

What We Know

ARTICLES & INSIGHTS

ABOUT THE AUTHOR

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compliance group. In her practice, she defends consumer financial service providers and members of the collection industry in state and federal court, as well as in regulatory matters involving a variety of consumer protection laws. Caren also advises a broad range of law firms, and collection agencies regarding an array of consumer finance issues. An active writer and speaker, Caren currently serves as chair of the Debt Collection Practices and Bankruptcy subcommittee for the American Bar Association's Consumer Financial Services Committee. She is also a member of the Defense Bar for the National Creditors Bar Association, the North Carolina State Chair for ACA International's Member Attorney Program and a member of the Bank Counsel Committee of the North Carolina Bankers Association. Most recently, she was elected to the Governing Committee for the Conference on Consumer Finance Law. In 2018, Caren was named one of the "20 Most Powerful Women in Collections" by *Collection Advisor*, a national trade publication. Caren oversees a blog titled: [Consumer Financial Services Litigation and Compliance](#) dedicated to consumer

Federal Regulators Issue Interagency Guidelines Regarding Deposit Reconciliation Practices

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The CFPB and four federal financial regulatory agencies have issued Interagency Guidance Regarding Deposit Reconciliation Practices. The Guidance comes as a follow up to the consent orders entered into last fall against Citizens Bank N.A., Citizens Bank of Pennsylvania and their parent company, Citizens Financial Group, Inc. regarding deposit discrepancies. The Guidance makes clear that the agencies have a zero tolerance policy as to deposit discrepancies and expect "financial institutions to adopt deposit reconciliation policies and practices that are designed to avoid or reconcile discrepancies, or designed to resolve discrepancies such that customers are not disadvantaged." The agencies expect financial institutions to:

- Effectively manage their deposit reconciliation practices;
- Ensure that information provided to customers is accurate;
- Implement effective compliance management systems that include appropriate policies, procedures, internal controls, training and oversight; and
- Review processes to ensure compliance with applicable laws and regulations.

While the Guidance provides for a zero tolerance policy, financial institutions are reminded that they are not liable for "bona fide errors." To establish a bona fide error, a financial institution must demonstrate that a violation was not intentional and resulted from a bona fide error *notwithstanding the maintenance of procedures reasonably adapted to avoid any such error*. It is, therefore, imperative that financial institutions review their compliance management systems to ensure they:

- Provide proper vendor management to ensure their service providers and affiliates properly and accurately resolve deposit discrepancies;
- Include written policies and procedures for conducting audits to ensure deposits and deposit discrepancies are accurately handled, including the frequency, scope, and depth of said audits;
- Put in place compliance measures, as well as policies, procedures and practices, to ensure accurate processing of deposits and deposit discrepancies;
- Incorporate sufficient monitoring and oversight regarding the processing of deposits

financial services and has been published in a number of publications including the Journal of Taxation and Regulation of Financial Institutions, California State Bar Business Law News, Banking and Financial Services Policy Report and Carolina Banker.

and deposit discrepancies;

- Incorporate training of personnel to ensure accurate resolution of deposit discrepancies; and
- Incorporate complaint procedures and processing to ensure deposit discrepancy complaints are identified, tracked and resolved in accordance with the Banks' policies and procedures.

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