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By attending today's session, you are eligible to receive 1 CPE Credits per the following guidelines.

**In order to receive this credit, the following items MUST be completed:**

- ✓ Each person wishing to receive CPE Credit must log into the session **individually** with their credentials
- ✓ You **MUST** answer ALL of the polling questions throughout the presentation
- ✓ You **MUST** be in attendance for the entire live session
- ✓ You **MUST** complete the follow-up survey regarding the session



VENDOR COMPLAINTS:  
**A Cause for  
Enforcement  
Actions**

**MAY 12, 2020**

**PRESENTED BY**  
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# Session Agenda



**The consequences of vendor complaints**



**An overview of the CFPB's new UDAAP policy  
(effective January 24, 2020)**



**Setting vendor performance and complaints  
management expectations**



**How to watch for your vendors' complaints**



**Improving vendor performance**



**Examples of enforcement actions**

Why should you be worried about consumers complaining about one of your vendors?

Your organization will be held accountable for the actions of a third-party vendor.





## What is your biggest vendor management challenge:

- a. Time
- b. Getting the right documents from vendors
- c. Risk assessments
- d. Keeping up with the regulations
- e. Ongoing monitoring
- f. Reporting
- g. Not sure

# What Changed?

## UDAP VS. UDAAP?

### The CFPB, FTC, FDIC, FRB & OCC

All have an interest in protecting consumers

- Vendors selling into the finance industry
- FTC is universally applicable

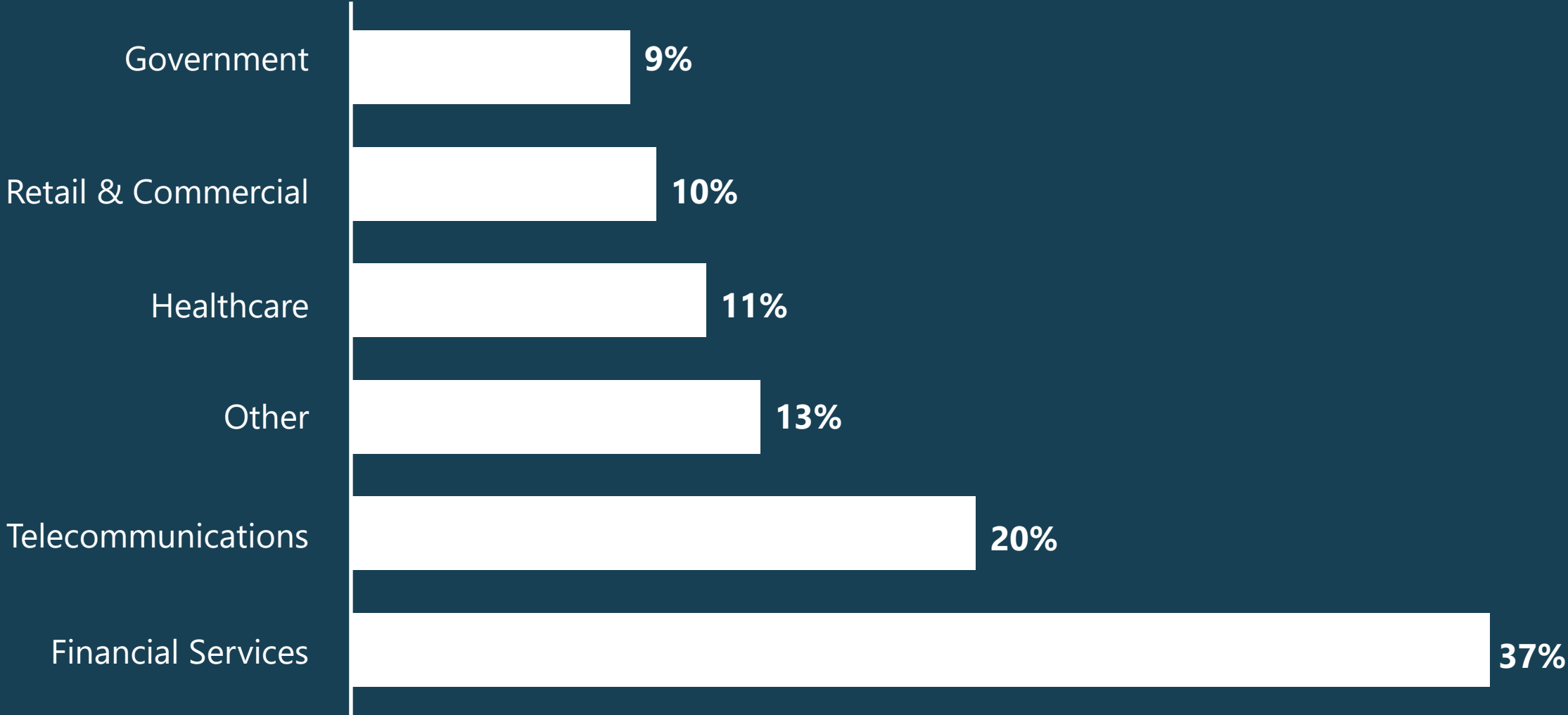
### UDAP looked for the “intent” to deceive by the FI

- In advertising
- In product and service(s) bundling

### UDAAP looks for “abusive” acts or practices

Intent is no longer relevant

**CHART 1:** Debt Collection Market Segments by Share of Revenue, 2019 (IBIS WORLD)



**CHART 2:** Debt Collection Market Segments by Share of Revenue, 2019 (IBIS WORLD)



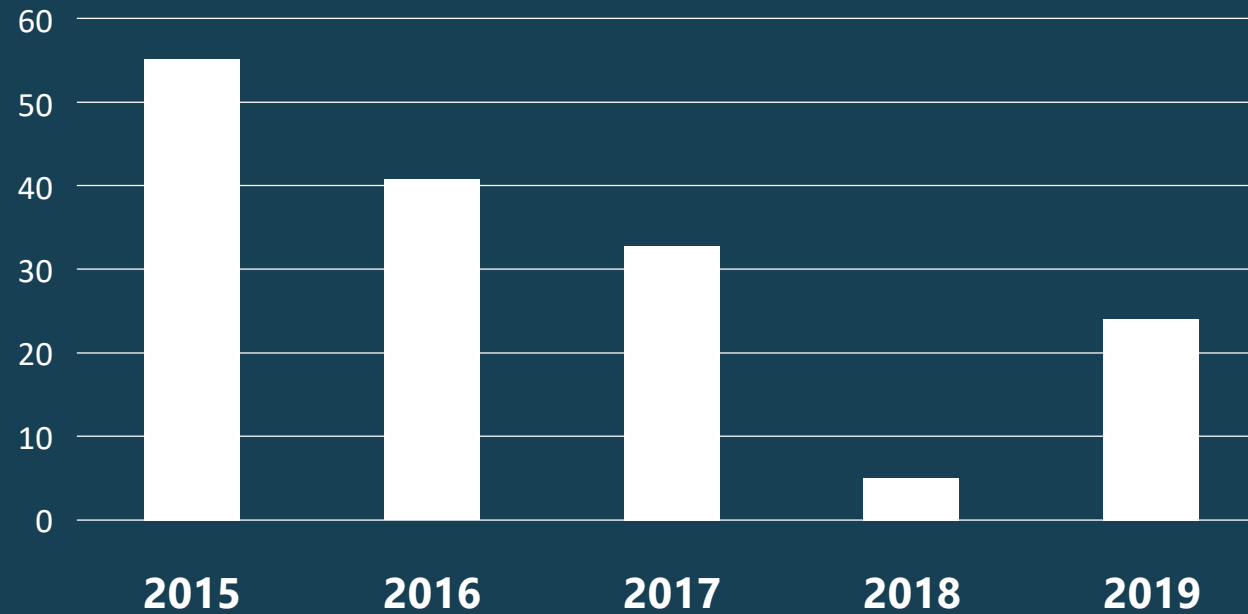


### CHART 3: How Companies Have Responded to Consumer Complaints to the CFPB

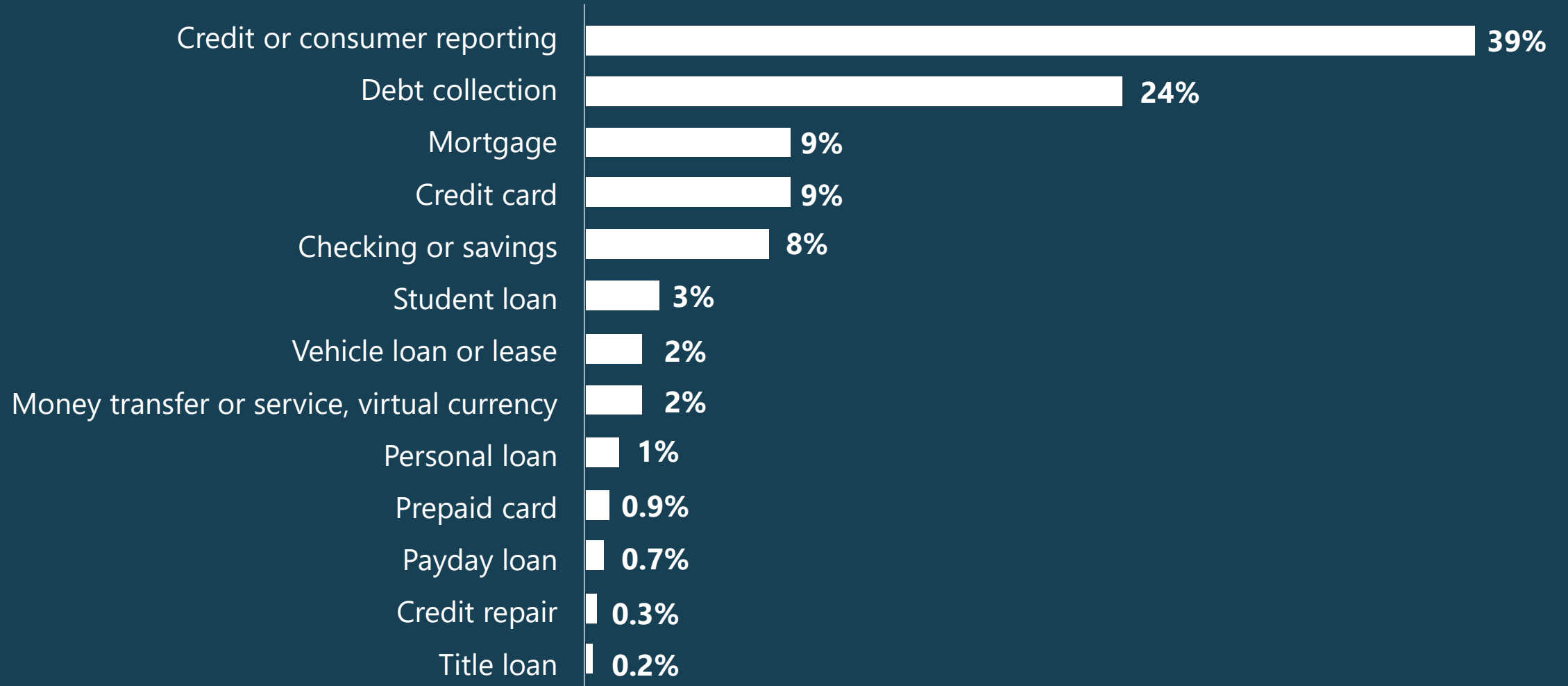
Company Response	#	%
Closed with explanation	38,300	81%
Closed with non-monetary relief	4,600	10%
Company did not provide a timely response	1,700	4%
Company Reviewing	1,400	3%
Administrative response	700	1%
Closed with monetary relief	300	1%
<b>Total Complaints Sent to Companies for Response</b>	<b>47,000</b>	<b>100%</b>

**CHART 4:** CFPB Enforcement Actions 2015-2019

## Enforcement Actions Bounce Back



## CHART 5: Consumer Complaints by Product





## Pandemic Causes More Complaints

Monitoring your complaints is mission critical during any event that stresses the economy.

The economic damage from COVID-19 will be tragic and lead to an increased number of consumer complaints.

# CFPB Stats

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Since January 2012, the  
CFPB has processed

1,576,867

**complaints**

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In April 2017, the CFPB

changed the options

**available to consumers**

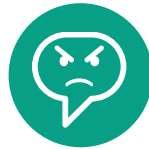
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Today, the CFPB averages

20,000 complaints

**per month**

# Why Vendor Complaints Matter



Complaints related to a vendor **translate to a complaint about your organization**



**Consumer expectations** are evolving



The internet **is here to stay**



Acts as red flags of a vendor's declining **performance**



The pace of regulatory change is **accelerating**



CFPB is mining data lakes for **complaint patterns**

# Monitor & Respond to ALL Complaints

It's simple predictive analytics

If you haven't already done so - create a database of complaints and track the following:



**Calls (all calls inbound and outbound)**



**Written Communication**



**In-Person Conversations**



**Any communication with the CFPB**

The CFPB has a complaints database for consumers to share their negative experiences

# Who Do Consumers Complain To?

Primary regulators  
(OCC, FRB, FDIC)

CFPB

State attorneys  
general

FTC

BBB

Social media





# Social Media Isn't Always "Social"

**Anyone can tweet** anything, anytime, from anywhere.



**Anyone can say**  
anything, at any time,  
on any platform.



Facebook



Twitter



Pinterest



YouTube



Google+



Line



Facebook  
Messenger



LinkedIn



Viber



WhatsApp



Skype



WeChat



Instagram



Snapchat

# The CFPB's Response to Signing Up for Email Alerts

Thank you for signing up for email updates from the Bureau! From time to time, we'll send important updates about our work, tools, and resources to help you make better financial decisions.

For now, here are more ways to stay in touch:

- Follow us on [Twitter](#)
- Like us on [Facebook](#)
- And read our [blog](#)

Don't forget to sign up for our [other email lists](#) to learn more about our work at the Bureau.

Sincerely,

The Bureau of Consumer Financial Protection

**Follow us**





**Do you have a documented risk assessment process as part of your vendor management protocol?**

- a. Yes
- b. No
- c. Not sure

# Enforcement Actions Aren't Exclusive to the One Industry

Historically, enforcement actions occurred more in the finance industry (banks, credit unions, insurance, etc.)

## The CFPB now includes:

- Legal Firms
- Marketing Companies
- Information Systems
- Auditors
- Asset Recovery Firms
- Educational Institutions

# Today's Enforcement Actions

## Filter enforcement actions

DATE FILED APR 01, 2020

### Cottonwood Financial, Ltd., d/b/a Cash Store

On April 1, 2020, the Consumer Financial Protection Bureau issued a consent order against Cottonwood Financial, Ltd., which does business under the name Cash Store.

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DATE FILED MAR 09, 2020

### Fifth Third Bank, National Association

On March 9, 2020, the Consumer Financial Protection Bureau filed a lawsuit in federal district court in the Northern District of Illinois against Fifth Third Bank, National Association.

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DATE FILED FEB 20, 2020

### Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC

On February 20, 2020, the Consumer Financial Protection Bureau, the South Carolina Department of Consumer Affairs, and the State of Arkansas Attorney General Leslie Rutledge filed a lawsuit in federal district court in the District of South Carolina against Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC.

# It Isn't Just the Big Organizations Anymore

## Cottonwood Financial, Ltd., d/b/a Cash Store

- April 1, 2020, the CFPB issued a consent order against Cottonwood Financial, Ltd., d.b.a. Cash Store
- Violations of the Consumer Financial Protection Act (CFPA), Fair Credit Reporting Act (FCRA) and Truth in Lending Act (TILA)
- Fined \$286,675.64 in consumer redress and a civil money penalty of \$1,100,000

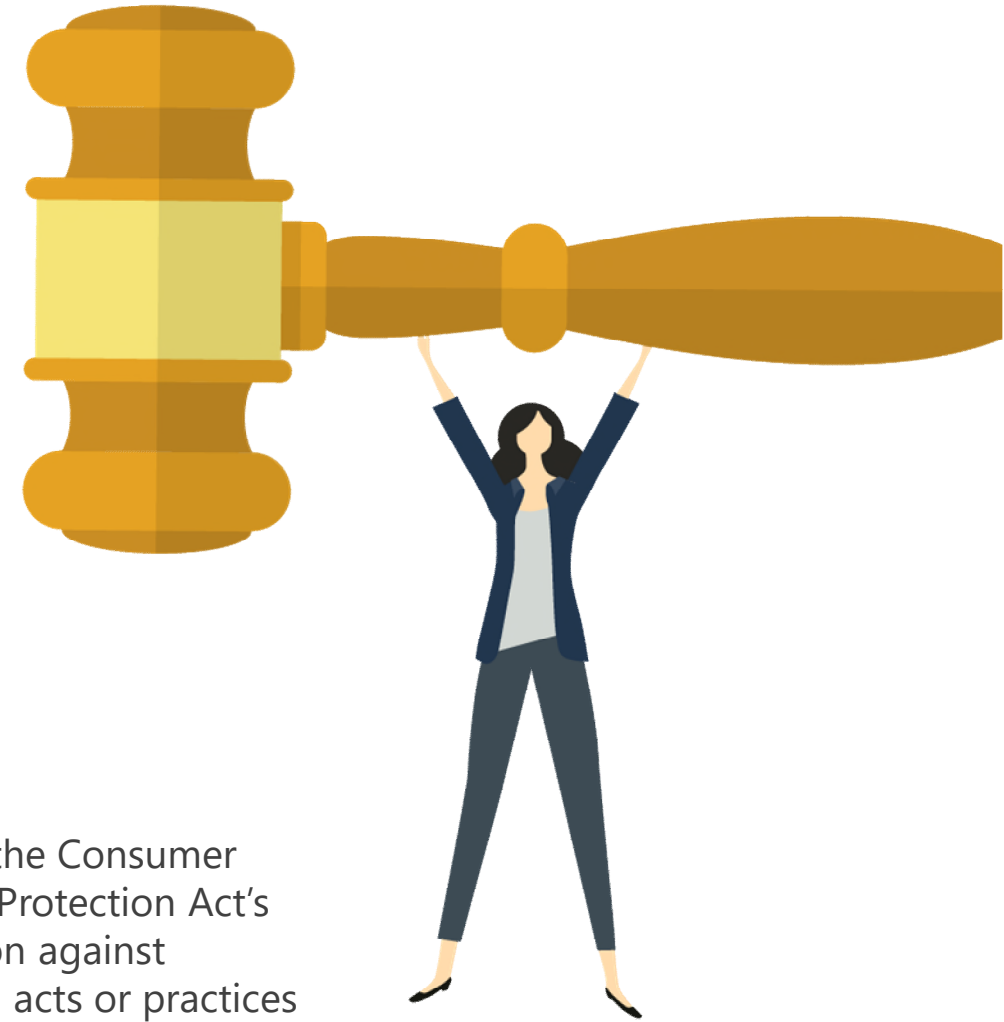


# Enforcement Is Branching Out

## Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC

- February 20, 2020, the CFPB, the South Carolina Department of Consumer Affairs (South Carolina) and Arkansas Attorney General Leslie Rutledge filed a lawsuit in federal district court in the District of South Carolina against Candy Kern-Fuller, Howard Sutter III, and Upstate Law Group LLC.

- Violated the Consumer Financial Protection Act's prohibition against deceptive acts or practices





# YOU

**Are Responsible for  
Your Third Parties**



It is up to you to monitor your third-party, fourth-party, fifth-party vendors and so on for both:

- Quality Assurance (the processes in place)
- Quality Control (product sales and service)

Accountability isn't in  
an SLA; it's up to you!

# CFPB Mines Data

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Is it an isolated  
incident or tip of an  
iceberg?

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Investigate each one

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Develop a complaints  
management policy

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Assume for each  
consumer who  
complains there are 20  
others who didn't  
bother



# The Enforcement Arsenal

FTC UDAP §5

CFPB UDAAP

FDCPA

TILA

(under the purview of the CFPB)



Any entity is subject to the FTC and every entity selling a product or service to a regulated industry is subject to enforcement!

# Why Are Complaints Harmful?

Set aside enforcement actions for a moment

## Other collateral damage:

- Reputation risk
- Loss of consumer confidence
- Silent attrition
- Cost of acquiring new customers increases



# Where to Look for Complaints Against Your Third Parties

- CFPB and FTC databases
- Better Business Bureau
- Google news search
- Social media – hello, Twitterverse!



# Where Do I Start?

1

Look at your products and services from a consumer point of view

2

Setup a complaint monitor program

3

Do mystery shopping & record call center calls (for training purposes...)

4

Review disclosures to be sure that they are very clear and extremely concise

# Complaint Program

- Log every complaint and every interaction with anyone
- Track if a vendor was the cause of complaint
- Date & time stamp all interactions
- Answer every customer, every time



Remember! Complaints are **your** responsibility...**not** your vendor's



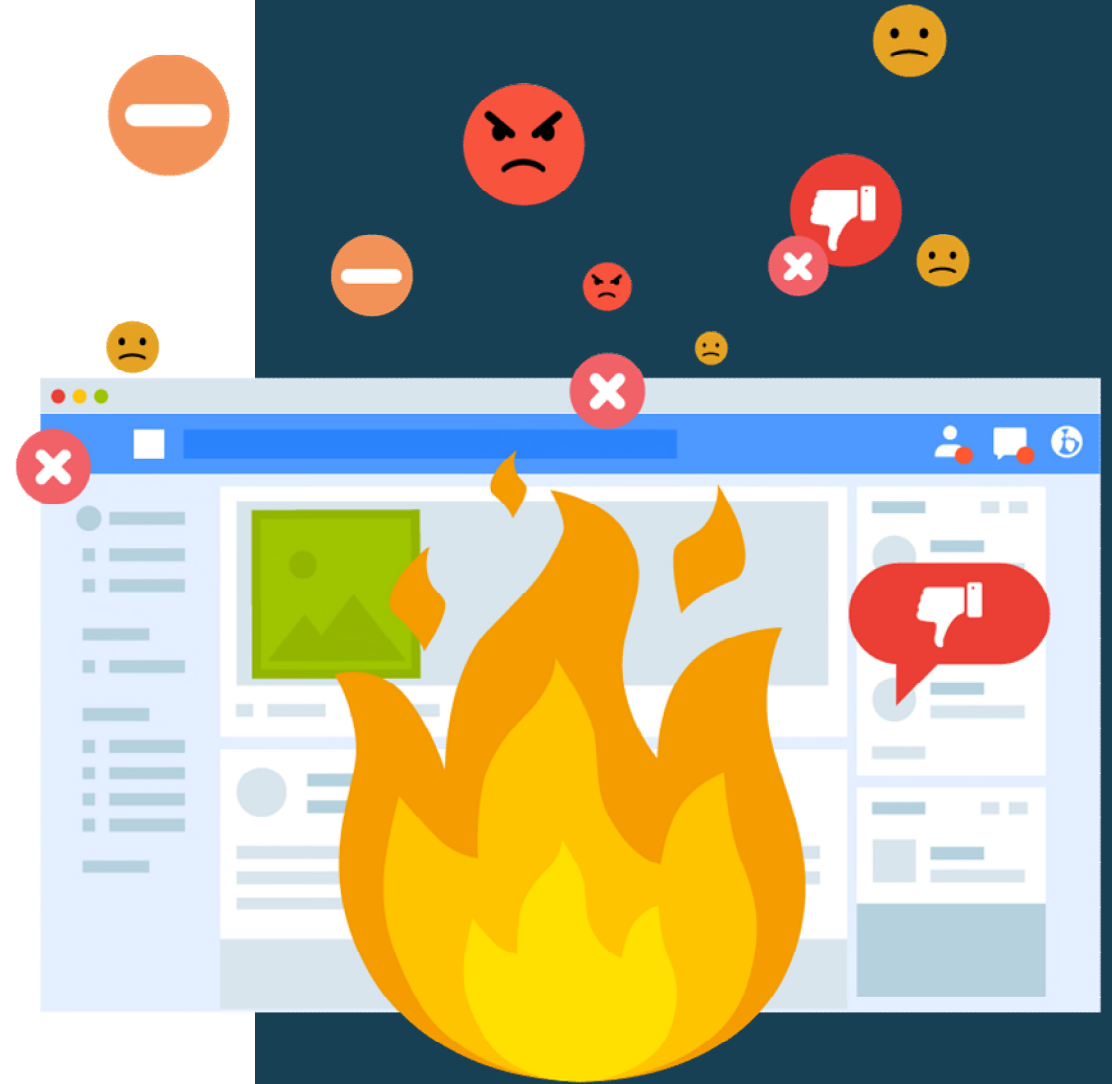
# Listen to Your Customers

- Set time aside to discuss what feedback you're receiving
- Call center monitoring
- Mail monitoring
- Quarterly business reviews with your third parties
- Setup a social media watchdog



# *“The customer is always right...”*

- Ok – hyperbolic but the customer is the one who can complain the loudest
- Social media can lead to media disaster
- Develop a social media policy
- Take it “offline”
- Monitor your social media



# Empower Your Front Line



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Make them your eyes  
and ears

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Educate them on how your  
organization wants specific  
issues handled. "If you see  
or hear something, say  
something"

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This extends to anyone  
dealing with customers  
and third parties



## At my organization, identifying a critical vendor is:

- a. A very challenging process with much debate internally
- b. Moderately challenging and a bit inconsistent but processes are in place
- c. Not challenging at all, I'm confident our critical vendors are all properly defined
- d. Not sure

# Study Recent Enforcement Trends

- Use as a lens for your own organization
- Social media reports
- Google news
- Primary regulators' websites (FDIC, FRB, OCC)
- PaymentLawAdvisor.com





# Be Careful With Products & Disclosures


- Credit repair products
- ID theft protection products
- Add-on products in general
- Heavily fee laden, difficult to understand and/or difficult to cancel
- Anything verbally communicated to your customers!

# Avoid the Regulatory Chain-of-Pain

- 1** Have a dedicated response team to handle complaints
- 2** Require aggressive action and timeframes
- 3** Acknowledge, respond and resolve in writing



# A Few Final Best Practices

- 
- ✓ Make complaint management part of your contract with your third parties
  - ✓ Develop clear guidelines on who and how to handle
  - ✓ Require root cause analysis of every issue you log
  - ✓ Follow through to be sure the issue is remediated

# Third-Party Regulatory Guidance

## **FIL-49-1999**

Bank Service Company Act

## **FIL-81-2000**

Risk Management of  
Technology Outsourcing

## **FIL-22-2001**

Security Standards for  
Customer Information

## **FIL-50-2001**

Bank Technology Bulletin:  
Technology Outsourcing  
Information Documents

## **FIL-68-2001**

501(b) Examination  
Guidance

## **FIL-23-2002**

Country Risk Management

## **Outsourcing Technology Services**

## **FIL-121-2004**

Computer Software Due  
Diligence

## **FIL-27-2005**

Guidance on Response  
Programs

## **FIL-52-2006**

Foreign-Based Third-Party  
Service Providers

## **FIL-105-2007**

Revised IT Officer's  
Questionnaire

## **NCUA 08-cu-09**

Evaluating Third-Party  
Relationships Questionnaire

## **NCUA 2007-cu-13**

Evaluating Third-Party  
Relationships

## **FIL-44-2008**

Guidance for Managing  
Third-Party Risk

## **FIL-127-2008**

Guidance for Payment  
Processor Relationships

## **FINRA Rule 3190**

## **FINRA Regulatory Notice 11-14**

## **Supervision of Technology Service Providers**

## **FIL-3-2012**

Managing Third-Party  
Payment Processor Risk

## **CFPB 2012-03**

Service Providers

## **OCC-2013-29**

Guidance on Third-Party  
Relationships

## **Federal Reserve SR 13-19/CA 13-21**

Guidance on Managing  
Outsourcing Risk

## **FFIEC Social Media Guidance**

## **FFIEC IT Handbooks**

## **OCC-2017-7**

Supplemental Examination  
Procedures for Risk  
Management of Third-Party  
Relationships

## **OCC-2017-21**

Frequently Asked Questions to  
Supplement OCC Bulletin  
2013-29

## **NCUA SL-17-01**

Evaluating Compliance Risk

## **OCC-2017-43**

Risk Management Principles

## **SEC Statement on Cybersecurity**

## **OCIE Observations from Cybersecurity Examinations**

## **FIL-19-2019**

Technology Service Provider  
Contracts





# Questions & Answers

**Post a Question:**  
[www.thirdpartythinktank.com](http://www.thirdpartythinktank.com)



**Email Us:**  
[gordon.rudd@venminder.com](mailto:gordon.rudd@venminder.com)

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Vendor Risk Assessment Workshop

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**Thank You**

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