Consumer Compliance Rating System

Introduction

The FDIC follows the Uniform Interagency Consumer Compliance Rating System (Rating System) approved by the Federal Financial Institutions Examination Council in 1980. The text of the Rating System is contained in this section.

In assigning ratings under this system, it is important to recognize that all the attributes in each rating category will not necessarily apply to each institution. Further, the Rating System does not automatically place an institution in a certain category. The rating categories represent institutional profiles that are used to distinguish between varying levels of supervisory concern. Consistent with the overall examination approach, examiners are expected to use reasoned judgment to reach sensible, supportable conclusions about an institution's performance based on the totality of the examination findings. The examiner should choose the category whose description best reflects the institution's overall compliance position.

The Rating System provides a general framework for evaluating and integrating significant compliance factors in order to assign a consumer compliance rating to each federally regulated commercial bank, savings and loan association, mutual savings bank and credit union. The Rating System does not consider or take into account an institution's record of lending performance under the CRA or its compliance with the applicable provisions of the implementing regulations since institutions are rated separately for CRA purposes.

The purpose of the Rating System is to reflect in a comprehensive and uniform fashion the nature and extent of an institution's compliance with consumer protection and civil rights statutes and regulations. In addition to serving as a useful tool for summarizing the compliance position of individual institutions, the Rating System will also assist the public and the Congress in assessing the aggregate compliance posture of regulated financial institutions.

Overview

Under the uniform Rating System, each financial institution is assigned a consumer compliance rating predicated upon an evaluation of the nature and extent of its present compliance with consumer protection and civil rights statutes and regulations and the adequacy of its operating systems designed to ensure compliance on a continuing basis. The Rating System is based upon a scale of 1 through 5 in increasing order of supervisory concern. Thus, "1" represents the highest rating and consequently the lowest level of supervisory concern; while "5" represents the lowest, most critically deficient level of performance and therefore the highest degree of supervisory concern. Each of the five ratings is described in greater detail below.

In assigning a consumer compliance rating all relevant factors must be evaluated and weighed. In general, these factors include the nature and extent of present compliance with consumer protection and civil rights statutes and regulations, the commitment of management to compliance and its ability and willingness to take the necessary steps to assure compliance, and the adequacy of operating systems, including internal procedures, controls, and audit activities designed to ensure compliance on a routine and consistent basis. The assignment of a compliance rating may incorporate other factors that impact significantly on the overall effectiveness of an institution's compliance efforts.

While each type of financial institution has differences in its general business powers and constraints, all are subject to the same consumer protection and civil rights statutes and regulations covered by the Rating System. Thus, there is no need to evaluate differing types of financial institutions on criteria relating to their particular industry. As a result, the assignment of a uniform consumer compliance rating will help direct uniform and consistent supervisory attention which does not depend solely upon the nature of the institution's charter or business or the identity of its primary Federal regulator. In this manner, overall uniformity and consistency of supervision will be strengthened by the existence of common consumer compliance ratings.

The primary purpose of the uniform Rating System is to help identify those institutions whose compliance with consumer protection and civil rights statutes and regulations display weaknesses requiring special supervisory attention and which are cause for more than a normal degree of supervisory concern. To accomplish this objective, the Rating System identifies an initial category of institutions that have compliance deficiencies that warrant more than normal supervisory concern. These institutions are not deemed to present a significant risk of financial or other harm to consumers, but do require a higher than normal level of supervisory attention. Institutions in this category are generally rated "3." The Rating System also identifies certain institutions whose weaknesses are so severe as to represent, in essence, a substantial or general disregard for the law. These institutions are, depending upon nature and degree of their weaknesses, rated "4" or "5."

The uniform identification of institutions giving cause for more than a normal degree of supervisory concern will help ensure:

- That the degree of supervisory attention and the type of supervisory response are based upon the severity and nature of the institution's problems;
- That supervisory attention and action are, to the extent possible, administered uniformly and consistently;

regardless of the type of institution or the identity of the regulatory agency; and

- That appropriate supervisory action is taken with respect to those institutions whose compliance problems entail the greatest potential for financial or other harm to consumers.

Consumer Compliance Ratings

Consumer Compliance Ratings are defined and distinguished as follows:

One

An institution in this category is in a strong compliance position. Management is capable of and staff is sufficient for effectuating compliance. An effective compliance program, including an efficient system of internal procedures and controls, has been established. Changes in consumer statutes and regulations are promptly reflected in the institution's policies, procedures and compliance training. The institution provides adequate training for its employees. If any violations are noted they relate to relatively minor deficiencies in forms or practices that are easily corrected. There is no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in repeat violations. Violations and deficiencies are promptly corrected by management. As a result, the institution gives no cause for supervisory concern.

Two

An institution in this category is in a generally strong compliance position. Management is capable of administering an effective compliance program. Although a system of internal operating procedures and controls has been established to ensure compliance, violations have nonetheless occurred. These violations, however, involve technical aspects of the law or result from oversight on the part of operating personnel. Modification in the bank's compliance program and/or the establishment of additional review/audit procedures may eliminate many of the violations. Compliance training is satisfactory. There is no evidence of discriminatory acts or practices, reimbursable violations, or practices resulting in repeat violations.

Three

Generally, an institution in this category is in a less than satisfactory compliance position. It is a cause for supervisory concern and requires more than normal supervision to remedy deficiencies. Violations may be numerous. In addition, previously identified practices resulting in violations may remain uncorrected. Overcharges, if present, involve a few consumers and are minimal in amount. There is no evidence of discriminatory acts or practices. Although management may have the ability to effectuate compliance, increased efforts are necessary. The numerous violations discovered are an indication that management has not devoted sufficient time and attention to consumer compliance. Operating procedures and controls have not proven effective and require strengthening. This may be accomplished by, among other things, designating a compliance officer and developing and implementing a comprehensive and effective compliance program. By identifying an institution with marginal compliance early, additional supervisory measures may be employed to eliminate violations and prevent further deterioration in the institution's less-than-satisfactory compliance position.

Four

An institution in this category requires close supervisory attention and monitoring to promptly correct the serious compliance problems disclosed. Numerous violations are present. Overcharges, if any, affect a significant number of consumers and involve a substantial amount of money. Often practices resulting in violations and cited at previous examinations remain uncorrected. Discriminatory acts or practices may be in evidence. Clearly, management has not exerted sufficient effort to ensure compliance. Its attitude may indicate a lack of interest in administering an effective compliance program which may have contributed to the seriousness of the institution's compliance problems. Internal procedures and controls have not proven effective and are seriously deficient. Prompt action on the part of the supervisory agency may enable the institution to correct its deficiencies and improve its compliance position.

Five

An institution in this category is in need of the strongest supervisory attention and monitoring. It is substantially in noncompliance with the consumer statutes and regulations. Management has demonstrated its unwillingness or inability to operate within the scope of consumer statutes and regulations. Previous efforts on the part of the regulatory authority to obtain voluntary compliance have been unproductive. Discrimination, substantial overcharges, or practices resulting in serious repeat violations are present.