OFFICE OF INSPECTOR GENERAL

Evaluation Report 2014-AE-C-005

The CFPB Can Improve the Efficiency and Effectiveness of Its Supervisory Activities

March 27, 2014

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
CONSUMER FINANCIAL PROTECTION BUREAU

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Abbreviations

CFPB	Consumer Financial Protection Bureau
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
examination manual	*CFPB Supervision and Examination Manual*
examination reporting policy	*CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions*
FFIEC	Federal Financial Institutions Examination Council
GAO	U.S. Government Accountability Office
MOU	memorandum of understanding
OIG	Office of Inspector General
prudential regulators	Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and Office of the Comptroller of the Currency
SEFL	Division of Supervision, Enforcement, and Fair Lending
SES	Supervisory Examination System

Executive Summary:

The CFPB Can Improve the Efficiency and Effectiveness of Its Supervisory Activities

2014-AE-C-005 **March 27, 2014**

Purpose

The Office of Inspector General conducted this initial evaluation to assess the operational efficiency and effectiveness of the Consumer Financial Protection Bureau's (CFPB) supervision program. Our objectives for this evaluation included (1) reviewing key program elements, such as policies and procedures, examination guidance, and controls to promote consistent and timely reporting; (2) assessing the approach for staffing examinations; and (3) assessing the training program for examination staff.

Background

Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act established the CFPB to "regulate the offering and provision of consumer financial products or services under the Federal consumer financial laws." The CFPB's Division of Supervision, Enforcement, and Fair Lending (SEFL) conducts the agency's supervision activities. The CFPB's supervision activities include (1) prioritizing and scheduling examinations, (2) planning and executing examinations, and (3) reporting findings in the form of reports of examination or supervisory letters.

Findings

Since it began operations in July 2011, the CFPB has made significant progress toward developing and implementing a comprehensive supervision program for depository and nondepository institutions. The agency has implemented this program on a nationwide basis across its four regional offices. While we recognize the considerable efforts associated with the initial development and implementation of the program, we believe that the CFPB can improve the efficiency and effectiveness of its supervisory activities.

Specifically, we found that the CFPB needs to (1) improve its reporting timeliness and reduce the number of examination reports that have not been issued, (2) adhere to its unequivocal standards concerning the use of standard compliance rating definitions in its examination reports, and (3) update its policies and procedures to reflect current practices.

We completed our fieldwork in October 2013, using data as of July 31, 2013. Following the completion of our fieldwork, senior CFPB officials indicated that management has taken various measures to address certain findings in our report, including streamlining the report review process and reducing the number of examination reports that have not been issued. As part of our future follow-up activities, we will assess whether these actions, as well as the planned actions described in management's response, address our findings and recommendations.

Recommendations

Our report contains 12 recommendations designed to assist the CFPB in strengthening its supervision program. We recommend that the CFPB create and update relevant policies and procedures; track and monitor examination processes for staffing examinations and producing examination products; and finalize its examiner commissioning program. Management concurred with our recommendations and outlined actions that have been or will be taken to address our recommendations.

Access the full report: http://www.federalreserve.gov/oig/files/CFPB-Supervisory-Activities-Mar2014.pdf

For more information, contact the OIG at 202-973-5000 or visit http://www.consumerfinance.gov/oig.

Summary of Recommendations, OIG Report No. 2014-AE-C-005

Rec. no.	Report page no.	Recommendation	Responsible office
1	13	Monitor the timeliness of examination reporting against the requirements the agency established in June 2012 and work to resolve any issues that cause reporting delays.	Division of Supervision, Enforcement, and Fair Lending
2	13	Develop and document a formal plan with specific targets to reduce the number of examination reports yet to be issued to a manageable level, as defined in the formal plan.	Division of Supervision, Enforcement, and Fair Lending
3	16	Initiate a review of all completed reports of examination to identify whether the alterations to the standard ratings definitions we found were isolated occurrences and determine the need to amend or adjust any previously issued ratings or reissue any reports. This review should include determining whether the two alterations, which we have discussed with the CFPB, warrant a ratings downgrade.	Division of Supervision, Enforcement, and Fair Lending
4	16	Reinforce for all employees responsible for drafting and issuing reports of examination the required rating definitions and their appropriate use in examination reports.	Division of Supervision, Enforcement, and Fair Lending
5	16	Enhance the effectiveness of internal review processes to ensure that all rating definitions are consistent with the standard Federal Financial Institutions Examination Council definitions.	Division of Supervision, Enforcement, and Fair Lending
6	19	Provide guidance and training to staff on the timeliness of recording examination milestones in the Supervisory Examination System.	Division of Supervision, Enforcement, and Fair Lending
7	21	Establish a quality assurance step to ensure that the process for sharing reports with the prudential regulators is sufficiently documented and accurately recorded in the Supervisory Examination System.	Division of Supervision, Enforcement, and Fair Lending
8	24	Update the *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions* to reflect the current supervision organizational structure and processes.	Division of Supervision, Enforcement, and Fair Lending
9	27	Create a policy that provides a consistent approach across regions for scheduling staff on examinations and tracking actual staff hours.	Division of Supervision, Enforcement, and Fair Lending
10	29	Finalize the examiner commissioning program.	Division of Supervision, Enforcement, and Fair Lending
11	29	Monitor examiners' completion of on-the-job training modules.	Division of Supervision, Enforcement, and Fair Lending
12	32	Pursue negotiations with the prudential regulators with the goal of formally sharing all supervisory materials that result in supervisory actions prior to their issuance.	Division of Supervision, Enforcement, and Fair Lending

Office of Inspector General

Board of Governors of the Federal Reserve System

Consumer Financial Protection Bureau

March 27, 2014

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. 2014-AE-C-005: *The CFPB Can Improve the Efficiency and Effectiveness of Its Supervisory Activities*

The Office of Inspector General has completed its report on the subject evaluation. We conducted this evaluation of the Consumer Financial Protection Bureau's (CFPB) supervision program to (1) review key program elements, including policies and procedures, examination guidance, and controls to promote consistent and timely reporting; (2) assess the approach for staffing examinations; and (3) assess the training program for examination staff.

We provided you with a draft of our report for review and comment. In your response, you concurred with our recommendations and outlined actions that have been or will be taken to address our recommendations. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from CFPB staff during our evaluation. Please contact me if you would like to discuss this report or any related issues.

cc: Stephen Agostini
David Bleicken
Patrice Ficklin
Paul Sanford
Peggy Twohig

Contents

Introduction

Objectives

The Office of Inspector General (OIG) conducted an evaluation of the Consumer Financial Protection Bureau's (CFPB) supervision program. Our objectives for this evaluation included (1) reviewing key program elements, such as policies and procedures, examination guidance, and controls to promote consistent and timely reporting; (2) assessing the approach for staffing examinations; and (3) assessing the training program for examination staff. This evaluation was our initial opportunity to assess the operational efficiency and effectiveness of the CFPB's supervisory program; therefore, we chose to focus on the foundational components of the program.

To fulfill our objectives, we reviewed the CFPB's practices for scheduling, staffing, and conducting examinations, including any coordination with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency (hereafter, the prudential regulators). We also assessed the examination report drafting and review process as well as the CFPB's processes for monitoring its performance against the agency's expectations for timely reporting. Finally, we analyzed the CFPB's training program for examination staff, including the development of the agency's examiner commissioning program. We describe our scope and methodology in greater detail in appendix A.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) established the CFPB to regulate the offering and provision of consumer financial products and services under the federal consumer financial laws. To carry out this mission, the Dodd-Frank Act granted the CFPB authority to supervise the following types of consumer financial market participants:

- insured depository institutions, credit unions, and their affiliates, with more than $10 billion in total assets[1]

- certain nondepository institutions, including entities in the consumer mortgage, private-education lending, and payday lending markets; larger participants in markets for other consumer financial products or services as defined by the CFPB; and entities the CFPB has reasonable cause to determine, by order, are "engaging, or ha[ve] engaged, in conduct

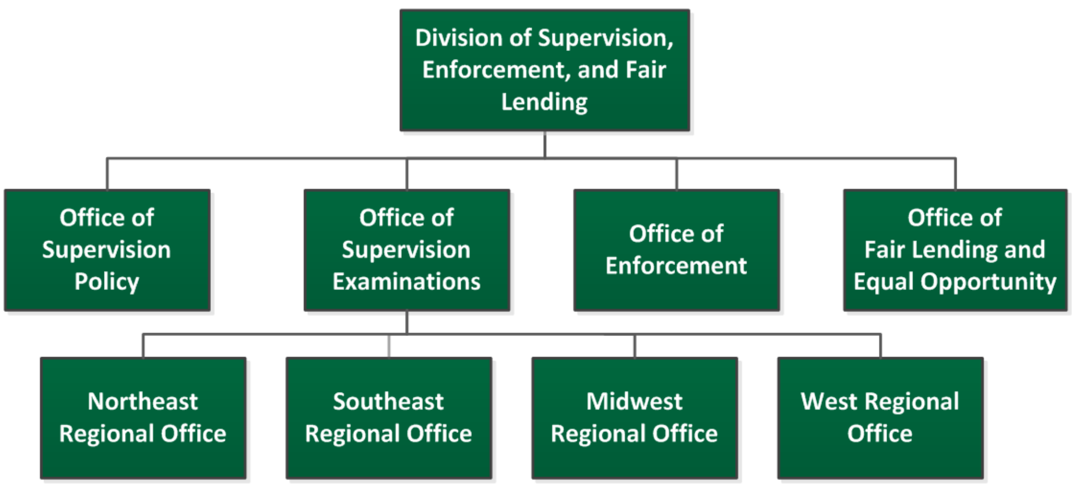
1. Primary consumer protection supervisory authority for depository institutions with total assets of $10 billion or less was retained by those institutions' prudential regulators. However, the Dodd-Frank Act granted the CFPB authority to participate in examinations of these smaller depository institutions on a sampling basis.

that poses risks to consumers with regard to the offering or provision of consumer financial products or services"[2]

In July 2011, the CFPB commenced operations and initiated its supervision program for depository institutions with more than $10 billion in total assets. By law, the CFPB could not exercise its authority to supervise nondepository institutions until the appointment of its Director. On January 4, 2012, the President appointed Richard Cordray as the Director of the CFPB, and the following day, the CFPB announced the launch of its supervision program for nondepository institutions.[3]

The CFPB's Division of Supervision, Enforcement, and Fair Lending (SEFL) conducts the agency's supervision activities. The agency originally organized its supervision activities according to its dual responsibility to supervise depository and nondepository institutions. However, in December 2012, the CFPB announced that it had reorganized its supervision structure to enhance its effectiveness and efficiency. As a result of this reorganization, the CFPB established within SEFL the Office of Supervision Examinations and the Office of Supervision Policy. Both offices address depository and nondepository institution supervision. Figure 1 illustrates SEFL's organizational structure.

Figure 1: SEFL Organizational Structure



Source: OIG compilation based on a review of CFPB organizational charts.

Note: This organizational chart is not comprehensive and includes detail relevant to this evaluation.

The Office of Supervision Examinations oversees the CFPB's examination efforts and seeks to ensure that policies and procedures are followed. This office also manages the recruiting, training, and commissioning processes for CFPB examiners. The agency's four regional offices, located in

2. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, § 1024(a)(C), 124 Stat. 1376, 1987 (2010) (codified at 12 U.S.C. § 5514(a)(C) (2010)).

3. The President appointed the Director during a Senate recess, and on July 16, 2013, the Senate confirmed Richard Cordray as Director of the CFPB.

New York (Northeast), Washington, DC (Southeast), Chicago (Midwest), and San Francisco (West), report to the Office of Supervision Examinations. As of December 12, 2013, the CFPB had 319 examiners employed at its four regional offices.

The Office of Supervision Policy seeks to ensure that supervision decisions are consistent with applicable laws and the CFPB's mission. It also is responsible for ensuring that supervision decisions are consistent across markets, charters, and regions.

In addition to the two supervision offices, SEFL includes the Office of Enforcement[4] and the Office of Fair Lending and Equal Opportunity.[5] These offices work in close coordination with the supervision offices.

Coordination With the Prudential Regulators

The Dodd-Frank Act requires the CFPB to coordinate certain supervisory activities with the prudential regulators to minimize regulatory burden. To address this requirement, the CFPB and the prudential regulators signed a memorandum of understanding (MOU) that includes guidance on how the agencies must coordinate examination scheduling and share draft reports of examination for institutions supervised by the CFPB and another prudential regulator.

According to the MOU, the CFPB and the prudential regulators will "generally" execute examinations of depository institutions simultaneously, subject to certain exceptions. Notably, the MOU states that examinations are simultaneous if "material portions" of each agency's examinations are conducted during a concurrent time period. Further, the institution may request that the CFPB and the prudential regulator conduct their examinations separately.

The MOU also addresses the Dodd-Frank Act requirement that the agencies "share each draft report of examination with the other agency and permit the receiving agency a reasonable opportunity (which shall not be less than a period of 30 days after the date of receipt) to comment on the draft report before such report is made final." According to the MOU, the agencies are required to share only reports of examination prior to issuance, not supervisory letters.

Types of Supervisory Examinations, Products, and Actions

In general, the CFPB conducts the following types of examinations: (1) limited-scope examinations, which target a product line, a regulation, or an institution's compliance management system, or (2) full-scope examinations, which include an evaluation of an institution's compliance management system and summarize the significant conclusions about the product lines reviewed, or of various limited-scope examinations. The CFPB may place certain institutions under a continuous supervision program whereby institutions have CFPB examiners present on a full-time basis. The examiners conduct a series of limited-scope examinations.

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4. The Office of Enforcement is primarily responsible for initiating investigations and enforcement actions, when appropriate, to ensure that providers of consumer financial products and services comply with applicable laws and regulations.

5. The Office of Fair Lending and Equal Opportunity is primarily responsible for providing oversight and enforcement of fair lending laws to ensure that credit decisions are not based on race or any other prohibited factor.

Depending on the type of examination, the agency will issue either (1) a report of examination, which details findings and communicates a rating to the supervised institution, or (2) a supervisory letter, which details findings but typically does not communicate a rating to the supervised institution. Generally, full-scope examinations result in an examination report, and limited-scope examinations result in a supervisory letter. In addition to supervisory letters and examination reports, the CFPB also conducts some examinations that do not result in written products, such as baseline reviews. The CFPB performs these baseline reviews to serve as the agency's initial introduction to an institution's compliance management system. Table 1 describes the products that the CFPB issues as a result of each type of examination.

Table 1: CFPB Examination Review Types and Products

Type of review	Report of examination issued?	Supervisory letter issued?	Rating assigned?
Full-scope, continuous	Yes, the CFPB plans to issue reports at the end of an examination cycle, typically every 12–18 months	No	Yes, through a report of examination
Full-scope, not continuous	Yes, following the conclusion of the examination	No	Yes, through a report of examination
Baseline review	No	No	No
Limited-scope, continuous	No	Yes, following the conclusion of the review	No, unless a significant finding warrants a downgrade
Limited-scope, not continuous	No	Yes[a]	No, unless a significant finding warrants a downgrade

Source: OIG summary of CFPB documentation.

[a]May also result in a letter to the top-tier entity describing work conducted at an affiliated depository institution, a nondepository institution, or both.

Depending on the examination findings, some examinations may lead to nonpublic supervisory actions or public enforcement actions, which are civil actions brought against parties under the CFPB's enforcement authorities. Nonpublic supervisory actions range in severity from recommendations, which serve as suggestions to the institution, to matters requiring attention, which require a response to the CFPB and include required time frames for resolution. The agency has issued several nonpublic supervisory actions. According to the March 2013 *Semi-Annual Report of the Consumer Financial Protection Bureau*,[6] the agency issued a total of nine public enforcement actions during 2012, three of which resulted from examination findings.

Supervisory Activities

In executing its supervision authority, the CFPB focuses on an institution's ability to detect, prevent, and correct practices that present a significant risk of violating federal consumer

6. Consumer Financial Protection Bureau, *Semi-Annual Report of the Consumer Financial Protection Bureau*, March 2013, http://files.consumerfinance.gov/f/201303_CFPB_SemiAnnualReport_March2013.pdf.

financial law. The CFPB's supervision activities include (1) prioritizing and scheduling examinations, (2) planning and executing examinations, and (3) reporting findings in the form of reports of examination or supervisory letters.

Prioritizing and Scheduling Examinations

For the purpose of prioritizing its supervisory activities, the CFPB has identified various product lines offered to consumers by supervised institutions. For example, the CFPB refers to mortgages offered by "Institution A" and deposit products provided by "Institution B" as *institution product lines*. The Office of Supervision Examinations prioritizes 120–160 institution product lines to be examined each year based on an assessment of the risk for potential harm to consumers. The potential risk to consumers may vary significantly across institution product lines. As a result, an institution that originates mortgages and offers debit cards to consumers may undergo an examination of only one institution product line in any given year, depending on the results of the CFPB's risk assessment.

Once the CFPB prioritizes institution product lines, its regional management is responsible for scheduling examinations. In addition to risk of harm to consumers, regional managers also consider other factors when scheduling examinations, such as availability of staff resources and the Dodd-Frank Act requirement to coordinate examination scheduling. Each region is responsible for scheduling and staffing its examinations, and managers have discretion in the method they use for scheduling an examination team.

Planning and Executing Examinations

An examination team, led by an examiner in charge, is responsible for planning and conducting each examination. The examination team begins the examination process by contacting the supervised institution and gathering available information on the relevant institution product line from a variety of external sources and sources within the agency. Based on a review of that information and discussions with other CFPB staff, the examination team defines the examination scope and communicates the agency's anticipated supervisory activities to the supervised institution during an entrance meeting.

The examination team then initiates fieldwork by conducting examination procedures. This work typically involves gathering and analyzing data at the institution. The *CFPB Supervision and Examination Manual* (examination manual) describes examination procedures based on the product line being examined as well as the applicable federal law or regulation.[7] The examination manual also contains a broad overview of the examination process and the examination rating

7. The *CFPB Supervision and Examination Manual*, version 2, was issued in October 2012 and is available at http://www.consumerfinance.gov/guidance/supervision/manual.

definitions established by the Federal Financial Institutions Examination Council (FFIEC)[8] and adopted by the CFPB.

Reporting Results of Examinations

In June 2012, the CFPB issued an internal policy, *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions* (examination reporting policy), which provides (1) guidance on reviewing supervisory products and (2) timeliness requirements for the major examination reporting milestones. At the conclusion of the fieldwork phase, the examination team drafts a supervisory letter or report of examination summarizing its findings. The primary purpose of the letter or report is to communicate examination findings in their final form to the board of directors, principals, and senior executives of a supervised entity. After the draft is approved at the regional level, it is submitted to CFPB headquarters, where the Office of Supervision Policy provides input and circulates the draft to various stakeholders within headquarters, including the Office of Supervision Examinations, the Office of Enforcement, and the Office of Fair Lending and Equal Opportunity.

Once headquarters approves the draft, the region prepares the draft for issuance or transmittal to the relevant prudential regulator for comment. If the examination results in a supervisory letter or pertains to a nondepository institution, the CFPB may then issue the report. For examinations of depository institutions, the Dodd-Frank Act requires the CFPB to share draft reports of examination with the institution's prudential regulator and allow the prudential regulator at least 30 days to submit any comments about the draft to the CFPB. Once the CFPB receives those comments and considers the suggestions, the agency may then issue the final report.

The CFPB has established timeliness requirements for certain milestones in the reporting phase. Table 2 summarizes the reporting milestones and the corresponding timeliness requirements established by the CFPB for examination reports and supervisory letters.

8. The FFIEC is a formal interagency body empowered to prescribe uniform principles, standards, and report forms for the federal examination of financial institutions by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, and the CFPB and to make recommendations to promote uniformity in the supervision of financial institutions. The FFIEC rating definitions uniformly rate institutions' compliance programs from 1 (strong) to 5 (in need of strongest supervisory attention).

Table 2: CFPB Examination Reporting Timeliness Requirements

Milestone	Requirement (calendar days)
Regions provide draft to headquarters	30
Headquarters approves	30
Regions finalize the draft	5
Total time to issue final reports of examination for nondepository institutions and all supervisory letters	**65**
Prudential regulator comment period, if necessary	30
CFPB considers prudential regulator comments, if necessary	15
Total time to issue final reports of examination for depository institutions	**110**

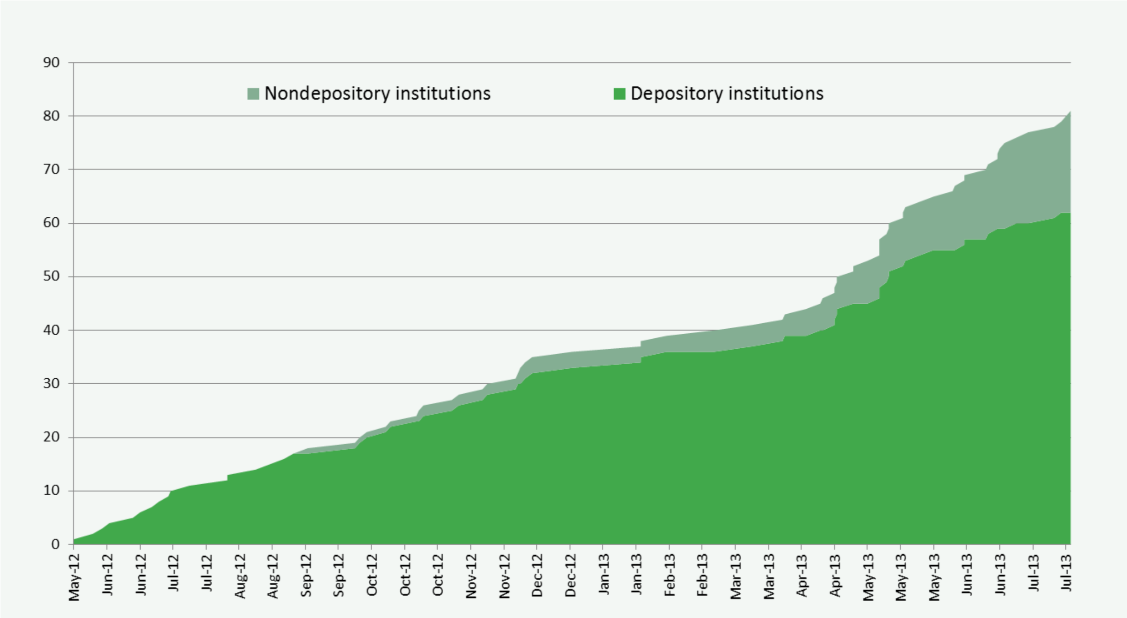
Source: *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions*.

The CFPB uses a database called the Supervisory Examination System (SES) to monitor and track its progress toward issuing examination reports. SES serves as the system of record for CFPB examinations and includes information on the supervised institution, assigned staff, and the examination itself. The CFPB has made incremental upgrades to SES and is in the early stages of planning a comprehensive update to the system.

As of July 31, 2013, the CFPB issued 82 products resulting from completed examinations,[9] including 35 reports of examination and 47 supervisory letters. Among those 82 examinations, 63 pertained to depository institutions and 19 pertained to nondepository institutions. Figure 2 illustrates the number of examination products issued by the CFPB according to the type of institution.

9. Completed examinations exclude baseline reviews, which are initial reviews of institutions' compliance management programs that did not result in reports of examination or supervisory letters.

Figure 2: Cumulative Examination Products Issued, May 2012 to July 2013



Source: OIG analysis of CFPB SES data.

Training Examination Staff

Currently, the CFPB is creating training courses and a commissioning program for examination staff. According to the CFPB, the examiner commissioning program will include a series of classes covering the knowledge and skills necessary to successfully conduct examinations, as well as on-the-job training. It will also require a written, validated test designed to evaluate a noncommissioned examiner's readiness for the duties of a commissioned examiner.

Finding 1: The CFPB Did Not Meet Reporting Timeliness Requirements

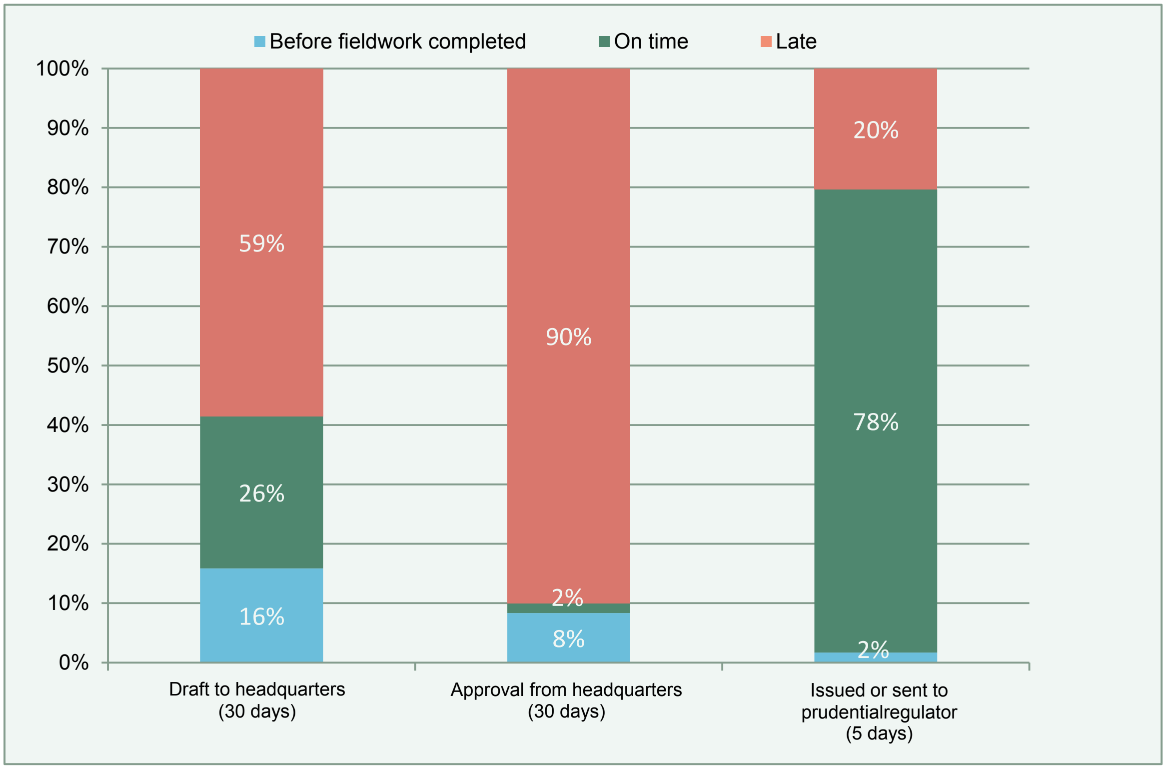
Our testing results indicate that the CFPB did not issue its examination reports consistently with the time frames established in its examination reporting policy. After fieldwork is completed, the requirements in the *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions* allow 30 days for regions to submit a draft examination report to headquarters and 30 days for headquarters to approve that draft; the CFPB then has 5 days to either share the draft with the prudential regulator or issue a final product. According to CFPB officials, the agency has not met these requirements due to many factors, including the novel nature of several substantive issues raised during examinations and the "aspirational" nature of the agency's timeliness requirements for examination reporting. Further, according to a senior official, in the early stages of implementing the CFPB's supervision program, the agency focused on assuring consistent results as part of its examination report review process rather than timeliness. The CFPB's inability to meet its timeliness requirements contributed to a considerable number of examination reports that have yet to be issued. These delays do not afford supervised institutions certainty concerning the CFPB's feedback on the effectiveness of the institutions' compliance programs or processes. Further, prolonged delays in issuing examination reports may expose the CFPB to reputational risk.

The CFPB Did Not Meet Internal Timeliness Requirements for Examination Reporting

We found that 59 percent of the 82 drafts submitted by regional examination teams to CFPB headquarters during the scope of our evaluation did not meet the CFPB's timeliness requirement for submission within 30 days of fieldwork completion. Moreover, 54 of the 60 drafts that received headquarters approval as of July 31, 2013, had not been approved by headquarters within the 30-day requirement. Once a draft received headquarters' approval, the CFPB generally met its final reporting requirement for issuing a final product or sharing it with the prudential regulators. We found that the CFPB issued or shared approximately 78 percent of examinations within 5 days.[10] Our analysis used SES data as of July 31, 2013, and included only those examinations for which fieldwork had been completed after June 15, 2012, when the agency issued the examination reporting policy. Figure 3 illustrates the CFPB's reporting timeliness against the agency's requirements.

10. We did not evaluate the timeliness requirements associated with the CFPB receiving and considering comments to drafts from the prudential regulators, as these requirements only pertained to a subset of the total draft reports and these steps in the process are subject to factors beyond the CFPB's control.

Figure 3: CFPB Reporting Timeliness by Milestone



Source: OIG analysis of CFPB SES data.

Notes: Analysis includes only examinations with fieldwork completed after the CFPB issued its reporting requirements on June 15, 2012, through July 31, 2013. “Before fieldwork completed” reflects reporting milestones that were reached before the date fieldwork was completed, according to SES data. Percentages may not add to 100 due to rounding.

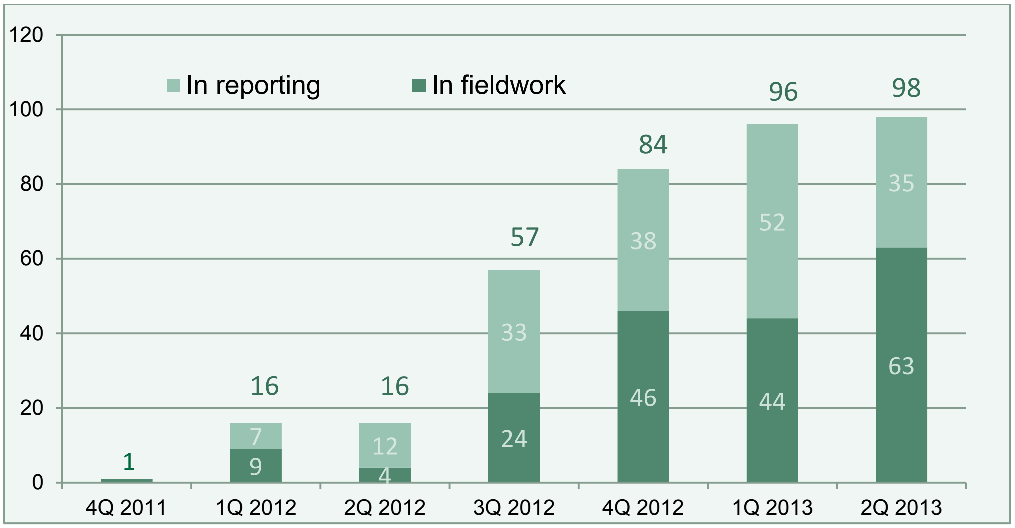
According to CFPB officials, the agency missed its timeliness requirements for various reasons. First, senior CFPB officials noted that the agency encountered several novel substantive examination issues, particularly those that arose during the initial federal examinations of nondepository institutions. The agency explained that such matters take longer to resolve because they involve complex issues that are highly dependent on the relevant facts and circumstances. Agency officials indicated that they have been deliberate in resolving those issues due to the precedent-setting nature of its decisionmaking and the need for consistent results. Second, the agency’s examination processes are still being refined. Third, one senior official said that in the early stages of implementing its supervision program, the agency focused on assuring consistent results as part of its examination report review process to the detriment of timeliness. Officials said that as the agency’s processes mature, the CFPB intends to streamline the review process to improve the timeliness of examination reporting while maintaining consistency in its examination products.[11] Finally, several senior officials said that the timeliness requirements outlined in the examination reporting policy mentioned above were “aspirational,” and two agency officials opined that the reporting time frames are unrealistic. As a result, the CFPB does not actively monitor its performance against these timeliness requirements.

11. We understand that the CFPB has hired a consultant to assess the agency’s reporting process.

Reporting Delays Contributed to a Significant Number of Examination Reports That Have Not Been Issued

The CFPB's reporting delays have contributed to a significant number of outstanding examinations. Although the CFPB has not monitored its performance against reporting requirements, it does track the number of examinations outstanding for longer than 90 days from the scope start date, including those in fieldwork and reporting.[12] Several of these examinations have been outstanding for more than a year, indicating that the agency is not providing timely written feedback to the institutions it supervises. As previously mentioned, the primary purpose of the supervisory letter or report of examination is to communicate examination findings in their final form to the supervised entity. Absent timely written feedback in final form, institutions may not take action to correct potential issues with the consumer financial products and services they provide. Industry groups and other stakeholders have raised concerns about the length of the examination process, citing the uncertainty it creates for supervised institutions. Figure 4 illustrates the number of CFPB examinations outstanding for longer than 90 days.

Figure 4: CFPB Examinations Outstanding Longer Than 90 Days From Scope Start Date, Fourth Quarter 2011 to Second Quarter 2013



Source: OIG analysis of CFPB SES data.

As shown in figure 4, the number of examinations outstanding for longer than 90 days grew steadily from one examination at the end of 2011 to 98 examinations by the second quarter of 2013. Examinations in the reporting phase increased from 7 in the first quarter of 2012 to 52 by the first quarter of 2013, before dropping to 35 the following quarter. An increase in the number of examinations in the fieldwork phase, from 44 to 63 examinations during this same period, more than offset the decrease in examinations in reporting.

12. The CFPB also includes baseline compliance management reviews, which do not result in reports of examination or supervisory letters, in its monitoring of outstanding examinations. As of the second quarter of 2013, 14 of the 98 outstanding examinations were baseline compliance management reviews.

According to CFPB officials, the agency focused on reducing the number of examinations outstanding for longer than 90 days by addressing the specific causes of the delays. However, the CFPB does not have a formally documented and approved plan that identifies when and how these examinations will be reduced to a manageable level. Senior supervision officials meet weekly to discuss all examinations with a focus on clearing those that have been outstanding the longest. A senior official indicated that through this effort, the CFPB seeks to reduce the population of examinations by approximately 15 to 20 per month until the agency has 30 outstanding at any given time, but the senior official did not commit to a time frame for reaching that target. The CFPB continues to initiate new examinations while it works to reduce the number of examinations outstanding for longer than 90 days.

Management Actions Taken

Our fieldwork concluded in October 2013, and our evaluation used data as of July 2013. According to the CFPB, since that time, senior officials have expended considerable effort to clear the examination reports that have not been issued, contributing to a recent reduction in the number of outstanding examinations. In addition, in December 2013, the agency revised its methodology for measuring the number of outstanding examinations to exclude any examinations in the fieldwork phase, which also contributed to the reduction. Further, the CFPB has hired a consulting firm to assess its report review process to identify possible process enhancements and improve timeliness. Senior officials have indicated that the agency has piloted new approaches designed to streamline the reporting process, including identifying lower-risk products that may be issued by the regions without further review by headquarters staff. We intend to conduct future follow-up activities to determine whether the CFPB's actions are responsive to the concerns raised in this finding.

Summary

The CFPB has not met its internal timeliness requirements for submitting drafts to headquarters or for receiving headquarters' approval. Nearly 60 percent of the drafts submitted by regional examination teams to CFPB headquarters and 90 percent of the drafts that received headquarters approval did not meet the agency's timeliness requirements. Delays in the reporting process have contributed to a significant number of examinations outstanding for longer than 90 days, which the agency had not developed specific targets to address during the scope of our review. The CFPB's inability to provide examination reports to institutions in a timely manner creates uncertainty for supervised institutions. According to a senior official, concerted efforts to clear delayed examinations have led to a reduction in outstanding examinations after the completion of our fieldwork. In addition, the agency has piloted new approaches designed to streamline the reporting process.

Recommendations

We recommend that the Associate Director for SEFL

1. Monitor the timeliness of examination reporting against the requirements the agency established in June 2012 and work to resolve any issues that cause reporting delays.

2. Develop and document a formal plan with specific targets to reduce the number of examination reports yet to be issued to a manageable level, as defined in the formal plan.

Management's Response

Regarding recommendation 1, the Deputy Director and Associate Director for SEFL stated the following:

> We will include a new metric in the regular reports currently provided to senior management regarding examination timeliness that specifically measures the status of report drafts against the internal requirements established by applicable CFPB policies. While the necessary information to determine examination timeliness is already in the reports, we agree that including a more salient measurement against the self-imposed policy requirements would be helpful.
>
> We appreciate the Report's acknowledgement of the extensive efforts currently underway at the CFPB to increase the effectiveness and efficiency of CFPB report preparation and review processes, including our efforts to address the numerous novel issues that often arise in CFPB examinations without sacrificing consistency across regions and types of institutions. These efforts have resulted in a substantial reduction since July 2013 in the number of outstanding CFPB examination reports.
>
> As part of these overall efforts, the CFPB will be reevaluating its earlier June 2012 policy and the internal requirements established in that policy. Any new reporting metrics adopted will conform with the requirements established in any revised policies and procedures.

Regarding recommendation 2, the Deputy Director and Associate Director for SEFL stated the following:

> As discussed in the Report, CFPB senior management is focused on maintaining an effective, efficient, and consistent supervision and examination process. The Report recognizes several of the various initiatives the CFPB has undertaken as we have continued to improve the timeliness of our report issuance process. We agree that adoption of a formal plan would be an effective tool in connection with these efforts, and would help memorialize many of the steps the CFPB has already taken. We will incorporate such a plan into our existing report review processes.

Management's full response is included as appendix B.

OIG Comment

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

In two instances, the CFPB deviated from the specific language associated with the FFIEC's standardized rating definitions for examination reports. The CFPB's examination manual states, ***"THE CFPB ADOPTED THESE FFIEC-APPROVED DEFINITIONS; THEY MAY NOT BE EDITED."*** (Emphasis in the original.) The CFPB examination manual includes templates to help examiners across the regions produce consistent reports of examinations and supervisory letters. The templates include guidance on the style and layout of the examination products as well as the use of standard rating definitions. A senior official noted that these deviations from the template were not detected due to an oversight in the review process conducted by the Office of Supervision Policy and the Office of Supervision Examinations. In our opinion, these deviations do not support the agency's commitment to consistency in the examination process.

CFPB Staff Adjusted Standard Compliance Rating Definitions

In our review of eight sampled examination products, we found two instances in which CFPB staff edited the rating definitions in the report of examination templates to omit information and to add qualifying language to the assessment of discriminatory acts or practices.[13] The FFIEC standardizes examination rating definitions for regulatory agencies to uniformly rate institutions' compliance programs from 1 (strong) to 5 (in need of strongest supervisory attention). The FFIEC's standard definition for a 3 rating states that "no discriminatory acts or practices are evidenced," while a component of the FFIEC definition for a 4 rating states that "discriminatory acts or practices may be in evidence."

The CFPB examination manual includes templates to help examiners across the regions produce consistent reports of examinations and supervisory letters. The templates include guidance on the style and layout of the examination products as well as some standardized language. Specifically, the templates for reports of examination include the FFIEC language defining consumer compliance ratings for examinations. The examination manual states, ***"THE CFPB ADOPTED THESE FFIEC-APPROVED DEFINITIONS; THEY MAY NOT BE EDITED."*** (Emphasis in the original.)

In two CFPB reports of examination, however, we noted that the agency altered the FFIEC's definition for a 3 rating to state that no "overt" discriminatory acts or practices are evidenced.[14] In

13. To assess adherence to the templates, we sampled one report of examination and one supervisory letter from each of the four regions, selecting a total of 8 of the 82 reports of examination and supervisory letters issued as of July 31, 2013. Of 82 issued products, 47 were supervisory letters that do not require a rating and 35 were reports of examination that do include a rating of the supervised institution.

14. The FFIEC's standard language for a 3 rating is as follows: "Is in a less than satisfactory compliance position. It is a cause for supervisory concern and requires more than normal supervision to remedy deficiencies. Violations may be numerous. In addition, previously identified practices resulting in violations may remain uncorrected. Overcharges, if present, involve a few consumers and are minimal in amount. There is no evidence of discriminatory acts or practices. Although management may have the ability to effectuate compliance, increased efforts are necessary. The numerous violations discovered are an indication that management has not devoted sufficient time and attention to consumer compliance. Operating procedures and controls have not proven effective and require strengthening. This may be accomplished by, among other things, designating

these two cases, the examinations included a review of the institutions' compliance with the Equal Credit Opportunity Act. At one institution, the CFPB's examination detected "significant weaknesses" in the fair lending program, including "several situations" that create the risk of violating the Equal Credit Opportunity Act. One specific risk of a fair lending violation involved the discretion afforded to customer service representatives to grant fee waivers. To control this risk, the CFPB required the institution to create policies and procedures that limit the discretion of customer service representatives to grant fee waivers. The report does not indicate whether the CFPB identified any discriminatory acts or practices, suggesting that the CFPB did not reach a definitive conclusion as to whether fee waivers had been granted on a discriminatory basis. In this context, the adjustment to the standard definition of inserting the word "overt" creates the appearance that the CFPB deviated from the standard template language to qualify its rating of the supervised institution, calling into question the appropriateness of the assigned rating.

According to the CFPB, the second examination team that added the word "overt" to the rating definition copied the language from the aforementioned report, rather than from the CFPB's report template. In our opinion, these deviations from the specific and unequivocal standards outlined in the guidance do not support the CFPB's goal of executing its supervisory activities in a consistent manner.

Management Actions Taken

A senior official noted that these deviations from the template were not corrected due to an oversight in the report review process conducted by the Office of Supervision Policy and the Office of Supervision Examinations. The senior official stated that headquarters now specifically reviews reports for proper formatting and consistency with the template and other instructions.

Recommendations

We recommend that the Associate Director for SEFL

3. Initiate a review of all completed reports of examination to identify whether the alterations to the standard ratings definitions we found were isolated occurrences and determine the need to amend or adjust any previously issued ratings or reissue any reports. This review should include determining whether the two alterations, which we have discussed with the CFPB, warrant a ratings downgrade.

4. Reinforce for all employees responsible for drafting and issuing reports of examination the required rating definitions and their appropriate use in examination reports.

5. Enhance the effectiveness of internal review processes to ensure that all rating definitions are consistent with the standard FFIEC definitions.

a compliance officer and developing and implementing a comprehensive and effective compliance program. By identifying an institution with marginal compliance early, additional supervisory measures may be employed to eliminate violations and prevent further deterioration in the institution's less-than-satisfactory compliance position."

Management’s Response

Regarding recommendation 3, the Deputy Director and Associate Director for SEFL stated the following:

> As suggested in the Report, we have conducted a comprehensive internal review of all completed reports of examination in order to determine the extent to which those reports contained modified ratings definitions that deviated from the standard definition. We have also reviewed the two instances of modified ratings definitions identified by OIG. As a result of that review, we have determined that no ratings adjustments are warranted.

Regarding recommendation 4, the Deputy Director and Associate Director for SEFL stated the following:

> We have reinforced the appropriate use of ratings definitions through in-person meetings with headquarters staff and through written and telephone briefings with staff in the field.

Regarding recommendation 5, the Deputy Director and Associate Director for SEFL stated the following:

> We are implementing additional internal review processes to ensure appropriate use of ratings definitions.

Management’s full response is included as appendix B.

OIG Comment

In our opinion, the actions described by the Deputy Director and Associate Director for SEFL appear to be responsive to our recommendations. We plan to follow up on the CFPB’s actions to ensure that each recommendation is fully addressed.

Finding 3: The CFPB Did Not Record Examination Milestones in a Timely Manner

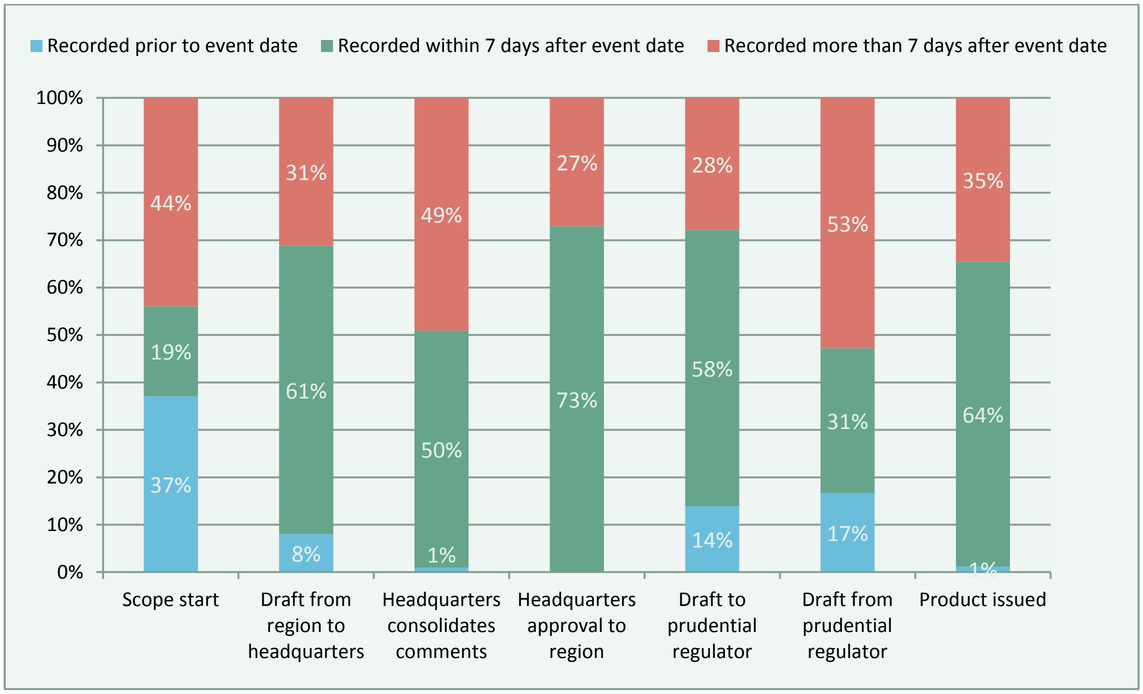
CFPB examiners did not consistently document the completion of examination milestones in a timely manner. Although the CFPB has established timeliness requirements for examination reporting milestones, it has not established a policy on the timely recording of these and other milestones in SES. Senior management uses milestones in SES to monitor and track examinations on a weekly basis. If examination milestones are not recorded in a timely manner, senior management's ability to monitor the agency's performance against internal reporting requirements is limited.

The CFPB Has Not Set Timeliness Requirements for Recording Examination Milestones

We identified seven milestones in SES related to examination activities that contained information on the actual occurrence date and the date staff members recorded the relevant milestone in SES. Because the CFPB has not established a requirement for the timely recording of examination data, we used seven days as a standard that would allow consideration for logistical impediments to recording examination data immediately but still provide managers with up-to-date and reliable information. Using that standard, we found that examination milestones were not entered in a timely manner in at least one-quarter of the instances for each of the key examination milestones we reviewed. In eight instances, staff recorded examination milestones more than 200 days after their occurrence.

In addition, we found 109 instances in which the agency entered dates before the milestone occurred. This was particularly prevalent with respect to the date that scoping began. According to CFPB officials, staff occasionally use SES as a planning tool to estimate when they expect milestones to occur. In some cases, however, those estimated dates were not updated to reflect the actual date the event occurred. Figure 5 illustrates the timeliness with which examination milestones were recorded in SES.

Figure 5: Timeliness of Recording Examination Milestones in SES



Source: OIG analysis of CFPB SES data.

Note: Percentages may not add to 100 due to rounding.

The CFPB's examination reporting policy includes requirements for drafting and issuing examination products within certain time frames. According to a CFPB official, senior managers meet weekly to discuss the status of outstanding examinations, with a focus on reducing the number of examination reports that have not been issued. To monitor the status of each examination, assess the timeliness of the examination and reporting process, and analyze trends across the regions, CFPB management needs timely and reliable milestone data in SES, the system of record for CFPB examinations.

Despite having issued detailed instructions to staff on the usage of SES, the CFPB has not provided staff with guidance or established a policy that sets requirements for the timeliness with which staff should record the occurrence of examination milestones in SES. SES data that are not recorded in a timely manner may reduce the usefulness and reliability of the information that the CFPB uses to inform weekly meetings, monitor examinations, track performance against timeliness requirements, and forecast examination activities.

Recommendation

We recommend that the Associate Director for SEFL

6. Provide guidance and training to staff on the timeliness of recording examination milestones in SES.

Management’s Response

Regarding recommendation 6, the Deputy Director and Associate Director for SEFL stated the following:

> The CFPB will establish appropriate guidelines regarding timely data entry by examination staff and will develop appropriate training materials in connection with those guidelines, taking into account as applicable the technological constraints imposed by the CFPB’s existing Supervision and Examination System and other related systems. We note that the CFPB continues to develop and expand these systems in order to maximize the effectiveness of our supervisory work.

Management’s full response is included as appendix B.

OIG Comment

In our opinion, the actions described by the Deputy Director and Associate Director for SEFL appear to be responsive to our recommendation. We plan to follow up on the CFPB’s actions to ensure that the recommendation is fully addressed.

Finding 4: The CFPB Did Not Consistently Retain Evidence of Required Communication With the Prudential Regulators

The CFPB did not consistently retain evidence that it shared reports of examination with the prudential regulators. In addition, key dates related to sharing the reports with the prudential regulators were incorrectly recorded in SES. The Dodd-Frank Act requires the CFPB to share draft reports of examination for depository institutions with the prudential regulators prior to issuing the final report. A senior official stated that the regions are responsible for retaining evidence that this requirement has been fulfilled. However, the CFPB does not currently have a policy or quality assurance function to ensure that the regions retain this documentation. The CFPB cannot demonstrate its compliance with this Dodd-Frank Act coordination requirement without sufficient documentation. In addition, without accurate dates in SES, the CFPB's ability to accurately track and report on the status of examination reports is hindered.

The CFPB Did Not Sufficiently Document Communications With the Prudential Regulators

We found that when the CFPB shared reports of examination with and received comments from the prudential regulators, in some cases CFPB staff entered an incorrect response date into SES. We also reviewed the supporting documentation and found 2 instances out of 15 in which the CFPB did not retain evidence of sharing a draft report with the prudential regulators. Specifically, the CFPB did not document its transmittal of draft reports to the prudential regulators or the receipt of their response.

A senior official stated that the four regions are responsible for retaining documentation of report transmission with the prudential regulators. However, the CFPB does not currently have a policy or quality assurance step to ensure that the regions are retaining documentation. The senior official also noted that the agency plans to create a quality assurance function in the Office of Supervision Examinations.

Without accurate dates in SES, the CFPB's ability to accurately track and report on the status of examination reports is hindered. In addition, without sufficient documentation, the CFPB does not have evidence of its compliance with the Dodd-Frank Act information-sharing requirements.

Recommendation

We recommend that the Associate Director for SEFL

7. Establish a quality assurance step to ensure that the process for sharing reports with the prudential regulators is sufficiently documented and accurately recorded in SES.

Management’s Response

Regarding recommendation 7, the Deputy Director and Associate Director for SEFL stated the following:

> As part of its ongoing quality assurance measures incorporated into supervisory processes, the CFPB will refine its internal process to ensure accurate documentation of communications with the prudential regulators, which have occurred as required.

Management’s full response is included as appendix B.

OIG Comment

In our opinion, the actions described by the Deputy Director and Associate Director for SEFL appear to be responsive to our recommendation. We plan to follow up on the CFPB’s actions to ensure that the recommendation is fully addressed.

Finding 5: The Examination Reporting Policy Does Not Reflect Current Practices

The examination reporting policy, developed in June 2012, has not been updated to reflect the December 2012 reorganization of the CFPB's supervision offices. Further, the policy does not reflect the current definition of fieldwork completion, which initiates the reporting process. The U.S. Government Accountability Office's (GAO) internal control evaluation tool states that policies and procedures should reflect the practices currently in effect. According to a senior official, the policy has not been updated because the CFPB is still determining the most effective process for reviewing examination reports. We believe that this outdated policy could potentially cause confusion among staff, particularly recent hires. Specifically, examiners entering dates into SES may incorrectly identify a fieldwork completion date based on the outdated policy. This confusion could also detract from the tracking of reporting milestones.

The Examination Reporting Policy Does Not Reflect the Current Organizational Structure

The examination reporting policy has not been updated to reflect the December 2012 reorganization of the CFPB's supervision offices. Specifically, neither the Office of Supervision Policy nor the Office of Supervision Examination are mentioned in the CFPB's examination reporting policy; instead the policy still describes the roles and responsibilities of the Office of Large Bank Supervision and the Office of Nonbank Supervision, two offices that no longer exist. The CFPB's examination reporting policy, issued in June 2012, describes the CFPB's process and procedures for internal review and approval of examination reports and supervisory letters as well as roles and responsibilities of the supervisory staff involved in each step of the reporting process.

In December 2012, the supervision offices were restructured to include the Office of Supervision Examinations and the Office of Supervision Policy, both of which currently play important roles in shepherding examination products through the reporting phase. The Office of Supervision Policy acts as a central coordinator for draft reports once they reach headquarters, and the office is tasked with ensuring that internal stakeholders' comments are incorporated as appropriate prior to headquarters approving the draft. The Office of Supervision Examinations also has an opportunity to comment on the draft once it reaches headquarters.

According to GAO's internal control evaluation tool, agencies should apply "appropriate policies, procedures, techniques and mechanisms . . . to each of the agency's activities."[15] One senior official noted that the CFPB is continually refining its processes, so there will always be a lag in updating policies. However, a policy that reflects an outdated organizational structure cannot provide staff with effective guidance. Therefore, the examination reporting policy should be updated to reflect the current organizational structure of the supervision offices.

15. U.S. Government Accountability Office, *Internal Control Management and Evaluation Tool,* August 2001, http://www.gao.gov/new.items/d011008g.pdf.

The Examination Reporting Policy Does Not Reflect the Current Definition for Fieldwork Completion

In March 2013, the CFPB changed the definition for the completion-of-fieldwork milestone in SES training materials; however, the examination reporting policy has not been updated to reflect this change. A senior official explained that the policy has not been updated because the CFPB is still determining the most effective process for reviewing examination reports. However, the examination reporting policy identifies the completion of fieldwork as a key milestone that initiates the reporting process.[16]

We believe that the outdated definition could cause confusion among staff responsible for drafting and reviewing examination reports. Further, examiners entering incorrect dates into SES may impact the CFPB's ability to track performance against reporting milestones.

Recommendation

We recommend that the Associate Director for SEFL

8. Update the *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions* to reflect the current supervision organizational structure and processes.

Management's Response

Regarding recommendation 8, the Deputy Director and Associate Director for SEFL stated the following:

> As noted in the Report, CFPB senior management is currently reevaluating certain aspects of the existing internal examination report review process. Following the completion of those efforts, we will revise the June 2012 CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions discussed in the Report as necessary to reflect the earlier reorganization of CFPB's supervision offices as well as relevant changes to the CFPB's internal processes for examination report review.

Management's full response is included as appendix B.

16. The outdated examination reporting policy defines the fieldwork completion date as the date of the closing meeting, when examiners orally present their findings and conclusions to the institution's management. However, the new definition was presented in SES training materials as the exam-analysis-finalized date. The exam-analysis-finalized date is defined as the date that enough information is collected to determine that the examination is complete and that certain milestones have been met.

OIG Comment

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

Finding 6: The CFPB Has Inconsistent Scheduling Practices and Has Not Tracked Examination Staff Hours

The CFPB does not have consistent scheduling practices across the regions and has not tracked actual staff hours for examiners. We did not have criteria to assess the CFPB's performance against staffing objectives because the agency is still building its supervisory program and did not have data on the expected number of examiner hours to use as a benchmark, particularly for examinations of nonbank entities. As a result, according to senior officials, examination schedules are determined on a case-by-case basis and may be extended during the examination, potentially hindering management's ability to hold staff accountable to timeliness benchmarks. In addition, the CFPB was not tracking actual staff hours; such information could help the agency manage staff workload and identify staffing requirements.

The CFPB Does Not Have a Consistent Approach to Scheduling and Has Not Tracked Examination Staff Hours

Our review of scheduling documentation identified inconsistencies across the regions in the level of granularity in the examination schedules and the mechanisms used to document the schedules. For example, one region's examination schedule included detail only on the lead examiner scheduled, while the other regions' schedules included detail on the entire examination team. In addition, two regions used SES for examination scheduling, while the other two regions used spreadsheets. We also found that the CFPB was not tracking actual examiner hours spent on examinations. Without that information, the agency is unable to use historical staffing data to manage staff workload and identify future staffing requirements.

The CFPB does not have a formalized policy for scheduling or tracking staff hours on examinations. Senior officials described a fluid and informal process for planning and staffing examinations in which field managers meet to discuss examiner availability and experience. The regional directors stated that this process is generally completed at least three months in advance of examinations. Further, senior officials noted that the progress of examinations is monitored on a case-by-case basis through regular meetings.

Because the CFPB has a decentralized structure, with its examination staff located in four regions throughout the United States, the agency should have policies and procedures that set baseline expectations. The lack of a policy for scheduling and tracking examination hours hinders the CFPB's ability to hold staff and regions accountable for the staff resources allocated and time expended on examinations. We also believe that the CFPB is not optimizing an opportunity to use data from its actual examination experience to influence its future scheduling decisions.

Recommendation

We recommend that the Associate Director for SEFL

9. Create a policy that provides a consistent approach across regions for scheduling staff on examinations and tracking actual staff hours.

Management's Response

Regarding recommendation 9, the Deputy Director and Associate Director for SEFL stated the following:

> The CFPB will, as recommended, evaluate the current processes for coordinating examination staff scheduling across regions, identify areas of potential inconsistency regarding regional staff scheduling, and enhance and/or harmonize those processes as needed to manage staff workload and identify future staffing requirements.
>
> Since July 2013 the CFPB has substantially enhanced its existing processes and systems regarding tracking of examination staff hours. We will continue to develop and refine an associated policy.

Management's full response is included as appendix B.

OIG Comment

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

Finding 7: The CFPB Has Not Finalized Its Examiner Commissioning Program

The CFPB has not finalized its commissioning program for new examiners. Further, the CFPB uses on-the-job training modules for new examiners and plans to include those in its commissioning program; however, the agency does not track examiners' completion of these modules. In the absence of a finalized program, the CFPB has implemented an interim program that allows commissioning based on a supervisor's recommendation. Generally, financial regulators require that examiners complete several training courses, pass proficiency examinations, and demonstrate on-the-job aptitude to become commissioned examiners. The CFPB is in the process of developing its commissioning program. In the absence of a finalized commissioning program, the CFPB has a smaller proportion of commissioned examiners to noncommissioned examiners than peer federal regulators, which may create the appearance that the CFPB's examination staff is not sufficiently qualified. In addition, by not tracking on-the-job training, the CFPB limits its ability to ensure that examiners have completed all aspects of the commissioning program.

The CFPB's Commissioning Program Is Not Yet Fully Developed

The CFPB is creating a new commissioning program for its examiners, but at the time of our review, it had not yet finalized all of the commissioning program's training courses. The CFPB has made progress in finalizing and implementing most of the training courses that will be included in the commissioning program, and examiners have begun to attend the courses. The supervisory training and commissioning programs of financial regulators require that examiners complete several training courses, pass proficiency examinations, and demonstrate on-the-job aptitude. Within the Reserve Banks of the Federal Reserve System, for example, it typically takes an assistant examiner three to five years to complete the requisite training requirements and proficiency examinations to become a commissioned examiner.

The CFPB expects that its finalized examiner commissioning program will include a series of classes covering the knowledge and skills necessary to be a successful examiner, as well as on-the-job training. It will also require a written, validated test designed to evaluate a noncommissioned examiner's readiness for the duties of a commissioned examiner. The CFPB plans to finalize its courses and roll out the final commissioning program by the end of 2014.

Although the CFPB's commissioning program has not yet been finalized, the CFPB is commissioning examiners through an interim program. Participation in the interim commissioning program is contingent on a supervisor's recommendation, which can be made based on an examiner's display of working knowledge. As of October 2013, the CFPB had 108 commissioned examiners, 20 of which were commissioned through the CFPB's interim commissioning program. The remaining 88 commissioned examiners were previously commissioned by another regulatory agency. We reviewed the recommendations and found that the commissions appeared appropriate, as the examiners generally had several years of regulatory compliance experience.

The CFPB has a high proportion of noncommissioned examiners, underscoring the importance of a robust training and commissioning program. According to a CFPB senior official, inexperienced examiners at other federal regulatory agencies generally make up about one-third of all examination staff. A June 11, 2013, staffing report showed that the CFPB had approximately 300 examiners, 55 percent of which were below the minimum grade level for commissioning. Operating with such a large proportion of noncommissioned examiners, relative to other federal agencies, can drain resources; a regional director explained that training teams during examinations requires more staff resources and lengthens examination time.

In addition, the lack of training can impact employee satisfaction. This connection is illustrated in the results of the *2012 CFPB Annual Employee Survey*, which found that nonmanagerial regional staff were generally dissatisfied with the training they received; 55 percent noted that training needs for their current position were not being met.

On-the-Job Training Is Not Tracked

The CFPB lacks a formal, centralized process to track examiners' completion of on-the-job training modules. On-the-job training modules, designed to teach new examiners about specific regulations or products during examinations, will be a key component of the CFPB's finalized commission program. A headquarters official stated that each region should track on-the-job training modules; however, the regional directors stated that although they rely on examiners receiving on-the-job training, they generally have not tracked examiners' completion of such training. Formally tracking the modules would help to ensure that examiners have completed all aspects of the commissioning program.

Recommendations

We recommend that the Associate Director for SEFL

10. Finalize the examiner commissioning program.

11. Monitor examiners' completion of on-the-job training modules.

Management's Response

Regarding recommendation 10, the Deputy Director and Associate Director for SEFL stated the following:

> We share the OIG's appreciation of the critical role training plays in enhancing the overall effectiveness of CFPB's supervisory operations, and we have expended considerable resources in developing training for supervisory staff that reflects the needs and mission of our newly-created agency.
>
> Our examiners possess deep and varied experiences. Our goal remains to recruit high quality talent and to develop future generations of examiners. Given the startup nature of the Bureau, we previously relied exclusively on classes offered by our fellow banking regulators and on-the-job training. This past year,

> however, we delivered 24 sections (25 to 30 seats each) of three distinct course offerings to our examiners. This represents a new point in the maturation of our internal training and development program.
>
> As part of its comprehensive examiner training strategy, the CFPB has established an Examiner Commissioning Program (ECP) that includes classroom training courses, rotational assignments, access to online training modules, case studies, and a comprehensive commissioning examination. We have developed and fully implemented multiple new classroom courses in areas including operations and deposits, prepaid products, lending principles, fair lending, and other areas.
>
> As the Report notes, we have implemented an interim commissioning program; all commissions issued under this program require the approval of the Associate Director for Supervision, Enforcement, and Fair Lending. The CFPB's comprehensive commissioning examination is undergoing multiple rounds of content validation and is scheduled to be finalized during the fall of 2014. As noted in the Report, the CFPB is targeting the last quarter of the 2014 calendar year to have all components of the commissioning program fully implemented.

Regarding recommendation 11, the Deputy Director and Associate Director for SEFL stated the following:

> The CFPB will enhance our existing monitoring processes to ensure we accurately track completion of OJT modules. In addition, the CFPB is expanding implementation of its formal Learning Management System (LMS) to enable more centralized and automated training documentation.

Management's full response is included as appendix B.

OIG Comment

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

Finding 8: An Opportunity Exists to Enhance Coordination Between the CFPB and the Prudential Regulators

In May 2012, the CFPB entered into an MOU with the prudential regulators (the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency) to fulfill the supervisory coordination requirements outlined in the Dodd-Frank Act. As part of this MOU, the five agencies agreed to share reports of examination prior to issuance and allow the receiving agency 30 days to comment. Our evaluation demonstrated that the CFPB complies with the requirements of the interagency MOU by sharing its reports of examination in a timely manner. Our results also indicate that the CFPB has taken a significant number of supervisory actions in supervisory letters that are not subject to the coordination requirements of the MOU. Such supervisory actions would only be shared on a delayed basis as part of sharing full-scope reports that summarize previously issued supervisory letters for institutions subject to continuous monitoring. Therefore, we believe that an opportunity exists to broaden the scope of the MOU to include supervisory letters to foster enhanced and timelier coordination between the CFPB and the prudential regulators.

The CFPB and the Prudential Regulators Do Not Formally Share Supervisory Actions Documented Outside a Report of Examination

In May 2012, the CFPB entered into an MOU with the prudential regulators to fulfill the supervisory coordination requirements outlined in the Dodd-Frank Act. As part of this MOU, the agencies collectively agreed to share reports of examination prior to issuance and allow the receiving agency 30 days to comment. Our evaluation demonstrated that the CFPB complies with the requirements of the interagency MOU by sharing its reports of examination in a timely manner.

However, we believe that the agencies' collective decision to exclude additional supervisory outputs, such as supervisory letters, from the requirements outlined in the MOU prevents specific institutions' regulators from receiving prior notice and the opportunity to comment on certain supervisory actions. We found that as of July 2013, 49 percent of the CFPB's closed examinations of depository institutions resulted in supervisory letters, 32 percent resulted in baseline reviews, and only 19 percent resulted in reports of examination. In addition, of the CFPB's examinations of depository institutions that resulted in a matter requiring attention, only 30 percent were documented in reports of examination. The remaining 70 percent of matters requiring attention were documented in supervisory letters or baseline reviews and, therefore, were not formally shared with the prudential regulators.

For institutions subject to continuous monitoring, the CFPB intends to summarize supervisory letters in the full-scope reports of examination that will be shared with the prudential regulator at the end of the examination cycle. However, as of July 2013, none of the continuous full-scope examinations had been finalized or shared with the prudential regulators. We believe this approach increases the risk that regulators do not receive important information documented in supervisory letters in a timely manner, which may lead to inefficiencies in the examination planning process and potential duplication of efforts across the regulatory agencies.

In conjunction with the Inspectors General of the Federal Deposit Insurance Corporation, the U.S. Department of the Treasury, and the National Credit Union Administration, we intend to conduct an evaluation of the coordination efforts of the CFPB and the prudential regulators. The review will seek to determine the extent to which coordination is occurring and has been effective in avoiding duplication of efforts among the regulators.

Recommendation

We recommend that the Associate Director for SEFL

12. Pursue negotiations with the prudential regulators with the goal of formally sharing all supervisory materials that result in supervisory actions prior to their issuance.

Management's Response

Regarding recommendation 12, the Deputy Director and Associate Director for SEFL stated the following:

> The CFPB shares the OIG's conviction that full and timely exchange of information between federal banking regulators improves the effectiveness of supervisory activity for all of the agencies, enhances protections for American consumers, and is consistent with the cooperative relationship between the agencies envisioned in the Dodd-Frank Act. As noted in the Report, the CFPB has acted in this spirit of cooperation and complied with all of the requirements and arrangements outlined in the Interagency MOU on Supervisory Coordination dated May 16, 2012 (Interagency MOU)—an agreement that resulted from a multi-agency decision-making process including the CFPB, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.
>
> The Report concludes that an opportunity exists to broaden and enhance the exchange of supervisory information among the agencies party to the Interagency MOU. The CFPB has already begun discussions with the other agencies that are party to the Interagency MOU in order to explore potential opportunities to enhance information-sharing, and will pursue the specific discussions suggested in the Report.

Management's full response is included as appendix B.

OIG Comment

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

Appendix A
Scope and Methodology

Our objectives were to (1) review key program elements, including policies and procedures, examination guidance, and controls to promote consistent and timely reporting; (2) assess the approach for staffing examinations; and (3) assess the training program for examination staff. To accomplish our objectives, we reviewed regulatory guidance, policies and procedures, and data in SES. We conducted interviews with senior officials and staff in SEFL. Our evaluation covered supervisory activities that occurred from July 2011 to July 2013.

To address our first objective, we reviewed the Dodd-Frank Act title X sections related to the CFPB's supervision functions, including simultaneous and coordinated supervisory actions with the prudential regulators, examination authorities, and reporting requirements.[17] In addition, we reviewed the *CFPB Supervision and Examination Manual*, version 2; the *CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions*; and the *Supervisory Prioritization Approach.*

We analyzed examination data in SES to assess the agency's performance against internal reporting timeliness requirements. The analysis included only those CFPB examinations resulting in a report of examination or supervisory letter with fieldwork ending after June 15, 2012 (the date the CFPB issued reporting timeliness requirements). The analysis excluded baseline reviews, which do not typically result in a report of examination or supervisory letter. We also used the SES examination data to verify the number of examinations outstanding for longer than 90 days. Our analysis of the SES data took into account system updates in SES during the review period, including changes to the fieldwork completion date definition.

To assess the CFPB's compliance with the Dodd-Frank Act requirement to share certain draft reports with the prudential regulators, we reviewed each of the 15 issued reports of examinations that required coordination with the prudential regulators as of July 2013. In doing so, we reviewed available documentation demonstrating timely communication between the CFPB and the prudential regulators.

We reviewed examinations for consistency with the reporting templates provided in the *CFPB Supervision and Examination Manual*, version 2. We sampled a report of examination and supervisory letter from each of the four regions and compared them to the templates.

To address our second objective, we evaluated the CFPB's implementation of the supervision program by reviewing regional examination schedules, staffing documentation, and other staffing materials.

17. Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, §§ 1021(c), 124 Stat. 1376, 1980 (codified at 12 U.S.C. § 5511(c)); 1024(b), 124 Stat. 1987 (codified at 12 U.S.C. § 5514(b)); 1025(b),(e) 124 Stat. 1990-91 (codified at 12 U.S.C. § 5515(b),(e)); and 1026(b),(c) 124 Stat. 1993-94 (codified at 12 U.S.C. § 5516(b),(c)) (2010).

To address our third objective, we assessed the interim commissioning policy, on-the-job training modules, planning materials for the final commissioning program, and the *2012 CFPB Annual Employee Survey*.

We conducted our fieldwork from February 2013 through October 2013. We performed our evaluation in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Consumer Financial Protection Bureau
1700 G Street, N.W., Washington, DC 20552

March 24, 2014

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 Draft Report entitled, "The CFPB Can Improve the Efficiency and Effectiveness of Its Supervisory Activities" dated March 13, 2014 (Report)

Dear Mr. VanHuysen:

Thank you for the opportunity to respond to the above-referenced Report. The Report acknowledges the CFPB's significant progress in establishing its supervision program. Since it commenced operations in July 2011, the CFPB has designed, developed, and implemented the nation's first comprehensive federal nationwide supervision program for depository and nondepository institutions. Many of the financial institutions now supervised by the CFPB have never before been subject to regular federal supervision. On a combined basis, the depository institutions supervised by the CFPB account for $10 trillion in assets or nearly 80 percent of the nation's banking market. In addition, the Bureau has supervisory authority over nonbank mortgage originators and servicers, payday lenders, private education lenders, debt collectors, consumer reporting agencies, and student loan servicers. The nonbank entities subject to the Bureau's supervisory jurisdiction number in the thousands. CFPB's supervisory program helps level the playing field for all industry participants, and creates a fairer marketplace for consumers and the responsible businesses that serve them.

The Report contains specific suggestions regarding additional policies, reporting metrics, and other enhancements to the CFPB's supervisory process. We concur with the recommendations made in the Report. As detailed below, the CFPB has made significant progress in addressing the recommendations since the close of the evaluation review period in July 2013. We will be taking steps to adopt and implement all of them as we move forward in developing and expanding our new supervisory program.

Below are CFPB management's responses to each of the Evaluation Report's specific recommendations.

CFPB Management Response to Recommendations #1-2:

Recommendation #1: We will include a new metric in the regular reports currently provided to senior management regarding examination timeliness that specifically measures the status of report drafts against the internal requirements established by applicable CFPB policies. While the necessary information to determine examination timeliness is already in the reports, we agree that including a more salient measurement against the self-imposed policy requirements would be helpful.

We appreciate the Report's acknowledgement of the extensive efforts currently underway at the CFPB to increase the effectiveness and efficiency of CFPB report preparation and review processes, including our efforts to address the numerous novel issues that often arise in CFPB examinations without sacrificing consistency across regions and types of institutions. These efforts have resulted in a substantial reduction since July 2013 in the number of outstanding CFPB examination reports.

As part of these overall efforts, the CFPB will be reevaluating its earlier June 2012 policy and the internal requirements established in that policy. Any new reporting metrics adopted will conform with the requirements established in any revised policies and procedures.

Recommendation #2: As discussed in the Report, CFPB senior management is focused on maintaining an effective, efficient, and consistent supervision and examination process. The Report recognizes several of the various initiatives the CFPB has undertaken as we have continued to improve the timeliness of our report issuance process. We agree that adoption of a formal plan would be an effective tool in connection with these efforts, and would help memorialize many of the steps the CFPB has already taken. We will incorporate such a plan into our existing report review processes.

CFPB Management Response to Recommendations #3-5:

Recommendation #3: As suggested in the Report, we have conducted a comprehensive internal review of all completed reports of examination in order to determine the extent to which those reports contained modified ratings definitions that deviated from the standard definition. We have also reviewed the two instances of modified ratings definitions identified by OIG. As a result of that review, we have determined that no ratings adjustments are warranted.

Recommendation #4: We have reinforced the appropriate use of ratings definitions through in-person meetings with headquarters staff and through written and telephone briefings with staff in the field.

Recommendation #5: We are implementing additional internal review processes to ensure appropriate use of ratings definitions.

CFPB Management Response to Recommendation #6:

Recommendation #6: The CFPB will establish appropriate guidelines regarding timely data entry by examination staff and will develop appropriate training materials in connection with those guidelines, taking into account as applicable the technological constraints imposed by the CFPB's existing Supervision and Examination System and other related systems. We note that the CFPB continues to develop and expand these systems in order to maximize the effectiveness of our supervisory work.

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CFPB Management Response to Recommendation #7:

As part of its ongoing quality assurance measures incorporated into supervisory processes, the CFPB will refine its internal process to ensure accurate documentation of communications with the prudential regulators, which have occurred as required.

CFPB Management Response to Recommendation #8:

As noted in the Report, CFPB senior management is currently reevaluating certain aspects of the existing internal examination report review process. Following the completion of those efforts, we will revise the June 2012 CFPB Process for Reviewing Supervisory Letters, Examination Reports, and Supervisory Actions discussed in the Report as necessary to reflect the earlier reorganization of CFPB's supervision offices as well as relevant changes to the CFPB's internal processes for examination report review.

CFPB Management Response to Recommendation #9:

The CFPB will, as recommended, evaluate the current processes for coordinating examination staff scheduling across regions, identify areas of potential inconsistency regarding regional staff scheduling, and enhance and/or harmonize those processes as needed to manage staff workload and identify future staffing requirements.

Since July 2013 the CFPB has substantially enhanced its existing processes and systems regarding tracking of examination staff hours. We will continue to develop and refine an associated policy.

CFPB Management Response to Recommendations #10-11:

Recommendation #10: We share the OIG's appreciation of the critical role training plays in enhancing the overall effectiveness of CFPB's supervisory operations, and we have expended considerable resources in developing training for supervisory staff that reflects the needs and mission of our newly-created agency.

Our examiners possess deep and varied experiences. Our goal remains to recruit high quality talent and to develop future generations of examiners. Given the startup nature of the Bureau, we previously relied exclusively on classes offered by our fellow banking regulators and on-the-job training. This past year, however, we delivered 24 sections (25 to 30 seats each) of three distinct course offerings to our examiners. This represents a new point in the maturation of our internal training and development program.

As part of its comprehensive examiner training strategy, the CFPB has established an Examiner Commissioning Program (ECP) that includes classroom training courses, rotational assignments, access to online training modules, case studies, and a comprehensive commissioning examination. We have developed and fully implemented multiple new classroom courses in areas including operations and deposits, prepaid products, lending principles, fair lending, and other areas.

As the Report notes, we have implemented an interim commissioning program; all commissions issued under this program require the approval of the Associate Director for Supervision, Enforcement, and Fair Lending. The CFPB's comprehensive commissioning examination is undergoing multiple rounds of content validation and is scheduled to be finalized during the fall of 2014. As noted in the Report, the CFPB is targeting the last quarter of the 2014 calendar year to have all components of the commissioning program fully implemented.

Recommendation #11: The CFPB will enhance our existing monitoring processes to ensure we accurately track completion of OJT modules. In addition, the CFPB is expanding implementation of its formal Learning Management System (LMS) to enable more centralized and automated training documentation.

CFPB Management Response to Recommendation #12:

The CFPB shares the OIG's conviction that full and timely exchange of information between federal banking regulators improves the effectiveness of supervisory activity for all of the agencies, enhances protections for American consumers, and is consistent with the cooperative relationship between the agencies envisioned in the Dodd-Frank Act. As noted in the Report, the CFPB has acted in this spirit of cooperation and complied with all of the requirements and arrangements outlined in the Interagency MOU on Supervisory Coordination dated May 16, 2012 (Interagency MOU)—an agreement that resulted from a multi-agency decision-making process including the CFPB, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

The Report concludes that an opportunity exists to broaden and enhance the exchange of supervisory information among the agencies party to the Interagency MOU. The CFPB has already begun discussions with the other agencies that are party to the Interagency MOU in order to explore potential opportunities to enhance information-sharing, and will pursue the specific discussions suggested in the Report.

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
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