

**OCC BULLETIN**

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Comptroller of the Currency  
Administrator of National Banks

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Subject: Bank Supervision Operations

Description: Enforcement Action Policy

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**TO:** Chief Executive Officers of All National Banks, Federal Branches and Agencies,  
Department and Division Heads, and All Examining Personnel

This bulletin transmits Appendix C, dated November 10, 2004, as Supplement 1 to the OCC's Enforcement Action Policy contained in PPM 5310-3 (REV), dated July 30, 2001, and publicly released in OCC Bulletin 2002-38. This appendix identifies those violations or other supervisory findings that, as a result of a statutory or other legal requirement, require the OCC to take a specific action.

The Enforcement Action Policy describes the OCC's policy for taking appropriate enforcement action in response to violations of laws, rules, regulations, final agency orders and/or unsafe and unsound practices or conditions. While a presumption exists for certain types of enforcement actions to be taken by the OCC depending on the nature and history of the OCC's supervisory findings and identified violations of law, the Enforcement Action Policy does provide for some discretion. Appendix C is being issued to identify those areas in which such discretion has been superseded by a specific statutory or other legal requirement. The OCC's Enforcement Action Policy and this Appendix C are applicable to all types of national banks, as well as federal branches and agencies of foreign banks.

These policies and procedures provide only internal OCC guidance. They are not intended to and do not create rights, substantive or procedural. They are not enforceable at law or in any administrative proceeding.

For further information, contact Ronald G. Schneck, director for Special Supervision at (202) 874-4450.

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John W. Quill  
Deputy Comptroller for Special Supervision

Attachment: Supplement 1 of PPM 5310-3 (REV): *Appendix C*  
[<http://www.occ.treas.gov/ftp/bulletin/2004-51a.pdf>]

## Specific Actions Required by Statute or Other Legal Source

### *Monetary Transaction Record Keeping and Reporting*

Whenever a bank fails to establish and maintain a Bank Secrecy Act (BSA) compliance program, as required by 12 CFR 21.21, or fails to correct any problem with its BSA compliance program that was previously cited in a report of examination (ROE) or other supervisory correspondence, the OCC must issue an order to cease and desist requiring the bank to correct the violation or program deficiencies (12 USC 1818(s)(3)). Also, the OCC will report such actions to the Financial Crimes Enforcement Network (FinCEN).

(For further information, refer to bulletin OCC 2004-50, "Enforcement Guidance for BSA/Anti-Money Laundering (AML) Program Deficiencies," dated November 10, 2004.)

### *Equal Credit Opportunity Act (ECOA)*

If the OCC has reason to believe that a creditor has engaged in a pattern or practice of discouraging or denying applications for credit in violation of ECOA, the OCC must refer the matter to the Attorney General (Department of Justice (DOJ)) (15 USC 1691e(g)).

If the OCC has reason to believe (does not require a pattern or practice determination) that an ECOA violation has occurred that also would be a violation of the Fair Housing Act (FH Act) (42 USC 3601 *et seq.*) and does not refer the matter to the Attorney General, the OCC must:

- Notify the Secretary of Housing and Urban Development (HUD) of the violation, and
- Notify the applicant that the Secretary has been notified of the alleged violation and that remedies for the violation may be available under the FH Act (15 USC 1691e(k)).

### *Fair Housing Act (FH Act)*

If the OCC has information "suggesting a violation" of the FH Act, the OCC must:

- Notify HUD, and
- Forward the information to DOJ if it indicates a possible pattern or practice of discrimination (Executive Order No. 12892).

### *Flood Insurance Requirements*

If the OCC finds that a lender has engaged in a pattern or practice of violations of certain requirements under the Flood Disaster Protection Act (FDPA), the OCC must assess civil money penalties against the lender in an amount not to exceed \$350 per violation and \$115,000 per calendar year (42 USC 4012a(f)).