Chapter 1 – Overview and Administrative Matters

Abbreviations	1-1
Introduction	1-3
About the Formal and Informal Enforcement Actions Manual	1-3
Definitions	1-4
Actionable Misconduct	1-4
Fiduciary Duty	1-4
Formal Actions	1-4
Informal Actions	1-4
Institution-Affiliated Party	1-4
Provisions	1-4
Statute of Limitations	1-5
Supervisory Letter	1-5
Violation	1-5
Considerations for Appropriate Action	1-5
Types of Actions	1-5
Informal Actions	1-6
Formal Actions	1-6
Grounds for Informal and Formal Actions	1-6
Informal Actions	1-7
Formal Actions	1-7
Detecting Problems Requiring Corrective Action	1-7
Documenting Formal Enforcement Actions under Section 8 and Other Laws	1-8
Initiating Actions	1-8
Expedited Processing	1-8
Modifying and Terminating Actions	1-8
Notifying Other Agencies	1-9
Joint Policy Statement Provisions	1-9
Memorandum of Understanding on Supervisory Coordination	1-9
Notification of State Authority	1-10
Notification of the Financial Crimes Enforcement Network	1-10
Referral to the U.S. Department of Justice and Notification to the Department of Ho and Urban Development	using 1-11
Coordinating Related Actions	1-11

Delegations of Authority	1-11
Required Publications of Certain Formal Actions	1-11
Chapter 2 – Informal Actions	
Informal Actions	2-1
Types of Informal Actions	2-1
When Informal Actions Are Used	2-1
Informal vs. Formal Actions	2-1
Bank Board Resolutions	2-2
Memoranda of Understanding	2-2
Modifying Informal Actions	2-3
Terminating Informal Actions	2-3
Documenting Informal Action Terminations	2-3
<u> Chapter 3 – Unsafe or Unsound Practices and Cond</u> Distinguishing Between Laws, Regulations, and Gui	
Unsafe or Unsound Practices	3-1
Practices Deemed Unsafe or Unsound	3-1
Unsafe or Unsound Conditions	3-2
Distinguishing Between Laws, Regulations, and Guidance	3-2
Chapter 4 – Cease-and-Desist Actions	
Cease-and-Desist Orders	4-1
Statutory Authority	4-1
Grounds	4-1
Consent Orders	4-1
Notice and Hearing	4-2
Failure to Comply with the Order	4-2
Evidence Required	4-2
Examination Report Not Required	4-3
Commission of Practice or Violation Not Required	4-3
Requiring Affirmative Action	4-3
Corrective Provisions	4-3
Issuing Cease-and-Desist Orders	4-6
Modifying Section 8(b) Actions	4-6
Terminating Section 8(b) Actions	4-6
Temporary Cease-and-Desist Orders	4-7
Statutory Authority	4-7

Grounds	4-7
Provisions of Temporary Orders	4-7
Companion Section 8(b) Action Required	4-8
Meeting before Issuance	4-8
When Orders Become Effective	4-8
Issuing Temporary Cease-and-Desist Orders	4-8
Modifying/Terminating Section 8(c) Actions	4-8
Personal Cease-and-Desist Orders against IAPs	4-9
Issuing PC&Ds	4-10
Terminating PC&Ds	4-10
Restitution under Section 8(b)(6)	4-10
Appropriateness of Restitution under Section 8(b)(6)	4-10
Cease-and-Desist Orders Based on Noncompliance with Anti-Money Laundering/Countering the Financing of Terrorism Program Requirements	4-11
Statutory Requirements	4-11
Policy Considerations	4-12
Chapter 5 – Prompt Corrective Action	
Prompt Corrective Action	5-1
Purpose of PCA	5-1
Capital Categories	5-1
Community Bank Leverage Ratio	5-2
Mandatory and Other Discretionary Supervisory Actions	5-3
Provisions Applicable to all FDIC Supervised Institutions	5-3
Provisions Applicable to IDIs that are less than Adequately Capitalized	5-3
Provisions Applicable to IDIs that are Significantly Undercapitalized or Critically Undercapitalized, or are Undercapitalized and have Failed to Submit an Acceptab Restoration Plan	ole Capital 5-3
Provisions Applicable to IDIs that are Critically Undercapitalized	5-4
Reclassifying (Downgrading) a Capital Category	5-5
Criteria	5-5
Simultaneous Actions	5-5
Capital Restoration Plans	5-5
Reclassification Procedures	5-6
Issuing a Notice of Intent to Reclassify	5-6
Requests for an Informal Hearing	5-7
Modifying or Terminating a Notice of Intent to Reclassify	5-7
Modifying or Terminating an Order to Reclassify	5-7

Reconsideration Requests	5-7
Supervisory Directives	5-8
Written Notice Generally Required	5-8
Exception to Notice Requirement	5-9
Modifying or Terminating NOIs and Supervisory Directives	5-9
Enforcement of Directives	5-9
Dismissing Directors or Senior Executive Officers	5-9
Definitions	5-9
Grounds for Dismissal	5-10
Dismissal Criteria	5-10
Comparison to Section 8(e) Removals	5-10
Issuing a Notice of Intent	5-10
Issuing an Order of Dismissal	5-11
Modifying or Terminating Notices, Immediate Suspensions, and Dismissal Orders	5-11
Reinstatement Requests	5-11
Delaying Mandatory Resolution of a Critically Undercapitalized Institution	5-12
When a Mandatory Resolution Is Required	5-12
When Mandatory Resolution Can Be Extended	5-12
Final Resolution	5-12
Exception to Mandatory Resolution	5-12
Appointing the FDIC as Receiver or Conservator	5-13
Authority Retained by the FDIC Board	5-13
Grounds for Self-Appointment	5-13
Processing Self-Appointment Actions	5-14
Chapter 6 – Removal, Prohibition, and Suspension Actions	
Removal, Prohibition, and Suspension Actions	6-1
Removal or Prohibition Actions	6-1
Statutory Authority	6-1
Grounds	6-1
Evidence Required	6-2
Statute of Limitations	6-2
Jurisdiction over IAPs	6-2
Other Issues to be Considered	6-2
Removal or Prohibition Cases Based on "Willful or Continuing Disregard"	6-3
Effective Date of Orders	6-4
Modifying or Terminating Removal, Prohibition, and Suspension Actions	6-4

Enumerated Factors	6-6
Removal from Office Based on Specific Violations of Law	6-6
Statutory Authority	6-7
Grounds	6-7
Temporary Suspension and Prohibition Actions	6-7
Statutory Authority	6-8
Grounds	6-8
Suspension or Prohibition Actions Pending Criminal Proceedings	6-8
Statutory Authority	6-8
Grounds	6-9
Suspension Actions Affecting Institution's Board of Directors	6-9
Removal or Prohibition Actions Following Conviction	6-9
Statutory Authority	6-9
Grounds	6-10
Comparison of Section 8(e) and Section 19	6-10
Issuing Section 19 Letters	6-11
Handling Disputed Cases	6-11
Publication of Section 19 Letters	6-11
Modification of a Section 8(e) Order versus Written Consent under Section 19	6-11
Enforcement Case Coordination	6-12
Pursuing Multiple Actions against Individuals	6-12
CMPs or Restitution in Conjunction with Removal or Prohibition Actions	6-12
Enforcement Actions against Accountants	6-12
<u> Chapter 7 – Termination of Deposit Insurance</u>	
Termination of Federal Deposit Insurance	7-1
Involuntary Insurance Termination under Section 8(a)(2)	7-1
Grounds	7-1
When Insurance Should Be Terminated	7-1
When Insurance Should Not Be Terminated	7-1
Notice to Primary Regulator	7-2
Notice of Intent	7-2
Insurance Termination Procedures and Notice to Depositors	7-2
Terminating Section 8(a)(2) Actions	7-2
Involuntary Insurance Termination under Section 8(w)	7-2
Required Notification from Attorney General	7-3
Factors to Be Considered	7-3

Notice to the State Supervisor, the Public, and Depositors	7-4
Successor Liability	7-4
Processing Section 8(w) Actions	7-4
Voluntary Insurance Termination	7-4
Types of Voluntary Termination	7-4
Section 8(a)(1) Terminations	7-4
Section 8(p) and 8(q) Terminations	7-5
Notice to Depositors	7-5

Chapter 8 – Comparison of Prompt Corrective Actions and Section 8 Actions

Comparison of Prompt Corrective Actions and Section 8 Actions	8-1
Appointment of Receiver or Conservator vs. Insurance Termination	8-1
PCA Requirements	8-1
Section 8(a) Requirements	8-2
Required Hearings	8-2
Results of PCA and Section 8(a) Action	8-2
Selecting the Appropriate Remedy	8-2
PCA Directives vs. Cease-and-Desist Orders	8-3
PCA Requirements	8-3
Section 8(b) Requirements	8-4
Required Hearings	8-4
Considerations in Using PCA Directives and Section 8(b) Actions	8-5
Selecting the Appropriate Remedy	8-6
Provisions of PCA Directives and Cease-and-Desist or Consent Orders	8-6
PCA Directives vs. Temporary Cease-and-Desist Orders	8-7
PCA Dismissals vs. Section 8(e) Removals	8-7
PCA Requirements	8-7
Section 8(e) Requirements	8-7
Results of Dismissals and Removals	8-7
Stricter Standards for Removals	8-8
Relation of Dismissals and Removals	8-8
Justification Required for Dismissals	8-8
Considerations in PCA Dismissals	8-8
Employment at an Institution after Dismissal	8-9

Chapter 9 – Restitution and Civil Money Penalties

Restitution and Civil Money Penalties	9-1
Determining the Appropriate Monetary Action	9-1
Statute of Limitations	9-2
Jurisdiction over IAPs	9-2
Restitution Under Section 8(b)(6)	9-2
Statutory Authority	9-2
Grounds	9-2
Policy	9-2
Other Considerations	9-3
Civil Money Penalties under Section 8(i)(2)	9-3
Statutory Authority	9-3
Grounds	9-3
Policy	9-4
Considerations in Assessing CMPs	9-5
Determining the Amount of CMPs	9-6
Assessing Civil Money Penalties for Violations of Appraisal Independence	9-6
Payment of CMPs	9-7
Violations Detected by State Examinations	9-7
CMP Matrices	9-7
CMPs against Individuals	9-8
Instructions for Using the CMP Matrix against Individuals	9-8
CMPs against Institutions	9-16
Instructions for Using the CMP Matrix against Institutions	9-16
CMPs against Institutions for Anti-Money Laundering/Countering the Financing of Terrorism Violations	9-26
Instructions for Scoring the AML/CFT Matrix Factors	9-26
Assessment of CMPs Based on Consumer Compliance and Fair Lending Violations	9-34
Flood Insurance Violations	9-34
Mandatory Civil Money Penalties	9-34
Statutory Authority	9-34
Determining a Pattern or Practice for Mandatory CMPs	9-35
Determining the Number of Violations	9-35
Determining the Amount of the CMP for Mandatory Penalty Violations	9-37
Enforcement Case Coordination	9-38
Modifying and Terminating CMP or Restitution Actions	9-38
Modifying CMP or Restitution Actions	9-38

Terminating CMP or Restitution Actions	9-39
Chapter 10 – Section 39 Actions	
Section 39 Actions	10-1
Grounds	10-1
Corrective Programs	10-2
Other Concerns Not Specifically Addressed	10-2
Section 39 vs. Other Formal Actions	10-3
<u> Chapter 11 – Formal Investigations</u>	
Formal Investigations	11-1
Grounds	11-1
Statutory Authority	11-1
Part 308 of the FDIC Rules of Practice and Procedure	11-1
Rights of Witnesses	11-2
Order of Investigation	11-2
Modification/Termination Orders	11-2
Enforcement of Order of Investigation	11-2