



## CFPB Examinations – Are You Prepared?

“The mortgage market cannot work well for consumers if the spotlight shines only on one part of it, while the rest is left in darkness. Our supervision program will illuminate the entire marketplace by making nonbanks play by the same rules as the banks.”

~ Richard Cordray, CFPB Director; January 11, 2012

“... the place we’re spending most of our time is in the mortgage market.”

~ Raj Date, CFPB Deputy Director; May 7, 2012

As the quotes above make clear, the mortgage industry is a top priority of the Consumer Financial Protection Bureau. Director Richard Cordray’s remarks (made in connection with the publication of the CFPB’s Mortgage Origination Examination Procedures) and Deputy Director Date’s comment (made at the MBA Secondary Conference) signal that CFPB’s examination process is already in full swing—and that it is making efforts to increase its examination capacity even further.

When the CFPB examines your institution—most likely with your home state regulator and perhaps others in tow—it will take a comprehensive look at your operations, your policies and procedures, any results of examinations by other regulators, your complaint history, and how you have responded to those complaints to assess your commitment to consumer compliance.

Use the following checklist to see if your institution is ready for an examination.

- Do you have written policies and procedures in place covering:
  - Federal regulations under the CFPB's authority, including those related to RESPA, TILA, ECOA, FCRA, HMDA, FDPCA, SAFE, and GLBA?
  - Dissemination of compliance information and updates?
  - Third-party service provider due diligence, monitoring, and accountability?
  - Origination, underwriting, and servicing practices, particularly with regard to areas where the exercise of individual discretion is likely?
  - Receiving, reporting, and resolving customer complaints?
  - Tracking customer complaints to detect trends, and taking action in response to those trends?
  - Incentive compensation programs for employees who interact with consumers?
  - Fair lending compliance, both in connection with origination and loss mitigation?
  - Credit reporting and the handling of credit disputes?
  - Collection of past due accounts, including policies on written communications and telephone calls to borrowers?
  - Record retention that complies with state and federal law?
- Have you engaged in regular self-assessments or compliance audits, especially with regard to fair lending and mortgage servicing issues?
- Is your board of directors/senior management involved in a documented way in consumer compliance, including receiving reports and providing direction to the organization on compliance issues?
- Do you have documentation readily available detailing ongoing training efforts, particularly with regard to fair lending issues?
- Do you have written minutes available for meetings of the board of directors, compliance/audit committee, and credit/pricing committee, showing board and committee involvement in consumer compliance issues?
- Have you satisfactorily resolved all issues raised during examinations conducted by other regulators?
- Have you reviewed the CFPB's Examination Manual?
- Do you have an Examination Plan in place that covers:
  - Who will interface with the CFPB?
  - Who is responsible for coordinating collection and delivery of requested information and documentation and a strategy for dealing with any requests for privileged documents?

- Involvement of outside counsel where appropriate?
- Reallocation of personnel to assist with the examination process, including collection of documents, demonstration of systems, and explanations of policies and procedures?
- Physical space for the examination team?
- Are your electronic systems ready to interface with the CFPB's e-examination system?
- Do you have the capability to run reports and analyses from your data in the same manner that the CFPB can, using its e-examination system?

Ballard Spahr attorneys are experienced in handling federal and state examinations. Our current representation of industry participants undergoing CFPB examinations gives us unique insight into the process and how to properly prepare for it.

We also help clients prepare for exams by:

- Designing and overseeing self-assessments
- Conducting compliance audits
- Reviewing and revising policies and procedures
- Conducting mock exams

For more information about Ballard Spahr's CFPB examination services, contact a member of our CFPB Examination Team, or any member of Ballard Spahr's Mortgage Banking Group.

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