

CREATING AN EFFECTIVE ENTERPRISE LEARNING CULTURE



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IN THIS ISSUE

EDITORIAL NOTE FROM THE MANAGING PRINCIPAL, CENTER OF REGULATORY INTELLIGENCE	3
--	----------

REGULATORY ROUNDUP	4
---------------------------	----------

FOCUS: CREATING AN EFFECTIVE ENTERPRISE LEARNING CULTURE	5
---	----------

INTRODUCTION	5
--------------	---

COMPLIANCE TRAINING	6
---------------------	---

OTHER TYPES OF TRAINING	7
-------------------------	---

TRAINING DELIVERY METHODS	8
---------------------------	---

TIPS FOR ENGAGEMENT	10
---------------------	----

POST-TRAINING PROCEDURES	12
--------------------------	----

THE BENEFITS OF A POSITIVE CONTINUOUS LEARNING CULTURE	13
---	----

WHAT'S NEXT IN CONSUMER PROTECTION RULEMAKING	14
--	-----------

CONTACT US	18
-------------------	-----------

EDITORIAL NOTE FROM THE MANAGING PRINCIPAL, CENTER OF REGULATORY INTELLIGENCE



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In this month's Regulatory Intelligence Briefing (RIB), we outline the building blocks for a constructive enterprise learning framework that will give your institution tactical control over employee compliance with laws and regulations, while supporting collaboration and growth. We look at the nuances of compliance training, as well as other types of educational opportunities might be particularly relevant in the financial services industry, before mapping these types of learning to industry-leading delivery models and engagement methods. Finally, we look at the most effective ways to evaluate learning opportunities to shape an environment of constant advancement consistent with your institution's strategic goals.

Financial institutions recognize that employee compliance training is an essential and required component of a comprehensive risk management and compliance program. In many cases, institutions can use the opportunity to ensure that at the same time they are building out the essentials of their compliance training program, they create a positive organizational learning culture that could provide a true competitive edge.

Our secondary article this month evaluates the Bureau of Consumer Financial Protection's (BCFP or CFPB) recent publication of its Fall 2018 Rulemaking Agenda. We look at rules in the proposed, pre-rule and final stages, reviewing their histories to shed light on their implications. Staying informed is the only way to ensure your institution is ready for regulatory change when it comes, and this article offers proactive information and analysis to help keep your institution abreast of the developmental direction of consumer protection rulemaking.

As always, Capco continues to monitor all relevant developments in risk and compliance. Please let us know how these areas are affecting your institution by reaching out to us at Capco.CRI@Capco.com. ❖

REGULATORY ROUNDUP

Regulatory and Compliance Alerts

VA Publishes Status on ATR/QM Regulations

On October 9, 2018, the Department of Veterans Affairs (VA) announced its [intent](#) to publish new rules that implement the ability-to-repay (ATR) standards and qualified mortgage (QM) definition under the Truth in Lending Act (TILA). The VA previously published an interim final rule on May 9, 2014, but will not proceed with a final version of that rulemaking.

FHFA Launches Translation Clearinghouse to Assist Serving LEP Borrowers

On October 15, 2018, the Federal Housing Finance Agency (FHFA), Freddie Mac and Fannie Mae announced the launch of [Mortgage Translations](#), a centralized clearinghouse of online resources to assist lenders, servicers, housing counselors and other real estate professionals in serving limited English proficient (LEP) borrowers.

Agencies Issue FAQs on Appraisal Regulations

On October 16, 2018, the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board (FRB) and Office of the Comptroller of the Currency (OCC) issued a set of [frequently asked questions](#) (FAQs) on appraisal and evaluation functions. The document was developed in response to recent questions about the agencies' real estate appraisal regulations and guidelines and replaces previous FAQs on the appraisal regulations issued in 2005.

FTC Updates Methods for Sharing Consumer Complaint Data

On October 16, 2018, the Federal Trade Commission (FTC) announced it would begin releasing its aggregated [consumer complaint data](#) on a quarterly basis in a new interactive online format. The FTC will also begin publishing a report titled "Consumer Protection Data Spotlight," with the first issue covering scams that demand payments by gift cards or other reloadable cards.

SEC Issues Report on Internal Accounting Controls and Cyberthreats

On October 16, 2018, the Securities and Exchange Commission (SEC) issued an [investigative report](#) cautioning that public companies should consider cyberthreats when implementing internal accounting controls. The report is based on the SEC Enforcement Division's investigations of nine public companies that fell victim to cyber fraud, losing millions of dollars in the process.

BCBS Updates Stress Testing Principles

On October 17, 2018, Basel Committee on Banking Supervision (BCBS) issued its [stress testing principles](#), which replace the "Principles for sound stress testing practices and supervision" from May 2009. The updates reflect that stress testing is now both a critical element of risk management for banks and a core tool for banking supervisors and macroprudential authorities. ❖

CREATING AN EFFECTIVE ENTERPRISE LEARNING CULTURE

Financial institutions are no strangers to training tailored to their risk profile and compliance responsibilities. And, financial institutions recognize that employee compliance training is an essential and required component of an institution's risk management and compliance program. Employees must understand and adhere to laws and regulations along with internal corporate policies that apply to their daily roles so an institution can ensure that it meets regulatory requirements and supervisory expectations.

While financial institutions recognize the need to conduct compliance training, and spend the resources required to ensure it is comprehensive, timely and relevant, they may not be in sync with learning initiatives throughout the rest of the institution. "Enterprise learning" is a framework that gives employees the tools they need in their continued training and professional development to grow product knowledge and skills. When executed properly, its advantages are both:

Proactive

/ providing a constant learning arena for employees to deepen proficiencies in areas outside of narrow roles or domains, and supporting proactive, multifaceted solutioning

Tactical

/ changing the workplace culture, augmenting the feeling of cohesion and accomplishment and fostering loyalty.

Enterprise learning also increases revenue, decreases costs and accelerates timelines by improving business processes. Accordingly, employers may find it prudent to provide employees with tools that enable faster and more efficient access to knowledge. Learning and upskilling employees is a key component in retention and reaching overall business objectives.

Goal 1. A positive organizational learning culture can empower employees to take ownership of their responsibilities and the responsibilities of their team, and rise to opportunities by taking initiative as self-reliant problem solvers.

Goal 2. Employees that understand the objectives of their trainings, and see direct personal benefit as well as institutional buy-in, will be more likely to have a personal commitment to the institution's overall growth and development.

Goal 3. Constructive enterprise learning can also enable employees to work cohesively, since they understand their role, and their departments' roles, in the overall business; which can increase overall business efficiency and minimize disruption during times of change.

COMPLIANCE TRAINING

Financial regulators examine for a “culture of compliance,” which means evolving with and adapting to constantly changing regulatory requirements, scrutiny from regulatory agencies and, often, a strict budget. If employees do not understand the laws, the penalties of noncompliance or the details of correct compliance, an institution can face legal, operational and reputational risk — which can lead to costly violations. Compliance training can mitigate these risks.

Because regulators often cite lack of training or understanding as the cause of compliance failings, it is essential for financial institutions to find effective compliance training solutions.

It is important to remember:

Employees need to be **aware** of their **compliance** responsibilities.

Awareness can mitigate the risk of **compliance** breaches.

Compliance can protect an institution's **reputation**.

An institution with a good **reputation** can be a **successful** business.

Employees want to feel like they are part of an institution's **success**.

Federal regulators require training as part of an effective compliance management system (CMS). As the Bureau of Consumer Financial Protection (BCFP or CFPB) [outlines](#), a CMS should follow these tenets:

1. Compliance training is comprehensive, timely and specifically tailored to the particular responsibilities of the staff receiving it, including those responsible for product development, marketing and customer service.
2. The compliance training program is updated proactively in advance of the rollout of new or changed products, or the effective date of new or changed consumer protection laws and regulations, to ensure that all staff is aware of compliance responsibilities.
3. Training is consistent with policies and procedures and designed to reinforce those policies and procedures.
4. Compliance professionals have access to training that is necessary to administer a compliance program that is tailored to the supervised entity's risk profile, business strategy and operations.

Some regulations require trainings directionally geared toward different levels of a financial institution's operations, such as:

1. retail or first-line employees;
2. back-office personnel;
3. those serving in a lending capacity; or
4. the board of directors or C-suite executives.

Regulators require and/or recommend that financial institutions hold certain trainings annually, due to the importance, intensiveness or fluctuating nature of trends and legal obligations. Some of these include:

- Bank Secrecy Act/anti-money laundering (BSA/AML)
- Fair Lending/Community Reinvestment Act (CRA)
- Home Mortgage Disclosure Act (HMDA)
- Fair Credit Reporting Act (FCRA)
- Identity theft and red flags
- Privacy
- Regulation O (Loans by Member Banks to Their Executive Officers, Directors, and Principal Shareholders)
- Regulation CC (Availability of Funds and Collection of Checks)
- Regulation E (Electronic Fund Transfers)
- Unfair, Deceptive or Abusive Acts or Practices (UDAAP)

Some of these areas require training at all four levels. However, it is important to note the difference not only in tone of delivering training to different audiences, but also the difference in actual content. A board of directors, for example, does not have to learn the technical processes for proper customer identification under BSA/AML, while those helping or onboarding customers would require training on those nuances. However, the board level may require a more abstract explanation of the current trends in the field, and the implications a violation could have on the institution overall, examining operational, reputational and legal risks.

OTHER TYPES OF TRAINING

The financial services industry, like any other field, is constantly looking for new solutions and innovations for advancement. Investing in training outside of the required compliance trainings will help create a culture of organizational learning that can improve staff behavior, the organizational mindset, business capabilities, quality management and overall efficiencies.

Some of these training opportunities may not be directly related with financial services training requirements. For example, institutions can choose to teach management skills training for employees as they are promoted, or agile training for the product development teams to introduce their products and ensure successful market integration.

When considering a specific new training or a new element of the enterprise learning framework (such as a subscription to an online, self-guided education program, or an education stipend benefit for committed employees), an institution should consider:

- The importance or criticality of the training or educational offering
- Return on investment, or benefits in relation to budgetary limitations (keeping in mind both the limitations of that specific training and the less-quickly considered benefits such as workplace satisfaction and employee retention)
- Alignment with the organization's strategic plan
- Support from senior management and C-suite
- Ability to evaluate the training efforts and its impact



TRAINING DELIVERY METHODS

Once an institution has determined its training needs, which may include training as part of a CMS program or supplementary learning objectives, it is essential to fully consider the design of the training and the best delivery methods.

In deciding on a type of training, an institution should consider multiple factors relating to the learning objectives and the target audience, including:

- Where learners are geographically located
- Differences in learners' linguistic, physical, cultural and generational backgrounds
- Technological requirements for the training and learners' proficiencies in technological skills
- Learners' and potential instructors' experience with the subject matter
- Training's centrality to the organization's mission and strategic plan, including core employee competencies
- Budgetary restrictions and allocation concerns

There are many methods available for training, from traditional in-person sessions to more cutting-edge, technology-driven delivery mechanisms.

Classroom and Virtual Classroom

Classroom learning can be done in person or virtually, but a necessary component is the learners' ability to interact with the trainer and each other. The lecture and discussion format is common, as well as experiential learning through simulations or guided case study solutioning. The ability to engage with the material is especially effective for certain types of trainings, such as procedure trainings that cover confusing or technical details, or conceptual trainings that may require clarifying discussion.

One of the more popular forms of classroom-based training is instructor-led training (ILT). Custom ILT is a high-quality, customized training solution developed to meet an institution's specific needs and regulatory requirements. One of the major benefits of custom ILT is that it provides the opportunity to consider costs, location of learners, severity of identified training topics and convenience.

In custom ILT, the training developer can factor in the institution's risk profile, audit or examination findings, perceived weaknesses and required regulatory topics. The institution also has the ability to group training by regulation, area of focus, business function (deposits, operations, lending, cybersecurity) or job classification. With this level of customization, a uniquely tailored training can create team cohesion through the learning process. Furthermore, an institution can select an instructor appropriate to facilitating such cohesion depending on the subject matter, such as using an outside instructor to collectively train all compliance team members, including the compliance officer, on new cybersecurity measures.

Self-directed Study and e-Learning

Self-study options work best for self-directed individuals who are more likely to learn well when they can go at their own pace. Traditionally, this type of training was done through workbooks, but learners often found the work tedious. Sometimes, a traditional paper workbook will still do the trick, but today, many self-study options are provided online or through mobile learning platforms, which provide a more interactive aspect to self-directed learning.

There are many skills portals and learning management systems (LMS) available to companies, to teach both hard and soft skills, and a variety of subscription options that can allow employers to choose which types of trainings are available to which staff, and when. Some LMS allow managers to set deadlines for employees to complete trainings or to check in on progress and performance. Having access to informational databases can also be useful, so employees can get immediate answers to important questions, as they arise.

In addition to required trainings, self-directed study options are good for employees who are personally motivated to grow and expand their horizons. Self-directed study options that are available but not required can provide a metric for institutions to track those employees who are proactive about and committed to self-improvement.

Some examples of when self-directed learning might work for employees is when they are studying for an upcoming certification exam, or trying to learn new job-specific, non-technical skills, such as how to build better verbal sales pitches or manage subordinates.

On-the-job Training

New employees or employees in new positions sometimes receive on-the-job training from more experienced employees. This can be a designed process or something more informal, such as shadowing, and is beneficial in that it is individually-focused and minimizes non-working time.

Today, there are many platforms for on-the-job training that utilize technology such as tablets or phones. The digitization of on-the-job-training gives an institution more control over the information new employees receive, and can provide both proactive advice or in-time guidance.

One situation in which this can be most effective is when there are regulatory or technology changes that happen rapidly and employees need to know the latest to be effective in their position. As an example, if an institution adopts new procedures for customer information intake, the institution can embed automatic prompts in the intake software to remind employees of the new procedures.

In another situation, an employee may need to learn how to perform a specific task, such as filing a report. Utilizing mobile learning, such as a pre-recorded training available by phone or tablet, the institution can provide step-by-step guidance to walk the employee through the procedure, so that every employee who performs that task receives the same training and the task is accomplished uniformly throughout the institution.

Blended Learning

Of course, there is always the option to mix and match different delivery methods for optimal impact and efficiency. For example, the automatic prompts mentioned above as one of the on-the-job learning options may work better and create stronger competencies if paired with a live demonstration of the new processes in a classroom setting, where employees can ask questions or make process improvement suggestions. Or, it could be constructive to each new concepts in an e-learning format and then put employees into group problem solving sessions to apply their learning.

Capco Academy offers a variety of training solutions, from virtual and live custom ILT to webinars and workshops. Contact us to find out more at capco.academy@capco.com.



TIPS FOR ENGAGEMENT

Training that provides employees a rundown of rules and regulations, without engaging the audience, can be ineffective. Employees tend to tune out or skip over the training, thinking they already know the content. Training that provides a summary of the rules and regulations, that simply checks the regulatory agencies' boxes of training being provided, can sometimes leave employees ignorant of important compliance issues.

There is a myriad of options to drive learner engagement, both in compliance training and other learning initiatives.

Social and Collaborative Learning

By incorporating social elements into workshops on complex regulatory topics such as the Know Before You Owe Mortgage Disclosure rules and HMDA, employees can further their knowledge while benefitting from peer-to-peer relationship-building. Encouraging collaboration and sharing can:

- Increase learners' personal commitment to the training
- Bring new information and experience to the conversation
- Actively enhance the training material itself
- Help create a supportive learning environment
- Provide immediate feedback to strengthen skills
- Create a trusted support network for post-training follow-up

Using Storytelling to Engage

Some areas, such as BSA/AML and privacy require annual trainings, and for many, the repetition can render these topics dry. One effective method Capco has used to enhance this type of training is to tell a story around a topic. Often, this means telling a story (anonymously) about an institution that either followed requirements well or missed the mark, and the benefits or repercussions that occurred.

Studies have [shown](#) that “Storytelling can help effect conceptual change by providing many connections among concepts, ergo making them more meaningful to the learner. The learner can integrate the information into his/her conceptual ecology in a meaningful and interesting way.”

When a story becomes more personal, such as putting something known into a historical context, people are more likely to remember it and care about it. In the case of regulatory training, this type of learning tool could lead to fewer errors and, in turn, fewer fines and penalties for non-compliance.

Bringing Regulations to Life Through Historical Storytelling

Capco has found that an effective way to bring regulations to life is to discuss the history of the laws themselves, for a better understanding of the motivations behind the requirements. Some examples of the stories include:

- / Truth in Lending Act (TILA): William Proxmire, a former senator from Wisconsin, was known to be frugal — he originated the “Golden Fleece award,” an annual prize for the government agency that wastes the most money. He also felt consumers should get good value when looking to spend their money, so he introduced TILA to help create a process for consumers to get the best deal when borrowing.
- / Fair Credit Reporting Act (FCRA): Cator Woolford was a grocer in Tennessee in 1898. He compiled a list of customers with indications of their creditworthiness, for the local Retail Grocer’s Association and sold copies of this book to other merchants to cover his costs. This was the origination of one of today’s largest consumer reporting agencies. As consumer reporting became a more and more impactful tool, the government began to realize the implications of misinformation and a consumer’s right to manage their own credit reports, so in the 1960s, the government provided the FCRA to regulate what had become a powerful component of lending.

Learning the history of a regulation can increase engagement and understanding. It adds a new layer to the purpose of the law, and, in addition to serving as a great mnemonic device, can in some cases help employees become more intrinsically motivated to follow the requirements.

Gamification of Training

Making training a game can increase attentiveness and reinforce learning, because it requires employees to use the information they’ve learned. This could be a good strategy for a group that has previously received training on a specific topic and needs a refresher course; or a group that has been using a set of skills on the job, but has never been formally trained and therefore may have stronger and weaker areas of understanding or disparate interpretations among team members.

One of the simplest methods for creating a knowledge-based training exercise is to break a class into groups and play team-based games. There are numerous electronic platforms that mimic popular quiz-style show formats, and an informed instructor can also create tests using these common formats.

Learners who engage in these types of activities often retain the information much better, which benefits overall cognition and enhances employee development. Specifically, certain brain cognition studies have [shown](#) that “competition, as a social-evaluative phenomenon, can increase the amount of cognitive resources beyond what is needed to simply execute the task demands. The cognitive effort could be increased in competition when subjects have potentially contrasting goals.”

The group format is especially effective because it builds camaraderie within teams and levels out knowledge so that those who still need information reinforcement can learn from the learners who picked up the information more quickly, without putting one individual into an uncomfortable situation (which could be more detrimental to the learning overall).

POST-TRAINING PROCEDURES

After completing a training, or after implementing a new learning objective or product, it is essential to follow up. This means not only evaluating training right after it is complete, but also measuring and monitoring the training's impact over time.

The most important aspect of evaluation is ensuring the investment is worth the cost. Supporting quality training and learning opportunities can be expensive. Evaluations should clearly address return on investment, so that executive management can see whether certain initiatives are worthwhile.

When formulating metrics for evaluation, consider aspects such as:

- Initial reactions and levels of in-training engagement at various stages
- The knowledge, skills or information garnered versus what was intended
- Any behavioral changes, individually or institutionally
- Tangible enhancements toward organizational goals

Teams that manage enterprise learning (including compliance training, organizational development and performance, etc.) should partner with compliance and internal audit departments when developing training plans. Understanding areas where compliance testing and monitoring show weaknesses will help identify areas in need of extra training, either for an individual employee, team, business line or the organization as a whole.

It may also be necessary to monitor impact over a few years. Long-term impact can be more difficult to measure, but can be critical in determining the worthwhileness of a learning effort. Some tactics for monitoring impact over time can include periodic employee knowledge testing, performance evaluations or customer satisfaction surveys, using a control group to ensure proper correlative testing.





THE BENEFITS OF A POSITIVE CONTINUOUS LEARNING CULTURE

It is easy to gauge the importance of compliance training. As regulator-required components of business operations, institutions are familiar with the criticality of these trainings, and understand the budgetary requirement. Institutions can also find untapped value by understanding the potential for broadening the culture behind these learning engagements. Creating an organizational attitude that fosters innovation and a desire for knowledge can reward an institution multiple times over in the end.

Engagement and motivation do not stop once people leave the classroom. An effective training, and the messaging and investments around trainings, can demonstrate that an institution believes in its people. This type of constructive culture supports intrinsic motivation, keeping employees engaged over time and committed to advancement.

When developing training programs, it is important to include these initiatives as a part of an organizational learning framework, to enhance employee commitment. When creating specific trainings, consider the target audience and the organizational goals, as laid out in the institution's strategic plan. Then, consider what training content is necessary and what forms of delivery are available. It is also essential to have buy-in from top management.

An institution that shows commitment to a positive learning culture through continuous learning and development programs can:

1. Increase employee loyalty
2. Create cohesion in business processes
3. Foster collaborative innovation
4. Retain talent and grow potential internally
5. Improve productivity and create a 'do it now' mentality
6. Mitigate instances of violation
7. Decrease reputational, operational and legal risks

Continuous learning programs are key to helping businesses gain an edge over competitors. With the proper support and organizational commitment, learning and development can become a business solution that will increase revenue and drive faster quality innovation. ❖

WHAT'S NEXT IN CONSUMER PROTECTION RULEMAKING

On October 17, 2018, the Bureau of Consumer Financial Protection (BCFP or CFPB) published its Fall 2018 rulemaking [agenda](#). The agenda includes rules in the pre-rule, proposed rule and final rule stages; and the agency issued the update as part of the Office of Management and Budget's (OMB) [Unified Agenda](#).

The CFPB agenda includes rulemaking initiatives aimed at implementing provisions of various statutes, including directives mandated in the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA); the Dodd-Frank Act and others.

THE CFPB HAS ALREADY ISSUED TWO RULES RELATING TO EGRRCPA.

An interim final rule that adjusts certain Fair Credit Reporting Act (FCRA) forms

The [interim final rule](#) became effective on September 21, 2018, but the CFPB is accepting comments until November 19, 2018. The new section requires that a consumer receives a new notice of rights whenever the consumer is required to receive a summary of rights required by FCRA section 609. The interim final rule amends the model forms in Appendices I and K (model summary of rights to obtain and dispute information in consumer reports and to obtain credit scores; and a model summary of rights of identity theft victims) to incorporate the new required notice, among other things.

The Summary of Consumer Rights includes the right to obtain a copy of a consumer report, the frequency and circumstances under which a consumer is entitled to receive a free consumer report, the right to dispute information in a consumer's file, and the right to obtain a credit score. A consumer reporting agency must provide a Summary whenever it makes a written disclosure of information from a consumer's file or a credit score to the consumer.

EGRRCPA & FCRA

An interpretive and procedural rule that clarifies aspects of HMDA

As a refresher, in October 2015, the CFPB issued the 2015 Home Mortgage Disclosure Act (HMDA) Final Rule, which incorporated amendments from the Dodd-Frank Act. The 2015 HMDA Final Rule modified the types of institutions and transactions subject to Regulation C, the types of data that institutions are required to collect, and the processes for reporting and disclosing the required data; in addition to establishing transactional thresholds that determine whether financial institutions are required to collect data on open-end lines of credit or closed-end mortgage loans.

The CFPB decided to initiate a rulemaking to reconsider aspects of the 2015 Final Rule, including the institutional and transactional coverage tests and the rule's discretionary data points; as well as increasing the threshold for collecting and reporting data with respect to open-end lines of credit for a period of two years so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to begin collecting such data until January 1, 2020.

EGRRCPA & HMDA

This interpretive and procedural rule, issued September 7, 2018, implements and clarifies the requirements of section 104(a) of the EGRRCPA, which amended various HMDA provisions. The rule clarifies:

- That as long as insured depository institutions and insured credit unions covered by a partial exemption under EGRRCPA report all data fields within any exempt data point for which they report data, they have the option of reporting exempt data fields;
- That only loans and lines of credit that are otherwise HMDA-reportable count toward the thresholds for the partial exemptions;
- Which of the data points the partial exemptions cover;
- A designation for a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a universal loan identifier; and
- EGRRCPA's exception to the partial exemptions for negative Community Reinvestment Act examination history.

On October 30, 2018, the CFPB issued a revised version of the HMDA [Small Entity Compliance Guide](#), to reflect EGRRCPA partial exemptions and this interpretive and procedural rule.

TO FOLLOW ADDITIONAL DIRECTIVES UNDER EGRRCPA AND DODD-FRANK, THE CFPB ADDED SEVERAL NEW RULEMAKING INITIATIVES.

EGRRCPA & Dodd-Frank

A rulemaking to exempt certain creditors with assets of \$10 billion or less from certain mortgage escrow requirements under the Dodd-Frank Act (under EGRRCPA)

EGRRCPA

A rulemaking to develop standards for assessing consumers' ability to repay "Property Assess Clean Energy" financing (under EGRRCPA)

Dodd-Frank & HMDA

A rulemaking to govern HMDA data disclosure in future years (under Dodd-Frank)

A statutory directive in the Dodd-Frank Act HMDA amendments require the CFPB to modify or require modification of the public HMDA data to protect consumer privacy interests. Within the next few months, the CFPB anticipates final guidance for 2018 HMDA data public disclosure, in line with privacy interest standards of the Dodd-Frank Act HMDA amendments. The agency will also add a new notice-and-comment rulemaking regarding future HMDA data disclosure, in response to stakeholder comments urging more formal processes for data disclosure.

THE AGENDA ALSO LISTS CONTINUATION OF EXISTING RULEMAKING.

Payday Rule Timeline & OCC Overlap

Evaluating its Payday Rule

New Administration

In January 2018, as one of the first [press releases](#) under Acting Director Mick Mulvaney, the CFPB announced plans to reconsider a 2017 rule (promulgated under former Director Richard Cordray) titled Payday, Vehicle Title, and Certain High-Cost Installment Loans (Payday Rule), which has a compliance date in August 2019.

Plan to Reconsider

On October 26, 2018, the CFPB issued a [statement](#) outlining its plans for the Payday Rule, which will include proposed rules that address the compliance date and reconsider the ability-to-repay provisions of the rule.

Expectations for 2019

The agency plans to issue proposed rules in January 2019.

Of note, on May 23, 2018, the Office of the Comptroller of the Currency (OCC) issued a bulletin encouraging banks to offer responsible short-term, small-dollar installment loans to help meet the needs of consumers. Comptroller Joseph Otting [stated](#), “Millions of U.S. consumers borrow nearly \$90 billion every year in short-term, small dollar loans typically ranging from \$300 to \$5,000 to make ends meet.”

The bulletin also discussed how it related to a rescinded guidance from October 2017 for deposit advance products, and how continuing that guidance would have subjected banks to potentially inconsistent regulatory direction and undue burden when complying with the CFPB’s Payday Rule. The bulletin, which came out after the CFPB’s announcement that it would be reconsidering the Payday Rule, states the OCC’s intention to work with the CFPB to make sure OCC banks can continue to offer consumer lending covered under the Payday Rule.

Amending HMDA, in relation to the threshold for collecting and reporting HMDA data with respect to open-end lines of credit and other EGRRCPA implementations

In August 2018, the CFPB issued an interpretive and procedural rule clarifying the EGRRCPA’s partial HMDA exemptions, and the agency expects to address this through upcoming notice-and-comment rulemaking. A Notice of Proposed Rulemaking is expected in spring 2019 to address some or all of the issues related to the various HMDA projects.

Addressing communications issues and consumer disclosures under the FDCPA

Debt collection remains one of the top complaints to the CFPB, and the agency is continuously striving to improve the area through research efforts and pre-rulemaking activities. Industry and consumer groups have encouraged CFPB rulemaking to address modernizing the Fair Debt Collection Practices Act (FDCPA). The CFPB has announced that it will issue a Notice of Proposed Rulemaking by March 2019, to address communication practices and consumer disclosures, among other issues.

Implementing inflation adjustments in the Expedited Funds Availability Act, and other EGRRCPA considerations



THE CFPB NOTED THAT RULEMAKING PRIORITIZATION MAY SHIFT.

Other focus areas may include:

- Completing its first three statutorily-mandated assessments of prior ‘significant’ rulemakings (Remittance Rule, 2013 RESPA Mortgage Servicing Rule, and Ability-to-Repay-Qualified Mortgage Rule) by January 2019
- Assessing the Know Before You Owe Mortgage Disclosure Rule
- Reevaluating the Equal Credit Opportunity Act (ECOA) regarding the impact of Supreme Court case law and Congressional disapproval of the indirect auto lender bulletin
- Reviewing the definition of “abusiveness” under the section 1031 of the Dodd-Frank Act, “Unfair, Deceptive, or Abusive Acts or Practices”

Exemplary of shifting priorities, the CFPB removed from the agenda a rulemaking related to section 1071 of the Dodd-Frank Act which amended the Equal Credit Opportunity Act to require institutions to collect, report and make public certain information concerning credit applications made by women-owned, minority-owned and small businesses. This moved from “pre-rule” to “longer-term action” status.

Implications of Larger Shifts

The defining characteristic of the Fall 2018 Rulemaking Agenda is the noticeable shift to a focus on EGRRCPA implementation, and reconsideration of certain statutes promulgated under previous leadership, such as the Payday Rule. Representative of the shift in tone at the agency since Mulvaney’s appointment, and reflective of legislative changes, the updated Agenda provides critical insight into what lies in store for financial institutions going into 2019.

ABOUT CAPCO

Capco is a global business and technology consultancy dedicated to the financial services industry, plus a dedicated energy division. Capco delivers innovative solutions in Banking & Payments, Capital Markets and Wealth & Asset Management, designed to withstand market forces, continual regulatory change and increasing consumer demand.

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