ComplianceAction

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ComplianceAction

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Clear & Conspicuous

A Federal Reserve Standard for Disclosures

We saw it coming. When the privacy regulation was promulgated, the agencies had to set standards for notifications. As usually happens when regulation drafters attempt to balance burden with flexibility, the result was a less-than-crystal-clear standard.

For purposes of notifications under privacy, the notice must be "reasonably understandable and designed to call attention to the nature and significance of the information" being disclosed. Clear?

This Regulation P definition at least had the distinction of being clearer than other definitions on the books. And the other definitions or guidance had the disadvantage of differing from each other.

The Fed has decided to take the step of establishing a more uniform standard for disclosures throughout its consumer compliance regulations by incorporating the Regulation P standard into Regulations B, E, DD, M and Z. On its face, this looks like a reasonable, logical move. The difficulty, as always, will be in the implementation.

(continued on next page)

ActionSteps

- ✔ **Review your notices under all regulations in the context of a reasonably understandable standard. Also look at whether the disclosures call attention to the content.**
- ✔ **Review adverse action notices carefully to evaluate whether the reasons given are reasonably understandable to the consumer.**
- ✔ **Do a quick review of periodic statements for both deposit and credit accounts to see how clear and conspicuous the required disclosures actually are.**
- ✔ **Train anyone who provides disclosures, especially new account disclosures and adverse action notices, to focus on how effectively the notices communicate. Ask for suggestions to improve the notices.**
- ✔ **Review consumer complaints to see whether any complaints arose from ineffective notices – or could have been prevented by better notices.**
- ✔ **If you have any ideas, submit a comment letter. Be sure to suggest that model forms are all deemed to meet the clear and conspicuous standard.**

Setting similar or identical disclosure standards for Regulations Z and DD makes a great deal of sense as the two regulations require very similar disclosures. The standard should be relatively easy to apply consistently to these two regulations.

It gets more complicated when you try to equate information disclosed in Regulation B to the presentation of information under Regulation Z. The guidance and standard may be the same, but the content and results will be quite different. Examiners, auditors, and compliance managers need to be ready to deal with these differences.

Regulation B

There are several notices triggered by Regulation B. The notice getting the most attention is the notice of action taken. Until this proposed change, the primary guidance provided in Regulation B is model forms including sample applications and sample denial and counteroffer notices. The regulation provides some protection from liability if a creditor uses these models correctly.

Now, however, the proposed standard would add an element to this guidance. No matter how much the creditor relies on the model forms, the result should be reasonably understandable to the consumer. It should also call attention to the nature and significance of the information in the disclosure.

The most frequently-given notice under Regulation B is the notice of action taken. Although this includes approval notices, consumers seem to get the gist quickly of an approval letter. It is the denial and counteroffer notices that are more difficult. There are some who would argue that the model forms don't meet the proposed standard.

First, how clear is it to the customer that there is a counteroffer? This is often glossed over with a few congratulatory sentences before the bad news is delivered. While this has been clearly acceptable under the existing regulation, it may draw fire under the proposed standard.

Second – and most significant – is the selection of reasons. Too often, the reasons selected are obscure in their relationship to the credit application. And also too often, they are written in lender gobbledy-gook. A personal favorite is "3X30; 2X90." What normal consumer understands that one?

One other problematic disclosure is the notice advising applicants that they do not need to disclose marital income if they are not relying on it to qualify for the credit. This notice is tucked away in the model forms in a manner that does not exactly call attention to it. It is also in pretty small type. Even though the presentation is theoretically sanctioned by the model forms, you should consider carefully whether it communicates well enough to your customers. The fact that the loan officer specifically called the applicant's attention to it and explained its meaning does not mean that the message in fine print meets the new clear and conspicuous standard. This is probably a good topic for comments, just in case you are looking for one.

Adoption of the clear and conspicuous standard should trigger attention to other notices, including notices of incompleteness and the notice of right to a copy of the appraisal. Often, key notices are placed in the application package. Some information, such as the right to a copy of the appraisal, is included on a page of notices titled "Important Notices: Please Read Carefully." If the appraisal notice looks just like six other (boring) notices, will this be considered as designed to call attention to the nature and significance of the information in the disclosure?

Regulation Z

Having looked at the issues on the soft notice side, let's look at Truth in Lending. There is a lot riding on TIL disclosures. Unlike penalties under ECOA for disclosure failures (usually a modest civil money penalty) the consequences under Truth in Lending are huge. If a court finds that a disclosure fails to meet the clear and conspicuous standard, it probably means that all similar disclosures failed. And that could mean that no disclosures were given for any of those loans. The restitution and rescission consequences don't bear thinking about. Under TIL, it is therefore also important to seek an official regulatory statement that the model forms, when correctly used, provide clear and conspicuous information.

There is an additional complication under the Regulation Z model. The proposal would include the Regulation P language that specifically permits inclusion of other information so long as it does not detract from the clarity of the disclosure's message. While this may be easy to apply in the context of a Regulation B adverse action notice, it is much trickier when format of disclosures is dictated.

For both closed-end and open-end credit disclosures, some formats are required. Including other information, while apparently permitted by the proposed standard, would be prohibited or limited to the existing regulatory standard. In closed end credit, any information included in the federal box must be directly related to the information required by the disclosure. This is a much tighter standard than a clear and conspicuous standard.

Marketing

The permission to include additional information extends to marketing material. This could be – used effectively – an opening for more creative marketing ideas. However, any such additions should be monitored very carefully for compliance.

For example, periodic deposit account statements may include promotional material in the statement itself. It must be positioned, however, so that it does not interfere with or detract from the information disclosed under Regulation DD.

The same permission and concern would apply to open-end credit statements. The disclosures must be clear – but you may use statements for marketing purposes. This is something that we have suggested for some time. Since you have to mail the statement anyway, why not use the opportunity to tell the customer about other products?

Comments, Please

Comments on the proposals to all five regulations are due no later than January 30, 2004. Get yours in. While in concept, this is probably a done deal, this is the ideal time to request more specific guidance, regulation by regulation. In particular, ask for guidance related to the model forms.

Fair Lending

Redlining In the 21st Century?

Can redlining happen in the 21st Century? According to the National Fair Housing Alliance, the answer is a resounding yes. At PCI's annual CRA and Fair Lending Colloquium, Dr. Calvin Bradford, presenting on behalf of Cathy Cloud, discussed redlining as the NFHA sees it today. Redlining, according to Cloud and Bradford, is a deliberate strategy to define geographic areas in which financial products and services will not be made available.

Redlining, no matter how you look at is, is very much a fair lending issue and must be considered in the context of fair lending. Bradford identified symptoms of redlining as: an absence of branches in the geographic area, failure to develop marketing directed at minority customers, failure to develop products appropriate for a wide range of customers, providing products on differential terms and conditions, product steering for loans in minority neighborhoods, appraisals that do not accurately reflect the property value of the area, under-representation of minority applicants in the loan pool, and differential loan origination rates by demographics and geographics.

Branch locations have everything to do with how easy or difficult it is to stop by the bank and file an application for credit. If going to the bank means making a special trip – with time off from work – the simple act of obtaining credit is more costly than for the person who can stop by the branch on their way home.

Whether branches are convenient or not, the marketing of products says a great deal to the potential customer. Marketing is designed to speak to the customer. If your products aren't speaking to all potential customers, including minority groups, your marketing may not pass the fair lending test. Marketing is your message. Make sure that it is delivered properly.

Product design and product choice is a classic fair lending and CRA issue. These concerns should come as no surprise. However, when did you last look carefully at appraisals to see how property in the neighborhood was selected for value and comparables? The standard – and easy – way to develop comparables is to identify recent sales. However, in older neighborhoods where turnover is less frequent but improvements are common, the sales technique may not be the best method for finding good comparables. In older neighborhoods, many houses have been improved, often by significantly increasing the size or by modernizing amenities. Find out whether your appraisers are taking these improvements into account. Failure to do so can result in undervalued appraisals – another form of redlining.

These symptoms or measurements of redlining are not new. In fact, they were the symptoms more than 25 years ago. Unfortunately, they still exist. Discrimination may be subtle but it still exists. According to a HUD study conducted in 2002, there is often less coaching or help given to minority applicants. There tends to be a take-it-or-leave-it attitude while non-minority customers get attention. The study also found that lenders tended to steer minorities to FHA loans rather than conventional loans. The result of these actions is that fewer minorities succeed in getting approved for conventional loans. The differences can be measured by loan product, by race or ethnicity, by price, and by location.

In its research, the NFHA found continued evidence of discrimination and redlining. Product steering was not unusual to find. The organization also finds differences in how lenders within a company apply company policy and underwriting. Differences can also be measured by customer service – how willing employees are to work with minorities and how hard they work for them.

What this means for financial institutions is that, in spite of the attention being given to newer issues such as predatory lending, the classic fair lending concerns are very much alive. A self-assessment that gives attention only to practices that could be considered predatory may fail to identify more traditional concerns of geographic-based disparities in lending. A robust fair lending self assessment program must continue to give close attention to all aspects of lending discrimination.

ActionSteps

- ✔ **Use your HMDA and CRA reports to measure geographic distribution of loan products. Look for any patterns that indicate under-representation in your market.**
- ✔ **Do a rate and price analysis by demographics and geographics of recent loan decisions and look for any pattern that may indicate discrimination.**
- ✔ **Look at a map of your branches in the context of low and moderate income areas to determine whether you have adequate presence in all parts of your market.**
- ✔ **Compare the services available in branch offices, if not all branches are full service. Look for any patterns that could indicate discrimination.**
- ✔ **Compare branch locations to living, working and commuting patterns in your assessment area.**
- ✔ **Review appraisals to see how properties are valued. Look especially for treatment given to home improvements in the neighborhood.**

Action *Training*

FCRA Investigations: How Much Is Enough?

The amendments to the Fair Credit Reporting Act would require reporters of information to conduct investigations into the accuracy of that information when a consumer challenges it. The requirement to investigate is not really a new one. Institutions have had investigation obligations under other regulations, most notably Regulation E and Regulation Z.

However, the implementation of such a requirement under FCRA is going to call attention to the investigation process. Some regulators have questioned whether institutions do an adequate job of investigating consumer complaints. This new requirement is going to raise the expectations of both regulators and consumers.

What should you be doing to meet the test? The existing regulations provide some guidance, along with statements from regulators. But the most important thing to keep in mind when you establish your procedures is what the customer will expect. Any investigation that does not meet customer expectations is likely to be challenged by that customer.

Investigations take skill. The investigator should have some idea of how to conduct an investigation, including what is required to reach and support the conclusion. This means that, in addition to being able to compile and evaluate information, the investigator needs to know what information to get, and where and how to get it. Obviously, an investigation cannot be assigned to the newest hire out of high school. It should be assigned to someone who knows their way around the institution and who knows how systems work.

In addition to having skills, there must be clear, assigned responsibility. When that complaint comes in, it must land on the correct desk – fast. There are usually time limits on investigations. And when there aren't specific time limits, there is a customer who is frustrated about something and wants a fast answer. An incoming complaint should never sit waiting for an assignment.

The investigation process should also have a tracking system. At any given time, you should be able to report on the status of all complaints received, what phase of investigation they are in, and how they have been resolved.

Everything relies on conducting a thorough investigation rather than giving a superficial response. The institution must be willing to find and correct mistakes. And the institution should be able to explain what it did right. Without a good investigation, this doesn't happen.

Basic Investigation Steps

- **1. Identify all of the issues raised by the complaint – including any that the consumer did not specifically describe**. Do not hold the customer to a knowledge standard that is unreasonable. The customer may know that the result is in error, but may not state the correct reasons why. It is incumbent on bank staff to identify issues that are indirectly raised by the complaint. Claiming that the customer didn't specifically raise them is not going to look good to a regulator.

- **2. Determine the sources that must be compiled and reviewed to fully investigate the complaint and evaluate the merits.** Walking blind into an investigation doesn't work. You need to start by knowing what information you must use to verify or disprove the customer's allegation. This is not as simple as looking at what copies the customer provided. And you may never assume that your computer is always right. You need to look for what should have happened, what did happen, and sometimes what did not happen.

- **3. Get original source documents.** Think of this exercise as one driven by "junk in, junk out." The source documents are what you need to establish whether errors occurred and at what stage. Source documents include copies of checks and transaction records.

- **4. Using the source documents, evaluate what happened.** An investigation is like research. It means finding the source and using the source to reveal the events. The sources should show you when an application or payment came into the institution (documentation, anyone?) and what happened after that.

- **5. Explain what happened.** This is the ultimate test. If you don't have enough information to explain what happened, you haven't conducted a thorough investigation. At the end of the investigation you must be in a position to explain your findings to your customer and to your regulator. You must be in a position to prove your findings or to prove or disprove the customer's allegation. In short, you need to know whether the customer's payment was posted to the correct account.

Compliance Notes

Flood Problems to Look For

Flood hazard determination and insurance compliance has been the target of enforcement actions, costing the target institution both time, money, and reputation. Examiners have found several problems when institutions rely on vendors. The end result is that you need to know what your vendor is doing.

One problem results from relying on vendors to monitor the continued insurance status of the loan. Examiners have identified several situations where customers have reduced the amount of flood insurance coverage and the institution has not been made aware of the change by their vendor because the vendor is only checking that insurance is in place but not the amount of coverage.

Look very carefully at what you think a third party vendor is doing. Review the contract to be sure the contract specifies the service. Then check with the vendor and take steps to determine that the service is actually being performed. Ultimately, the financial institution is the liable party.

Fair Lending, Anyone?

In spite of recent reorganizations that have reduced senior staff, the FDIC is creating a new job in regional offices. Sometime in early 2004, the FDIC will announce the appointments for regional fair lending specialists. There will be a fair lending specialist in each regional office.

Defining CRA

According to Anna Alvarez of the OCC, the critical issue of CRA used to be access to credit. Today, the issue is credit at what price. If this doesn't make you think twice about predatory lending and fee income, it should.

Pay Attention to Basel?

The pronouncements by the Basel Committee may seem to be far removed from compliance, but they could affect your work. For example, the reduced capital standards could free up more funds for CRA loans and investments by large banks. Small banks may have to work smarter as well as harder.

Compliance Calendar

December

- Check and update the indexes for HOEPA calculations and for HMDA reporting. These numbers are updated to $499 for 2004.
- In December, we like to remind folks to look at the positive side of compliance. Identify staff who did something positive for the program and the institution and be sure they get positive recognition. If your budget is too strapped to do anything else, send them a card from BankersOnline.com. They'll be able to show it to co-workers.
- Draw up your training calendar for 2004. Be sure to include training for yourself!

January, 2004

- Check with your lending staff to be sure that the new procedures for HMDA are in place and working. Give special attention to collecting monitoring information, documenting rate lock dates, calculating rate spreads and collecting other information to report.
- Review application forms to be sure that everyone is using new forms for loans subject to monitoring data collection. Destroy the old forms.
- If you haven't trained for HMDA yet – or trained everyone who needs it, get cracking. It is train now or fix errors later.
- Comments on the FRB's proposals to create a standard definition of clear and conspicuous for consumer disclosures are due to the FRB by January 30.
- Comments on the FRB's proposed update to the Official Staff Commentary to Regulation Z are due by January 30.

February

- It's crunch time for HMDA 2003 reporting. This month – the short one – is your last chance to get the LAR right. And be sure that you are reporting for 2003 and not using any 2004 information.

March

- HMDA LARs are due to your regulator by the 1st.
- Review the status of BSA exemptions. Updates and renewals for exemptions are due this month.

Pending

- The agencies are still promising to "tweak" CRA. It is promised out "sometime."
- Also stay tuned for news and developments on CIP and HMDA. As both rules roll into effect, there will be questions – lots of them. And some will be answered.
- Look for guidance on the changes to the Fair Credit Reporting Act.

In the editor's *Opinion*

FCRA: Improved, With Burdens

There is nothing like a sunsetting provision in a law to draw everyone's attention to it. This time, it was the Fair Credit Reporting Act. The provision for state law preemption on information sharing among affiliates was due to expire before January 2004. The loss of the preemption would constitute an open invitation to state legislators eager to score election points with their constituents by passing state laws restricting information sharing.

This picture is not a pretty one because each state is likely to create different permissions and prohibitions. In today's mobile society, this would create compliance chaos not only for the largest of banks, but for every financial institution in the country. Customer expectations would quickly become based on what they had experienced or heard about in another state. It promised to be a compliance and customer relations nightmare.

In the eleventh hour, Congress put a stop to the pending nightmare by enacting permanent federal preemption. But this coup came at a price: more compliance. To compliance watchers, this is neither new nor unexpected. Sunset provisions invariably carry the hidden cost of more compliance because, when the provision is reevaluated on the eve of the sunset, there are always lots of new ideas. They get raised because the issue is being looked at anyway, so why not?

Advocacy groups also see sunset provisions as a pending opportunity to get more. So they were ready with ideas and prepared to sell them. The opportunity was perfect. Not only did Congress have to give attention to the FCRA, but concerns about identity theft were high. And since identity theft issues inevitably involve credit reports, the opportunity was perfect. So the revised FCRA has new provisions designed to be tools in the prevention and correction of identity theft.

What is a match made in heaven for consumer groups can easily become a major compliance burden for financial institutions. Or – it could be an opportunity. It depends on how you approach it.

The new law clearly carries burdens. But, remembering that these burdens are all things that consumers want, you can also see these as opportunities. Smart institutions will take the attitude that, since they have to do it anyway, they might as well do it right. In fact, they might as well do it so well that they can take credit for it. Doing so is a great way to earn consumer points.

The right approach can mean the difference between selling customers on your institution or hefting one more set of compliance burdens in an already overloaded package. Take the creative approach and consider the opportunities.

For example, the law mandates that you take certain steps to help consumers and to provide information. Use the opportunity to educate customers so that they understand the information that they are getting. This need not involve a great deal of extra work on your part. You can do this by cruising the Internet and compiling some great free stuff from the federal government. Yes, the same federal government that brings you compliance burden is nice enough to provide you with some free customer tools. Use them.

Check the Federal Trade Commission's website, www.ftc.gov, for consumer information written in plain English. You can find anything from statement stuffers to lengthy booklets. For example, pull down a statement stuffer that tells customers when and how to obtain their free annual credit report – and encourage them to do it. Tell customers how to contact you if they have any concerns about their accounts or about the information in the report. Position your institution as the friendly, supportive, helper. Promise consumers that you will research their problems – since you have to anyway.

In short, use this requirement as a marketing tool. Everyone benefits. Your customers will know more (and hopefully make fewer mistakes), you can look like the good guy (for a refreshing change) and you might even get some CRA Service Test credit for this.

Compliance**Notes**

New OTS Exams

Starting in January 2004, the OTS will implement its merged, risk-based examinations, including compliance with all safety and soundness exams. CRA examinations will generally be done separately – and offsite whenever possible. OTS examiners will use HMDA and CRA data to analyze institution performance. The CRA exam will be scheduled for every other year, and usually in the same quarter as the safety and soundness exam. However, if examiners identify data problems, risk management or compliance problems, the next CRA examination will come sooner.

Where is the CRA Review?

The CRA regulation review is still active. The agencies are working on the comments and suggestions received. So far, nothing points to significant changes. There will be a publication in the federal register when the agencies reach a decision, but there is a chance that the publication will be to announce no change to the regulation.

Regulation Z Update

Along with the proposals on clear and conspicuous disclosures, the FRB has delivered its annual proposal to update the Official Staff Commentary. And while they were in the regulation anyway, they've proposed a few changes to that too.

The only significant change proposed to the regulation is something that shouldn't need stating – except that some courts apparently thought it did. The proposed revision to the §226.2(b) rules of construction would specify that wherever the word "amount" is used in the regulation, it refers to a numerical amount. This proposed addition is to prevent courts from deciding again that a description of an amount is sufficient for compliance. Such an interpretation would prevent Regulation Z from carrying out its purpose of providing consumers with useful information to promote credit shopping.

Other proposed changes to both regulation and commentary are technical clarifications.

Compliance Q&A

Question: We are trying to save customers (and our bank) some money. We frequently have customers that have applied to our bank for a purchase money mortgage request a home equity line to close at the same time. If we use a credit report that was pulled for a first mortgage application, the date on the credit report will be at least several days earlier than the date of the application on the home equity loan application. Will this cause problems when examiners review our files?

Answer: First, because the report is staying within the bank, and not being transferred to an affiliate, you may freely re-use the report as long as the re-use meets safety and soundness criteria. In short, the report needs to be current.

Examiners look at the date the credit report was pulled to determine dates of application when no other documentation is available. They also use the report date to verify or check application dates documented. What you need to do is be sure that you have clearly documented the date when the customer requested the home equity loan. It is probably a good idea to have a note in the file that the loan officer used documents, including the credit report, from the related mortgage loan application. That way the date discrepancy is answered before the examiner asks any questions.

Question: We sometimes make loans to small businesses to cover the cost of the purchase of insurance. These loans are usually made through the insurance broker who helps their customer shop for a loan. If we deny the application, do we have any obligations to send the applicant business an adverse action notice?

Will this cause…

Do we have…

Is this correct…

Can you help…

Answer: Your denial is subject to the adverse action notification requirements of 202.9(a)(3). This means that, as a small business, your applicant has a right to a statement of action taken. This may be given orally or in writing directly to the applicant. Because this application came to you through an insurance broker, you could use the 202.9(g) third party application rule. To do this, you should give your reasons for denial to the insurance broker and advise the broker to pass on the reasons for denial. You should be in a position to show that you asked the insurance broker to carry out your notification obligations under Regulation B.

Question: Under the new HMDA regulation, a refinancing must replace a loan whether made by the same or another lender. It appears that a loan on a property that had no previous loan to be paid off is not reportable. Is this correct?

Answer: Yes. A loan on the equity in a dwelling, where that dwelling had been free and clear of encumbrances, is not reportable. Even though this type of loan clearly falls within the spirit of HMDA as a loan secured by a dwelling, it has fallen through the cracks. The cracks were created by the effort to create definitions that distinguish between purchase money loans and refinancings of loans. Apparently, the equity draw on property already owned outright was not considered.

Question: In training sessions, staff has asked me what the difference is between the old Know Your Customer standard and the new Customer Identification Program and why we have to change everything. Can you help with a simple explanation?

Answer: We can try. The easiest way to explain the difference is that there really isn't a difference worth worrying about – only a name change. And the name changed because Congress wanted to infuse some fresh blood into a concept (KYC) that had taken a beating related to concerns about privacy. So Congress passed a law that gave KYC the new name. Customer Identification simply sounds less invasive, even though as a procedure it amounts to the same thing.

It is also good to remind people that CIP, like KYC, is a part of a larger program to identify money laundering, terrorism, and other financial crimes. Even when we discuss the technicalities of our CIP program, everyone – including the trainer – should always keep the big picture in mind. The goal is to develop an understanding of who the customer is, what business they bring to the institution, and whether that business is legal.

Questions?

Call us when you run into one of those tough compliance questions.

(888) 347-REGS

We'll do our best to get you the answer.

Compliance*Video*

Help with HMDA

The changes are coming! Are you ready? Has everyone on your staff been trained? Lucy Griffin and Phil Gay have teamed up to create a training video, **HMDA: The Lender's Challenge** to keep you up-to-date and in compliance. Call for information: (800) 660-0080.

Compliance*Action*

PURPOSE:

To keep your compliance, audit, and legal officers and staff up-to-date on regulatory and compliance issues and industry related techniques;

To provide guidance for implementing and managing your compliance program;

To increase your awareness and understanding of compliance developments;

To provide you with information that will be useful in communicating compliance information to bank staff; and,

To assemble all of the above in a readable, understandable, usable format that can be photocopied and distributed in-house by each subscriber.

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Risk Management Anyone?

Risk management is the watchword of the day. It is the theme song of each of the regulatory agencies as they describe their new examination procedures. And it is what they expect

Charlotte Bahin, SVP for regulatory affairs with America's Community Bankers, led and moderated the regulatory update panel and PCI's annual CRA and Fair Lending Colloquium (co-sponsored by FHLMC, FNMA, ABA and ACB) advised the audience that risk management is the theme in Washington, D.C.

Risk management is clearly placed in the customer identification program. Bahin pointed out that the fair lending examinations are risk based and that new examination procedures take a risk-based approach. Moreover, Bahin observed, the risk based approach is international in scope. She referred the audience to the Basel releases and predicted that the risk focused approach of Basel will directly affect compliance by moving it to an enterprise-wide approach.

Bahin's advise was supported by Theresa Stark, Senior Project Manager with OTS. Stark explained that in the process of merging the safety and soundness examination with the compliance examination, the agencies are using a risk-focused approach. The philosophy behind this is that compliance is part of your business.

Making compliance part of the business of banking, or accepting compliance as part of the business of banking, is a key element of success, both in compliance and in competing for customers. Compliance requirements often provide the tools for providing information and service to customers that differentiate financial institutions from the non-regulated or the much-less-regulated.

Because the compliance exam will be combined with the safety and soundness exam, you can expect to be examined for compliance on the safety and soundness schedule – i.e. more often.

There are two essential elements to risk-based management that will be looked for in the risk based examination. These are adequate recognition of the institution's risk and a commitment of resources appropriate to the management and control of that risk. To this end, regulatory agencies look not only at policies and procedures. They will look for the commitment of resources – time, skilled personnel, and tools – that are necessary to carry out the corporate policies and plans. Any self-assessment should therefore include a blunt and honest evaluation of what the institution has put in place to get the job done.

Cisneros on CRA

Henry Cisneros was the keynote speaker at PCI's annual CRA and Fair Lending Colloquium. He observed that the private sector can do much more than the government to cause change. Cisneros raised eight issues for the audience. First, financial institutions should see minorities as core business. This means delivering products that are important to this group as well as communicating effectively with them. Your future growth, he predicts, will come from these groups.

Second, train staff on these issues. You cannot ask staff to do anything for which they have not been trained. And he means real training – not a memo to staff.

Third, staffing must reflect the market. This is not for show, he warns; it is essential for getting business. As the fourth step, be sure that company culture is in sync with the goals.

Fifth, compliance and management need good information to understand and assess accomplishments (and failures.) The sixth challenge is to know and respond to the difference between predatory and subprime lending. This involves both information and creative underwriting.

Finally, Cisneros recommends two forms of outreach. Financial education, such as Money Smart, is key to reaching and preparing new markets. And marketing must relate to any new population in your market.