

# Office of Thrift Supervision

RB 4a rescinded 7/15/96 by TB 68. Click [HERE](#) to link to TB 68.

**Handbook:** Thrift Activities  
**Subject:** Scoping  
Oversight by Board of Directors  
Real Estate Appraisal  
Classification of Assets

Sections: 010; 140;  
208; 260  
RB 4a

September 20, 1993

# RESCINDED

## Supervisory Review Process

*Summary:* This Bulletin supersedes Regulatory Bulletin 4 (RB 4), which contained an informal review process for certain supervisory decisions and implemented section 407 of the Competitive Equality Banking Act of 1987 (CEBA). RB 4, dated November 30, 1988, is rescinded with the issuance of this Bulletin. This Bulletin also replaces the Office of Thrift Supervision's Memorandum to all Chief Executive Officers, dated April 6, 1992, Subject: Supervisory Review Process.

*For Further Information Contact:* Your Regional Office or Regional Operations, Washington, D.C. (202-906-5669).

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#### Background

Regulatory Bulletin 4 (RB 4) provided for an independent arbiter to rule on the valuation of loans. It was issued as a result of a requirement of Section 407(d) of the Competitive Equality Banking Act of 1987 (CEBA). Section 416(a) of CEBA provided that this requirement could be discontinued when the Financing Corporation published notice that it had completed all new net borrowings, which occurred on March 30, 1992. See 57 Fed. Reg. 10,763 (1992). Our experience has been that this provision of CEBA was costly for the institution, was not viewed as helpful by the industry, and in fact has not been used in the past several years. Therefore, the OTS is rescinding RB 4.

At the same time, in response to the Presidential mandate to create an effective appeals process, OTS is revising its Supervisory Review Process (OTS Memorandum to all Chief Executive Officers, dated April 6, 1992) through the issuance of this Bulletin. The revised process establishes an expeditious administrative review procedure for institutions to appeal

adverse supervisory or examination decisions, especially asset classifications, valuation allowances, and composite examination ratings.

#### Policy Statement

The OTS provides a comprehensive process to review examination and supervisory findings and decisions. This process establishes avenues for the review of agency decisions or actions that may be considered inconsistent with existing OTS policies and procedures or have not been resolved to the institution's satisfaction during the examination or at the regional level.

The OTS will review all decisions or actions except those that are listed below. The decision to undertake a review is solely within OTS' discretion. OTS decisions and actions that may not be appealed include:

- Appointment of a conservator or receiver,
- Preliminary examination conclusions prior to issuance of a final report of examination, or
- Any formal enforcement-related action, such as decisions to initiate a formal investigation, to file a notice of charges, or to assess civil money penalties.

A review request will not delay the pursuit of any enforcement action or formal investigation or stay the obligation of an institution or institution-affiliated party to comply with any order or other determination resulting from an enforcement action. OTS retains the right to take any action and to apply any standards deemed appropriate to ensure the safety and soundness of an institution.

#### Procedures for Resolving Disagreements

##### A. During the Examination

If a disagreement arises during the on-site examination, the difference should be raised directly with the examiner-in-charge (EIC) while at the institution. If issues remain unresolved, the institution should request that the Field Manager be included in the discussions. Disagreements will be briefly noted in the final report of examination (ROE).

##### B. With the Regional Office

Institutions are encouraged to raise examination-related disagreements that cannot be resolved during the examination with the Regional Office. A supervisory decision in dispute may be raised either orally or in writing to the Assistant Director, Regional Deputy Director, or

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Regional Director. If the institution elects to state the issue or problem in writing, the Chief Executive Officer (CEO) may file an appeal by describing the issue or problem and specifying the related facts. The Regional Office will act within 30 days of receipt of an appeal.

## C. With OTS, Washington, D.C.

If the above-described discussions or appeals do not result in a satisfactory resolution to the disagreement, an appeal may be filed with the Deputy Director of Regional Operations (Deputy Director), Washington, D.C., as follows:

- The Board of Directors must review the request for reconsideration and forward one copy of its resolution authorizing such action.
- Institutions must continue to discuss decisions or problems directly with its Regional Office. This Washington review process is available only in cases where the Regional Office has advised the institution in writing of the results of its determination. The institution will have 60 calendar days from its receipt of the document transmitting the Regional Office's decision to file a review request with the Deputy Director at the following address:

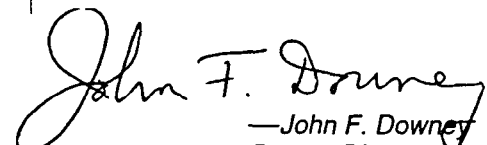
Deputy Director for  
Regional Operations  
Attention: Assistant Director  
for Regional Operations  
Office of Thrift Supervision  
1700 G Street, N.W.  
Washington, DC 20552

- The request should be limited to five pages and must contain:
  - A concise statement of the dispute and why it is material. For example, identify the precise loan(s), property, appraisal, etc.
  - The remedy being sought and its financial impact.
  - A citation to any applicable statutes, regulations, policies, or procedures on which the institution relies.
  - Confirmation that the institution has, in the interim, complied with the regulatory actions being reviewed.
  - In cases where an attempt has not been made to resolve the issue with the Regional Director, a detailed statement of those reasons.
  - Copies of any relevant excerpts from the current examination, appraisal report, or correspondence with the region about the action or decision. These copies do not count toward the 5-page limit.
  - The name, address, and telephone number of the individual at the institution designated to provide additional information (if required).
- No fee is required for submission of the request. Institutions are encouraged to minimize costs by preparing review re-

quests themselves rather than using outside attorneys, accountants, or consultants. If warranted by the circumstances and agreed to by the institution, OTS may use outside experts to evaluate issues. In such circumstances, the institution will pay the costs of such experts.

## Guidelines for Washington, D.C., Review

- The OTS will acknowledge receipt of a request for review within 5 calendar days of receipt.
- Within 15 calendar days of receipt, the OTS will make a request for any additional information necessary to complete the review.
- The institution shall furnish the additional information as soon as possible or within 30 calendar days of the date of the request, unless the time is extended by the Deputy Director or designee.
- The OTS will provide its decision on the request within 30 days of receipt of the initial request if no additional information is requested or within 30 days of receipt of any additional information.
- The 30-day decision period may be extended for an additional 30 days by written notice to the institution stating the general reason(s) for the extension.

  
—John F. Downey  
Deputy Director for  
Regional Operations