

Consumer Financial Protection Bureau

The CFPB Can Enhance Certain Aspects of Its Enforcement Investigations Process



Office of Inspector General

Board of Governors of the Federal Reserve System
Consumer Financial Protection Bureau



Executive Summary, 2024-SR-C-002, January 8, 2024

The CFPB Can Enhance Certain Aspects of Its Enforcement Investigations Process

Findings

We found that the Consumer Financial Protection Bureau can enhance certain aspects of its enforcement investigations process. Specifically, the Office of Enforcement should track the timing expectations described in its internal guidance. Enforcement has not met its goal to file or settle 65 percent of its enforcement actions within 2 years of the investigation opening date in any of the 5 years since fiscal year 2017. Although various factors, including some that may be outside its control, have affected Enforcement’s ability to meet the 2-year investigative timeline, we believe that tracking timing expectations for key steps in the enforcement process may help to identify inefficiencies and mitigate delays during enforcement investigations.

Additionally, Enforcement should reinforce the documentation requirements for its matter management system. Enforcement uses the system to monitor and track the progress of investigations. We found that Enforcement staff did not consistently document complete information in the system. We believe that providing training on the documentation requirements outlined in current guidance will help reinforce the requirements and better enable Enforcement to maintain accurate, complete, and uniform documents pertaining to investigations.

Recommendations

Our report contains recommendations designed to enhance certain aspects of the CFPB’s enforcement investigations process. In its response to our draft report, the CFPB concurs with our recommendations and outlines actions to address them. We will follow up to ensure that the recommendations are fully addressed.

Purpose

We conducted this evaluation to assess the CFPB’s process for conducting enforcement investigations. Specifically, we focused on the efficiency of CFPB Enforcement’s process for conducting enforcement investigations, including the timeline of the investigation process, and we reviewed Enforcement’s practices for tracking and monitoring matters.

Background

Enforcement is one of three offices in the CFPB’s Division of Supervision, Enforcement and Fair Lending. Enforcement relies on various sources, such as consumer complaints, the CFPB’s whistleblower hotline, referrals from federal regulators and other agencies, market intelligence, and the results of CFPB supervisory examinations, to identify potential violations of federal consumer financial laws that may warrant an investigation.

Enforcement opens investigations to determine whether further action by the CFPB could address conduct that potentially violates federal consumer financial laws. According to the CFPB’s *2022 Annual Performance Plan and Report, and Budget Overview*, “filing enforcement actions in a timely manner is an important measure of the CFPB’s effectiveness as it increases deterrence and provides consumers with greater protections of law.” In 2015, the CFPB implemented a performance measure to file or settle 65 percent of the agency’s enforcement actions within 2 years of the investigation opening date.



Recommendations, 2024-SR-C-002, January 8, 2024

The CFPB Can Enhance Certain Aspects of Its Enforcement Investigations Process

Finding 1: Enforcement Should Track the Timing Expectations Described in Its Guidance

Number	Recommendation	Responsible office
1	Incorporate the timing expectations for key steps in the enforcement process established in Enforcement's internal guidance into the tracking and monitoring of matters.	Division of Supervision, Enforcement and Fair Lending

Finding 2: Enforcement Should Reinforce the Guidance on Documentation Requirements for Its Matter Management System

Number	Recommendation	Responsible office
2	Provide training to Enforcement staff to reinforce the current guidance on the document maintenance and retention requirements for the matter management system.	Division of Supervision, Enforcement and Fair Lending



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MEMORANDUM

DATE: January 8, 2024

TO: David Uejio
Acting Associate Director, Division of Supervision, Enforcement and Fair Lending
Consumer Financial Protection Bureau

FROM: Michael VanHuysen 
Associate Inspector General for Audits and Evaluations

SUBJECT: OIG Report 2024-SR-C-002: *The CFPB Can Enhance Certain Aspects of Its Enforcement Investigations Process*

We have completed our report on the subject evaluation. We conducted this evaluation to assess the Consumer Financial Protection Bureau’s process for conducting enforcement investigations. We focused on the efficiency of the Office of Enforcement’s process for conducting enforcement investigations, including the timeline of the investigation process, and reviewed Enforcement’s practices for tracking and monitoring matters.

We provided you with a draft of our report for review and comment. In your response, you concur with our recommendations and outline actions that will be taken to address our recommendations. We have included your response as appendix B to our report.

We appreciate the cooperation that we received from your staff during our evaluation. Please contact me if you would like to discuss this report or any related issues.

cc: Jan Singelmann
Marianne Roth
David Bleicken
Adam Martinez
Jean Chang
Eric Halperin
Lorelei Salas
Cara Petersen
Rebecca Gelfond
Richard Austin
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Introduction

Objective

Our objective for this evaluation was to assess the Consumer Financial Protection Bureau’s process for conducting enforcement investigations.¹ Specifically, we focused on the efficiency of the CFPB Office of Enforcement’s process for conducting enforcement investigations, including the timeline of the investigation process, and we reviewed Enforcement’s practices for tracking and monitoring matters. The scope of our evaluation covered the preresearch, research, and investigation phases of the CFPB’s enforcement process, which includes initiating an investigation through settling or filing a public enforcement action or closing the investigation without an enforcement action. Specifically, our scope included investigations closed with or without enforcement actions from January 2017 through December 2021. We judgmentally selected 15 of 268 investigations during our scope period that Enforcement settled, filed a public enforcement action for, or closed without action. Our scope also included historical data for investigations to assess the effects of resource availability and changes in priorities since 2011. Appendix A describes our scope and methodology in greater detail.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act established the CFPB to regulate the offering and provision of consumer financial products and services under federal consumer financial laws. With respect to the enforcement of those laws, the Dodd-Frank Act grants the CFPB certain authorities to conduct investigations and take appropriate enforcement actions against entities or individuals to address violations of federal consumer financial laws.² The Dodd-Frank Act also authorizes the CFPB to employ investigatory tools to obtain documents and testimony by issuing civil investigative demands (CIDs)³ and to seek potential remedies through administrative proceedings or civil actions that include cease-and-desist orders, equitable relief, monetary relief, and civil penalties.⁴

CFPB Enforcement’s Responsibilities and Structure

Enforcement is one of three offices in the CFPB’s Division of Supervision, Enforcement and Fair Lending (SEFL).⁵ Enforcement is responsible for investigating potential violations of federal consumer financial laws by entities or individuals within its authority and initiating public enforcement actions when appropriate.

Enforcement is staffed by attorneys and other professionals and comprises the following teams:

¹ For the purposes of our report, we also refer to enforcement investigations as *cases* and *matters*.

² 12 U.S.C. §§ 5561–65.

³ 12 U.S.C. § 5562(c).

⁴ 12 U.S.C. §§ 5563 and 5565.

⁵ The Office of Supervision Examinations and the Office of Supervision Policy are the other two SEFL offices.

- Litigation teams conduct investigations and obtain authorization from the CFPB director to settle with the subject or file suit, as appropriate. Litigation teams also manage litigation cases. As of September 2023, there were 4 litigation teams, each led by a litigation deputy and 4 assistant litigation deputies and consisting of 25 to 27 attorneys, 1 to 4 paralegals, and a litigation team analyst.⁶
- The Policy and Strategy team consists of subject-matter experts who provide strategic direction and support for Enforcement’s investigation and litigation activity. The Policy and Strategy team advises litigation teams on applicable laws, legal developments, market conditions and developments, and appropriate remedies.
- The Front Office manages Enforcement’s work by, among other things, tracking and monitoring investigations and litigation cases.
- The Professional Support team consists of investigators, economists, forensic accountants, and other support specialists and professionals. This team reviews, analyzes, and collects evidence and data to support enforcement work.

The CFPB’s Process for Conducting Enforcement Investigations

Enforcement relies on various sources, such as consumer complaints, the CFPB’s whistleblower hotline, referrals from federal regulators and other agencies, market intelligence, and the results of CFPB supervisory examinations, to identify potential violations of federal consumer financial laws that may warrant opening an investigation.

According to Enforcement’s *Policies and Procedures Manual*, enforcement matters are divided into two categories: research matters and investigations. Enforcement may open a research matter prior to deciding whether an investigation is appropriate, though doing so is not necessary in every instance. Enforcement opens investigations to determine whether further action could address conduct that potentially violates federal consumer financial laws. When deciding whether to conduct an investigation, Enforcement’s considerations include the effect on (1) the potential subjects, (2) the market, (3) CFPB and Enforcement resources, (4) Enforcement’s strategic plan, (5) other CFPB divisions, and (6) law enforcement agencies. As part of its efforts to protect consumers, the CFPB also cooperates and shares information with partners in local, state, and federal law enforcement agencies. The CFPB may conduct joint investigations with state or federal law enforcement agencies and jointly issue public enforcement actions or coordinate such actions.

Enforcement developed internal guidance for Enforcement team members to use in their work on enforcement matters. The document describes the key steps and decision points in each of the major phases of the enforcement process. For the purposes of this evaluation, we focused on the phases pertaining to research matters and investigations (table 1).⁷

⁶ In September 2023, as part of the fiscal year 2024 budgeting process, Enforcement received 78 new positions and will be creating a fifth litigation team. According to an Enforcement official, each litigation team will have 27 or 28 attorneys and 4 paralegals when fully staffed.

⁷ Our scope did not include the phases pertaining to settlement, litigation, and postjudgment.

Table 1. Overview of the Research Matter and Investigation Phases of the Enforcement Process

Enforcement process phase	Description
Opening an investigation	<p>Enforcement staff may propose a research matter to gather and review publicly available information to determine whether an investigation is warranted. A litigation deputy must approve the opening of a research matter. A research matter is not required for an investigation if Enforcement has sufficient information to determine whether to open an investigation.</p> <p>Once Enforcement has sufficient information and determines that an investigation is warranted, Enforcement staff drafts an opening investigation memorandum and gathers feedback on how the potential investigation aligns with SEFL’s priorities and whether to pursue the investigation. The Enforcement assistant director (referred to as <i>Enforcement director</i> in the internal guidance) must approve the opening of any new investigation through the Enforcement Action Process (EAP).</p>
Conducting an investigation	<p>Once the Enforcement director approves the opening of an investigation, Enforcement staff may conduct the investigation. Enforcement may issue a CID, which is an official demand for documentary material, oral testimony, or both from the subject and third parties.</p> <p>Enforcement may also prepare and conduct a Notice and Opportunity to Respond and Advise, which notifies a subject that Enforcement is planning to recommend a public enforcement action and provides the subject an opportunity to submit a written response.</p> <p>If Enforcement decides to move forward with the enforcement action, it drafts a recommendation memorandum and seeks to obtain authority to settle and sue through the EAP.^a</p>

Source: OIG analysis of the CFPB’s internal guidance.

^a Enforcement can submit a recommendation memorandum to settle or sue a subject through the EAP. Based on our review of the recommendation memorandums for the matters in our selection, we found that some were drafted to request authority to settle and sue if the Enforcement team and subject failed to reach a settlement agreement. For the purposes of our report, we use *settle and sue* instead of *settle or sue*.

The CFPB established the Enforcement Action Process (EAP) to encourage decisionmaking that protects the agency’s interests and to ensure that stakeholders from relevant CFPB offices and divisions, known as *EAP members*, are aware of significant contemplated actions and can discuss their implications. The EAP members include multiple internal stakeholders from the Operations Division; the Division of Consumer Education and External Affairs; the Legal Division; the Division of Research, Monitoring and Regulations; and SEFL’s Offices of Supervision Examinations and Supervision Policy, as well as individuals designated by the CFPB director and deputy director from their respective offices and anyone else with a compelling need to participate. Ultimately, the Enforcement director approves the opening of an investigation.

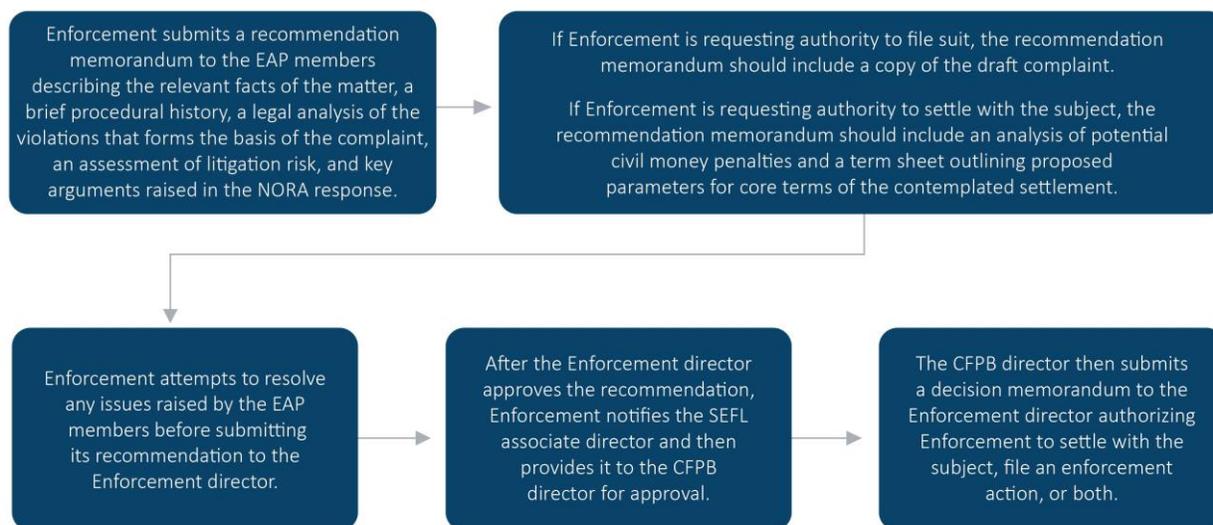
During an investigation, Enforcement staff may issue CIDs to seek information from subjects and third parties. CIDs may request that subjects produce documents and written reports or answers to written questions. CIDs may also request that subjects provide oral testimony at an investigative hearing. The Enforcement director or a deputy director must sign the CID before it can be issued.

After issuing a CID, Enforcement conducts a meet-and-confer session with the subject to discuss CID compliance. A CID recipient may request to modify the CID; examples of such modifications include requesting an extension to submit the CID, limiting the scope of a request, or changing the compliance terms. A CID recipient may also file a petition to modify or set aside a CID. If a CID recipient fails to comply with a CID, the CFPB can seek enforcement in federal district court.

When a public enforcement action is contemplated, Enforcement may proceed with the Notice and Opportunity to Respond and Advise (NORA) process, which provides the subject under investigation an opportunity to present its position to Enforcement and the CFPB director before the agency initiates a public enforcement action.⁸ Enforcement schedules a call with the subject’s attorney to provide notice of the nature of the subject’s potential violations and to offer an opportunity to respond with a written statement and subsequently sends a NORA letter memorializing the conversation. Enforcement requests that the subject respond to the NORA letter generally within 14 days after receipt.

Once Enforcement obtains sufficient evidence of a violation of federal consumer financial law during the investigation and assesses any NORA responses, it must then seek authority to settle and sue a subject through the EAP (figure 1).

Figure 1. Requesting Authority to File Suit or Settle Through the EAP



Source: OIG compilation based on a review of CFPB documents.

Supervising litigation deputies may close research matters at their discretion with advance notice to the Enforcement director when it becomes apparent that an enforcement action will not be recommended. When closing investigations without public enforcement actions, Enforcement completes an investigation closing memorandum that documents how the investigation was conducted and explains the rationale for concluding the investigation without an enforcement action. Enforcement submits the memorandum to

⁸ The decision whether to give such notice is discretionary, and a notice may not be appropriate in some situations, such as in cases of ongoing fraud or when Enforcement needs to act quickly.

the Enforcement director for approval and then sends a termination letter to the subject and third parties.

Enforcement uses a matter management system to track and monitor the status of matters as well as staff assignments and other administrative tasks related to investigation and litigation work. According to the CFPB's 2022 *Annual Performance Plan and Report, and Budget Overview* (Annual Performance Report), that system provides a streamlined workflow and data validation controls for consistent data quality. It also seeks to provide visibility, tracking, reporting, and quantitative metrics that help Enforcement more effectively achieve its strategic goals. Enforcement staff are responsible for updating the matter management system at all stages of each investigation.

Enforcement's Performance Goals

According to the 2022 Annual Performance Report, "filing enforcement actions in a timely manner is an important measure of the CFPB's effectiveness as it increases deterrence and provides consumers with greater protections of law." In 2015, the CFPB implemented a performance measure to file or settle 65 percent of the agency's enforcement actions within 2 years of the investigation opening date.⁹ The 2022 Annual Performance Report notes that the CFPB's and similar enforcement agencies' experiences informed the 2-year target time frame and that the CFPB will continue to monitor whether 2 years is an appropriate target. In 2022, the CFPB implemented another performance measure to close investigations without a public enforcement action within 15 months of an investigation opening date.

⁹ The investigation opening date is the date that the Enforcement director authorizes Enforcement to open an investigation through the EAP.



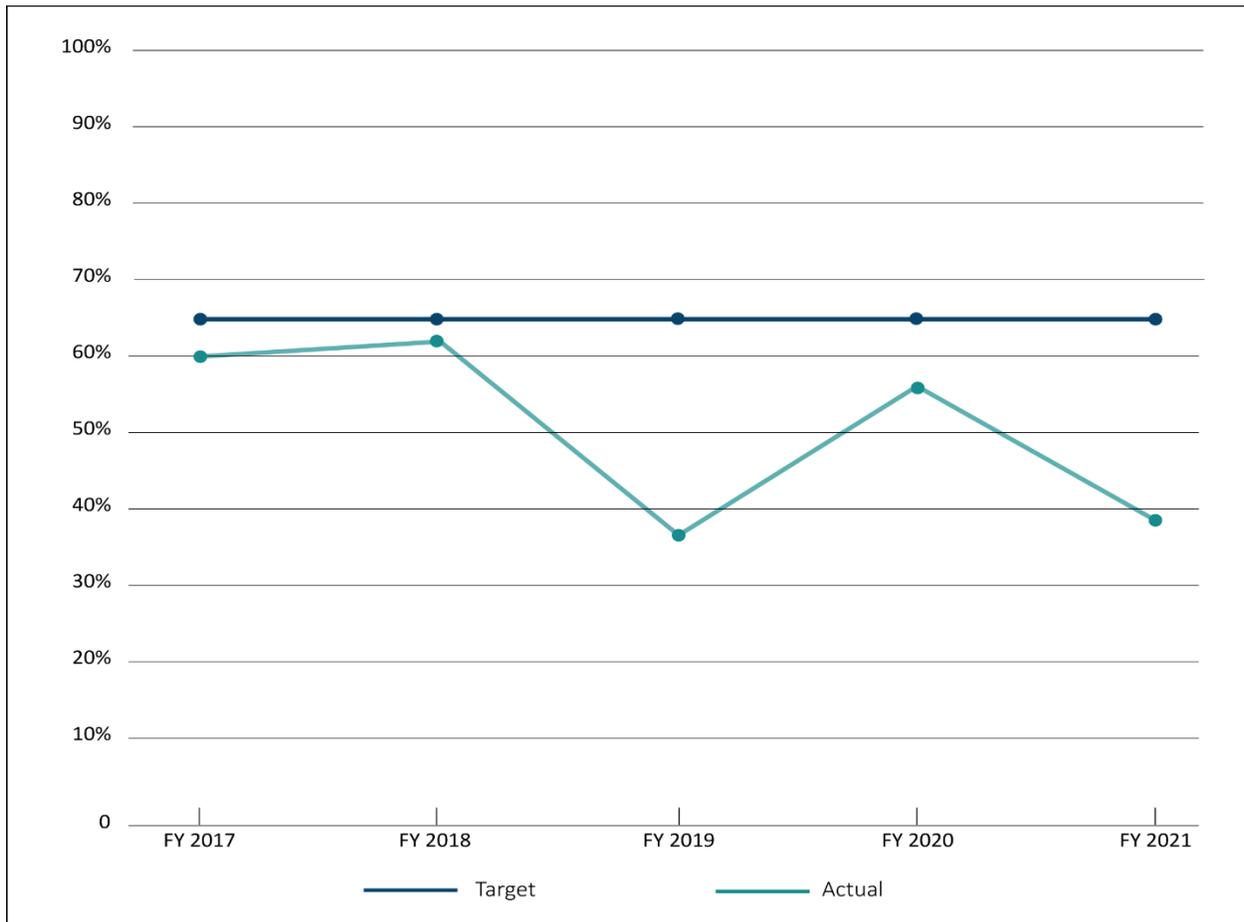
Finding 1: Enforcement Should Track the Timing Expectations Described in Its Guidance

The CFPB did not meet its performance measure to file or settle 65 percent of its enforcement actions within 2 years of the investigation opening date during fiscal year (FY) 2017 through FY 2021. We learned about various factors that affected Enforcement’s ability to meet the 2-year investigation timeline, such as leadership transitions, entity cooperation, the complexity of enforcement matters and the quantity of data, competing litigation work, joint investigations, and resource constraints. We also learned that Enforcement is not tracking the timing expectations contained in the internal guidance for key steps in an investigation. Although we acknowledge that it may be difficult for Enforcement to address all of these contributing causes of delays, especially those that may be beyond Enforcement’s control, we believe that following Enforcement’s guidance for tracking the timing of key steps may reveal inefficiencies that, if addressed, could mitigate delays during enforcement investigations.

The CFPB Has Not Met Its Performance Goal for Filing or Settling Enforcement Actions

As previously noted, the 2022 Annual Performance Report states that “filing enforcement actions in a timely manner is an important measure of the CFPB’s effectiveness as it increases deterrence and provides consumers with greater protections of law.” According to the 2022 Annual Performance Report, Enforcement did not meet its 65 percent goal in FY 2017 through FY 2021; the percentage of enforcement actions filed or settled within 2 years fluctuated during the period, with a high of 62 percent in FY 2018 and a low of 36 percent in FY 2019 (figure 2).

Figure 2. Percentage of Enforcement Actions Filed or Settled Within 2 Years of the Investigation Opening, FY 2017 through FY 2021



Source: CFPB, *Annual Performance Plan and Report, and Budget Overview*, February 2022.

Various Factors Affected the Investigation Timeline

We learned about various factors that affected Enforcement’s ability to meet the 2-year investigation timeline, such as leadership transitions, entity cooperation, the complexity of enforcement matters and the quantity of data, competing litigation work, joint investigations, and resource constraints.

Leadership Transitions

The 2022 Annual Performance Report states that the agency’s multiple transitions to new leadership led to a review of active enforcement matters and resulted in a decline in the number of investigations being filed or settled within 2 years during FY 2021.¹⁰ Multiple Enforcement staff also informed us that leadership changes shift priorities, such as the types of cases Enforcement opens and the issues or markets that draw Enforcement’s focus. Interviewees stated that changes in leadership have also caused

¹⁰ The Annual Performance Report noted that the CFPB’s ability to meet its performance measure in 2021 was also affected by the COVID-19 pandemic.

Enforcement's processes to change, such as by adding more people to the review process, and that new leadership needs time to become familiar with Enforcement activities, which may result in delays.

Further, we analyzed the documents related to our 15 selected matters and found instances in which leadership changes affected the investigation's timeline. For example, we learned that the agency placed a hold on collecting data related to enforcement investigations at the direction of the acting director beginning in December 2017. The purpose of the hold was to afford the acting director time to gain comfort with the CFPB's data security protocols before the CFPB continued collecting data and information. The acting director lifted the data hold after 6 months. An Enforcement official stated that once these delays had occurred, Enforcement could not have made up the lost time because the investigation metrics are linear and Enforcement still had to obtain sufficient evidence regardless of the delays, which increased the length of the investigation timeline.

Entity Cooperation

Multiple Enforcement interviewees discussed difficulties they faced when interacting with entities under investigation, specifically with obtaining the information needed to conduct investigations. For example, interviewees stated that it may take longer than expected to obtain data because some entities do not have readily available data or lack the capacity to pull large datasets. Enforcement interviewees also noted that some entities and their counsels do not cooperate with the CFPB and may not respond to CIDs or may actively try to delay investigations.

During our review of the 15 selected matters, we found that the timeline to obtain information from entities under investigation varied significantly. For example, we noted that Enforcement obtained information without significant delays for one matter despite having issued nine CIDs and modifying two of those nine CIDs multiple times. In contrast, on another matter, we noted that the entity under investigation petitioned the CFPB to set aside a CID, which resulted in a delay of approximately 278 days. While some entity-initiated delays are often outside the CFPB's control, they do affect the timeline for conducting investigations.

Enforcement Matter Complexity and Quantity of Data

We learned that a matter's complexity and the associated quantity of data can also affect Enforcement's investigation timeline. Some interviewees stated that investigating mortgage servicing companies, for example, can take longer to complete because the mortgage servicing industry is complex and subject to numerous laws. Others noted that matters that involve large datasets can lead to longer investigations because multiple CFPB staff members are involved in obtaining and analyzing those data.

Competing Litigation Work

Multiple Enforcement interviewees stated that litigation work takes priority over investigations because litigation activity has court-mandated deadlines. One official noted that cases in litigation consume a disproportionate amount of their team's time, which can contribute to delays in investigations.

Joint Investigations

Some interviewees also shared challenges associated with joint investigations with state and federal agencies. Interviewees noted that while the CFPB has good working relationships and fruitful partnerships with other agencies, coordination can sometimes cause delays, particularly when other agencies have different goals and authorities.

Resource Constraints

Several CFPB interviewees noted that investigations could be conducted more efficiently if Enforcement had more resources, particularly investigation support staff such as paralegals and investigators. An Enforcement interviewee noted that the CFPB backfilled Enforcement positions with more attorneys versus support staff and that paralegals may have up to 10 cases on their docket, whereas attorneys may have 3 or 4 cases. Another interviewee indicated that in the past, Enforcement had experienced an investigator shortage, which led to staff attorneys and paralegals conducting consumer outreach and other work typically performed by investigators. Insufficient Enforcement resources can also prolong time frames for resolving investigations involving significant amounts of data.

Since early 2022, Enforcement has added four economists to assist in addressing the office's need for complex data and economic analyses. Additionally, in September 2023, as part of its FY 2024 budgeting process, the CFPB allocated 78 new positions to Enforcement. With the new positions, Enforcement plans to create a fifth litigation team; however, as of October 2023, Enforcement has not finalized its plans for allocating the additional positions.

Enforcement Did Not Track Key Steps in Its Investigation Process

Enforcement developed the internal guidance for its team members in support of their work, clarifying key steps and decision points and describing process and timing expectations for certain key steps in the enforcement process. Several interviewees stated that Enforcement management uses reports from the matter management system to monitor the progress of matters and regularly holds meetings with Enforcement teams to obtain updates. However, an Enforcement official stated that Enforcement does not yet track key steps in the enforcement process against the timing expectations described in its internal guidance; this official stated that Enforcement does plan to start formally tracking these internal metrics.

During our analysis of the 15 selected matters, we measured the time Enforcement spent on some of the key steps against the time expectations in its internal guidance and found that some investigations did not meet the expectations. For example, the internal guidance states that Enforcement team members prepare and send CIDs within 2 to 3 weeks of opening an investigation. We found that Enforcement team members took significantly longer to issue the CIDs for 10 of our 14 selected matters with CIDs, ranging from approximately 5 to 24 weeks after opening the investigations.¹¹ We also noted that for 3 of the 9 matters that resulted in enforcement actions, the EAP process took over 7 weeks from the time that EAP members began their review of the recommendation memorandums to the submission of the final

¹¹ Enforcement did not issue any CIDs for 1 of the 15 matters in our sample.

recommendation memorandums to the CFPB director, which is significantly longer than the 2-week time expectation in the internal guidance.¹²

Tracking Timing Expectations for Key Steps May Identify Inefficiencies and Mitigate Delays

As noted earlier, the CFPB's 2022 Annual Performance Report emphasizes the importance of filing enforcement actions in a timely manner. According to the report, the CFPB continues to work to balance the need to pursue complicated and time-consuming cases effectively while minimizing unnecessary delay between potentially unlawful conduct and resolution. We believe that tracking timing expectations for key steps in the enforcement process may help to identify inefficiencies that, if addressed, could mitigate delays during enforcement investigations.

Recommendation

We recommend that the associate director of SEFL

1. Incorporate the timing expectations for key steps in the enforcement process established in Enforcement's internal guidance into the tracking and monitoring of matters.

Management Response

In its response to our draft report, the acting associate director of SEFL concurs with our recommendation. The response states that Enforcement plans to identify appropriate steps in the enforcement process to track, assess appropriate reporting methods, and implement regular tracking and reporting of those steps by the end of fiscal year 2024.

OIG Comment

The planned actions described by the acting associate director of SEFL appear to be responsive to our recommendation. We will follow up to ensure that the recommendation is fully addressed.

¹² The remaining six matters were closed without enforcement actions.



Finding 2: Enforcement Should Reinforce the Guidance on Documentation Requirements for Its Matter Management System

We found that Enforcement staff did not consistently document complete information in the matter management system. According to Enforcement's *Policies and Procedures Manual*, Enforcement staff are responsible for ensuring that the system is updated at all stages of each investigation. Additionally, the manual states that Enforcement staff should upload signed CID packages into the system and ensure that information related to past CIDs is available in the system. Although the manual provides guidance for opening matters, we found that Enforcement did not have a standardized approach for documenting information in the system. We believe that providing training on the documentation requirements outlined in the current guidance will help reinforce the requirements and better enable Enforcement to maintain accurate, complete, and uniform documents pertaining to investigations.

The Matter Management System Did Not Contain Complete Information

Multiple interviewees stated that the matter management system reports are the primary tool for updating management on an investigation's progress. However, we found that Enforcement staff did not consistently document complete information in the system.

Enforcement uses the matter management system to monitor and track the progress of investigations. According to Enforcement's *Policies and Procedures Manual*, Enforcement staff are responsible for updating the system at all stages of an investigation. A CFPB official noted that in 2020, Enforcement started transitioning some of this documentation responsibility to analysts within the Enforcement Front Office. According to the official, Front Office responsibilities include managing the initial stages of documenting an investigation, such as creating matters, entering key information, and making updates in the system as matters progress through key stages. Enforcement staff also make various updates and complete certain fields. For example, the manual states that Enforcement staff should upload signed CID packages into the system and ensure that information related to past CIDs is available.

An Enforcement interviewee noted that the system notifies litigation teams when deadlines are approaching to help teams stay on track and remain within the litigation timeline. However, one interviewee indicated that the system did not include a complete list of matters assigned to each litigation team. The interviewee stated that when they requested a list of all the matters allocated to their litigation team, the system produced a report that included approximately 35 of the 50 open matters assigned to their team. The interviewee stated that, as a result, they use a personal list to track and monitor matters and do not fully rely on the system. Other interviewees also indicated that they track and monitor the progress of investigations through meeting discussions and emails.

Further, during our analysis of the 15 selected matters, we noted several instances indicating that the system did not contain complete information.¹³ Specifically, while analyzing screenshots of the system’s matter details page for the selected matters, we noted instances in which the number of CID documents reflected in the system differed from the number of CID documents provided to us by Enforcement.¹⁴ For example, 3 of the 15 selected matters included screenshots listing CID documents that did not correspond with the number of CID documents Enforcement gave us. We noted that the screenshots for 2 matters indicated that there were fewer CIDs uploaded into the system than the number of CIDs issued for that investigation. Additionally, the screenshot for 1 matter appeared to have duplicate CIDs uploaded. We also noted that the screenshots for 3 matters appeared to have other investigation documents mislabeled as CIDs.

An interviewee stated that Enforcement staff retain most of the key documents associated with a matter, including CIDs, in the *Matter Documents* section in the matter management system. An Enforcement official noted that the number of CIDs displayed in the system may not reflect the actual number of CIDs pertaining to a matter because there may be multiple documents, such as modification letters, associated with a single CID entered separately into the matter management system. The same official noted that Enforcement was developing guidance for entering CID modifications and associated documentation in a single entry in the system to address this issue.

Further, while reviewing the screenshots of the system’s matter details page for our selected matters, we noted that the system was missing updated dates for some matters. Specifically, Enforcement staff did not update the *Date Entered Settle or Sue Authorized* field in the system for four matters that had an updated settle and sue authorization from the CFPB director.

Enforcement Lacked a Standardized Process for Documenting Information in the Matter Management System

We believe that information in the matter management system was incomplete because Enforcement did not have a standardized process for documenting information in the system. Although the *Enforcement Policies and Procedures Manual* provides guidance for opening matters in the system, we found that Enforcement did not have a standardized approach for documenting information in its matter management system.

We acknowledge that Enforcement issued a matter management system checklist and how-to guide in February 2022 and subsequently updated this document in June 2023. The guide conveys expectations to Enforcement staff on how to update fields and use various functions in the matter management system. For example, the guide gives step-by-step instructions on how to add a CID and associated modifications, which standardizes the documentation of investigative information. According to an Enforcement official, the guide is a “living document” that Enforcement periodically updates and is accessible through the matter management system. The official acknowledged that Enforcement may tweak checklists but may

¹³ As previously noted, we judgmentally selected 15 of 268 investigations that Enforcement settled, filed a public enforcement action for, or closed without action during our scope period of January 2017 through December 2021.

¹⁴ From the sample investigations, we reviewed the associated CIDs, all of which were issued from 2015 through 2021.

not always provide training for the updates and that Enforcement can improve its communications regarding checklist updates.

We believe that providing training on the documentation requirements outlined in the current guidance will help reinforce the requirements and better enable Enforcement teams to maintain accurate, complete, and uniform documents pertaining to Enforcement matters.

Recommendation

We recommend that the associate director of SEFL

2. Provide training to Enforcement staff to reinforce the current guidance on the document maintenance and retention requirements for the matter management system.

Management Response

In its response to our draft report, the acting associate director of SEFL concurs with our recommendation. The response states that Enforcement has issued guidance to staff on documenting matters in the matter management system and updates the guidance as needed. In addition, the response states that Enforcement will likely provide training to Enforcement staff to reinforce the current guidance on the documentation requirements within the matter management system by the third quarter of fiscal year 2024.

OIG Comment

The planned actions described by the acting associate director of SEFL appear to be responsive to our recommendation. We will follow up to ensure that the recommendation is fully addressed.



Appendix A: Scope and Methodology

The scope of our evaluation covered the preresearch, research, and investigation phases of the CFPB’s enforcement process, which includes initiating an investigation through settling or filing a public enforcement action or closing an investigation without an enforcement action. Specifically, our scope included investigations closed with or without enforcement actions from January 2017 through December 2021.¹⁵ Our scope also included historical data for investigations to assess the effects of resource availability and changes in priorities since 2011.

To accomplish our objective, we interviewed over 20 Enforcement officials and staff to gather their perspectives on the enforcement investigation process. Specifically, we interviewed staff and officials from the Enforcement Front Office, the Policy and Strategy team, the Professional Support team, and the litigation teams. We also conducted walkthrough sessions of Enforcement’s matter management system. Additionally, we interviewed staff and officials from another federal financial regulatory agency to obtain information on that agency’s investigation process and the internal performance metrics it uses to track enforcement investigations.

Further, we reviewed relevant laws and regulations, such as the Dodd-Frank Act; CFPB policies, procedures, and guidance, such as Enforcement’s *Policy and Procedures Manual* and the *Law Enforcement and Investigative Techniques Manual*; checklists; training materials; annual reports; strategic plans; and other relevant documentation. We also reviewed available data on Enforcement investigations that have been initiated since the agency’s inception to get an understanding of the development of Enforcement’s investigation process.

In addition, we reviewed data and judgmentally selected 15 of 268 investigations for which Enforcement settled or filed an enforcement action or closed the investigation without action from January 2017 through December 2021. Of the 15 investigations, Enforcement closed 6 without enforcement actions and settled or filed enforcement actions for the remaining 9 matters. For those 15 selected investigations, we reviewed documentation produced during investigations, including memorandums, CIDs, internal and external correspondence, screenshots from the matter management system, and other relevant documentation, to assess timeliness and to identify factors that may have contributed to process efficiencies or inefficiencies.

We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency’s *Quality Standards for Inspection and Evaluation*. We conducted our evaluation from April 2022 through October 2023.

¹⁵ For the selected investigations, we reviewed the timeline from the opening date of an investigation to the settle or file date of an enforcement action, and the closure date if the investigation did not result in an enforcement action.

Appendix B: Management Response



1700 G Street NW, Washington, D.C. 20552

December 12, 2023

Michael VanHuysen
Associate Inspector General for Audits & Evaluations
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Dear Mr. VanHuysen,

Thank you for the opportunity to review and comment on the Office of Inspector General's report entitled *The CFPB Can Enhance Certain Aspects of Its Enforcement Investigations Process*.

The Bureau values the time and effort that the Office of Inspector General (OIG) has put into its evaluation, observations, and the recommendations it has provided for improving how the Office of Enforcement tracks and monitors its investigations. We feel strongly that timely initiation of a public enforcement action better enables the Bureau to stop potentially unlawful conduct and redress harmed consumers more quickly, and it remains an important priority for Enforcement. We note your observations that there are opportunities for Enforcement to track its timing expectations and the need to reinforce our guidance on documentation requirements for our matter management system.

As reflected in the report, the Bureau is already planning to address one of your recommendations and is committed to addressing the other.

Thank you again for your review and the opportunity to provide comments on this report.

Sincerely,

A handwritten signature in black ink that reads 'David Uejio'.

David Uejio
Acting Associate Director
Division of Supervision, Enforcement and Fair Lending

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Responses to Specific Recommendations

Recommendation 1: Incorporate the timing expectations for key steps in the enforcement process established in Enforcement’s internal guidance into the tracking and monitoring of matters.

The Bureau concurs with this recommendation. By the end of this fiscal year, Enforcement plans to identify appropriate steps in the enforcement process to track, assess appropriate reporting methods, and implement regular tracking and reporting of those steps.

Recommendation 2: Provide training to Enforcement staff to reinforce the current guidance on the document maintenance and retention requirements for the matter management system.

The Bureau concurs with this recommendation. As noted in the report, Enforcement has transitioned many key documentation requirements for the matter management system to the Enforcement Front Office. For those updates that remain with Enforcement staff, Enforcement issued, and updates as needed, guidance to staff on how to document matters in the matter management system. Enforcement will provide training this fiscal year, and likely by the third quarter, to Enforcement staff to reinforce the current guidance on documentation within the matter management system.



Abbreviations

Annual Performance Report	<i>Annual Performance Plan and Report, and Budget Overview</i>
CID	civil investigative demand
EAP	Enforcement Action Process
FY	fiscal year
NORA	Notice and Opportunity to Respond and Advise
SEFL	Division of Supervision, Enforcement and Fair Lending

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