

§ 14.40

12 CFR Ch. I (1–13 Edition)

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.

§ 14.40 What a covered person must disclose.

(a) *Insurance disclosures.* In connection with the initial purchase of an insurance product or annuity by a consumer from a covered person, a covered person 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 bank or an affiliate of the bank;

(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 bank, or (if applicable) an affiliate of the bank; 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, a covered person must disclose that the bank may not condition an extension of credit on either:

(1) The consumer's purchase of an insurance product or annuity from the bank 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 para-

graph (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, a covered person is not required to make the oral disclosures required by paragraph (a) of this section. If a covered person takes an application for credit by mail, the covered person is not required to make the oral disclosure required by paragraph (b).

(3) *Exception for transactions by telephone.* If a sale of an insurance product or annuity is conducted by telephone, a covered person 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 a covered person takes an application for credit by telephone, the covered person may provide the written disclosure required by paragraph (b) of this section by mail, provided the covered person mails 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)), a covered person 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 disclosures required by paragraphs (a) or (b) of this section that are provided by electronic media are 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, a covered person 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:

- NOT A DEPOSIT
- NOT FDIC-INSURED
- NOT INSURED BY ANY FEDERAL GOVERNMENT AGENCY
- NOT GUARANTEED BY THE BANK [OR SAVINGS ASSOCIATION]
- MAY GO DOWN IN VALUE

(6) *Disclosures must be meaningful.* (i) A covered person 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 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 style, and graphic devices, such as shading or sidebars, when the disclosures are combined with other information.

(ii) A covered person has not provided the disclosures in a meaningful form if the covered person merely states to the consumer that the required disclosures are available in printed material, but does not provide the printed material when required and does 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.* A covered person must obtain from the consumer, at the time a consumer receives the disclosures required under para-

graphs (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. A covered person may permit a consumer to acknowledge receipt of the disclosures electronically or in paper form. If the disclosures required under paragraphs (a) or (b) of this section are provided in connection with a transaction that is conducted by telephone, a covered person 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 promotional 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 bank.

§ 14.50 Where insurance activities may take place.

(a) *General rule.* A bank must, to the extent practicable, keep the area where the bank 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 bank'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 bank 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.