



Comptroller of the Currency
Administrator of National Banks

Employee Benefits

Comptroller's Handbook
(Section 404)

Narrative and Procedures - March 1990

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Management

Employee Benefits (Section 404)

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Employee Benefits (Section 404)

Introduction

Employee benefits include all plans or methods used to provide additional compensation or assistance above normal salary and wage provisions. A well-conceived and fairly implemented program of employee benefits is a sound investment by management in the future well-being of employees and that of the bank. Conversely, a poorly implemented program could result in an inability to attract and retain quality personnel. Additionally, abusive practices by bank management, directors, or other insiders could adversely affect the financial condition of the bank.

Employee benefits may be grouped into various categories such as those which:

- Are legally required.
- Provide increased income.
- Provide compensation for non-work days.
- Offer security protection.

Legally required programs include unemployment insurance, workmen's compensation, and social security. The bank also may offer programs that augment an employee's standard salary, such as bonuses, stock purchase plans, and suggestion awards. The most common programs to compensate for non-work days are sick leave and vacation plans. Commonly available security protection programs are group life, health, accident, and dental insurance; retirement plans, and profit-sharing.

The OCC encourages banks to offer employee pension plans. Eligibility standards must be applied uniformly, and the plans must include no provisions that would result in special benefits to any officer or employee. A variety of other programs, such as deferred compensation and salary continuance, have been developed which provide additional fringe benefits to key officers and/or their designated beneficiaries.

Some banks offer loans with rate concessions to employees as a benefit. However, all loans to executive officers, directors, and principal shareholders must be on substantially the same terms, including interest rates, as those offered on other comparable transactions.

Many banks pay dues to private clubs on behalf of employees and officers. Historically, those clubs have been forums for conducting business in an informal setting. Although the OCC recognizes the legitimate business function of many of those clubs, it discourages payment of dues to any private clubs that discriminate. The payment of the costs of business or social functions held at such clubs or organizations is also discouraged.

This brief description of programs includes most of the employee benefits that are offered by banks competing in today's employee market, but it is not intended to be all-inclusive. The range of benefit programs offered by banks in different geographic regions and operating under different economic and social conditions is limited only by the imagination and innovation of the person administering that portion of the bank's operation. An effective employee benefit program must be able to respond to the changing needs of employees and must be competitive with other firms in the trade area who employ individuals qualified similarly to those employed by the bank.

Due to the intense competition for qualified employees, benefit programs have expanded widely, with a corresponding rapid increase in cost. The provision of additional benefits for the employee, over and above normal wage or salary payments, is intended to foster benefits for the bank as well. In view of the high cost of such programs, the bank must determine that it is receiving a corresponding return on its investment. Among the benefits banks seek are easier recruitment and retention, lower absenteeism, higher productivity, improved morale, increased loyalty, and fewer grievances. A plan that produces those benefits is often costly but usually desirable to insure the overall quality of the employees and, ultimately, of the assets they supervise.

Once a sound program has been developed, many banks find it beneficial to periodically give employees detailed information on the benefits being offered and their cost to the bank. Through such a report, the employee can determine the total compensation he or she is receiving.

The examiner, in reviewing employee benefits, should investigate not only the existence of specific programs, but also the bank's goals in establishing them. For a meaningful analysis, the examiner must understand management's philosophy of employee benefits, the amount of consideration a program receives before being implemented, and the market competition for eligible employees. The examiner must also be alert to the existence of excessive

benefits to officers, directors, or large shareholders. Excessive pension or profit-sharing benefits, large expense accounts, employment contracts, and other exceptions to normal benefit programs may prove detrimental to the overall condition of the bank. For example, an inordinately large bonus to an officer who has controlling ownership, or excessive management fees to bank insiders, could be viewed as a preferential dividend and result in a minority shareholders' suit.

Banks employing 50 or more persons, that have either a Treasury tax and loan account or act as an agent to sell or redeem U.S. savings bonds and notes, are required by U.S. Treasury Department regulations to file equal employment opportunity reports on or before March 31 of each year. The reports may be obtained from and filed with the Joint Reporting Committee, P.O. Box 30130, Washington, D.C. 20014. These banks are also required to have on file a written affirmative action compliance program stating their efforts and plans to achieve equal opportunity in the employment, hiring, promotion, and separation of personnel.

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Examination Procedures

1. Complete or update the Employee Benefits section of the Internal Controls Questionnaire.
2. Select from among the following examination procedures those steps that are necessary to evaluate the bank's employee benefits practices. Test for compliance with policies, practices, procedures, and internal controls in conjunction with performing the selected examination procedures. Also, obtain a listing of any deficiencies noted in the latest review done by internal/external auditors from the examiner assigned "Internal and External Audits," and determine if appropriate corrections have been made.
3. Request the bank to complete or update the schedule of employee benefit plans presently in use.
4. Agree information obtained on a test basis to source documents and/or minutes of meetings as appropriate.
5. Obtain for review and retention a copy of the bank's employee handbook or other information submitted to employees in explanation of the benefit program.
6. If available, obtain the latest report submitted to the board of directors analyzing the bank's employee benefit program relative to other banks or competitors.
7. Analyze the bank's yearly expenditure for employee benefits by:
 - a. Comparison to peer group statistics.
 - b. Comparison to other employers in trade area if data are available.
8. Be alert, while reviewing the employee benefit plans offered and performing the remaining examination procedures, for any instances in which a benefit is not being administered on an equal basis to all eligible

employees.

9. Determine whether management and other fees paid to insiders are based on the value of services received.
10. When the bank has obtained insurance to provide additional fringe benefits to key officers and/or their designated beneficiaries and has no beneficial interest in the policy, determine that:
 - a. The term “key officer” is defined to mean any bank officer, regardless of title, who participates in major policymaking functions of the bank and who is valued for his or her knowledge, experience, and related qualifications.
 - b. The propriety of the insurance benefits provided to a person is viewed in relationship to his or her salary, position, time devoted to official duties, and overall value to the bank. In each case, the relative importance of each consideration will vary, but the latter two must receive the most attention.
 - c. Each key officer is afforded the benefits of the plan commensurate with the requirements of step b. Formal records are retained on each officer declining such benefits.
 - d. The net cost to the bank to provide the aggregate of those insurance benefits must relate to the bank’s gross earnings and other operating expenses.
11. Determine compliance with laws, rulings, and regulations by performing the following for:
 - a. 12 CFR 11.51(9) — Proxy Statements:
Review proxy statements issued since the preceding examination to determine if required information on bonus and profit-sharing plans was included, if action on such a plan was a scheduled item on the shareholder’s agenda.
 - b. Public Law 93-406 — Employee Retirement Income Security Act of 1974:
In cases where the bank has a pension and/or profit-sharing plan, not

funded by insurance, and the trustee is other than a national bank with trust powers:

- Determine that Form EBS-1 (plan description) has been filed with the U.S. Department of Labor and that required modification notices have been filed for each material change in the information initially filed.
- Determine that Form 5500 (annual report) has been filed with the Internal Revenue Service.
- Determine whether the bank's pension and/or profit-sharing plan has acquired stock of the bank, and, if so:
 - Review the plan's governing instrument to determine that such transactions are authorized.
 - Determine that the percentage of funds so invested complies with the provisions of the Employee Retirement Income Security Act of 1974.
- Determine that required reports to plan participants have been submitted as required by the Employee Retirement Income Security Act of 1974.
- Acquire a current list of trust's assets, showing cost and current market value. If the assets include loans of any kind:
 - List the rates of interest, date due, and method of acquisition.
 - Determine if such loans were transferred or purchased from the bank, any affiliate, or any officer, director, or employee of the bank or its affiliate.
 - Determine if the loans are delinquent.
 - Determine if loans were made as possible circumvention of 12 USC 84.
 - Transcribe, review, and analyze all information concerning the debt, debtor, collateral, and financial support for the obligation.
 - Evaluate financial support for local and/or closely held equities. (Particular attention should be devoted to assets that

are related to directors' companies, the bank, or other interests that might affect the best judgment of the trustee in acquiring the asset.)

- c. Section 805 of Title VIII of the Civil Rights Act of 1968 and Executive Order 11246:
 - If the bank has 50 or more employees, determine that:
 - The last required EEO report has been filed with the Joint Reporting Committee.
 - The bank has a written affirmative action program on file.
 12. Discuss with the officer in charge of recommending changes and/or administering employee benefit programs or others as necessary, to determine:
 - a. What the programs are attempting to accomplish.
 - b. Any benefit program changes being considered.
 - c. Projected cost impact of existing and/or contemplated benefit programs on future earnings.
 13. Prepare a memorandum stating your conclusions with respect to the adequacy and propriety of employee benefits programs. Comments should include conclusions on the effectiveness of benefit programs in maintaining a qualified staff.
 14. Prepare in appropriate report format, and discuss with appropriate officer(s):
 - a. Violations of laws, rulings, and regulations.
 - b. Recommended corrective action when policies, practices, or procedures are deficient.
 15. Prepare a memorandum, and update work programs with any information that will facilitate future examinations.
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Internal Control Questionnaire

Review the bank's internal controls, policies, practices, and procedures for employee benefits. The bank's system should be documented in a complete and concise manner and should include, where appropriate, narrative descriptions, flowcharts, copies of forms used, and other pertinent information.

Employee Benefits Programs

1. Are directors annually informed of important matters relating to employee benefits, such as costs and administration problems, which would assist them in formulating any changes or modifications deemed desirable?
 2. Have employee benefit plans been reviewed and approved by both bank counsel and the Internal Revenue Service, if applicable, prior to implementation?
 3. Does the bank compare its program of employee benefits with those of other banks in its peer group, and, if so, is an analysis of that comparison included in a report to the board of directors at least annually?
 4. Have all employee benefit plans presently in effect received proper approval of the board of directors before their inception, with appropriate documentation in the minutes?
 5. Have procedures been established to assure that all expenses related to employee benefits are correctly identified in accordance with OCC instructions for preparation of the report of income and generally accepted accounting principles?
 6. Are procedures in effect which call for periodic independent determinations that those individuals receiving benefits from the bank are in fact bona fide employees?
 7. Are economies sought through the use of "standard benefits packages"?
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which can be more efficiently administered by a bank trust department, an insurance firm, or other specialists in the field?

8. Where administration of an employee benefit plan is being handled by a party outside the bank, has the bank retained the managerial or final decision making function about types and amounts of investments?
9. If not, are detailed and timely reports received which enable the bank to accurately monitor the plan?
10. Are officers and employees in sensitive positions, including those persons who have direct or indirect control of bank general ledger accounts, required to be absent for at least two consecutive weeks each year?

Conclusion

11. Is the foregoing information an adequate basis for evaluating internal control in that there are no significant additional internal auditing procedures, accounting controls, administrative controls, or other circumstances that impair any controls or mitigate any weaknesses indicated above (explain negative answers briefly, and indicate conclusions as to their effect on specific examination procedures)?
12. Based on a composite evaluation as evidenced by answers to the foregoing questions, internal control is considered _____ (good, medium, or bad).