



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D.C. 20551

DIVISION OF CONSUMER
AND COMMUNITY AFFAIRS

CA 09-8

September 14, 2009

TO THE OFFICERS IN CHARGE OF SUPERVISION AND OFFICERS AND MANAGERS IN CHARGE OF CONSUMER AFFAIRS SECTIONS AT EACH FEDERAL RESERVE BANK

SUBJECT: Consumer Compliance Supervision Policy for Nonbank Subsidiaries of Bank Holding Companies and Foreign Banking Organizations

This letter establishes, effective immediately, a policy for conducting risk-focused consumer compliance supervision of, and the investigation of consumer complaints against, nonbank subsidiaries of bank holding companies (BHCs) and foreign banking organizations (FBOs) with activities covered by the consumer protection laws and regulations the Federal Reserve has the authority to enforce¹. This policy is designed to enhance our understanding of the consumer compliance risk profile of nonbank subsidiaries and to guide our supervisory activities for these entities. It leverages existing consumer compliance supervision policies and procedures as well as the existing prudential supervision processes for Large Complex Banking Organizations (LCBOs), FBOs, Regional Banking Organizations (RBOs), and Community Banking Organizations (CBOs)².

Updated or initial institutional profiles and consumer compliance risk assessments for nonbank subsidiaries of LCBOs should be completed by the end of the fourth quarter of 2009 and supervisory plans for 2010 for these entities should be completed by the end of the first quarter of 2010. Updated or initial institutional profiles and consumer compliance risk assessments for nonbank subsidiaries of RBOs, CBOs, and non-LCBO FBOs should be completed by the end of the first quarter of 2010 and necessary consumer compliance supervisory work should be identified and scheduled by the end of the second quarter of 2010. It may be possible to develop an initial institutional profile and consumer compliance risk assessment for some of these nonbank subsidiaries through activities conducted off-site; however, onsite discovery reviews may be needed in some cases to inform the development of the institutional profiles and consumer compliance risk assessments.

Risk assessments and supervisory plans will be developed by consumer compliance examiners who have the appropriate experience, training and expertise to do so. Likewise, consumer compliance supervision of and the investigation of consumer complaints against nonbank subsidiaries will be planned and executed by consumer compliance examiners with the expertise to perform such supervision. Board staff will work closely with the appropriate Management Groups to ensure that the consumer compliance supervision practices are appropriately incorporated into the established supervision processes for LCBOs, FBOs, RBOs and CBOs.

Supervisory activities will be planned based on the issues identified in the risk assessments and through the investigation of consumer complaints. The activities will be risk-focused and will include continuous monitoring, discovery reviews, target or full-scope examinations with transaction testing, as appropriate, and the investigation of consumer complaints. The guidance contained in existing supervision policies and procedures will be used as a framework to carry out the supervision of nonbank subsidiaries during 2009 and 2010. As the program is implemented, the effectiveness of this framework will be assessed and adjusted, and additional guidance will be issued, as necessary.

Consumer compliance target and full-scope examinations of nonbank subsidiaries will result in ratings based on the Consumer Compliance Risk Management rating system (Strong, Satisfactory, Fair, Marginal, or Unsatisfactory) that is included in the draft Risk-Focused Consumer Compliance Supervision Program. The results of the target and full-scope examinations will be transmitted in writing to senior management of the nonbank subsidiary and the bank holding company or the senior oversight function for any FBO's U.S. operations. The written document will highlight any significant examination findings and recommendations for corrective action. Additionally, the results of any consumer compliance examinations conducted will be rolled up each calendar year and an overall Consumer Compliance Risk Management rating will be assigned for each nonbank subsidiary. The Consumer Compliance Risk Management rating system was designed to align with the rating system used by safety and soundness examiners, and provides a solid foundation to ensure that the consumer compliance findings are appropriately considered when the Bank Holding Company rating or the U.S. Combined Assessment is assigned. As such, it is critically important that the Central Points of Contact (CPCs) and any other similarly designated responsible individuals be as informed about consumer compliance risk as they are about credit, market/liquidity and operational risks.

For 2009 and 2010 Reserve Banks should rely on existing staff to implement the consumer compliance supervision program for nonbank subsidiaries, and use the established process for sharing resources across districts as much as possible to address resource needs. Consumer compliance supervision of state member banks remains a high priority. If necessary, and for the near term, we will consider well-supported requests to delay mandated state member bank examinations in order to staff examinations of nonbank subsidiaries.

We expect that the number and skill set of staff that will be required to maintain this ongoing program will become clearer as we gain knowledge about the business models and the control structures in place at each nonbank subsidiary. As such, we will provide additional guidance for the 2011 budget process related to the permanent staffing additions that will be necessary to sustain effective consumer compliance supervision of nonbank subsidiaries of BHCs and FBOs, including the investigation of consumer complaints.

If you have any questions, please contact Phyllis Harwell, Manager, at (202) 452-3658 or Suzanne Killian, Assistant Director, at (202) 452-2090.

Sincerely,
(signed)

Sandra F. Braunstein
Director
Division of Consumer and Community Affairs

Notes:

- ¹. The Board has the legal authority to examine non-depository subsidiaries for compliance with the following laws: 1) the Truth in Lending Act; 2) the Equal Credit Opportunity Act; 3) the Home Ownership and Equity Protection Act; 4) the Fair Credit Billing Act; 5) the Consumer Leasing Act ; 6) the Fair Credit Reporting Act; 7) the Fair Debt Collection Practices Act; 8) the Home Mortgage Disclosure Act; 9) the Truth in Savings Act ; 10) any rules promulgated pursuant to the Federal Trade Commission Act (UDAP); and 11) the Real Estate Settlement Procedures Act. [Return to text](#)
- ². References to LCBO include companies in the Large Financial Institution (LFI) and Large Banking Organization (LBO) portfolios. [Return to text](#)

Supersedes: CA Letter 98-1

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