
Bank Boards of Directors Hit With Increased Responsibilities: Failure to Act Could Result in Enforcement Actions Against the Bank or Its Directors

By Thomas A. Brooks / Apr 10, 2015

In a late 2014 update to the Community Bank Supervision section of the Comptroller of the Currency's Handbook, the Office of the Comptroller of the Currency ("OCC") has increased the vigilance required of national bank boards of directors. The purpose of the OCC's efforts is to ensure a safe and sound federal banking system by emphasizing timely detection and correction of deficient bank practices before they affect a bank's condition. The tool chosen by the OCC to effectuate this enhanced policy: increased oversight responsibility and affirmative action by a bank's board of directors.

The OCC's concerns relate to what it describes as "matters requiring attention" ("MRA"). MRAs focus on deficient bank practices that are a supervisory concern which the examiners detect in the examination process and communicate to a bank's board and management. The board might be required to take affirmative action to determine the root cause of the practice, which could affect the bank's condition, including its financial performance and risk profile. Inaction by the board could lead to violations of law, enforcement actions or civil money penalties assessed not only against the bank but its board of directors as well.

The OCC expects that a bank's board of directors will ensure that all practices described in an MRA will be timely corrected. To satisfy the regulators' expectations, a board of directors must ensure that it holds management accountable for the deficient practices by directing management to develop and implement corrective actions. Additionally, the board must approve any necessary changes to the bank's policies, processes, procedures and controls. The board is responsible for monitoring, verifying and validating the progress that management is taking to correct the deficiencies.

As with other board of directors' responsibilities, it is charged with overseeing the operations of the bank and management's implementation of the policies and procedures that the board adopts. Directors cannot avoid responsibility for their bank's sound management or its problems. Failure to properly oversee the affairs of a bank could result in enforcement actions being taken against the bank as well as personally against its directors. To avoid any possibility of an enforcement action being taken against the bank or its board, prompt and effective attention to any notification of an MRA by its regulator is required.