

### ACA INTERNATIONAL FALL FORUM & EXPO 2016 CHICAGO NOV 9-11 LOEWS CHICAGO

### 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



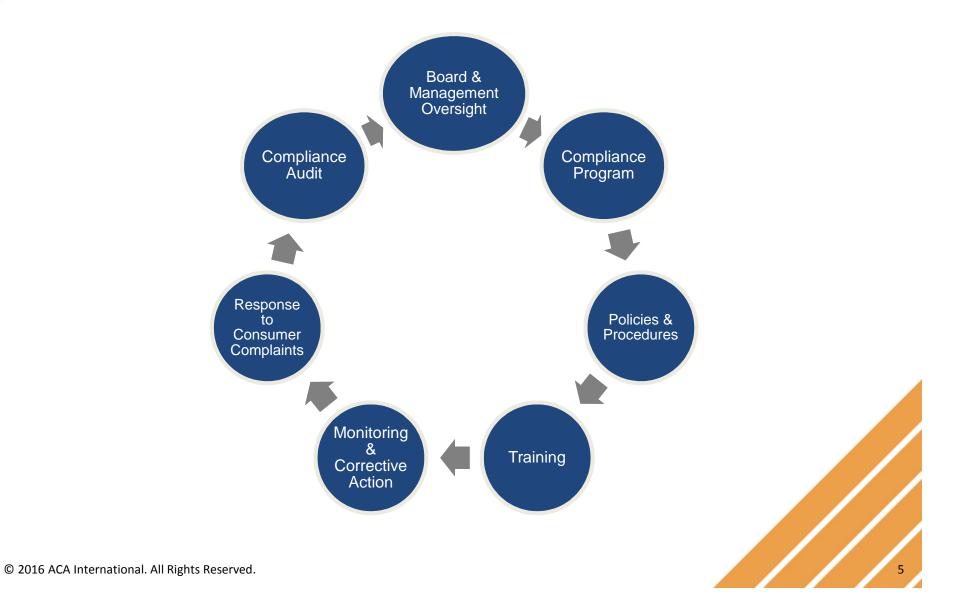
### What is a CMS?

- 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."

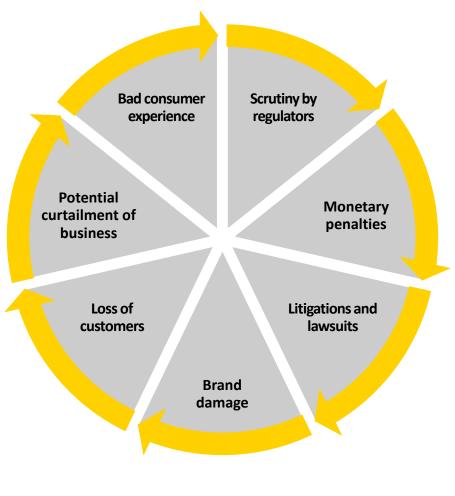
-- Written Testimony of CFPB Director Richard Cordray, January 27, 2014 "The CFPB expects every regulated entity under its supervision and enforcement authority to have an effective compliance management system adapted to its business strategy and operations."

-- CFPB Examination Manual

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### Costs of Weak CMS





### **Challenges and Opportunities**

- 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)

	SMALL BUSINESS REVIEW PANEL FOR DEBT COLLECTOR AND DEBT BUYER RULEMAKING
	OUTLINE OF PROPOSALS UNDER CONSIDERATION AND ALTERNATIVES CONSIDERED
I. In	troduction
A.	Background
B,	Scope of proposals under consideration
II. Th	e SBREFA Process
III. In	formation Integrity and Related Concerns
A.	Proposals under consideration to prohibit unsubstantiated claims of indebtedness
B,	Proposal under consideration to require review and transfer of certain information1
C.	Validation notice and statement of rights
IV. OI	her Consumer Understanding Initiatives
A.	Litigation disclosure
B.	Time-barred debt and obsolete debt
V. Co	llector Communication Practices
А.	Proposals under consideration regarding contact frequency and the leaving of messages
B.	General time, place, manner restrictions
C.	Issues concerning decedent debt
D.	Consumer consent
VI. Ad	Iditional Proposals
А.	Prohibition on transferring debt to certain entities or in certain circumstances
B.	Recordkeeping
VII.	Potential Impacts on Small Entities
Α.	Entities subject to the proposals under consideration



### 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 th Consumer Financial Protection Bureau (CFPB) to the extent tha consumers. The procedures contain a series of modules, groupi Prior to using these procedures, however, examiners should con scope memorandum. Depending on the scope, and in conjunctimanagement system review procedures, each examination will of 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

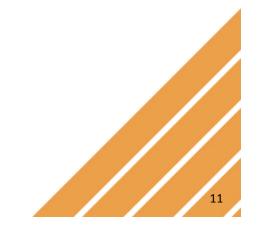
#### CFPB Compliance Management Review

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.

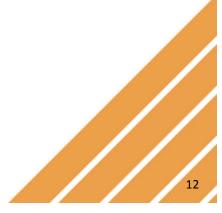
To remain competitive and responsive to consumer needs in such an environment, supervised entities continuously assess their business strategies and modify product and service offerings and delivery channels. To maintain legal compliance, a supervised entity must develop and maintain a sound compliance 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 mustiders to



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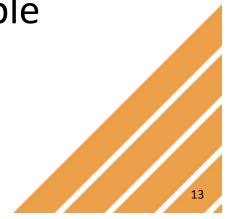
### Tips for Building a Stronger CMS: Where to Start

- 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



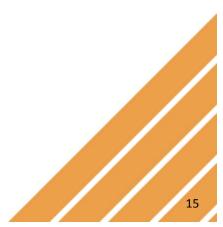
Tips for Maintaining a Strong CMS: Vendor and Client Management

- 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 polices and procedures
- Leverage external sources to conduct assessments or audits



### Questions?



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