



Compliance Hot Topics **ProBank Education Services**

Shaun Harms, Principal / Kylee Durbin, Lead Consultant

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Compliance Hot Topics

Speaker Bio



Shaun Harms

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Shaun serves as the principal for the Regulatory Compliance Consulting Financial Services Practice out of the Little Rock office. His experience is within the regulatory compliance area and focuses on community and middle market financial institutions. He has over 20 years of consulting experience and has worked with more than 200 banks with their compliance and Bank Secrecy Act (BSA) programs. He is a featured speaker at many events across the country and considered a subject matter expert in consumer compliance and BSA related rules.

He currently holds the Certified Regulatory Compliance Manager (CRCM) from the American Bankers Association. Arkansas Business named him one of “40 under 40” in 2014. Shaun is a 2001 graduate of the University of Central Arkansas with a B.A. in finance and 2003 graduate of Arkansas State University, with an M.B.A. degree. In addition, he is a 2007 summa cum laude graduate of Barret School of Banking, Memphis, Tennessee, where he also now serves as an instructor for the compliance section of the school.

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Speaker Bio



Kylee Durbin

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Ms. Durbin began her career as a teller at a small community bank over twenty years ago. She gained knowledge of bank operations working at small and mid-sized community banks in Illinois and Kentucky. These organizations while operating with a small retail banking focus with were considered complex institutions with large scale mortgage divisions, leasing operations, guaranteed lending, insurance companies, and a community development corporation.

Her previous experience as the Director and Audit and Compliance allowed her to develop audit and compliance programs through evaluating the effectiveness of internal controls and identifying any weaknesses or gaps that may put an institution at risk. The last ten years of her career have been focused transforming critically deficient compliance programs into proactive strong programs. Ms. Durbin is a Certified Regulatory Compliance Manager (CRCM) from the American Bankers Association.

Hot Topic

Regulatory Environment

The U.S. elections will strongly influence the regulatory environment.

- Democratic leaders often focus attention on consumer protection with increased regulatory activities.
- Republican leaders have been in favor of lessening regulatory oversight.

However, key issues remain regardless of political policies.

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Regulatory Environment

Examination Focus

- The federal agencies are supervising your activities through the examination process to determine if you are complying with the multitude of laws & regulations.
 - Consumer Financial Protection Bureau / CFPB
 - Federal Financial Interagency Examination Council / FFIEC
 - National Credit Union Administration / NCUA
 - Federal Reserve / FRB
 - Federal Deposit Insurance Corporation / FDIC
 - Office of the Comptroller of the Currency / OCC
- ✓ Each agency provides examination insights & regulatory priorities throughout the year. Make sure you are signed up for your primary regulator's alerts & notifications.

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Regulatory Environment

Question

1. What regulatory or supervisory trends are you seeing within your audit work?
2. What recommendations can you offer to support audit, compliance, & risk professionals in addressing evolving & increasing regulatory challenges?



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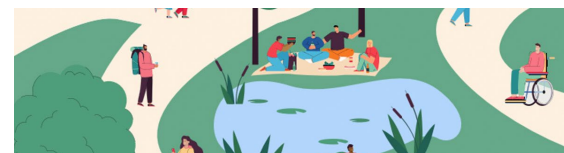
Fair Banking

Consumer protection & transparency in financial products & services remain a priority for the agencies.

The process for developing new products, services, pricing, & partnering with third parties may potentially increase your regulatory risks—especially if your internal controls are weak.

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Fair Banking – Considerations



ECOA

- The ECOA & its implementing Regulation B prohibit discrimination in any aspect of a credit transaction.
- It applies to any extension of credit.

FHAct

- The FHAct protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities, such as:
 - Making loans to buy, build, repair, or improve a dwelling;
 - Purchasing real estate loans;
 - Selling, brokering, or appraising residential real estate; or
 - Selling or renting a dwelling.

CRA

- The CRA is intended to ensure that federally insured banks & institutions meet the credit needs of the communities in which they serve.
- The CRA requires that each insured depository institution's record in helping meet the credit needs of its entire community be evaluated periodically.

HMDA

- HMDA requires many financial institutions to maintain, report, & publicly disclose loan-level information about mortgages.
- Subject to coverage criteria:
 - Institutional
 - Transactional

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Fair Banking – Considerations

1071

- On March 30, 2023, the Consumer Financial Protection Bureau (CFPB or Bureau) issued a final rule to amend Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Dodd-Frank Wall Street Reform & Consumer Protection Act (Dodd-Frank Act).
 - The purpose of this section was to facilitate enforcement of fair lending laws, & to enable interested persons to identify business & community development needs & opportunities of women-owned, minority-owned, & small businesses.
 - Covered financial institutions are required to collect & report to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities, & make other clarifications.
- ✓ [CFPB / Small Business Lending Collection & Reporting Requirements](#)

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Fair Banking

Question

3. “Fair Banking” is a term we see discussed in regulatory guidance. How is this concept playing out in audits & examinations especially in:
- Fair Lending
 - 1071
 - CRA
 - Overdrafts



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Fair Banking



Question

4. “Fair Banking” makes sense in the lending space. We discussed overdraft protection; how do you see this concept of fairness reaching out into other deposit regulations? Do you anticipate impacts to board & management discussions, fee structures, & customer relationships?
- Regulation E
 - Check Fraud

Compliance Hot Topics

RESPA Section 8

RESPA Section 8 prohibits certain actions related to federally related mortgage loans.

[CFPB / Real Estate Settlement Procedures Act FAQs](#)

Compliance Hot Topics

RESPA Section 8

Overview

- RESPA Section 8 prohibits certain actions related to federally related mortgage loans:
 - **Section 8(a)** prohibits kickbacks for business referrals related to or part of settlement services involving federally related mortgage loans.
 - 12 USC § 2607(a); 12 CFR § 1024.14(b).
 - **Section 8(b)** prohibits unearned fee arrangements, *i.e.*, splitting charges made or received for settlement services, except for services actually performed, in connection with federally related mortgage loan transactions.
 - 12 USC § 2607(b); 12 CFR § 1024.14(c).
 - **Section 8(c)** identifies certain payments that are not prohibited by Section 8.
 - 12 USC § 2607(c); 12 CFR § 1024.14(g).
 - **Section 8(d)** details specific penalties for violations of Section 8, including for Sections 8(a) & 8(b).
 - 12 USC § 2607(d).
- [Appendix B to Regulation X](#) provides examples to illustrate the application of RESPA to particular fact patterns, including fact patterns under Section 8(a), 8(b), & 8(c) indicating whether or not a violation occurred.

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RESPA Section 8

Regulatory Focus

- **February 13, 2023**

- The CFPB issued an Advisory Opinion to address the applicability of the Real Estate Settlement Procedures Act (RESPA) Section 8 to operators of certain digital technology platforms that enable consumers to comparison shop for mortgages & other real estate settlement services, including platforms that generate potential leads for the platform participants through consumers' interaction with the platform (Digital Mortgage Comparison-Shopping Platforms).

- **February 29, 2024**

- The CFPB issued a circular informing law enforcement agencies & regulators of potential illegal arrangements that may violate federal law when companies operating comparison-shopping tools steer consumers into certain products or services based on financial or other benefits to the operator.
- The FDIC has also been intently focused on identifying RESPA Section 8 concerns within their examination activities. RESPA Section 8 has been addressed in its supervisory highlights three times in the last four issues.
 - [March 2021 / Consumer Compliance Supervisory Highlights](#)
 - [March 2023 / Consumer Compliance Supervisory Highlights](#)
 - [March 2024 / Consumer Compliance Supervisory Highlights](#)

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RESPA Section 8



Question

5. What best practices can organizations implement to effectively address & mitigate RESPA Section 8 risks? For example:
- Co-marketing & marketing service agreements
 - Broker relationships

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Third-Party Risk Management

The federal prudential regulators broadly defined “third party” to include:

- All entities that have entered into a business arrangement with the institution, by contract or otherwise.
 - whether the third party is a bank or a nonbank,
 - affiliated or not affiliated,
 - regulated or nonregulated,
 - a wholly- or partially-owned subsidiary, or
 - a domestic or a foreign institution.

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Third-Party Risk Management

Regulatory Guidance

- **June 6, 2023**

- The Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), & the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) issued the Interagency Guidance on Third-Party Relationships: Risk Management (TPRM Guidance) The TPRM Guidance includes sound risk-management principles for banking organizations to consider when developing & implementing risk-management practices for all stages in the life cycle of third-party relationships.

- **May 3, 2024**

- The agencies published Third-Party Risk Management – A Guide for Community Banks.
 - [Third-Party Risk Management – A Guide for Community Banks](#)
 - This guide is designed for community banks. Although the guide discusses community bank relationships, the content may be useful for banks of any size. This guide is intended to assist community banks when developing & implementing their third-party risk-management practices.
 - This guide is not a substitute for the 2023 TPRM Guidance.

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Third-Party Risk Management

Question

6. As banks increasingly rely on vendors & third-party service providers, what are the key expectations from regulators regarding vendor & third-party management?
7. How are banks ensuring that these relationships are effectively managed to mitigate risks, ensure compliance, & protect customer data?



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Compliance Management System

Regulatory compliance risk remains a significant & ongoing concern for board & senior management.

The risks for compliance are often the same underlying concerns as other key banking risks. However, compliance risks can have a big impact on your reputational risk. Couple that with increasing regulatory actions & civil money penalties, & you have operational risk, as well.

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Compliance Management System

Best Practices

- Compliance management systems (CMS) should vary based on the size, complexity, & risk profile of your organization. It is an expectation that all institutions maintain an effective CMS.
 - Agencies will review your activities under three broad categories:
 1. Board & Management Oversight,
 2. Compliance Program, &
 3. Violations of Law & Consumer Harm.
 - An effective compliance program includes:
 - Policies & Procedures,
 - Training,
 - Monitoring &/or Audit, &
 - Consumer Complaint Response.

✓ [FFIEC / Uniform Interagency Consumer Compliance Rating System](#)

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Compliance Management System

Questions

8. How have you seen organizations successfully implement a culture of compliance?
9. What recommendations do you have to support organizations in the balancing act of competing priorities for operational efficiency, customer service, & maintaining satisfactory compliance?



Thank you for participating in our discussion today!

Questions?

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ProBank Education Services personnel routinely serve as instructors at banking schools and conferences across the United States. Because of the breadth of our experience, we can adjust our presentations to fit the needs of the specific audience at the basic, intermediate, or advanced level. In addition, we provide regional regulatory compliance conferences throughout the year.



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For many years, ProBank Education Services has presented programs under the auspices of many state, community, and independent banker associations, credit union leagues and other industry groups on specific areas of interest, such as compliance, deposits, lending, AML/BSA, fair lending, CRA, compliance risk management and more. These programs are presented on a “turn-key” basis.



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ProBank Advisor

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