

## RETAIL INSURANCE AND SECURITIES SALES ACTIVITIES

### Expanded Analysis Decision Factors

*This section evaluates the significance of deficiencies or other specific concerns identified in the Core and Expanded Analyses. Click on the hyperlinks found within each of the Expanded Analysis Decision Factors to reference the applicable Expanded Analysis Procedures. If needed, proceed to the accompanying [Impact Analysis](#).*

**Do Expanded Analysis and Decision Factors indicate that risks are appropriately identified, measured, monitored, and controlled?**

**E.1. Are management deficiencies immaterial to the supervision of the insurance and security-sales programs and activities? Refer to Expanded Analysis [Procedures #1-32](#).**

**E.2. Are performance deficiencies immaterial to the bank's overall condition? Refer to Expanded Analysis [Procedures #1-32](#).**

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### Expanded Analysis Procedures

*Generally, procedures used in the Expanded Analysis should target concerns identified in the Core Analysis and Decision Factors. The flexible guidelines specified for the Core Analysis also apply to the Expanded Analysis.*

#### Policies, Procedures, and Other Risk Limiting Methods

**1. Investigate why policy or procedure deficiencies identified in the Core Analysis exist. Discuss recommendations for corrective action with management. Possible reasons for policy deficiencies may include:**

- Management overlooked issues;
- Management is unfamiliar with guidelines for retail insurance and security-sales activities, including those that ensure compliance with the GLBA broker exceptions and Regulation R rules applicable for bank networking arrangements with a broker-dealer; or
- Management is unwilling to create or enhance policies and procedures.

**2. Determine whether management commits to and supports proper controls and monitoring to ensure policy guidelines are consistently followed. Determine whether proposed controls, if any, appear reasonable and implementable.**

**3. For insurance programs:**

- Assess the risks to the institution caused by concentrations of sales of insurance products from troubled insurance carriers;
- If a represented insurance company is failing or will be placed in receivership, determine the effect on bank operations; and
- Review contingency plans for handling customer concerns.

**4. For bank proprietary insurance or securities activities, evaluate management's policies, procedures, and ability relative to potential cash injections or liquidity problems.**

#### Internal Controls

**5. When concerns with internal controls are identified in the Core Analysis, evaluate whether the internal control weaknesses may expose the bank to material loss.**

<b>6. Research any material deficiencies in management reports to determine the underlying cause.</b>
<b>7. If a bank or its subsidiary conducts insurance sales activities, evaluate internal controls designed to guard against misappropriation of funds for accounts that are used to hold payouts from insurers and deposits for insureds. Determine whether management established methods for fraud prevention and investigation.</b>
<b>8. Assess the internal controls employed to mitigate risks that accompany outsourcing arrangements, including contingency plans to address nonperformance by an external vendor.</b>
<b>Audit or Independent Review</b>
<b>9. Determine why audit or independent review deficiencies exist.</b>
<b>10. Verify the accuracy of independent-review reports to the board.</b>
<b>Information and Communication Systems</b>
<b>11. Review the deficiencies in information and communication systems and determine the underlying cause(s).</b>
<b>12. Determine whether management monitors insurance policy renewals, lapses, and surrender rates to identify fluctuations in the customer base that could result in loss of business and revenue.</b>
<b>13. Determine the impact weakness may have on the bank's liquidity posture and incorporate the analysis in the examination's liquidity assessments, where appropriate. Consider:</b>
<ul style="list-style-type: none"> <li>• Deposit run-off,</li> <li>• Deposit outflows to insurance or investment products, and</li> <li>• Deposit inflows associated with insurance or security-sales programs.</li> </ul>

<p><b>14. In instances where the institution purchased an insurance agency, determine whether management properly accounts for intangibles (i.e., goodwill and restrictive management covenants).</b></p>
<p><b>15. If the bank owns an insurance agency, determine whether management follows accounting pronouncements that apply to insurance activities (e.g., premium recognition). Refer to the American Institute of Certified Public Accountants (AICPA) Audit Guide for more details.</b></p>
<p><b>Third Party Agreements and Reviews</b></p>
<p><b>16. Assess the magnitude of risk exposure arising from disputes with third parties or customers, such as contract breaches or pending lawsuits.</b></p>
<p><b>17. Determine whether management monitors an insurance agency's conformance with contractual servicing responsibilities.</b></p> <p><i>Note: Servicing responsibilities can range from file maintenance to premium collection and claims adjustment. Problems may indicate potential financial or operational supervisory concerns.</i></p>
<p><b>18. Determine whether management periodically requests confirmation that third-party insurance agencies monitor represented insurers with respect to reinsurance agreements, if applicable.</b></p>
<p><b>Board and Senior Management Oversight</b></p>
<p><b>19. Determine the cause of any violations of Regulation R and identify the responsible party or parties. Consider the following:</b></p> <ul style="list-style-type: none"> <li>• Lack of familiarity with laws, regulations, or policy statements;</li> <li>• Negligence;</li> <li>• Misinterpretation;</li> <li>• Willful disregard and noncompliance; and</li> <li>• Fraudulent activity.</li> </ul>
<p><b>20. Determine whether any side letters to governing contracts exist.</b></p>

<b>Compliance with Insurance and NDIP Consumer Protections (Non-FDIC Only)</b>
<i>Note: FDIC: Defer to DCP for all compliance reviews.</i>
21. Review the bank's sales records to verify that only qualified and licensed or registered personnel are recommending and selling insurance or securities products.
22. Review the personnel files that management should maintain for bank or dual employee insurance or security-sales representatives for background and regulatory histories.
23. Visit additional insurance or NDIP sales locations, and evaluate promotional materials and sample customer information.
24. Interview sales representatives and assess their knowledge of, and commitment to, providing adequate disclosures for insurance and NDIP sales programs. Consider required disclosures regarding: <ul style="list-style-type: none"> <li>• The uninsured nature of any insurance, annuity, or securities product offered for sale (i.e., the product is not insured by the FDIC or any other U.S. government agency or by the bank or, if applicable, by an affiliate);</li> <li>• The statement that an insurance, annuity, or securities product is not a deposit, other obligation of, or guaranteed by the bank or an affiliate;</li> <li>• The investment risk associated with any such product (in the case of an insurance, annuity, or securities product that involves investment risk);</li> <li>• Notice that the bank or a subsidiary may not condition an extension of credit on the consumer's purchase of an insurance, annuity, or securities product from the bank or any of its affiliates, and that the consumer is free to purchase insurance products or annuities from another source; and</li> <li>• In the case of NDIPs, other required disclosures, such as proprietary product risks, fees, commissions, and arrangements with affiliated investment advisors, as applicable.</li> </ul>
25. Assess the risk arising from customer confusion caused by inadequate observance of any consumer protection measures for insurance sales.
26. Review the sales operation for potential discriminatory, unsuitable, or deceptive sales practices. Analyze sales reports and promotional materials to determine whether the following situations exist: <ul style="list-style-type: none"> <li>• Questionable sales practices, such as churning; or</li> <li>• Unsuitable recommendations (for example, high volumes of volatile instruments or dramatic increases in the sale of a particular product may indicate suitability concerns).</li> </ul>

<b>27. Review a sample of advertisements (including Internet related ads and telemarketing sales scripts) used in the sales program to market insurance products or NDIPs. Determine whether the promotions are misleading or confusing.</b>
<b>28. Determine whether referral incentives and other compensation packages are reasonable. Incentives and other packages should not be structured to promote or cause inappropriate insurance or NDIP sales practices.</b>
<b>29. Interview branch employees, including tellers and receptionists, to determine whether proper insurance and NDIP referral procedures are followed.</b>
<b>30. Review a sample of customer files to verify that the files contain the following items:</b> <ul style="list-style-type: none"> <li>• Signed disclosure acknowledgement statements.</li> <li>• For NDIP sales programs: <ul style="list-style-type: none"> <li>○ Evidence of a registered representative's review of customer information for adequacy before offering investment recommendations,</li> <li>○ Current customer data,</li> <li>○ Evidence that registered representatives provide complete information to customers regarding risks, and</li> <li>○ Recommendations that conform to customers' goals.</li> </ul> </li> </ul>
<b>31. In banks with multiple retail insurance and security-sales sites, evaluate a small sample of the sales locations to determine whether the bank conducts sales transactions in an area that is physically segregated, to the extent practicable, from areas where retail deposits are routinely accepted from the public.</b>
<b>32. Determine whether the independent review function:</b> <b>Tracks customer complaints relative to insurance or NDIP sales activities,</b> <ul style="list-style-type: none"> <li>• Identifies documentation deficiencies, and</li> <li>• Reports findings to the bank's board.</li> </ul>
<b>End of Expanded Analysis. If needed, Continue to <a href="#">Impact Analysis</a>.</b>

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### Impact Analysis Procedures

*Impact Analysis reviews the impact that deficiencies identified in the Core and Expanded Analysis and Decision Factors have on the bank's overall condition, and directs the examiner to consider possible supervisory options.*

#### Impact Analysis Procedures

1. Assess the impact of the retail insurance and security-sales activities on the overall condition and risk profile of the bank. Consider the following issues:
  - Settled, pending, and planned litigation against the bank.
  - Regulatory investigations and sanctions.
2. Determine the effect that financial, operational, and legal risk exposures resulting from insurance and security-sales programs have on the institution's safety and soundness.
3. Evaluate the effects that current or planned insurance and securities activities could have on capital, earnings, liquidity, and asset quality.
4. Gauge management's willingness and abilities to correct identified weaknesses and concerns.
5. Determine whether informal or formal administrative actions are warranted. Formulate recommendations, review implementation plans, and advise the appropriate supervisors of the nature of the regulatory concerns.
6. Consult with the functional regulator(s) of the insurance or securities unit regarding any significant.

**End of Impact Analysis.**