

Determining Whether to Require Use of a 3PC

Factors relied upon by OCC include:

- The severity of the violations or issues, including the impact of the violations on consumers, the bank, or others
- The criticality of the function requiring remediation
- Confidence in management's ability to perform or ensure that the necessary actions are taken to identify violations and take corrective action in a timely manner
- The expertise, staffing, and resources of the bank to perform the necessary actions
- Actions already taken by the bank to address the violations or issues
- Services to be provided by the 3PC (for example, a full look-back or a validation of the bank's look-back)
- Alternatives to the engagement of a 3PC

OCC's Review of the Proposed 3PC

OCC expects institutions required to engage 3PCs to conduct adequate due diligence, along lines foreshadowed by the recent bulletin on [risk management for 3PC relationships](#). The institution must then submit information regarding the bank's due diligence, including the proposed 3PC's qualifications, terms of engagement, and independence from management, and the engagement cannot commence until OCC issues a written determination of supervisory no-objection. Any direct conflicts or facts that call into question the independent consultant's integrity will cause the OCC to disqualify the consultant. As part of the agency's assessment of the 3PC's independence from management, the bulletin identifies the following key factors:

- Scope and volume of other contracts or services provided by the 3PC to the bank
- Specialized expertise of the 3PC and availability of other consultants
- Proposals to mitigate any potential conflict or appearance of conflict
- The existence of any financial relationship between the bank and the proposed 3PC
- Any business or personal relationship of the 3PC or its employees with a member of the board or executive officer of the bank
- Prior employment of the 3PC's consultant staff by the bank
- Other relevant facts and circumstances

OCC Oversight of the Work of the 3PC and its Implementation

The nature and frequency of OCC oversight of the 3PC and the bank will depend on the particular facts and circumstances covered by the enforcement action, the expertise and resources of management, the nature of the independent consultant's engagement, and the timeline for completion of that engagement. Factors include:

- The specific deficiencies or violations the 3PC is engaged to address
- The nature of anticipated recommendations regarding remediation
- The scope and duration of work (including whether periodic reports are advisable)
- Whether management has sufficient expertise and appropriate processes to ensure that appropriate steps can be taken to implement the 3PC's recommendations
- The potential for and materiality of harm to consumers and the bank

In all events, OCC will review the 3PC's final report and findings after these have been presented to the bank's board of directors, along with the plan approved by the board to address that report and those findings. The supervisory agreement or consent order will typically require that any such plan be submitted to OCC for a determination of supervisory no-objection before it may be implemented.