

FDIC Issues Order Against Bank Over Fintech Partnership

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On November 21, a Washington-based bank confirmed through a [public filing](#) that it entered into a consent order with the FDIC alleging that the bank engaged in unsafe or unsound banking practices, primarily related to products offered through a fintech partner. In particular, the FDIC determined that in connection with the bank's relationship with the fintech, the bank engaged in, among other things, deceptive and unfair acts and practices in or affecting commerce by making implied claims that credit products with non-optional debt cancellation features were unemployment insurance, approving consumers who did not qualify for the debt cancellation feature, and misrepresenting the fees and benefits for those products.

The bank was ordered to implement a broad set of actions to enhance its compliance management related to banking as a service practices, which include:

- Obtain the bank board's full participation in the oversight of its compliance management system;
- Submit a list of all bank products and the third party offering it to the FDIC for review;
- No binding commitment or agreement with a new third party without receiving the FDIC's written non-objection;
- Review and approve copies of all third-party marketing materials;
- Establish processes for managing regulatory agency inquiries, customer complaints and legal actions; and
- Review all third-party service providers' policies and practices to determine compliance with all consumer protection laws.

Putting It Into Practice: The consent order is the latest fintech partnership-related enforcement action against a bank as regulators are increasingly requiring firms to implement stricter oversight of their fintech partners (see [here](#) and [here](#)). The action must also be read in the broader context of the FDIC, the Federal Reserve, and OCC interagency final guidance regarding third-party relationships, placing the onus of compliance on the banks (see our previous post on this guidance [here](#)). Banks looking to reevaluate their fintech partnerships in light of this rising scrutiny and action ought to review this latest order and the agencies' final interagency guidance.

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