



**STATE COORDINATING COMMITTEE  
REPORT TO STATE REGULATORS  
2016**

NORTH AMERICAN COLLECTION AGENCY  
REGULATORY ASSOCIATION



**NASCUS**  
National Association of State Credit Union Supervisors

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## INTRODUCTION

In 2011, the Memorandum of Understanding between the Consumer Financial Protection Bureau (CFPB), the Conference of State Bank Supervisors (CSBS), and various state financial authorities established an agreement for coordination and information sharing in supervision and enforcement work. This memorandum of understanding is known as the Information-Sharing MOU. Pursuant to Section IV.B of the Information-Sharing MOU, the CFPB and CSBS created the 2013 CFPB-State Supervisory Coordination Framework (Framework) as a flexible and dynamic process enabling efficient implementation of the Information-Sharing MOU. The State Coordinating Committee (SCC) was formed by the Nationwide Cooperative Agreement for State Governance of Non-Depository Supervision (State Governance Agreement) as the official state coordinating body under the Framework.<sup>1</sup>

Under the Information-Sharing MOU, the parties agree to:

- Promote consistent standards for examinations;
- Use resources of the CFPB and the state regulators efficiently, through coordinating supervisory activities;
- Promote efficient information sharing between the CFPB and the state regulators;
- Enforce federal consumer financial laws and state consumer protection laws effectively; and
- Minimize the regulatory burden on providers of consumer financial products and services operating in multiple states.

By year end 2016, 63 state regulatory agencies and all six state financial regulatory associations<sup>2</sup> were signed on to the Information-Sharing MOU. To achieve full state participation approximately 40 more state regulatory agencies would need to sign on to the Information-Sharing MOU, however, the current signing agencies represent the majority of jurisdictions for the entities the CFPB oversees.

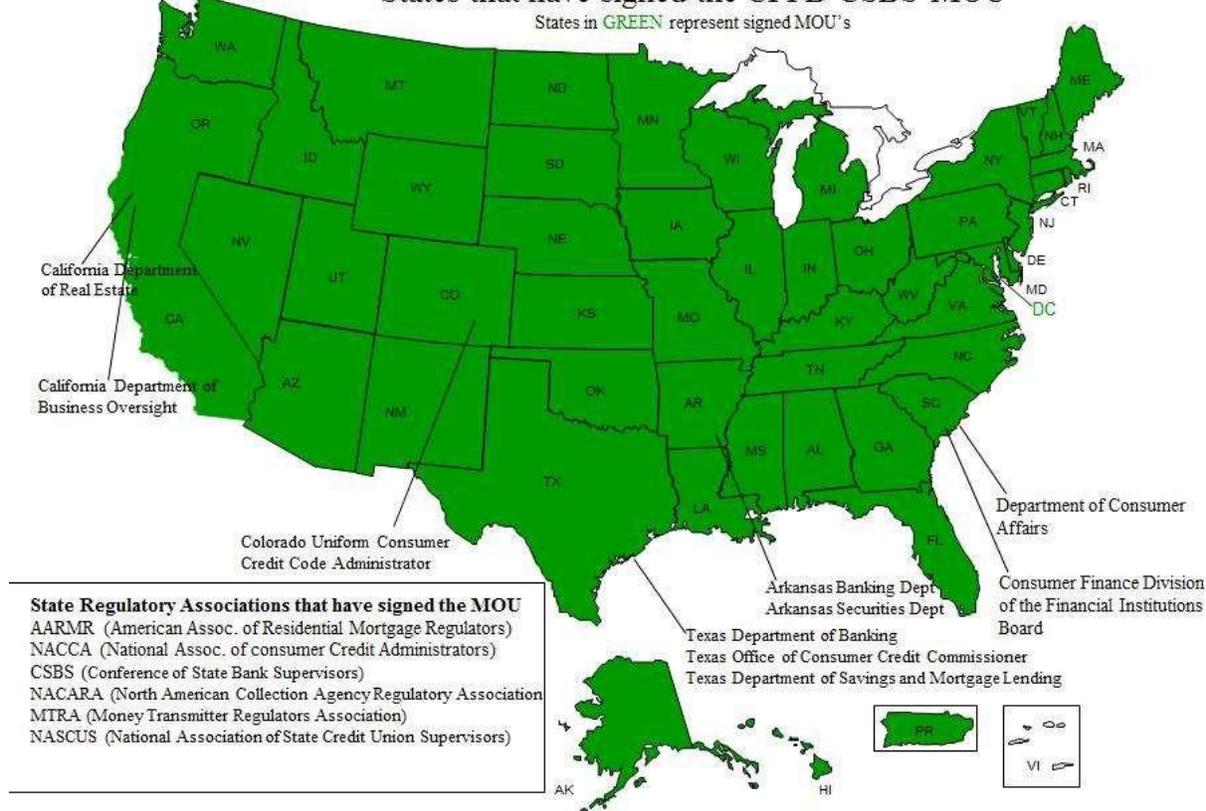
The Dodd-Frank Act gave the CFPB authority to examine mortgage, payday lending and student lending providers. Additional supervisory authority is obtained through adoption of a larger participant rule. To date, rules have been adopted for debt collectors, money transmitters and credit reporting agencies (CRAs). Note that only the state of Maine supervises CRAs, therefore CRAs are not included within coordinated supervision. Additionally, supervisory areas may fall under a state agency that has not traditionally been a part of regulator coordination (e.g., Department of Licensing, Secretary of State, etc.).

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<sup>1</sup> Agreements and documents related to state supervision can be found at [www.csbs.org](http://www.csbs.org).

<sup>2</sup> CSBS, American Association of Residential Mortgage Regulators (AARMR), Money Transmitter Regulators Association (MTRA), National Association of Consumer Credit Administrators (NACCA), North American Collection Agency Regulatory Association (NACARA), and National Association of State Credit Union Supervisors (NASCUS).

## States that have signed the CFPB-CSBS MOU



## State Coordinating Committee

The State Coordinating Committee (SCC) is the official state coordinating body under the Framework. The SCC is comprised of two representatives from each of the six state financial regulatory associations (AARMR, CSBS, MTRA, NACCA, NACARA and NASCUS). In 2016, the SCC was chaired by Wyoming Commissioner Albert L. Forkner. Under the Framework, the SCC is responsible for:

- Annually developing a list of proposed coordinated examination<sup>3</sup> targets and working with the CFPB to identify a final list of companies to be examined and the agreed examination start dates;
- Annually providing the CFPB with notice of any Independent Examinations<sup>4</sup> and proposed examination schedules for the following year;
- Quarterly reviewing examination schedules and updating as needed; and
- Designating state single points of contact and examiners in charge for each. coordinated examination.

<sup>3</sup> Although not defined within the Framework, a “coordinated examination” is any examination conducted by the CFPB and states, together under the Framework.

<sup>4</sup> Independent Examinations are formally defined within the Framework. An Independent Examination is an examination that meets all of the following criteria: 1) was on the original CFPB/SCC exchanged list of possible exams; 2) was not chosen as a coordinated examination; and 3) the entity was examined by a signatory to the Information-Sharing MOU.

Under the State Governance Agreement, the SCC is charged with:

- Acting as a voice of leadership on behalf of the state regulator associations and the state non-depository supervision system to advance supervisory and regulatory policy among state regulators and federal counterparts;
- Establishing information-sharing protocols;
- Serving as a coordinating body for any committees formed under other agreements;
- Making regular reports to the state regulator associations; and
- Filing annual reports to state regulators.

In fulfilling its responsibilities, the SCC meets regularly with the CFPB, both directly and through CSBS staff to establish coordination and information sharing processes, schedule and monitor coordinated examinations, and exchange confidential supervisory information. CSBS staff<sup>5</sup> is the administrative arm of the SCC and acts as agent to the states under the State Governance Agreement and the Framework. The primary roles of CSBS staff on behalf of the SCC and state regulators are providing administrative, technical, strategic, logistic, and funding support, as requested and approved by the CSBS Board.

<b>2016 State Coordinating Committee</b>		
AARMR	Cindy Begin Charlie Clark	Massachusetts Washington
CSBS	Bryan Schneider Albert Forkner - Chair	Illinois Wyoming
MTRA	George Corda Sarah Butler	New York Minnesota
NACCA	Joe Mulberry Mike Larsen	Wyoming Idaho
NACARA	Mark Hastie Jean Plale	Minnesota Wisconsin
NASCUS	Melanie Hall Riley Bergstedt	Montana Utah

Note: Each regulatory association has the authority to establish the terms of its representatives. The following individuals also served during 2016: Linda Jekel, WA – NASCUS; Mary Ellen O’Neill, CT – NASCUS; Terry Fancy, ME – NACARA; Doug Buras, LA – MTRA; Robin Lobb, KS – MTRA

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<sup>5</sup> In addition to CSBS, NASCUS staff also serves in support of the NASCUS members to the SCC.

## Supervision Coordination Meetings

Pursuant to the Framework, the SCC and CFPB meet annually to determine the following year's coordinated examination schedule, and quarterly to share information, update the schedule and attend to any necessary coordination business.

In addition to numerous telephone meetings, the SCC held the following face-to-face meetings in 2016:

- March 10, 2016, Washington, DC – SCC/CFPB Quarterly Meeting
- August 18, 2016, Washington, DC – SCC/CFPB Annual Meeting
- October 20 & 21, 2016, Chicago, IL – SCC/CFPB Quarterly Meeting

The March Quarterly Meeting focused on risks and concerns arising within the mortgage, debt collection, payday, auto, and money transmitter markets. Markets experts and supervision policy staff at the CFPB met with representatives of the SCC and exchanged observations on market demographics and areas of emerging or increasing risk. The August Annual Meeting focused on the scheduling requirement under the Framework, and the October Quarterly Meeting was used to set the stage for coordinated examination work in 2017.

The annual and quarterly meetings are vital to not only implementation requirements under the Framework, but for solidifying the State/CFPB relationship and supervisory trust.

## Coordinated Supervision

Coordinated supervision encompasses both examinations and enforcement activity. The SCC has interpreted coordinated supervision to mean any supervisory activity occurring within the understanding of the Framework. This activity includes:

- Coordinated Examinations: Examinations that are scheduled between the SCC and the CFPB and performed simultaneously between state regulators and the CFPB. The examinations involve coordinated planning, shared resources, concurrent onsite visits, and sharing of confidential and non-confidential supervisory information, including findings and reports of exam.
- Independent Examinations: Examinations conducted either of a covered depository institution, or of a covered non-depository entity identified as an examination target under the Framework, but not conducted as a coordinated examination. During the course of developing the annual schedule of examinations under the Framework, both sides develop a list of potential non-depository entities to be examined. These lists typically exceed the number of examinations chosen for coordinated examinations. The remainder of the targets from these lists, if examined, are Independent Examinations, subject to information sharing under the Framework.
- Corrective Actions: Formal and informal enforcement actions regarding a covered depository or a covered non-depository identified for potential examination under the Framework. Corrective actions by either side require information sharing and where possible, consultation.

- Information Sharing: Throughout the Framework, references are made to information sharing. The SCC and CFPB have noted the importance of information sharing to effective coordinated supervision and have developed a number of protocols or processes to facilitate this element of supervision.
- Process Development: In order to implement both the Framework and the Information-Sharing MOU, the SCC and CFPB are responsible for developing protocols that will facilitate implementation of the Framework.
- Examiner Briefing, Planning, and Training: Although training is not included within the Framework, training is specifically covered under the Information-Sharing MOU and is considered by both the SCC and the CFPB to be fundamental to coordinated supervision. Examiner briefing and planning, while technically not considered training, is crucial to the successful launch and administration of the coordinated examinations.
  - In 2016, the SCC and the CFPB held the third and fourth Examiner-In-Charge (EIC) / Single-Point-Of-Contact (SPOC) Debriefing and Planning Event, which largely revolved around preparing the EICs and SPOCs for their coordinated examinations in the current year. These events were conducted in Washington D.C. in January and October and were attended by state and federal regulators.

### **Industry Oversight**

The SCC is responsible for coordination and oversight of state matters under the Framework. Regarding examinations and corrective actions with specific industries, the SCC delegates oversight responsibility through the appropriate functional committee or state regulator association as follows:

- Multi-State Mortgage Committee (MMC): The MMC was established by CSBS and AARMR in 2008 as the oversight body for multistate mortgage supervision. The MMC assists the SCC in developing the initial list of proposed mortgage examinations. Once the list of coordinated exams and an exam start date is set, the MMC facilitates the examination through its established multi-state process. This includes sending invitations to participate to state regulators, selecting EICs and SPOCs, direction on the scope of the exam, monitoring and oversight, and approving the final report and follow up.
- Multi-State MSB Examination Taskforce (MMET): The MMET was established by CSBS and the MTRA in 2012 as the coordinating body for multi-state MSB supervision. The MMET assists the SCC in developing the initial list of proposed MSB examinations. Once the list of coordinated exams and an exam start date is set, the MMET facilitates the examination through its established multi-state process. This includes support functions for selection of states to participate in the exam, and selection of EICs and SPOCs.
- National Association of Consumer Credit Administrators (NACCA): NACCA's membership has primary state supervisory authority over payday lenders. NACCA leadership began development of a functional committee process for the oversight of multi-state examinations in 2016. The NACCA officers oversaw coordinated exams for payday lending in 2016.

- North American Collection Agency Regulatory Association (NACARA): NACARA's membership is comprised of debt collection state regulators and boards. In 2014, NACARA began developing a multi-state examination process that will be applicable to coordinated supervision. In 2016 NACARA continued the process of establishing a functional committee for oversight of multi-state and coordinated examinations. This committee is tasked with coordinating and monitoring joint examinations conducted by NACARA members; developing examination tools or programs for use by NACARA members; seeking methods to standardize examination practices among member agencies; and advising member agencies on trends in collection agency practices, legislation or regulation applicable to collection agencies.

The state format for coordinated examinations is a multi-state examination team led by a single EIC. The EIC reports through a SPOC who in turn is responsible for reporting to either the SCC or one of the functional committees or state regulator associations (e.g. MMC, MMET, NACARA, etc.). The CFPB team is led by a similar structure of EIC/Field Manager reporting to regional management.

Under the Framework, the EICs and SPOCs together create a supervisory plan and an examination plan for conducting the examination. These plans include timing, resource needs, review areas and examination focus, appropriate information requests, and other exam administration needs. Agreed best practice is to develop plans and information requests as a team during the January EIC/SPOC Debrief and Planning Event. Offsite and onsite examination work is conducted in tandem with open information sharing, and where appropriate, resource sharing. Meetings with management are organized by both sides and findings are shared during, and upon completion of, the exam. Reports of examination are independent. There is one state report and one CFPB report with cross communication of findings and discussion before the reports are finalized. Follow-up to the examination is handled on a case-by-case basis with coordination as the goal wherever possible.

## **2016 Examinations**

The 2016 coordinated examination schedule included 15 exams of 14 different institutions,<sup>6</sup> covering mortgage, debt collection, money transmission, auto finance and payday lending. All exams were started in 2016, with varying degrees of completion by year end. Of the 15 possible state reports of examination, two had been issued by year end.

A summary<sup>7</sup> of coordinated supervision by category follows:

Mortgage: With eight of the fifteen examinations falling within the mortgage area, the MMC was heavily involved in coordinated supervision in 2016. The mortgage examinations included a combination of origination and servicing exams, with seven to 22 states participating. A total of 36 states and 104 state examiners participated in the coordinated mortgage exams in 2016. The EICs and SPOCs for these examinations were provided by Connecticut, Florida, Georgia, Idaho, Kentucky, Massachusetts, New York, Ohio, Oregon, and Washington.

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<sup>6</sup> Three mortgage companies were examined for both origination and servicing (considered separate exams) and two money transmission companies included both Compliance Management System (CMS) exams and targeted exams.

<sup>7</sup> Major exam findings derived from draft and final reports of exam and EIC interview

Major exam findings within mortgage origination include:

- Records retention
- Timely application disclosures
- Oversight of third-party agents
- Collection of unallowable fees
- Inaccurate HMDA submissions
- Inaccurate application
- Advertising
- Unlicensed activity

Major findings within mortgage servicing include:

- Annual disclosures and timely notices
- Error resolution
- Loan transfer disclosures
- Escrow maintenance and analysis
- Records retention
- Payment processing and account maintenance
- Default servicing and loss mitigation
- Notices of lender placed insurance

Payday Lending: Only one coordinated payday lending examination was conducted in 2016. Ten states participated in this examination with an examiner from Idaho serving as the EIC and California taking the role of SPOC. At publication of this report the examination was pending completion.

Auto Lending: Two auto finance exams were conducted in 2016. Sixteen states participated in these examinations with examiners from Arizona, Massachusetts, New York, and Wyoming taking the role of EIC and SPOC. This was the first year for coordinated state auto lending examinations with the CFPB.

Major exam findings within auto lending (based on one exam) include:

- Collection of unauthorized or unreasonable fees
- Inaccurate calculation of sales tax, rebates and deficiency balances
- Exceeding allowed number of collection calls
- Notices, Disclosures and incomplete documents
- Insufficient document retention

Debt Collection: NACARA led two debt collection exams in 2016. These exams included six states with Idaho and Massachusetts assuming the SPOC/EIC roles.

Major exam findings within debt collection (based on one completed exam) include:

- Financial condition deficiencies.
- Judgments based on unsubstantiated complaints.

Money Transmission: The MMET led two coordinated money transmission examinations with the CFPB in 2016, with a total of eight states participating. The EICs and SPOCs for these

examinations were provided by Kansas and New York. The coordinated money transmission examinations also included separate Compliance Management System (CMS) exams.

Major exam findings within money transmission (based on two exams) include:

- Agent oversight
- State Call Report filing
- Permissible Investment reports
- Currency Transaction Report filings
- Lack of an enterprise risk assessment and audit issue tracking
- Lack of a compliance risk assessment
- Independent anti-money laundering review scope inconsistent with policy
- Lack of compliance training
- Advertising of fees
- Remittance disclosures

### **Supervisory Process Development**

In order to more effectively conduct coordinated supervision, the SCC and CFPB formed a coordinated examination procedures working group in late 2014 to develop processes and templates for conducting the examinations. This working group was comprised of three state representatives and four CFPB representatives.

In 2015, the working group completed the development of the Coordinated Exam Procedures Tool for EICs, SPOCs and Field Managers (FMs) to use to ensure the strong, smooth, and consistent coordination of the exams. The procedures cover the administration of any type of coordinated examination and include pre-exam, examination, and post-exam instructions. Templates and guides were developed by the working group for information requests; coordinating and conducting meetings; sharing information; and resolving conflicts.

The first version of this tool was released in May 2015. After feedback and suggestions from EICs, SPOCs, and FMs, the working group updated the tool and released it again in September of 2015. 2016 is the first full exam cycle year that this tool has been used for coordinated exams.

Additionally, a NACCA multi-state working group completed the coordinated payday lending examination procedures, which were piloted in 2015 and employed in 2016.

### **Information Sharing**

One of the most important roles of the SCC is to act as a means of information interchange between the CFPB and the state regulators. The various ways in which this information interchange takes place is outlined below.

#### **Federal to State Information Delivery**

The SCC facilitates the delivery of supervisory information from the CFPB to state regulators in a

number of important areas, including:

- Notice of Independent Examination Schedules. Each year, the SCC receives the schedule of proposed Independent Examinations the CFPB intends to conduct in the year ahead. The examination schedule is delivered to all state regulators signed to the Information-Sharing MOU.
- Delivery of Independent Examination Reports and Other Information. As Independent Examinations are completed by the CFPB, they have a responsibility to deliver the reports and any pertinent follow-up information to state regulators. In order to fulfill this responsibility, the CFPB and the SCC developed a process of notification, followed by state certification of authority to receive the Independent Examination information. When an exam is complete, the CFPB delivers the report or other documents to CSBS staff who delivers the documents to any state having previously certified authority to receive the information (i.e., jurisdiction over the examined entity). CSBS retains the records and makes them available to any state regulators subsequently identifying jurisdiction over the entity.
- Request for Information and Opportunity to Participate in CFPB Examinations. Although not an official part of the Framework responsibilities, the SCC assists the CFPB in obtaining additional confidential supervisory information for non-coordinated examinations they are conducting. The official request is drafted by the CFPB and delivered through CSBS staff to any state with known jurisdiction over the examined entity. Any information from the state in response to the CFPB request is provided directly to the CFPB rather than through CSBS. Additionally, the request invites the state regulator to join the CFPB in the non-coordinated examination.
- Depository Coordination Process. The Framework covers coordination of large depository examinations under jurisdiction of both the CFPB and state regulators. Although the Framework directs coordination between the CFPB and the home/host state regulators, there is no process outlined for this to occur within the Framework itself. Identifying this gap, the SCC worked with the CFPB to develop an annual notification and request for coordination process. Under this process, the CFPB annually notifies CSBS staff of its proposed large depository examination schedule. CSBS staff then delivers the relevant schedules to each individual home state regulator. Under the Framework, each home state regulator has the responsibility to coordinate directly with the CFPB regional director, and include any host state regulators as appropriate.
- Delivery of Enforcement Action Notices. A time sensitive responsibility of the CFPB is to deliver enforcement notices to the state regulators. The CFPB and SCC developed a protocol whereby the CFPB typically provides a 48-hour advance notice to CSBS staff with authorization to make the information available to state regulators 24 hours before the action is filed.

In 2016, CSBS staff, on behalf of the SCC, acted as the information interchange agent to state regulators for the following number of confidential supervisory matters:

- Twenty-four (24) enforcement notices;
- Fifty-five (55) independent examination notices;
- Fifteen (15) reports of examination;
- Five (5) memorandums of understanding; and
- Twenty-nine (29) supervisory letters.

### State to Federal Information Delivery

Under the Framework, the SCC holds an equal responsibility to notify or share information with the CFPB. That responsibility effectively mirrors each of the above bulleted flows of information.

The state system of supervision requires a significant investment in support resources to accomplish this responsibility. For example, for Independent Examination report delivery alone, this could require the collection, retention, and secure delivery of nearly 50 examination reports for a single institution. When this responsibility is multiplied across the six industry areas (mortgage origination, mortgage servicing, payday lending, auto finance, debt collection and money transmission), the delivery requirements are staggering. Further, although the SCC holds the responsibility to collect and deliver this information, the committee has no actual authority to compel individual states to produce reports.

In early 2015, CSBS staff, on behalf of the SCC, developed a process for each state to utilize the secure website of the MMC as an environment for sharing their confidential, independent mortgage exam reports with the CFPB. States now have the ability to login to the MMC site and upload their 2014, 2015, and 2016 independent mortgage exam reports. The CFPB is automatically notified once reports are uploaded and are able to retrieve and download them from the MMC site. To date, 29 states have voluntarily agreed to upload their independent exam reports, totaling 2,005 reports. A more detailed breakdown of the number of state reports by industry area can be found in the chart below.

Product Type	Number of ROEs
Mortgage	<b>617</b>
Payday Lending	<b>1284</b>
Auto Lending	<b>76</b>
Money Transmitter	<b>20</b>
Debt Collection	<b>80</b>
<b>TOTAL</b>	<b>2005</b>

*Source: CSBS*

## **Summary**

In this Annual Report to State Regulators, the SCC provides a review of its third, full year of operations. In 2016 the SCC continued with process implementation, augmented by examination and information-sharing events, and examination expansion into automobile financing. Standardization in approach and continued process development and enhancement should be expected over the next few years as both the SCC and the CFPB strive to achieve the appropriate supervisory balance and sharing of their respective jurisdictions. State regulators are encouraged to continue their active participation in the multi-state and coordinated supervision process, and to share their observations, insights and recommendations directly with the SCC.

### **SCC Contact Information**

#### **Chairman**

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