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Navigating The Regulatory Landscape

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The Lens

- Understanding How We Got Here: Import of tracking industry enforcement actions, including National Mortgage Settlement and OCC/Fed Consent Orders and Settlements
- The CFPB's Function, Mission and Guiding Principles
- An Effective Compliance Management System

CFPB Background

Core Function: Congress established the CFPB to protect consumers by carrying out Federal consumer financial laws.

Primary Mission: To ensure that markets for financial services and products work in a fair and transparent way for the consumer.

Three Guiding Principles: Focus on consumer protection, data and consistency.

Objectives of Supervision Program

- Exam process designed to:
 - Evaluate the quality of the company's compliance risk management system for avoiding violations of applicable federal consumer financial laws
 - Determine if the company has violated applicable federal consumer financial laws
- CFPB Examination Manual – procedures for:
 - Compliance management system review
 - Product-specific review (i.e., mortgage origination, mortgage servicing, consumer reporting)
 - Statutory and regulation-specific review (i.e., UDAAP, ECOA, TILA)

Compliance Management System (CMS)

Exam manual indicates that a CMS is how an institution:

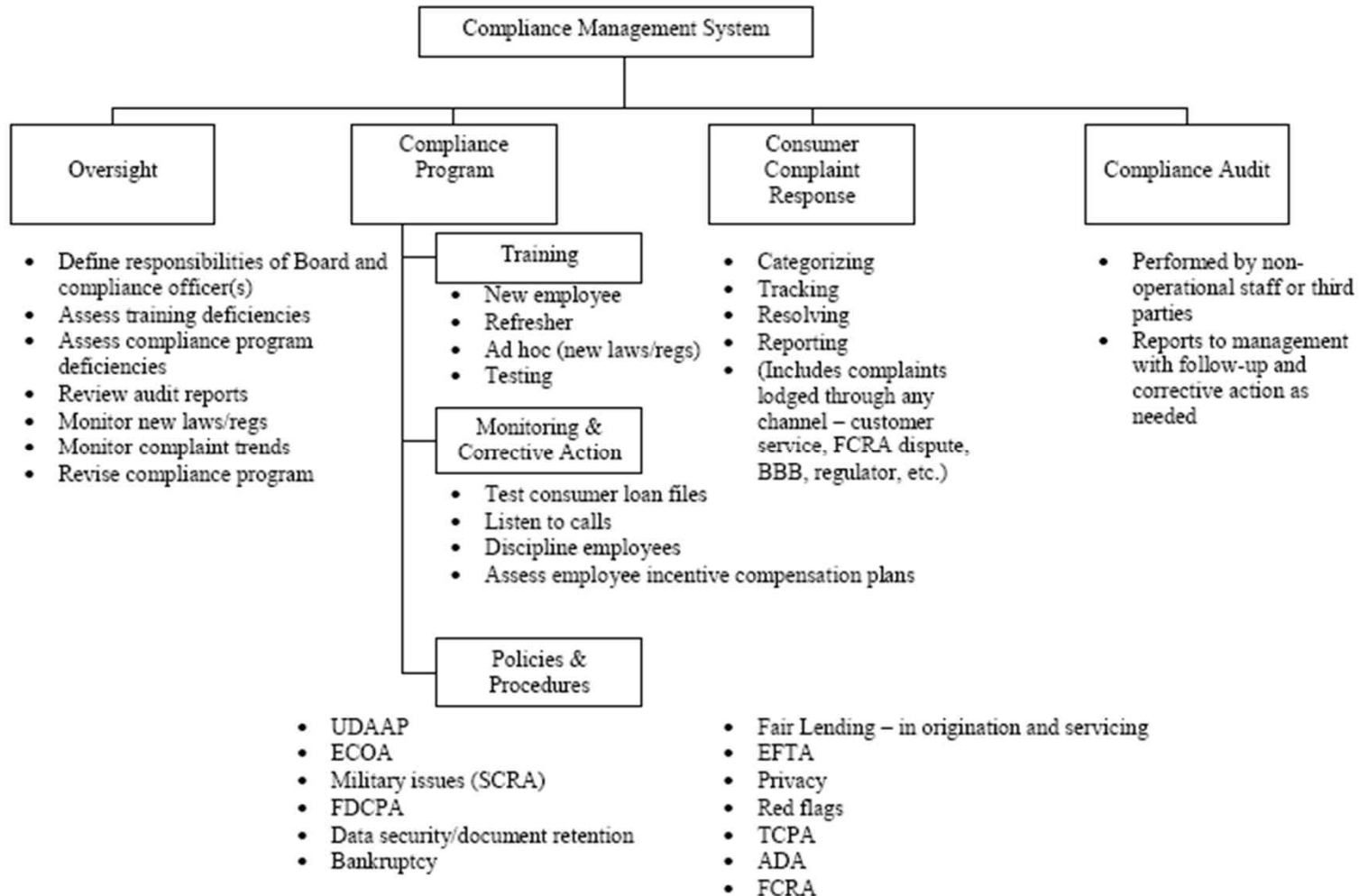
- Establishes its compliance responsibilities
- Communicates those responsibilities to employees
- Ensures that responsibilities for meeting legal requirements and internal policies are incorporated into business processes
- Reviews operations to ensure responsibilities are carried out and legal requirements are met; and
- Takes corrective action and updates tools, systems and materials as necessary

Compliance Management System (CMS)

An effective CMS has four control components:

1. Board and management oversight
2. Compliance program including:
 - Policies and Procedures
 - Training
 - Monitoring and Corrective Action
3. Response to consumer complaints
4. Compliance audit

Compliance Management System



Board and Management Oversight

- Board and senior management oversight and involvement
- Compliance Culture and “Tone at the Top”
- Adopt effective policies and procedures
- Communicate clear expectation of compliance throughout the company and to third party service providers
- Appoint qualified compliance officer and staff
- Require audit coverage and remediation of findings
- Document in board/audit committee minutes

Compliance Program - Policies Procedures

- Documented and consistent with board-approved policies
- Address consumer financial laws and designed to prevent violations and prevent harm to consumers
- Cover product or service life cycles
- Maintained and kept current
- Provide a reference to employees in their day to day activities
- Address topics such as Fair Lending, UDAAP, privacy, ECOA, etc.

Compliance Program – Training

- Board, management, and staff should receive appropriate training
- Training should be tailored to roles and responsibilities
- Training should reinforce compliance with specific policies and procedures
- Compliance Officer should receive appropriate training
- Training program should be current and ongoing
- Training records and content should be documented
- Exam manual specifically notes UDAAP and fair lending training

Compliance Program – Monitoring

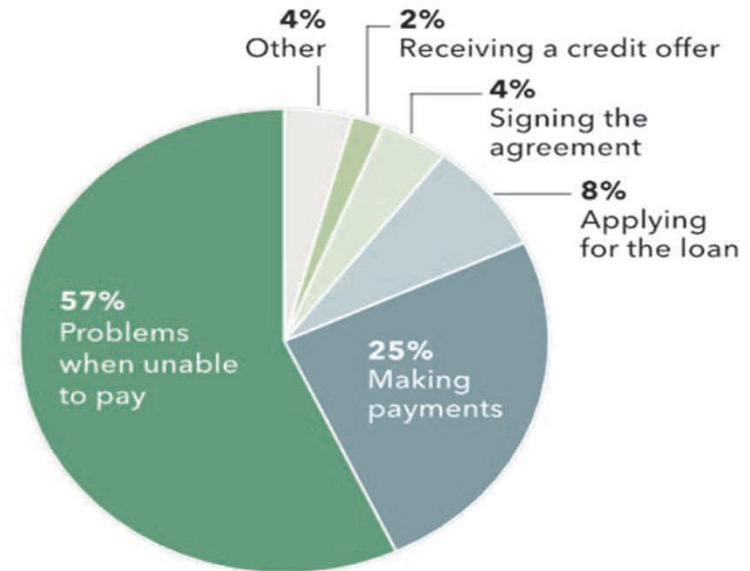
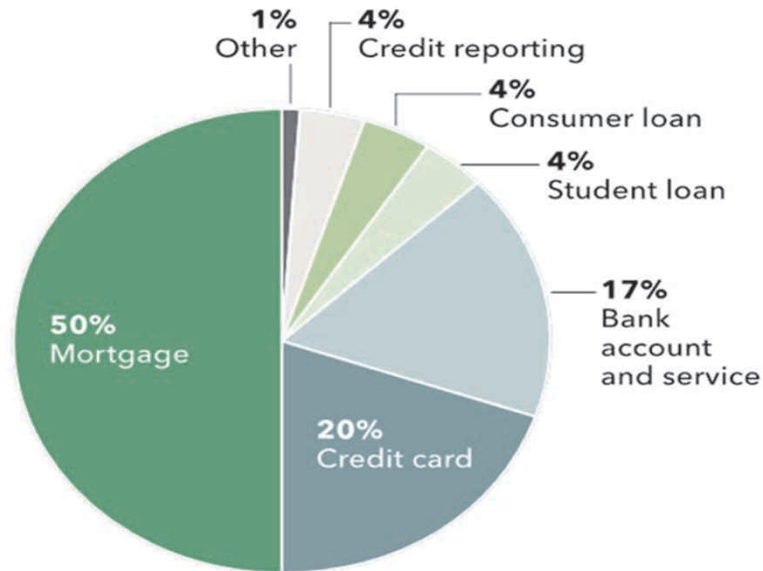
- Risk based, routine “monitoring” (testing) of compliance
- Does not have to be independent of the function like audit should be
- Can be done by business unit personnel
- Should be documented
- Exam manual specifically notes ‘fair lending’ self evaluations
- Can be built into the process, i.e. checklists, etc.
- Issues identified should be escalated, remediated
- Procedures and training may need to be adjusted

Response to Consumer Complaints

- Evaluation of consumer complaint response process:
 - Intake and categorizing
 - Tracking and recordkeeping
 - Timeliness of response and resolution
 - Escalation, management review and adjustments to business practices
- Clear policies & procedures
- Training of complaint-handling personnel
- CFPB use of complaint information
 - Identify weaknesses in the compliance management system and potential violations
 - Complaints are a large factor in priority of examinations

Response to Consumer Complaints

- Complaint data:
 - CFPB has received over 300,000 complaints
 - 46% of complaints through web; 34% referrals from other agencies; 9% over the phone



Response to Consumer Complaints

- New mortgage servicing rules define process and timing for consumer complaints
- CFPB Consumer Response complaint system:
 - System has been collecting mortgage complaints since December 2011
 - Expanded public complaint database to include mortgages in March 2013
 - Industry concerns:
 - Unreliable – published complaint data may be unverified, incomplete or inaccurate
 - Misleading – does not represent the overall consumer experience
 - Understand/implement response time frames and process

Response to Consumer Complaints

- CFPB will expect to see the following documents to evaluate how a company responds to consumer complaints:
 - Complaint records
 - Litigation records
 - Investigational records
 - Policies & procedures for receiving, escalating, and resolving consumer complaints
 - Reports on complaint resolution and any resulting operational changes

Independent Compliance Audit

- Evaluation of independent auditing and testing
- Periodic, scheduled independent compliance assessments, internal and external
- Must be independent with reporting to the board
- Addresses compliance with all applicable federal consumer financial laws
- Copies of audit reports to appropriate compliance and business unit managers on a timely basis
- Board and management response to audit results, including corrective actions
 - Track corrective actions and escalate delays in management response or lack of corrective action

Independent Compliance Audit

- The CFPB will expect to see the following documents, to evaluate a compliance audit program:
- Audit plans and schedules for a specified period
- Engagement letters or contracts for any outside auditors for a specified period
- Audit reports for a specified period
- Audit workpapers
- Audit policies and procedures
- Follow-up reports, including actions taken with respect to audit findings

The Privilege Issue

- The CFPB will request any compliance self-assessment performed, regardless of whether it is attorney-client privileged
- However, assessments are still beneficial, because attorney-client privilege will apply in other contexts:
 - CFPB Civil Investigative Demand
 - State AG investigation
 - Private litigation

Best Foot Forward...

- Ensure all of policies and procedures are documented and reflect current requirements and hot buttons
- Document the involvement of the Board and upper-level management in compliance matters – setting the “tone from the top” on compliance matters
- Make sure that complaint-handling, monitoring and internal audit programs are functioning and issues are remediated

Best Foot Forward...

- Pay particular attention to potential fair lending/servicing risks
- Analyze data and understand what the data is telling the regulators and the public about your business patterns
- Take a fresh look at major operational areas to look for potential compliance issues (consumer perspective)

Additional Analysis

- Self-assessment, culture and direction
- Navigating the regulatory landscape going forward
- How market conditions impact compliance