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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:

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- ✓ You **MUST** be in attendance for the entire live session
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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)

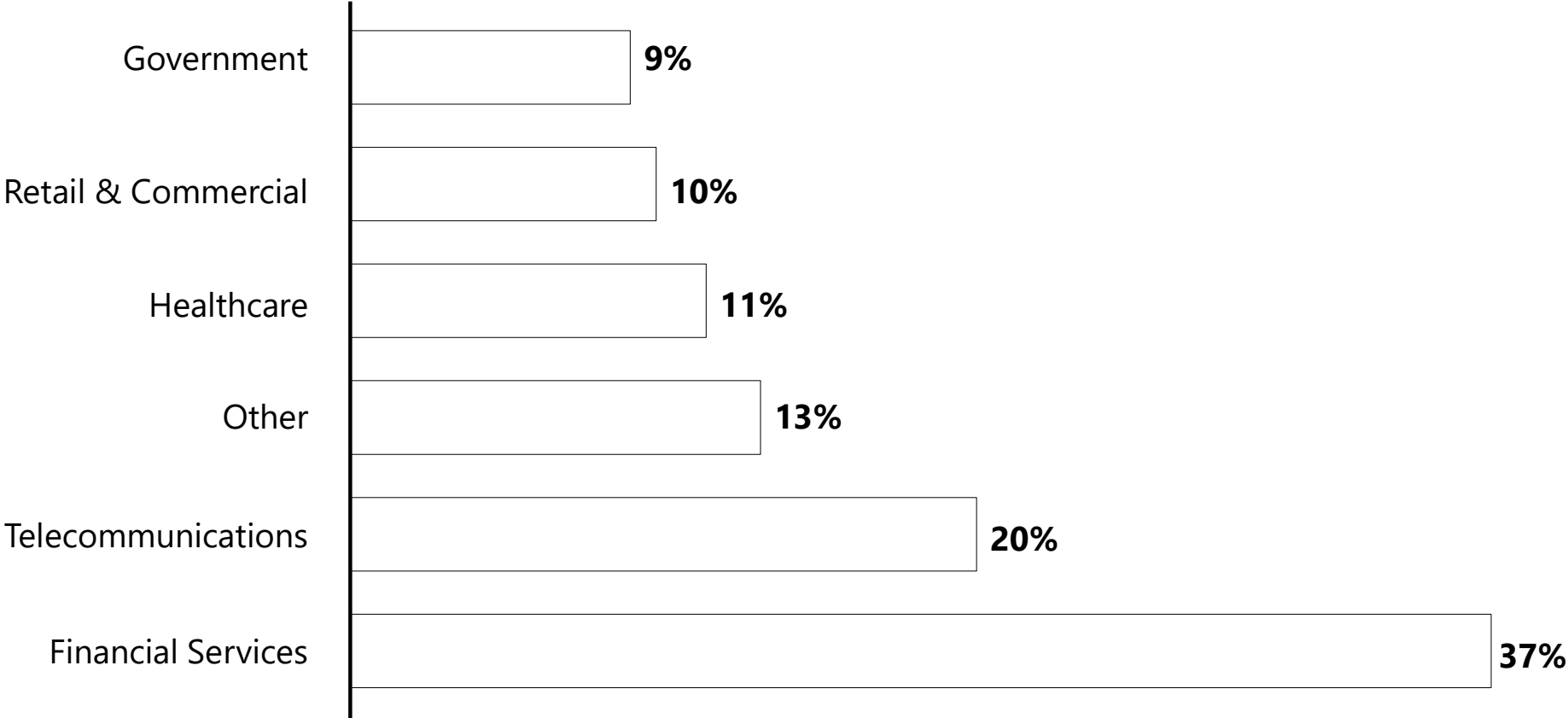


CHART 2: Debt Collection Market Segments by Share of Revenue, 2019 (IBIS WORLD)



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%
Total Complaints Sent to Companies for Response	47,000	100%

CHART 4: CFPB Enforcement Actions 2015-2019

Enforcement Actions Bounce Back

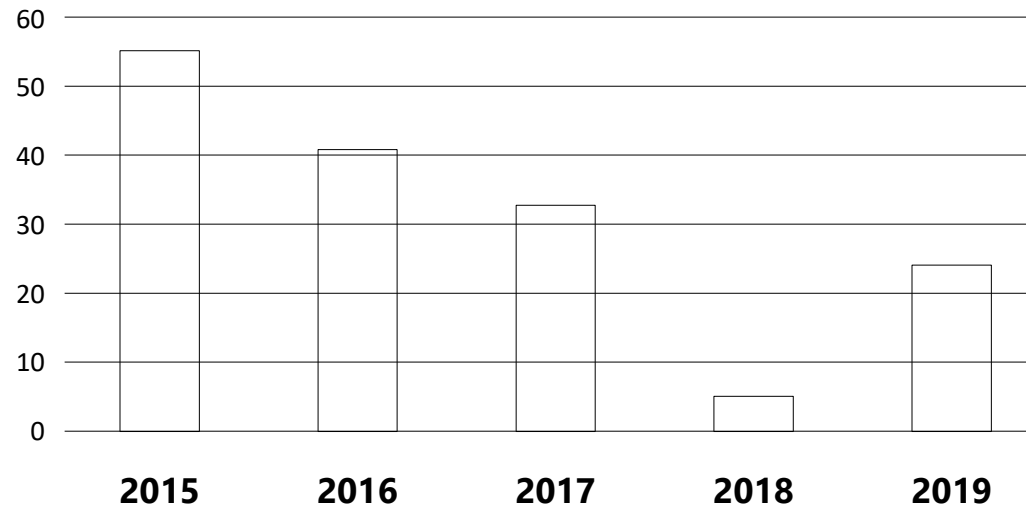
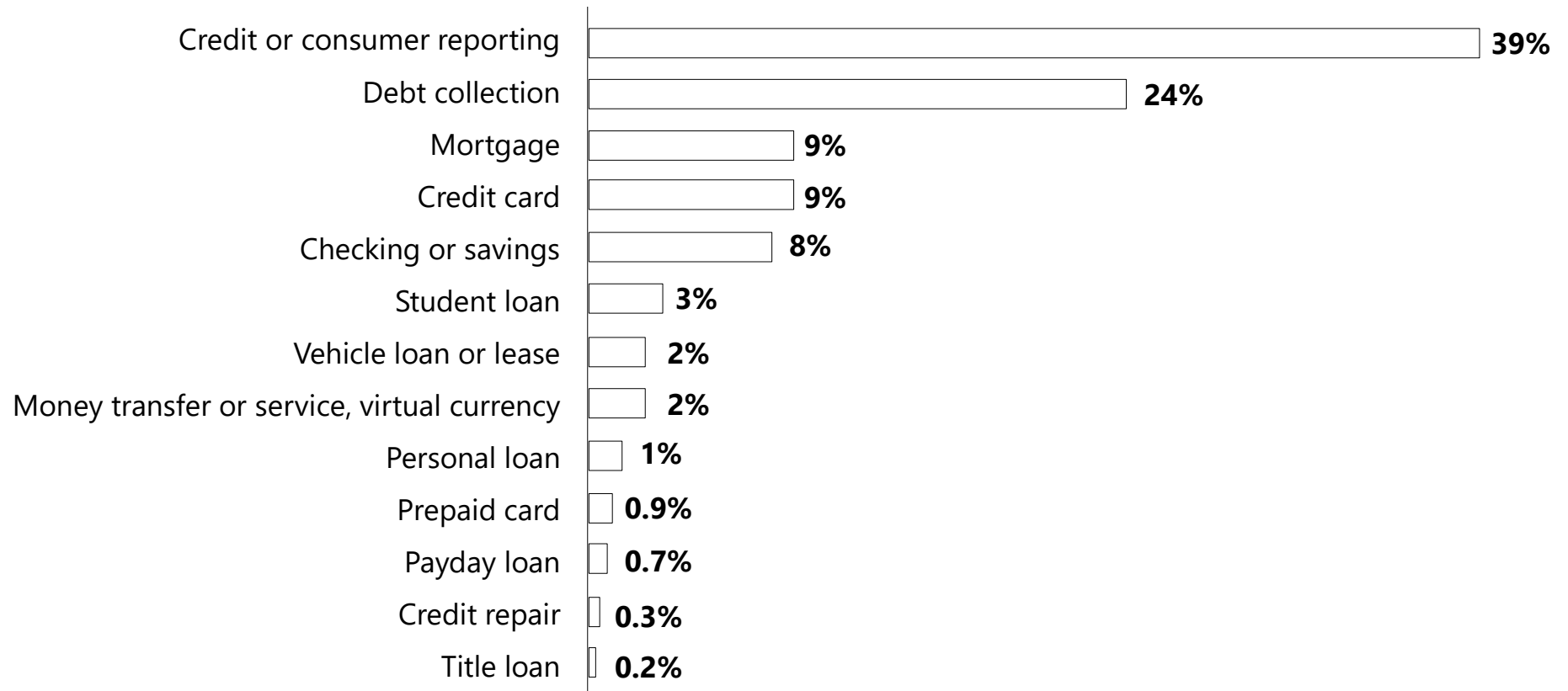


CHART 5: Consumer Complaints by Product





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

Since January 2012, the
CFPB has processed
1,576,867
complaints

In April 2017, the CFPB
changed the options
available to consumers

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**



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



Consumer expectations are evolving



The pace of regulatory change is **accelerating**



The internet **is here to stay**



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.

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.

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

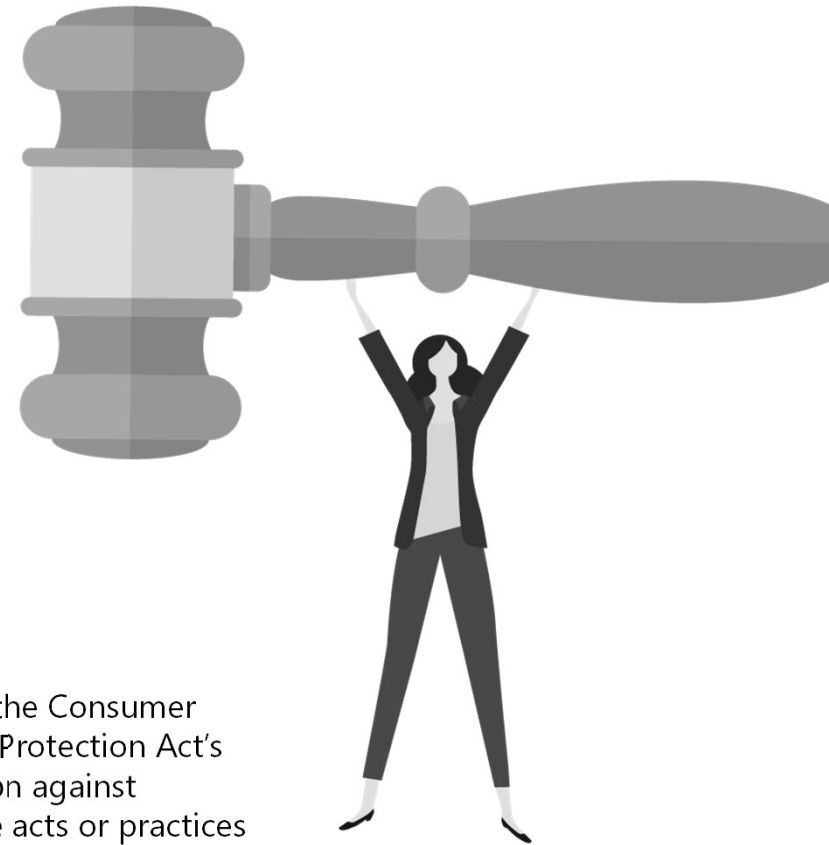
- April 1, 2020, the CFPB issued a consent order against Cottonwood Financial, Ltd., d.b.a. Cash Store
- Violations of the Consumer Financial Protection Act (CFPA), Fair Credit Reporting Act (FCRA) and Truth in Lending Act (TILA)
- Fined \$286,675.64 in consumer redress and a civil money penalty of \$1,100,000



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

**Is it an isolated
incident or tip of an
iceberg?**

Investigate each one

**Develop a complaints
management policy**

**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)



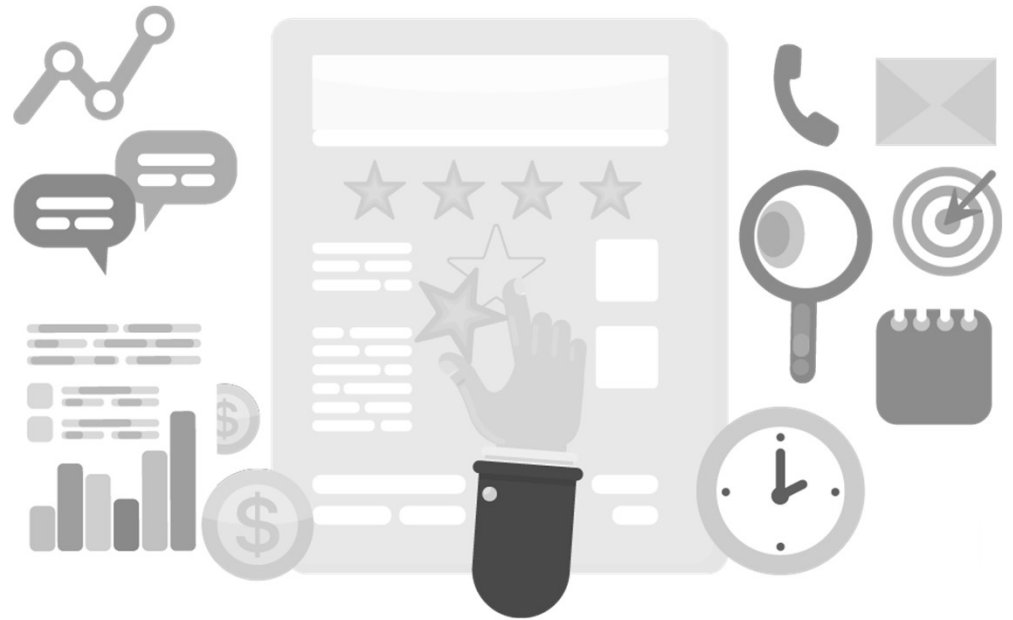
Any entity is subject to the FTC and every entity selling a product or service to a regulated industry is subject to enforcement!

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

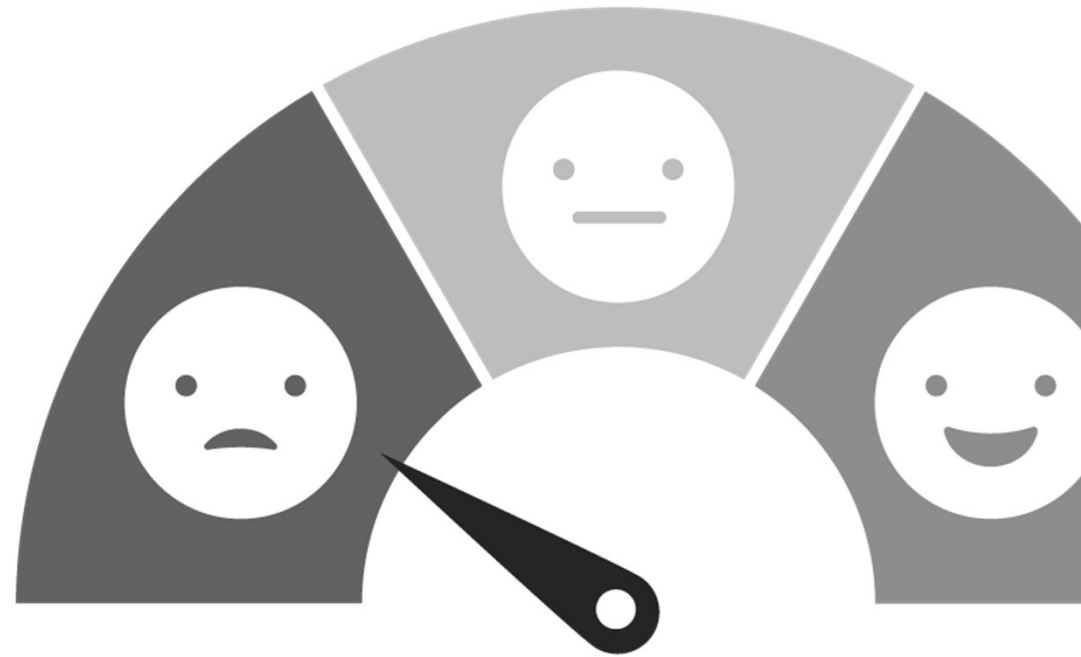
Do mystery shopping & record call center calls (for training purposes...)

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



Make them your eyes
and ears

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

This extends to anyone
dealing with customers
and third parties

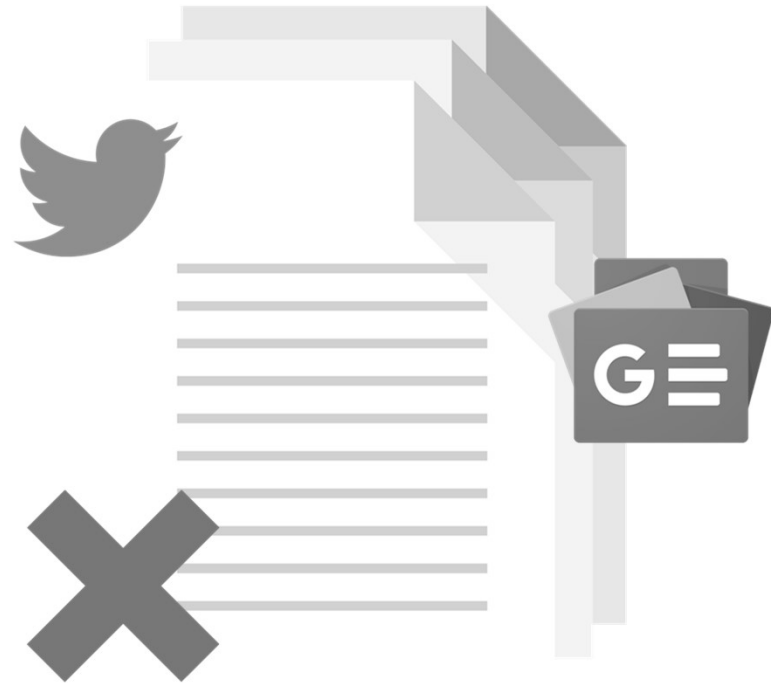


At my organization, identifying a critical vendor is:

- 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



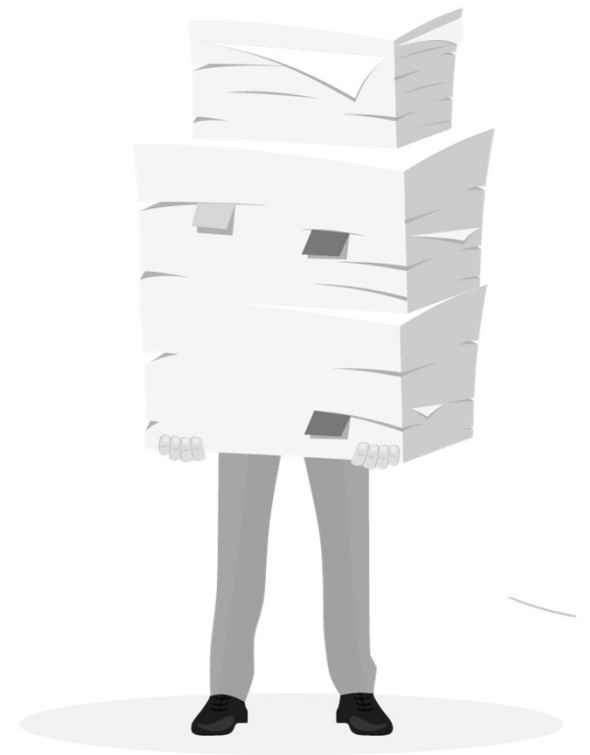


Be Careful With Products & Disclosures


- 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

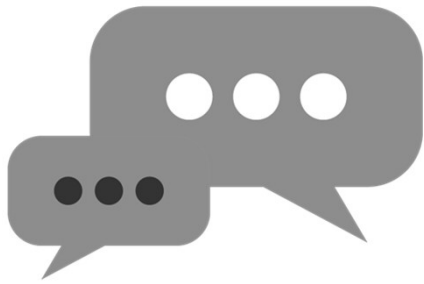
NCUA SL-17-01
Evaluating Compliance Risk

OCC-2017-43
Risk Management Principles

**SEC Statement on
Cybersecurity**

**OCIE Observations from
Cybersecurity Examinations**

FIL-19-2019
Technology Service Provider
Contracts



Questions & Answers

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