

Overview of Compliance Examinations¹

Introduction

The Federal Deposit Insurance Corporation (FDIC) promotes compliance with federal consumer protection laws, fair lending statutes and regulations, and the Community Reinvestment Act through supervisory and outreach programs. The FDIC conducts three types of supervisory activities to review an institution's compliance posture—compliance examinations, visitations, and investigations.

Compliance examinations are the primary means the FDIC uses to determine whether a financial institution is meeting its responsibility to comply with the requirements and proscriptions of federal consumer protection laws and regulations. The FDIC conducts visitations for a variety of reasons: to review the compliance posture of newly-chartered institutions or those converting to state non-member status; to review progress on corrective actions or compliance with enforcement action in the interval between examinations; or to investigate problems brought to the attention of the FDIC. Visitations are usually targeted events aimed at specific operational areas, or entire compliance management systems previously identified as significantly deficient. Compliance examinations and visitations may also be considered during the review of an application submitted to the FDIC (e.g., application for deposit insurance or establishing a branch). Finally, investigations are conducted primarily to follow-up on particular consumer inquiries or complaints, including fair lending complaints.

This section provides a general overview of the FDIC compliance examination. The purposes of compliance examinations are to:

- assess the quality of an FDIC-supervised institution's compliance management system (*see* "Compliance Management System") for implementing federal consumer protection statutes and regulations;
- review compliance with relevant laws and regulations; and
- initiate effective supervisory action when elements of an institution's compliance management system are deficient or when significant violations of law are found.

Examination Approach

FDIC compliance examinations blend risk-focused and process-oriented approaches. Risk-focusing involves using information gathered about a financial institution to direct FDIC examiner resources to those operational areas that present the greatest compliance risks. Concentrating on the institution's internal control infrastructure and methods, or the "process" used to ensure compliance with federal consumer

protection laws and regulations, both acknowledges that the ultimate responsibility for compliance rests with the institution and encourages examination efficiency.

Determining Risk

Risk-focusing involves:

- developing a compliance risk profile for an institution using various sources of information about its business lines, organizational structure, operations, and past supervisory performance;
- assessing the quality of an institution's compliance management system in light of the risks associated with the level and complexity of its business operations and product and service offerings; and
- testing selected transactions based on risk such as when an operational area is determined to be high-risk and the institution's compliance management efforts appear weak.

Evaluating the Compliance Management System

Compliance examinations start with a top-down, process-oriented, comprehensive review and analysis of an institution's compliance management system. The compliance examiner considers:

- the knowledge level and attitude of management and personnel;
- management's responsiveness to emerging issues and past or self-identified compliance deficiencies;
- compliance organizational structure such as reporting relationships and recent experiences with staff turnover;
- management information systems;
- policies and procedures;
- training; and
- monitoring and audit programs.

Based on the results of this review, the examiner may conclude that weaknesses in the institution's compliance management system may result in current or future noncompliance with federal consumer protection laws, regulations, or policy statements. The examiner must determine, based on this analysis, whether transaction testing is warranted to further study particular risk in an entire operational area or regulation, or only a limited aspect of an area or regulation. Generally, the more confidence an examiner has in an institution's compliance management system, the less transaction testing an examiner may do.

The FDIC examination approach appropriately recognizes that the Board of Directors and management of a financial institution are responsible for complying with all federal consumer protection laws and regulations. While the formality and complexity of compliance management systems will vary

¹ This section fully incorporates the examination procedures issued under DSC RD Memo 05-035: Revised Compliance Examination Procedures.