When Regulators Get It Wrong

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Dissatisfaction with Bank Exams

Examiners are Inconsistent

Examiners are Inexperienced and Wrong

Rules Change Without Notice

Exams are Biased
Independent Appeals Process

Federal financial regulators must provide an “independent intra-agency process ... to review material supervisory determinations.”

— Riegle Community Development and Regulatory Improvement Act of 1994
Reviewing the Appeals Process

- Rules/Guidelines
- Decisions
  - Public
  - FOIA
- Regulator Interviews
Material Supervisory Determinations

• OCC
  o CAMELS Ratings
  o Loan or Asset Classifications
  o Not facts/decisions underlying formal enforcement actions

• Federal Reserve
  o CAMELS Ratings
  o Loan or Asset Classifications
  o Not formal enforcement actions

• FDIC
  o CAMELS Ratings
  o Loan or Asset Classifications > 10% of capital
  o Not facts/decisions underlying formal enforcement actions

• NCUA
  o CAMEL Ratings if composite is ≥ 3
  o Loan or Asset Classifications if CU considers significant
  o Not formal enforcement actions
Review Process

**OCC**
- Deputy Comptroller
- Ombudsman

Appeal can begin with either.

**FDIC**
- Division or Office Director

**Federal Reserve**
- Review Panel
- F.R. Bank Pres.
- F.R. Board

**NCUA**
- Region Contact
- NCUA Board
Standard of Review

• OCC
  o Whether the “examiners appropriately applied agency policies and standards.”

• FDIC
  o “[C]onsistency with the policies, practices, and mission of the FDIC and the overall reasonableness . . . .”

• Federal Reserve
  o Varies by Federal Reserve Bank.

• NCUA
  o Review committee does not give deference to either the credit union or the examiners.
What Is Appealed

- **OCC**
  - CAMELS Ratings
  - Loan or Asset Classifications
  - CRA Rating

- **FDIC**
  - CAMELS Ratings
  - CRA Rating
  - Loan or Asset Classifications

- **Federal Reserve**
  - CAMELS Ratings
  - Loan or Asset Classifications
  - Capital Calculations

- **NCUA**
  - CAMEL Ratings
  - Document of Resolution
  - Exam Findings
Recommendations

1. Public disclosure of appeal decisions.

2. Direct access to stable appellate authority outside of the exam function.

3. Broad scope of appealable matters.

For more information:


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