

**THE COMMONWEALTH GROUP**  
INNOVATIVE SERVICES FOR THE MORTGAGE INDUSTRY

**Surviving the Audit**

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## Compliance Management Systems – What It Is

“Dodd-Frank enacted in 2010, was written to prevent banks that were too big to fail. That resulted in a Bill that was too big too read. Many institutions argued they’re too small to comply, but the Rules are too important to ignore and CFPB and other Regulators expect all institutions to comply regardless of size, if they’re going to be in this business.”

*An effective CMS is the action taken by institutions with a strong culture of compliance.*

- Establishes a Company’s 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 and Legal Requirements are met;
- Takes Corrective Action and Updates Tools, Systems, and Materials as Necessary.



## Surviving the Audit

*If you have not been audited by your Regulator, Don't Worry, they will get to you!*

### Important Points

1. Everyone will get audited by their regulator. Just because you haven't doesn't mean it won't happen!
2. Biggest Audit Myth – “We're too small for them to fool with”
3. There are different types of audit:
  - a) Fair Lending (Pricing, Loan Decision)
  - b) Compliance (HMDA, Reg B, RESPA, Reg Z etc.)
  - c) State Audit – Loan Level
4. An ounce of prevention...

*An effective CMS is the action taken by institutions with a strong culture of compliance.*



## Compliance Management Systems – An Illustration





## **Nice Little Company You Have There, Would Be Terrible If Something Happened To It...**

- Rescission or Reformation of Contracts
- Refund of Moneys
- Return of Property
- Restitution
- Disgorgement of Profits
- Compensation of unjust enrichment
- Damages
- Public notification of violations (at violator's expense)
- Limits on activities and functions, including suspension or termination
- Civil Money penalties
  - Up to \$5,000 per day for a simple violation
  - Up to \$25,000 per day for a "reckless" violation
  - Up to \$1 million per day for a "knowing" violation



## **Board / Senior Management Oversight**

Leadership Must:

- Adopt a comprehensive CMS
- Designate appropriate management to carryout implementation of the CMS, including drafting of Policies and Procedures
- Appropriately authorize management to enforce, support and promote the CMS
- Approve and Reapprove Policies

*The Culture of Compliance Begins At the Top*



## Policies and Procedures

*“I know, that you know, that I know you know, what I’m talking about!”*

- Written Policies and Procedures are the way a lender documents what it does
- Sets the primary basis for how lenders will be examined – Do they follow their own policies?
- One Policy for each applicable Regulation – BCP/DR, BSA/AML, Complaints, Compliance Management, ECOA, Fair Lending, FCRA/FCTA, HMDA, Lending Policy, Privacy, RESPA, SAFE Act, TILA (Advertising, AIR, ATR/QM, HPML/High Cost, LO Comp, MDIA, TRID)

*The Only Thing Worse than Not Following a Policy Is Not Having One at All!*



## A Cautionary Tale...

“This Quality Control Plan dated March 2, 2015 for [*Insert name of company here*], [*Insert Complete Company Address with Zip*] and approved by the Board of Directors...”

Actual Quote from Recently Reviewed QC Plan for a Regional Bank that was signed by the President of the Mortgage Department

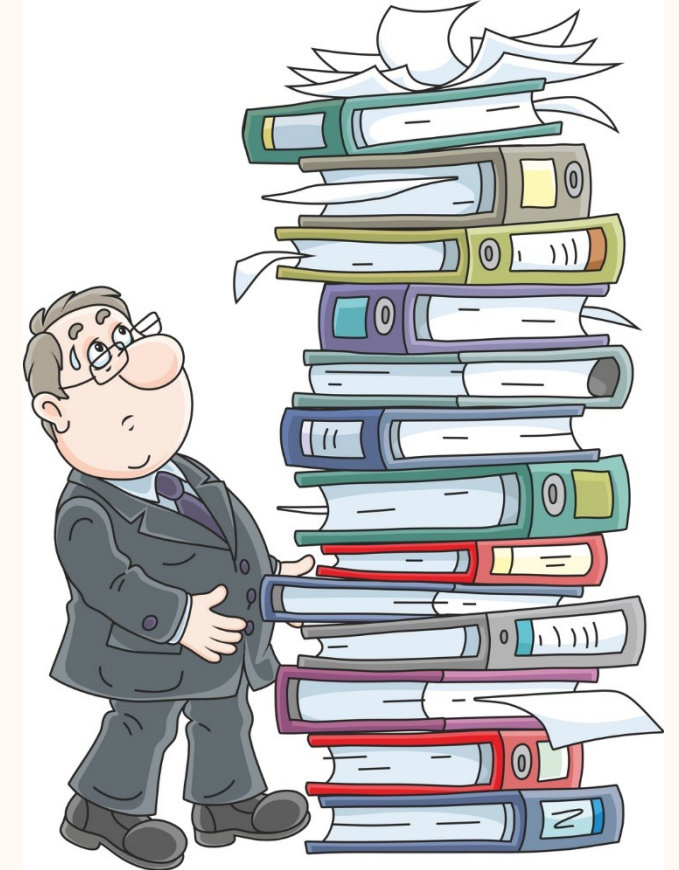
Be Careful with Templates! Make sure that whatever is in your plan it accurately reflects what the company is doing. All documentation should be completely reviewed by management prior to acceptance as policy.





## OK, So What's In A Policy Manual?

- Company complies with all various regulations (RESPA, ECOA, etc.)
- Company Commitment to Fair Lending
- Vendor Management
- Underwriting Policies
- Quality Control
- Secondary Marketing
- Servicing Policies
- Social Media Policies
- IT Policies including Disaster Recovery
- Complaint Management Policies
- Security Policies
- Internal / Independent Audit Policies
- Any Other Relevant Policies





## Procedures

If Policies are the What, Written Procedures are the How

1. A Good Procedures Manual Will Not Only Address How Work Is Done, But Will Also Specify Benchmarks for Good Procedures
2. Policies Must Be Reviewed and Implemented At Board Level, Procedures Are at the Department Manager Level
3. Like a Good Policy Manual, Procedures are a Team Effort – Department Heads Should Be Involved in the Writing of Procedures. They Know Their Own Departments Best
4. The Procedures Manual Should Be Reviewed at Least Annually
5. As Procedures Change, the Manual Should be Updated to Reflect Those Changes
6. Interdepartmental Communication is Key!



## Independent (Internal) Audit

Audit Exists to Ask One Question – Is It Working?

An Effective Audit Process Must Be a Part of Every CMS

- The Audit Area Is Senior Management's Best Friend
- Audit Must Be Independent of the Areas That They Audit
- Audit Results Should Be Reported Directly to Senior Management
- Senior Management Must Make It Clear That Audit Is Part of the Overall Team for the Company – The Audit Area is *NOT* an Adversary!





## Lather, Rinse, Repeat...

- a. A Proper Audit Tests if Procedures are Being Followed
- b. It Will Also Test if the Procedures Are Being Effective in Maintaining Policy
- c. If Both A & B are Effective, Document the Test
- d. If Either A or B is not Effective, the Audit Results Should Be Shared With Appropriate Department Heads and Senior Management
- e. The Department Head Must Provide a Response to Audit and Either Indicate Why the Results are Wrong, or Provide an Action Plan and Timeline for Correction
- f. If an Action Plan is Required, It Must Be Reviewed and Approved by Senior Management – *The Audit Department Does NOT Provide Action Plans nor Do They Indicate Acceptance of An Action Plan!*
- g. After the Action Plan is Approved and Implemented, Audit Goes Back to Step A



*If You Didn't Document It, It Didn't Really Happen!*



## Conclusion

- A Proper Compliance Management System is an Integral Part of the Lending Process
- CMS's Need to be Carried Out Not Just Because They Are Required, But Also Because It Makes for Sound Practices
- The Primary Components of an Effective CMS are:
  - Policies
  - Procedures
  - Audit
- Good CMS's Will Evolve Over Time – There Will Always Be New Challenges
- Document, Document, Document!
- Senior Management Must Be Fully Engaged and Onboard With the CMS in Order for it to be Effective