

Consumer Financial Rights

From the Federal Deposit Insurance Corporation

<http://www.fdic.gov/consumers/consumer/rights/index.html>

Consumers' financial rights are protected by federal and state laws and regulations covering many services offered by financial institutions. This brochure will assist organizations which often receive complaints about banks, savings and loan associations, and credit unions in referring complaints to the proper regulatory agency.

FEDERAL LAWS

Adjustable-Rate Mortgage Loans

Adjustable-rate mortgage loans are covered by regulations that require, at a minimum, disclosure of the circumstances under which the rate may increase, any limitations on the increase, the effects of an increase and an example of the payment terms that would result from an increase.

Community Reinvestment Act

The Community Reinvestment Act requires federal agencies to encourage depository financial institutions to help meet the credit needs of their communities, including low- and moderate- income neighborhoods. The regulatory agencies assess the institutions' records of meeting those credit needs by preparing a written evaluation of the institutions and assigning a rating with facts supporting the conclusions. Such ratings shall be disclosed to the public for examinations beginning July 1, 1990. The Act also requires regulatory agencies to consider an institution's record of helping to meet community credit needs when evaluating certain corporate applications, such as permission to establish a branch, to relocate a branch or home office, or to merge.

Consumer Leasing Act

The Consumer Leasing Act requires disclosure of information that helps consumers compare the cost and terms of various leases and the cost and terms of buying on credit versus cash. The Act does not apply to real estate leases or to leases of four months or less.

Credit Practices Rule

The Credit Practices Rule prohibits lenders from using certain remedies, such as confessions of judgment; wage assignments; and non-possessory, non-purchase money, security interests in household goods. The rule also prohibits lenders from misrepresenting a cosigner's liability and requires that lenders provide cosigners with a notice explaining their credit obligation as a cosigner. It also prohibits the pyramiding of late charges.

Electronic Fund Transfer Act

The Electronic Fund Transfer Act provides consumer protection for all transactions using a debit card or electronic means to debit or credit an account. It also limits a consumer's liability for unauthorized electronic fund transfers.

Equal Credit Opportunity Act

The Equal Credit Opportunity Act prohibits discrimination against an applicant for credit because of age, sex, marital status, religion, race, color, national origin, or receipt of public assistance. It also prohibits discrimination because of a good faith exercise of any rights under the federal consumer credit laws. If a consumer has been denied credit, the law requires notification of the denial in writing. The consumer may request, within 60 days, that the reason for denial be provided in writing.

Expedited Funds Availability Act

The Expedited Funds Availability Act requires all banks, savings and loan associations, savings banks, and credit unions to make funds deposited into checking, share draft and NOW accounts available according to specified time schedules and to disclose their funds availability policies to their customers. The law does not require an institution to delay the customer's use of deposited funds but instead limits how long any delay may last. The regulation also establishes rules designed to speed the return of unpaid checks.

Fair Credit and Charge Card Disclosure Act

The Fair Credit and Charge Card Disclosure Act requires new disclosures on credit and charge cards, whether issued by financial institutions, retail stores or private companies. Information such as APRs, annual fees and grace periods must be provided in tabular form along with applications and preapproved solicitations for cards. The regulations also require card issuers that impose an annual fee to provide disclosures before annual renewal. Card issuers that offer credit insurance must inform customers of any increase in rate or substantial decrease in coverage should the issuer decide to change insurance providers.

Fair Credit Billing Act

The Fair Credit Billing Act establishes procedures for the prompt correction of errors on open-end credit accounts. It also protects a consumer's credit rating while the consumer is settling a dispute.

Fair Credit Reporting Act

The Fair Credit Reporting Act establishes procedures for correcting mistakes on a person's credit record and requires that a consumer's record only be provided for legitimate business needs. It also requires that the record be kept confidential. A credit record may be retained seven years for judgments, liens, suits, and other adverse information except for bankruptcies, which may be retained ten years. If a consumer has been denied credit, a cost-free credit report may be requested within 30 days of denial.

Fair Debt Collection Practices Act

The Fair Debt Collection Practices Act is designed to eliminate abusive, deceptive and unfair debt collection practices. It applies to third party debt collectors or those who use a name other than their own in collecting consumer debts. Very few commercial banks, savings banks, savings and loan associations, or credit unions are covered by this Act, since they usually collect only their own debts. Complaints concerning debt collection practices should generally be filed with the Federal Trade Commission.

Fair Housing Act

The Fair Housing Act prohibits discrimination on the basis of race, color, sex, religion, handicap, familial status or national origin in the financing, sale or rental of housing.

The Federal Trade Commission Act

The Federal Trade Commission Act requires federal financial regulatory agencies to maintain a consumer affairs division to assist in resolving consumer complaints against institutions they supervise. This assistance is given to help get necessary information to consumers about problems they are having in order to address complaints concerning acts or practices which may be unfair or deceptive.

Home Equity Loan Consumer Protection Act

The Home Equity Loan Consumer Protection Act requires lenders to disclose terms, rates and conditions (APRs, miscellaneous charges, payment terms, and information about variable rate features) for home equity lines of credit with the applications and before the first transaction under the home equity plan. If the disclosed terms change, the consumer can refuse to open the plan and is entitled to a refund of fees paid in connection with the application. The Act also limits the circumstances under which creditors may terminate or change the terms of a home equity plan after it is opened.

Home Mortgage Disclosure Act Aggregation Project

Using loan data collected from each covered institution, the Federal Financial Institutions Examination Council (FFIEC) prepares disclosure statements and various reports for individual institutions in each MSA, showing lending patterns by location, age of housing stock, income level, sex and racial characteristics. The disclosure statements and reports are made available to the public at central depositories located in each MSA. Requests for the list of central depositories should be forwarded to the FFIEC.

Federal Financial Institutions Examination Council
2100 Pennsylvania Ave, NW
Suite 200
Washington, DC 20037

Home Mortgage Disclosure Act (HMDA)

The Home Mortgage Disclosure Act (HMDA) requires certain lending institutions to report annually on their originations and purchases of home purchase and home improvement loans as well as applications for such loans. The type of loan, location of the property, race or national origin, sex and income of the applicant or borrower is reported. Institutions are required to make information regarding their lending available to the public and must post a notice of availability in their public lobby. Disclosure statements are also available at central depositories in metropolitan areas. This information can help the public determine how well institutions are serving the housing credit needs of their neighborhoods and communities.

National Flood Insurance Act

National Flood Insurance is available to any property holder whose local community participates in the national program by adopting and enforcing flood plain management. Federally regulated lenders are required to compel borrowers to purchase flood insurance in certain designated areas. Lenders also must disclose to borrowers if their structure is located in a flood hazard area.

Real Estate Settlement Procedures Act

The Real Estate Settlement Procedures Act requires that a consumer be given advance information about the services and costs involved in the closing of a residential mortgage. It also limits the amount that can be collected for mortgage escrow.

Rights to Financial Privacy Act

The Right to Financial Privacy Act provides that customers of financial institutions have a right to expect that their financial activities will have a reasonable amount of privacy from federal government scrutiny. The Act establishes specific procedures and exemptions concerning the release of the financial records of customers and imposes limitations on and requirements of financial institutions prior to the release of such information to the federal government.

Savings and Time Deposits

Savings and time deposits are covered by regulations that prohibit inaccurate or misleading advertising.

Truth in Lending Act

The Truth in Lending Act requires disclosure of the "finance charge" and the "annual percentage rate"--and certain other costs and terms of credit--so that a consumer can compare the prices of credit from different sources. It also limits liability on lost or stolen credit cards.

STATE LAWS

Many State Laws also provide rights and remedies in consumer financial transactions. Unless a state law conflicts with a particular federal law, the state law usually will apply.

Some states have usury laws, which establish maximum rates of interest that creditors can charge for loans or credit sales. The maximum interest rates vary from state to state and depend upon the type of credit transaction involved.

Complaint Filing Process

If the consumer has a complaint against a financial institution, the first step is to contact an officer of the institution and attempt to resolve the complaint directly. Financial institutions value their customers and most will be helpful. If the consumer is unable to resolve the complaint directly, the financial institution's regulatory agency may be contacted for assistance.

The agency will usually acknowledge receipt of a complaint letter within a few days. If the letter is referred to another agency, the consumer will be advised of this fact. When the appropriate agency investigates the complaint the financial institution may be given a copy of the complaint letter.

The complaint should be submitted in writing and should include the following:

- Complainant's name, address, telephone number;
- The institution's name and address;
- Type of account involved in the complaint--checking, savings, or loan--and account numbers, if applicable;
- Description of the complaint, including specific dates and the institution's actions (copies of pertinent information or correspondence are also helpful);
- Date of contact and the names of individuals contacted at the institution with their responses;
- Complainant's signature and the date the complaint is being submitted to the regulatory agency.

The regulatory agencies will be able to help resolve the complaint if the financial institution has violated a banking law or regulation. They may not be able to help where the consumer is not satisfied with an institutions's policy or practices, even though no law or regulation was violated. Additionally, the regulatory agencies do not resolve factual or most contractual disputes.

The following information will help in determining which agency to contact.

National Bank

The Word "National" appears in the bank's name, or the initials N.A. appear after the bank's name.

Agency to Contact: Comptroller of the Currency

State-Chartered Bank, Member of the Federal Reserve System

Two signs will be prominently displayed on the door of the bank or in the lobby. One will say "Member, Federal Reserve System." The other will indicate deposits are insured by

the Federal Deposit Insurance Corporation and/or "Deposits Federally Insured to \$250,000--Backed by the Full Faith and Credit of the United States Government." The word "National" does not appear in the name; the initials N.A. do not appear after the name.

Agency to Contact: Federal Reserve Board for federal laws; State Banking Department for state laws.

State Non-Member Bank or State-Chartered Savings Bank, Federally Insured

A sign will be prominently displayed at each teller station that indicates that deposits are insured by the Federal Deposit Insurance Corporation and/or "Deposits Federally Insured to \$250,000--Backed by the Full Faith and Credit of the United States Government." There will not be a sign saying "Member, Federal Reserve System." The word "National" or the initials N.A. will not appear in the name.

Agency to Contact: Federal Deposit Insurance Corporation for federal laws; State Banking Department for state laws.

Federal Savings and Loan Association or Federal Savings Association, Federally Insured

Generally, the work "Federal" appears in the name of the savings and loan association or its name includes initials such as "FA" which indicate its status as a federal savings and loan association. A sign will be prominently displayed at each teller station that says "Deposits Federally Insured to \$250,000--Backed by the Full Faith and Credit of the United States Government."

Agency to Contact: Office of Thrift Supervision

Federal Savings Bank, Federally Insured

Generally, the work "Federal" appears in the name of the savings bank or its name includes the initials such as "FSB" which indicate its status as a federal savings bank. A sign will prominently displayed at each teller station that says "Deposits Insured to \$250,000--Backed by the Full Faith and Credit of the United States Government."

Agency to Contact: Office of Thrift Supervision

State-Chartered Federally Insured Savings Institution

There will be a sign prominently displayed at each teller station that says "Deposits Federally Insured to \$250,000--Backed by the Full Faith and Credit of the United States Government."

Agency to Contact: Office of Thrift Supervision.

State Chartered Banks or Savings Institutions without Federal Deposit Insurance

Institution has none of the above described characteristics.

Agency to Contact: State Banking Department for state laws; Federal Trade Commission for federal laws.

Federally Chartered Credit Union

The term "Federal credit union" appears in the name of the credit union.

Agency to Contact: National Credit Union Administration

State-Chartered, Federally Insured Credit Union

A sign will be displayed by stations or windows where deposits are accepted indicating that deposits are insured by NCUA. The term "Federal credit union" does not appear in the name.

Agency to Contact: State Agency that regulates credit unions or Federal Trade Commission.

State-Chartered Credit Unions without Federal Insurance

The term "Federal credit union" does not appear in the name.

Agency to Contact: State Agency that regulates credit unions or Federal Trade Commission.

Other

Institutions have none of the characteristics described. Agency to Contact: Appropriate State Agency for state laws; Federal Trade Commission for federal laws.

COMPLAINTS

Complaints should be mailed to the appropriate agency with copies of all relevant documents. Original documents or currency should not be sent. Addresses for the federal agencies are:

Board of Governors of the Federal Reserve System
Division of Consumer and Community Affairs
20th & Constitution Avenue, NW
Washington, DC 20551

Office of the Comptroller of the Currency
Customer Assistance Group
1301 McKinney Street
Suite 3710
Houston, TX 77010

Federal Deposit Insurance Corporation
Division of Supervision and Consumer Protection
550 Seventeenth Street, NW
Washington, DC 20429

Federal Trade Commission
Bureau of Consumer Protection
Office of Credit Practices
Washington, DC 20580

Office of Thrift Supervision
Consumer Affairs Office
1700 G Street, NW
Washington, DC 20552

National Credit Union Administration
Office of Public and Congressional Affairs
1775 Duke Street
Alexandria, Virginia 22314-3428