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Consumer Compliance Hot Topics Panel

Presented By:
Lisa Middlekauff
Jessica Farr
Stacey Manuel-
Johnson
Keenan Neal

This presentation and comments represent our personal views and do not necessarily reflect the views of the Federal Reserve Bank of Atlanta or the Federal Reserve System.



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Consumer Compliance Hot Topics Panel

Compliance Risk Management
Program

Presented By:
Lisa Middlekauff

- A bank's consumer compliance risk management system will be evaluated with reference to 1) Board and Management Oversight; 2) Compliance Program; and 3) Violations of Law and Consumer Harm
 - Expectations extend to third-party relationships, cannot outsource risk
- CMS is expected to be commensurate with the size, complexity, and risk profile of the institution

Elements of an Effective Compliance Risk Management System



- Board and Management Oversight
 - Oversight and Commitment
 - Change Management
 - Changes to laws, regulations, products, systems
 - Identification and Management of Risk
 - Comprehension, self-assessment
 - Corrective Action & Self Identification
 - Timely action, in the normal course of business

Elements of an Effective Compliance Risk Management System



- Compliance Program
 - Policies and Procedures
 - Training
 - Current, timely, tailored to staff responsibilities
 - Monitoring/Audit
 - Sufficiency of monitoring, audit to encompass compliance risks throughout the institution
 - Complaint Response

Elements of an Effective Compliance Risk Management System



- Violations of Law and Consumer Harm:
 - Root Cause
 - Severity
 - Duration
 - Pervasiveness

- Routine, repeatable process
- Consider applicable regulations and the bank's products and services
- Function over form
 - Key is the ability to assess inherent risk, control environment, and residual risk where it arises in the institution
 - One platform is not necessarily better than another



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Community Reinvestment Act (CRA)

Presented By:
Jessica Farr

- Update CRA regulations to better reflect structural and technological changes in the banking industry
- Retain statutory emphasis on the importance of place, while modernizing framework to account for how banks are providing financial products and services to customers both inside and outside their geographic assessment areas
- Create an evaluation framework that accounts for performance context, including the bank's size, business strategy, capacity, and constraints as well as its community's demographics, economic conditions, and credit needs and opportunities.
- Introduce more regulatory and supervisory clarity, consistency, and predictability for the benefit of both banks and communities.

- OCC issued ANPR on Aug 28, 2018; comment period closed Nov 19, 2018 (~1,500 comments received)
- The OCC's ANPR requested input on how to:
 - » Encourage more lending in areas that need it most, including LMI areas
 - » Broaden and clarify the types of activities eligible for CRA consideration
 - » Update assessment area definitions to accommodate digital lending channels
 - » Measure bank CRA performance with a metric-based framework
 - » Evaluate CRA activities more consistently; and
 - » Reduce the cost and burden of CRA evaluation

Federal Reserve Review of Comments



Areas of Agreement

- Support for CRA, and tailoring
- Modernize the CRA regulation but retain its focus consistent with the statutory intent
- Need for more clarity and consistency in definitions and application
- Need for some level of feedback on CRA-eligible activity before bank resources deployed
- Open to a more quantitative approach to CRA examinations, but strong concern about a single metric or ratio
- Modifying assessment areas and tailoring to business models
- Allowing banks to receive credit for CD activities outside their assessment areas and reducing artificial competition for investments in CRA hot spots
- Need for interagency consistency

Federal Reserve Review of Comments

Divergent Views



- Approach to revising assessment areas
- Changing asset size thresholds
- Expanding CRA eligible activities
- Performance metrics
- Small business loan definition
- Reporting requirements

CRA Modernization

Recent Federal Reserve Activity



- Federal Reserve held series of external engagement sessions on CRA modernization
 - Completed 29 roundtables between October 2018 and end of January 2019
 - Philadelphia Reserve Bank/Wharton academic convening held on February 1, 2019
 - Summary: <https://www.federalreserve.gov/publications/stakeholder-feedback-on-modernizing-the-community-reinvestment-act.htm>
- Federal Reserve staff is engaged in policy and analytical work to better inform CRA modernization proposals
- Federal Reserve supports working with the FDIC and OCC to modernize CRA framework and is working on an interagency basis towards any future rulemaking to modernize CRA

- Create a CRA Strategy
 - Connect the bank's business strategy to its CRA strategy
 - Senior leadership support
 - Engage all business lines
 - Include all CRA-related activities
- Conduct periodic self-assessments using appropriate exam procedures
 - Both lending and community development

- Develop an effective performance context
 - Consider both internal and external factors
 - Engage community organizations
- Know your partners
 - Make sure partners and activities qualify under the CRA
- Track the bank's activities
 - Develop effective tracking mechanisms for CD activities
 - Include training across all business lines



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Examination Findings

Presented By:
**Stacey Manuel-
Johnson, CPA**

Topics of discussion:

- Top 5 CBO regulatory citations for the period January 1, 2018 through June 30, 2019 :
 - Sixth District (23 banks in 18-month period)
 - System (241 banks in 18-month period)
- Common RBO Matters

TOP 5 CBO Regulatory Citations

RANK	6 TH DISTRICT	FEDERAL RESERVE SYSTEM
1 ST	Reg C	Reg Z
2 ND	Reg Z	Reg C
3 RD	Reg H	Reg B
4 TH	Reg B	Reg H
5 TH	Reg CC	Reg X

Top CBO Violations: Reg C – Home Mortgage Disclosure

- 1003.4(a)(3): Loan purpose
- 1003.4(a)(5): Property type
- 1003.4(a)(8): Action Taken Date
- 1003.4(a)(9): Location of property
- 1003.4(a)(10): Ethnicity, race, and sex

Top CBO Violations: Reg Z – Truth In Lending



- Missing/incorrect information on the Loan Estimate and Closing Disclosures:
 - General Information 1026.37(a) & 1026.38(a)
 - Seller name and address; dates; product; etc.
 - Closing Costs Details – Loan Costs 1026.38(f)
 - Inaccurate disclosure of “Services Borrower Did Not Shop For” fees
 - Closing Costs Details – Other Costs 1026.38(g)
 - Government entity assessing transfer tax; Inaccurate escrow amounts
 - Loan Calculations 1026.38(o)
 - Understated finance charges
- Mortgage Loans – Good Faith Estimate of Closing Costs 1026.19(e)
 - Loan Estimate versus Closing Disclosure

Top CBO Violations: Reg H – Flood Insurance Provisions

- Inadequate flood insurance. [208.25\(c\)\(1\)](#)
- Inadequate contents coverage. [208.25\(c\)\(1\)](#)
- Failure to properly force place flood hazard insurance. [208.25\(g\)](#)
- Failure to request SFHD form prior to closing the loan. [208.25\(f\)\(1\)](#)
- Failure to provide SFHA notice to borrower. [208.25\(i\)](#)

Top CBO Violations: Reg B – Equal Credit Opportunity



- Failure to provide Right to Receive Copy of Appraisal disclosure within 3 business days of receiving a completed application. [1002.14\(a\)\(2\)](#)
- Failure to provide adverse action notice within 30 days after receiving a completed application. [1002.9\(a\)\(1\)\(i\)](#)
- Failure to obtain documentation of intent to apply jointly at application. [1002.7\(d\)\(1\)](#)
- Failure to collect GMI on the application. [1002.13\(a\)\(1\)\(i\)](#)

- Compliance Risk Assessment not commensurate with the institution's size, product and service offerings, and risk profile.
- Roles, responsibilities, and reporting between the first and second lines of defense not clearly defined.
- Applicable compliance risks not adequately associated with appropriate business unit or function.

- Top CBO Regulatory Citations (both 6th District and System): Regs C, B, H, and Z
- Common RBO Matters
- 6th District Compliance Portfolio Managers:
 - ❖ Tony Curtis (CBO)
 - ❖ Ron Garner (RBO)
 - ❖ Rey Hernandez (CBO)
 - ❖ Danny Santivaschi (RBO)



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Fair Lending – Compliance Program
Essentials

Presented By:
Keenan Neal

- Understanding Institutional Risks
- Pricing, Underwriting, & Redlining
- Marketing and Outreach

Understanding Institutional Risks

Know Your Story: Example



- Asset Size: \$800 million in assets
- Footprint: 10 branches (in two states)
- Demographics: 35 majority-minority census tracts in the Assessment Area
- Product Offering: In-house and secondary market lending; Consumer lending; Commercial lending
- Pricing Structure
- Underwriting Criteria
- Risk assessment and fair lending audit results

Pricing, Underwriting, & Redlining

Internal Controls to Mitigate Risks



- What is the institution's pricing structure?
 - Loan officer discretion – Is there clear, written, objective criteria for pricing or do loan officers have discretion in the pricing of loans?
 - Exceptions – Tracking, monitoring, analyzing
 - Financial Incentives

- What is the institution's underwriting criteria?
 - Loan officer discretion – Is there clear, written, objective criteria for underwriting or do loan officers have discretion to make exceptions to policy?
 - Exceptions – Tracking, monitoring, analyzing

- Redlining Risk Management Program
 - Assessment area delineation
 - HMDA and CRA small business lending in majority-minority census tracts (compared to peer)
 - Branching strategy
 - Marketing and Outreach

- Marketing Campaigns
 - Who is the institution trying to reach?
 - What products are being marketed?
 - Where is the institution marketing?
 - How much is the institution spending on marketing?
 - Was it effective?

- Outreach Activities
 - Who is attending and what organizations are partnering with the institution?
 - What type of outreach is being conducted? Are they geared toward financial education or are they product based?
 - Where is the outreach occurring?
 - How much time is spent on outreach activities?
 - Was it effective?

Win Win

The Benefits Of A Strong Fair Lending Program



- Equal access to financial services for all
- Reputation
- Potentially increase revenue
- Good regulatory standing

- Consumer Compliance Outlook – Federal Reserve publication dedicated to consumer compliance
- Outlook Live – Federal Reserve webinars on consumer compliance topics
- Community Banking Connections – Federal Reserve publication and website dedicated to providing guidance, resources and tools for community banks
- Interagency Fair Lending Examination Procedures and Appendix