

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, investigation, 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 Form: [Fillable PDF](#)

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. FCA Regulation 612.2301(a) provides applicable reporting thresholds. Institutions must fill out the 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 where 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.

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.
 - U.S. Customs Service for the region in which the act took place if wire fraud is known or suspected.
 - 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. Send an electronic copy to FCA's Office of General Counsel using the [Submit E-Data Portal](#) on FCA's website.¹ 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 questions on using the Submit E-Data Portal, contact FCA's Helpline at (877) 322-4503 (email helpline@fca.gov).

¹ In situations where submitting a criminal referral through the E-Data Portal would compromise an investigation or would otherwise be inappropriate or impracticable, the institution may contact FCA's Office of General Counsel for alternative filing instructions.