COMPTROLLER'S HANDBOOK

CONSUMER COMPLIANCE



HOMEOWNERSHIP COUNSELING

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Office of the
Comptroller of the Currency

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Introduction

The Office of the Comptroller of the Currency's (OCC) *Comptroller's Handbook* booklet, "Homeownership Counseling," is prepared for use by OCC examiners in connection with their examination and supervision of national banks, federal savings associations, and federal branches and agencies of foreign banking organizations (collectively, banks). Each bank is different and may present specific risks and issues. Accordingly, examiners should apply the information in this booklet consistent with each bank's individual circumstances.

This booklet is designed to provide information for examiners regarding homeownership counseling requirements for delinquent borrowers under section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 USC 1701x(c)(5)). This booklet includes interagency examination procedures to assist examiners in examining compliance with these homeownership counseling requirements beyond the core assessments in the "Community Bank Supervision," "Federal Branches and Agencies Supervision," and "Large Bank Supervision"[1] booklets of the *Comptroller's Handbook*, as appropriate.

This booklet does *not* cover the following:

- Homeownership counseling requirements under the Truth in Lending Act or the Real Estate Settlement Procedures Act. Refer to the "Truth in Lending Act (Interagency)" and "Real Estate Settlement Procedures Act" booklets of the *Comptroller's Handbook* for discussion of those requirements.
- Homeownership counseling requirements under the Servicemembers Civil Relief Act. Refer to the "Servicemembers Civil Relief Act" booklet of the *Comptroller's Handbook* for more information.
- General risk management or compliance risk management information. Refer to the "Corporate and Risk Governance," "Internal and External Audits," and "Compliance Management Systems" booklets of the *Comptroller's Handbook* for more information about those topics.

Summary of Requirements

12 USC 1701x(c)(5) requires banks to provide homeownership counseling notices to homeowners eligible for counseling. These requirements apply to banks that service loans secured by a mortgage or lien on a one-family residence (home loans).

[1] As indicated in the "Large Bank Supervision" booklet's "Introduction" section, the "Large Bank Supervision" booklet applies to the supervision of midsize banks.

Key Definitions

Creditor means a person or entity that is servicing a home loan on behalf of itself or another person or entity.[2]

Homeowners are **eligible for counseling** if[3]

- the loan is secured by the homeowner's principal residence.
- the home loan is not assisted under title V of the Housing Act of 1949.[4]
- the homeowner is, or is expected to be, unable to make payments, correct a home loan delinquency within a reasonable time, or resume full home loan payments because of a loss in income owing to
  - an involuntary loss of, or reduction in, the homeowner's employment, the homeowner's self-employment, or income from the pursuit of the homeowner's occupation; or
  - any similar loss or reduction experienced by any person who contributes to the homeowner's income.

Home loan means a loan secured by a mortgage or lien on residential property.[5]

Homeowner means a person who is obligated under a home loan.[6]

Residential property means a one-family residence, including a one-family unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.[7]

Notice Requirements

Creditors must provide notification of the availability of homeownership counseling to a homeowner eligible for counseling who fails to pay any amount by the due date under the terms of the home loan.

[2] 12 USC 1701x(c)(6)(A).

[3] 12 USC 1701x(c)(4).

[4] 42 USC 1471 et seq. Title V relates to rural housing programs administered by the U.S. Department of Agriculture.

[5] 12 USC 1701x(c)(6)(C).

[6] 12 USC 1701x(c)(6)(D).

[7] 12 USC 1701x(c)(6)(E).

Contents of Notice

The notice must[8]

- notify the homeowner of the availability of any homeownership counseling offered by the creditor.
- provide either a list of U.S. Department of Housing and Urban Development (HUD) approved nonprofit homeownership counseling organizations or the toll-free telephone number HUD has established through which a list of such organizations may be obtained.

Timing of Notice

The notice must be given to a delinquent homeowner borrower no later than 45 days after the date on which the homeowner becomes delinquent. If the borrower brings the loan current again within the 45-day period, no notification is required.[9]

[8] 12 USC 1701x(c)(5)(A)(ii).

[9] 12 USC 1701x(c)(5)(B) and (C).

Examination Procedures

This booklet contains expanded procedures for examining activities that warrant extra attention beyond the core assessment contained in the "Community Bank Supervision," "Federal Branches and Agencies Supervision," and "Large Bank Supervision" booklets of the *Comptroller's Handbook*. **Examiners determine which expanded procedures to use, if any, based on a bank's risks.** Focal points of examinations should be tailored to the bank's size, complexity, and risk profile, with heightened focus on material financial risks.

Scope

These procedures are designed to help examiners tailor the examination to each bank and determine the scope of the examination. Examiners should consider work performed by internal and external audit, independent risk management, and examiners reviewing related areas. Examiners should perform only those objectives and procedures relevant to the scope of the examination as determined by the following objectives. Seldom is every objective or step of the expanded procedures necessary.

Objective: To determine the scope of the examination and identify examination objectives and procedures necessary to meet the supervisory strategy for the bank.

1. Review the following sources of information:

   - Supervisory strategy.
   - Scope memorandum.
   - Previous supervisory activity work papers.
   - Previous supervisory letters and reports of examination, and management's responses.
   - Internal audit reports and management's responses.
   - Compliance testing reports.
   - Complaints and litigation. Examiners should review complaint data from the OCC's Customer Assistance Group, the bank, and the Consumer Financial Protection Bureau (when applicable). When possible, examiners should review and leverage complaint analysis already performed during the supervisory cycle to avoid duplication of effort.

   From these sources, the examiner should gain an understanding of the bank's supervisory history related to compliance with the Homeownership Counseling Act and identify items that may require follow-up.

2. Determine whether satisfactory internal audit(s) will be leveraged for the examination and, if so, how this affects the scope of the examination.

3. Based on an analysis of information obtained in the previous steps, as well as input from the examiner-in-charge, confirm the examination's objectives and make adjustments as necessary.

Interagency Examination Procedures

Examination Objective

The examination objective is to determine whether the financial institution has established procedures regarding homeownership counseling notification to ensure that it complies with the provisions of §106(c)(5) of the Housing and Urban Development Act of 1968.

Examination Procedures

1. Determine if the financial institution is informing eligible homeowners within 45 days of initial loan default of

   - the availability of any homeownership counseling offered by the creditor; and
   - the availability of any homeownership counseling by nonprofit organizations approved by HUD or the toll-free telephone number through which the homeowner can obtain a list of such organizations.

Examination Checklist

1. Does the financial institution notify eligible homeowners within 45 days of initial loan default of any homeownership counseling the institution (creditor) provides?

2. Does the financial institution provide eligible homeowners with the names of nonprofit organizations approved by HUD or the toll-free telephone number to obtain a list of such organizations?

Conclusions

Objective: To determine, document, and communicate findings and conclusions.

1. Discuss preliminary examination findings and conclusions with the EIC.

2. If substantive safety and soundness concerns remain unresolved that may have a material adverse effect on the bank, consider further expanding the scope of the examination. The examination scope may be further expanded by completing additional objectives or procedures from this booklet, expanded procedures from other *Comptroller's Handbook* booklets, as appropriate.

3. Discuss examination findings with management. If necessary, obtain commitments for corrective action.

2. Compose conclusion comments, highlighting any issues that should be included in the report of examination or supervisory letter.

3. Document recommendations for future supervision (e.g., what the OCC should do in the future to effectively supervise homeownership counseling compliance in the bank, including time periods, staffing, and workdays).

4. Update, organize, and reference work papers in accordance with OCC policy. Appropriately dispose of or secure any paper or electronic media that contain sensitive bank or customer information.

Abbreviations

HUD	U.S. Department of Housing and Urban Development
OCC	Office of the Comptroller of the Currency
USC	United States Code

References

Laws

12 USC 1701x(c)(5), "Notification of Availability of Homeownership Counseling"
12 USC 1701x(c)(6), "Definitions"

Comptroller's Handbook

Examination Process
"Bank Supervision Process"
"Community Bank Supervision"
"Federal Branches and Agencies Supervision"
"Large Bank Supervision"

Consumer Compliance
"Compliance Management Systems"
"Real Estate Settlement Procedures Act"
"Truth in Lending Act (Interagency)"
"Servicemembers Civil Relief Act"

Safety and Soundness, Management
"Corporate and Risk Governance"
"Internal and External Audits"