

## Consumer Litigation Increasingly Targeting CD Programs

Many financial institutions offer higher incentive interest rates on CDs to attract new business. When these CDs reach maturity, the interest rate drops to a lower or market interest rate through an automatic renewal feature. Some consumers shop their rates at renewal, but many allow the CDs to automatically roll over to the lower interest rate. Bankers are obligated to inform the consumer of the changing interest rates in compliance with the Truth in Savings Act.

**Recently, CD programs are being challenged not only under Truth in Savings but also under state consumer statutes. Consumers argue that the CD interest rates should not be reduced at the time of maturity and that the CDs should not be subject to automatic renewal.**

*Complying with Truth in Savings laws will not necessarily insulate the bank from liability.*

To protect your bank from potential liability:

- Examine the bank's disclosures annually – including those issued by a third-party processor – and have outside counsel confirm that they are in technical compliance with Truth in Savings.
- Have outside counsel review the pricing strategy for each CD program – new and existing – to make sure that the program complies with the spirit of applicable consumer state statutes.
- Consult with outside counsel if any changes are made to any CD programs.

Communication between management and outside counsel prior to implementing any program is the best means to prevent potential liability. Additional consultation is advisable if disclosures change or changes are made to any CD program.

*For more information, contact Judi Kovach, Loss Control Manager at 800-274-5222.*