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The CFPB’s Call for Evidence: An Indication of Further Regulatory Rebalancing

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The CFPB’s announcement of a **call for evidence** is a welcome sign that the new leadership of the agency is thinking seriously about how it implements its mission. In the coming weeks the CFPB will publish a series of Requests for Information (RFIs) seeking public comment on the CFPB’s enforcement, supervision, rulemaking, market monitoring and education activities. The CFPB’s first RFI will focus on Civil Investigative Demands (CIDs), which are a mechanism to gather information from or about parties subject to a CFPB investigation. The manner in which the CFPB uses CIDs, especially their scope, has drawn the ire of many regulated entities and led to many challenges, some of which have **been successful**.

The call for evidence marks yet another sign of a change in the direction of travel for the CFPB following the departure of former Director Richard Cordray and the appointment of Acting Director Mulvaney. This change in direction has been marked by changes both small—for example, amending the CFPB’s mission statement to highlight the CFPB’s role in identifying “outdated, unnecessary or unduly burdensome regulations”—and potentially large—for instance, the announcement earlier this week that the CFPB **would reconsider** its Payday Rule.

The CFPB’s call for evidence is also another sign that a wider shift in the manner in which financial regulators engage with regulated firms and with the public may be underway. In the past, statements of policy and other guidance that is not subject to formal notice-and-comment requirements under the Administrative Procedure Act have often been issued without an opportunity for the public to offer input. Early evidence indicates that many financial regulators appointed by President Trump are conscious of the fact that the regulatory and supervisory framework can often be improved by public input. The Treasury Department’s public engagement process following the release of President Trump’s **core principles** for regulating the U.S. financial system, which has already resulted in **three reports** informed by public comments, and the OCC’s **call for comments** on the Volcker Rule are two examples where public input has been proactively sought.

We will continue to monitor the CFPB’s call for evidence for further signs that a wider cultural shift within the financial regulatory agencies is occurring.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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