Online Lenders Alliance

Compliance Programs are Evolving. Are You?

Understanding and Implementing Effective Risk Management in Consumer Financial Services

July 16, 2024

Jonathan L. Pompan
Venable LLP

Christopher K Friedman
Husch Blackwell LLP

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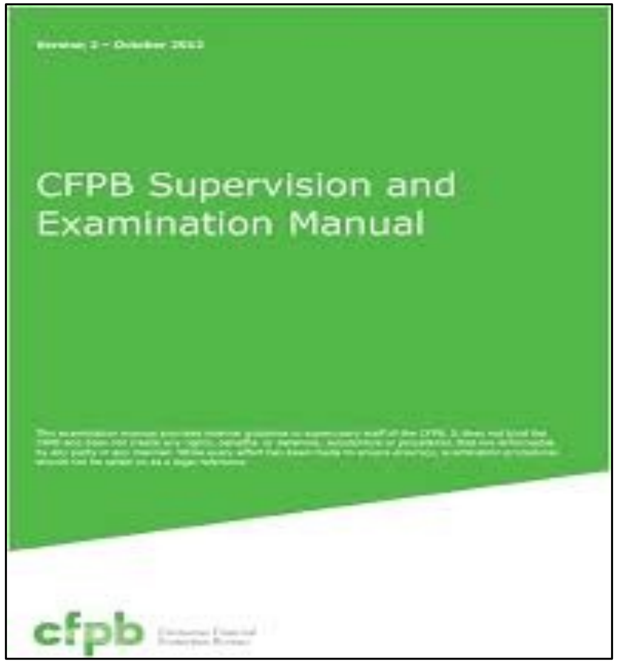
Introduction

- How is the regulatory landscape evolving?
- How can modern risk and compliance management programs account for a rapidly changing regulatory landscape?
- What does a modern compliance management system look like?

How We Got Here: Legal and Regulatory Origins

- History:
  - Early compliance programs focused on basic legal requirements.
  - Development of more comprehensive frameworks over time.
- Milestones:
  - CFPB and State Regulatory Agency Expectations
- Evolution:
  - Transition from basic compliance to comprehensive risk management.
  - Increasing complexity of regulatory requirements.



Expanding Regulatory Landscape

- Recent Changes:
  - Significant new interpretations, regulations and amendments in the last five years.
  - Impact on compliance programs and operational procedures.
- CFPB Victory:
  - Significance of CFSA v. CFPB.
  - Implications for future regulatory actions.
  - But *Loper Bright-Enterprises* and *Corner Post* may serve as hurdles to aggressive federal regulatory action.
- State Regulators:
  - Increasing collaboration between CFPB and state regulators.
  - Examples of state regulatory actions and their impact on compliance.

Aggressive State Regulators

- Expansion:
  - Application of consumer-style regulations to commercial products.
  - Specific examples of regulations affecting commercial financial services.
- Examples:
  - Notable actions by state regulators (e.g., NYDFS, California DFPI).
  - Case studies of enforcement actions and their outcomes.
- Implications:
  - Challenges for compliance programs in adapting to state-level regulations.
  - Strategies for addressing aggressive regulatory actions.

Key Regulatory Bodies and Frameworks

- Role of the CFPB:
  - Who does the CFPB supervise?
    - Banks (as well as thrifts and credit unions)
    - Mortgage companies
    - Payday lenders
    - Private education lenders
    - “Larger Participants.”

- Key regulations:
  - Truth in Lending Act (Reg Z)
  - Equal Credit Opportunity Act (Reg B)
  - Fair Debt Collection Practices Act
  - UDAAP

Key Regulatory Bodies and Frameworks

- Other Key Agencies:
  - Federal Reserve
  - Federal Trade Commission
  - FDIC
  - OCC
  - NCUA
- Prudential Banking Regulators and the FinTech Space
- FTC and UDAP
- State Laws and Regulators?
  - 2022 CFPB Interpretive Rule “Clarifying” Scope of States’ Ability to Enforce Consumer Financial Protection Laws
  - Challenging State Regulators: NYDFS and California DFPI

Key Elements of an Effective Risk Management Program

Identification:

- Identify potential risks in consumer financial services.
- Risks specific to the industry?

Assessment:

- Evaluating the likelihood and impact of risks.
- Detailed analysis methods for assessing risks.

Mitigation:

- Strategies for reducing risks.
- Case studies of successful mitigation efforts.

Monitoring:

- Ongoing tracking of risks.
- Use of dashboards and scorecards for real-time monitoring.

Risk Identification

- Potential Risks:
  - Internal processes: Operational inefficiencies, employee misconduct.
  - Regulatory changes: New laws, amendments to existing regulations.
  - Litigation: Class action lawsuits, regulatory enforcement actions.
  - Reputational: Negative publicity, social media backlash.
  - Emerging threats: Cybersecurity risks, technological disruptions.
- Sources:
  - Identifying risks from various sources within the organization.
  - External sources: Market changes, economic shifts.

Risk Assessment

- Evaluation:
  - Likelihood and impact of identified risks.
  - Quantitative and qualitative assessment methods.
- Analysis:
  - Product verticals: Different products have different risk profiles.
  - Third-party risks: Vendor management, outsourcing risks.
- Audits:
  - Importance of internal audits: Regular reviews of internal processes.
  - Importance of external audits: Independent verification and validation.

Risk Mitigation

- Strategies:
  - Avoidance: Eliminating activities that expose the organization to risk.
  - Reduction: Implementing controls to minimize risk.
  - Transfer: Using insurance or outsourcing to shift risk.
  - Retention: Accepting and budgeting for certain risks.
- Best Practices:
  - Implementing effective mitigation strategies.
  - Regular review and update of mitigation plans.

Risk Monitoring

- Tracking:
  - Continuous monitoring of risks.
  - Real-time monitoring tools and techniques.
- Tools:
  - Use of dashboards and scorecards.
  - Key risk indicators (KRIs) and key performance indicators (KPIs).
- Involvement:
  - Board and management's role in monitoring.
  - Regular reporting and communication with stakeholders.

Compliance Processes

- Roles:
  - Board: Oversight and strategic direction.
  - Officers: Implementation and enforcement of compliance policies.
  - Compliance and Legal Teams: Day-to-day management and adherence to regulations.
- Policies and Procedures:
  - Development: Creating clear and comprehensive guidelines.
  - Implementation: Ensuring policies are followed across the organization.
  - Review: Regular updates to keep pace with regulatory changes.
- Internal Controls:
  - Ensuring controls are in place to manage compliance risks.
  - Examples of effective internal controls.

Training and Awareness

- Importance:
  - Regular and comprehensive training for all employees.
  - Training on specific regulations, compliance policies, and ethical standards.
- Culture:
  - Building a culture of compliance: Engaging employees at all levels.
  - Promoting ethical behavior and accountability.
- Technology:
  - Leveraging AI and automation in training.
  - Ensuring training is adaptive to changing regulatory requirements.

Addressing Emerging Compliance Challenges

- Trends:
  - Cybersecurity threats: Increasing frequency and sophistication.
  - AI regulations: Emerging legal frameworks for AI use in financial services.
- Adaptation:
  - Staying informed about regulatory changes.
  - Proactive measures to adapt to new compliance requirements.
- Mature Programs:
  - Benefits of a mature compliance program: Enhanced risk management, better regulatory relationships.
  - Continuous improvement and adaptation to changing regulatory landscapes.

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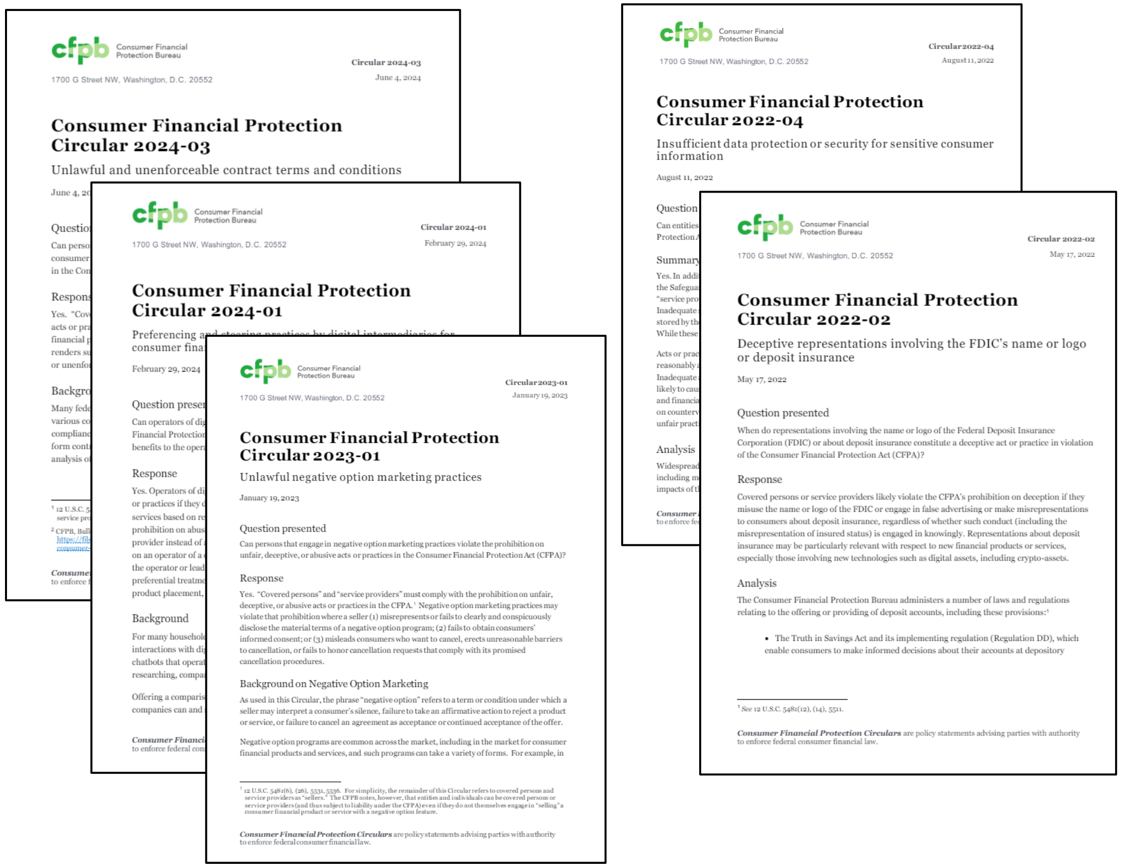
Regulatory Circulars & Reg. Developments

- Contract Terms and Conditions
- Preferencing and steering practices by digital intermediaries for consumer financial products or services
- Unlawful negative option marketing practices
- Insufficient data protection or security for sensitive consumer information
- Deceptive representations involving the FDIC's name or logo or deposit insurance
- Plus….
  - Payday Lending Rule: 12 CFR Part 1041.
  - Dodd-Frank Act Sections 1071 and 1033.
  - Fair Credit Reporting Act: Potential changes.
  - FTC Developments



Thank you for attending

Jonathan L. Pompan
Partner
Venable LLP
Washington, DC
jlpompan@venable.com

Christopher K. Friedman
Partner
Husch Blackwell LLP
Nashville, TN
chris.friedman@huschblackwell.com