

OCC Targets Large Banks with Persistent Weaknesses

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On May 25, the Office of the Comptroller of the Currency (OCC) [announced](#) that it has revised its manual on bank enforcement actions to specifically address banks that exhibit or fail to correct persistent weaknesses. The OCC's focus is on the larger and more complex banks it supervises.

Policies and Procedures Manual 5310-3, "Bank Enforcement Actions and Related Matters," now includes a new "Appendix C: Actions Against Banks With Persistent Weaknesses." This new Appendix C outlines additional requirements and restrictions the OCC can impose against banks that fail to fix "persistent weaknesses," including requiring a bank to improve its capital or liquidity position, restricting a bank's growth, business activities, or payments of dividends, and in extreme cases requiring a bank to reduce its assets, to divest subsidiaries or business lines, or to exit from one or more markets.

In [Appendix C](#), the OCC defines persistent weakness as: "composite or management component ratings that are 3 or worse, or three or more weak or insufficient quality of risk management assessments, for more than three years; failure by the bank to adopt, implement, and adhere to all the corrective actions required by a formal enforcement action in a timely manner; or multiple enforcement actions against the bank executed or outstanding during a three-year period."

The OCC's revisions to its manual follow [remarks](#) made earlier this year by Comptroller of the Currency Michael J. Hsu at Brookings concerning banks becoming "too-big-to-manage" (TBTM). Comptroller Hsu stated: "As large banks continue to grow and expand, I believe developing a robust approach to detecting, preventing, and addressing TBTM risks will increasingly become an imperative for both banks and bank regulators." Comptroller Hsu went on to note that banks that are well managed embrace the process of identifying problems and addressing weaknesses, whereas "[a] lack of timely remediation of [matters requiring attention (MRAs)] indicates an unwillingness or an inability of senior management to address them. The accumulation and aging of MRAs is a signal that something is amiss."

The OCC's announcement comes amid related continuing public discussions regarding bank merger criteria and TBTM. Skeptics of TBTM argue that size doesn't always equate with complexity and that measures put in place as a result of Dodd-Frank have moderated the effects of size and complexity on risk profiles. The new Appendix C definition of "persistent weakness" arguably responds to this debate by tying the assessment to existing regulatory assessment and actions. As Comptroller Hsu has noted: "The power to avoid becoming too big to manage rests with each bank. Our policy is designed to ensure that deficiencies are clearly identified, and that banks are given opportunities to address them."

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