Financial Services Regulatory Update

September, 2017

This communication is designed to provide you with quick snapshots and timely perspectives on recent regulatory developments.

Empowering the Compliance Function

Background

In November 2016 the Federal Financial Institutions Examination Council (FFIEC) published a common methodology for the prudential regulatory agencies (FDIC, OCC, FRB) and the Consumer Financial Protection Bureau (CFPB) to use in rating financial institutions performance in effectively managing consumer compliance risk. The Consumer Compliance Rating System (CCRS) framework addresses regulatory expectations for each component of an institution's Compliance Management System across each of the three lines of defense, integrating expectations for the compliance function within each component. While the framework does not explicitly set forth characteristics of an effective compliance function, the related guidance does provide strategies for making the most of existing internal resources to manage compliance risk. Three facets of an institution's compliance management system can be aligned to maximize efficiencies while increasing compliance program effectiveness.

1. Compliance Officer Qualifications

Many financial institutions – particularly smaller community banks – struggle to find and retain qualified compliance professionals. The greatest challenge is in delineating responsibilities in a way that plays to an individual's strengths while maintaining coverage for peripheral areas (e.g., Community Reinvestment Act, Bank Secrecy Act, Vendor Risk Management, etc.). Absent dedicated, qualified personnel in other areas of the institution, a common practice is to hand these additional "hats" to the Compliance Officer, often resulting in burn-out and ineffective management of core duties.

For most Compliance Officers, appropriate industry certification and regular, formal training are critical to successfully performing compliance-related responsibilities; however, such certifications do little to prepare individuals for loosely related responsibilities, such as conducting CRA community investment surveys or periodic reviews of vendor performance. Very rarely are banks able to find, hire and retain individuals who possess the skills to meet all of the expectations covered in "other duties as assigned." In addition to detracting from the Compliance Officer's primary responsibilities, these ever-increasing expectations also frequently interfere with requisite continuing education, ever-important peer networking, and the CO's ability to think proactively about managing compliance risk. In fact, a recent informal survey found that the first activity Compliance Officers are likely to put off in busier times is monitoring for regulatory change, leaving the institutions they support at much higher risk for failing to adequately plan for and implement changes in the rules governing their business.

Add to these concerns the likelihood of turnover in this critical role, organizations are striving to find the right balance between adequately covering higher risk compliance needs with ever waning budgets.

As early as 2012, banking regulatory agencies were indicating they expected the banks they supervise to employ a full-time, dedicated Compliance Officer once their assets reached $150M. But if the Compliance Officer also serves as the CRA and BSA Officer, and has other significant responsibilities, the position is not dedicated solely to compliance. Some smaller institutions have developed successful strategies for providing support to the Compliance Officer to help manage additional responsibilities. One of the most helpful of these is a Compliance Committee.

2. Compliance Committee

When staffed and structured properly, a Compliance Committee can make a world of difference for the better. The Compliance Officer likely will chair the Compliance Committee but the majority of discussion and presentation falls to members, who represent all lines of business. Members must be able (i.e., have the time, understanding and resources) to monitor for regulatory changes that will affect their lines of business, and they must have the authority to proactively respond to those changes. Whether inviting proposals from critical vendors, forming a team for beta testing of key system changes, communicating to others across the organization, or presenting information to the Board and senior leadership team, the Compliance Committee members will remain actively engaged in managing compliance risk only if they have the ability to do so.

Best practices in establishing committees include formally documenting a charter or otherwise scripting specific responsibilities, providing training for members to ensure they understand the expectations for their time and service, and regularly scheduling meetings to manage compliance risk on a continual basis rather than reactively meeting to put out fires and clean up problems. Inviting feedback from business line management can also be very helpful in keeping the Compliance Committee on task and aligning its work with the bank's risk profile and business activities. For example, significant employee turnover in one area might result in the loss of a committee member and at the same time create a spike in compliance risk while new employees learn their jobs. If business line management foresees a significant change in personnel, the Compliance Committee can proactively develop strategies for managing compliance risk in the interim.

Including the Compliance Committee charter and membership in the organization's Compliance Management Program documentation is also important for keeping the Board informed of compliance risk management strategies, giving directors the opportunity to measure these steps against the organization's broader business strategies. The Board and senior leadership team also will be instrumental in establishing and maintaining a healthy culture of compliance.

3. Compliance Culture

For nearly a decade, regulators and compliance professionals have been speaking of compliance risk management in terms of the *three lines of defense*: (1) Business Line processes and controls; (2) Compliance Monitoring testing and reporting; and (3) Compliance Internal Audit. These three lines do not shape the organization's compliance culture, but rather operate within the organization in a way that reflects the existing compliance culture. When the organization's Board and executive management clearly establish a tone at the top and demonstrate by example their commitment to abide by the tone their lines of business organically grow with the same expectations, often with very little redirection or intervention from Human Resources or other management members. Walking the talk is especially important during times of management team changes or upheaval in the regulatory environment, because business line staff need to know the organization's core values will drive business, no matter what other changes or challenges present themselves.

Annual surveys can be a very helpful tool in pulse-checking the organization's compliance culture; periodic feedback through the Compliance Committee or directly with the Compliance Officer is better. Many organizations have established communication channels for just this purpose, and include a summary of any such feedback in periodic Board reporting. Even more affirming than knowing concerns are being heard is seeing that they are being addressed. Board and executive leadership action can reassure business line staff while also providing critical support to the Compliance Officer.

Together, these strategies can significantly, efficiently, and effectively improve an institution's compliance risk management program, and help keep the Compliance Officer from finding another line of work.

How Experis can help

Experis Finance offers industry experience in all aspects of Financial Services, including:

- Performing Compliance Risk Management program assessments
- Assessing the adequacy of your organization's compliance control environment
- Developing internal compliance monitoring and audit programs to address unique risks
- Providing compliance consultation services
- Evaluating processes and practices and developing program enhancements to address weaknesses

Our Risk Advisory Services practice can evaluate your compliance management program, provide comprehensive recommendations for improvement and help you address those recommendations.

Our team of professionals has extensive experience working with clients to address these issues to help them avoid costly fines and penalties. If you have any questions about or concerns around your implementation of these steps, contact an Experis representative at financialservicesindustry@experis.com or visit our website Experis Finance.