



Bringing Compliance Into Product Development

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COMPLIANCE UNIVERSITY

- I. Federal Law**
- II. State Law**
- III. Phases of Development & Compliance Management System**
- IV. Practice Considerations**

Federal Law

Scope: What federal laws should we think about as we develop new products?

Filter the new product through all relevant consumer protection laws.

The Alphabet Soup

- Regulation B: Equal Credit Opportunity Act
- Regulation C: Home Mortgage Disclosure
- Regulation D: Alternative Mortgage Parity
- Regulation E: Electronic Fund Transfers
- Regulation F: Fair Debt Collection Practices Act
- Regulation G: S.A.F.E. Mortgage Licensing Act – Federal Registration of Residential Mortgage Loan Originators
- Regulation H: S.A.F.E. Mortgage Licensing Act – State Compliance and Bureau Registration System
- Regulation I: Disclosure Requirements for Depository Institutions Lacking Federal Deposit Insurance
- Regulation J: Land Registration
- Regulation K: Purchasers' Revocation Rights, Sales Practices and Standards
- Regulation L: Special Rules of Practice
- Regulation M: Consumer Leasing
- Regulation N: Mortgage Acts and Practices – Advertising
- Regulation O: Mortgage Assistance Relief Services
- Regulation P: Privacy of Consumer Financial Information
- Regulation V: Fair Credit Reporting
- Regulation X: Real Estate Settlement Procedures Act
- Regulation Z: Truth in Lending
- Regulation DD: Truth in Savings

Other

- Unfair, deceptive, or abusive acts or practices (“UDAAP”)
- CFPB Incentive Guidance
- Payday Lending Rule: Payday, Vehicle Title, and Certain High-Cost Installment Loans
- Servicemembers Civil Relief Act
- Military Lending Act
- CAN-SPAM
- E-Sign Act
- Telephone consumer protection requirements (FTC, FCC, and state law)
- Credit Repair Organizations Act
- Magnuson Moss
- FTC Safeguards Rule
- FTC Credit Practices Rule
- FTC Holder Rule
- FTC Product Specific Regulations
- FTC Colling Off Rule
- FTC Guide on Use of the Word “Free”
- FTC and CFPB Guidance on automatic renewals and negative options
- Restore Online Shoppers Confidence Act
- Other CFPB and FTC Guidance and Actions
- Other Miscellaneous Considerations: FINCEN Registration, DOJ actions, OCC/FDIC Banking Guidance, etc.
- Plaintiffs/Class Action Risks – Arbitration and dispute resolution developments
- Case law

State Law

Scope: What state laws should we think about as we develop new products?

Filter the new product through all relevant consumer protection laws.

Licensing Laws and Related Requirements

- Credit and usury laws
- Earned wage access statutes
- Deposit laws
- Money transmitter laws
- Commercial credit laws

Consumer Protection Laws

- Unconscionability and UDAP/UDAAP
- State auto-renewal laws
- State warranty and service contract laws
- State credit service organization, credit repair, debt adjuster, and related laws
- State specific disclosures
- State limits on fees

Other

- Regulatory/Attorney General guidance
- Case law

Phases of Development & Compliance Management System

Scope: Compliance should be involved in each phase of product development and through the product's whole lifecycle.

A comprehensive Compliance Management System provides a framework for initial and ongoing compliance. The CFPB's compliance manual can be used as a guide to structure an organization's Compliance Management System.

Phases of Development

- Idea generation
- Early build out
- Beta testing – gathering consumer feedback
- Updating the Compliance Management System to address the new product: policies, procedures, training, oversight, vendor management, complaints, etc.
- Launch
- Post launch review
- Monitoring/risk assessments/auditing
- Enhanced complaint reporting and policy feedback look

Potential areas of risk to take into account through the product's life cycle (as applicable)

- Marketing and sales
- Account opening
- Account upgrades or ancillary products
- Account servicing
- Collections
- Consumer complaints
- Vendor oversight and third party risk management
- Protection, use and sale of customer information

CFPB Exam Manual

- Policies and procedures, including:
 - Fair lending
 - Risk based pricing
 - GLBA
 - Corporate governance
- Compliance training
- Monitoring/audit

Practice Considerations

- Reach out to outside counsel early in the process to discuss the new product and examples of risks to consider
- Use a questionnaire for business development team to complete when proposing new ideas to identify consumer protection risks and approaches
- Use a checklist of issue spotting considerations for compliance to filter through laws related to new product development
- Develop and implement a chapter of your compliance management system focused on how the organization develops/maintains compliant new products

Presenters



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