full faith and credit of the U.S. Government*

Banks' Deposit Taking ATMs and Like Devices

New FDIC official digital sign requirement for bank ATMs and like devices:

- Display the FDIC official **digital** sign:
 - Clearly, continuously, and conspicuously;
 - On the home page or screen and on each transaction or screen relating to deposits.
- Option: Displaying FDIC **physical** official sign is acceptable, but only for deposit-taking ATMs that:
 - DO NOT offer access to NDPs and
 - Were **put into service before January 1, 2025.**

Non-Deposit Signs on ATMs & Like Devices

Bank ATMs that receive deposits AND offer access to non-deposit products must clearly, conspicuously, and continuously display:

- **NDP Sign:** On each transaction screen relating to NDPs, indicate that non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.
- **FDIC Official Digital Sign:** These devices must still display the FDIC official digital sign on the home page and on each transaction screen relating to deposits; and
 - The NDP sign may not be displayed in close proximity to the FDIC official digital sign.

Applicability

- Final Rule applies to **Bank's** ATMs or like devices that **receive deposits**.
 - In determining whether an ATM or like device is a bank's, the FDIC will consider circumstances such as location, branding, whether it is operated by the bank, and other factors that reasonably indicate whether it is a bank's ATM.
 - Official digital sign and NDP sign requirements do not apply to machines that only dispense cash and do not accept deposits.

Clear, Conspicuous, and Continuous

- **Clear and Conspicuous.** Under the final rule, evaluation of whether the sign is clear and conspicuous will include assessing proximity, placement, and prominence.
- The final rule notes that [FTC guidance on effective disclosures](#) provides helpful principles. Clear and conspicuous is:
 - Difficult to miss;
 - Easily noticeable; and
 - Easily understandable by ordinary consumers.
- Under the final rule, signs must also be **displayed continuously**, emphasizing the importance of duration in “clear and conspicuous.”

New FDIC Official Digital Sign for Bank Websites and Apps

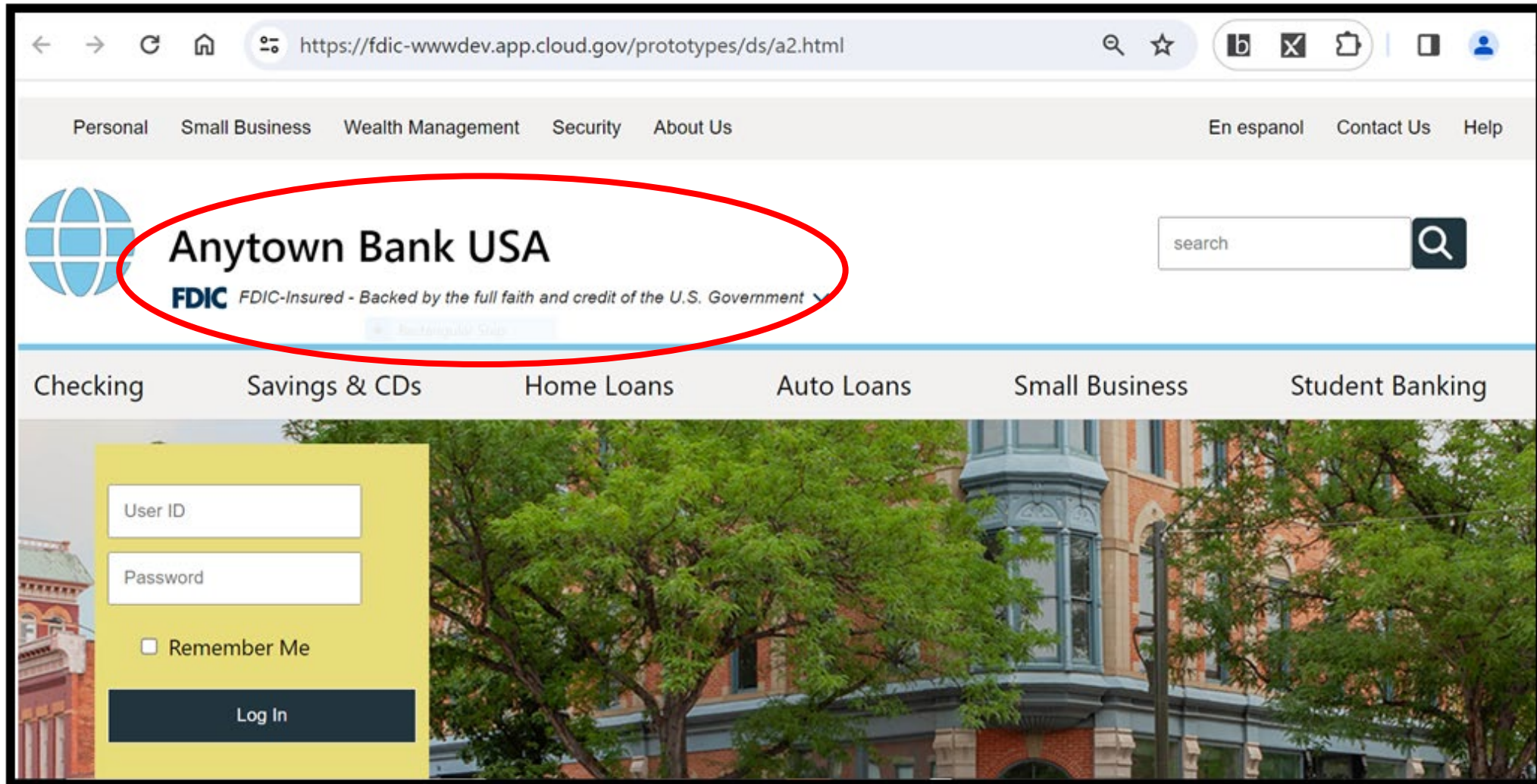
- New **FDIC official digital sign** must be displayed clearly, continuously, conspicuously on bank digital deposit-taking channels.
 - Displaying the sign near the top of a page and in close proximity to the bank's name would be clear and conspicuous.
- **Digital deposit-taking channel:** Websites and web-based or mobile applications that offer the ability to make deposits electronically and provide access to deposits at insured depository institutions.

New FDIC Official Digital Sign for Bank Websites and Apps (cont'd)

New advertising statement flexibilities:

- If a page on a bank's website or app has the new FDIC official digital sign, banks can, if they choose, *but are not required to*, remove the “Member FDIC” or “Member of FDIC” logo.
- IDI’s may opt to use the new “FDIC-insured” language to satisfy advertisement statement requirement instead of “Member FDIC” or “Member of FDIC”.

An example: New FDIC Official Digital Sign for Bank Websites and Apps



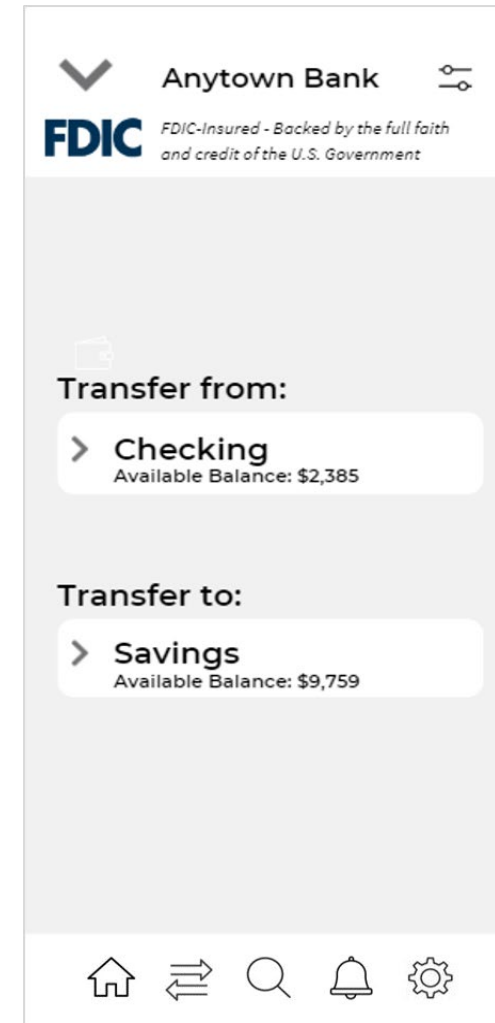
Which Pages Require the FDIC Official Digital Sign

FDIC official digital sign **is required:**

- (1) Initial or homepage of the website or application;
- (2) Landing or login pages; and
- (3) Pages where the customer may transact with deposits.

Transact with Deposits

- FDIC Official Digital Sign Required:
 - Remote deposit capture screens on a mobile app.
 - Transfer pages that allow customers to transfer between deposit accounts. (See image for example).



FDIC Official Digital Sign Not Required

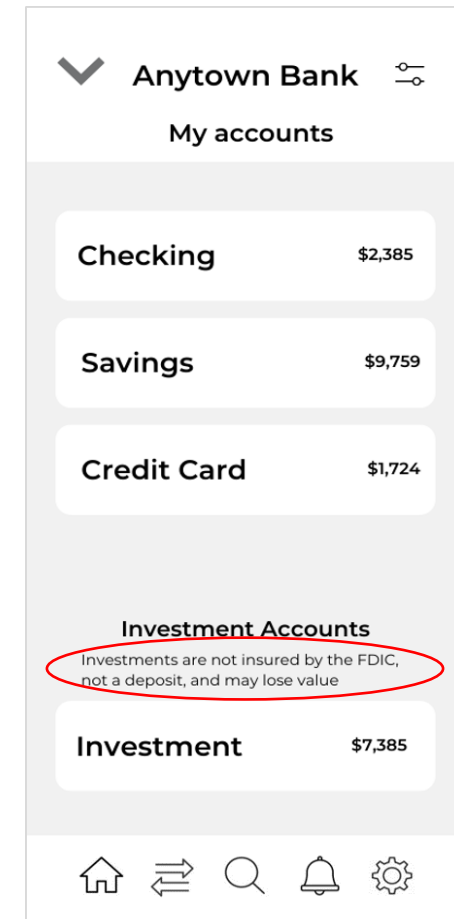
Examples – The FDIC official digital sign is **not required** when a customer:

- Transfers money from a deposit account into a non-deposit account.
- Accesses an embedded third-party payment platform after logging into their bank's website to initiate payments or move funds out of the bank.

Non-Deposit Sign Requirements for Bank Digital Deposit-Taking Channels


Static Sign on a bank's website or app.


- On each page relating to non-deposit products, display a non-deposit sign clearly, conspicuously, and continuously indicating that non-deposit products are not insured by the FDIC, are not deposits, and may lose value. (See image for example).
- There is no size or design requirement for how this statement is displayed, provided the message is displayed clearly, continuously, and conspicuously.



An Example: Non-Deposit Sign


Personal Small Business Wealth Management Security About Us En español Contact Us Help

 Anytown Bank USA
FDIC FDIC-Insured - Backed by the full faith and credit of the U.S. Government

search 

Checking Savings & CDs Home Loans Auto Loans Small Business Investing

User ID
Password
 Remember Me
Log In



Lending

Ready to buy a house? Time for a new set of wheels? Our home and auto loans can get you where you need to go!



Save for a rainy day

Find out how our savings accounts and CDs can help you reach your goals



Wealth Management

Explore our investment tools and talk to a wealth management professional.
Investment products are not insured by the FDIC, are not deposits, and may lose value

Non-Deposit Sign Requirements for Bank Digital Deposit-Taking Channels

One-time per session notification:

- Applies when a logged-in bank customer accesses non-deposit products from a non-bank third party's website via an IDI's digital deposit-taking channel (e.g., through a hyperlink).
- Must be dismissed by an action of the bank customer before initially accessing the third party's online platform.
- Must clearly and conspicuously indicate that the third party's non-deposit products: are not insured by the FDIC; are not deposits; and may lose value.

Example: The one-time notification could be a “pop-up”, “speedbump”, or “overlay” that the customer must dismiss before accessing the third party's website.

Misrepresentations of Deposit Insurance

Section 18(a)(4) of the FDI Act and its implementing regulation, Part 328 Subpart B, prohibit any person from misusing the name or logo of the FDIC, engaging in false advertising, and making knowing misrepresentations about deposit insurance.

- For specific examples, see [Prohibition under Section 18 \(a\)\(4\) of the Federal Deposit Insurance \(FDI\) Act](#)

Part 328 Subpart B Violations:

1. A person makes statements regarding deposit insurance in a context that involves both deposits and non-deposit products **“offered on a website in close proximity”**, but fails to state that non-deposit products: **are not insured by the FDIC; are not deposits; and may lose value.**

Misrepresentations of Deposit Insurance (Cont'd)

Part 328 Subpart B Violations (cont'd):

2. A non-bank's use of either the official FDIC sign or the new FDIC official digital sign in a manner that **inaccurately states or implies the non-bank is FDIC insured.**
3. A non-bank makes a statement regarding deposit insurance, **but fails to state** that it is itself **not FDIC-insured** and that deposit insurance applies **only if an insured bank fails.**

Misrepresentations of Deposit Insurance (Cont'd)

Part 328 Subpart B Violations (cont'd):

4. A non-bank makes a statement that represents or implies that an advertised product is insured or guaranteed by the FDIC, but fails to **clearly and conspicuously identify the IDI(s) that (directly or indirectly) may hold customer funds.**
5. A person makes statements regarding pass-through deposit insurance for its customers' funds, but fails to state clearly and conspicuously that **certain conditions** must be satisfied for pass-through deposit insurance coverage to apply.

Banks' Policies and Procedures Requirement

- Under Subpart A, banks will be required to establish and maintain written policies and procedures addressing compliance with Part 328. Such policies and procedures must:
 - Be commensurate with the nature, size, complexity, scope, and potential risk of the deposit-taking activities of the bank; and
 - Include, as appropriate, provisions related to activities of persons (third parties) that
 1. Provide deposit-related services to the bank, or
 2. Offer the bank's deposit-related products or services to other parties.
- This requirement is consistent with the *Interagency Guidance on Third-Party Relationships: Risk Management* ([FIL-29-2023](#)).

Part 328 Implementation

- Compliance Date - January 1, 2025:
 - Four banker seminars in 2024 for Part 328 stakeholders, with question and answer sessions.
 - Published a set of [Questions and Answers Related to the Final Rule](#). We will continue to update this page as we receive new questions about the rule.

Part 328 Webinar for Bank Officers, Employees, and Other Stakeholders

Questions?