Top 10 Steps to CFPB Readiness
Checking Your Progress

By Rozanne M. Andersen, Esq., Chief Compliance Officer, Ontario Systems, LLC
# Table of Contents

3  Introduction

5  #1 - Launch Your Team

7  #2 - Appoint Your Chief Compliance Officer

9  #3 - Build Your Compliance Management System

11 #4 - Conduct an Independent GAP Assessment Annually

13 #5 - Document Your Results and Your Progress

15 #6 - Educate and Train

17 #7 - Employ the Right Technology

19 #8 - Adopt a Closed-Loop Consumer Complaint Resolution Program

21 #9 - Evaluate Your Workforce

23 #10 - Foster a Culture of Compliance

25 About Ontario Systems
Without exception, complying with the myriad of requirements presented by the ever changing regulatory, legislative and legal environment is the number one concern of all ARM industry members. Simply put, in order to keep their doors open, collection agencies, asset purchasers and collection law firms need to employ processes, services and technology to help mitigate risk, improve compliance and power compliance management systems. Adding to this tension is effective January 1, 2013, the CFPB began its examination of Larger Participants in the collection market and effective July 2013 the CFPB plans to launch its debt collection consumer complaint website.

Taking stock of one’s CFPB Readiness is therefore crucial for agencies large and small and specifically for those who:

- Meet the definition of Larger Market Participant (more than $10 million in annual receipts)
- Provide services to Larger Market Participants in the ARM industry
- Choose to operate as a Larger Market Participant
- Seek to identify and understand their compliance deficiencies and engage in continuous improvement
- Seek to foster a culture of compliance

This eBook outlines the 10 steps YOU can take now to evaluate your organization’s CFPB Readiness.
Introduction

Charting Your Progress

Start by following the continuum graph below to help you chart your progress. Steps are presented in a logical order of progression, where one prepares you for the next. You may need to adjust the order in which you follow to fit the needs of your organization, and the resources – both human and financial – you have at your disposal.
#1
Launch Your Team
Managing CFPB requirements goes beyond the C-Suite: It takes a village to move an organization forward on the Continuum. Take time to identify leaders who can help drive your CFPB initiatives, and identify those who will serve as your internal task force including a mix of supervisors, managers and debt collectors. In this age of CFPB oversight, it’s crucial for all eyes to continuously examine an organization’s ability to interact with consumers, and evaluate whether they’re treated fairly.

Larger Market Participants should remain particularly aggressive when it comes to self-evaluation. Although the CFPB has indicated it will send Larger Market Participants prior notice of its intent to examine a collection agency, asset buyer or collection law firm, experience tells us that notice to actually prepare for an initial CFPB “meet and greet” can be as short as 14 days. So your internal task force, composed of all the players who will be asked to participate in the CFPB exam – Chief Executive Officer, Chief Operations Officer, Chief Compliance Officer, General Counsel, outside counsel, VP of Sales, and VP of Human Resources to name a few – must be poised to act on short notice.
#2

Appoint Your Chief Compliance Officer
According to the CFPB, weaknesses in compliance management can result in legal or regulatory violations and cause real harm to consumers. Accordingly, the Bureau expects every one of the organizations it supervises – Larger Market Participants – as well as organizations over which it has enforcement authority (collection agencies, asset buyers, and collection law firms of all sizes), to have effective compliance management systems in place.

Gone are the days when compliance could be considered a side job for the President, VP of Sales, Chief Operating Officer or Director of HR. To meet the CFPB’s expectations, agencies, asset buyers and collection law firms should identify a person accountable for day-to-day compliance management responsibilities. This person’s responsibilities should be separate and distinct from operations so their judgment is not clouded by revenue goals or expense limits. Nor should they wear an unreasonable number of hats. Doing so may dilute this person’s ability to effectively manage compliance for the organization. The proper title for this person is Chief Compliance Officer. In a perfect world, they should report directly to the CEO, and be accountable to the board of directors.

In smaller or less complex entities where staffing is limited, the CFPB understands a full-time compliance officer may not be necessary. But in all cases, management should have clear responsibility for compliance management, and compliance staff should be assigned to carry out the compliance management function in a manner commensurate with the size of the entity and the nature and risks of its activities.
#3

Build Your Compliance Management System
In today’s world of CFPB oversight, it’s imperative you build an infrastructure to house your organization’s compliance management system. Supervised entities, and those seeking to function as supervised entities, should establish a formal, written compliance system administered by its Chief Compliance Officer.

A compliance management system, under the direction of the Chief Compliance Officer, is how a supervised entity:

- Establishes its compliance responsibilities
- Communicates those responsibilities to employees
- Ensures that responsibilities for meeting legal requirements and internal policies are incorporated into business processes
- Reviews operations to ensure responsibilities are carried out
- Reviews operations to ensure legal requirements are met
- Takes corrective action and updates tools, systems, policies, procedures, training curricula and materials as necessary

Your compliance management system can also serve as an essential training and reference tool for employees, and if implemented and managed appropriately, can help prevent or reduce law violations, regulatory violations, protect consumers from non-compliant acts or omissions and help align business strategies with outcomes.

An effective compliance management system commonly employs four interdependent control components. Together they function as a type of check and balance system, similar to that commonly employed in an accounting department:

- Board and management oversight
- Compliance program
- Consumer complaint response process
- Compliance audit

When these components are strong and well-coordinated, your organization should be able to successfully manage its compliance responsibilities, mitigate risks, and reduce or eliminate harm to consumers.
Conduct an Independent GAP Assessment Annually

#4
Conduct an Independent GAP Assessment Annually

One of the four prongs of a sound compliance management system includes a compliance audit or company wide GAP assessment. The audit function should review an organization’s compliance with Federal consumer financial laws and adherence to internal policies and procedures. It must also be functionally independent of your compliance program, and your operations and sales departments.

A third party compliance audit will provide your board of directors or its designated committees with an independent determination of whether your organization’s polices and standards are being implemented properly and truly provide the level of compliance and consumer protection desired by your board. The audit should also identify any significant gaps in board polices and standards.

We know from the CFPB’s examination manual that a properly functioning audit program or GAP assessment must:

- Be conducted in a manner sufficiently independent from management and under the direction of the board or a committee of the board
- Address compliance with all applicable Federal consumer financial laws: [Fair Debt Collection Practices Act (FDCPA), Fair Credit Reporting Act (FCRA), Electronic Funds Transfer Act (EFTA), Gramm Leach Bliley Act (GLBA), Equal Credit Opportunity Act (ECOA) and the Unfair, Deceptive or Abusive Acts and Practices section of the Dodd Frank Act (UDAAP)]
- Be conducted according to a schedule appropriate to the size of the entity
- Include a comprehensive review of the entity’s services and the manner in which the entity performs such services
- Be distributed to all appropriate compliance and business unit managers in a timely manner
- Lead to appropriate, timely corrective action

The use of a third-party auditor is not expressly required by the CFPB. But in order to achieve the objectivity and independence required for the audit or GAP assessment, the use of a third party auditor is highly recommended.

When evaluating auditing firms, avoid the one-size-fits-all auditor or the myopic auditor. Neither will provide you with the comprehensive review you need to evaluate the sufficiency of your operation or your compliance management program. Retain the services of a third party who understands your business, the collection industry and of course, the Federal laws and regulations that dictate how you interact with consumers.
#5

Document Your Results and Your Progress
Document Your Results and Your Progress

Policies that are formulated on a whim or memory are meaningless. So too are policies that have been reduced to writing but sit idle as bookends or dust collectors. Your policies must cover all aspects of your operation – from Foti to collector compensation plans – and tie directly to your written procedures and training program.

As you conduct a review of your policies, make sure the policies actually comply with current laws, regulations and legal decisions. Ensure they are easy to understand and most importantly, take a moment to consider whether each of your policies is sufficient. An insufficient policy is only slightly better than having none at all.

Make sure your policies:

- Identify the issue
- Accurately interpret the requirement
- Prevent consumer harm
- Identify staff or resources impacted by the policy
- Define remedial action to be taken in response to a policy violation

Once you are satisfied your policies and procedures are sufficient, monitor and test them. Ensure procedures are being followed by your staff and document any breakdown in your processes. Take corrective action and ask your compliance officer to make any necessary revisions to the policies and procedures in its wake. Tests should be done more frequently than your independent GAP assessment and may be carried out by one of your business units. It does not require the same level of independence from the business or compliance function that an audit or GAP assessment does.

Be sure to retain your policy and procedure documents in a document management system. Use the document management system to distribute the policies and procedures to all members of your staff. Make sure your document management system also allows your staff to acknowledge their receipt of the policies and procedures. In a perfect world, the acknowledgments should be recorded in each employee’s personnel file for future reference.
#6

Educate and Train
#6 Educate and Train

As the industry’s legal and regulatory environment grows more complex, education and training programs need to go beyond a trip for the President and spouse to an annual trade show. Education and training must extend from the top of your organization to the bottom, and include everyone in between. Education for your board of directors, management and staff is essential to maintaining an effective compliance management system.

Board members should receive sufficient information to enable them to understand your organization’s responsibilities and the commensurate resource requirements to run an effective compliance management system.

Management and staff should receive specific, comprehensive training that reinforces and helps implement written policies and procedures. Make sure your training is consistent with your policies and procedures and actually reinforces those policies and procedures.

Keep your materials current. Make sure you include requirements for compliance with Federal consumer financial laws, including prohibitions against unlawful discrimination and unfair, deceptive, and abusive acts and practices into training for all relevant officers and employees.

No two agencies or asset buyers are alike, which means your program should be tailored to the size of your organization, and the nature and risks your services may present to consumers by your collection activities. Gone are the days of the one-size-fits-all training program.
#7

Employ the Right Technology
#7

## Employ the Right Technology

As you design your compliance management system, consider the resources in the marketplace today that will drive it, support your compliance officer’s work, and accelerate your CFPB readiness. Today’s technology can help you navigate compliance requirements, stay abreast of changing laws and regulations, drive your ARM compliance training program, maintain your policies and procedures, and establish a robust consumer complaint management system.

Use technology providers that employ a holistic approach. Find the ones that stand apart from all others in terms of their compliance and training services offerings and intentionally leverage the combined efforts of an experienced legal team with business, operations and training professionals who have the collection floor management, and telephony products and software experience. Going with a provider who can give you all of that, in a single package, can pay off big in the end compared to piecemeal solutions from different vendors.

Here are just a few solutions available in the marketplace today:

- Compliance management system
- Closed-loop consumer complaint resolution system
- 24/7 collector web training vignettes on Federal consumer financial laws
- Call monitoring
- ARM compliance tech PAC
- Cell phone verification and consent tracking
- Return mail address verification
- Timely updates to consumer credit reports
Adopt a Closed-Loop Consumer Complaint Resolution Program
Adopt a Closed-Loop Consumer Complaint Resolution Program

On March 28, 2013, the CFPB announced the expansion of its consumer complaint database and complaint resolution program, and its intent to begin accepting and resolving consumer complaints against the debt collection industry in July of 2013. Once the system goes live, the CFPB will require the systematic ability to document, investigate, remediate, and resolve consumer complaints to the satisfaction of the consumer within 15 days. But the need to monitor, resolve and record complaints isn’t unique to Larger Market Participants. Agencies large and small, even healthcare collection agencies, are subject to this particular CFPB requirement.

Employing a closed-loop complaint resolution strategy can help you handle complaints generated through the CFPB’s website; those filed against your collection agency, asset purchasing firm or collection law firm by state attorneys general, state regulators, the BBB; and by consumers via your website, 800 numbers; and even those logged during a collection call.

While there are a variety of complaint management systems available, until today, none have come from within our industry. Currently the industry is manually tracking complaints by either writing them down or entering them into a spreadsheet. Coordinating the accumulation and action steps is hit or miss at best.

A hosted, closed-loop consumer complaint resolution program should provide:

- A single, centralized system for complaints
- Software application integration
- Standardized codes for consistency
- Technology-driven processes to resolve complaints and enforce remedial action
- Robust reporting
- Data to analyze patterns and trends
- Dashboards to review all critical data points
- Creditor & CFPB audit views across multiple agencies
#9
Evaluate Your Workforce
Unfortunately, compliance comes with a big price tag. A Larger Market Participant working with Ontario Systems recently shared that his organization had gone from one FTE employee handling complaints and compliance management to seven, just in the last year. And they’re barely keeping up.

Fortunately, compliance management can scale to the size and complexity of your organization, and the potential risks your collection activities present to the consumer. Now is the time to identify your compliance needs, map the work to the roles, draft job descriptions for each person on your staff who is responsible and accountable for a compliance related function, and establish a budget. Remember, in smaller or less complex organizations where staffing is limited, a full-time compliance officer may not be necessary.

And you don’t need to take on all compliance management functions yourself. The CFPB recognizes that many organizations can’t afford to bring all of the new responsibilities associated with that system in-house, and supports the retention of third parties to help.

Rome wasn’t built in a day, nor will your compliance management system. You need a plan that will help you make decisions as to when and why you need to add functional roles to your workforce that will move your organization forward on the CFPB readiness continuum.
Top 10 Steps to CFPB Readiness
Checking Your Progress

#10

Foster a Culture of Compliance
Foster a Culture of Compliance

In the words of Bob Dylan, “The times they are a changin’.” Compliance is more than a process: It’s a mindset. It needs to permeate the thoughts and actions of your entire team. While C-suite folks must continue to worry about the bottom line and how to keep the doors open, your staff must perform with an eye toward the consumer. The CFPB isn’t interested in revenue goals or profitability. They view the world, the collection industry, your organization, and your practices through the eyes of the consumer.

Use posters, email notices, staff meetings and team building exercises to teach the principles which drive compliant behavior in your organization. Establish a committee, the sole function of which is to scrub your complaints and your policies and procedures for possible instances of unfair or deceptive practices. This committee should meet at least semi-annually and include debt collectors, supervisors, quality control personnel as well as senior management.

But above all, make sure you adopt compensation programs that reward the compliant and penalize those who skirt the law or consistently trigger consumer complaints. All the posters in the world will not overcome the message you send to your team when flagrant policy violators are rewarded.

Finally, if all else fails and you’re ready to throw your hands in the air, just remember: Do unto consumers as you would want them to do unto you, and you’ll be fine.
About Ontario Systems

Ontario Systems LLC is a leading provider of accounts receivable and strategic receivables management solutions for the collections and healthcare industries. Offering a full portfolio of software, services, and business process expertise, Ontario Systems customers include nine of the 10 largest collections agencies, and three of the five biggest health systems in the U.S., with 55,000 representatives in more than 500 locations.

Contact Us
For information on Ontario Systems’s CFPB Consulting Service, contact: Jennifer.Phillips@ontariosystems.com.

For information on the closed-loop consumer complaint resolution program, contact: Chris.Cochran@ontariosystems.com.

Disclaimer
The information contained in this publication is provided solely for educational purposes and does not constitute and should not be relied upon as legal advice. You are responsible for your own compliance with the law and you need to understand that the tools and product offerings described herein do not guarantee compliance. Accordingly, you need to consult with your own independent legal counsel regarding the topics addressed herein and how best you can comply with the law.

About the Author - Rozanne Andersen
Over 15 years of experience as General Counsel, Chief Lobbyist, Executive Vice President and CEO of ACA International – The Association of Credit and Collection Professionals – and 14 years as a practicing attorney specializing in banking and financial services have made Rozanne one of the most respected experts in the industry. Her advocacy before both state and federal regulatory bodies and her influence over compliance enhancements integrated in the Ontario Systems product suite helps our clients solve their most challenging legal issues, mitigate risk, and navigate an increasing complex regulatory and legislative environment. Rozanne earned her J.D. from the William Mitchell College of Law.