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Highlights

Highlights of GAO-03-971, a report to congressional committees.

Why GAO Did This Study

This mandated report responds to Congressional concerns that provisions in section 43 of the Federal Deposit Insurance Act (FDI Act) are not being enforced. Since 1991, section 43 has required, among other things, depository institutions lacking federal deposit insurance to conspicuously disclose that deposits in these institutions are not federally insured. GAO's objectives were to (1) determine the current status of the enforcement of provisions in section 43; (2) determine the extent of compliance with each provision and the potential impact on consumers if the provisions were not enforced; and (3) evaluate which federal agency could most effectively enforce the provisions.

What GAO Recommends

GAO is not recommending executive action but identifies matters for Congressional consideration. If Congress determines that federal oversight of section 43 is needed, Congress may wish to consider removing the prohibition in FTC's appropriations against enforcing the provisions. Congress may also wish to consider modifying the section to clarify FTC's jurisdiction and to provide FTC with flexibility in administering these requirements by giving FTC authority to consult with other primary regulators, such as NCUA, or FDIC, or partner with states.

www.gao.gov/cgi-bin/getrpt?GAO-03-971.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Richard J. Hillman at (202) 512-8678 or hillmanr@gao.gov.

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FEDERAL DEPOSIT INSURANCE ACT

FTC Best Among Candidates to Enforce Consumer Protection Provisions

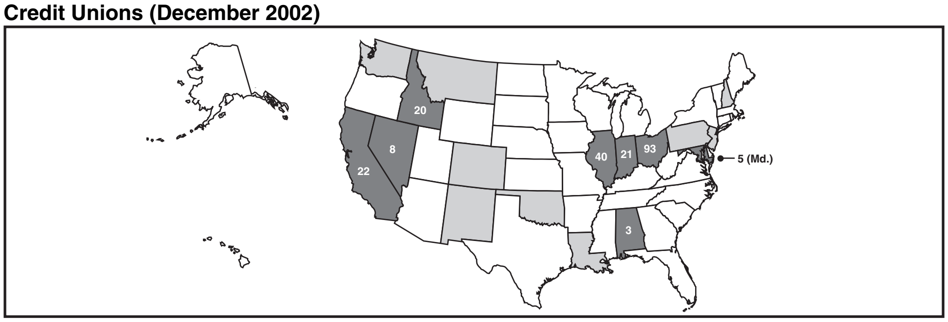
What GAO Found

The Federal Trade Commission (FTC) is responsible for enforcing compliance with the provisions in section 43 of the FDI Act. However, due to a variety of concerns, FTC has requested and appropriators have agreed to prohibit FTC from enforcing these provisions. The National Credit Union Administration (NCUA) and state regulators have imposed some related requirements on credit unions and private deposit insurers. While these requirements are not the same as those in section 43 provisions, they provide some assurances that certain actions contemplated by section 43 are being satisfied.

Some privately insured credit unions GAO visited did not adequately disclose that these institutions were not federally insured; as a result, depositors at these institutions may not be fully informed that their deposits are not federally insured. For example, in unannounced site visits to 57 privately insured credit unions in Alabama, California, Illinois, Indiana, and Ohio, GAO found that required notices were not posted in 37 percent of the locations.

No federal agency is ideally suited to carry out the responsibilities outlined in section 43. Although FTC, NCUA, and the Federal Deposit Insurance Corporation (FDIC) officials generally agreed that consumers should receive information about the insured status of their deposits, they strongly maintained that their respective agencies should not enforce these provisions. NCUA and FDIC officials objected to enforcing these provisions because their agencies have no direct interest in uninsured institutions and their involvement in the enforcement of these requirements could undermine the purposes of the provision. FTC staff raised jurisdictional concerns and asserted that its mission, resources, and practices were ill suited for such a role. GAO believes that clarifying FTC's authority and providing it with additional flexibility in administering these provisions represents the best option to enforce the provisions.

States Permitting Private Deposit Insurance (March 2003) and Number of Privately Insured Credit Unions (December 2002)



States that permit private deposit insurance but do not have privately insured credit unions

States that have credit unions that purchase private deposit insurance

Sources: GAO and state regulators.