Protecting Your Customers – Going Above and Beyond Regulatory Expectations

Issue

Financial banking regulators have long encouraged depository institutions to take steps to enhance corporate governance and internal controls and to address issues proactively, once detected. Recently, the Consumer Financial Protection Bureau (CFPB) issued guidance to its supervised financial institutions regarding conduct to protect consumers from possible violations of consumer protection laws and regulations. Such conduct, which could also mitigate CFPB enforcement activity, includes:

- Prevention and early detection of potential compliance deficiencies through regular, robust self-monitoring
- Prompt and complete self-reporting of significant and potential issues to the CFPB and affected customers
- Timely actions to cease customer harm, remediate fully consumers affected by the issue, and strengthen controls to prevent recurrence
- Full cooperation with the CFPB as it conducts its own investigation, including freely sharing information related to the institution’s own review, corrective actions and remediation

Challenges and Opportunities

Financial institutions are challenged to construct appropriate governance controls and processes to manage compliance-related deficiencies, regardless of how they are identified. In order to receive any affirmative credit from the CFPB in the context of an enforcement investigation, institutions are expected to go beyond what is required by applicable law or regulation. However, the CFPB doesn’t provide a detailed playbook as to what this means. Financial institutions must also reconcile concerns related to regulatory self-disclosure with perceptions that doing so will worsen penalties and enforcement actions.

Additionally, beyond the lack of clarity in the CFPB guidance and uncertainty in the regulatory environment broadly, there are a number of other factors with which financial institutions must contend internally. These include: complex organizational structures that result in identifying and resolving issues in “silos,” poor internal monitoring and auditing processes that fail to detect critical issues in a timely manner, and inadequate engagement of senior leadership to emphasize the importance of – and dedicate sufficient resources toward – issue management efforts.

Ultimately, institutions that focus more on their response to a potential issue, rather than the potential issue itself, are best positioned to meet regulatory expectations, provide strong customer service, and find value in the issue management and resolution processes. Doing so enables institutions to:

- Achieve regulatory objectives and mitigate negative effects of potential enforcement actions.
- Quickly address operational and technological deficiencies.
- Provide responsive customer service.
- Re-evaluate risks and identify opportunities to strengthen processes and controls enterprise-wide.
Our Point of View

It is becoming increasingly apparent that financial institutions must make cultural shifts to treat issue management as a strategic initiative aligned firmly with corporate values rather than as an ad-hoc task fraught with internal blame. Necessary features of a robust program include:

- **Enterprisewide coordination and focus** – Institutions should break down internal silos by establishing enterprisewide issue management standards and aligning incentives to report quickly and resolve comprehensively any deficiencies that are noted. Centralized committees and project management offices (PMOs) may also help evaluate cross-enterprise impacts and ensure a consistent approach to corrective actions and consumer remediation.

- **Self-policing** – While internal monitoring and auditing programs are necessary to detect potential deficiencies internally, institutions should also consider expanding their customer advocacy efforts through enhanced analysis of consumer complaints, routine “production issues” and employee feedback mechanisms. Further, as issues are discovered, it is useful to evaluate whether similar issues have been noted within the organization previously, for trending purposes, as well as whether the issue should have been noted internally to strengthen existing self-policing efforts.

- **Comprehensive corrective action** – Institutions should establish standards to ensure the true root cause of noted compliance deficiencies is assessed at a sufficient depth so as to hold parties properly accountable and to strengthen controls in order to prevent recurrence. To create meaningful change, institutions should address not just the symptoms, but also the source of the issue.

- **Single source of truth** – Issue management information is consumed by multiple stakeholders for varied reasons. To prevent duplication and conflict, and to facilitate accurate and robust reporting, information should be tracked centrally to enable stakeholders to produce customized reporting. Alternatively, steps should be taken to rationalize the data elements tracked across the enterprise to establish the information’s true source and how it can be coordinated for consistency.

- **Validation** – To ensure the completeness and accuracy of issue resolution and consumer remediation, institutions should implement processes to validate project documentation, including the appropriateness of the design (on the front end) and execution (on the back end) of issue resolution projects.

How We Help Companies Succeed

Our Risk and Compliance professionals can help your institution meet the objectives of the CFPB and other regulatory expectations through the following services:

**Compliance program design and evaluation**

- Evaluate processes for self-monitoring, issue identification, and corrective action and resolution to ensure they align with regulatory objectives.

- Advise on the design and implementation of comprehensive issue management programs.

- Build solutions for efficient remediation project tracking, reporting and workflow management.

**Remediation project execution**

- Provide project management support, including project tracking, documentation and reporting.

- Provide compliance-specific subject matter expertise in developing the remediation approach.

- Develop technological solutions for executing the remediation and tracking results.

- Conduct transaction reviews and data analytics to provide remediation to affected customers.
Independent remediation validation

- Provide independent project validation services as ordered by regulatory enforcement actions.
- Internally validate the results of the remediation for consistency with regulatory expectations and project objectives.

Example

A large depository institution sought our assistance to remediate self-identified concerns related to the accuracy, timeliness and completeness of credit decisions rendered on consumer loan applications and disclosures that are required to be provided to customers.

We helped our client:

- Fully scope the deficiencies and their root causes.
- Develop the strategy by which affected customers would be identified and evaluated for remediation.
- Partner with operational and technology personnel to define system requirements, arrange for adequate resources and coordinate internal communications.
- Validate the results of the remediation executed by bank personnel.
- Clearly document the project methodology and report the results regularly to senior leadership.

Through our efforts, our client demonstrated comprehensively to its regulators the nature of the issues encountered, and their resolution and remediation.

About Protiviti

Protiviti ([www.protiviti.com](http://www.protiviti.com)) is a global consulting firm that helps companies solve problems in finance, technology, operations, governance, risk and internal audit. Through our network of more than 70 offices in over 20 countries, we have served more than 35 percent of FORTUNE 1000® and FORTUNE Global 500® companies. We also work with smaller, growing companies, including those looking to go public, as well as with government agencies.

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