

# Responding to a Civil Investigative Demand from the CFPB

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Presenter

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- I. What is a Civil Investigative Demand?
- II. What to do if (when) you receive a CFPB Civil Investigative Demand?
- III. Will a CFPB Civil Investigative Demand always lead to a settlement or lawsuit?

- The CFPB must open a formal investigation before issuing a CID.
- A CID must state the nature of the conduct constituting the alleged law violation that is under investigation and the provisions of law applicable to such violation.
- A CID is a non self-executing formal request for “information” relating to a potential law violation.
  - A CID can target the recipient or a third-party.
- Information includes the following:
  - Documents (electronic or paper), reports, answers to questions, or other tangible things.
  - Oral testimony.

- A CFPB CID has extremely short deadlines.
  - “Meet and confer” with the CFPB enforcement attorneys within 10 calendar days of receiving a CID.
    - To discuss and attempt to resolve all issues regarding compliance with the civil investigative demand.
    - Can be waived or delayed upon request.
  - Formal petition to modify or quash a CID must be filed within 20 calendar days of receiving a CID.
    - Must state that attorney for recipient has conferred in *good faith* with the CFPB attorneys to try and resolve any issues.
    - Petition will be public unless good cause is shown to keep confidential.

- How must the information be provided to the CFPB – what format?
  - However the CFPB requests it.
  - In its original format, prepared for inspection and copying, or in accordance with the CFPB’s prescribed data standards.
  
- How much time do you have to respond to a CFPB CID?
  - As little time as the CFPB decides to give you.
  - Generally 30-45 days, unless an extension of time is granted.
  
- Information must be provided under sworn certificate of authenticity and completeness.

- A CID will state the date, time, and place of testimony.
- A CID will identify the person conducting the investigation.
  - Be prepared for more than one person to question the witness.
- Testimony will be transcribed.
- The witness will be offered an opportunity to read, make changes (typographical corrections), and sign the transcript.
- The witness is entitled to retain or inspect the transcript of testimony.
- The witness may have an attorney present, but the attorney can only object in limited circumstances (constitutional or other privilege).

- Immediately start preparing to respond to the CFPB's short deadlines.
  - Contact counsel and preserve all relevant information.
  - Work with the CFPB's attorneys to understand their concerns.
  - Attempt to narrow the scope of the CFPB's concerns.
  - Produce the requested documents or information.
    - Help the CFPB attorneys understand your products and services.
    - The CFPB will close an investigation under certain circumstances.
  
- Determine whether you want to settle or be sued.



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