Office of Inspector General

Impermissible Fees Charged by an FDIC-Regulated Bank

Summary

December 2021 AEC Memorandum 22-001

This publicly available document summarizes a non-public memorandum that we have issued to FDIC management.

Audits, Evaluations, and Cyber

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Summary of Management Advisory Memorandum

Impermissible Fees Charged by an FDIC-Regulated Bank

The Office of Inspector General of the Federal Deposit Insurance Corporation (FDIC) has issued a Management Advisory Memorandum relating to impermissible fees charged by an FDIC-regulated bank (the Bank) and a third party, and the FDIC's supervision of such matters. We conducted our work related to these concerns in accordance with professional standards of independence, due professional care, and quality assurance included in the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Federal Offices of Inspector General.

We identified these concerns during our work for the evaluation of the FDIC's Examination of Government-Guaranteed Loans. We are conducting this evaluation to determine the effectiveness of the FDIC's examinations in identifying and addressing undue risks and weak risk management practices for banks that participate in Government-guaranteed loan programs. Our evaluation is ongoing, and we will be issuing our report publicly when it becomes final.

FDIC bank examinations should identify and address undue risk and weak risk management practices at its banks in order to ensure that they operate in a safe and sound manner. The FDIC also conducts compliance examinations in order to ensure that banks operate in compliance with consumer protection laws. Banks face risks when originating and servicing Government-guaranteed loans because the guaranty can be conditional. Federal Government agencies can be released from liability on the guaranty if the bank fails to comply with Government-guaranteed loan program requirements.

The FDIC applied enforcement actions against the Bank in response to risk management weaknesses identified in the subject guaranteed loan program. However, we found that the FDIC, during its examinations, had not identified that the Bank and a third party had charged impermissible fees to loan applicants. Instead, another Federal Government Agency identified the impermissible fees and advised the FDIC about the issue. The impact to the consumers from the impermissible fees is compounded because the fees were paid for out of the loan proceeds, thus reducing available funds and requiring interest payments from the borrowers over the life of the loan. We conservatively estimated that the prohibited fees charged to the borrowers amounted to at least $7.2 million.

The FDIC held several conversations with the other Federal Government Agency before and after the Federal Government Agency took enforcement action against the Bank. However, the FDIC officials acknowledged that they never raised concerns with the Federal Government Agency regarding these impermissible fees. Further, the FDIC did not request for its own Legal Division to review or provide an opinion on the fee issue.

We found that the FDIC did not effectively coordinate with the other Federal Government Agency to assess the impact that the impermissible fees had on the Bank's safety and soundness and consumer protection compliance. Instead, the FDIC recommended that the Bank, deemed to be in unsatisfactory condition, coordinate further with the Federal Government

Agency for resolution. Further, we found that the FDIC did not assess the potential consumer harm caused by the impermissible fees, nor whether enforcement action would be appropriate.

We brought this matter to the FDIC's attention, so that it may determine what action(s) should be taken with respect to the impermissible fees. We believe the FDIC should act urgently to address these impermissible fees imposed on the consumers.

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To report allegations of waste, fraud, abuse, or misconduct regarding FDIC programs, employees, contractors, or contracts, please contact us via our Hotline or call 1-800-964-FDIC.

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