

## II. Compliance Examinations — Overview

---

greatly among institutions, the FDIC expects the Board of Directors and management of each institution to have a system in place to effectively manage its compliance risk, consistent with its size and product mix.

Managing the examination based on risk maximizes examiner efficiency and may reduce the on-site examination presence, while emphasizing areas requiring elevated supervisory attention. By focusing on compliance management systems, examiners will be able to identify the root causes of deficiencies and suggest appropriate corrective actions designed to address the problem.

### Applicability and Adaptability to Large and Small Institutions

In order to provide as much relevant and useful guidance as possible, the procedures detailed in this Handbook include instructions for reviewing various likely elements of a compliance management system (CMS), such as written policies and procedures, monitoring, training, and audit. When these elements are in place at an institution being examined, the examiner will use the guidance to evaluate their effectiveness. However, the fact that certain elements of a CMS are described in these examination procedures is not intended to suggest that all institutions *must* maintain a CMS that includes such elements. Many institutions do not. There is no reason for them to, if their operations do not warrant it. Conclusions about the adequacy of a bank's CMS must be based on the effectiveness of those elements that are in place, taken as a whole, for that bank's particular operations.

For example, assume two institutions – a large, complex bank and a small, non-complex bank – each has a record of strong compliance with all regulations that apply to the products and services it offers. Because of the complex nature of its operations, the large bank's CMS includes comprehensive external audits and formalized training from third-party vendors. The smaller bank's CMS includes no internal or external audits and no formalized training except for the compliance officer, who trains bank staff individually when needed. After reviewing all relevant material available, the examiner finds no significant deficiencies in the small bank's CMS and no reason to believe that the adoption of an audit function or formalized training is necessary to ensure ongoing compliance. The examiner would not criticize the small bank for the absence of audit or training. Nor should the examiner feel obliged to assign a higher rating to the larger bank simply because its CMS has more elements than the smaller bank. This is because each bank has a CMS that is adequate for the compliance responsibilities that are incumbent upon it due to its operating environment.

The descriptions of CMS elements provided in the Handbook will assist the examiner in evaluating the element if one

exists and in suggesting content if he or she determines that management should consider adopting an element.

### Role of the Compliance Examiner

Compliance examiners play a crucial role in the supervisory process. The compliance examination, and follow-up supervisory attention to an institution's compliance program deficiencies and violations, helps to ensure that consumers and businesses obtain the benefits and protections afforded them under federal law. To this end, an examiner's efforts should help the financial institution improve its compliance posture and prevent future violations.

Primarily, examiners must:

- establish an examination scope focused on assessed risk areas;
- evaluate an institution's compliance management system;
- conduct transaction testing where risks intersect with weaknesses in the compliance management system or uncertainties about aspects of that system; and
- report findings to the Board of Directors and management of the institution.

As part of the examination process, examiners are expected to:

- take a reasoned, common sense approach to examining and use sound judgment when making decisions;
- maintain ongoing communication with financial institution management throughout an examination;
- assist an institution to help itself improve performance by providing management with sound recommendations for enhancing its compliance management system;
- share experiences and knowledge of successful compliance management systems; and
- provide guidance regarding the various consumer and fair lending laws and regulations.

### Overview of the Examination Process

Compliance examinations primarily involve three stages: pre-examination planning; review and analysis, both off-site and on-site; and communicating findings to institution management via meetings and a report of examination.

#### Pre-examination Planning

Pre-examination planning involves gathering information available in FDIC records and databases, contacting the financial institution to review and narrow the draft request for information and documents, and delivering a letter to the institution requesting specific information and documents for detailed analysis by the examination team (*see* Section III). Proper examination preparation and planning maximizes an examination team's time and resources.