

RESCINDED

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Transmittal – See OCC 2020-11

Standards for National Banks' Residential Mortgage Lending Practices: OCC Guidelines Establishing Standards for National Banks' Residential Mortgage Lending Practices: Appendix C to 12 CFR Part 30

As of June 15, 2015, this guidance applies to federal savings associations in addition to national banks.

The Office of the Comptroller of the Currency (OCC) issued the attached "OCC Guidelines Establishing Standards for National Banks' Residential Mortgage Lending Practices" (Guidelines) on February 2, 2005. The purpose of the Guidelines is to further the OCC's goal of ensuring that national banks do not become involved in predatory, abusive, unfair, or deceptive residential mortgage lending practices. The Guidelines take effect 60 days after their publication in the *Federal Register*.

These Guidelines describe particular practices inconsistent with sound residential mortgage lending practices. They describe other terms and practices that may, depending on the circumstances, be conducive to predatory, abusive, unfair, or deceptive lending practices and which, accordingly, warrant a heightened degree of care by lenders. In addition, the Guidelines address the steps that banks should take to mitigate risks associated with their purchase of residential mortgage loans and use of mortgage brokers to originate loans.

The Guidelines are derived from two advisory letters issued by the OCC in February, 2003, alerting national banks to practices that may be considered predatory or abusive and advising national banks on measures to avoid such practices. The advisories addressed national banks' mortgage origination activity, as well as purchases of loans and use of third-party brokers to conduct mortgage lending. In order to more effectively apply the principles described in the OCC's February 2003 advisory letters, the OCC is now adopting residential mortgage lending standards, in the form of guidelines contained in a new Appendix C to Part 30 of OCC regulations. These standards further the OCC's goal of ensuring that national banks and their operating subsidiaries are not involved directly or indirectly through loans that they purchase or make through intermediaries, in predatory or abusive residential mortgage lending practices. The Guidelines incorporate and implement the principles of, but do not replace, the February 2003 advisory letters. The advisories remain in effect as supervisory guidance that provides supplemental context and explanation of the issues addressed in these Guidelines. Like the advisories, the Guidelines apply to national banks and, pursuant to OCC regulations, to their operating subsidiaries.

To

Chief Executive Officers and
Compliance Officers of All
National Banks, Federal
Branches and Agencies,
Department and Division Heads,
and All Examining Personnel

These Guidelines are enforceable pursuant to the process provided in Section 39 of the Federal Deposit Insurance Act, 12 U.S.C. 1831p-1 and Part 30 of OCC regulations.¹ Section 39 authorizes the OCC to prescribe safety and soundness standards in the form either of a regulation or guidelines. Pursuant to Section 39, if a national bank fails to meet a standard prescribed by *guideline*, the OCC may require the submission of a plan specifying the steps it will take to comply with the standard. Failure to submit or comply materially with an acceptable plan may result in the issuance of an order pursuant to Section 39. Such orders are formal, public documents that may be enforced in federal district court or through the assessment of civil money penalties. Issuing these standards by guideline rather than regulation provides the OCC with the flexibility to pursue the course of action that is most appropriate given the specific circumstances of a national bank's noncompliance with one or more standards, and the bank's self-corrective and remedial responses.

Examiners and other users of this information should be mindful of the facts and circumstances in each case before concluding that individual practices constitute behavior requiring action under these Guidelines. Uncertainty should be resolved in favor of seeking guidance from the supervisory office. The decision to pursue enforcement action under these Guidelines is reserved to the appropriate Senior Deputy Comptroller after review and recommendation by the Washington Supervisory Review Committee.

You may direct any questions to your supervisory office or OCC Compliance Division (202) 649-5470.

Julie L. Williams
Acting Comptroller of the Currency

¹ This process is described in more detail in the preamble to the Guidelines.

Related Links

- [Guidelines 70 FR 6329](#)
- [NR 2005-10](#)