

Office of Regulatory Activities

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Handbook: Thrift Activities
Subjects: Fraud and Insider Abuse

Section: 135
RB 13

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Guidelines for Establishing a Fraud and Insider Abuse Program

RESCINDED

Summary: This Bulletin sets forth guidance for each Federal Home Loan Bank System District Bank in developing or enhancing Fraud and Insider Abuse Programs.

For Further Information Contact:
The FHLBank District in which you are located or the Thrift Activities Division of the Office of Regulatory Activities, Washington, DC.

Regulatory Bulletin 13

Background/Introduction

In October 1988, the House Committee on Government Operations issued a report entitled "Combating Fraud, Abuse, and Misconduct in the Nation's Financial Institutions: Current Federal Efforts are Inadequate," better known as the Barnard Report. The report was based on a recent study addressing the federal banking agencies' efforts in combating fraud and misconduct in the nation's financial institutions. The report recognized the Federal Home Loan Bank Board as the only agency to establish criminal referral units within some of its District Banks, and recommended that similar units be established in each of the remaining banks.

The Bank Board agrees that each District Bank should adopt a formal Fraud and Insider Abuse Program designed to (1) monitor the receipt and processing of criminal referrals within the district, (2) serve as a clearing house for district fraud training, (3) coordinate efforts relating to civil and criminal prosecution

with the FBI and the Department of Justice, and (4) serve as a communication liaison on fraud related matters.

Some districts have already developed comprehensive fraud programs and the attached model program includes many of the elements of those programs. The model program is designed primarily to assist districts that have no written program in developing a formal program that meets Bank System objectives.

Since the incidence of fraud varies substantially among the 12 District Banks, the extent of the program needed for individual districts will likewise vary. As a result, the guidelines contained in the model are designed to be minimums. Programs for individual districts should be expanded based on the needs of each bank and the levels of fraud experienced or anticipated.

Policy Statement

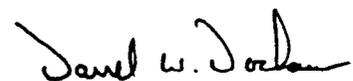
Each district should adopt a formal written Fraud and Insider Abuse program. In developing a program, each district should assess and anticipate current and future levels of fraud and insider abuse within the district. This assessment may be based on the current number (and

growth rate) of significant criminal referral cases or any other appropriate means. Once the level of fraud has been determined, districts should then develop a Fraud and Insider Abuse Program based on their indicated needs and on a balancing of the costs with the anticipated and potential benefits. Programs should establish objectives for (1) processing criminal referrals, (2) assisting enforcement agencies to prosecute perpetrators of thrift fraud, (3) enhancing training and (4) developing and maintaining communications on fraud related matters. The adequacy of district resources devoted to achieving those objectives should also be assessed and included in the program documentation.

Fraud and Insider Abuse Programs should be updated on an annual basis with copies of the programs and all updates forwarded to the Office of Regulatory Activities. Initial programs should be submitted by September 30, 1989.

The attached Model Fraud and Insider Abuse Program contains elements that should be present in district fraud programs. District Banks are asked to ensure that their programs meet the guidelines of the Model Program.

Attachment



— Darrel W. Dochow, Executive Director

MODEL FRAUD AND INSIDER ABUSE PROGRAM

I. HISTORICAL INCIDENCES OF DISTRICT-WIDE FRAUD AND INSIDER ABUSE

- Develop and maintain background information reports of fraud and insider abuse occurring within the district.

Such background information would include any relevant data such as:

- the number of criminal referral forms submitted quarterly by institutions and examiners,
- the number of outstanding criminal referrals divided into at least two categories: significant (frauds involving management or resulting in potential losses of \$100,000 or more) and other,
- prosecutions in progress and completed, and the outcome of cases,
- actual and anticipated recoveries,
- estimates of fraud related losses within the district, and
- any other relevant data.

The information should be used as a basis for determining the depth of the program put into place by the district. For example, a high level of fraud cases and related institutional losses would support the need for a comprehensive fraud program utilizing substantial resources. Conversely, a low number of criminal referrals and a low amount of institution fraud losses would support the decision to devote fewer resources to the program.

- For districts with a low level of fraud or criminal referrals and a significant number of 4 and 5 rated institutions, consideration should be given to: (1) reviewing all failed and 5 rated institutions to determine if criminal referrals should have been filed, and (2) sending a fraud specialist into an institution once the EIC determines that a rating of 4 or worse will be given.

II. OBJECTIVES FOR REDUCING FRAUD AND INSIDER ABUSE

- Establish objectives and strategies for reducing fraud and develop procedures to monitor the program's performance.

Although objectives and strategies developed by each district will vary, some goals should be present in all plans in order to ensure the effectiveness of a national program. Thus, all programs should contain the following objectives:

- Provide adequate fraud training to examiners;
- Require that all member institutions maintain adequate preventive controls for mitigating fraud risks and detecting fraudulent transactions;
- Ensure that criminal referrals are accurately completed by institutions and examiners in a timely manner;
- Ensure that timely follow-up reviews are performed on referrals forwarded to other agencies;
- Establish procedures for exchanging information with and providing assistance to the FBI, the Department of Justice, and other agencies.

Once strategies are implemented, they should be periodically updated in order to maintain the program's effectiveness and to adjust for changes that occur within the industry.

III. STAFFING NEEDS ANALYSIS/REQUIREMENTS

- Determine staff adequacy for implementing District strategies.

Once objectives and strategies are established, districts should determine the personnel requirements for implementing the strategies, and compare those requirements with the appropriately trained personnel resources it has available. Time requirements for processing criminal referrals, conducting fraud investigations, meeting with the FBI, training, etc., should be factored into the Staffing Needs Analysis.

- Establish and implement strategies to meet staffing needs: organizational structure, job descriptions, recruitment, training, etc.

IV. EXAMINER/STAFF TRAINING

- Determine the adequacy of training related to Fraud/Insider Abuse.

District Banks must evaluate the adequacy of district-wide training designed to assist Agency Functions personnel in assessing the risks of and discovering fraud and insider abuse within the institutions they examine. The following questions should be addressed:

- What training has been provided to examiners, field managers and other regulatory staff?
- What percentage of examiners and field managers have attended fraud training?
- How long will it take for an acceptable level of examiners (at least 50%) to receive fraud training based on the current training agenda? When will all EICs receive fraud training?

- Promote awareness among regulatory personnel of the District Bank's efforts to combat fraud and insider abuse among Agency Functions staff.

This could be accomplished by:

- Making presentations to District staff members;
- Arranging presentations by law enforcement agencies (FBI, U.S. Attorney, IRS);
- Promoting staff attendance at FFIEC "White Collar Crime" schools.

- Promote awareness among others of efforts to combat fraud and insider abuse.

This could be accomplished by:

- Briefing law enforcement offices/staff on the FHLB System, and financial and real estate issues;
- Briefing institution security officers, loan review officers, and internal auditors on the criminal referral requirements and process, the availability of a District criminal referral contact person, and means to prevent and detect white collar crime;
- Issuing press releases when appropriate to inform the industry that the Bank System intends to fully prosecute "bad actors."

V. OPERATIONS

- Centralize criminal referral processing.

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- Establish case priorities and their follow-up;
 - Ensure that priority referrals are received;
 - Determine whether the Right of Financial Privacy Act (RFPA) is applicable;
 - Establish procedures to review criminal referrals, enhance if necessary;
 - Forward referrals to appropriate law enforcement agencies;
 - Input criminal referrals into the Confidential Individual Information System; and
 - Monitor the status/progress of the forwarded referrals.
- Assist examiners in completing referrals and conducting investigations.
 - Send a fraud specialist on-site to examinations where a significant fraud is suspected (to assist examiners and ensure that an adequate analysis is made and the referral is properly completed);
 - Receive, track and respond to subpoena requests;
 - Track referrals to other enforcement actions (Cease and Desist, 407 Removal and Prohibition, rejected audits, professional referrals, etc.); and
 - Monitor enforcement actions (especially 407s and removal actions) to ensure that referrals are made if evidence is revealed indicating possible criminal activity.

VI. COMMUNICATIONS

- Establish a contact person or liaison to develop and maintain both internal and external communication.

Responsibilities of the contact person:

- Be a resource for other departments within the District;
- Provide the FSLIC, the Office of General Counsel, and the Office of Enforcement with documents needed for evidence, arrange meetings/discussions with law enforcement agencies;
- Provide guidance to staff throughout the system regarding the proper completion of Form 366, fraud investigation procedures, documentation, etc.;
- Ensure that regulatory personnel are aware of the distinction between FHLBank System's civil investigative authority to examine institutions as opposed to a law enforcement agency's criminal investigative authority and the importance of not blurring the two.
- Coordinate the gathering of information/investigations regarding pending applications;
- Establish contact with the FBI, U.S. Attorney's Office, Grand Jury, local law enforcement officials, and state and federal banking regulators;
- Provide assistance to member institutions. Answer their questions on when to file form 366, how to properly complete the forms, and stress the importance of obtaining confessions at the institutional level, when possible; and
- Distribute information on "Bad Actors" to other enforcement and regulatory agencies to prevent crossover of persons who have created problems in other financial institutions.

When establishing communications, the department should promote a mutually beneficial exchange of information, so that the status of cases can be tracked. It is often helpful to provide enforcement agencies and FBI agents with an explanation of our system and its history. However, assure that the release of confidential information is made in accordance with FHLBB Resolution 88-230.

Fraud department personnel should also consider engaging in other activities that will enhance communications such as promoting and attending meetings of local fraud working groups, and issuing periodic bulletins to member institutions and staff on current fraud schemes.