



Building an Effective Compliance Strategy for Small to Mid-Sized ARM Companies

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Agenda

- The New Regulatory Climate
- What Does “Compliance” encompass
- Getting “Compliance-Ready”
- The Compliance-Readiness Approach
- Managing the Compliance Process
- Documenting Compliance
- Demonstrating Change Management



The New Regulatory Environment: A Brief History Lesson

1929 to 1934 – The “Crash of 1929” followed by “The Great Depression.”

2008 to 2010 – The Subprime Mortgage Crisis followed by an ensuing recession.

2010 – As with The Great Depression, Congress took steps “to ensure that a financial crisis of this magnitude can never happen again.”



The New Regulatory Climate

In 1933 and 1934, Congress enacted:

- The Securities Act of 1933
- The Securities & Exchange Act of 1934
- Created the Securities & Exchange Commission (“SEC”)

The SEC’s Mission:

- To increase public trust in the capital markets by requiring uniform disclosure of information about public securities offerings
- To regulate secondary trading between individuals and companies



The New Regulatory Climate

In 2010, Congress enacted:

- The Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010.
- Created the Consumer Financial Protection Bureau (“CFPB”)

The CFPB’s Mission:

- To regulate companies that provide consumer financial products and services
- To enforce the federal consumer financial protection laws



The New Regulatory Climate

The Impact of Dodd-Frank on Small to Medium Sized ARMs:

- Direct Regulation of “Larger Participants”
 - Regular CFPB examinations and enforcement actions for larger debt collection agencies and firms
- Increased Scrutiny and Compliance Expectations on Smaller Participants
 - By the CFPB as well as the FTC and State regulators
- An Invigorated Plaintiffs’ Class Action Bar



“Compliance-Readiness” - What Is It?

Compliance-readiness is ...

- Having policies, procedures and tools in place to prove your compliance - even if you never have to.
- Having documentation to establish your company's compliance.
- An ongoing operational structure that enables the systematic creation of evidence, training of personnel and monitoring of voices from the market.



Why Be Compliance-Ready?

Compliance-readiness can ...

- Head off problems before they lead to expensive investigations and lawsuits.
- Allow companies to have immediate access to evidence needed to prove compliance.
- Save time and money, especially when responding to inquiries.
- Demonstrate compliance to your client to expedite their vendor compliance review.
- Reduce your company's cost of responding to vendor audits.

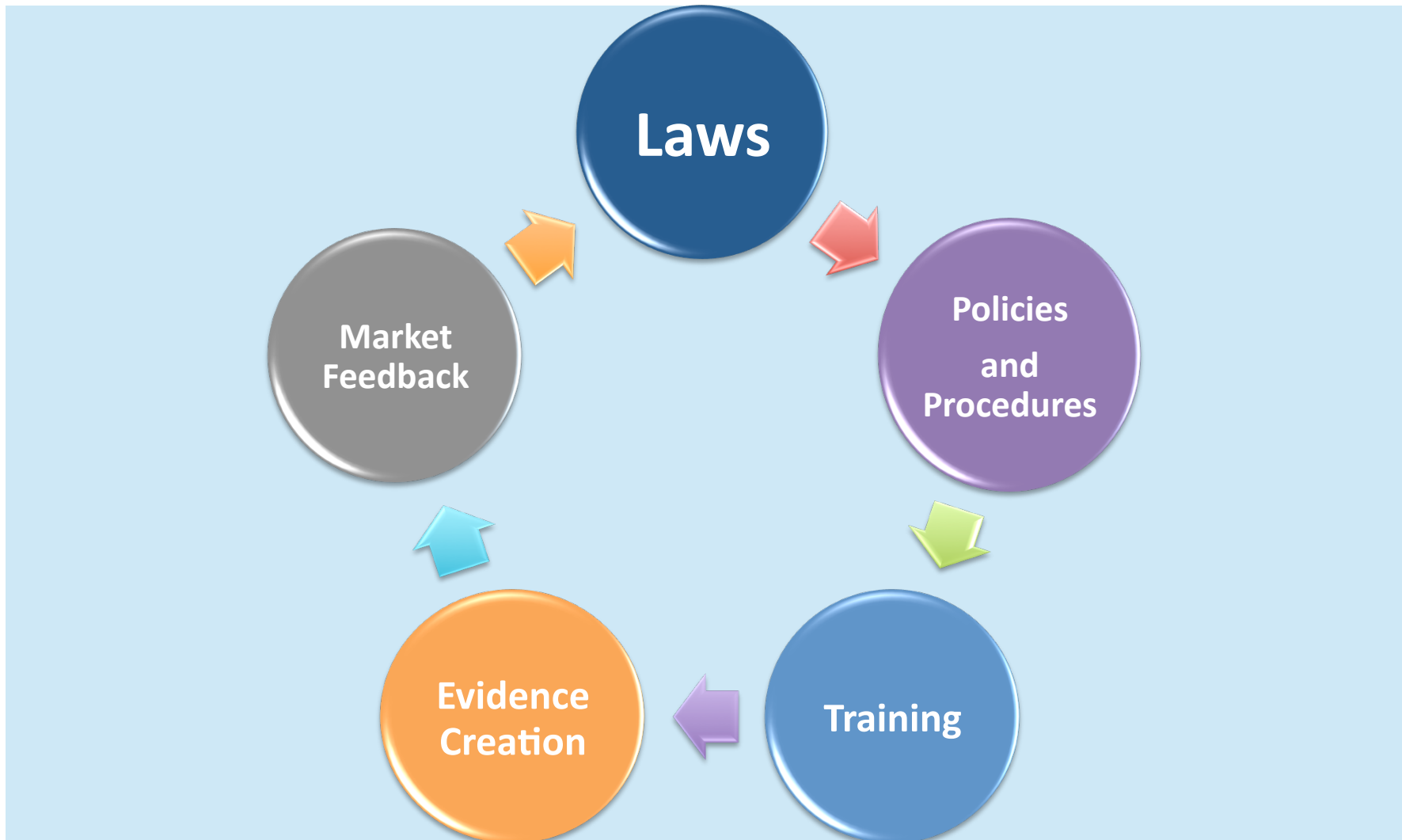


Compliance-Readiness - Step by Step

1. What laws apply to my business?
2. What policies and procedures do I need to ensure compliance?
3. How should I train and track employees?
4. What documentation (evidence) do I need to create and maintain?
5. How should I monitor sources relating to my business and industry?
6. How Should I prepare to respond to a vendor audit?



The Compliance-Readiness Cycle





Compliance-Readiness - Step by Step

- 1. What laws apply to my business?**
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Laws Governing the ARM Industry

- Fair Debt Collection Practices Act
- Fair Credit Reporting Act
- Telephone Consumer Protection Act
- Gramm-Leach-Bliley Act
- Federal Trade Commission Act
- Unfair Deceptive and Abusive Acts and Practices
- State Counterparts to many of these Federal Acts
- State Telephone Recording laws
- And more...



Other Laws and Regulations Applicable to ARMs

- Federal and state statutes and case decisions
- Regulations by city and municipality
- Regulations by the CFPB, FTC and other state and federal agencies
- Industry self-regulatory rules
- Relevant Attorney General enforcement activity
- Consent Orders/Agreements of Voluntary Compliance



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Why Do You Need Policies and Procedures?

- Policies and Procedures help ensure that your company complies with applicable laws and regulations,

AND

- Written policies and procedures serve as evidence of a company's intention, motivation and plan of execution.



What Policies and Procedures Do You Need?

Your policies and procedures should include:

- Complaint and complaint-response procedures
- Training, testing and documentation procedures
- Document retention policies
- Information Security and Privacy policies
- Vendor audit and compliance verification
- Policies for maintaining and updating your compliance-readiness plan
- Policies for broken or not followed policies



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Employee Training and Testing

- Developing company policies and procedures for operating the business in compliance with relevant laws is meaningless unless employees are adequately trained and understand how to carry out their responsibilities in compliance with those policies and procedures.



Employee Training and Testing

Must-haves:

- All training materials provided to your employees.
- All testing materials intended to confirm that the knowledge provided was learned.
- Proof that the training has taken place and the learning has occurred.
- Documentation of employee correction when company policies and procedures are violated.



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Creating Evidence of Your Compliance

Awareness of applicable laws and regulations, development of policies and procedures and training employees to implement those policies are only as good as the ***evidence*** a company creates, maintains and can efficiently access to prove its compliance.



Creating Evidence of Your Compliance

Compliance-Readiness requires an operational structure that contemplates:

- What evidence is needed to prove compliance?
- How it would be presented in response to an investigation or in litigation?
- What form should it take?
- Where it should be maintained?
- By whom?



Creating Evidence of Your Compliance

Important subjects of evidence creation:

- Consumer corporate policies and procedures
- Marketing substantiation
- Employee training, testing and correction
- Customer interactions
- Complaint and complaint-responses
- Third-party feedback and correction based on feedback
- Government agency interaction, analysis and correction



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How Should You View Complaints?



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Information and Feedback

- Perception is reality!
- It can take a lot of evidence—as well as time, energy and expense—to prove otherwise.



Who's Watching You?

- Federal Regulators
- State Attorneys General
- Better Business Bureau
- Plaintiffs' attorneys
- Clients
- Consumers!



Information and Feedback

How a company is perceived by consumers, regulators, clients and competitors is critical for...

- Adjusting business operations to avoid problems.
- Creating and collecting evidence to respond to investigations or litigation.



The Feedback Loop

The key to using consumer feedback ...

- Create an effective system to Collect, Analyze and Address information obtained from all sources on an individual and macro company level.



What feedback do you need?

Consumer feedback includes:

- How are we doing as a business?
- Are we doing what we say we're doing?
- What are consumers actually hearing from our messages?
- Are complaints repetitive?
- Are complaints significant?
- Are complaints wide-ranging?



Maintaining the Feedback Loop

Monitor information and feedback about the company from every available source:

- Consumer complaints – and your responses
- Better Business Bureau complaints – and your responses
- Third party audits
- Self-conducted surveys
- Awards, news articles, etc.



Other Sources of Feedback

Monitor information about your industry from every source available:

- Consumer complaints
- Better Business Bureau
- “Rip-off Reports”
- AG letters
- News articles
- Industry veteran blogs



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6. **How should I prepare to respond to a vendor audit?**



Vendor Compliance Preparation

- Recognize your clients have obligations to demonstrate vendor compliance readiness
- Develop a vendor compliance audit package
- Keep the vendor compliance audit package current and updated
- Advance preparation will lower costs, shorten audit cycles and reduce employee burden



Compliance-Readiness: The Hard Part

1. Getting started.
2. Keeping current – maintaining current substantiation of your marketing representations is especially critical.
3. Finding the right person to head up your company's compliance functions.
4. Anticipate your client's needs for compliance documentation as a vendor and prepare accordingly.



Thank You

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