Banking and Finance Law Daily Wrap Up, GOVERNMENT SPONSORED ENTERPRISES—Management, performance challenges threaten ability to end conservatorships, IG says, (Nov. 1, 2019)

Banking and Finance Law Daily Wrap Up

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By Richard A. Roth, J.D.

The FHFA Inspector General has identified four management and performance issues and an additional management concern that, if not remedied, could affect the FHFA's ability to do its job, which includes winding up the Fannie Mae and Freddie Mac conservatorships.

A report by the Federal Housing Finance Agency Inspector General says that the FHFA still has not addressed four management and performance issues and a management concern that "could adversely affect FHFA's accomplishment of its mission." All five of the items were identified in earlier reports but remain open, according to the IG.

Delegated and non-delegated matters. The FHFA has delegated much of its authority as conservator to Fannie Mae and Freddie Mac, the report says. However, the IG believes the FHFA has not adequately supervised how the GSEs have exercised that delegated authority. The agency's expectations have not been defined well, no accountability standard has been created, and the GSEs do not have internal controls that ensure their directors receive the information they need, the IG charges.

Also, the FHFA has not properly documented its decision-making processes when addressing matters over which authority has not been delegated, such as succession planning.

Supervision of GSEs and FHLBanks. The FHFA is expected to examine not just the GSEs but also the Federal Home Loan Banks, the IG pointed out. More than 40 audits related to the FHFA's safety and soundness examinations have said that "FHFA's existing supervision program for the Enterprises is materially deficient and its supervisory guidance falls short of the guidance issued by the Board of Governors of the Federal Reserve System, Office of the Comptroller of the Currency, and Federal Deposit Insurance Corporation."

The previously-identified shortcomings must be remedied, the IG urged.

Cybersecurity. The FHFA's oversight of cybersecurity at the GSEs is inadequate, the IG said. The GSEs transmit and store a great deal of information about borrowers, and both the GSEs and the FHLBanks have been cyberattack targets. The FHFA agency acknowledges that these entities face "significant risks," yet it has not finalized a cybersecurity examination module that was issued for testing in 2017, according to the report.

The FHFA's own privacy and data protection program has been assessed to be acceptable, the report said. However, the IG's penetration tests found "a number of deficiencies" that pose a serious risk.

GSEs and third parties. The GSEs make significant use of third parties to originate and service mortgage loans, according to the report, and this exposes them to significant risk. The management of that risk has been delegated to the GSEs, subject to FHFA examinations, and the IG said that the supervision of these third-party risks is a challenge for the FHFA.

Internal controls. The report also points out an unresolved management concern over the FHFA's internal controls that are intended to ensure that employees of the agency and the GSEs are properly trained and able to comply with legal and policy requirements. The report noted that the FHFA and the GSEs have experienced leadership changes in the last two years and warned that "Changes in leadership can lead to a shift in resources away from implementing internal controls to new initiatives."

Companies: Fannie Mae; Freddie Mac

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