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### CFPB Enforcement Attorneys Cross Trained on Exam Techniques

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The Consumer Financial Protection Bureau (“CFPB” or “Bureau”) recently announced it was ending a controversial practice of sending enforcement attorneys on supervisory exams, over a year after it was asked to stop by groups representing supervised financial institutions.

The CFPB decided the program – designed to promote efficiency; educate the enforcement attorney about the examination process; and enable the enforcement attorney to provide a supportive role to the examination team – was not efficient, according to the published reports on news websites, including the *Wall Street Journal* and *American Banker*. The program involved staff enforcement attorneys accompanying examiners to onsite exams of banks, other lenders, mortgage servicers, debt collectors, and other nonbank financial institutions.

The program entered the spotlight after trade associations, supervised entities, and members of the consumer financial services bar argued the practice was unnecessary and had a chilling effect on exam data collection. The practice had the practical benefit of serving as a training ground for the CFPB enforcement attorneys who are primarily tasked with their own investigations of consumer financial products and services providers. As a result, the Bureau now has an enforcement team that is steeped in the inner workings of how companies within its jurisdiction operate and where there may be potential legal issues.

Enforcement attorney attendance at onsite exams, however, was a source of concern, as the tag along practice represented a gateway to findings of potential liability during exams. So the change in policy is a welcome one and likely to cause some of the concerns of the past to diminish. However, the CFPB examination and investigations processes have not changed in scope or consequence.

A CFPB exam or investigation may still uncover an alleged violation of federal consumer financial protection law. Enforcement attorneys will still be in close contact with examiners and vice versa. Supervised companies should not have a false sense of comfort. Likewise, companies under investigation will confront better trained staff attorneys.

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**Jonathan L. Pompan**, a partner in the Washington, DC office of Venable LLP, co-chairs the firm’s Consumer Financial Protection Bureau Task Force. His practice focuses on providing comprehensive legal advice and regulatory advocacy to a broad spectrum of clients, such as nonbank financial products and services providers, advertisers and marketers, and trade and professional associations, before the CFPB, the FTC, state Attorneys General, and regulatory agencies.

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