

GAO Highlights

Highlights of [GAO-19-69](#), a report to congressional requesters

Why GAO Did This Study

OCC supervises over 1,300 financial institutions, with assets under supervision totaling \$12 trillion. Weakness in supervision by federal regulators was among many factors that contributed to the 2007–2009 financial crisis, and some analyses have identified regulatory capture as one potential cause. Regulatory capture refers to a regulator acting in the interest of the regulated industry rather than in the public interest.

GAO was asked to review regulatory capture in financial regulation. This report examines the extent to which OCC (1) has policies that encourage transparency and accountability in the large bank supervision process, (2) has policies that address employees' conflicts of interest that could threaten their independence, and (3) promotes an agency-wide focus on supervisory independence and mitigating the risk of capture. GAO reviewed OCC policies, analyzed examination workpapers, and interviewed supervisory staff. GAO also analyzed conflict-of-interest data, as well as OCC's enterprise risk management framework.

What GAO Recommends

GAO is making nine recommendations to OCC related to managing the risk of regulatory capture, including improving the documentation of its supervision process, checking for conflicts of interest, periodically assessing the ethics program, and expanding its approach to addressing the risk of capture across the agency, among others. OCC agreed with one recommendation, disagreed with five, and neither agreed nor disagreed with three. GAO maintains that the recommendations are valid.

View [GAO-19-69](#). For more information, contact Michael Clements at (202) 512-8678 or clementsm@gao.gov.

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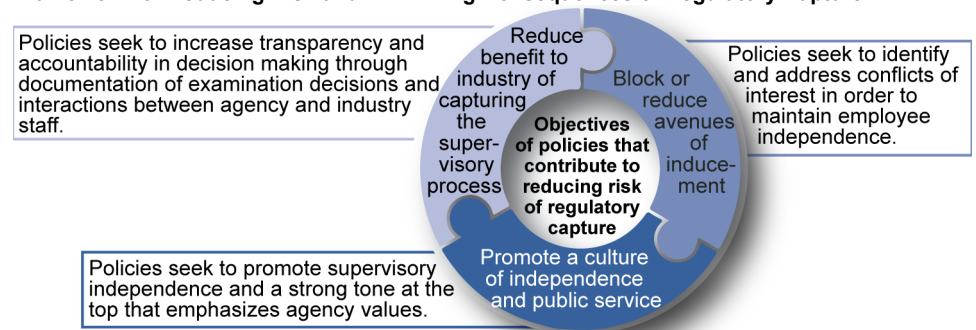
LARGE BANK SUPERVISION

OCC Could Better Address Risk of Regulatory Capture

What GAO Found

Banking regulators such as the Office of the Comptroller of the Currency (OCC) can implement policies to address the risk of regulatory capture. The objectives of these policies include reducing the benefit to industry of capturing the supervisory process, reducing avenues of inducement offered by regulated banks, and promoting a culture that values independence (see figure).

Framework for Reducing Risk and Minimizing Consequences of Regulatory Capture



Source: GAO. | GAO-19-69

OCC has some policies that encourage transparency and accountability in its large bank supervision processes; however, weaknesses in documentation requirements may make large bank supervision more vulnerable to regulatory capture. For example, examination teams are not required to document internal deliberations or communications with banks that lead to consequential decisions for a bank, such as supervisory or enforcement actions. Further, examination teams are required to delete drafts of key documents that memorialize reviews that are part of the supervisory process. Maintaining a complete and transparent record of decision making and important communication with banks could improve OCC's ability to mitigate capture-based decisions.

OCC also has some policies to mitigate conflicts of interest, but implementation is hindered by issues related to collection and use of data and lack of program assessments. For example, when staffing a bank examination team, OCC does not have a policy to verify that employees do not have active conflicts of interest by checking employee data. OCC also does not periodically assess the implementation of its ethics program, including policies and procedures intended to help the agency meet ethics laws and regulations. Improving data collection and assessing policies, controls, and guidance that identify and address conflicts of interest could help OCC ensure that its ethics program is operating effectively.

OCC leadership has taken some steps to demonstrate support for supervisory independence, but its approach to mitigating regulatory capture is narrow. For example, OCC only considers two factors when assessing the risk of capture: the tone of its media coverage and the extent to which examination staff rotate among banks. OCC does not analyze other relevant factors, such as employee movement to and from industry or its supervision practices, which can impact this risk. Without expanding its approach to addressing the risk of regulatory capture, OCC may be missing opportunities to identify other ways in which this enterprise-wide risk may affect the agency.