



### EM-1.5

**Category:** General Information

**Topic:** FCA Criminal Referral Form and Instructions

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#### Introduction

The Farm Credit Administration (FCA) Criminal Referral Form (hereinafter FCA Referral Form) is used by Farm Credit System (System) institutions to make referrals to law enforcement agencies of known or suspected criminal activity perpetrated against the institution by insiders or others, such as borrowers. Insiders include institution personnel, such as directors, officers, employees, agents, or other persons participating in the conduct or affairs of the institution. Suspected criminal activity means there is a reasonable basis to conclude a crime has occurred or is occurring. System institutions must use due diligence to ensure the discovery and reporting of criminal activity. The following FCA Regulations identify specific requirements related to referral of known or suspected criminal activity:

- FCA Regulation [612.2300](#) – Purpose and scope
- FCA Regulation [612.2301](#) – Referrals
- FCA Regulation [612.2302](#) – Notification of board of directors and bonding company
- FCA Regulation [612.2303](#) – Institution responsibilities

If FCA staff detects a known or suspected criminal violation the institution has not reported, the FCA staff member must immediately notify the Director of the Risk Supervision Division, Office of Examination, and FCA's Office of General Counsel to identify an appropriate course of action.

**Criminal Referral System:** FCA's [Criminal Referral System](#) provides for online completion of the FCA Referral Form. The completed form is available in both an electronic and printable format for submission to law enforcement and for the institution's records retention.

**Safe Harbor:** Federal law provides System institutions and their personnel with immunity from civil liability for making a criminal referral. See [12 U.S.C. § 2219e](#).

#### Filing Requirements

Institutions are required to file the FCA Referral Form within 30 calendar days of determining that a known or suspected criminal violation of the United States Code has occurred (these violations typically fall under U.S. Code Title 18, part I – Crimes (§§ 1 – 2725)). FCA Regulation [612.2301\(a\)](#) provides applicable reporting thresholds, and FCA Bookletter [BL-073](#) provides guidance on implementing the FCA criminal referral regulations. Institutions must fill out the FCA Referral Form as completely as practicable under the circumstances and forward it to the appropriate law enforcement authorities. The preparer should limit comments to factual statements, and under no circumstances should the preparer express views on the guilt of any suspect(s).

When a known or suspected criminal violation requires urgent attention or is ongoing, institutions must immediately notify by telephone the law enforcement authorities and the FCA office specified on the FCA Referral Form. In such situations, the institution's obligation for action is immediate upon determining there is a reasonable basis to conclude that a crime has occurred or is occurring. In all other situations in which a criminal referral is required but the facts continue to unfold, institutions are encouraged to submit the FCA Referral Form once sufficient facts exist to determine there is a reasonable basis to conclude that the crime has occurred or is occurring. In all situations, additional facts can be submitted later as they become available.

Institutions should not file the FCA Referral Form or notify federal law enforcement authorities for known or suspected violations of state or local criminal law. In such cases, the institution only needs to notify the appropriate state or local law enforcement authorities. Institutions should also inform their designated FCA Examiner-in-Charge if the violation they report to state or local law enforcement is significant.

### **Protection of Personally Identifiable Information**

When completing the FCA Referral Form, it is important to only include Personally Identifiable Information (PII) in the specifically designated fields. Examples of PII include names, birth dates, Social Security numbers, home addresses, and other private personal information that can be linked to an individual. ***You must not include any PII in the free text fields on the FCA Referral Form. FCA removes or limits access to PII contained in the designated fields once the form is submitted to FCA's database.*** This allows the institution to submit to law enforcement and maintain a copy of the FCA Referral Form with PII, while protecting any sensitive PII from unnecessary storage at FCA. However, FCA will not take any action to remove PII from free text fields.

### **Where to File**

Institutions must file the FCA Referral Form as outlined below. Institutions do not need to include copies of supporting documents with the submission.

1. Send the original to the U.S. Attorney for the region in which the act took place.
2. Send a copy to each of the following offices, as appropriate:
  - The U.S. Secret Service if the institution is a System bank or Federal Land Credit Association, or the Federal Bureau of Investigation for all other System institutions.
  - The Federal Bureau of Investigation and the U.S. Secret Service if the known or suspected criminal violation involves either federal money laundering or computer fraud statutes.
  - The Federal Bureau of Investigation and the U.S. Secret Service if the institution cannot determine the appropriate federal law enforcement investigatory agency to forward the FCA Referral Form to, or if there appears to be overlapping jurisdiction to investigate the violation.
  - Internal Revenue Service for the region in which the act took place if any tax, money laundering, or structuring violation is known or suspected.
  - U.S. Postal Service for the region in which the act took place if mail fraud is known or suspected.

3. Use FCA's [Criminal Referral System](#) to submit a criminal referral to FCA's Office of General Counsel.<sup>1</sup> Only submit the FCA Referral Form and not any supporting documents.
4. Institutions must retain one copy of the FCA Referral Form, along with any supporting document(s), for 10 years (generally, the statute of limitations for most financial banking crimes is 10 years).

### Questions

For questions on completing and filing the FCA Referral Form, contact FCA's Office of General Counsel at (703) 883-4020. For technical questions about the online Criminal Referral System, contact FCA's Helpline at (877) 322-4503 (email [helpline@fca.gov](mailto:helpline@fca.gov)).

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<sup>1</sup> An institution may contact FCA's Office of General Counsel for alternate filing instructions if there is a possibility that an investigation could be compromised or it would otherwise be inappropriate or impractical to submit the FCA Referral Form online.