

**MEMO# 23731**

August 20, 2009

## **Module Used By The Federal Reserve To Examine For Compliance With Its Affiliate Marketing Regulation**

[23731]

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TO: TRANSFER AGENT ADVISORY COMMITTEE No. 63-09  
BANK, TRUST AND RECORDKEEPER ADVISORY COMMITTEE No. 36-09 RE: MODULE USED  
BY THE FEDERAL RESERVE TO EXAMINE FOR COMPLIANCE WITH ITS AFFILIATE MARKETING  
REGULATION

As we recently informed you, on August 4th the SEC adopted Regulation S-AM, which generally prohibits an affiliate of an SEC registrant from using certain consumer eligibility information supplied by the registrant to market the affiliate's products or services to a consumer unless the consumer is first provided the ability to opt out of such marketing. [\[1\]](#) The compliance date for this rule is January 1, 2010.

In addition to requiring the SEC to adopt an affiliate marketing rule, federal law required the Federal Reserve and other regulators of financial institutions to adopt similar rules, which they did in 2007. Subsequent to the adoption of its rule, the Federal Reserve published a module for its examiners to use in inspecting institutions for compliance with the rule. Because the Federal Reserve's rule is substantially similar in its requirements to the SEC's rule, this module may be helpful to SEC registrants as they implement Regulation S-AM. [\[2\]](#) While pages 1-8 of it discuss the Federal Reserve's rule in detail, page 9 sets out the steps an examiner should take in inspecting for compliance with the rule. Obviously, the SEC may take a different approach when it begins to inspect for compliance, but the Federal Reserve's approach may be an instructive guide regarding the issues to consider in implementing the SEC's rule.

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**endnotes**

[1] See Institute [Memorandum](#) to Compliance Members No. 37-09 and Privacy Issues Working Group No. 8-09 [No. 23686], dated August 7, 2009.

[2] The module is available at:  
[http://www.federalreserve.gov/boarddocs/caletters/2008/0806/08-06\\_attachment.pdf](http://www.federalreserve.gov/boarddocs/caletters/2008/0806/08-06_attachment.pdf).

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