§ 230.8 Advertising

(a) Misleading or inaccurate advertisements. An advertisement shall not:

(1) Be misleading or inaccurate or misrepresent a depository institution’s deposit contract; or

(2) Refer to or describe an account as “free” or “no cost” (or contain a similar term) if any maintenance or activity fee may be imposed on the account. The word “profit” shall not be used in referring to interest paid on an account.

(b) Permissible rates. If an advertisement states a rate of return, it shall state the rate as an “annual percentage yield” using that term. (The abbreviation “APY” may be used provided the term “annual percentage yield” is stated at least once in the advertisement.) The advertisement shall not state any other rate, except that the “interest rate,” using that term, may be stated in conjunction with, but not more conspicuously than, the annual percentage yield to which it relates.

(c) When additional disclosures are required. Except as provided in paragraph (e) of this section, if the annual percentage yield is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) Variable rates. For variable-rate accounts, a statement that the rate may change after the account is opened.

(2) Time annual percentage yield is offered. The period of time the annual percentage yield will be offered, or a statement that the annual percentage yield is accurate as of a specified date.

(3) Minimum balance. The minimum balance required to obtain the advertised annual percentage yield. For tiered-rate accounts, the minimum balance required for each tier shall be stated in close proximity and with equal prominence to the applicable annual percentage yield.

(4) Minimum opening deposit. The minimum opening deposit required to open the account, if it is greater than the minimum balance necessary to obtain the advertised annual percentage yield.

(5) Effect of fees. A statement that fees could reduce the earnings on the account.

(6) Features of time accounts. For time accounts:

(i) Time requirements. The term of the account.

(ii) Early withdrawal penalties: A statement that a penalty will or may be imposed for early withdrawal.

(iii) Required interest payouts. For noncompounding time accounts with a stated maturity greater than one year that do not compound interest on an annual or more frequent basis, that require interest payouts at least annually, and that disclose an APY determined in accordance with section E of appendix A of this part, a statement that interest cannot remain on deposit and that payout of interest is mandatory.

(d) Bonuses. Except as provided in paragraph (e) of this section, if a bonus is stated in an advertisement, the advertisement shall state the following information, to the extent applicable, clearly and conspicuously:

(1) The “annual percentage yield,” using that term;

(2) The time requirement to obtain the bonus;

(3) The minimum balance required to obtain the bonus;

(4) The minimum balance required to open the account, if it is greater than the minimum balance necessary to obtain the bonus; and

(5) When the bonus will be provided.
§ 230.11 Additional disclosure requirements for overdraft services.

(a) Disclosure of total fees on periodic statements—(1) General. A depository institution must separately disclose on each periodic statement, as applicable:

(i) The total dollar amount for all fees or charges imposed on the account for paying checks or other items when there are insufficient or unavailable funds and the account becomes overdrawn; and

(ii) The total dollar amount for all fees or charges imposed on the account for returning items unpaid.

(2) Totals required. The disclosures required by paragraph (a)(1) of this section must be provided for the statement period and for the calendar year-to-date;

(3) Format requirements. The aggregate fee disclosures required by paragraph (a) of this section must be disclosed in close proximity to fees identified under §230.6(a)(3), using a format substantially similar to Sample Form B-10 in Appendix B to this part.

(b) Advertising disclosures for overdraft services—(1) Disclosures. Except as provided in paragraphs (b)(2), (b)(3), and (b)(4) of this section, any advertisement promoting the payment of overdrafts shall disclose in a clear and conspicuous manner:

(i) The fee or fees for the payment of each overdraft;

(ii) The categories of transactions for which a fee for paying an overdraft may be imposed;

(iii) The time period by which the consumer must repay or cover any overdraft; and

(c) Record retention. A depository institution shall retain evidence of compliance with this part for a minimum of two years after the date disclosures are required to be made or action is required to be taken. The administrative agencies responsible for enforcing this part may require depository institutions under their jurisdiction to retain records for a longer period if necessary to carry out their enforcement responsibilities under section 270 of the act.

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