

**STATE OF LOUISIANA
OFFICE OF FINANCIAL INSTITUTIONS
BATON ROUGE, LOUISIANA**

Revised Effective August 14, 2015

**POLICY NO. DI-02-2015
(B, SB, SL, HC, CU)**

[Rescinds Policy Nos. DI-02-2004, B-02-89, B-03-92, SL-03-92, SB-03-92, CU-01-92]

ENFORCEMENT ACTION POLICY

- I. PURPOSE:** To outline the various types of enforcement actions that may be issued and/or utilized and the methods for monitoring compliance thereof. This policy is being issued in conjunction with the Enforcement Action Procedures (Procedure No. DI-01-2015) made effective on July 16, 2015.
- II. APPLICABILITY:** Banks, Thrifts, Credit Unions, Holding Companies, and Independent Trust Companies.
- III. GENERAL:** If, as a result of an examination, visitation, or off-site monitoring review, an institution's/company's composite or Management component rating is downgraded to a 3, 4, or 5 or an adverse condition or significant event is evident which may negatively impact an institution's/company's overall financial condition, an informal or formal enforcement action will be recommended. This policy is intended to outline the types of enforcement actions that may be issued and/or utilized and the methods for monitoring compliance thereof.

A. TYPES OF ENFORCEMENT ACTIONS

1. Historically, we have issued and/or utilized two types of enforcement actions—informal and formal. Informal actions include a Board Resolution (BR), Memorandum of Understanding (MOU), Supervisory Agreement (SA), Letter of Understanding and Agreement (LUA)¹, and Capital Plan. Formal actions include a Consent Order (CO), a Written Agreement (WA), a Section 39 compliance plan², and a Cease and Desist Order (C&D).

Note: Formal enforcement actions are published on the appropriate federal agency's website-- <https://www5.fdic.gov/edo/index.html> (for FDIC) or <http://www.federalreserve.gov/newsevents/press/enforcement/2015enforcement.htm> (for FRB)³, and <http://www.ncua.gov/Legal/Pages/LUA.aspx> (for NCUA).

2. Whenever possible, all enforcement actions will be prepared and issued on a joint basis with the appropriate federal regulatory agency.
3. Generally, an institution/company with a CAMELS/CAMEL composite rating of 1 or 2 will not be subject to an enforcement action. However, any institution/company may be subject to an informal enforcement action (normally a BR) to correct **repeat** managerial and/or administrative deficiencies or significant deficiencies, including those in specialty areas such as IT, trust, compliance, BSA, OFAC, Louisiana Consumer Credit Law (LCCL), etc.

In such instances, even though an institution/company is rated a CAMELS/CAMEL

¹While the NCUA has the right to publish such actions, we consider them to be informal.

² Pursuant to Section 39(e)(1) of the Federal Deposit Insurance Act and in compliance with Section 308.302 of the FDIC's Rules and Regulations.

³ This link changes based on the year the action was issued; therefore, for upcoming years, the link would show "/2016enforcement.htm", etc.

composite of 1 or 2, a significant or repeat deficiency may exist requiring further action be taken to ensure timely corrective action. In such instances, the following options will be considered before issuing an enforcement action:

- Request written response to the MRBAs or the DOR⁴ in the ROE
- Subsequent visitation to verify that proper corrective action has been taken/planned
- An informal enforcement action (normally a BR)

If one of these options proves to be inadequate, the need for some other type of enforcement action will be considered.

In such instances where the management rating is a 3 and the composite rating is a 2, an informal enforcement action would also likely be called for.

4. Unless otherwise documented and approved by the Commissioner, any institution/company with a CAMELS/CAMEL composite rating of 3, 4, or 5 will be subject to an enforcement action. The enforcement action will either be informal or formal and will provide a reasonable plan to effect corrective action, prevent unsafe and unsound practices, and return the institution/company to an overall satisfactory financial condition.
5. Unless otherwise documented and approved by the Commissioner, the following actions will be taken when an institution/company receives its first composite rating of 3.
 - a. For banks, savings and loan associations, savings banks, and independent trust companies—The Board of Directors (BOD) will be asked to adopt a BR or enter into a MOU, which details the corrective actions to be taken in order to address any deficiencies and return the institution/company to an overall satisfactory financial condition.
 - b. For holding companies—Once the subsidiary institution/company has entered into an enforcement action, the holding company (HC) will be asked to enter into an enforcement action. In general, an informal action placed on the subsidiary institution/company will result in an informal action on the HC and similarly for a formal enforcement action. The customary provisions included in enforcement actions for HCs include dividend restrictions and prohibitions against incurring any additional debt (without prior regulatory approval) until the HC returns to an overall satisfactory financial condition.
 - c. For credit unions—The BOD will be asked to adopt a BR or enter into a LUA agreeing to correct the deficiencies detailed in the Document of Resolution contained in the ROE.
6. When an institution's/company's composite rating of 3 continues in a subsequent examination, the Commissioner may accept a BR in lieu of a MOU if the institution/company is in substantial compliance with the outstanding MOU, deficiencies have been appropriately addressed, or the institution's/company's overall financial condition has improved and no longer warrants such an enforcement action. Otherwise, the need for another type of enforcement action (informal or formal) will be considered.

⁴ MRBA is an abbreviation for Matters Requiring Board Attention, and DOR is an abbreviation for Document of Resolution.

7. Unless otherwise documented and approved by the Commissioner, an institution/company with a composite rating of 4 or 5 will be subject to a formal CO, C&D, WA, or Section 39 compliance plan, and must submit a plan to the Commissioner detailing actions taken, or planned, to return the institution/company to satisfactory financial condition within an acceptable period of time.
8. Troubled Condition Designation – As defined in LSA-R.S. 6-121.4.D., this means any state-chartered financial institution or holding company that meets any one of the following criteria: (A) Has a composite rating, as determined in its most recent report of examination, of 4 or 5 under the Uniform Financial Institutions Rating Systems (UFIRS); (B) Is subject to a proceeding initiated by the appropriate state or federal insurer for termination or suspension of deposit insurance; (C) Is subject to a cease and desist order or written agreement issued by either the commissioner or the appropriate federal regulatory agency that requires action to improve the financial condition of the financial institution or holding company, or is subject to a proceeding initiated by the commissioner or the appropriate federal regulatory agency, which contemplates the issuance of an order that requires action to improve the financial condition of the financial institution or holding company, unless otherwise informed in writing by the commissioner; or (D) Is informed in writing by the commissioner or the appropriate federal regulatory agency that it is in troubled condition for purposes of the requirements of this Subsection on the basis of its most recent report of condition, report of examination, or other information available to the commissioner.

B. IMPLEMENTATION PROCEDURES FOR ENFORCEMENT ACTIONS

1. In general, an on-site examination or visitation will precede the issuance of an enforcement action. Ideally, the proposed enforcement action will accompany the examination/visitation Transmittal Letter (TL) and ROE for management's review and consideration prior to being executed. On occasion, circumstances may delay finalizing the proposed enforcement action. In such instances, the examination/visitation TL and ROE will be issued upon their completion, and the proposed enforcement action will be sent under separate cover letter at a later date.
2. Within a reasonable time after issuance of the proposed enforcement action (approximately one week), the assigned RE, in coordination with the appropriate federal regulatory agency, will contact management to schedule a meeting with the BOD to formally present the enforcement action. If possible, this meeting should be scheduled within one month from the date the enforcement action was mailed to the institution.
3. Meeting for informal enforcement action--Representatives of the respective regulatory agencies to include the assigned RE and Examiner-in-Charge (EIC) for OFI will meet with the BOD, in person or telephonically, to present and discuss each provision of the enforcement action. The purpose of this meeting is to ensure that the BOD has a clear understanding of each provision of the enforcement action. Whenever possible, the BOD will be asked to execute the enforcement action at the conclusion of the meeting/presentation.
4. Meeting for formal enforcement action—Representatives of the respective regulatory agencies to include the assigned Review Examiner (RE) and/or Chief Examiner (CE), Examiner-in-Charge (EIC), Compliance Examiner Manager (DOM) for OFI will meet with the BOD in person to thoroughly discuss the action. This meeting is intended to be a stipulation meeting whereby the institution/company will waive the right to an administrative hearing and consent to the issuance of the action. Typically, the institution/company consents to the issuance of the action without admitting or denying engagement in any unsafe or unsound practice or violation of any laws, regulations, etc. If the BOD stipulates to the enforcement action, individual board

members and representatives of the regulatory agencies will sign the enforcement action at the conclusion of the stipulation meeting, and the enforcement action will become effective on that date.

If the BOD does not stipulate to the formal action, the appropriate regulatory agency will issue a notice of charges at this meeting which starts the formal administrative process pursuant to LSA-R.S. 6:122 or other applicable federal law. Either OFI or its federal counterpart may take the lead on the formal action as well as the administrative process. The effective date will be delayed until the conclusion of the administrative process and in the event that a judge rules in the regulators' favor.

5. When an institution's/company's enforcement action is being updated, either with the same or different type of action, the need for a meeting will be assessed on a case-by-case basis with input from the institution's/company's management as to whether or not such a meeting would be necessary and beneficial.
6. Once the enforcement action is placed on the subsidiary financial institution, a comparable enforcement action will be placed on the HC. The RE will be responsible for contacting and coordinating the drafting of the enforcement action with the FRB, and the HC will be sent a copy to execute and return to one or both agencies. If necessary, both agencies will then execute the document and a fully-executed copy will be sent to the HC.

- C. **MONITORING PROCEDURES** [For banks, thrifts, credit unions, and independent trust companies]—The primary objectives of each monitoring program described below are to give OFI a more complete understanding of the true condition of the institution under an enforcement action, including Management's efforts to address MRBAs and DOR items, and to enhance the dialogue with the management of these institutions/companies.

In general, all enforcement actions, with the exception of credit unions, will include requirements for quarterly progress reports. For CUs, we generally do not require progress reports primarily due to their limited staffing. However, the enforcement action or the DOR generally requires them to provide specific reports or information on a monthly basis, depending on issues noted, to the appropriate District Office for their review. In addition, annual progress visits and annual on-site, full-scope examinations will be conducted to assess the level of compliance with the outstanding enforcement action and the financial condition of the institution/company.

1. **Progress report reviews**—Quarterly progress reports will be required by the enforcement action and will be reviewed off-site by the assigned RE for OFI in coordination with the appropriate federal regulatory agency. The CU examiner in the specific District Office is responsible for reviewing monthly reports that we require the CU to submit. Examples of monthly reports that we generally require the CUs to submit to the District Offices include such items as: general ledger, both balance sheet and income statement, bank reconciliements, and delinquent loans report.

Once substantial compliance with the enforcement action is accomplished, the regulatory agencies may agree to discontinue progress reports even though the enforcement action will remain in effect until it can be more thoroughly assessed at the next full-scope examination.

2. **On-site progress visitation**—On-site progress visitations will generally commence approximately six months from the last examination or mid-way between the effective date of the enforcement action and the next full-scope examination. The examiners will review the documentation submitted in the previous quarter's progress report, directly inquire of any

issues requiring management's input, and utilize any other documentation at the institution in order to make an independent assessment of the institution's/company's overall financial condition and progress in complying with the enforcement action. A summary of the findings of the progress visitation will be communicated to the institution's/company's BOD through a transmittal letter (TL). The institution/company will not be charged by OFI for the progress visitation unless the CE, Deputy Commissioner, or Commissioner determines that the scope went beyond a progress visitation. In such cases, a ROE will be issued, in addition to the customary TL.

3. Subsequent examinations—Management's efforts to comply with an outstanding enforcement action will be assessed at each subsequent examination. The findings of these reviews will be detailed on the Compliance with Enforcement Actions pages or Examination Overview pages (for CUs) of the ROE.

For the first examination following the effective date of the enforcement action, the examiner will detail each provision of the action. At subsequent examinations, only continuing provisions or those noting new areas of noncompliance will be detailed in the ROE.

4. If the timing of the on-site progress visitation or subsequent full-scope examination is such that the next progress report will not materially change, the regulatory agencies may not require the subsequent progress report. Permission to skip a progress report will be communicated in the TL for the progress visit or full-scope examination.

D. REMOVAL OF ENFORCEMENT ACTIONS

1. Enforcement actions will not be removed as a result of a progress visitation. Following the final review of a full-scope examination, and with the concurrence of both regulatory agencies, an enforcement action may be terminated.
2. If it is decided that a BR may be removed, the BOD will be notified that they may elect to revoke/terminate the BR. If the BOD decides to continue the BR, the regulator agencies will not continue enforcement of the "internal" action.
3. Once an institution/company under an enforcement action is upgraded or the enforcement action is terminated, the RE will coordinate termination of the HC's enforcement action with the FRB. The HC will be notified of the final decision in separate correspondence.

- E. EXCEPTIONS—Any exception to this policy requires the prior written approval of the Commissioner.



John Ducrest, Commissioner
Louisiana Office of Financial Institutions

August 14, 2015

Date