

# YOUR MONTHLY COMPLIANCE NEWSLETTER



## FINDINGS FROM OUR CONSULTING WORK

Have you ever been asked the fair and unnerving question, “Why wasn’t this found earlier?” How about, “Why hasn’t anyone said anything before?” Both are frequently followed up with, “Our regulators didn’t mention this as an issue.” There is a common misconception that regulators discover all current issues during examinations. If that were true, then there would be no compliance concerns until the next internal or external change if the institution addressed the examination findings. This perception misunderstands the role of a regulator. They do not review everything. They are not auditors. Regulators assess risks and controls.

We are going to cover three common misconceptions about regulators that lead to uncomfortable questions when misunderstood.

### Misconception 1 – All Regulators Cover the Same Regulations

This is the easiest misconception to clarify. There are different types of regulatory agencies and sometimes different types of regulators within those agencies. Some examinations have nothing to do with consumer compliance, and there is a difference between state and federal consumer compliance examinations.

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## OCC SEMIANNUAL RISK PERSPECTIVE

Twice a year the OCC publishes a report highlighting key risks in the federal banking system. In the first issue of 2026, found [HERE](#), the OCC mentions several areas of interest to compliance professionals, including increased sanctions and money laundering risk, AI use and governance, and digital assets. If you are an OCC chartered bank, we highly recommend you check it out.



### **FDIC SIGNAGE RULE Q&A UPDATE**

The FDIC updated its Part 328 Final Rule Q&A page to reflect the changes made to the signage rule, which we discussed in the February 2026 newsletter. You can find the final rule [HERE](#) and the Q&A page [HERE](#).



### **FINCEN CUSTOMER DUE DILIGENCE FAQ UPDATE**

FinCEN updated their Customer Due Diligence Rule FAQs page, found [HERE](#), to both combine the previously separately published FAQs and update certain FAQs to align with the 2026 exception relief order.

## **AUTOMATED HMDA SCRUBBING TOOL**

For those of you unaware, Tory has partnered to build FairBorrow. Ai. This is an advanced fair lending analytics tool that is simplifying fair lending analytics.

In addition, we are building an automated HMDA scrubbing tool. This tool will use advanced AI technologies to automatically read your loan files and compare them to your Loan Application Register. For some of you, an effective tool like this can save hundreds of thousands of personnel costs.

We are looking for early adopters of this tool that want to get in on the ground floor to help customize the tool and make it great.

If you have 500 or more HMDA reportable applications annually, and you are looking to adopt technology that can save your organization a significant amount of resources, please e-mail tory for a discussion. You can reach him at [tory@fairborrow.ai](mailto:tory@fairborrow.ai)

## **SECTION 1071 FINAL RULE**

The CFPB made final the latest iteration of the small-business lending data rule. The big takeaway is the large reduction in the number of institutions that will be required to report small-business data and the elimination of several discretionary data points. With a new compliance date of January 1, 2028, for all institutions, the threshold for coverage by the rule increased from 100 to 1,000 covered transactions in the preceding two years and the definition of small business used to identify covered transactions contracted from \$5 million in gross annual revenue to \$1 million. You can find the final rule [HERE](#) for more details. At a recent conference, it was mentioned that this takes out about 90 percent of institutions that would have reported. If you are one still in the mix, you have our sympathies.

## **OCC CLARIFIES FEDERAL PREEMPTION**

The OCC is working to solidify protections for national banks from state laws that it identifies as unduly restrictive to the operations of national banks. The OCC recently issued two final rules on preemption of state interest-on-escrow laws, found [HERE](#), and an interim final order on preemption of Illinois Interchange Fee Prohibition Act, found [HERE](#).

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Banks work with one of three primary regulators, the Federal Deposit Insurance Corporation (FDIC), the Federal Reserve (Fed), or the Office of the Comptroller of the Currency (OCC). Credit Unions work with the National Credit Union Administration (NCUA). The Consumer Financial Protection Bureau (CFPB) is an additional regulatory agency for financial institutions with \$10 billion or more in assets. State chartered banks also have state regulators, typically within a division or department of banking or financial institutions.

State examinations are often the only ones that consider state law, which includes little consideration for consumer protection because of the federal protections in place, though state examiners may consider federal consumer protection laws and some states have strong consumer protection divisions. As a general principal, don't count on state examiners to consider federal consumer protection regulations. In contrast, the CFPB only deals with federal consumer protection laws. The FDIC, Fed, OCC, and NCUA all cover both safety and soundness and consumer protection; however, their

approaches and scopes are not perfectly aligned, and the examinations of safety and soundness and consumer protection may not be concurrent. In summary, if someone wonders why an issue wasn't found at the most recent examination, it may simply be because it was outside the scope, purpose, or authority of the regulator who conducted that examination.

### **Misconception 2 – Regulators Review Everything**

It is true that regulators should consider everything pertinent to their authority, but that consideration is for the purpose of identifying the areas that warrant a detailed review. The examination manual for every federal regulator discusses focusing reviews on areas that present the greatest risk of consumer harm. In other words, regulators first consider the inherent risk of consumer harm presented by products, services, and operations; next consider the controls in place at the institution to mitigate those risks; and then consider the resources they have available to review areas deemed to pose the greatest residual risk of consumer harm.

When a regulator does not conduct a detailed review of

a specific product, service, or operation, they are in no way attesting that there are no potential issues or concerns. They are merely determining that their limited resources are best spent reviewing other areas.

### **Misconception 3 – Regulators Find Everything**

After breaking through the second misconception, it is easy to be fooled into thinking areas reviewed by examiners have no undiscovered concerns. Regulatory examiners excel at understanding inherent risk and identifying weak points in compliance management systems, but few are true auditors, and examination teams often include trainees. This is where we find the largest distinction between internal compliance personnel, external auditors or consultants, and examiners.

When compliance personnel test a product, service, or operation, the institution can control every aspect of what is considered and internal personnel should have expertise in the unique operations of the institution, which distinguishes them as having the ability to dig into systems to strengthen compliance foundations. External auditors and

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consultants are typically contracted to review specific areas identified by bank management. While the goals of auditors and consultants can vary, their general purpose is to perform precise transaction testing and program analyses with the depth and breadth of expertise that can only be obtained through working with a wide range of institutions.

Examiners are in the unique position of relying on

documentation provided by the institution to select their own scope of review, which may be influenced by the priorities of upper management in the agency. There is no guarantee that a product, service, or operation reviewed during an examination considered all applicable regulatory citations. Again, the examiner's goal is not to test transactions for every potential violation, it is to assess risks and controls. Even if an examiner does get detailed like an auditor or consultant and finds no issues, remember

that the areas reviewed were included in the examination scope because they were identified as presenting a higher potential risk of consumer harm, which means the examiner identified something that could lead to future issues even if none are currently present.

The next time you encounter the statement "Our regulators didn't mention this as an issue," recall the three common misconceptions and you will be prepared to explain the situation with clarity and confidence.

# YOUR MONTHLY FAIR LENDING CORNER NEWSLETTER



We harp on redlining risk a lot, and rightfully so. One of the largest challenges faced by institutions when combatting redlining is branch locations. Having branches in and around higher-minority or majority-minority census tracts is one of the clearest ways to reduce redlining risk, but it is very costly to build and open branches, and we have never recommended opening a branch for the sole purpose of reducing redlining risk. What are simpler ways to reach minority communities? We're so glad you asked! Three primary methods come to mind.

First, marketing is the easiest path to reaching areas without a physical branch. The whole point

of marketing is to promote brand awareness and obtain new customers. Intentional marketing strategies include targeting, geofencing, and community outreach. Targeting can look like direct mailers, billboards, and sponsoring local events. Geofencing is a tech-savvy form of targeting that relies on location or cellular data, which can provide highly efficient targeting to desired areas. By community outreach, we mean pounding the pavement. Increasing community service activities in the areas you need to reach and developing relationships with leaders in those areas can have a huge impact.

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Second, technology to serve areas outside of your branch locations is critical to obtaining the new customers you reach through marketing efforts. Tools such as online loan applications and accessible online and mobile banking can break the barrier of physical locations. If your closest branch is a 30-minute drive for certain neighborhoods, and you don't have the technology to reach them without physically seeing them, it's not likely they will drive 30 minutes and pass 10 other institutions on the way to bank with you, just because they saw your commercial.

Third, product offerings matter. If you don't have

products that meet the needs of individuals in areas you are trying to reach, you won't originate many loans no matter how much marketing you do or how great your technology is. Plus, the last thing you want to do is put someone in a product that is risky for the bank or the customer. Adding government guaranteed loans or flexible financing products to your offerings is a great way to bring in more applications and close more loans.

No matter your branch locations and branching strategy, marketing, technology, and product offerings are effective tools for reducing redlining risk and extending the reach of your institution.

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