Consumer Protection
Addressing Major Areas of Concern for Banks
The Consumer Finance Protection Bureau (CFPB) was established as an integral element of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act).

The CFPB, with a broad mandate encompassing writing rules, supervising companies and enforcing consumer financial protection laws, can be seen as a direct response to lending and marketing practices that contributed to the 2008 financial crisis, including increased access to credit and rapid expansion of consumer and mortgage debt.

Consumer protection has been evolving over the past 20 years, shaped by events such as the Enron collapse, the crisis in subprime mortgage lending, and the insolvency of mortgage guarantors Fannie Mae and Freddie Mac.

The CFPB, charged with protecting the interests of the individual consumer, is one more addition to the large group of regulatory bodies responsible for writing and enforcing rules and regulations related to financial services. As each law is enacted – typically with multiple regulations – rulemaking authority can be delegated to one agency with enforcement carried out by others.

For example, enforcement of the Truth in Lending Act, aimed at promoting the informed use of consumer credit products, is the responsibility not only of the CFPB but also of the Federal Reserve, the Federal Deposit Insurance Corporation (FDIC), the Office of the Comptroller of the Currency (OCC) and the National Credit Union Administration (NCUA). Similarly, the Fair and Accurate Credit Transactions Act (FACTA) – designed to give consumers credit information in a fair, timely and accurate manner – is enforced by the Federal Trade Commission (FTC), the Federal Reserve, the FDIC, the OCC, the NCUA and the CFPB.
Voices from the Industry

In discussions with industry leaders, we asked them about issues they face in relation to consumer protection. Below, are paraphrased comments captured.

"In our company, consumer protection is the responsibility of all executives"

"We need better testing and controls to self-identify issues before customers and regulators do"

"We have trouble keeping track of consumer protection regulations as they are created"

"Our process is ad-hoc and we need something sustainable for the long-term"

"We have a process but it is not as rigorous as it should be"

"Our process seems to be very demanding and inefficient"

"We are running into resource constraints given the pace of consumer protection regulations"

"To reduce the risk in the manual process of tracking customer complaints, we have centralized the team that handles these issues"

"We are focusing attention on consumer protection and hiring more FTEs"

"We have no automated way of tracking consumer protection issues"

"We are trying to create a vision at the top to filter down through the company"

"Reports exist but they are manually aggregated"
The key elements of consumer protection can be summarized as follows:

- Establishing the right policies to direct the behavior of the business;
- Making better decisions around client management issues;
- Improving information gathering and aggregation;
- Identifying patterns indicating potential problems;
- Responding promptly to customer complaints; and
- Being able to rapidly change and universalize new policies.

To get all of these elements in place and operating in a complementary manner, banks need to work through systematic changes in the following areas.

### Governance

One common feature of consumer protection regulation is that regulators have requested fewer points of contact with bank personnel. The regulators seek a centralized information repository to respond to their requests. Consumers have also pushed regulators to limit compensation paid to bank executives.

Under these pressures, banks may need to anticipate new regulations so that they can set future strategies. In our view, the damage to larger banks’ reputations has caused some consumers to switch, or to consider switching, to smaller community or regional banks, and other disruptions can be expected. Banks may also want to consider new governance practices to respond to these changes, including:

- Moving to a more customer-centric model in which the bank offers a uniform package of products and services to consumers;
- Taking innovative approaches to compensating and retaining top talent;
- Establishing a centralized entity within the bank to understand all regulations and create a cohesive approach to dealing with regulatory concerns; and
- Incorporating rules applicable to consumer protection into an enhanced new process for assessing potential product and/or service introductions.

### Customer Communication

Consumer protection regulations have affected the way banks handle their interactions with customers. Regulatory changes, for example, have increased banks’ requirements to disclose fees, conflicts of interest, product descriptions, obligations and collection practices. Broadly speaking, terms and conditions should be easier to interpret, and annual reports and statements should contain clear information on investment objectives, strategies, costs, risks and compensation structures.

The regulations dramatically affect banks’ credit card businesses. Consumers must be readily able to opt out of particular product features such as credit card over-limit liability, and banks cannot hand out credit card applications on college campuses and card prospects must be 21 years of age or prove that they have an income and can pay for debt incurred. These types of regulations can restrict a bank’s ability to market their products.
Banks also are required to collect more information during customer screening process, including new elements such as the Social Security Number, the prospect’s occupation, his or her income and ability to pay, current housing payment and proof of address.\(^5\)

In our view, these changes may cause some banks to re-think their participation in certain product or market segments. Most changes have affected mortgages and credit cards, usually seen as the most problematic products, but similar changes can be expected for student loans, car loans and personal loans. Banks may need to re-word scripted offer letters as well as their call center scripts, and may need to train and monitor sales and collection personnel more closely.

High-performance customer communications practices banks may want to consider include:

- Leveraging legal counsel to determine what needs to be disclosed in public reports;
- Creating new applications and strategies to reflect new customer attributes as well as new decision-making criteria;
- Determining new ways to originate younger credit card applicants, as many prospects will not have sufficient credit at age 21; and
- Incorporating social media and digital communications as means to inform and respond to consumers.

### Operations

Consumer protection rules and regulations have also changed the basic ways that banks conduct their business. For example, customers must now be able to learn the reasons they have been denied credit, and must be given access to their credit scores.\(^6\) In the interests of fair lending, banks generally cannot give better rates to specific customers except for risk-related reasons. Disclosure of required information must be accurate and made in a timely manner. Regulators may also determine what private wealth advisors can sell to consumers.

With these rules in place, we believe banks’ client acquisition strategies may shift or become more selective based on product changes. In addition to new processes to support delivery of legally required disclosures on a timely basis, banks may need to generate more macroeconomic data. This data would be overlaid on forecasts to help predict what may happen under stress situations, such as higher unemployment rates or continued decreases in housing prices.

Based upon our work in this area, banks’ leading practices in operations include:

- Finding ways to replace lost revenue streams by exploring other revenue sources, such as checking accounts;
- Developing more sophisticated credit card acquisition strategies to ensure customers are offered the most appropriate product and price point;
- Modifying the range of products and services offered by advisors;
- Being more selective about which clients to take on board; and
- Training people in what can and cannot be said to customers in providing them with advice.

### Policies and Procedures

Consumer protection rules and regulations have changed the way banks conduct business. Banks now operate under increased regulatory scrutiny, and consumers have access to government programs to help educate them and alert them to possible deceptive practices and to abusive and/or illegal collection procedures. Regulators are creating rules that require financial institutions to retain a portion of the risk of the accounts they originate.\(^7\)

This increased scrutiny has slowed business processes. Requirements stemming from new regulations such as Foreign Account Tax Compliance Act (FATCA) and Legal Entity Identifier (LEI) need to be incorporated into existing processes such as client on-boarding.\(^8\) Banks now have a greater incentive to originate accounts responsibly.

In our view, high-performance banks have adopted new policies and procedures including:

- Communicating to regulators how current and future processes affect consumers;
- Automating processes to increase efficiencies and reduce potential errors;
- Providing annual training to review new duties, obligations and regulations; and
- Enhancing operational risk practices, both to manage new exposures from consumer protection requirements and to update Risk and Control Self-Assessment (RCSA).
Banks and other financial institutions have an obvious incentive to follow consumer protection rules and regulations: the need to avoid possibly onerous fines. The direct impact of noncompliance can be enormous. Actions can be brought against financial institutions resulting in fines, penalties and equitable remedies. In FY 2013, CFPB Civil Penalty Fund deposits totaled more than $49 billion collected from institutions. These fines and penalties can disrupt operations, affect quarterly earnings and decrease market capitalization.

Consumer protection can also have a direct impact on banks’ public image and reputation. One of the CFPB’s primary goals is to collect, monitor, and respond/share data associated with customer inquiries and complaints. This means that public complaints will be much more open and that customers will consider these complaints when making banking choices.

Finally, as consumer protection regulations have been introduced, there has been a fundamental shift in the way banks can make money. For example, because banks can no longer charge over-limit fees without customer consent, they must either find new sources of revenue or re-think their current business models.

Data, Technology and Reporting

As regulators scrutinize financial institutions, they are asking for new data sets and more refined data elements, which they will use to compare banks with each other. The CFPB, for example, has developed a new complaint database for mortgages, credit cards, bank accounts, and automobile, consumer and student loans. While the extent to which the CFPB leverages and acts upon this complaint database is still to be determined, the regulators will have a new tool to determine what may be best for consumers. The database could help prevent new unethical or deceptive practices from occurring. Regulators now also require new internal and external reporting, which may need to be consistent across business units and/or functions such as compliance, credit risk, market risk, regulatory risk and operational risk.

Regulatory requests will cause banks to create new reporting tools, processes and procedures. To support flexible reporting and analytics capabilities, banks will need to capture data at the transaction level with the same level of consistency for all products and will also need to be able to provide summaries on demand.

Leading data, technology and reporting practices include:

- Creating a mitigation plan to address concerns arising from the CFPB complaint database - banks can access this database and can share the mitigation plan with regulators to decrease regulatory scrutiny;
- Focusing on increased accuracy and consumer confidence by transforming data architecture to seek source system consolidation and the development of a "single version of the truth", or access to a single centralized data base for each key reporting subject area;
- Overlaying more macroeconomic data onto forecasts to predict what will happen under conditions of higher unemployment, or in case of other economic shocks such as sharp decreases in home values; and
- Developing increased scalability and flexibility for IT architecture to address changing business needs.

The Importance of Consumer Protection
Consumer Protection Programs
The Elements of Success

Through our work with banks and other financial institutions – and our research into leading industry practices in the area of consumer protection – we have identified four key characteristics of successful consumer protection programs.

1. Leadership Buy-In
The bank’s executive leadership demonstrates the importance of consumer protection and its place in the regulatory environment. Business owners and the heads of lines of business – those with direct responsibility for the customer relationship experience – demonstrate similar commitment. To achieve this buy-in, training is conducted at different levels and different areas throughout the organization. This commitment extends to call center managers and staff, as they have direct contact with customers.

2. Being Proactive
Organizations should be proactive in identifying issues before they are identified by the regulators. This not only helps solve issues before they affect customers, but mitigates them before they come to regulators’ attention. Showing regulators that this proactive approach is in place creates a stronger bond of trust with the regulatory bodies. Successful organizations are also proactive in self-assessments and in mitigating issues and instituting the changes needed. Some organizations, for example, may set up processes and checkpoints that screen and verify bank interactions with customers to help ensure these are compliant with current regulations.

3. Staying Well-Informed
We have observed that successful organizations are informed about the issues related to consumer protection that directly affect their operations. They compile data that is easily accessible, objective, accurate and timely. They use key risk indicators (KRIs) at a level which gives executives the ability to understand what is happening and to take the appropriate actions, and all stakeholders (including lines of business) know each other’s roles and responsibilities.

4. Establishing a Coordinated Process
Successful banks coordinate their efforts to remediate outstanding issues and implement fixes in all areas of the organization. An issue recognized as a potential problem in the mortgage business, for example, may also be a potential problem in the credit card business. Coordination helps reduce costs and increases efficiency while addressing issues in a timely fashion. This includes integrating upcoming regulations with existing regulations to understand their full implication. Issues are dealt with no matter where they are identified – whether by a line of business, by a regulator, or by a customer – and the organization draws upon its expertise with Big Data to manage the full range of consumer protection issues.
In our work helping banks and other financial institutions deal with consumer protection issues, we often take a four-step approach.

**First**, a single, internal regulatory team is formed to help bank entities understand and deal with regulatory requirements and maintain relationships with regulators.

**Second**, proper operations, policies, procedures and governance need to be established to address current and planned regulatory changes and to set up appropriate training.

**Third**, data, technology and reporting architectures should be refined to enable the reporting capabilities needed to meet the demands of the business and of the regulators.

**Fourth**, the interactions among entities need to be clearly defined and assigned the appropriate global policy, with procedures detailing roles and responsibilities. KRIs can be created for both the CFPB system as well as for internal complaint systems.

Before this approach gets under way, an initial assessment can help the bank benchmark its own practices against those of leading institutions. When issues are identified, Accenture and the bank develop a roadmap of forward-looking initiatives to deal with the full range of consumer protection issues.

Design of target state functions may include a detailed governance structure, with appropriate policies and procedures to deal with consumer protection; a data management architecture to help the company identify issues before they are identified by CFPB monitoring systems; and a reputational risk program for dealing with negative public information.

As initiatives move into implementation, Accenture can help train staff for new functions, processes and procedures; bring new technology into place to support the needs of the new functions; integrated automated reporting; and support enhanced operating models.
In our view, consumer protection is here to stay and will grow in significance over the years to come. The trend towards consumer protection is highly complex and is evolving rapidly, with implications for many different operations at financial institutions.

Despite the challenging nature of the subject, banks can align themselves with consumer protection trends and improve their positioning relative to competitors. Those banks that do so – taking a strategic and proactive, rather than tactical and reactive approach to consumer protection – should create a significant competitive advantage for themselves and their stakeholders.

Conclusion


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