



February 10, 2015

## CFPB ISSUES BULLETIN REGARDING TREATMENT OF CONFIDENTIAL SUPERVISORY INFORMATION

On January 27, 2015, the Consumer Financial Protection Bureau (CFPB) issued a compliance bulletin reminding supervised financial institutions that, with limited exceptions, they may not disclose confidential supervisory information (CSI) to third parties.

The CFPB is aware that institutions may have non-disclosure agreements (NDAs) with third parties that restrict the institutions from giving information to a regulator or require the institutions to notify the third parties when they are about to do so. The CFPB stated that these NDAs neither alter the legal restrictions on the disclosure of CSI nor impact the CFPB's ability to obtain information from covered persons and service providers while exercising its supervisory authority.

Subject to limited exceptions, supervised financial institutions and other parties in possession of the CSI of the CFPB may not disclose CSI. Per the bulletin, under the CFPB's regulations, CSI means:

- Reports of examination, inspection and visitation, non-public operating, condition and compliance reports, and any information contained in, derived from or related to such reports;
- Any documents, including reports of examination, prepared by, or on behalf of, or for the use of the CFPB or any other Federal, State or foreign government agency in the exercise of supervisory authority over a financial institution, and any supervision information derived from such documents;
- Any communications between the CFPB and a supervised financial institution or a Federal, State or foreign government agency related to the CFPB's supervision of the institution;
- Any information provided to the CFPB by a financial institution to enable the CFPB to monitor for risks to consumers in the offering or provision of consumer financial products or services, or to assess whether an institution should be considered a covered person, or is subject to the CFPB's supervisory authority; and
- Information that is exempt from disclosure under 5 U.S.C. § 552(b)(8).

The definition of CSI does not include documents prepared by a financial institution for its own business purposes and that the CFPB does not possess.

The bulletin lists examples of CSI, including the following:

- CFPB examination reports and supervisory letters;
- All information contained in, derived from or related to those documents, including an institution's supervisory Compliance rating;
- Communications between the CFPB and the supervised financial institution related to the CFPB's examination of the institution or other supervisory activities; and
- Other information created by the CFPB in the exercise of its supervisory authority.

A supervised financial institution should not use an NDA or other private confidentiality agreement as the basis for failing to provide information to the CFPB. The bulletin makes clear that failure to provide information required by the CFPB is a violation of the law for which the CFPB will pursue all available remedies.

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