

# The Other Side of CFPB Compliance

*Strengthening your compliance program via vendor management*



Assurance • Tax • Consulting

© 2012 McGladrey LLP. All Rights Reserved.

# Legal Disclaimer

*This information is for the use of attendees only. Any distribution, reproduction, copying or sale of this material or the content hereof without consent is expressly prohibited. This information is not to be construed as legal advice. Legal advice must be tailored to the specific circumstances of each case. Every effort has been made to assure that this information is up-to-date as of the date of the publication. It is not intended to be a full and exhaustive explanation of the law in any area. This information is not intended as legal advice and may not be used as legal advice. It should not be used to replace the advice of your own legal counsel. The opinions expressed are the views of the authors alone and should not be attributed to any other individual or entity.*

# Introductions



**Tyrone Beasley**  
*Principal, Risk Advisory Services*  
McGladrey LLP



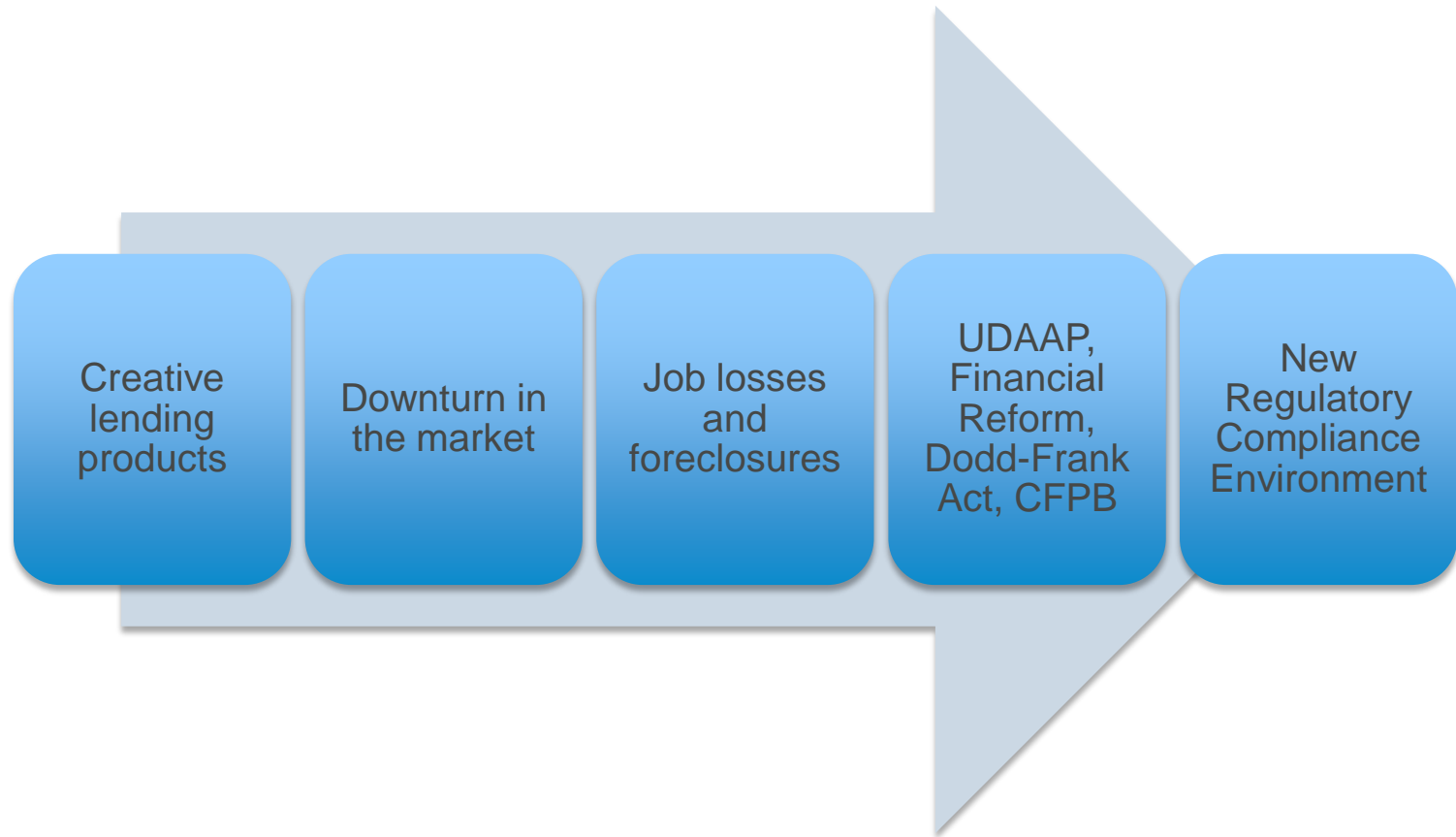
**Mike Frost**  
*Senior Vice President and General Counsel*  
CBE Companies

# Areas Covered

- A look at the current regulatory compliance environment and how we got here
- Understanding the new compliance environment in relation to the past environment
- CFPB focus: vendor management
- How to minimize vendor compliance risk
- Example of a well constructed vendor Compliance Management System
- Questions and answers

# **The Current Compliance Environment**

# The Current Compliance Environment



# Current Regulatory Environment

- The CFPB is a financial regulatory agency with a mission to protect consumers

## **CFPB's semiannual report:**

“The Bureau is establishing evenhanded and reasonable oversight to the marketplace. We are working to root out unfair, deceptive, or abusive practices. Consumers deserve to be treated fairly, and to have someone stand on their side when they are not. Congress directed us to fix grave problems... and we are well on our way to fulfilling that goal.”

# Current Regulatory Environment

- Understanding the key difference between the past and the present is critical
- The compliance environment of old
  - Step 1: Compliance
- The current compliance environment
  - Step 1: Compliance
  - Step 2: Direct UDAAP concerns or issues
  - Step 3: Due diligence to ascertain the risk of indirect UDAAP concerns or issues



# Vendor Relationships

# Vendor Relationships

- Vendor relationships are tied to key operational strategies, such as:
  - Access to specific and dedicated expertise
  - Cost containment and reduction
  - Operational efficiencies
- Examples of vendor relationships
  - Technology service providers such as software vendors
  - Loan documentation platform vendors
  - Loan servicing vendors such as companies that provide foreclosure assistance, insurance monitoring, recoveries and debt collections

# Vendor Relationships

- Pillars of risk with vendor relationships:
  - Operational risk
  - Transaction risk
  - Credit risk
  - Reputation risk
  - **Compliance risk**

# The CFPB's View of Vendor Relationships

“Consumers are at a real disadvantage because they do not get to choose the service providers they deal with—the financial institution does. Consumers must not be hurt by unfair, deceptive, or abusive practices of service providers. Banks and nonbanks must manage these relationships carefully and can be held accountable if they break the law.”

*- Richard Cordray, CFPB Director*

# How to Minimize Vendor Compliance Risk

- View your vendor's compliance management program as an extension of yours
- Work with vendors that can demonstrate a regulatory compliance culture
  - Compliance policies and procedures
  - Risk assessment
  - Formalized consumer complaint process flow
  - Monitoring/compliance reviews
  - Corrective action measures
  - Employee training
- Do not work with vendors that cannot!

# Importance of Minimizing Vendor Compliance Risk

- Consumer protection is the focus, therefore...
- ...Your vendors can be audited
  - Vendor or service provider is any person that provides a material service to a covered person of a consumer financial product or service
    - A service provider may or may not be affiliated with the person to which it provides services
  - CFPB also has supervisory and enforcement authority over service providers, including onsite examinations

# Importance of Minimizing Vendor Compliance Risk

- Audit risk
- Large fines
- Class action law suits
- Brand erosion
- Customer experience destruction
- Decreased customer lifetime value

Company	CFPB Fines	Consumer Payments	Total
Major Bank A	\$27.5 (CFPB)	\$85	\$112.5
Major Bank B	\$25 (CFPB) \$35 (OCC)	\$150	\$210
Major Bank C	\$7 (CFPB) \$7 (Treasury)	\$200	\$214
<b>Total</b>	<b>\$59.5 (CFPB) \$35 (OCC) \$7 (Treasury)</b>	<b>\$435</b>	<b>\$536.5</b>

CFPB Fines and Consumer Payments (in millions)  
Source: CFPB Website

# Case Study:

How CBE Companies developed an effective compliance management system



# CBE's Compliance Management System

- Culture of compliance, governance
- Written policies and procedures
- Oversight and accountability
- **Monitoring and auditing under a risk assessment framework**
- Corrective action measures
- Periodic reassessment of the CMS

# Mock Audit Process

April 2012  
CBE hired McGladrey to conduct a first of its kind  
CFPB Mock Audit

June 2012  
Mock Audit created based on similar CFPB  
Examination Procedures

August 2012  
McGladrey conducted Mock Audit with  
OCC-experienced staff

October 2012  
Action items for each finding submitted to CBE's  
Project Management Office for reconciliation

# **Vendor Relationship Focus: Collection Agencies**

# CFPB Vendor Relationship Focus: Collection Agencies

- Direct contact with consumers
  - First-party recoveries or third-party debt collection
  - Pre- or post-charge-off
- Consumer laws and regulations must be followed
- Perception: The potential for UDAAP issues is high
- As an outsourced service, your collection agency compliance management system (or the lack thereof) is part of **your** compliance management system

# Questions You Should be Asking

1. Do I have an audit process that inspects what I expect out of my vendors?
2. Do I have metric-driven insight for improved quality and compliance processes and scoring?
3. Do I have a plan to mitigate and lower risk of paying large CFPB fines and reputation damage from vendors that are not ready for a CFPB audit process?

# Questions You Should be Asking

4. Does my vendor provide thought leadership, innovative design and implementation?
5. Am I focusing on long-term performance and consumer protection?
6. Am I actively learning and planning for upcoming CFPB compliance measures?

# What You Can Do Now to Protect Yourself

- Constructively critique your vendor relationships with an eye toward consumer protection
- Be proactive with vendor relationships and require strong, tested CMSs to minimize the risk of indirect regulatory issues
- Partner with a collection agency with a culture of regulatory compliance and a documented CMS that has been tested by a third-party financial services firm with experienced regulatory compliance professionals

# Questions and Answers



# Thank You for Joining Us Today!

## **Tyrone Beasley**

McGladrey

P: 972.764.7100

E: [tyrone.beasley@mcgladrey.com](mailto:tyrone.beasley@mcgladrey.com)

## **Mike Frost**

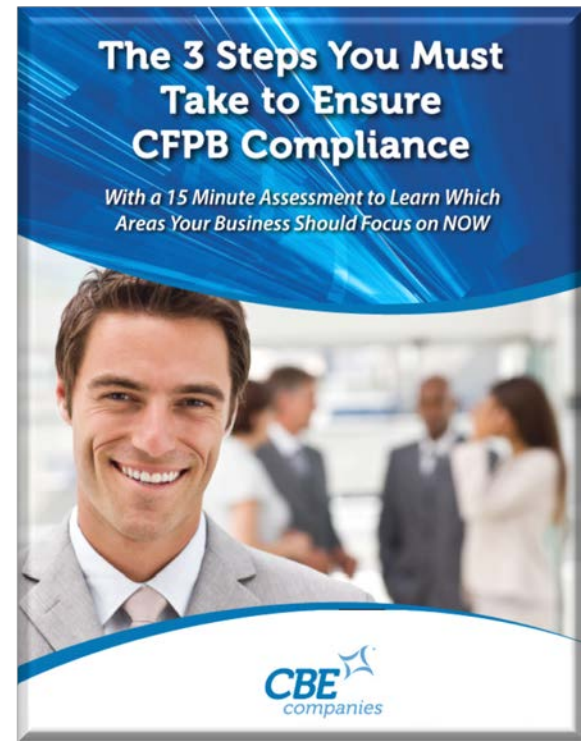
CBE Companies


P: 319.833.1202

E: [mlfrost@cbecompanies.com](mailto:mlfrost@cbecompanies.com)

**Request a Copy of CBE's Whitepaper**

Email: [marketing@cbecompanies.com](mailto:marketing@cbecompanies.com)





McGladrey LLP is the U.S. member of the RSM International ("RSMI") network of independent accounting, tax and consulting firms. The member firms of RSMI collaborate to provide services to global clients, but are separate and distinct legal entities which cannot obligate each other. Each member firm is responsible only for its own acts and omissions, and not those of any other party.

McGladrey, the McGladrey signature, The McGladrey Classic logo, *The power of being understood*, *Power comes from being understood* and *Experience the power of being understood* are trademarks of McGladrey LLP.

© 2012 McGladrey LLP. All Rights Reserved.



Assurance ■ Tax ■ Consulting