



# The American Disabilities Act (ADA) and What it Means for Your Banking Website

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by red barn consulting, llc

## summary

Under the Americans with Disabilities Act (ADA), the US Department of Justice (DOJ) is introducing new compliance guidelines that define how websites need to be made accessible for people with visual or hearing difficulties. The DOJ requires all relevant websites to be fully compliant by 2018, and will levy fines or take legal action against those organizations still in breach at that time.

To become compliant, websites will need to meet a list of over 70 separate standards and requirements. These standards are designed to make websites easier to navigate, use, and understand for individuals who have accessibility issues. These standards are defined in the Web Content Accessibility Guidelines (WCAG) 2.0.

Businesses will need to become compliant as soon as possible to avoid the risk of litigation, fines, and reputational damage.

*"Any business that is considered a "place of public accommodation" is required to provide equal access to services under the nondiscrimination requirements of Title III of ADA... this includes... virtually every business that is not a private club, including businesses that exist solely on the web.*

*There's a growing body of case law where the DOJ required companies to provide an ADA compliant website and levied hefty penalties when sites failed to measure up."*

— Business.com

## introduction

Although many different types of business website will be required to become legally compliant with DOJ guidelines, the rest of this white paper will focus on how this impacts the banking industry. The time for banks to act is now — Although the regulations from the DOJ aren't expected to come into effect until 2018, plaintiffs and their lawyers are already taking action against banks and financial institutions for not having accessible websites.

### Banks can avoid this by:

- Carrying out** an initial review of their bank website and online services.
- Reading through** the WCAG 2.0 standards in detail and understanding how they apply.
- Arranging** for an audit to identify gaps between their existing web presence and the required standards.
- Updating** their website to meet all outstanding requirements.
- Completing** a final review to check all required changes are in place, and the website is now fully compliant.

*"Most financial institutions either haven't registered web accessibility as a concern, or have decided to wait until regulations make compliance mandatory for them and make the compliance requirements clear." — Micro Assist*



## issues visual and hearing impaired people face when using banking websites

The use of banking and financial websites can present a significant issue to disabled people, particularly if the sites were designed without accessibility as a consideration.

For example, blind people may use highly-specialized tools like braille or tactile interfaces, screen readers, voice activated navigation, and specialist software. A banking website may cause difficulties because it is not coded properly and does not work with their hardware and software.

Customers that are hearing impaired could run into problems with audio content, or if they needed to call a service center to get issues sorted out.

It is these issues, and others like them, that the DOJ is aiming to resolve.

## how the Department of Justice is interpreting the ADA

The ADA is written specifically to prevent discrimination against people with disabilities; it states, **“individuals cannot be discriminated against on the basis of disability in the full and equal enjoyment of the goods, services, facilities, privileges, advantages or accommodations of any place of public accommodation.”**

— This part of the ADA is known as Title III. The DOJ has stated this applies to disabled people who need special access to interact with websites and other online services.

**There is a high risk of litigation, punitive damages, and fines.**

Non-compliance is already causing issues for businesses, with the Bureau of National Affairs reporting that over 45 website accessibility suits were filed under the ADA in 2015. Additionally, over a dozen Title III class actions were filed in the second half of 2015, citing website inaccessibility as a cause of the legal action.

Large, well-known brands including Target, Reebok, and the NBA have already been sued.

*“In the past three years, Bank of America has negotiated a series of “structured” settlement agreements (no litigation or threatened litigation involved) to address concerns about the accessibility of its Web sites. E\*Trade and San Francisco Federal Credit Union signed similar structured settlement agreements this year committing to make their Web sites and mobile applications accessible to the visually impaired.” — Micro Assist*

*“Entities that are charged with Title III violations can face civil penalties from the government, which may reach a maximum of \$75,000 for a first violation and \$150,000 for repeated violations. Given the DOJ’s increased interest in website compliance, there is reason to believe that DOJ enforcement actions related to websites may increase in the coming years.” — Stinson Leonard Street*

## risks of not making the changes required by the DOJ

In addition to legal action and fines, you should consider these other reasons for having a website that meets DOJ / WCAG 2.0 standards:

**Reputation** — Banks that voluntarily comply with the new regulations will have a much better public perception. Becoming compliant demonstrates that a bank understands the needs of all its customers and potential customers.

**More business** — With nearly 25 million Americans having a “severe disability,” it makes good ethical and business sense to make a website as accessible as possible. This type of forward thinking will help banks stand out from their competitors.



# understanding if a banking website is ADA compliant

A complete audit of a banking website is required to see whether it meets all of the approximately 70 standards defined under WCAG 2.0.

However, at a high level, a website must be:

- ✓ **Perceivable** – Information and user interface components must be presentable to users in ways they can perceive.
- ✓ **Operable** – User interface components and navigation must be operable.
- ✓ **Understandable** – Information and the operation of user interface must be understandable.
- ✓ **Robust** – Content must be robust enough so it can be interpreted reliably by a wide variety of user agents, including assistive technologies.

In practical terms, this means standards such as the following must be met:



**Provide text alternatives** for any non-text content — Text descriptions of pictures, images, illustrations, and any other visual content. Text alternatives can be read by screen reading software.



**Captions / sign language** for pre-recorded content — Audio and video content must have sign language interpretation and / or captioning for accessibility by people with hearing difficulties.



**Language and font of the webpage** — The language and font on a specific webpage can be easily updated according to a user's needs.



**Keyboard navigation** — A bank website should be completely navigable and usable with just a keyboard. There should be no requirement to use a mouse to navigate a website.



**Browsers and devices** — All website content must be accessible in all client browsers and other ways of accessing website content.



**Specialist software and hardware** — All website content must be usable through the various specialized hardware and software that visual and hearing impaired people use.



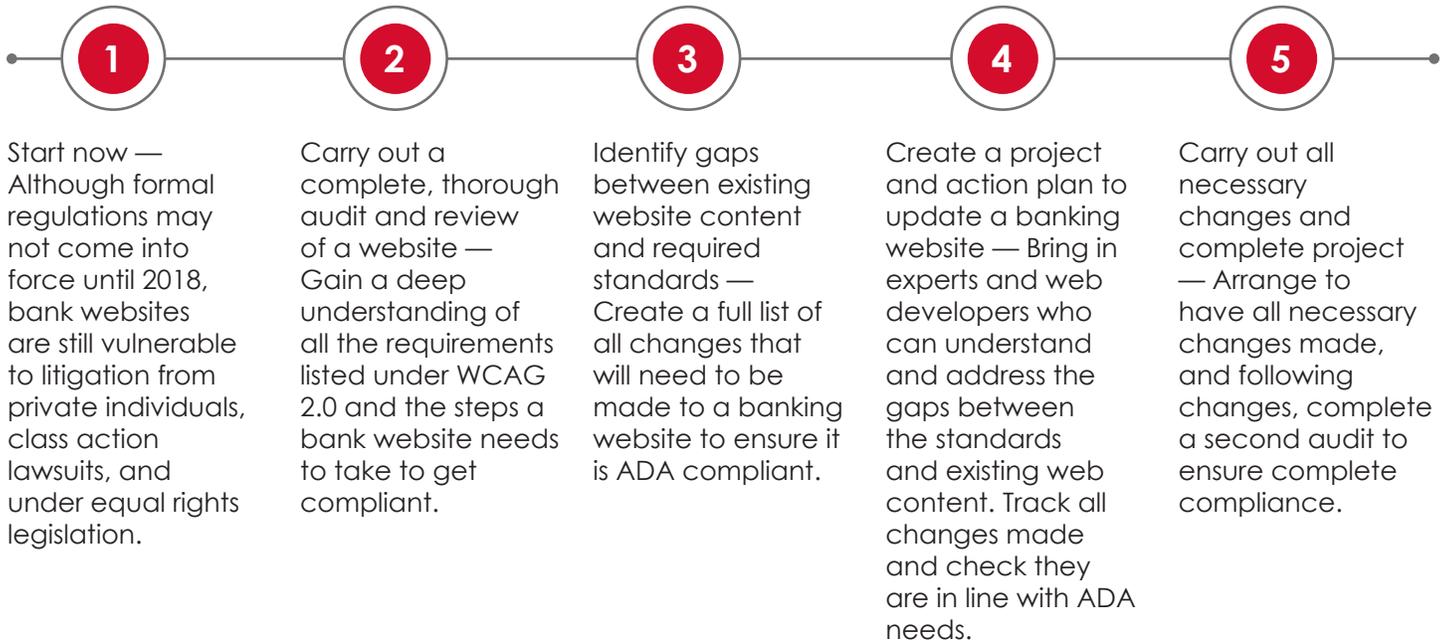
**Ease of use** — A website must have consistent navigation and be easy to read and use.



**Accessing media** — Users must be able to easily pause, rewind, and interact with media on a banking website.

Please note this is only a high-level, brief selection of all the requirements listed under the Web Content Accessibility Guidelines (WCAG) 2.0.

## recommendations for making a bank website DOJ and ADA compliant



## conclusion

By acting now, banks and financial institutions can limit their exposure and risk to litigation and reputational damage. It is essential changes are made to all banking websites to bring them completely in line with DOJ and ADA standards. This needs to be carried out in a methodical way to ensure all gaps are identified, improvements carried out, and regulatory standards are met.

## about the author

Red Barn Consulting is an expert digital marketing, sales, and operations firm, specializing in banking and financial institutes. Their expertise includes:

- Audits of banking websites to identify gaps with WCAG 2.0 standards.
- Bringing websites in line with ADA and DOJ accessibility regulations.
- Project management of website accessibility projects.
- Consulting on web design, development, sales, and operations.
- Complete social media, digital, and content marketing services.

Find more at [redbarnconsultingllc.com](http://redbarnconsultingllc.com)



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