CONSUMER AFFAIRS SUPERVISION PROGRAM

Introduction and Overview

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SCOPE

- SMB Supervision Methodology
- CA Impact on BHC Supervision
SMB Supervision Methodology

- Examinations
- Interim Monitoring & Outreach
- Consumer Complaint Investigation
SMB Supervision Methodology - Examinations

• Objective: To effectively and efficiently ensure SMB compliance with consumer protection laws and regulations by conducting regular, timely, and consistent risk-focused examinations

• Risk-focused examinations - direct examination resources to areas within bank that carry the greatest compliance risk
Compliance Risk is determined, generally, by the following factors:

- Type, variety, and volume of loan and deposit products
- The nature of risk posed by applicable regulations, considering complexity and potential liability of non-compliance
- The effectiveness of the bank’s compliance management processes in identifying, monitoring, and managing compliance risk
Interim Monitoring

- Goal of monitoring is to ensure, from a top-down perspective, that the compliance rating has not changed.
- Conducted at mid-point of exam cycle, focus on changes to bank’s compliance risk profile since the last examination. This includes documenting changes to market, product offerings, and risk management processes.
- More robust review for small banks (<$250 Million in Assets), because of examination frequency
SMB Supervision Methodology -
Interim Monitoring

• Interim Monitoring - continued
  – Interim Monitoring is intended to be flexible and conducted within the institution’s context
  – Under rare circumstances, Interim Monitoring can lead to a full examination
  – For most institutions, monitoring is conducted offsite and through telephone conversations with the bank
SMB Supervision Methodology - Outreach

• Purpose:
  • To promote stronger compliance in a setting separate from the supervisory process; improve the bank’s self-compliance and monitoring processes and thereby reduce the risk of regulatory violations.
• Open forum for bank management and Reserve Bank to discuss any regulatory issues or concern
• Can take any form ranging from a high-level regulatory overviews with senior management to regulatory training of business line personnel
• Conducted on an as needed basis as determined by bank, but typically will be offered once a year
Federal Reserve System has statutory responsibilities to investigate consumer complaints against SMBs

Complaints can be valuable in identifying regulatory violations, although this rarely occurs.

The Reserve Bank is not an advocate, nor does it take sides - past experience has shown that the Reserve Bank primary role is ensuring that the SMB provide a reasonable and timely response to complainant.
CA Impact on BHC Supervision

- FRB BHC Inspections
- BHC Applications
- Regulation P and Beyond
CA Impact on BHC Supervision - FRB BHC Inspections

• Depository Institution CA Ratings
  – reviewed for every BHC Inspection/BHC Risk Assessment
  – Less than satisfactory compliance ratings (“3” or lower) or other significant compliance issues may be addressed as part of the BHC inspection
  • FRB CA Examiners advise EIC of BHC Inspection regarding CA issues; assist in determining the extent CA issues are addressed as part of the BHC inspection.
  • Less than satisfactory compliance ratings can impact the management component of BHC ratings.
Applications pursuant to Section 3 of BHCA

- Generally, compliance becomes a factor in the application process under two circumstances:
  - Less than satisfactory compliance or CRA ratings at depository institution subsidiaries
  - Protests involving compliance or CRA
- Under either scenario, approval of the application may be delayed until all issues are addressed
- In some instances, may result in denial of application.
CA Impact on BHC Supervision - BHC Applications

• FHC Certification under Section 4 of BHCA
  – Less than Satisfactory CRA ratings at any depository institution subsidiary precludes approval of FHC Certification or result in revocation of FHC Certification
CA Impact on BHC Supervision-BHC Applications

- Compliance or CRA Application Issues
  - FRB CA staff reviews the issues, including
    - Discussions with primary regulator
      - Nature and extent of problems
      - Sufficiency of the institution’s response to the problem
    - Discussions with the institution
      - Institution response to the problem
  - FRB CA staff provides a memorandum to Application specialist, detailing significance of issues and including any recommendations.
• Regulation P Supervision Program
  – Regulation P implements privacy provisions of GLBA
  – Regulation P applies to SMBs, BHCs and nonbank subsidiaries of BHCs
  – Board is in the process of adopting a program of reviewing for privacy compliance at the BHC level
    • Most likely will only cover BHCs with nonbank subsidiaries
    • May result in a “privacy risk” rating assigned to BHC
    • In certain circumstances FRB CA Examiners may be required to conduct onsite reviews at the BHC and nonbank subsidiary
Compliance risk has a direct impact on reputation, operational, and legal risk.

Ongoing Debate: Extent of monitoring compliance risk at the holding company level
- how much is necessary?
- what is the role of the FRB, as the regulator of BHCs for reviewing for compliance?
  - Should consumer compliance be a component of BHC Inspection?
CA Impact on BHC Supervision - Regulation P and Beyond

- Impacting the debate:
  - privacy
  - predatory lending
  - FRB role as umbrella supervisor

- Moral: Compliance is a key component of a BHC’s risk management program; as such, it is increasingly becoming an important component of the FRB’s supervision program for BHCs.
Contact Information

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Questions?

• Questions and Comments