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Enhancing a Compliance Management System in the Real World

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What We Will Cover Today

- Today's Expectations for a CMS
- Challenges Unique to Debt Collection
- A Functioning CMS in the Real World
- Your Questions



What is a CMS?

- A Compliance Management System is how a regulated entity:
 - 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.
- An effective CMS commonly has four interdependent control components:
 - Board and management oversight;
 - Compliance program;
 - Response to consumer complaints; and
 - Compliance audit.

Elements of a CMS



CFPB Laser Focused on Compliance

“At one or more institutions, examiners concluded that a weak compliance management system allowed violations of Regulations X and Z to occur. As a result, these entities were unable to institute timely corrective-action measures, failed to maintain adequate systems, and had insufficient preventive controls to ensure compliance and the correct implementation of established policies and procedures. Supervision notified the entities’ management of these findings, and **corrective action was taken to improve the entities’ compliance management systems**”

-- *Supervisory Highlights, Winter 2016*

“The **central emphasis at the Bureau** on the voice of the consumer is likewise playing a tangible role in producing a shift in the financial marketplace to an **emphasis on legal compliance and excellent customer service.**”

-- *Prepared Remarks of CFPB Deputy Director Steven Antonakes, April 2, 2014*

CFPB’s supervisory actions have also caused financial institutions to make changes to compliance management systems that prevented violations, reduced risks to consumers, and resulted in financial restitution to many thousands of additional consumers.”

-- *Written Testimony of CFPB Director Richard Cordray, January 27, 2014*

“The CFPB expects every regulated entity under its supervision and enforcement authority to have an effective compliance management system adapted to its business strategy and operations.”

-- *CFPB Examination Manual*

Costs of Weak CMS



Challenges and Opportunities

Challenges

- Costs of Operationalizing and Maintenance
- Complexity
- Ongoing Updates to Policies, Procedures, and Controls

- Streamline Procedures
- Facilitate Control, Improvements, and Opportunities
- Proactively Identify Risk Areas
- Maximize and Demonstrate Compliance
- Automate Impact Assessments

Opportunities



Unique Challenges in Debt Collection

- Documentation and systems of record
- Monitoring consumer contacts across all channels of communication
- Credit reporting
- Payments
- Consumer litigation
- State law variations
- Recordkeeping

Unique Challenges in Debt Collection (cont'd)

July 28, 2016

**SMALL BUSINESS REVIEW PANEL FOR
DEBT COLLECTOR AND DEBT BUYER RULEMAKING**

**OUTLINE OF PROPOSALS UNDER CONSIDERATION
AND ALTERNATIVES CONSIDERED**

I. Introduction	1
A. Background	1
B. Scope of proposals under consideration.....	4
II. The SBREFA Process	5
III. Information Integrity and Related Concerns	5
A. Proposals under consideration to prohibit unsubstantiated claims of indebtedness	6
B. Proposal under consideration to require review and transfer of certain information	13
C. Validation notice and statement of rights	15
IV. Other Consumer Understanding Initiatives	18
A. Litigation disclosure.....	18
B. Time-barred debt and obsolete debt	19
V. Collector Communication Practices	22
A. Proposals under consideration regarding contact frequency and the leaving of messages.....	23
B. General time, place, manner restrictions	28
C. Issues concerning decedent debt	32
D. Consumer consent.....	34
VI. Additional Proposals	35
A. Prohibition on transferring debt to certain entities or in certain circumstances.....	35
B. Recordkeeping.....	35
VII. Potential Impacts on Small Entities	36
A. Entities subject to the proposals under consideration.....	36

i

State and CFPB Examinations Mean Your CMS is Continually Under Microscope

CFPB

Examination Procedures

Debt Collection

Examination Procedures Debt Collection

These examination procedures apply to larger participants in the market defined by 12 CFR 1090.105 and other entities within the Consumer Financial Protection Bureau (CFPB) to the extent they serve consumers. The procedures contain a series of modules, grouped by scope. Prior to using these procedures, however, examiners should consult with the scope memorandum. Depending on the scope, and in conjunction with the management system review procedures, each examination will consist of the following modules:

1. Entity Business Model
2. Communications in Connection with Debt Collection
3. Information Sharing, Privacy, and Interactions With Consumer Reporting Agencies
4. Consumer Complaints, Dispute Resolution, and Debt Validation
5. Payment Processing and Account Maintenance
6. Equal Credit Opportunity Act
7. Litigation Practices, Repossession, and Time-Barred Debt

CFPB

Compliance Management Review

CMR

General Principles and Introduction

Supervised entities within the scope of CFPB's supervision and enforcement authority include both depository institutions and non-depository consumer financial services companies. These financial service providers operate in a dynamic environment influenced by challenges to profitability and survival, increased focus on outcomes to consumers, industry consolidation, advancing technology, market globalization, and changes in laws and regulations.

To remain competitive and responsive to consumer needs in such an environment, supervised entities continuously assess their business strategies and modify product and service offerings and delivery channels. To maintain legal compliance, a supervised entity must develop and maintain a sound compliance management system that is integrated into the overall framework for product design, delivery, and administration — that is, the entire product and service lifecycle. Ultimately, compliance should be part of the day-to-day responsibilities of management and the employees of a supervised entity; issues should be self-identified; and corrective action should be initiated by the entity. Supervised entities are also expected to manage relationships with service providers to



Tips for Building a Stronger CMS: Where to Start

- Define compliance goals and set priorities
- Prepare and execute plan, with specific deadlines and milestones
- Start with inventory of existing policies and procedures and identify gaps
 - Decide do you want to focus on cross-cutting initiatives or single areas
- Hold team members accountable



Tips for Building a Stronger CMS: How to Engage and Work with The Business

- Need buy-in and support from Board and/or top decision makers in order to secure necessary resources and attention
- Also need participation and engagement from managers and lower level employees to ensure policies, procedures, and controls conform to business and are workable



Tips for Maintaining a Strong CMS: Vendor and Client Management

- Due diligence of all business partners
- Careful and thoughtful onboarding and contract negotiation
- Keeping on eye on your vendors
 - Risk-based approach (what does this really mean?)
 - Regular audits
 - Creation—and compliance with—written procedures and standards



Tips for Maintaining a Strong CMS: Don't Be Afraid of the Results

- Test and retest!
- Document results, regardless of what they are, but ensure follow through where necessary
- Dealing with instances of non-compliance, big and small
- When and how to assert privilege



Tips for Maintaining a Strong CMS: Never Get Complacent

- Stay on top of regulatory and legal developments that impact your organization
- Update policies and procedures to reflect changes in the law and practice
- Build in an automated and mandatory process for reviewing and refreshing policies and procedures
- Leverage external sources to conduct assessments or audits

Questions?



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