

# To the Point!

legal, operations, and strategy briefs for financial institutions

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## CFPB Spring 2014 Supervisory Highlights

The CFPB recently issued its Spring 2014 Supervisory Highlights which discussed its supervisory actions between November 2013 and February 2014. Although this Supervisory Highlights focused on the agency's efforts related to nonbank entities – consumer reporting agencies; debt collection; and short-term (payday) lending – it included a number of important insights for supervised bank entities as well.

The potential for fair lending risk resulting from exceptions to established credit standards was identified in the Supervisory Highlights. The CFPB advised that a strong compliance management system is necessary to mitigate fair lending risk, including documentation of the basis for the exception, monitoring and tracking exception activity, and controls for any fair lending risk that is identified. The CFPB advised regulated entities to implement policies and procedures related to exceptions, monitoring and audit of exceptions, implementation of corrective action for failure to comply with the policies, employee training, and oversight by management or the board. The CFPB noted that detailed records documenting the facts that support the exception should be retained for the time period required under the Equal Credit Opportunity Act.

Another topic that the CFPB addressed in the Supervisory Highlights was the importance of selection and management of third-party service providers, referring readers to its Bulletin 2012-03 (the "*Bulletin*") for further guidance. In keeping with the Bulletin, the Supervisory Highlights reminded supervised entities of their responsibility to include compliance expectations in contracts, adequately monitor service providers' work and any complaints regarding their work, require remediation for failure to perform, and, in appropriate circumstances, terminate the third-party service provider.

The CFPB noted weaknesses in creditors' operations related to sale of debt, including failure to sufficiently assess on a regular basis debt buyers' compliance with Federal consumer financial laws; inadequate creditor records, which resulted in the sale of canceled debt to buyers; and collection practices that utilize electronic funds transfers to debit a consumer's deposit account without proper consumer authorization.

Finally, creditors should be aware that the CFPB identified a number of debt collection practices that were deemed to be unfair, deceptive and abusive acts or practices under the Dodd-Frank Act, which will also apply to creditors collecting their own debts.



## CFPB Spring 2014 Rulemaking Agenda

In its continuing efforts to regulate auto lending practices, the CFPB announced that it plans to issue a proposed rule defining larger participants in the auto lending market, identifying those non-bank entities that will be subject to CFPB supervision. The CFPB also plans to issue its final rule defining larger participants in the international money transfer services market.

Financial institutions should also expect issuance of additional proposed rules amending the Mortgage Rules and a proposed rule on prepaid card disclosures. Prepaid card disclosures are currently undergoing testing and can be viewed on the CFPB website.



## Changes to OCC Large Bank Supervisory Process

In response to an international peer review of the OCC's supervision of large banks undertaken in 2013, the OCC announced on May 28 that it will take steps to improve horizontal perspective and analysis, systemic risk identification, quality control and assurance and resource prioritization by expanding the organization, functions and responsibilities of its large bank lead expert program. As part of this initiative, the OCC will establish a formal rotation program to provide large bank examiners with broader, fresh perspectives by rotating such examiners to another large bank every five years in cities with multiple large banks.

The peer review report and a summary of the OCC's responses are available on the OCC's website. Implementation of these initiatives is expected to begin within the next several months.

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