

# FCA CRIMINAL REFERRAL FORM INSTRUCTIONS

## 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.

**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.<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 Jeffrey Pienta, Office of General Counsel, at (703) 883-4431 (e-mail [pientaj@fca.gov](mailto:pientaj@fca.gov)). For questions on using the Submit E-Data Portal, contact FCA's Helpline at (877) 322-4503 (email [helpline@fca.gov](mailto:helpline@fca.gov)).

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<sup>1</sup> 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.

**FCA CRIMINAL REFERRAL FORM**

Date: \_\_\_\_\_

**Section I - BACKGROUND INFORMATION**

1. Name, location, and phone number of the FCS institution:

Name: \_\_\_\_\_

Location: \_\_\_\_\_

Street

\_\_\_\_\_

City

State

Zip Code

Phone number: \_\_\_\_\_

If transaction occurred at branch office(s), please specify the branch name and address:

\_\_\_\_\_

2. Asset size of institution: \$ \_\_\_\_\_

3. Approximate date and dollar amount involved in suspected violation(s):

Date: \_\_\_\_\_ Amount: \_\_\_\_\_

4. The following violation of the criminal code of the United States may have occurred:

- |                          |                                     |                  |                      |
|--------------------------|-------------------------------------|------------------|----------------------|
| <input type="checkbox"/> | Conversion <sup>b</sup>             | (18 U.S.C. 658)  | Complete Section II  |
| <input type="checkbox"/> | False Statement <sup>a</sup>        | (18 U.S.C. 1014) | Complete Section III |
| <input type="checkbox"/> | False Entry, etc. <sup>a</sup>      | (18 U.S.C. 1006) | Complete Section IV  |
| <input type="checkbox"/> | Misappropriation, etc. <sup>a</sup> | (18 U.S.C. 657)  | Complete Section V   |
| <input type="checkbox"/> | Other <sup>c</sup>                  | (18 U.S.C. ____) | Complete Section VI  |

5. This matter is being referred to the U.S. Attorney in \_\_\_\_\_  
City

\_\_\_\_\_

State

Judicial District (if known)

and, as applicable, to the FBI in \_\_\_\_\_  
City State

and/or the U.S. Secret Service in \_\_\_\_\_  
City State

Other: \_\_\_\_\_

6. Person(s) suspected of criminal violation (if more than one, use a continuation sheet):

<sup>b</sup> Excerpt of the statute in EM-640 of the *FCA Examination Manual*.

<sup>c</sup> See, e.g., 18 U.S.C. §§ 212, 213, 215, 216, 371, 493, 709, 1011, 1013, 1907, and 1909.



7. Offer of assistance:

The individuals listed below are/will be authorized to discuss this referral with appropriate law enforcement officials and to assist in locating or explaining any document pertinent to this referral:

Name _____	Phone No. _____
Name _____	Phone No. _____
Name _____	Phone No. _____

8. FCA Referral Form prepared by: \_\_\_\_\_

Position: \_\_\_\_\_ FCA Examiner?  Yes  No

Institution (if other than the FCS institution previously identified): \_\_\_\_\_

Phone No. \_\_\_\_\_

Address: \_\_\_\_\_

Date: \_\_\_\_\_

**THE FOLLOWING SECTIONS OF THE REFERRAL ARE CRITICAL. They should be as detailed as circumstances permit. The care with which this section is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. The discussion points listed in these sections are not exhaustive. Feel free to use attachments or to continue the description on a separate sheet. Include any suggestions for interviewing witnesses, gathering documents, or anything else which might prove useful.**

**Section II - CONVERSION**

(18 U.S.C. 658)

1. Note(s):

Date \_\_\_\_\_  
Amount \_\_\_\_\_  
Maturity \_\_\_\_\_  
Balance due as of this date \_\_\_\_\_

2. Identity of the security instrument:

Financing statement/security agreement  
 Chattel mortgage  
 Other \_\_\_\_\_  
Office of filing \_\_\_\_\_  
Date filed \_\_\_\_\_

3. Information about property converted:

a. Type of property

Livestock: kind \_\_\_\_\_ breed \_\_\_\_\_ number \_\_\_\_\_  
                  brands \_\_\_\_\_ other identifying data \_\_\_\_\_  
 Equipment: type \_\_\_\_\_ model \_\_\_\_\_ year \_\_\_\_\_  
                  serial number \_\_\_\_\_ other identifying data \_\_\_\_\_  
 Crops: kind \_\_\_\_\_ quantity \_\_\_\_\_  
 Other \_\_\_\_\_

b. Value at date of conversion \_\_\_\_\_

c. Valuation basis \_\_\_\_\_

d. Usual location of property if different from address of borrower shown in Section I

e. The property was disposed of by the borrower on or about \_\_\_\_\_, \_\_\_\_\_  
by sale  pledge  other  (explain) \_\_\_\_\_ to \_\_\_\_\_

\_\_\_\_\_  
Street City County State

for the sum of \$\_\_\_\_\_.

4. The conversion resulted in a loss (or potential loss) to the System institution identified in Section I in the amount of \$\_\_\_\_\_.

5. Witnesses (names, addresses, and brief description of expected testimony):

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6. Other persons suspected of criminal violation (names, addresses, and brief description of involvement):

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7. Present whereabouts of borrower if different from address shown in Section I:

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8. Did borrower request consent to dispose of any of the collateral?

Yes       No

Has borrower applied proceeds of the conversion to the loan secured by the collateral?

Yes       No       In part

9. Had borrower previously disposed of collateral without consent?

Yes       No

Did borrower previously apply proceeds of the conversion to the loan secured by the collateral?

Yes       No       In part

10. Is disposition of collateral by debtors without the consent of creditors a customary practice in the community?

Yes       No

11. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken:

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12. Describe any civil action taken or to be taken to prevent or recover loss:

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**Section III - FALSE STATEMENT**

(18 U.S.C. 1014)

1. Available information indicates that a false statement regarding assets, liabilities, or other information was made on:  
 loan application  
 other documents      Identify: \_\_\_\_\_  
\_\_\_\_\_
2. The document containing the false statement was prepared by \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Statement was false because (explain) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. The statement was relied on by the FCS institution identified in Section I, which took the following action as a result: made a loan in the amount of \$ \_\_\_\_\_ or other (explain) \_\_\_\_\_.
5. The action described in item 4 resulted in a loss (or potential loss) to the System institution in the amount of \$\_\_\_\_\_.
6. Witnesses (names, addresses, and brief description of expected testimony): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Other persons suspected of criminal violation (names, addresses, and brief description of involvement): \_\_\_\_\_  
\_\_\_\_\_
8. Present whereabouts of person named in Section I if different from the address shown in that section: \_\_\_\_\_  
\_\_\_\_\_
9. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken: \_\_\_\_\_  
\_\_\_\_\_
10. Describe any civil action taken or to be taken to prevent or recover loss: \_\_\_\_\_  
\_\_\_\_\_

**Section IV - FALSE ENTRY, ETC.**

(18 U.S.C. 1006)

1. Available information indicates that the person named in Section I:  
 made a false entry in a book, report, or statement to the System institution identified in Section I. (Describe the nature of the false entry.)  
 without being authorized, drew an order or bill of exchange, made an acceptance, or issued, put forth, or assigned a note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree. Identity of the document: \_\_\_\_\_  
\_\_\_\_\_  
 participated or shared in or received directly or indirectly money, profit, property, or benefits through a transaction, loan, commission, contract, or other act of the System institution. Description of what was received and the type of transaction: \_\_\_\_\_  
\_\_\_\_\_
2. The action described in item 1 resulted in a loss (or potential loss) to the System institution in the amount of \$ \_\_\_\_\_.
3. Witnesses (names, addresses, and brief description of expected testimony): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Other persons suspected of criminal violation (names, addresses, and brief description of involvement): \_\_\_\_\_  
\_\_\_\_\_
5. Present whereabouts of person named in Section I if different from the address shown in that section: \_\_\_\_\_  
\_\_\_\_\_
6. If this matter has been reported to local authorities, state when and to whom the report was made and any action taken: \_\_\_\_\_  
\_\_\_\_\_
7. Describe any civil action taken or to be taken to prevent or recover loss: \_\_\_\_\_  
\_\_\_\_\_

**Section V - MISAPPROPRIATION, ETC.**

(18 U.S.C. 657)

1. Kind of property misappropriated (money, securities, or other things of value belonging to the System institution identified in Section I): \_\_\_\_\_  
\_\_\_\_\_
2. Value of property misappropriated (embezzled, abstracted, purloined, willfully misapplied):  
\$ \_\_\_\_\_
3. Disposition of property misappropriated: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Witnesses (names, addresses, and brief description of expected testimony): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Other person(s) suspected of criminal violation (names, addresses, and brief description of involvement): \_\_\_\_\_  
\_\_\_\_\_
6. Present whereabouts of person named in Section I if different from the address shown in that section: \_\_\_\_\_
7. If this matter has been reported to local authorities, state when and to whom the report was made and the action taken: \_\_\_\_\_
8. Describe any civil action taken or to be taken to prevent or recover loss: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## **Section VI - OTHER**

Describe the offense, when it occurred and the cost to the System institution, if any. Provide the names and addresses of witnesses and a brief description of their expected testimony. State the present whereabouts of the person(s) named in Section I if different from the address shown in that section. Attach a narrative report describing any other pertinent statements and documents.