
Common and Collective Funds Examination Program

Examination Objectives

To determine the adequacy and/or effectiveness of the trust department's administration of common and collective investment funds. Consider whether:

- adequate policies, procedures and internal controls have been established for the administration of common and collective investment funds;
- the funds are operated in accordance with applicable law and the terms of the governing instrument; and
- deficiencies are identified and corrective action promptly initiated.

Examination Procedures

Wkp. Ref.

Level I

Level I procedures first focus on a review of the examination scoping materials. The next step consists of interviews with trust department personnel to confirm their qualifications and levels of expertise; to determine if the trust department's practices conform to written guidelines; to establish whether any significant changes in personnel, operations or business practices have occurred; or whether new products or services have been introduced. If items of concern are uncovered during Level I procedures or if problems are identified during the preexamination monitoring and scoping; the examiner may need to perform certain Level II procedures.

1. Review examination scoping materials related to common and collective investment funds (CIFs). Scoping material should include:
 - Risk profile
 - Relevant PERK documents
 - The fund(s) annual audit(s).
 - Previous trust and asset management examination report
 - Workpapers from the previous examination
 - Plan documentation for each CIF and amendments thereto

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- Board and committee minutes
 - Examples of CIF marketing material
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2. Evaluate the adequacy of administrative and operational policies and procedures, as appropriate to the size and character of CIF operations. Note any particular changes. Consider whether the policies address:
- a review of any new CIF plan document by bank counsel;
 - plan approval by the board or a board designated committee;
 - compliance with applicable law and standards of fiduciary conduct; and
 - compliance with the fund's written plan.
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3. Review the CIF investment policies and procedures for adequacy and appropriateness.
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4. If an outside investment manager or other portfolio management responsibilities are delegated to a third party, ensure that appropriate documentation is maintained and that compliance with the investment policy is being monitored. Assess the due diligence efforts with respect to the selection of the third party. Assure compliance with OCC regulation 9.18(b)(2), and assess whether any SEC registration issues have been raised as a result of the delegation.
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5. Determine whether management and staff have the expertise necessary to administer CIF's. Identify and evaluate any personnel and/or organizational changes.
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6. Review procedures for admissions and withdrawals from the CIF. Determine whether anyone has been authorized to review and approve the admissions and withdrawals.
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7. Review the annual report and audit of each CIF. Determine that the information contained in the financial report meets the requirements of 12 CFR §9.18(b)(6).
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8. Determine if a copy or notice of the financial report availability is furnished to each person to whom a regular periodic accounting would ordinarily be rendered.
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9. Determine if the savings association files an informational tax return for the common trust fund with the IRS in accordance with IRC §6032. Determine if the common or collective fund is filing directly with the Department of Labor as a direct filing entity using Form 5500 or whether the CIF is providing participating employee benefit plans with information regarding the underlying assets of the CIF so that the plan may include this information on its Form 5500.
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10. Consider whether the following risk contributors (if applicable) have been addressed:
- the accuracy and credibility of management reports;
 - the thoroughness of the compliance program;
 - the effectiveness of the supervision and audit function;
 - the quality of the written policies and procedures;
 - the effectiveness of management; and

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- the adequacy of policies and procedures governing the management of CIFs.

The completion of the Level I procedures may provide sufficient information to make a determination that no further examination procedures are necessary. If no determination can be made, proceed to Level II.

Level II

Level II procedures focus on an analysis of trust documents such as reports and outsourcing contracts. The examiner should complete the appropriate Level II procedures when the completion of a Level I procedures does not reveal adequate information on which to base a conclusion that the trust department meets the examination objectives. Neither the Level I nor the Level II procedures include any significant verification.

1. Determine that the savings association maintains exclusive management control of the CIF and that procedures are in place to maintain records relating to investment, administrative and operational decisions in order to document compliance.

2. Determine if sound portfolio diversification principals are followed.

3. If proprietary mutual funds were funded through conversions from the savings association's CIFs, determine whether the savings association considered all pertinent issues before the conversion took place and whether applicable law and fiduciary principles were followed.

4. If there are unresolved exceptions present from internal or external audit reports, compliance reports or examination findings, discuss corrective action with management.

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5. Review the promotional and advertising publications for the CIF to ensure that funds are marketed only in connection with the advertisement of the general fiduciary service of the savings association.

6. Review the returns of the CIF's and compare the returns to comparable indices for one, three and five year returns. Determine if the returns are reported in accordance with AIMR reporting guidelines. Note any significant differences and discuss with management.

7. Determine if the savings association receives only reasonable compensation for investing ERISA accounts in the collective investment fund. Also determine if the plan document, trust agreement or a fiduciary (other than the savings association or an affiliate) that has authority to manage and control plan assets, expressly permits investment in the fund.

8. If necessary to validate an assertion, finding or concern arising from the completion of the Level I and II procedures, judgmentally select a limited number of accounts for review considering the degree of risk to the institution. Not all types of accounts or funds need to be reviewed to arrive at a well-founded conclusion.

If the examiner cannot rely on the trust and asset management Level I and Level II procedures, or data contained in department records or internal or external audit reports, proceed to Level III.

Level III

Level III procedures include verification procedures that auditors usually perform. Although certain situations may require that Level III procedures be completed, it is not the standard practice of the Office of Thrift Supervision (OTS) examination staff to duplicate or substitute for the testing performed by auditors.

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1. Review the management and administration of the CIFs. Determine if management is following internal procedures and is in compliance with the terms of the written plan governing each of the CIFs.

2. If the CIF obtains its tax-exempt status under IRC §584, determine that it is operated in conformity with 12 CFR §9.18.

3. For any defaulted securities (equity or fixed) held by a CIF, determine if the security(s) have been segregated in a separate account on the annual report.

4. Review expenses and charges to the CIF. Ensure that all charges to the funds are appropriate and authorized by applicable law.

5. Review a sample of portfolio valuations. Determine that the valuations are:
 - completed at least quarterly (except funds invested primarily in real estate or other not readily marketable assets) and in accordance with the frequency set forth in the plan; and
 - in conformance with the express methodology provisions of the plan.

6. Review a list of participants in each CIF to ensure that only eligible accountholders are allowed to participate. Ensure that IRA and Keogh accounts are not invested in common trust funds per SEC no-action letters.

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7. Review a sample of investment portfolios to determine compliance with terms of the saving association's investment policy. Identify any significant changes in holdings, credit quality or risk profile.
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8. Ensure that current plan documentation for each CIF operated by the trust department is on file. Review documents for each new CIF and amendments to existing CIF's for compliance with 12 CFR §9.18(b)(1). For new CIFs, review the IRS determination letter for tax- exempt status if one has been issued.
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9. Ensure that admissions and withdrawals are performed according to policy and are posted in a timely manner.
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10. If the savings association converted an ERISA collective investment fund into a proprietary mutual fund, determine if the conditions of prohibited transaction class exemption PTE 97-41 were met.
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11. Determine if the following conditions of PTE 91-38 have been met:
- The plans interest in a CTF does not exceed 10 percent of the total assets unless it is a STIF
 - The terms of purchases and sales (or any other transactions) by the CTF are at least as favorable to the CTF as those obtainable in an arm's length transaction with an unrelated party
 - The savings association is maintaining CTF records for six years from the date of any of the above referenced transactions
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12. Select a sample of short-term investment funds (STIF's) and determine whether such funds are operated in accordance with the provisions of 12 CFR §9.18.
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Examiner's UITRS Rating, Summary, Conclusions and Recommendations:

References - 880P

Laws

Internal Revenue Code Section 584

Code of Federal Regulations

12 CFR 550.240	Trust Powers
12 CFR 550.260(b)	Investment in Collective Investment Funds
12 CFR 550.40	Investment Authority
12 CFR 9.18	Collective Investment Fund Regulation

Office of Thrift Supervision Publications

Other

Revenue Ruling 81-100

Workpaper Attachments - 880P

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Optional Topic Questions

The following list of questions is offered merely as a tool and reference for the examiner and is not a required part of the examination process.

Plan Documentation

<ul style="list-style-type: none">▪ Does the plan set forth written provisions addressing the following:<ul style="list-style-type: none">• Investment powers and policies?• Fees and expenses to be charged to the fund?• Terms and conditions governing the admission and withdrawal of participating accounts?• Audits of the fund?• Bases upon which the savings association may terminate the fund?• Any other matters necessary to clearly define the rights of participating accounts?
<ul style="list-style-type: none">▪ Is a copy of the plan available to any person for inspection at the offices of the savings association during business hours and is a copy provided to any person who requests it?

Annual Report

<ul style="list-style-type: none">▪ Does the annual report list the fund's investments, showing both book value and market value?
<ul style="list-style-type: none">▪ Does the annual report list purchases and sales, showing any profits and losses for the period?
<ul style="list-style-type: none">▪ Does the annual report provide a statement of income and disbursements for the period?
<ul style="list-style-type: none">▪ Does the annual report provide a notation of any investments in default?
<ul style="list-style-type: none">▪ Does the financial report only include representation regarding the fund's value on previous dates and income and disbursements during previous accounting periods and make no predictions or representations as to future performance?
<ul style="list-style-type: none">▪ Does the financial report only reference the performance of funds administered by the savings association or affiliates?
<ul style="list-style-type: none">▪ If the financial report includes any comparative performance statistics, are they made in conformance with AIMR guidelines?

Investment Portfolio

<ul style="list-style-type: none">▪ Do the investments held by the fund correspond with the investment objectives of the participating accounts and the authorized investments for each participating account?
<ul style="list-style-type: none">▪ For any defaulted securities, is the purchase by the savings association undertaken in conformance with the guidelines noted in 12 CFR §9.18(b)(8)(ii)?
<ul style="list-style-type: none">▪ Are brokerage transactions for CIFs placed on the basis of best execution?

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| <ul style="list-style-type: none">▪ Are decisions to purchase, sell or retain investments for the CIF fully documented? |
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Portfolio Diversification

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| <ul style="list-style-type: none">▪ Do any participating accounts hold a substantial percentage of the units of the CIF? |
| <ul style="list-style-type: none">▪ Does any single holding of stocks, bonds or other obligations, not guaranteed by the U.S. government, of any one entity constitute a significant percentage of the entire holdings of the CIF? |
| <ul style="list-style-type: none">▪ Does the savings association maintain, in cash and/or readily marketable securities, a sufficient percentage of the assets of the fund as necessary to provide for liquidity needs and to prevent inequities among withdrawing participants? |

Admissions and Withdrawals

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| <ul style="list-style-type: none">▪ Are admissions and withdrawals permitted only if a written request or notice of intention is entered in the CIFs records on or before the valuation date? |
| <ul style="list-style-type: none">▪ Are admissions and withdrawals permitted only in the manner prescribed by written plan of the CIF? |
| <ul style="list-style-type: none">▪ Are distributions to withdrawing participants made in cash or ratably in kind, or partly in each or in any other manner consistent with applicable state law? |

Prohibited Transactions

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| <ul style="list-style-type: none">▪ Did the savings association sell assets to or purchase assets from a CIF (excluding defaulted securities)? |
| <ul style="list-style-type: none">▪ Did the CIF invest in stock or other obligations of the savings association or its affiliates? |
| <ul style="list-style-type: none">▪ Did the savings association make loans on the security of a participation in a CIF? |
| <ul style="list-style-type: none">▪ Did the CIF borrow funds from any source? |

Advertising

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| <ul style="list-style-type: none">▪ Did the savings association refrain from advertising or publicizing the CIFs except in connection with the advertisement of the general fiduciary services of the bank. |
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