



OFFICE OF INSPECTOR GENERAL
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

June 29, 2015

MEMORANDUM

TO: Steve Antonakes
Deputy Director and Associate Director for Supervision, Enforcement,
and Fair Lending
Consumer Financial Protection Bureau

FROM: Melissa Heist *Melissa Heist*
Associate Inspector General for Audits and Evaluations

SUBJECT: OIG Report No. 2015-SR-C-010: *The CFPB Can Enhance Its Process for
Notifying Prudential Regulators of Potential Material Violations*

Introduction

Recently, the Offices of Inspector General (OIGs) for the prudential regulators¹ conducted a joint review of the coordination between the Consumer Financial Protection Bureau (CFPB) and the prudential regulators with respect to performing supervisory activities and avoiding duplication of regulatory oversight responsibilities on matters related to federal consumer financial laws and regulations.² The OIGs concluded that the CFPB and the prudential regulators were generally coordinating their regulatory oversight activities for federal consumer financial laws in a manner consistent with the provisions of a memorandum of understanding governing coordination activities and with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).³ Nonetheless, the OIGs identified opportunities for enhanced coordination, including

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1. The prudential regulators are the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the National Credit Union Administration.
 2. Offices of Inspector General for the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System and the Consumer Financial Protection Bureau, the Office of the Comptroller of the Currency, and the National Credit Union Administration, *Coordination of Responsibilities Among the Consumer Financial Protection Bureau and the Prudential Regulators—Limited Scope Review*, [Board-CFPB OIG Report No. 2015-SR-X-009](#), June 1, 2015.
 3. The OIGs agreed that the objective of this review could be addressed with a limited-scope review rather than an audit or evaluation. As a result, the review was not conducted under government audit or evaluation standards.

an opportunity for the CFPB to develop a standard process for notifying the prudential regulators of federal consumer financial law violations by institutions with \$10 billion or less in total assets.

Finding: We Could Not Determine Whether the CFPB Consistently Complied With the Dodd-Frank Act's Requirement to Notify Prudential Regulators in Writing

We were unable to determine the frequency with which the CFPB identified potential material violations and shared them with prudential regulators and whether the CFPB consistently acted in accordance with section 1026(d) of the Dodd-Frank Act. Further, because the CFPB did not track written notifications and recommendations, we were not able to assess whether the relevant prudential regulator responded within 60 days of the recommendation as required by the Dodd-Frank Act.

During our analysis, we were unable to verify that the CFPB has been consistently complying with the requirements of section 1026(d) of the Dodd-Frank Act. Section 1026 of the Dodd-Frank Act applies to insured depository institutions and credit unions with total assets of \$10 billion or less, which the law refers to as *Other* institutions. With limited exceptions, section 1026(d) provides that the prudential regulators retain enforcement authority pertaining to Other institutions. If the CFPB has reason to believe that such an institution violated a federal consumer financial law in a material manner, the CFPB is required to notify the relevant prudential regulator in writing and recommend appropriate action. Section 1026(d) also requires the relevant prudential regulator to respond in writing to the CFPB's recommendation within 60 days.

As part of the joint review, the CFPB provided documentation of instances in which the agency notified a prudential regulator of a potential material violation of federal consumer financial law. Specifically, the CFPB identified one instance of written notification and two instances of verbal notification.⁴ However, during our review, the CFPB did not have a policy to require the tracking of written notifications and recommendations sent to prudential regulators or the corresponding responses received from prudential regulators. The CFPB also did not have guidelines that outline the factors to be considered when assessing the materiality of a violation, detail any approvals necessary for such a determination, or describe when a written notification or recommendation is necessary.

We believe that the CFPB's current approach should be clarified and documented to help ensure that notifications about potential material violations are consistently provided to the prudential regulators and that evidence of compliance with the applicable requirements of the Dodd-Frank Act is maintained. Having guidelines and a tracking mechanism in place would help the CFPB ensure that it effectively shares information about potential material violations of federal consumer financial laws with the prudential regulators.

4. The CFPB provided a memorandum as evidence of its written notification to a prudential regulator. For one of the two verbal notifications, the CFPB provided an e-mail that referenced a previous discussion of a verbal notification of a potential material violation. The CFPB did not document the second instance in which, according to CFPB officials, the agency provided a verbal notification of a potential material violation.

Recommendation

We recommend that the Deputy Director and Associate Director for Supervision, Enforcement, and Fair Lending

1. Develop and implement a policy that
 - a. outlines the process for assessing the materiality of a violation and provides guidance on determining whether a written notification or recommendation is necessary.
 - b. requires the tracking of written notifications and recommendations to the prudential regulators and the corresponding written responses received from them.

Management Actions Taken

After we discussed with CFPB officials the need for a policy addressing these written notifications, the CFPB finalized the *Civil Referrals Incoming and Outgoing* policy. The policy outlines an escalation and approval process that precedes a written notification and a tracking process for written notifications and recommendations. While written notifications are to be tracked in an existing CFPB database, the policy does not address the tracking of corresponding responses received from prudential regulators. We believe that such a process will allow the CFPB to monitor whether it is receiving timely responses (i.e., within 60 days) to its written notifications and to follow up with the relevant prudential regulator in the absence of a timely response.

Management's Response

In his response to a draft of our memorandum, which is included as an attachment, the Deputy Director and Associate Director for Supervision, Enforcement, and Fair Lending noted the CFPB's plans to enhance and revise its existing policy regarding incoming and outgoing civil referrals in order to ensure compliance with section 1026(d) of the Dodd-Frank Act. Specifically, the agency will require the tracking of written notifications and recommendations to the prudential regulators and the corresponding written responses received from the prudential regulators.

OIG Comment

In our opinion, the actions described by the Deputy Director and Associate Director for Supervision, Enforcement, and Fair Lending appear to be responsive to our recommendation. We plan to follow up on the CFPB's actions to ensure that this recommendation is fully addressed.

Closing

We appreciate the support and assistance of Supervision, Enforcement, and Fair Lending staff members throughout this review. Please contact me if you would like to discuss this memorandum or any related issues.

Attachment

cc: Timothy Siwy
William Wade-Gery
Hunter Wiggins
J. Anthony Ogden
Melissa Heist

Attachment**Management's Response**

1700 G Street, N.W., Washington, DC 20552

June 24, 2015

VIA ELECTRONIC MAIL

Michael VanHuysen
Senior OIG Manager for Supervision and Regulation
Office of Inspector General
Board of Governors of the Federal Reserve System
Consumer Financial Protection Bureau
Washington, DC 20551

RE: CFPB Response to OIG Discussion Draft Memorandum entitled, "The CFPB Can Enhance Its Process for Notifying Prudential Regulators of Potential Material Violations" dated June 17, 2015 (Memorandum)

Dear Mr. VanHuysen:

Thank you for the opportunity to respond to the above-referenced Memorandum.

As you indicate, the Offices of Inspector General for the federal prudential regulators have recently concluded, pursuant to a joint review of the coordination between the Consumer Financial Protection Bureau (CFPB) and the prudential regulators, that the CFPB and the prudential regulators are coordinating their regulatory oversight activities in accordance with statutory requirements and the provisions of applicable interagency agreements. We appreciate the joint review's acknowledgement of the CFPB's efforts in this area.

As recommended in the Memorandum, CFPB will enhance and revise its existing policy regarding incoming and outgoing civil referrals in order to ensure compliance with section 1026(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. In particular, as recommended, CFPB will require the tracking of written notifications and recommendations to the prudential regulators and the corresponding written responses received from the prudential regulators. In addition, CFPB is committed to promoting robust cooperation and exchange of information between CFPB and the federal prudential regulators at all levels. Among other things, such cooperation improves the effectiveness of the supervisory activities of all the agencies and helps ensure protections for American consumers.

consumerfinance.gov

Very truly yours,



Steven L. Antonakes
Deputy Director and Associate Director,
Supervision, Enforcement, and Fair Lending

cc: David Bleicken, Deputy Associate Director, Supervision, Enforcement, and Fair Lending
Paul Sanford, Assistant Director, Office of Supervision Examinations
Peggy Twohig, Assistant Director, Office of Supervision Policy
Patrice Ficklin, Assistant Director, Office of Fair Lending and Equal Opportunity
Anthony Alexis, Assistant Director, Office of Enforcement