
Enforcement Actions Program

Examination Objectives

To determine if the institution and individuals are in compliance with the requirements of outstanding agreements or orders.

To determine if new or additional enforcement actions need to be taken to correct deficiencies.

Examination Procedures

Level I

Wkp. Ref.

1. Review any written enforcement action that is in effect between the institution and the OTS, FDIC, or state supervisory authorities, if applicable.

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2. Identify what the institution or individual is required to do or is prohibited from doing by the enforcement action.

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3. Evaluate any self-policing system established. That is, assess how the system has been communicated to the officers and employees and determine whether the appropriate employees are aware of any corrective action needed.

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4. Review the appropriate areas of concern to determine whether or not the institution or individual is in compliance with the provisions of the enforcement action. Work papers should fully support all conclusions.

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5. If compliance is determined, summarize the findings, including comments for the report of examination (ROE) as necessary.
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6. If noncompliance is found, proceed to Level II procedures.

7. Discuss overall examination findings with the EIC.

- If a composite rating of 3, 4, or 5 is anticipated, determine what enforcement action(s), if any, is(are) necessary.
 - If a composite rating of 3 is anticipated, determine if there are any mitigating factors to warrant only informal enforcement action(s).
 - Document your decision and proceed to Level II procedures.
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Level II

8. Determine if there is another regulatory agency that is the primary regulator of the entity from whom you must obtain information. If so, work with your region's functional regulation contact to coordinate your information requests and any examination of a functionally-regulated entity.

9. If documents required by the enforcement action (e.g., appraisal, financial statements) cannot be located, request them in writing from management. If you fail to receive the requested material, request a written response. If management will only respond orally, assure that two examiners are present and immediately write a summary of the response signed by both examiners.

10. Gather documents or materials that support the noncompliance (poor appraisals, modified notes, loan register, loans in process ledger, etc.). Separate and identify all appropriate work papers, ensuring they are factual, complete, and do not contain expressions of examiner opinion.

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11. Assess whether noncompliance is due to the association's administrative oversight, lack of knowledge, or willful disregard. State facts, be objective, and avoid speculation.

12. Formulate recommendations for any necessary supervisory action; e.g., if a previous supervisory agreement is violated, a C&D or assessment of a civil money penalty may be appropriate.

13. The EIC must notify the regional office's legal staff by telephone and report the findings, recommending any further enforcement action.

14. Per discussion with EIC or regional office staff, write an interim report detailing your findings.

15. Prepare all comments and conclusions for the ROE as necessary.

Examiner's Summary, Recommendations, and Comments

Exam Date: _____
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Reviewed By: _____
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