

State Community Reinvestment Laws; Consumer Complaints: Input From State Officials and Consumer Complaint Referrals From States

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To

Chief Executive Officers of All National Banks, Federal Savings Associations, and Federal Branches and Agencies; Department and Division Heads; All Examining Personnel; State Banking Officials and Other Interested Parties

Summary

This bulletin addresses the Office of the Comptroller of the Currency's (OCC) processes for considering input from state banking commissioners regarding national banks' performance under state community reinvestment laws, including implementation of community reinvestment-related provisions of the Riegle–Neal Interstate Banking and Branching Efficiency Act (Riegle–Neal Act). (Note that the Riegle–Neal Act does not apply to federal savings associations.)

This bulletin also addresses expectations regarding the handling of consumer complaints that state officials refer to national banks and federal savings associations (collectively, banks) and state referrals of complaints to the OCC.¹

Rescissions

This bulletin rescinds

- OCC Advisory Letter 99-1, “State CRA Laws,” dated January 26, 1999 (applicable to national banks).
- OCC Advisory Letter 2004-2, “Consumer Complaints Referred to National Banks by State Officials,” dated February 26, 2004 (applicable to national banks).

Note for Community Banks

This bulletin applies to all community banks subject to evaluation under the Community Reinvestment Act (CRA). The sections of this bulletin that address state referrals of complaints apply to all OCC-supervised community banks regardless of whether they are subject to the CRA.

Highlights

This bulletin

- outlines OCC policy and procedures for considering state input on CRA performance of OCC-supervised banks.
- includes an email address for state banking commissioners to submit input regarding a national bank's record of performance under applicable state community reinvestment laws.
- provides general guidance for banks on handling consumer complaints that state officials refer to banks and addresses state referrals of complaints to the OCC.
- provides updated mailing addresses for the OCC's Customer Assistance Group and the OCC's Chief Counsel's Office.

Riegle–Neal Act Background

The Riegle–Neal Act provides that branches of interstate national banks located in states other than the national banks' home states are required to comply with the community reinvestment laws of the host states.² The Riegle–Neal Act also provides that these laws do not apply when federal law preempts their application to a national bank.³ The OCC considers the CRA record of performance of the subject bank in a merger transaction, its resulting national bank affiliates, and the subject bank's record of compliance with applicable state community reinvestment laws when required by applicable law.⁴

Policy and Procedures

OCC Consideration of State Input on National Banks' CRA Performance

Several states and the District of Columbia have adopted community reinvestment laws with purposes similar to the CRA. When evaluating national bank CRA performance, the OCC considers input from state banking commissioners regarding national banks' records of performance under applicable state community reinvestment laws. State banking commissioners have access to the quarterly schedule of upcoming CRA evaluations for national banks.⁵ These schedules are available on the OCC's public website.⁶ State banking commissioners who wish to provide input regarding a national bank's record of performance under applicable state community reinvestment laws should refer that information to the OCC's Compliance Risk Policy Division at CRAComments@occ.treas.gov.

The Compliance Risk Policy Division gathers the input from state banking commissioners and distributes the input to the appropriate OCC supervisory office. Examiners consider this input and other performance-related information, including information gathered from community contacts, when evaluating national banks' CRA performance.

State Referrals of Complaints to Banks, Regardless of Topic

The OCC expects that banks (including federal savings associations) will seek to resolve consumer complaints from all sources fairly and expeditiously.

When banks receive consumer complaints from state or local officials, banks in most cases should address the complaints directly with consumers. Banks should expeditiously resolve consumer complaints by contacting the consumers, as appropriate. The OCC reminds banks that the OCC's exclusive visitorial authority is not a basis for declining to address consumer complaints referred by state or local officials.

There is no requirement for banks to notify the OCC about routine consumer complaints referred by state or local officials. Banks could, however, notify the OCC in the following instances:

- When state officials' contact with the banks about consumer complaints appears to constitute an exercise of visitorial authority over the banks.⁷
- When state-referred complaints pertain to applicability of a state law or issues of preemption.

For contact information, refer to the "Addresses for Complaint Referrals" section of this bulletin.

Sometimes, state officials who refer routine consumer complaints directly to banks also ask the banks to explain how the banks resolved the complaints. The OCC encourages banks to explain to state officials how complaints were resolved but without compromising consumers' privacy interests or other confidential information.

State Referrals of Certain Complaints to the OCC

The OCC encourages state officials to bring to the agency's attention complaints alleging that banks are engaging in acts or practices that are illegal, predatory, unfair, or deceptive or are violating federal fair lending laws. Referring complaints to the OCC enables the agency to take appropriate action.

- If a complaint involves an individual customer grievance, state officials are requested to refer these types of complaints to the OCC's Customer Assistance Group.⁸
- For complaints that raise broader issues, the OCC encourages state officials to refer this information to the OCC's Chief Counsel's Office. Broader issues include
 - applicability of a particular state law to banks or issues of preemption.
 - information suggesting that a bank may be engaging in an act or practice that is predatory, unfair, or deceptive or may be engaging in activities affecting multiple consumers that violate federal fair lending laws.

The next section of this bulletin explains how to send consumer complaint referrals to the OCC.

Addresses for Consumer Complaint Referrals

The OCC has procedures to handle referrals of consumer complaints from state officials.

Send referrals of individual consumer complaints to the OCC's Customer Assistance Group by approved electronic method, postal mail, or fax to

Office of the Comptroller of the Currency
Customer Assistance Group
P.O. Box 53570
Houston, TX 77052
(800) 613-6743
(713) 336-4301 (fax)

Send referrals of broader issues to the OCC's Chief Counsel's Office at

Office of the Comptroller of the Currency
Chief Counsel's Office
400 7th St. SW
Washington, DC 20219
(202) 649-5490

Consumer Complaints and Compliance Management Programs

Regardless of the source of consumer complaints, banks are expected to have a complaint resolution process that tracks complaints and their sources, provides information to bank management, and is appropriate to the bank's size and the nature of the bank's business. The complaint resolution process is subject to OCC review as part of the agency's supervision of a bank's compliance management program.⁹

Further Information

Please contact K. Michelle Parham, Director for Consumer Complaint Operations, at (713) 336-4350, or Vonda Eanes, Director for Community Reinvestment Act and Fair Lending Policy, at (202) 649-5470.

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¹ "Banks" refers collectively to national banks, federal savings associations, covered savings associations, and federal branches and agencies of foreign banking organizations. When it is necessary to distinguish between them, national banks and federal savings associations are referred to separately.

² The terms "host states" and "home states" include the District of Columbia. A "host state" is any "state, other than the home state of the bank, in which the bank maintains, or seeks to establish and maintain, a branch." Refer to 12 USC 1831u(g)(5). For national banks, the "home state" is the state where the bank's main office is located.

³ Refer to 12 USC 36(f)(1)(A)(i). National banks may also be subject to community reinvestment laws in their home states, except to the extent such laws are preempted. The OCC's regulations provide examples of the types of state laws that are and generally are not preempted. For example, refer to 12 CFR 7, subpart D.

⁴ For example, refer to 12 USC 1831u(b)(3) and 12 USC 1842.

⁵ Refer to 12 CFR 25.29.

⁶ Visit the OCC's [Community Reinvestment Act \(CRA\) Evaluations Coming Due page on occ.gov](#).

⁷ For more information about what actions constitute visitorial powers, refer to 12 CFR 7.4000.

⁸ The OCC has memorandums of understanding with most states and Puerto Rico regarding the referral of complaints to the OCC.

⁹ All banks, regardless of size, should have a compliance program that monitors and analyzes consumer complaints and requires appropriate action be taken to address deficiencies. For more information, refer to the "Compliance Management Systems" booklet of the *Comptroller's Handbook*.