

# Enforcement Actions

## Program

# RESCINDED

### EXAMINATION OBJECTIVES

This document and any attachments are superseded by OCC 2011-37.

To determine if the association 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 the Matters Requiring Board Attention and Corrective Actions from the three or four previous ROEs to ensure that the board and management have taken appropriate corrective action where necessary and persistent problems have not recurred.

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

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3. Review the ECEF "Actions History" report on the Intranet for any open enforcement actions associated with the association.

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

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5. Evaluate how the association monitors compliance with enforcement actions. Assess how the association communicates with officers and employees and determine whether the appropriate employees are aware of any corrective action needed.  

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

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  7. If compliance is determined, summarize the findings, including comments for the report of examination (ROE) as necessary.  

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  8. If noncompliance is found, proceed to Level II procedures.  

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  9. Discuss overall examination findings with the examiner-in-charge (EIC).
    - If a composite rating of 3, 4, or 5 is anticipated, determine what enforcement action(s), if any, is(are) necessary.
    - Document your decision and proceed to Level II procedures.

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Level II

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10. 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 regional office staff to coordinate your information requests and any examination of a functionally regulated entity.  

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  11. If documents required by the enforcement action, such as an appraisal or 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.  

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  12. Gather documents or materials that support the noncompliance such as 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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  13. Assess whether noncompliance is due to the association's administrative oversight, lack of knowledge, or willful disregard. State facts, be objective, and avoid speculation.  

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  14. Formulate recommendations for any necessary supervisory action. State the facts such as whether a previous supervisory agreement is violated and recommend an appropriate enforcement action such as a cease & desist (C&D) or assessment of a civil money penalties (CMP).  

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

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

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

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## **EXAMINER'S SUMMARY, RECOMMENDATIONS, AND COMMENTS**

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