

Regulatory Bulletin 1.1-101 Examination Policy

10/7/22

REFERENCED SOURCES: [G.L. c. 93, ss. 24-28](#)
[G.L. c. 93L](#)
[209 CMR 18.00](#)
[G.L. c. 140, ss. 96-114A](#)
[G.L. c. 167, s. 2](#)
[G.L. c. 167, s. 2I](#)
[G.L. c. 167, s. 14](#)
[209 CMR 46.00](#)
[G.L. c. 167F, s. 4](#)
[G.L. c. 169](#)
[G.L. c. 169A](#)
[209 CMR 45.00](#)
[G.L. c. 255B](#)
[G.L. c. 255C](#)
[G.L. c. 255D](#)
[209 CMR 20.00](#)
[G.L. c. 255E](#)
[209 CMR 42.00](#)
[209 CMR 54.00](#)
[G.L. c. 255F](#)
[209 CMR 41.00](#)

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1.0 Applicability and Scope

This bulletin applies to all banks, credit unions, licensees, and registrants and affirms the examination policies of each of the Division of Banks' (Division) examination units. Examinations are performed on both an on-site and off-site basis.

The Depository Institution Supervision (DIS) Section, which examines banks and credit unions, conducts risk management examinations. DIS also conducts separate examinations of all banks and credit unions to evaluate their performance under the provisions of the Massachusetts Community Reinvestment Act (CRA) and for compliance with applicable consumer protection laws and regulations.

The Non-Depository Institution Supervision (NDIS) Section conducts examinations of licensees and registrants to ensure compliance with all applicable statutes and regulations as well as to ensure financial responsibility through a modified risk management review.

Additionally, the NDIS Section evaluates certain mortgage lenders' compliance with fair lending laws and their record of helping to meet the mortgage credit needs of communities in the Commonwealth, including low- and moderate-income neighborhoods and individuals (CRA for mortgage lenders). This includes mortgage lenders that have made 50 or more home mortgage loans in Massachusetts in the last calendar year reportable under the Home Mortgage Disclosure Act.

2.1 Examination Scheduling

The Division will generally provide banks, credit unions, licensees, and registrants with reasonable advanced notice of examinations. Credit unions under \$5 million in total assets and that did not have an independent CPA audit at least once in the prior 3-year period, as well as certain licensees, are exceptions to this policy. The Division reserves the right to examine any institution or entity under its jurisdiction without notice. Examinations may be scheduled jointly with other regulatory agencies as applicable.

The Division publishes a list of banks and credit unions scheduled for CRA examination at least 30 days in advance of the calendar quarter in which the examination is scheduled pursuant to 209 Code of Massachusetts Regulations (CMR) 46.45. The agency follows the same procedure for

mortgage lender licensees scheduled for a CRA for mortgage lenders examination pursuant to 209 CMR 54.45.

Prior to the start of an examination, senior management of the entity may be contacted by the Division and advised of the specific start date of the examination. At that time, a pre-examination package containing questionnaires and/or requests for information will be delivered to senior management of the entity. In order to expedite the examination, it is important that all requested material be prepared prior to the arrival of examiners.

2.2 Examination

An examiner is placed in charge of each examination (Examiner-in-Charge) under the supervision of a field manager. Field managers are available to the examined entity to resolve any problems which may arise during the examination and act as liaison between the field examination staff and the Division's senior management.

2.3 Assignment of Examination Ratings

The Division utilizes the uniform examination ratings systems used by the Federal Financial Institutions Examination Council (FFIEC) as an integral part of its examination and supervisory processes. The primary value of using uniform rating systems is the consistency they provide nationally across state and federal regulators. Further information regarding examination ratings can be found at <https://www.ffiec.gov/>.

For risk management examinations of banks and credit unions, the Division utilizes the CAMELS rating system comprised of Capital Adequacy, Asset Quality, Management, Earnings Performance, Liquidity, and Sensitivity to Market Risk. Each component is assessed individually and then factored into a numerical composite rating. Each institution's information technology and cybersecurity environment, Bank Secrecy Act compliance, and, if applicable, fiduciary services are also assessed at each examination.

For consumer protection compliance examinations of a bank, credit union, or licensee, the Division utilizes the Compliance Management System (CMS) rating methodology comprised of two interdependent elements - Board and Management Oversight and the Compliance Program – each of which is evaluated and factored into the overall consumer protection compliance rating in conjunction with an evaluation of an entity's adherence to consumer protection laws and regulations. The NDIS Section also factors into the consumer protection compliance rating an entity's adherence to consumer protection laws and regulations, financial condition, and its compliance with licensing standards.

For CRA examinations of depository institutions, the Division assigns banks and credit unions one of the following five descriptive ratings pursuant to Massachusetts General Laws (G.L.) c. 167, s. 14, and 209 CMR 46.28 and 46.61: Outstanding, High Satisfactory, Satisfactory, Needs to

Improve, and Substantial Noncompliance. The rating reflects the bank's or credit union's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods and individuals consistent with safe and sound operations. The Division utilizes the same rating methodology for CRA for mortgage lenders examinations pursuant to G.L. c. 255E, s. 8 and 209 CMR 54.61.

The Division's policy is for its field staff to assign and disclose preliminary component and composite ratings, as applicable, to the entity at the conclusion of the examination, as well as any recommended formal or informal regulatory or enforcement actions. It is important to note, however, that all ratings are subject to further review and possible revision by Division senior management.

2.4 Examination Exit Meeting

An exit meeting shall be held at the conclusion of each examination. This will be scheduled between the Examiner-in-Charge and management of the examined entity at a mutually acceptable time. The purpose of this meeting is to discuss the preliminary findings of the examination.

The Division will be represented by the Examiner-in-Charge and generally a member of the Division's management staff, as well as other examiners as warranted. The entity may be represented by its senior staff and members of its governing board. This meeting may be conducted in person or by means of telephone or video conferencing. The recording of examination exit meetings by any means by banks, credit unions, licensees, and registrants is strictly prohibited.

Examiners may provide a meeting agenda, preliminary examination ratings, and portions of their draft Examination Report at exit meetings. This may include confidential supervisory information utilized to arrive at these ratings. Institutions should be aware that these ratings are preliminary and subject to Division management review. Confidentiality under G.L. c. 167 s. 2 also applies to any examination preliminary rating materials provided to the institution and cannot be disclosed to third parties without the permission of the Division.

2.5 Board Meeting

Division staff will hold a formal meeting with the board and/or senior officers of the examined entity as warranted or upon request by the entity. However, such a formal meeting is required with entities assigned composite ratings of 3, 4, or 5, or performance ratings of "Needs to Improve" or "Substantial Noncompliance" for CRA or CRA for mortgage lenders. The Division will be represented at a minimum by the Examiner-in-Charge and a member of management. This meeting will normally be scheduled after completion of the examination and after the Division's senior management has reviewed and concurred with the findings of the report. However, it may be held before the final report of examination has been issued by the Division. The meeting will

normally be timed to coincide with a scheduled board meeting and the institution's full board would be expected to attend. The recording of examination board meetings by any means by banks, credit unions, licensees, and registrants is strictly prohibited.

Other state and federal regulators will usually be invited to attend, as applicable, and similarly, the Division may attend any meetings called by those regulators. The Division may also invite the excess share/deposit insurer to attend, if applicable.

2.6 Issuance of Report of Examination

The Division's goal is to issue all reports of examination to non-problem examined entities within 30 days following the completion of the examination, and to problem entities within 60 days. Problem entities are considered those that have composite examination ratings of 3, 4, or 5, those that are or will be under any informal or formal regulatory or enforcement action, those that are rated "Needs to Improve" or "Substantial Noncompliance" for CRA or CRA for mortgage lenders, or those that warrant higher levels of supervisory attention. However, complex issues may require more time and resources, thus increasing the review and editing time of some reports of examination and delaying their issuance. All reports of examination and related materials are highly confidential pursuant to Massachusetts General Laws and cannot be shared without the written permission of the Commissioner.

3.0 Regulatory & Enforcement Actions

The severity of examination findings may warrant the use of a regulatory or enforcement action to ensure that regulatory concerns are promptly and fully addressed by the institution. Such actions are either informal or formal based on the level of concern. Each situation is addressed individually at the Commissioner's discretion. Generally, a composite rating of 3, 4, or 5 warrants the issuance of a regulatory or enforcement action, as does a CRA or CRA for mortgage lenders rating of "Needs to Improve" or "Substantial Noncompliance." In certain cases, entities accorded a composite rating of 2 may also exhibit concerns that warrant an informal regulatory action. An unwillingness or inability to correct weaknesses may result in the issuance of a more severe enforcement action. The Commissioner may elect to make such actions public when deemed appropriate. Any regulatory or enforcement actions resulting from an examination conducted jointly with the Division and other state or federal regulators are usually issued jointly by all agencies involved.

4.0 Truth-in-Lending Reimbursement Guidelines

The Division is authorized under G.L. c. 140D, s.6 to require institutions to make "adjustments" (monetary reimbursement) to the accounts of consumers for understatements of annual percentage

rates (APR) or finance charges. Pursuant to this authority, the Division defers to federal guidelines governing restitution for Truth-in-Lending (TIL) violations of APR and/or finance charges.

5.0 Technology Service Providers

To further expedite the examination process, the Division must be informed in advance of any planned conversion of a depository institution's information technology (IT) systems. Accordingly, 30 days prior to any conversion, a depository institution must submit, in writing, information relative to the action, including the names of the proposed technology service provider(s) and the projected date of conversion. All technology-related vendor contracts must clearly stipulate that the vendor providing the services to the institution is subject to the Division's examination and regulatory authority.

6.0 Historical Notes

This bulletin was originally issued on December 30, 1994 as Administrative Bulletin 5-2 and was applicable only to safety and soundness (Risk Management) examinations of banks and credit unions. It was updated in 1998 to expand its scope and apply additionally to CRA examinations and consumer protection compliance examinations of banks, credit unions, and licensees. Additionally in 1998, former Administrative Bulletin 5-3, entitled Availability of Examination Reports for Individual Study by Directors and Trustees of State-Chartered Financial Institutions, had been consolidated into this bulletin. The bulletin was revised on July 31, 2015 to reflect updates to the Division's examination policies and to significantly streamline its contents. The procedural aspects of the previous version were eliminated in order to focus this bulletin on the agency's examination policies. It was also updated to include CRA for mortgage lender examinations. In addition, sections relative to the confidentiality of examination reports and related materials as well as the examination appeal process were moved to separate Bulletins. Effective October 7, 2022, the bulletin was updated to formalize the Division's position that the recording of examination exit and board meetings by any means by banks, credit unions, licensees, and registrants is strictly prohibited.

7.0 Authority

G.L. c. 93, ss. 24-28 and 209 CMR 18.00; G.L. c. 93L; G.L. c. 167, s. 2; G.L. c. 140, ss. 96-114A; G.L. c. 167, 2I; G.L. c. 167, s. 14 and 209 CMR 46.00; G.L. c. 169 and 209 CMR 45.00; G.L. c. 169A and 209 CMR 45.00; G.L. c. 255B, G.L. c. 255C, G.L. c. 255D and 209 CMR 20.00; G.L. c. 255E, 209 CMR 42.00 and 209 CMR 54.00; and G.L. c. 255F and 209 CMR 41.00.