# TRANSFORMING CHANGE MANAGEMENT WITH REGULATORY INTELLIGENCE

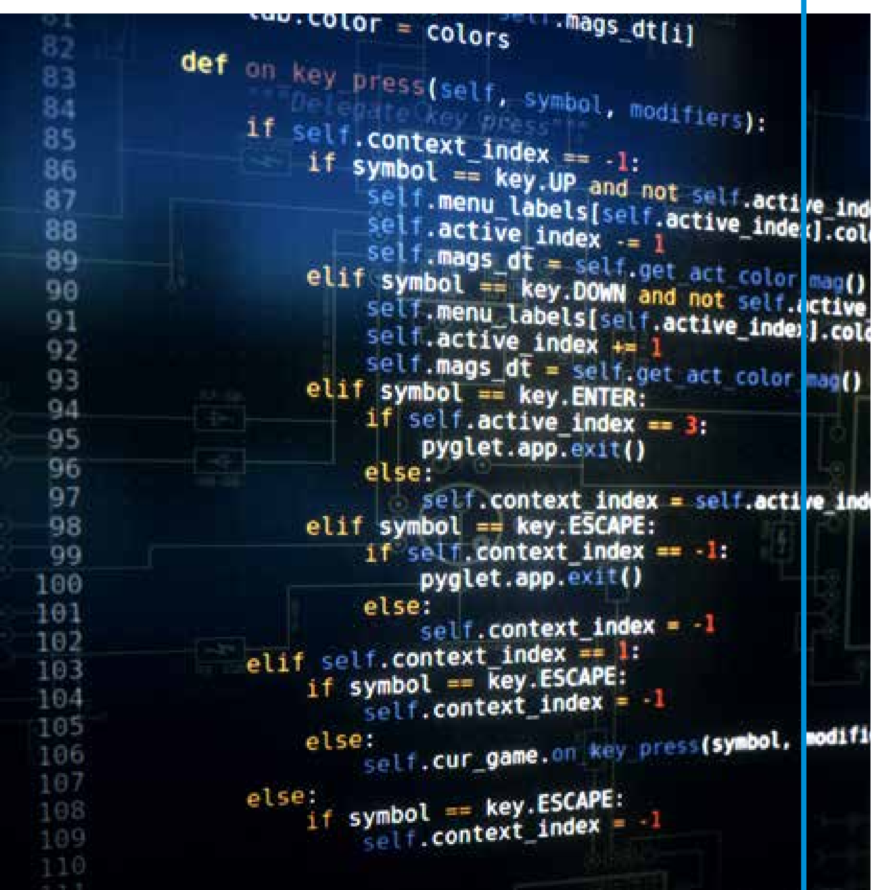
CAPCO

# REGULATORY INTELLIGENCE

With the regulatory landscape evolving at an unprecedented pace, both at federal and state levels, moving from a reactive to a proactive approach to regulatory change management is an important step for financial institutions. Regulatory intelligence plays a central role in this process.

### WHAT IS REGULATORY INTELLIGENCE?

Every institution defines regulatory intelligence differently. Capco Center of Regulatory Intelligence - CRI - sees it as a process of synthesizing regulatory data and information from industry sources into actionable intelligence. It is a critical aspect of institutional functionality. Regulatory intelligence can range in complexity from summarizing a regulator's speech to monitoring state legislative developments and recognizing how state law can fill a void in federal regulatory action.




### COMPOSITION OF REGULATORY INTELLIGENCE

Our formula for regulatory intelligence is as follows:

REGULATORY INFORMATION + APPLICATION

= REGULATORY INTELLIGENCE

**Examples of regulatory information:**

- Rules
- Regulations
- Legislation
- Congressional hearing testimony
- Judicial opinions
- Enforcement actions
- Guidance
- Speeches

**Examples of application:**

- Summarizing regulatory information
- Comparing regulatory information
- Evaluating regulatory information through SMEs
- Understanding what is excluded from regulatory information
- Determining and implementing changes to business requirements
- Performing an impact assessment and evaluation for compliance

# REGULATORY INTELLIGENCE EXAMPLE: CFPB STRATEGIC PLAN

In February 2018, the Consumer Financial Protection Bureau (CFPB) released its strategic plan for fiscal years 2018 – 2022. On the surface, it appears to be a straight-forward document that outlines the agency's main objectives for the coming years, listing three specific goals:

| GOAL 1 | GOAL 2 | GOAL 3 |
| --- | --- | --- |
| Ensure that all consumers have access to markets for consumer financial products and services. | Implement and enforce the law consistently to ensure that markets for consumer financial products and services are fair, transparent and competitive. | Foster operational excellence through efficient and effective processes, governance and security of resources and information. |

However, compared to other pieces of regulatory information, the document provides more insight into the agency. For instance, in October 2017, while Richard Cordray was director of the agency, the CFPB released a draft version of its strategic plan that outlined four goals:

| GOAL 1 | GOAL 2 | GOAL 3 | GOAL 4 |
| --- | --- | --- | --- |
| Prevent financial harm to consumers while promoting good practices that work for consumers, responsible providers and the economy as a whole. | Empower consumers to make informed financial choices to reach their own life goals and enhance their own financial well-being. | Inform the public, policy makers and the CFPB's own policy-making with market intelligence and data-driven analysis of consumer financial markets and consumer behavior. | Advance the CFPB's performance by maximizing resource productivity. |

Even a quick comparison of the two sets of goals suggests a potential shift in the agency's operations and intended future actions. The 2018 CFPB goals do not mention helping consumers make financial decisions. Instead, the plan focuses on helping consumers access markets. The draft language also emphasized the importance of data-driven analysis of consumer financial markets and consumer behavior. However, the final strategic plan makes no mention of this.

Similarly, the House Financial Choice Act would strip away the CFPB's market monitoring function and prohibit the agency from publishing consumer complaint data. However, CFPB's final strategic plan does not suggest any changes to the agency's educational and data analysis workstreams. These developments, coupled with the CFPB's recent request for information on complaint reporting, reveal that there are intra-agency negotiations on some of the agency's functions.

CRI identifies, monitors, and analyzes this type of regulatory developments. Recognizing how potential agency actions can impact institutions' business lines, products or services will help institutions be better prepared and respond faster to new regulatory developments.

# REGULATORY CHANGE MANAGEMENT

The maturity of an institution's regulatory change management process often determines what type of regulatory intelligence the institution needs. Any regulatory source document or industry publication can be considered regulatory intelligence. However, regulatory intelligence is most effective when combined, contrasted and analyzed against multiple pieces of regulatory information. For an institution, understanding the patterns and trends of a holistic ecosystem of regulatory information can provide distinct competitive advantage.

### BUILDING BLOCKS OF A REGULATORY CHANGE MANAGEMENT PROGRAM

An institution's regulatory change management (RCM) program comprises two key elements – regulatory information and the policies and procedures that determine the change processes. Regulatory intelligence can play a vital role throughout the RCM lifecycle. Having regulatory intelligence and institutional knowledge ingrained into the program makes the workflow assignment and closure more efficient and  influential. Below we outline the key steps of an RCM program and explain how being better informed can aid in their undertaking.

### REGULATORY APPLICABILITY

The foundation for any robust change management system is the definition of the universe of regulations applicable to each business unit, product or service, delivery channel or other internal program subject to regulatory or legal oversight. The result of this exercise is a reference document that helps inform other elements of the change management system (CMS), particularly as stakeholders determine actions for emerging regulatory events.

Similar to an institution's risk assessment, the regulatory applicability document (also referred to as map or matrix) is by its nature dynamic, and evolves through both internal and external forces. RCM stakeholders must have access to information from compliance management, product development and other enterprise functions that could modify any facet of the way an institution conducts business. In creating a strong regulatory applicability matrix, institutions can identify the types of regulatory intelligence that are specifically relevant to them.

# REGULATORY CHANGE MANAGEMENT CONTINUED CONTINUED

### REGULATORY TRACKING

Generally, individual RCM initiatives start with an instance of regulatory change that comes from a regulatory agency, such as a proposed or final rule, updates to examination procedures or topic-specific guidance, or state and federal laws. Based on the regulatory applicability document, institutions should implement a tracking program to ensure timely reporting of regulatory change events as they are announced, and laws as they become finalized. This also ties into the types of regulatory information the institution wants to collect and monitor so they can create or receive the desired regulatory intelligence.

Whether done internally or via a third party, the tracking element of the RCM program should ensure proper scope of coverage that mirrors the regulatory applicability document, and as best practice, goes beyond simple current applicability to provide insight into peer and industry trends.

### REGULATORY IMPACT ANALYSIS

Upon collecting the basic details of a new regulatory event, appropriate personnel must determine if there is a real impact to the institution. To achieve this, they must ask questions such as:

- Are there new regulatory requirements that apply to our existing offerings or processes?
- Could this change how we do business?
- Are there other stakeholders that need to know this information and be involved in more in-depth analysis?
- Could this impact various components of the CMS?
- What is the industry saying about this?

The end result of this initial impact analysis could range from an 'all hands on deck' red flag to a quick and simple acknowledgment that no action is required. Additionally, it may be prudent for the institution to document each of these decision points to demonstrate to the senior leaders and regulators how proactive and responsive the RCM program is. Part of this analysis should be based on the types of regulatory information being utilized. If an institution is really 'switched on', it will potentially avoid unexpected red flag situations or being blindsided, as they would have considered possible outcomes based on regulatory intelligence.

### INSTITUTIONAL RESPONSE AND STRATEGY

The next step in the RCM program is to conduct a more in-depth analysis and develop a strategy for implementing changes as a response to a regulatory event. RCM stakeholders will likely need to engage resources throughout the organization, including legal, regulatory and compliance, business line project managers and other subject matter experts, to define relevant requirements and project scope.

A critical part of this step of the program is to define a communication strategy to ensure that the right people receive the right information at the right time. This strategy could include a project plan template to effectively manage the next step in the process via key milestones, timeframes and deliverables. Items under review or subject to regulatory change are not limited to internal communications regarding the strategy itself, but also include training materials and, if necessary, regulatory and customer-facing materials and communications.

As part of this strategy, institutions should also consider how a specific regulatory change could alter the regulatory applicability document used at the beginning of the RCM process. The RCM program is not immune to the results of its own process.

# REGULATORY CHANGE MANAGEMENT CONTINUED CONTINUED

### DUE DILIGENCE

Most decisions financial institutions make require some degree of due diligence. Without it, blind decision-making can lead to harmful consequences for operations, risk, reputation and profit. Due diligence can be achieved by understanding the relevant intersection of law, regulation, guidance and public comments and should be completed before deciding to:

- Launch a new product or service
- Implement a new rule
- Change procedures to follow new guidance

### IMPLEMENTATION OF CHANGES

At this stage, the institution executes its strategy and implements the appropriate changes. As noted earlier, it is best practice to clearly document what actions the institution takes, who is involved and what the ultimate impact is for all involved parties (including customers). The implementation stage may include testing and ongoing monitoring of operational or other changes being put in place, especially if there are regulatory compliance implications.

# CONCLUSION

As the financial services industry continues to evolve, institutions must harness their resources efficiently and effectively, to become proactive in managing regulatory change rather than just playing compliance catch-up. Holistic, in-depth regulatory intelligence will inform successful regulatory change programs and ensure institutions are prepared to mitigate risk, remain compliant with changing laws, rules, and regulations, and ultimately stay ahead of the competition.

Capco CRI harnesses our comprehensive regulatory surveillance to synthesize information into industry-leading regulatory intelligence. Our regulatory change management consulting - RCMC - offers a gateway for maximizing the value of institutions' intelligence-gathering activities, helping our clients be proactive and reach advanced levels of maturity in regulatory change management.

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## ABOUT CAPCO

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