10 Steps to a Successful Regulatory Compliance Program

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Introducing John Zasada

John Zasada is a principal with the CliftonLarsonAllen LLP (CliftonLarsonAllen) Financial Institutions Group specializing in all aspects of credit union compliance. John has over 17 years experience assisting credit unions nationwide in complying with consumer protection regulations including establishing regulatory compliance programs, conducting compliance assessments, training staff on credit union regulations, performing website compliance assessments, and BSA/AML/OFAC independent testing. Prior to joining CliftonLarsonAllen, John was employed by a large audit firm as Managing Director.

John is a frequent speaker on regulatory compliance trends, BSA/AML, compliance management, advertising compliance and website compliance. John has also been the lead instructor for the National Credit Union Administration (NCUA) Regulatory Compliance School and trained over 300 examiners on regulatory compliance.

John attended Utica College of Syracuse University, University of Colorado at Boulder, University of Copenhagen, Denmark, and Vermont Law School.
Today’s Session

• Describe the compliance landscape in 2013
• Discuss upcoming critical compliance changes
• Identify top steps to a successful compliance program
Compliance Changes

- Remittance Transfers
- TILA/RESPA Mortgage Disclosure Integration
- Reg Z - HOEPA – High Cost Mortgage Loans
- Reg Z – Ability to Repay
- Reg Z – Requirements for Escrow Accounts
- Appraisal Rules
- Reg Z and Reg X - Mortgage Servicing
- Reg Z - Mortgage Originator Standards
Changes Big and Small

- Regulation Z Credit Card Application and Account Opening Disclosures
- Regulation B Adverse Action Notice
- Regulation V Risk-Based Pricing Notices
Top Compliance Violations

• Reg Z
• RESPA
• TIS
• HMDA
• Flood
The New Consumer Financial Protection Bureau (CFPB)

- Remember their focus
- Expectation
- Merging RESPA and Reg Z mortgage disclosures
- Balanced?
CFPB

- Not all that it is cracked up to be
- Overall, agencies way behind schedule in implementing Dodd-Frank provisions
CFPB Intent

• Mortgage lending changes coming
• Flat fee comp only
• Largest banks only
• Easier for CFPB to manage
10 Steps to Building and Maintaining a Successful Regulatory Compliance Program

1. Written, board approved compliance policy
2. Compliance officer/committee
3. Ongoing compliance testing
4. Monitoring/corrective action on detected compliance violations
5. Process to implement regulatory compliance changes
10 Steps to Building and Maintaining a Successful Regulatory Compliance Program

6. Situational Analysis
7. Understanding roles of compliance, management, legal
8. UDAAP
9. Comply with the easy requirements
10. Advertisements reviewed for compliance before being released
1. Written, Board Approved Compliance Policy

- Compliance Officer/Committee
- Responsibilities
- Testing
  - What
  - When
- Monitoring
- Training
- Implementation of changes
Compliance Program

- Examiner expectations
- Sophistication
- Management support
Compliance Management

- Board and management involvement
- Complaints
- Board and management reports
Risk Based?

- Be careful
- Must have a risk assessment
- When the risk assessment identifies high risks...
2. Compliance Officer/Committee

- Centralized program needs person/committee responsible for overseeing it
- Accountability
- Reporting structure
- Committee should designate a chairperson
Compliance Officer Skills

• Grey area
• Details
• Purpose
• Application of laws and regulations
• Interpersonal skills
• Where to look
Compliance Integration

- Get compliance involved
- Compliance over the long haul
- Mergers
3. Ongoing Compliance Testing

- Often overlooked
- Compliance policy should state what and when
- Need written evidence
- Reports to the board or at least senior management
- Compliance expertise required
Product lifecycle

• Do not manage compliance simply by regulation
• Product development, advertising, application and underwriting, account opening, and servicing
• Credit Card example
Compliance Testing Tips

- Testing
- Compliance changes
- Vendors
BSA Independent Testing

- 12 to 18 months
- Qualifications
- Independent and Objective
- Work Papers
- Formal Board Report
- Timely Correction of Issues Raised
Expectations

- Risk Based
  - Should review all high-risk areas
- Analyze Risk Assessment
- Transaction Testing
- BSA Information Systems
4. Monitoring/Corrective Action on Detected Compliance Violations

- Don’t just test, test, test
- Also document any and all corrective action taken
  - Written evidence
- Keep a running list of all the ways you improved regulatory compliance performance over the past year
- Fixing complaints
5. Process to Implement Regulatory Compliance Changes

• Look forward and not just backward
• Tracking
• Large undertaking
6. **Situational Analysis**

- Monitor enforcement actions and DORs
- Based on enforcement actions, perform a situational analysis
- “Could it happen to us?”
But...

- Fair lending case
- OCC Examiner meeting with banker
- “Wow, we have a policy of doing that too!”
- Cease & Desist Order
Compliance Risk

• Residual risk
• Training
• Testing
7. Understanding roles of compliance, management, legal

- Legal – Interpret
- Compliance – Implement
- Management – Lead and own the risk
- Increased Complexity should translate to greater internal controls and management
Role of Compliance

- Guidance, Regulation, Act
- Enabler
- Coach not Cop
- Board Access
- Cover Everything
8. **UDAAP**

- Look at ethical behavior versus legal requirements
- Something can be legal but is it ethical?
- That is what can get you into trouble
More than just regulations

- Compliance with regulations not enough
- Please examiners and consumers
- Objective to subjective
UDAAP

- Four Ps
- Third party relationships
- Footnotes
Clear as Mud

- Guidance?
- Hits every part of the product life cycle
- Tip of the iceberg
UDAAP Examples

- Police report
- HELOC floor
- Repricing loans
Recent UDAAP Case

- Bancorp
- Discover
- American Express
Closely Watch

- ATM fees
- Overdraft program
- Rewards programs
- Credit cards
9. Comply with the Easy Requirements

- They do exist
- Often overlooked
- Speaks volumes about your overall compliance program
10. Fair Lending

- Referrals to DOJ
- Regulatory changes increase fair lending risks
- Credit CARD Act
Major Fair Lending Settlement

- SunTrust Mortgage $21M settlement
- 2nd largest fair lending settlement
- Discretion
- Lack of documentation
- Disparities
Wells Fargo

- Largest residential home mortgage originator
- $175 million settlement
- Steered African American and Hispanic borrowers towards sub-prime loans based on race.
- Paid higher fees and costs than white borrowers
- Loan officers had wide pricing discretion
- Comp based on price of loan products
GFI Mortgage Bankers

- $3.5m settlement
- Pricing disparity
- Incentives to charge higher rates and fees
- No fair lending training or monitoring
Fair lending risks

- Unsecured short term closed-end loans
- UDAAP and fair lending
- Reg B scope
- Consumer complaints
- Waiving fees
SCRA

- $12 million penalty
- Denied requests to lower rate to 6%
- Foreclosure without court order
- GAO report
- CFPB next
Questions?

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