

WHAT ARE SOME OF THE THINGS WE *DO* KNOW?

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Since the CFPB announced they would assert a supervisory role over debt collection, many, many questions have been posed and frequently the answers are preceded by the phrase "we really don't know yet". So I thought it would be interesting to look at what we do know when thinking about CFPB supervision and the changing environment in the ARM industry.

For any debt collection organization the key concept to think about first is establishing and embedding in the organization a "Culture of Compliance". This is not something that should be approached casually or with the thought that this is an easy undertaking. Changing a culture in any direction can take considerable time and requires an absolute commitment from everyone, particularly, top management.

So what *we know* is that every debt collection business should very carefully evaluate its culture of compliance. Where the Chief Compliance Officer position and Compliance department will be located in the organization and its span of control are the first steps. From there *all* policies and procedures need to be evaluated; policies added as needed; and then most importantly evaluated as to how those policies and procedures are implemented across the organization. Reoccurring, documented training for personnel and validation that personnel can speak about the policies fluently is an essential component.

Another focus *we know* from listening to and reading CFPB communications is "customer experience" is very important in evaluating a debt collection company's practices. Customer experience is part of a culture of compliance. Understanding customer experience starts with looking at every consumer contact - phone, letter, website, recorded messages, emails - for how easy is it for the consumer to understand the communication, how easy is it to file a complaint or ask to have a phone number removed or obtain additional information. Websites should provide consumer education as well as convenient methods for the consumer to communicate with your company. All communications and activities should be open and transparent as well as compliant. Evaluating your current practices should be viewed from this perspective.

We know that the CFPB will be looking for a strong Compliance Management System as part of their initial assessment. Components of a strong compliance system include proving that compliance involvement occurs at all levels of the organization including the Board and that compliant policies exist, are documented, are trained to

staff and are followed. Auditing all compliance policies, procedures, and processes is essential to verify understanding by staff, implementation in practice and identifying nonconformities. Auditing both internally and using external resources seems advisable. It is important to keep in mind that the CFPB would view auditing practices as strengthening a compliance management system. But CFPB staff has also stated that any audit internal or even by an external vendor, no matter whom that firm may be, is not going to deter the CFPB from making their own determinations of the Compliance Management System in place. As another example, the same thought process would apply to voice analytic systems. They are an important tool in managing call compliance but that will not exclude examination of compliance with applicable laws and regulations just because that technology is in use.

In all of this, being overly dependent on either technology or people to assume compliance levels could be a huge misstep. When performing audits and reviewing operations over the last year, it is fairly common to find nonconformities and miscommunications are occurring. In the all important area of consumer communication and legally compliant disclosures, I have seen a number of examples where there were differences between documented policy, training materials, quality monitoring, and actual practices in the collection operation as to how disclosures and verifications were to be performed.

We *know* the CFPB will interview staff. It is a documented part of their exam procedures. They will be looking for the quality of staff training and understanding of documented compliance policies and procedures. They will be looking for incidences of stated practices not matching documented work standards. It is important to insure, not take for granted, that staff members at all levels can speak in depth and knowledgeably about processes within their span of control.

We *know* that attention to detail during the compliance review process is critical; no process should be overlooked. An example, from a recent audit I performed, was necessary disclosures were not occurring on some inbound calls. Those calls were being recorded as all calls were but the Quality Control Manager was not listening to them because they were inbound and, therefore, not considered a high risk.

There will be more to learn in the future but we do *know* enough to be making important and critical decisions regarding our organization's compliance culture and compliance management systems. All areas of compliance should be undergoing continual process improvement. Some areas for immediate review include: disclosures and legal compliance in consumer communications, time-barred debt, unfair acts and practices, pre-arranged payments and Regulation E, ECOA and scoring models, levels of complaint response and tracking, quality of documentation used to collect debts and credit bureau reporting/inaccurate information.

What I *know* is that, many ARM service providers have approached CFPB supervision in a very proactive manner and have found the internal examination to provide beneficial opportunities and insights.