

§ 341.6

§ 341.6 Reports.

Every registration or amendment filed under this section shall constitute a report or application within the meaning or sections 17, 17A(c), and 32(a) of the Act.

PART 342 [RESERVED]

PART 343—CONSUMER PROTECTION IN SALES OF INSURANCE

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APPENDIX A TO PART 343—CONSUMER GRIEVANCE PROCESS

AUTHORITY: 12 U.S.C. 1819 (Seventh and Tenth); 12 U.S.C. 1831x.

SOURCE: 83 FR 13847, Apr. 2, 2018, unless otherwise noted.

§ 343.10 Purpose and scope.

This part establishes consumer protections in connection with retail sales practices, solicitations, advertising, or offers of any insurance product or annuity to a consumer by:

- (a) Any institution; or
(b) Any other person that is engaged in such activities at an office of the institution or on behalf of the institution.

§ 343.20 Definitions.

As used in this part:
Affiliate means a company that controls, is controlled by, or is under common control with another company.

Company means any corporation, partnership, business trust, association or similar organization, or any other trust (unless by its terms the trust must terminate within twenty-five years or not later than twenty-one years and ten months after the death of individuals living on the effective date of the trust). It does not include any corporation the majority of the shares of which are owned by the United States or by any State, or a qualified family partnership, as defined in section 2(o)(10) of the Bank Holding

Company Act of 1956, as amended (12 U.S.C. 1841(o)(10)).

Consumer means an individual who purchases, applies to purchase, or is solicited to purchase from you insurance products or annuities primarily for personal, family, or household purposes.

Control of a company has the same meaning as in section 3(w)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(5)).

Domestic violence means the occurrence of one or more of the following acts by a current or former family member, household member, intimate partner, or caretaker:

- (1) Attempting to cause or causing or threatening another person physical harm, severe emotional distress, psychological trauma, rape, or sexual assault;
(2) Engaging in a course of conduct or repeatedly committing acts toward another person, including following the person without proper authority, under circumstances that place the person in reasonable fear of bodily injury or physical harm;
(3) Subjecting another person to false imprisonment; or
(4) Attempting to cause or causing damage to property so as to intimidate or attempt to control the behavior of another person.

Electronic media includes any means for transmitting messages electronically between you and a consumer in a format that allows visual text to be displayed on equipment, for example, a personal computer monitor.

FDIC-supervised insured depository institution or institution means any State nonmember insured bank or State savings association for which the Federal Deposit Insurance Corporation is the appropriate Federal banking agency pursuant to section 3(q) of the Federal Deposit Insurance Act (12 U.S.C. 1813(q)).

Office means the premises of an institution where retail deposits are accepted from the public.

State savings association has the same meaning as in section (3)(b)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(b)(3).

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*Subsidiary* has the same meaning as in section 3(w)(4) of the Federal Deposit Insurance Act (12 U.S.C. 1813(w)(4)).

*You*—(1) Means:

(i) An institution; or

(ii) Any other person only when the person sells, solicits, advertises, or offers an insurance product or annuity to a consumer at an office of the institution or on behalf of an institution.

(2) For purposes of this definition, activities on behalf of an institution include activities where a person, whether at an office of the institution or at another location sells, solicits, advertises, or offers an insurance product or annuity and at least one of the following applies:

(i) The person represents to a consumer that the sale, solicitation, advertisement, or offer of any insurance product or annuity is by or on behalf of the institution;

(ii) The institution refers a consumer to a seller of insurance products or annuities and the institution has a contractual arrangement to receive commissions or fees derived from a sale of an insurance product or annuity resulting from that referral; or

(iii) Documents evidencing the sale, solicitation, advertising, or offer of an insurance product or annuity identify or refer to the institution.

### § 343.30 Prohibited practices.

(a) *Anticoercion and antitying rules.* You may not engage in any practice that would lead a consumer to believe that an extension of credit, in violation of section 106(b) of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972) in the case of a State non-member insured bank and a foreign bank having an insured branch, or in violation of section 5(q) of the Home Owners' Loan Act (12 U.S.C. 1464(q)) in the case of a State savings association, is conditional upon either:

(1) The purchase of an insurance product or annuity from the institution or any of its affiliates; or

(2) An agreement by the consumer not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an unaffiliated entity.

(b) *Prohibition on misrepresentations generally.* You may not engage in any practice or use any advertisement at any office of, or on behalf of, the institution or a subsidiary of the institution that could mislead any person or otherwise cause a reasonable person to reach an erroneous belief with respect to:

(1) The fact that an insurance product or annuity sold or offered for sale by you or any subsidiary of the institution is not backed by the Federal government or the institution, or the fact that the insurance product or annuity is not insured by the Federal Deposit Insurance Corporation;

(2) In the case of an insurance product or annuity that involves investment risk, the fact that there is an investment risk, including the potential that principal may be lost and that the product may decline in value; or

(3) In the case of an institution or subsidiary of the institution at which insurance products or annuities are sold or offered for sale, the fact that:

(i) The approval of an extension of credit to a consumer by the institution or subsidiary may not be conditioned on the purchase of an insurance product or annuity by the consumer from the institution or a subsidiary of the institution; and

(ii) The consumer is free to purchase the insurance product or annuity from another source.

(c) *Prohibition on domestic violence discrimination.* You may not sell or offer for sale, as principal, agent, or broker, any life or health insurance product if the status of the applicant or insured as a victim of domestic violence or as a provider of services to victims of domestic violence is considered as a criterion in any decision with regard to insurance underwriting, pricing, renewal, or scope of coverage of such product, or with regard to the payment of insurance claims on such product, except as required or expressly permitted under State law.

### § 343.40 What you must disclose.

(a) *Insurance disclosures.* In connection with the initial purchase of an insurance product or annuity by a consumer from you, you must disclose to

the consumer, except to the extent the disclosure would not be accurate, that:

(1) The insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the institution or an affiliate of the institution;

(2) The insurance product or annuity is not insured by the Federal Deposit Insurance Corporation (FDIC) or any other agency of the United States, the institution, or (if applicable) an affiliate of the institution; and

(3) In the case of an insurance product or annuity that involves an investment risk, there is investment risk associated with the product, including the possible loss of value.

(b) *Credit disclosure.* In the case of an application for credit in connection with which an insurance product or annuity is solicited, offered, or sold, you must disclose that the institution may not condition an extension of credit on either:

(1) The consumer's purchase of an insurance product or annuity from the institution or any of its affiliates; or

(2) The consumer's agreement not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an unaffiliated entity.

(c) *Timing and method of disclosures—*  
(1) *In general.* The disclosures required by paragraph (a) of this section must be provided orally and in writing before the completion of the initial sale of an insurance product or annuity to a consumer. The disclosure required by paragraph (b) of this section must be made orally and in writing at the time the consumer applies for an extension of credit in connection with which an insurance product or annuity is solicited, offered, or sold.

(2) *Exception for transactions by mail.* If a sale of an insurance product or annuity is conducted by mail, you are not required to make the oral disclosures required by paragraph (a) of this section. If you take an application for credit by mail, you are not required to make the oral disclosure required by paragraph (b) of this section.

(3) *Exception for transactions by telephone.* If a sale of an insurance product or annuity is conducted by telephone, you may provide the written disclosures required by paragraph (a) of this

section by mail within 3 business days beginning on the first business day after the sale, excluding Sundays and the legal public holidays specified in 5 U.S.C. 6103(a). If you take an application for credit by telephone, you may provide the written disclosure required by paragraph (b) of this section by mail, provided you mail it to the consumer within three days beginning the first business day after the application is taken, excluding Sundays and the legal public holidays specified in 5 U.S.C. 6103(a).

(4) *Electronic form of disclosures.* (i) Subject to the requirements of section 101(c) of the Electronic Signatures in Global and National Commerce Act (12 U.S.C. 7001(c)), you may provide the written disclosures required by paragraph (a) and (b) of this section through electronic media instead of on paper, if the consumer affirmatively consents to receiving the disclosures electronically and if the disclosures are provided in a format that the consumer may retain or obtain later, for example, by printing or storing electronically (such as by downloading).

(ii) Any disclosure required by paragraph (a) or (b) of this section that is provided by electronic media is not required to be provided orally.

(5) *Disclosures must be readily understandable.* The disclosures provided shall be conspicuous, simple, direct, readily understandable, and designed to call attention to the nature and significance of the information provided. For instance, you may use the following disclosures in visual media, such as television broadcasting, ATM screens, billboards, signs, posters and written advertisements and promotional materials, as appropriate and consistent with paragraphs (a) and (b) of this section:

- (i) "NOT A DEPOSIT"
- (ii) "NOT FDIC-INSURED"
- (iii) "NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY"
- (iv) "NOT GUARANTEED BY THE INSTITUTION"
- (v) "MAY GO DOWN IN VALUE"

(6) *Disclosures must be meaningful.* (i) You must provide the disclosures required by paragraphs (a) and (b) of this section in a meaningful form. Examples of the types of methods that could

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call attention to the nature and significance of the information provided include:

(A) A plain-language heading to call attention to the disclosures;

(B) A typeface and type size that are easy to read;

(C) Wide margins and ample line spacing;

(D) Boldface or italics for key words; and

(E) Distinctive type size, style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(ii) You have not provided the disclosures in a meaningful form if you merely state to the consumer that the required disclosures are available in printed material, but do not provide the printed material when required and do not orally disclose the information to the consumer when required.

(iii) With respect to those disclosures made through electronic media for which paper or oral disclosures are not required, the disclosures are not meaningfully provided if the consumer may bypass the visual text of the disclosures before purchasing an insurance product or annuity.

(7) *Consumer acknowledgment.* You must obtain from the consumer, at the time a consumer receives the disclosures required under paragraph (a) or (b) of this section, or at the time of the initial purchase by the consumer of an insurance product or annuity, a written acknowledgment by the consumer that the consumer received the disclosures. You may permit a consumer to acknowledge receipt of the disclosures electronically or in paper form. If the disclosures required under paragraph (a) or (b) of this section are provided in connection with a transaction that is conducted by telephone, you must:

(i) Obtain an oral acknowledgment of receipt of the disclosures and maintain sufficient documentation to show that the acknowledgment was given; and

(ii) Make reasonable efforts to obtain a written acknowledgment from the consumer.

(d) *Advertisements and other promotional material for insurance products or annuities.* The disclosures described in paragraph (a) of this section are required in advertisements and pro-

motional material for insurance products or annuities unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the institution.

### **§ 343.50 Where insurance activities may take place.**

(a) *General rule.* An institution must, to the extent practicable, keep the area where the institution conducts transactions involving insurance products or annuities physically segregated from areas where retail deposits are routinely accepted from the general public, identify the areas where insurance product or annuity sales activities occur, and clearly delineate and distinguish those areas from the areas where the institution's retail deposit-taking activities occur.

(b) *Referrals.* Any person who accepts deposits from the public in an area where such transactions are routinely conducted in the institution may refer a consumer who seeks to purchase an insurance product or annuity to a qualified person who sells that product only if the person making the referral receives no more than a one-time, nominal fee of a fixed dollar amount for each referral that does not depend on whether the referral results in a transaction.

### **§ 343.60 Qualification and licensing requirements for insurance sales personnel.**

An institution may not permit any person to sell or offer for sale any insurance product or annuity in any part of its office or on its behalf, unless the person is at all times appropriately qualified and licensed under applicable State insurance licensing standards with regard to the specific products being sold or recommended.

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Any consumer who believes that any institution or any other person selling, soliciting, advertising, or offering insurance products or annuities to the consumer at an office of the institution or on behalf of the institution has violated the requirements of this part should contact the Division of Depositor and Consumer Protection, National Center

for Consumer and Depositor Assistance, Federal Deposit Insurance Corporation, 1100 Walnut Street, Box #11, Kansas City, MO 64106, or telephone 1-877-275-3342, or FDIC Electronic Customer Assistance Form at <https://ask.fdic.gov/fdicinformationandsupportcenter>.

[87 FR 48080, Aug. 8, 2022; 87 FR 49767, Aug. 12, 2022]

## PART 344—RECORDKEEPING AND CONFIRMATION REQUIREMENTS FOR SECURITIES TRANSACTIONS

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AUTHORITY: 12 U.S.C. 1817, 1818, 1819, and 5412.

SOURCE: 78 FR 76723, Dec. 19, 2013, unless otherwise noted.

### § 344.1 Purpose and scope.

(a) *Purpose.* The purpose of this part is to ensure that purchasers of securities in transactions effected by FDIC-supervised institutions are provided adequate information regarding transactions. This part is also designed to ensure that FDIC-supervised institutions subject to this part maintain adequate records and controls with respect to the securities transactions they effect.

(b) *Scope; general.* Any security transaction effected for a customer by an FDIC-supervised institution is subject to this part unless excepted by § 344.2. An FDIC-supervised institution effecting transactions in government securities is subject to the notification, recordkeeping, and policies and procedures requirements of this part. This part also applies to municipal securities transactions by an FDIC-supervised institution that is not registered as a “municipal securities dealer” with the Securities and Exchange Commission. See 15 U.S.C. 78c(a)(30) and 78o-4.

### § 344.2 Exceptions.

(a) An FDIC-supervised institution effecting securities transactions for customers is not subject to all or part of this part 344 to the extent that they qualify for one or more of the following exceptions:

(1) *Small number of transactions.* The requirements of §§ 344.4(a)(2) through (4) and 344.8(a)(1) through (3) do not apply to an FDIC-supervised institution effecting an average of fewer than 500 securities transactions per year for customers over the prior three calendar year period. The calculation of this average does not include transactions in government securities.

(2) *Government securities.* The recordkeeping requirements of § 344.4 do not apply to FDIC-supervised institutions effecting fewer than 500 government securities brokerage transactions per year. This exemption does not apply to government securities dealer transactions by FDIC-supervised institutions.

(3) *Municipal securities.* This part does not apply to transactions in municipal securities effected by an FDIC-supervised institution registered with the Securities and Exchange Commission as a “municipal securities dealer” as defined in title 15 U.S.C. 78c(a)(30). See 15 U.S.C. 78o-4.

(4) *Foreign branches.* Activities of foreign branches of FDIC-supervised institutions shall not be subject to the requirements of this part.

(5) *Transactions effected by registered broker/dealers.* (i) This part does not apply to securities transactions effected for an FDIC-supervised institution’s customer by a registered broker/dealer if:

(A) The broker/dealer is fully disclosed to the customer; and

(B) The customer has a direct contractual agreement with the broker/dealer.

(ii) This exemption extends to arrangements with broker/dealers which involve FDIC-supervised institution employees when acting as employees of, and subject to the supervision of, the registered broker/dealer when soliciting, recommending, or effecting securities transactions.

(b) *Safe and sound operations.* Notwithstanding this section, every FDIC-