



BLACK|MANN & GRAHAM L.L.P.

8584 Katy Freeway, Suite 420

Houston, TX 77024

Phone: 713-871-0005

Fax: 713-871-1358

Partners

Thomas E. Black, Jr.¹

Gregory S. Graham²

Shawn P. Black³

Regina M. Uhl⁴ ‡

Senior Lawyers

David F. Dulock

Diane M. Gleason

Associates

Peter B. Idziak³

Daniel S. Engle³

Nick Stevens

Sydney Davis

Margret Noles

Of Counsel

David M. Tritter

Calvin C. Mann, Jr.

Retired Partner(s)

Calvin C. Mann, Jr.

¹ Also Licensed in Iowa, New York, and Washington

² Also Licensed in Georgia

³ Also Licensed in New York

⁴ Also Licensed in Kentucky and Illinois

‡ Board Certified- Residential Real Estate Law- Texas Board of Legal Specialization

February 20, 2018

To: Clients and Friends

From: David F. Dulock

Subject: CFPB Request for Comments on the CFPB's Supervision Program for Compliance with Federal Consumer Financial Law

In the February 20, 2018, issue of the *Federal Register* (83 FR 7166, [click here](#)), the CFPB published a request for information (RFI) seeking comments and information to assist it in assessing the overall efficiency and effectiveness of its processes used to supervise for compliance with Federal consumer financial law (Supervision Program), and considering whether any changes to its Supervision Program would be appropriate.

The following is a redaction of the above RFI published by the CFPB in the *Federal Register*. The redacted text contains the essential information needed to submit the requested information and comments.

You may submit information and other comments, identified by Docket No. CFPB–2018–0004, by any of the following methods:

- *Electronic:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Email:* FederalRegisterComments@cfpb.gov. Include Docket No. CFPB–2018–0004 in the subject line of the message.
- *Mail:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.
- *Hand Delivery/Courier:* Comment Intake, Consumer Financial Protection Bureau, 1700 G Street NW, Washington, DC 20552.

Comments must be received by May 21, 2018, and must include the document title and docket number. Commenters are requested to note the number of the topic(s) commented on at the top of each response. Commenters do not need to comment on all topics. Commenters should refrain from submitting confidential supervisory information (CSI), as defined in 12 CFR 1070.2(i), [click here](#). If discussing interactions on an examination, commenters should speak in generalities, and should refrain from describing the content of supervisory communications or the results of specific exams. Commenters may submit comments anonymously or through a representative if associating their name with their public comment would disclose that they have been examined by the CFPB or the results of a particular exam.

As authorized by Federal law and by 12 CFR parts 1090 and 1091 the CFPB has supervisory authority over insured depository institutions and credit unions with total assets over \$10 billion and their affiliates, as well as non-depository financial institutions, regardless of size, in certain specific markets including mortgage companies (originators, brokers, servicers, and offerors of loan modifications). Additionally, the CFPB has authority over service providers of the above referenced supervised entities, and service providers to a substantial number of depository institutions and credit unions with total assets of \$10 billion or less.

To more effectively evaluate suggestions, the CFPB requests that, where possible, the comments include:

- Specific suggestions regarding any potential updates or modifications to the CFPB's Supervision Program, consistent with the CFPB's statutory objectives, and including, in

as much detail as possible (without disclosing CSI), potential updates or modifications, supporting data or other information on impacts and costs, or information concerning alignment with the processes of other agencies with similar authorities; and

- Specific identification of any aspects of the CFPB's Supervision Program that should not be modified, consistent with the CFPB's statutory objectives, and including supporting data or other information on impacts and costs, or information concerning alignment with the processes of other agencies with similar authorities.

The following list represents the CFPB's preliminary attempt to identify elements of its Supervision Program processes on which it should immediately focus. This non-exhaustive list is to assist those making comments and is not intended to restrict the issues that may be addressed. In their comments, the CFPB requests that commenters identify with specificity the CFPB regulations or practices at issue, providing legal citations where appropriate and available. As noted above, commenters must refrain from revealing CSI in their comments.

The CFPB is seeking feedback on all aspects of its Supervision Program, including but not limited to:

1. The timing, frequency, and scope of supervisory exams.
2. The timing, method or process used by the CFPB to collect information and documents from a supervised entity prior to the commencement of an examination. Typically, the CFPB sends an examination Information Request (IR) to a supervised entity prior to the commencement of an examination. An IR is a list of information and documents that the supervised entity is asked to provide to the CFPB for off-site review or to make available when examiners are onsite at the entity. An IR is typically sent to an entity at least 60 days prior to the onsite start of an examination.
3. The type and volume of information and documents requested in IRs.
4. The effectiveness and accessibility of the CFPB Supervision and Examination Manual (Exam Manual). The Exam Manual provides internal direction to supervisory staff, including summaries of statutes and regulations and specific examination procedures for use by examiners in conducting exams. It is published on the CFPB's website to promote transparency and assist the public in understanding how the CFPB oversees supervised entities.
5. The efficiency and effectiveness of onsite examination work. Typically, while onsite, examination teams may review documents and data, hold meetings with management, conduct interviews with staff, make observations, and conduct transaction testing.
6. The effectiveness of Supervision's communications when potential violations are identified, including the usefulness and content of the potential action and request for response (PARR) letter. A PARR letter provides an entity with notice of preliminary findings of conduct that may violate Federal consumer financial laws and advises the entity that the CFPB is considering taking supervisory action or a public enforcement action based on the potential violations identified in the letter. Supervision invites the entity to respond to the PARR letter within 14 days and to set forth in the response any reasons of fact, law or policy why the CFPB should not take action against the entity. The CFPB often permits extensions of the response time when requested.
7. The clarity, organization, and quality of communications that report the results of supervisory activities, including oral communications from examiners and Supervisory Letters and Examination Reports.

8. The clarity of matters requiring attention (MRA) and the reasonability of timing requirements to satisfy MRAs. An MRA is used to address violation(s) of Federal consumer financial law or compliance management weaknesses. MRAs often require a written response to the CFPB and will include a due date for completion.

9. The process for appealing supervisory findings.

10. The use of third parties contracted by supervised entities to conduct assessments specified in MRAs, or to assess the sufficiency of completion of an MRA.

11. The usefulness of Supervisory Highlights to share findings and promote transparency. The CFPB periodically publishes Supervisory Highlights to apprise the public about its examination program, including the concerns that it finds during the course of its work.

12. The manner and extent to which the CFPB can and should coordinate its supervisory activity with Federal and state supervisory agencies, including through use of simultaneous exams, where feasible and consistent with statutory directives.

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