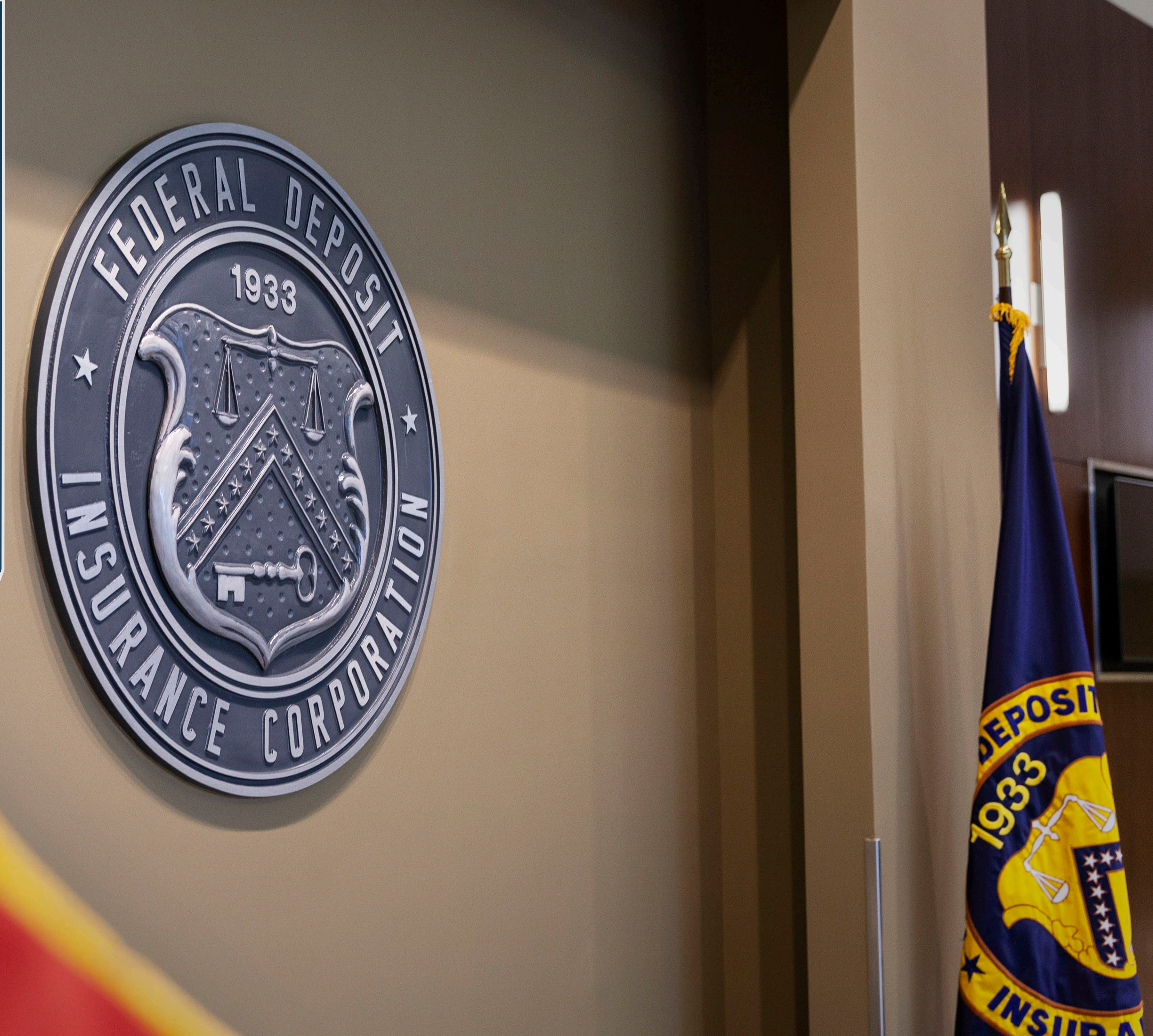
San Francisco Region Community Bankers Workshop 2026

Emerging Technology – Consumer Compliance Risks



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Topics

- New Banking Technology and Third-Party Reminders
  - Examples of New Technology in Banking
  - Reminder on third-party risk management
- Risk Scoping Reminders
- Interactive Risk Scoping Scenarios
- Resources and Q&A

New Banking Technology and Third-Party Reminders

Bank Use of Third Parties

- *"The agencies support responsible innovation and support banks in pursuing third-party arrangements in a manner consistent with safe and sound practices, and in compliance with applicable laws and regulations…"*

- *"Not all relationships present the same level of risk, and therefore not all relationships require the same level or type of oversight or risk management."*

Various Forms of Bank and Fintech Arrangements

- Banks licensing tools/services provided by 3P technology companies
- Banks self-developing technology (internal research and development)
- Banks acquiring technology companies
- Partnerships between banks and technology companies
- Technology companies becoming FDIC-insured banks

Examples of New Technologies

- AI/Machine Learning
  - Underwriting and pricing products
    - Modeling to establish specific criteria and thresholds
    - Auto-completing forms by scraping info from source documents
  - Fraud detection
  - Customer service
  - Search tool for internal reference material and regulations

- Middleware Providers
  - Partnerships with fintech companies who act as intermediaries between banks and non-bank fintech partners, typically providing APIs for automated record keeping

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Third-Party Relationship Lifecycle

Compliance with Applicable Laws & Regulations

Planning

Due Diligence and Third-Party Selection

Contract Negotiation

Ongoing Monitoring

Termination

Stablecoin Technologies On The Horizon?

Standards for the Issuance of Payment Stablecoins

- “establish clear and conspicuous procedures for timely redemption of outstanding payment stablecoins…”
- “publicly, clearly, and conspicuously disclose in plain language all fees”
- “the public company will comply with data use limitations”

Misrepresentation of Insured Status

- “Payment stablecoins shall not be backed by the full faith and credit of the United States, guaranteed by the United States Government, subject to deposit insurance by the Federal Deposit Insurance Corporation…”

Risk Scoping Reminders

Third-Party Relationship Considerations

Compliance with Applicable Laws & Regulations

Compliance Management System

Third-Party Risk Management

Consumer Experience

Risk Scoping Process

In General:

1. Evaluate Inherent Risk

- How does the product work?
- What is the user experience?
- What regulatory risks are present?

2. Evaluate Mitigating Controls

- Oversight
- Compliance Program

In Practice:

- Product demos/meetings
- Process flow-charts
- Contract reviews
- Customer complaints

- Risk assessments
- Due diligence
- Policies and procedures; guides
- Training
- Monitoring and audits
- Complaint resolution

Consumer Harm and Compliance Risks

Highlights of recent consumer harm and compliance risks involving new technologies:

Regulation B (ECOA)
Overt discrimination

Part 328
False Advertising, Misrepresentation of Insured Status

Regulation E (EFT)
Conditioning loan approval on auto ACHs

Regulation E (EFT)
Untimely dispute resolution

CRA
New technology strategies impacting performance

Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)
Risks

Interactive Risk Scoping Scenarios

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Interactive Scenarios – Banks A, B, C

The next Interactive Scenarios use a 6-part format:

- **Part 1:** Business model, product, or service
- **Part 2:** Pre-examination planning observations
- **Part 3:** Any potential risks/concerns? *(audience input)*
- **Part 4:** What regulations might be applicable? *(audience input)*
- **Part 5:** What additional questions or documents might we want to ask for? *(audience input)*
- **Part 6:** What examiners reviewed and what they found

Bank A

Bank A – Business Model/Product and Observations

Part 1: What is the business model/product?

- FDIC-insured deposit accounts for the end-customers of 3P partners

Part 2: Pre-examination planning observations

- Observation #1: Bank A's deposit agreements state that the 3Ps' end-customers are opening accounts with Bank A
- Observation #2: Bank A conducted very limited product and 3P due diligence, while trusting its 3P partners to design and manage (1) the account opening processes, (2) the consumer protection disclosures, and (3) the account servicing processes
- Observation #3: Bank A rapidly onboarded many 3P, non-bank deposit platforms (approx. 30 new partners in <1 year) without providing additional staff to review the 3Ps
- Observation #4: Complaints about unexpected fees

Bank A – Potential Risks/Concerns

Part 3: What product, control, or other factors stand out in this scenario?

- Very limited product and 3P due diligence, despite the 3Ps' substantial roles in designing and managing the account opening and servicing process
- Rapid onboarding of new 3P partners without corresponding changes in staff support
- Complaints about unexpected fees

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Bank A – Applicable Regulations

Part 4: What regulations might examiners consider evaluating?

- Truth in Savings
- UDA(A)P
- E-Sign
- Electronic Funds Transfer
- Expedited Funds Availability
- Garnishment of Accounts Containing Federal Benefit Payments
- Privacy of Consumer Financial Information
- Advertisement of Membership Part 328
- Any other deposit-applicable regulation found in the FDIC's Compliance Exam Manual

Bank A – Additional Questions and Documents Requested

Part 5: What additional questions or documents might we consider asking for, to better understand the product or controls?

- 3P Contracts
- Account opening agreement and disclosures
- Periodic deposit account statements
- Demo of the user experience (opening and ongoing access)
- Periodic monitoring / audit reports
- EFT Error Resolution Logs / Garnishment Logs / Right to Fin. Priv. Logs
- Privacy disclosures
- Complaint / complaint resolution documents
- Descriptions of specific servicing practices (how exactly do they handle customer disputes, complaints, garnishment orders, Right to Financial Privacy data requests, etc.?)

Bank A – Examiner Review and Findings

Part 6: What examiners reviewed and what they found

- **Reviewed:**
  - 7 of the approximately 30 new 3P products
  - Demo of the user experiences (opening and ongoing access)
  - Account opening agreements and disclosures
  - Periodic deposit account statements
- **Findings:**
  - Systemic violations in each of the 7 sampled 3P products, including:
    - 4 TISA Violations
    - 2 EFT Violations
    - 3 E-Sign Violations

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Bank B

Bank B – Product and Observations

Part 1: What is the product?

- Bank B originates unsecured, high-interest consumer loans to the customers of a 3P partner

Part 2: Pre-examination planning observations

- <u>Observation #1:</u> Bank B relied on its strategic partner's automated origination process that used a machine-learning derived model for underwriting and pricing
- <u>Observation #2:</u> Once developed, the 3P machine-learning derived model used a static list of criteria to automatically decision and price the loans
- <u>Observation #3:</u> Bank B conducted very limited product and 3P due diligence, while trusting its 3P partner to design and manage the (1) loan decision and pricing process, (2) consumer protection disclosures, and (3) loan servicing process
- <u>Observation #4:</u> There is a large volume of complaints about loan denials and unfair interest charges

Bank B – Potential Risks/Concerns

Part 3: What product, controls, or other factors stand out in this scenario?

- Very limited product and 3P due diligence, while trusting the 3P partner to design and manage the (1) loan decision and pricing process, (2) consumer protection disclosures, and (3) loan servicing process
- Large volume of complaints about loan denials and unfair interest charges

Bank B – Applicable Regulations

Part 4: What regulations might examiners consider evaluating?

- Truth in Lending
- Equal Credit Opportunity Act
- UDA(A)P
- Electronic Funds Transfer Act
- Fair Credit Reporting Act
- Military Lending Act / Servicemembers Civil Relief Act
- E-Sign
- Privacy of Consumer Financial Information
- Any other deposit-applicable regulation found in the FDIC's Compliance Exam Manual

Bank B – Additional Questions and Documents Requested

Part 5: What additional questions or documents might we want to ask for?

- Account opening agreement, disclosures, and periodic statements
- Underwriting and pricing criteria
- Model risk management documentation
- Adverse action notices
- 3P contracts
- Demo of the user experience (application and ongoing access)
- Risk assessments
- Periodic monitoring and audit reports
- Complaint records
- Descriptions of the bank's 3P risk management oversight

Bank B – Examiner Review and Findings

Part 6: What examiners reviewed and what they found

- **Reviewed:**
  - Demo of the user experience (app. process + ongoing access)
  - Loan agreements, disclosures, and periodic statements
  - Complaint records
  - Underwriting and pricing criteria
- **Findings:**
  - Reimbursable TILA Violation (systemic)
    - Bank charged fees in a way that differed from what was disclosed
  - ECOA Violation (systemic overt discrimination)
    - Receipt of public assistance adversely impacted underwriting
  - FCRA Violation (systemic)
    - Failed to get affirmative consent despite an Extend Fraud Alert

Bank C

Bank C – Product/Service and Observations

Part 1: What is the product or service?

1. AI-generated marketing materials
2. AI chatbot to respond to online customer service inquiries

Part 2: Pre-examination planning observations

- Observation #1: Bank C stated that they had multiple "humans-in-the-loop" for all AI-generated marketing material (both from their Marketing Team and their Compliance Team)
- Observation #2: Bank C told examiners that its AI chatbot had strict guardrails that limited what it was allowed to discuss and referred customers to a live person for topics that the AI chatbot could not discuss
- Observation #3: Bank C received complaints that its AI chatbot was unhelpful

Bank C – Potential Risks/Concerns

Part 3: Product, controls, or other factors that examiners consider

True or False?

1. Banks are allowed to use AI chatbots as part of their complaint resolution process.

   True

2. Examiners must review AI if they know banks are using it.

   False

3. Customer complaints are a useful risk indicator.

   True

Bank C – Applicable Regulations

Part 4: If a bank uses AI for marketing and AI chatbots, what regulations might examiners consider evaluating?

- Truth in Lending
- Equal Credit Opportunity Act
- UDA(A)P
- Electronic Funds Transfer Act
- Fair Credit Reporting Act
- Military Lending Act / Servicemembers Civil Relief Act
- E-Sign
- Privacy of Consumer Financial Information
- Any other deposit-applicable regulation found in the FDIC's Compliance Exam Manual

Bank C – Additional Questions and Documents Requested

Part 5: What additional questions or documents might we want to ask for?

- Model risk management documentation
- Resumes and training records for the “humans-in-the-loop”
- Procedures for reviewing marketing materials
- Sample of marketing materials
- A list of guardrail prompts or rules that constrain the chatbot’s discussion topics
- Sample of customer chatlogs
- Sample of complaints
- Complaint resolution procedures
- Board and committee minutes discussing the AI products/services
- 3P contracts
- Risk assessments
- Periodic monitoring and audit reports
- Descriptions of the bank’s 3P risk management oversight

Bank C – Examiner Review and Findings

Part 6: What examiners reviewed and what they found

- **Reviewed:**
  - Bank risk assessments and due diligence for the AI products and the associated 3Ps
  - Model risk management practices and Board/management reporting
  - AI marketing samples
  - Resumes and training records for the "humans-in-the-loop"
  - Bank-specified guardrails for the AI Chatbot, sampled customer conversation logs
  - Directly chatted with the chatbot themselves
  - Sampled complaints
  - Interviewed the "humans-in-the-loop" to understand their awareness of the product, the risks, and their role in managing those risks
- **Findings:**
  - No adverse findings
  - Bank implemented appropriate controls

Resources

Resources

- FDIC Banker Resource Center: Third-Party Relationships
- Appendix A to Part 364 — Interagency Guidelines Establishing Standards for Safety and Soundness
- Appendix B to Part 364 — Interagency Guidelines Establishing Information Security Standards
- Interagency Guidance on Third-Party Relationships: Risk Management
- Statement Concerning the Responsibilities of Bank Directors and Officers (FIL-87-92)
- Section VII. Unfair and Deceptive Practices - Third-Party Risk
- BSA/AML Resource Page and Information Technology Resource Page
- Conducting Due Diligence on Financial Technology Companies: A Guide for Community Banks
- Third-Party Risk Management - A Guide for Community Banks

Q&A

What questions do you have?

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