



The Ongoing and Formidable Challenge of Compliance Predictions for 2014

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Introduction

Compliance is at once a legal requirement, a reputational risk management strategy, an ethical imperative, and an unavoidable operational expense for debt collection service providers. But successful compliance is also an ongoing and mutable challenge for companies within the Accounts Receivable Management (ARM) industry.

Set against the backdrop of expanding guidelines, and new judgments and fines from the Consumer Financial Protection Bureau (CFPB), compliance has never been more relevant to ARM organizations' operations and financial viability. As the CFPB outlays consumer education and ease of access to the agency, it is in tandem levying significant fines to companies that have failed to comply and directing litigation not only at companies but at its officers as well. Add to that year-over-year growth in the number of federal court private litigation cases stemming from long-standing regulations — the Telephone Consumer Protection Act (TCPA), Fair Debt Collection Practices Act (FDCPA), Fair Credit Reporting Act (FCRA) — and compliance is vital to ARM companies and their leaders.

To help receivables management organizations better understand the complex compliance landscape of U.S. Federal and state laws and regulations, Interactive Intelligence and insideARM.com queried a group of ARM industry professionals about the future trajectory of major compliance issues in 2014. Their diverse experience, expert opinions, and forecasts for the coming year are presented in this paper — in their own words — as a starting point for continuing discussions, and to provide a contextual framework for the important business decisions ARM industry owners and executives must make in a compliance environment that has become onerous, and that will continue to evolve.

Preparing for the CFPB

Complaint management processes and systems take center stage

According to the *CFPB Supervision and Examination Manual*, there must be a systematic compliance control mechanism in place for ARM organizations — termed a Compliance Management System (CMS). The CFPB's Examination Manual describes all essential CMS components, most notably:

- Board level oversight
- Compliance-related policies and procedures (documented)
- Treatment of consumer complaints within CMS — everything from initial response and resolution, through root-cause analysis
- Internal and independent testing and audits
- Third-party service provider oversight and recordkeeping

In its opening letter, the *CFPB Supervision and Examination Manual* includes information regarding how the CFPB supervises and examines consumer financial product and service providers, and gives its examiners direction on how to determine if companies are complying with consumer financial protection laws. (Access the full manual [here](#).)

Jennifer Skornik

To some degree, everything we do in 2014 and much of what we did in 2013 is preparation for the CFPB. Our largest project is developing, testing, and maintaining a Compliance Management System. The process has already begun, so we are aware of the project's magnitude and scope.

Wendy Badger

Effective and efficient Complaint Management/Complaint Resolution programs will take center stage. Such programs will be designed to not only respond to complaints in a timely way, but to drive continuous improvements within the organization. We've already started seeing technology in the market designed to track complaints, but also to analyze the trends such as the frequency, severity, and nature of complaints. Trends related to individual phone agents, production teams, and supervisors will be identified and addressed.

Effective Complaint Management Systems will correct the issue for the particular consumer, and also identify systemic issues of a similar nature, and whether other consumers were impacted, that need to be addressed. We'll see phone agent compensation (commissions and bonuses) impacted by complaints, as well as having a roll-up impact to supervisors and managers. Such systems will not only correct the issue with the individual consumer, but will also drive the change to prevent similar situations in the future.

Chris Straiter

I see continued focus on Complaint Management, with enhancement of multiple avenues for consumers to provide feedback. Input methods should include written, verbal, and online sources, with the source information clearly documented in the complaint tracking information.

At the same time sources and methods of receiving complaint information are changing and expanding, there is a continuing need to manage for a variety of client definitions and categorizations of complaint data. In addition, client expectations for notification and consumer response processes can vary greatly based on client sophistication and internal structure.

Expanding the focus of internal audits

Jennifer Skornik

Internal audits, like everything else the Compliance Department does, will fall under the Compliance Management System. We are currently working on a risk assessment to get a better understanding of our weaknesses and strengths and to determine what areas need to be tackled first and where we should focus our efforts. When the risk assessment is complete, we intend to expand the focus of our audits and monitoring to the whole company — not just collection operations. Part of our CMS will include a comprehensive list of laws and regulations that affect ACT. This will include FDCPA, FCRA, TCPA, NACHA, REGP, employment law, and so many more. There are a daunting number of laws and regulations that affect every aspect of our business and we need to stay on top of our compliance with all of them.

More on compliance

In addition to the aforementioned FDCPA, FCRA and TCPA, there stand additional regulations ARM organizations must adhere to — the Electronic Funds Transfer Act (EFTA), Electronic Signatures in Global and National Commerce Act (E-Sign Act), the Unfair, Deceptive or Abusive Acts or Practices (UDAAP), to name a few. Several of these and others are also on the minds of our contributors as they look to 2014.

Telephone Consumer Protection Act (TCPA)

TCPA covers numerous aspects of communications with debtors; however, those most relevant to collections companies pose the highest risk:

- Express consent to autodial a cell phone,
- Revocation of consent, and
- Stale phone numbers associated with an account

Wendy Badger

Claims under the Telephone Consumer Protection Act (TCPA) will continue to rise. (Access a copy of the TCPA regulation [here](#).)

Wrong party contacts

Wendy Badger

There will also be an increased focus on contact with third parties — individuals who are contacted when the debt does not belong to them, and who have no relationship with or to the person who owes the debt. Examples of such third parties include individuals who have the same name, same last name, similar name, or is someone who lives at a former address of or has an old phone number of the person who owes the debt.

We will see a focus on these situations from the third-party's perspective (for example, stopping repeated contacts from subsequent debt collectors), and finding effective ways to stop such contacts when the individual says they are not the correct person. We'll need to find ways to pass bad contact information back and forth among the creditors and subsequent collection agencies, including "bad contact" information with placement and return files and ensuring that information travels with the account.

EFTA and Regulation E

Wendy Badger

We will also see an increase in claims under the Electronic Funds Transfer Act (EFTA) and Regulation E, specifically as it relates to recurring payments. (Access a copy of the EFTA Regulation E [here](#).)

Technology changes in 2014

One of our contributors sums it up well... "It's an unavoidable fact for us that our greatest risk is a phone call... and phone calls are the largest part of our business." Technologies are often used to help mitigate risks of that reality. For ARM organizations, those technologies typically include auto-dialers, call and screen recording, CTI/screen pop, supervisor dashboards, and most recently speech analytics applications. Our contributors share their focuses for the coming year.

Monitoring/reviewing collection calls for non-compliance

Jennifer Skornik

We intend to really dig in to call monitoring in 2014. With roughly 600 collectors in four dispersed call centers, we have our work cut out for us. We are diligently expanding our QA and Compliance teams to keep up with operations, and we are planning to expand the number of and type of calls we monitor. It's an unavoidable fact for us that our greatest risk is a phone call and phone calls are the largest part of our business.

Implementing Speech Analytics and other new technologies

Chris Straiter

The challenges and opportunities presented by the continually changing regulatory environment will require agencies to adapt and respond nimbly as creditor clients continue (or begin) to enhance their oversight and control. The successful agencies will not just respond to changes, but anticipate the changing expectations and landscape.

Utilizing new and evolving technology, we will continue to incorporate and enhance usage of a robust voice analytics tool for both compliance and operations. Properly integrated into your operation, voice analytics is a resource multiplier, enhancing both compliance oversight and providing a useful tool for training and collector development.

Some final thoughts...

Wendy Badger

There are a number of lessons that can be learned from the compliance obligations required in consent decrees. There are many regulatory expectations and business impact takeaways we can infer from consent decrees. It may also give us insight into rulemaking and enforcement.

Going into 2014, the credit and collection industry will see many of the distinctions between first-party and third-party debt collection disappears. The same, or similar, rules and regulations will apply to debt collection generally, regardless of who is attempting to collect the debt.

Chris Straiter

Become a regulatory and complaint resolution resource for your clients by engaging with the appropriate internal contacts to share best practices for common issues.

Jennifer Skornik

We're hopeful. Sometimes I don't know how the Compliance department keeps its positive attitude facing ever more complex challenges. But we spent a great deal of time planning, organizing, and preparing for 2014 and its challenges and we feel we're ready.

Our Contributors



Wendy Badger is the Director of Corporate Compliance for ECMC Group, Inc., based in Oakdale, Minnesota. Ms. Badger is a nationally acclaimed authority on the Fair Debt Collection Practices Act, the Fair Credit Reporting Act, the Health Insurance Portability and Accountability Act, the Gramm-Leach Bliley Act and their implementing regulations. She currently serves as the Director of Corporate Compliance for ECMC Group, where she oversees the corporate and regulatory compliance efforts of ECMC Group and its subsidiaries and affiliates. Wendy is responsible for promoting an organizational culture that encourages ethical and proper conduct and a commitment to compliance.



Jennifer Skornik is the Compliance Administrator for Account Control Technology (ACT). In her role at ACT, she responds to compliance audit and information requests from clients and regulators, facilitates internal and contractor audits, and creates and maintains compliance policies and procedures. Jennifer has been in the ARM industry for three years and is dedicated to ensuring the ongoing excellence of ACT's debt management services. With ACT's innovative technology, top-tier data security, and consultative approach utilized by highly trained agents in five offices nationwide, ACT delivers optimal debt management and collection results for the education, government, commercial, automotive, and utilities markets.



Chris Straiter is the Compliance Officer with Sentry Credit, Inc., a leading ARM firm based in Everett, Washington specializing in Financial Services, Education, and Mortgage receivables. His responsibilities include compliance, complaint management, and voice analytics. Chris joined Sentry Credit, Inc. February 2012, fresh from a two-year assignment as Portfolio Manager at American Express Global Collections. His responsibilities included managing agency performance, operational improvements, collector and leader development, and enhancing controls and compliance to American Express standards.

Prior to joining American Express, Chris was part of the consulting, audit, and conference operation at Resource Management Services, Inc., where he helped develop and present their Recovery Management Strategies and Techniques sessions, as well as developing conference content and various client operational audits. His recovery management experience began at Bank of America. His 13-year tenure there included ATM Risk Management, Agency Liaison, and Agency Audit & Agency Performance Management. Chris has presented compliance, vendor management, audit, and performance management topics at industry conferences, including Collections and Recovery Solutions, Debt Connection Symposium & Expo, and National Association of Retail Collection Attorneys (NARCA).