

An Introduction to CFPB's Exams of Financial Companies

January 9, 2023

The CFPB has longstanding supervisory relationships with many institutions and their service providers, but we also commonly conduct exams or other supervisory activities at a company for the first time. Here, the CFPB provides information about what newly supervised institutions—who may not be familiar with our supervision program—can expect from the supervisory relationship, as well as resources that may be helpful.

Statutory background

Under the Consumer Financial Protection Act of 2010, we conduct our supervisory activities for the purposes of: (A) assessing compliance with Federal consumer financial law; (B) obtaining information about a supervised institution's activities and compliance systems and procedures; and (C) detecting and assessing risks to consumers and to markets for consumer financial products and services.

Prior to the Consumer Financial Protection Act, other federal supervisory agencies conducted consumer protection examinations of banks and credit unions. Many features of our supervision program are based on the longstanding supervisory traditions of our peer agencies.

Confidential back-and-forth communication

As with other supervisory agencies, CFPB supervisory activities are confidential. The confidential nature of supervision promotes candid communication between supervised entities and their regulators. The United States Court of Appeals for the District of Columbia Circuit has [explained](#) that because “bank supervision is relatively informal and more or less continuous, so too must be the flow of communication between the bank and the regulatory agency. Bank management must be open and forthcoming in response to the inquiries of bank examiners, and the examiners must, in turn, be frank in expressing their concerns about the bank.” These considerations also apply to non-bank supervision.

Transparency about our supervision program

We regularly release [Supervisory Highlights](#), which share summaries of examiners' findings—without naming specific institutions—and contain other information about our program. Industry stakeholders have long emphasized how helpful *Supervisory Highlights* are in understanding examiners' activities. We also make our [exam manual](#) available to the public. We publish [a list of the banks and credit unions](#) under our supervisory authority. In addition, we may publicly release orders by the CFPB Director designating nonbanks for supervision but not the content of exams of those institutions—as explained in our [rule](#) on that topic.

The role of examiners

The CFPB implements risk-based supervision through a “prioritization” approach to allocating our supervisory resources, which is described further in the [overview section of our exam manual](#). In other words, not every firm subject to the CFPB's supervision authority will get examined.

Examiners generally do the following:

- Collect and review available information from within the CFPB, other Federal and state agencies, and public sources, consistent with statutory requirements;
- Review documents and information obtained through information requests sent to supervised entities;
- Conduct onsite (or virtual) portions of exams to observe, conduct interviews, review additional documents and information, transaction test, and assess compliance management;
- Consult within the CFPB on legal issues arising from an examination, including legal violations;
- Draw preliminary conclusions about the regulated entity's compliance management and its statutory and regulatory compliance after internal consultation;¹
- Consult within the CFPB about examination work product and any corrective actions that the institution should take;
- Send the supervisory communication to the supervised entity.

¹ Examiners typically communicate preliminary conclusions to supervised entities during the examination or other supervisory activity.

Exam manual as a resource

The exam manual is a resource for examiners to use in conducting exams and other supervisory activities. Among other topics, it includes background information about relevant statutes and regulations. However, legal discussions in the exam manual are not binding on examiners or other CFPB staff. A supervisory finding that an institution has violated the law is based on an application of the governing statute and regulations to that institution.

While the manual is intended as an internal resource for examiners, we post it on the CFPB [website](#), in the interest of transparency about our program. Readers should keep in mind the [disclaimer](#) attached to the manual, which notes that it “should not be relied on as a legal reference.” Supervised institutions are bound by statutes and regulations, not by our manual.

Supervisory findings

At the end of an exam or other supervisory activities, examiners provide the supervised institution with a supervisory communication, such as an [exam report](#) or [supervisory letter](#), which includes their findings.

Among other types of findings, examiners may find that an institution has violated a statute or regulation or is at risk of such a violation. These findings are normally reviewed by staff supporting the examiners at CFPB Headquarters. They are not final determinations by the CFPB or the CFPB Director. Instead, they are part of the supervisory process that aims to improve compliance and prevent violations.

Exam findings may include “matters requiring attention” (MRA). Examiners use MRAs to communicate specific goals to be accomplished to address violations of law, risk of such violations, or compliance management deficiencies. Part of the historical origin of MRAs is a Government Accountability Office [study](#) from 1982. According to the study, many bankers were dissatisfied that written exam reports of that day lacked “clarity” in “recommending useful solutions to problems.” The Government Accountability Office recommended that exam reports include, “in a concise and straightforward fashion, recommendations for corrective action.” Today, examiners at the CFPB and its peer supervisory agencies use MRAs, or the equivalent, to provide concrete written recommendations to institutions to solve problems at the institution.

Distinction between Supervision and Enforcement

Most supervisory activities do not result in a referral to Enforcement. The Office of Enforcement has many other [sources](#) of information that prompt investigations, such as consumer complaints, referrals from other agencies, whistleblowers, and market intelligence.

The CFPB considers the decision to refer a matter to Enforcement or instead continue to use the supervisory process very carefully. If a matter is referred for an Enforcement investigation, the

Office of Enforcement is not bound by examiners' preliminary findings. Enforcement will take any additional investigative steps that it considers necessary, such as issuing civil investigative demands. It will formulate a recommendation to the CFPB Director about whether to initiate an enforcement action, which may be narrower or broader than examiners' preliminary findings. Enforcement may send a [Notice and Opportunity to Respond and Advise](#) letter to invite input from the institution.²

Conclusion

Most financial companies prefer the supervisory process to formal law enforcement investigations. This process may help to identify issues before they become systemic or cause significant harm. Effective supervision depends on cooperation by company staff with examiner's requests for information, collaboration between examiners and company staff, and clear communication on both sides. And this requires a solid understanding of the CFPB's supervisory process.

² More information about CFPB Enforcement is available at: <https://www.consumerfinance.gov/enforcement/life-cycle-of-enforcement-action/>.