**Section 190.25 Regulatory Examination Consistency and Due Process**

To ensure consistency and due process, the Department shall make every reasonable effort to adhere to the following standards of performance in conducting its regulatory examinations of credit unions. To supplement this Part, the Department may establish guidelines that define the scope of the examination process and clarify the manner in which examination items shall be resolved. The scope of the guidelines shall include, but are not limited to: protocol in identifying and addressing examination findings; preparation of examination reports; delivery of examination reports; and procedures for enforcement actions and determining compliance with enforcement actions. The guidelines furnished to credit unions by the Department may be relied upon by the credit unions. The Department reserves the right to change these guidelines. The Department will provide reasonable notice when any change to the guidelines occurs.

a) Reasonable Notification

1) Prior to commencement of the examination, the Department shall mail or email a pre-examination memorandum to management and the board of directors (Board) of the credit union giving notification of the commencement date of the examination and the information the Department deems necessary to conduct the examination. Prior notification is not required if the Department suspects criminal activity or unsafe and unsound activity for which advance notice may compromise or otherwise interfere with the examination. Prior to and during the exam, the credit union shall provide timely information in response to requests by the Department for information.

2) During each stage of the examination, the Department shall make a reasonable effort to provide prior notification to management of the credit union of all joint conferences and the exit meeting. It shall be the responsibility of management to contact the Board and applicable committees of all joint conferences and the exit meeting.

b) Communication Protocol in Identifying and Addressing Examination Findings – The Department shall take reasonable steps to work with the credit unions it supervises to proactively identify problems and solutions during the examination process.

c) Delivery of Examination Reports

1) Definitions

A) An "exit meeting" is held when field work is completed and preliminary results are shared with management.

B) The "examination report meeting" with the Board and management customarily takes place after the exit meeting and is held with the Board and/or senior management. At the examination report meeting, any draft Document of Resolution (DOR) and any draft examiner's findings shall be presented to the Board and/or senior management.

C) The "final examination report" is delivered after the examination report meeting and is issued by the Department after the review examination process is finalized.

2) Examiners shall provide management and the Board with the examiner's draft findings and any draft DOR, with sufficient time to review these items before the examination report meeting with the credit union's senior management and/or Board.

3) At the exit meeting and/or at the examination report meeting, each Board member shall be permitted to participate in the meeting to fulfill his or her fiduciary duties.

4) The Department shall submit its final examination report to the credit union after the examination report meeting.

d) Examination Due Process: Enforcement Action Procedures

1) Background. The Department, acting through the Division of Financial Institutions, Credit Union Section, may determine it is prudent to take an enforcement action against a credit union. The enforcement action may either be specified by the Act or not.

A) Enforcement actions not specified by the Act are DORs and Letters of Understanding and Agreement (LUAs).Violations of the terms of a DOR or LUA may be enforced through administrative actions specified by the Act.

i) A DOR is set forth in the Examination Report and outlines an identified problem and corrective action plan to resolve the problem. A problem included in a DOR shall be significant enough that the Department may escalate the matter to the next level of elevated enforcement action for failure to correct the problem. Problems requiring attention that may be addressed in a DOR include, without limitation, unsafe or unsound practices that reasonably threaten the stability of the credit union.

ii) An LUA is an enforcement action presented to a credit union by the Department to initiate corrective action of identified material deficiencies or weaknesses in the credit union's administration or operations. The LUA shall be structured as an agreement between the Department and the credit union, pursuant to which the credit union agrees to the terms specified in the LUA.

B) Other enforcement actions are Cease and Desist Orders, Orders of Removal and Civil Penalty Orders. These enforcement actions are specified by the Act and may be unilaterally imposed on the credit union by the Department, provided that a credit union may appeal such actions to the extent provided by the Act and this Part. The Department may take enforcement actions for, among other things, significant and material violations of laws or rules, unsafe and unsound practices, breach of fiduciary duty, violations of orders and failure to implement or comply with previous regulatory actions.

2) Progressive Steps of Review. In connection with any request for reconsideration of any examination finding and/or examination corrective action item, the following procedures shall apply:

A) Examiner Level – Credit union management officials shall be encouraged to directly resolve disagreements, complaints or issues with the Examiners on-site during the regulatory examination, including the Examiner in Charge (EIC), or directly with any Examiner who otherwise identifies a deficiency or issue during any examination, visitation, investigation or review of the credit union.

B) Supervisory Level – In the event the credit union and Examiner are unable to reach a mutually acceptable resolution of the issue, the credit union may discuss the issue with the Assistant Supervisor or Supervisor of the Credit Union Section.

C) Director Level – If the credit union and Supervisor or Assistant Supervisor are unable to resolve the issue, either party may ask the Division Director to rule on the dispute. The Director may agree to do so or decline to do so.

D) Department Internal Review Committee − Irrespective of whether the Director renders a decision on the issue, the Director may elect to request that an internal panel of Department personnel consider the issue and render a final regulatory recommendation to the credit union. The internal review committee shall consist of the Director or his or her designee, Supervisor, Assistant Supervisor, Problem Case Officer and an Examiner not involved in the examination. In cases in which there is a vacancy in a designated office, the committee comprised of the other designated incumbents shall proceed to review the matter.

E) Nothing in this subsection (d)(2) shall be construed to impair or abrogate the right of a credit union to request a formal hearing under Section 190.20 to review the propriety of an administrative action or regulatory decision of the Department.

(Source: Added at 38 Ill. Reg. 19910, effective October 17, 2014)