

The CFPB's "Prioritized Assessments" will examine pandemic-related issues at financial institutions as the current financial and regulatory landscape continues to evolve.

As a result of the ongoing COVID-19 pandemic, the financial impacts and associated relief efforts have not only transformed the financial landscape and how institutions operate but have also required substantial adjustments to the supervisory approach and priorities of regulators, including the Consumer Financial Protection Bureau (The Bureau). The pandemic and resulting impacts to financial institutions' operations and customers' financial health have, in turn, created new and different ways for potential consumer harm to emerge. These areas include operational and compliance risks stemming from new operating processes and controls in support of work from home efforts; new products and increased processing volume related to the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), including the Payment Protection Program (PPP) and

forbearance offered to mortgage and certain student loans; and increased credit default activities due to ongoing economic conditions.




In order to obtain a greater understanding of the industry's response to the pandemic-related challenges and ensure consumers are protected throughout these challenging times, the Bureau has adjusted its more traditional examination approach and has begun to execute so-called "Prioritized Assessments." The Bureau's Prioritized Assessments are high-level inquiries designed to obtain more timely information from institutions that will be used to assess pandemic-related impacts on consumer financial product markets and identify potential risk to consumers.¹





Focus Areas for Prioritized Assessments

Through our industry observations and discussions, we understand that the Prioritized Assessments may potentially include the following product areas: residential mortgage servicing; student loan servicing; auto loan servicing; consumer reporting and furnishing; and collections. The July 2020 Bureau Complaint Bulletin provides additional insights into potential consumer risks and focus areas related to the pandemic, including trending high complaints levels stemming from mortgages, credits cards, and credit or consumer reporting.² As a result of the Bureau's analysis of complaints and other data, Prioritized Assessments will likely be focused on the issues that may pose the greatest risk to consumers, as well as markets where Congress provided special provisions as it relates to the CARES Act.

Recently, the Bureau has indicated that student loan servicing and PPP fair lending compliance may be areas of focus within the Prioritized Assessments. For student loan servicers, the Bureau will focus the Prioritized Assessments on the following aspects³:

-  New or pre-existing payment relief options available to consumers
-  How servicers are communicating these repayment options to consumers
-  Operational risks of servicers in executing on the student loan servicing programs

As it relates to the PPP, the Bureau will be assessing potential fair lending risks to ensure compliance with the Equal Credit Opportunity Act (ECOA). Although PPP is still in progress and guidance continues to evolve, financial institutions should be prepared to share information related to these areas⁴:

-  Steps being taken when implementing PPP to ensure compliance with fair lending laws
-  Additional restrictions the institution has placed on PPP loans that exceed requirements set by the Small Business Administration (SBA)

Steps being taken to ensure compliance with Regulation B's adverse action notice requirements

The Bureau has also noted it recognizes the conditions under which financial institutions implemented the PPP and, as part of an effort to be reasonable in conducting these Prioritized Assessments, it will accept information available at the time of the request (as opposed to requiring comprehensive information).

Additionally, Prioritized Assessments are likely also to assess compliance with the Fair Credit Reporting Act (FCRA). The Bureau has encouraged financial institutions to work constructively with borrowers and other customers affected by COVID-19 to meet their




financial needs. A section of the CARES Act amends the FCRA and "generally requires furnishers to report as current certain credit obligations for which furnishers make payment accommodations to consumers affected by the pandemic and who have sought such accommodations from lenders."⁵

The Bureau plans to use the information obtained from Prioritized Assessments to analyze market developments and determine potential compliance risks associated with accommodating consumers while also adhering to fair lending and consumer protection requirements.

Structure of Prioritized Assessments

Prioritized Assessments are expected to continue occurring over the new few months and the Bureau has reiterated its commitment to minimizing disruption and burden to financial institutions throughout this process. Targeted information requests will be sent to selected institutions for discussion and to obtain the required information, and will be specific to the product market, the market's attendant risk to consumers, and the institutions. The Bureau will also be making efforts to tailor information requests using the existing information it has on the entity and its operations, coordinating with other federal and state agencies to minimize duplication, and revising requests based on previous discussions with the entity.

In order to obtain information on activities and applicable compliance procedures as it relates to the pandemic, targeted information requests will likely focus on asking:

-  How is the institution assisting and communicating with its consumers?
-  What challenges is the institution facing as a result of the COVID-19 pandemic?
-  What changes have been required to the compliance management system in response to the COVID-19 pandemic?



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The Bureau may also request data regarding the institution's response to the pandemic and additional service provider information. Once the Bureau receives the response to the requested information and additional questions or requests, it will assess the information to **identify potential risks** of violations and noncompliance. This is different from a traditional exam designed to **find violations** or assess compliance. In addition to providing a brief assessment of the analysis, consistent with the confidentiality of typical examinations, the Bureau also intends to look for opportunities to be as transparent as possible, including sharing key anonymized findings from Prioritized Assessments via future editions of Supervisory Highlights, a blog post, or other appropriate documents, as applicable.





How can financial institutions prepare for what's next?


While the Bureau anticipates that most institutions with satisfactory compliance management systems should be able to respond to information requests utilizing preexisting materials that have been developed and provided to board and senior management, entities should begin preparing for a Prioritized Assessment and related information requests by considering the following nearer-term and longer-term actions.

Near-term steps for financial institutions to consider include:

-  Conduct an internal assessment of pandemic-related activities to understand potential areas of risk or weakness and
-  Prepare for a preview discussion with the Bureau to identify opportunities to further tailor the request to minimize burden in gathering the requested information and utilize existing report to fulfil the request.

Longer-term steps for financial institutions to consider include:

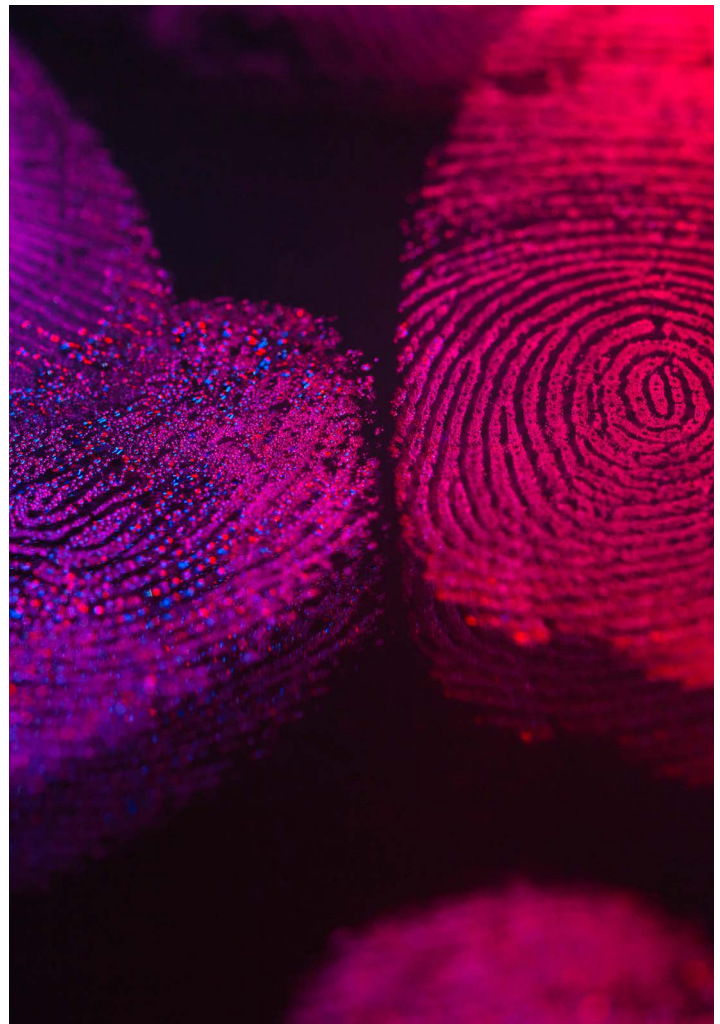
-  **The control environment** – enhancing and/or implementing applicable controls related to customer eligibility and notification requirements and aligning fair lending and unfair, deceptive and abusive acts and practice (UDAAP) compliance program elements and controls;
-  **Monitoring and testing** – establishing and/or enhancing first, second, and third line monitoring and testing protocols to include more focused efforts on areas/products with high potential risks of adverse consumer impact;
-  **Reporting and metrics** – developing targeted reporting and applicable metrics to enable proactive monitoring and issue management as it relates to COVID-19-related processes;
-  **Training programs** – conducting role-based training on the impacts of consumer financial product markets due to pandemic-related issues and related compliance requirements; and

 **Customer complaints and remediation** – designing a comprehensive customer complaints and remediation program, including centralizing remediation efforts and complaint reporting to enable greater insight into COVID-19-related issues tied to processes and applicable remediation activities.

Closing

With our deep bench of regulatory professionals and practical experience in working across the lines of defense of financial institutions, Deloitte can assist financial firms in effectively addressing these targeted information requests and completing the Prioritized Assessments.

This publication is part of an ongoing effort to closely monitor and assess how the financial and regulatory landscape has responded to and been impacted by the current environment. We—like you—will continue to follow developments in this area and will issue additional updates and analysis.



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Endnotes

1. Consumer Financial Protection Bureau ("CFPB" or "the Bureau"), "[Statement of Director Kathleen L. Kraninger Before the Senate Committee on Banking, Housing, and Urban Affairs](#)," accessed on October 9, 2020.
2. CFPB, "[Complaint Bulletin: Complaints mentioning coronavirus keywords](#)," accessed on October 9, 2020.
3. CFPB, "[Consumer Financial Protection Week: Conducting supervisory and enforcement work during a pandemic](#)," accessed on October 9, 2020.
4. CFPB, "[Prioritized Assessments FAQs](#)," accessed on October 9, 2020.
5. CFPB, "[Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act](#)," accessed on October 9, 2020.

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