

§ 328.3

12 CFR Ch. III (1–1–24 Edition)

this § 328.2 by failing to display the official sign, unless the insured depository institution fails to display the official sign after receipt thereof.

(c) *Required changes in sign.* The Corporation may require any insured depository institution, upon at least thirty (30) days' written notice, to change the wording of the official sign in a manner deemed necessary for the protection of depositors or others.

§ 328.3 Official advertising statement requirements.

(a) *Advertisement defined.* The term "advertisement," as used in this subpart, shall mean a commercial message, in any medium, that is designed to attract public attention or patronage to a product or business.

(b) *Official advertising statement.* The official advertising statement shall be in substance as follows: "Member of the Federal Deposit Insurance Corporation."

(1) *Optional short title and symbol.* The short title "Member of FDIC" or "Member FDIC," or a reproduction of the symbol of the Corporation (as described in § 328.1(b)), may be used by insured depository institutions at their option as the official advertising statement.

(2) *Size and print.* The official advertising statement shall be of such size and print to be clearly legible. If the symbol of the Corporation is used as the official advertising statement, and the symbol must be reduced to such proportions that the two lines of smaller type above and below "FDIC" are indistinct and illegible, those lines of smaller type may be blocked out or dropped.

(c) *Use of official advertising statement in advertisements—*(1) *General requirement.* Except as provided in § 328.3(d), each insured depository institution shall include the official advertising statement prescribed in § 328.3(b) in all advertisements that either promote deposit products and services or promote non-specific banking products and services offered by the institution. For purposes of this § 328.3, an advertisement promotes non-specific banking products and services if it includes the name of the insured depository institution but does not list or describe par-

ticular products or services offered by the institution. An example of such an advertisement would be, "Anytown Bank, offering a full range of banking services."

(2) *Foreign depository institutions.* When a foreign depository institution has both insured and noninsured U.S. branches, the depository institution must also identify which branches are insured and which branches are not insured in all of its advertisements requiring use of the official advertising statement.

(3) *Newly insured institutions.* A depository institution shall include the official advertising statement in its advertisements no later than its twenty-first day of operation as an insured depository institution.

(d) *Types of advertisements which do not require the official advertising statement.* The following types of advertisements do not require use of the official advertising statement:

(1) Statements of condition and reports of condition of an insured depository institution which are required to be published by State or Federal law;

(2) Insured depository institution supplies such as stationery (except when used for circular letters), envelopes, deposit slips, checks, drafts, signature cards, deposit passbooks, certificates of deposit, etc.;

(3) Signs or plates in the insured depository institution offices or attached to the building or buildings in which such offices are located;

(4) Listings in directories;

(5) Advertisements not setting forth the name of the insured depository institution;

(6) Entries in a depository institution directory, provided the name of the insured depository institution is listed on any page in the directory with a symbol or other descriptive matter indicating it is a member of the Federal Deposit Insurance Corporation;

(7) Joint or group advertisements of depository institution services where the names of insured depository institutions and noninsured institutions are listed and form a part of such advertisements;

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(8) Advertisements by radio or television, other than display advertisements, which do not exceed thirty (30) seconds in time;

(9) Advertisements which are of the type or character that make it impractical to include the official advertising statement, including, but not limited to, promotional items such as calendars, matchbooks, pens, pencils, and key chains; and

(10) Advertisements which contain a statement to the effect that the depository institution is a member of the Federal Deposit Insurance Corporation, or that the depository institution is insured by the Federal Deposit Insurance Corporation, or that its deposits or depositors are insured by the Federal Deposit Insurance Corporation to at least \$100,000 for each depositor.

(e) *Restrictions on using the official advertising statement when advertising non-deposit products*—(1) *Definitions*—

(i) *Non-deposit product*. As used in this subpart, the term “non-deposit product” shall include, but is not limited to, insurance products, annuities, mutual funds, and securities. For purposes of this definition, a credit product is not a non-deposit product.

(ii) *Hybrid product*. As used in this subpart, the term “hybrid product” shall mean a product or service that has both deposit product features and non-deposit product features. A sweep account is an example of a hybrid product.

(2) *Non-deposit product advertisements*. Except as provided in § 328.3(e)(4), an insured depository institution shall not include the official advertising statement, or any other statement or symbol which implies or suggests the existence of Federal deposit insurance, in any advertisement relating solely to non-deposit products.

(3) *Hybrid product advertisements*. Except as provided in § 328.3(e)(4), an insured depository institution shall not include the official advertising statement, or any other statement or symbol which implies or suggests the existence of federal deposit insurance, in any advertisement relating solely to hybrid products.

(4) *Mixed advertisements*. In advertisements containing information about both insured deposit products and non-

deposit products or hybrid products, an insured depository institution shall clearly segregate the official advertising statement or any similar statement from that portion of the advertisement that relates to the non-deposit products.

(f) *Official advertising statement in non-English language*. The non-English equivalent of the official advertising statement may be used in any advertisement, provided that the translation has had the prior written approval of the Corporation.

[72 FR 66102, Nov. 13, 2006, as amended at 87 FR 33420, June 2, 2022]

§ 328.4 Prohibition against receiving deposits at same teller station or window as noninsured institution.

(a) *Prohibition*. An insured depository institution may not receive deposits at any teller station or window where any noninsured institution receives deposits or similar liabilities.

(b) *Exception*. This § 328.4 does not apply to deposits received at a Remote Service Facility.

§§ 328.5–328.99 [Reserved]

Subpart B—False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

SOURCE: 87 FR 33420, June 2, 2022, unless otherwise noted.

§ 328.100 Scope.

This subpart applies to any person who:

(a) Falsely represents, expressly or by implication, that any deposit liability, obligation, certificate, or share is FDIC-insured by using the FDIC's name or logo;

(b) Knowingly misrepresents, expressly or by implication, that any deposit liability, obligation, certificate, or share is insured by the FDIC if such an item is not so insured;

(c) Knowingly misrepresents, expressly or by implication, the extent to which or the manner in which any deposit liability, obligation, certificate, or share is insured by the FDIC, if such