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Consumer Compliance Outlook®

A FEDERAL RESERVE SYSTEM PUBLICATION FOCUSING ON CONSUMER COMPLIANCE TOPICS

SPECIAL COMPLAINTS ISSUE

Inside

A Note from the Editors

In 2023, the Federal Reserve System (System) received 6,012 complaints for the institutions under its supervisory authority. The System mines the data for various purposes, including:

- determining the scope of future System examinations of the institutions listed in the complaints based on the compliance risk and volume of complaints;
- initiating a target examination if the data suggest systemic violations causing significant harm;
- identifying emerging compliance risks; and
- selecting topics for internal examiner training and external outreach.

Mining data to inform decision-making can be an important tool for financial institutions. For example, some lenders analyze applicants' financial account transaction data to inform their credit decisions.

Institutions can similarly mine their customer complaint data to help them assess the compliance risk of their products and services and to enhance their compliance management system (CMS). For example, if an institution launches a new product or service for which it receives a high number of similar complaints, it can investigate the root cause and respond appropriately.

The effectiveness of a complaint management program can also affect an institution's compliance rating. The Uniform Interagency Consumer Compliance Rating System specifically considers an institution's "consumer complaint response" as one of the rating factors.[1]

To underscore the importance of a complaint management program in an effective CMS, *Consumer Compliance Outlook* is devoting this issue to complaints. We hope you find this special issue informative.

[1] 81 FR 79473, 79478, 79483 (November 14, 2016); see also Consumer Affairs letter 16-8, "Uniform Interagency Consumer Compliance Rating System" (November 22, 2016).

Consumer Compliance Outlook is distributed to state member banks and bank and savings and loan holding companies supervised by the Board of Governors of the Federal Reserve System.

The Benefits of a Formal Complaint Management Program

By Scott Sonbuchner, Senior Examiner, Federal Reserve Bank of Minneapolis

A formal program to manage complaints can be an important part of a financial institution's compliance management system (CMS). Complaints can help identify products, services, and practices that violate consumer protection laws or cause pain points for customers. This information can then be used to address these issues before they escalate and provide an opportunity for the institution to enhance its CMS to mitigate the risks revealed in the complaints.

A formal complaint program also makes good business sense. A *Harvard Business Review* study found customer loyalty increases for businesses providing prompt and personal customer service: "A mere acknowledgment of the customer's problem can defuse initial frustration and put the customer back on the road to loyalty. Instead of the customer seeing the company as the enemy, a sympathetic response can reorient the situation so that the customer now feels that the company is on his or her side."[1] Complaint management programs can therefore be an integral part of an effective CMS.

This article identifies five common elements of a formal complaint management program, reviews its direct benefits, and discusses how it benefits other components of a CMS. Before discussing these elements, it's important to recognize that complaint management programs should be calibrated based on the size and complexity of each institution. A bank operating in 50 states with millions of customers that receives thousands of complaints per day will have a more complex program than a community bank with two branches that receives two complaints per week.

WHAT DOES AN EFFECTIVE COMPLAINT MANAGEMENT PROGRAM LOOK LIKE?

A written policy is an important part of a sound complaint management program. While the details will vary based upon the size and complexity of an institution, most policies define complaints, discuss the institution's procedures for addressing them, provide instructions on collecting and compiling them, and outline the strategy for using complaint data to monitor the institution's compliance risk. The policy helps to ensure staff are uniformly identifying and addressing complaints.

Defining a Complaint

How an institution defines a *complaint* is a crucial aspect of a complaint management program because it determines which communications are captured and addressed. Defining a complaint also helps ensure a uniform approach across different departments and avoids the myopic view that a *complaint* is defined solely as a communication containing that word.

While *complaint* is not specifically defined in a law or regulation, defining it broadly is a sound practice to ensure communications that qualify as complaints are identified. For example, defining a complaint as "a communication that expresses dissatisfaction with the bank's products or services" specifically avoids limiting complaints to *consumer* communications because certain consumer protection laws also apply to commercial transactions, such as the Equal Credit Opportunity Act, the Servicemembers Civil Relief Act, and the Flood Disaster Protection Act of 1973. (For more information, see "Consumer Compliance Requirements for Commercial Products and Services," *Consumer Compliance Outlook* (First Issue 2024)). This approach also benefits from not limiting complaints strictly to customers, as *potential* customers may complain about products and advertisements.

For clarity, some policies explicitly state that complaints can be received through *any* medium, including in person; in writing; or by telephone, email, or social media. This point is important because customer communications have evolved with changes in technology. Finally, including examples of communications that qualify as complaints and those that do not can help clarify the distinctions for staff.

Collecting and Tracking Complaints

Complaint management policies may also include instructions on how to collect and compile complaints. Collecting complaints at smaller institutions may be straightforward. However, larger institutions with multiple departments may need a centralized complaint tracking program. Additionally, since complaints can come from many different channels, banks may want to establish policies and procedures for collecting complaints and forwarding them to a central tracking point. This may require a complaint tracking sheet for employees to complete and use to facilitate forwarding the complaint details to a centralized location.

Collecting complaints can not only help with trend analysis (as discussed later in the article), but also track how long complaints take to resolve. To promote consistent, reliable service, some institutions include a maximum number of days employees may take to resolve complaints. A centralized tracking program can help a bank monitor whether it is consistently responding to complaints in a timely manner. This is especially helpful when resolving a complaint requires multiple subject matter experts, as resolution may require handing parts of the complaint to other employees. By tracking complaints in a centralized location, banks can document how quickly they respond to consumer complaints and more readily identify pain points.

Classifying and Responding to Complaints

Classifying complaints is an important aspect of a formal complaint program. This can be done in different ways, including by department, product, or regulation. Since complaints can fall into more than one category, it is important to confirm if complaints should be classified according to their primary category or if they will be classified in more than one category. To ensure all complaints are collected, some institutions specify that complaints immediately resolved must still be documented. Otherwise, employees may assume that solving a customer's complaint means it does not have to be documented.

Assigning a risk classification to a complaint is a sound practice from a risk management perspective because it allows an institution to prioritize addressing a high-risk complaint and include an escalation protocol. For example, if a customer credibly alleged a loan officer made a derogatory comment about his race and denied his loan application on that basis, the complaint could be classified as high risk and notice sent to the compliance and fair lending officers and senior management, with close monitoring. The classification system could also be used to identify frivolous complaints. Thus, the classification system can provide management information system data on the number and types of complaints an institution is receiving and further categorize them based on their risks.

Addressing Complaints and Root Cause Analysis

For impacted customers, addressing the complaint is the most important aspect of the complaint program. When an institution is at fault, it should provide restitution to affected customers by putting them in the position they would be in if the error had not occurred. This may require fixing more than just the specific issue underlying the complaint. For example, if a payment was not posted properly, the institution may need to reimburse a late fee, credit improper interest rate charges, correct the customer's payment history in its records, and update the information furnished to the consumer reporting agencies.

After addressing a customer's harm, a financial institution can perform a root cause analysis if the issue appears to be systemic and repeatable. Without investigating and addressing the root cause, resolving the complaint is merely treating a symptom; addressing the root cause systemically will help identify similarly situated individuals who were also harmed and prevent harm to other customers. Fully addressing a complaint includes proactively correcting the harm incurred by consumers who have not yet complained. Because only a small number of impacted consumers are likely to complain, even an individual complaint can indicate a significant compliance weakness.

Analyzing Aggregated Complaint Data

Aggregating complaints can help institutions monitor risk trends. When aggregated complaint levels rise, the compliance department should investigate the cause. From a compliance risk perspective, complaint trends are particularly notable when an increase in complaints outpaces an increase in product or transaction volume. If complaints are categorized, compliance can sort and filter them to help understand why they increased.

Sorting complaints by different filters can provide greater insights into the data:

- Sorting by product type can help identify which individual products are increasing complaint volumes.
- Sorting by branch can isolate if a specific branch needs more training.
- Sorting by date can help compliance determine if complaints increased during changes to regulatory requirements or infrastructure, which may imply a weakness with change management.

These data can help the institution better understand whether its controls are functioning as intended.

Reviewing aggregated complaints can provide insight into customer tendencies, which provides an opportunity to remove friction from customer experiences. While some complaints result directly from bank errors, some complaints result from customer misunderstandings. By aggregating complaints and looking for trends, banks can isolate which misunderstandings happen frequently enough to warrant a more comprehensive solution. Even complaints that indicate a customer had imperfect knowledge of a bank's product or service may put the bank on notice about how some customers, who may be busy and multitasking, interpret the bank's disclosures or practices. Reviewing complaints for repetition and patterns can help banks identify and improve suboptimal processes and minimize misunderstandings.

BENEFITS OF A FORMAL COMPLAINT MANAGEMENT PROGRAM

Beyond the supervisory expectation to manage complaints appropriately, a formal complaint management program provides several strategic benefits, including reducing reputational risk, limiting the risk of unfair or deceptive acts or practices (UDAP), and decreasing the number of consumer complaints lodged directly with regulators.

Reducing Reputational Risk

Complaints can increase reputational risk by generating negative publicity about the bank's business practices. The publicity could prompt some customers to switch to another institution, could increase litigation risk, or could otherwise reduce revenues.[2] Social media can amplify reputational risk, as online complaints reach a wider audience and even unvetted allegations can persist indefinitely for others to see. In one extreme example, a musician's $3,500 guitar was damaged by an airline's baggage handlers. When he complained, and the airline refused to pay for the repair, he released a music video that went viral on social media with millions of views and published a book about his experience.[3]

By requiring employees to address complaints promptly, institutions can reduce the risk of consumers turning to social media to vent their frustration. Additionally, by performing a root cause analysis and correcting the accounts of other similarly situated customers, institutions will limit the number of customers affected by harmful products and practices. Finally, institutions also reduce reputational risk by creating an expectation that employees will reach out to resolve online complaints, connect with those who allege they were harmed, and correct possible errors or misunderstandings.

Limiting UDAP Risk

Section 5(a) of the Federal Trade Commission Act prohibits unfair or deceptive acts or practices.[4] Because legal tests of whether an act or practice is unfair or deceptive consider the consumer's perspective in determining if a violation occurred,[5] multiple consumer complaints can be the proverbial canary in the coal mine of potential UDAP risk. For this reason, all of the federal banking regulators routinely examine an institution's complaint log during the scoping of a compliance examination to help inform the areas on which they will focus. Failing to capture and review complaint logs for consumer harm can be a lost opportunity to identify and address potential UDAP risk before it escalates into a violation or enforcement action.

Decreasing the Number of Consumer Complaints to Regulators

Effectively addressing consumer complaints may reduce the number of complaints consumers file directly with an institution's regulator. All bank regulators provide consumers with the opportunity to submit complaints directly to them. However, consumers usually attempt to resolve complaints directly with their financial institutions first. Consumers tend to escalate complaints to regulators when financial institutions do not initially respond to a complaint. By addressing complaints immediately, banks might reduce the number of complaints that are routed to regulators, which could result in the conservation of resources and customer retention.

INDIRECT BENEFITS OF A FORMALIZED COMPLAINT MANAGEMENT PROGRAM

An effective complaint management program favorably impacts other components of the bank's CMS. A well-functioning complaint management program can enhance the other components of a compliance program, while an inadequate program can impair them. To illustrate, we provide three examples in which effective complaint management programs positively impacted other factors of a bank's CMS.

Example 1: A uniform definition of "complaint" helped board and senior management to maintain effective oversight. The institution's complaint policy defined complaint broadly to include oral complaints. A number of customers called to complain that they opened a checking account that was advertised as free, but fees were imposed for failing to maintain a minimum balance. After investigating, the institution recognized charging balance fees on an account advertised as free or low cost violates §1030.8(a)(2) of Regulation DD.[6] The fees were removed and the system updated to stop charging maintenance or activity fees on those accounts.

Example 2: Effective tracking and analyzing of complaint data improved change management. An institution had previously originated loans in portfolio and sold the servicing rights but now saw value in retaining those rights for its extensive mortgage portfolio to generate fee income and interest on escrow accounts. Several consumers complained their property taxes managed through an escrow account were not paid on time, resulting in late fees from the local taxing authorities. After investigation, the institution determined it sent the tax payments too close to the deadline to avoid a penalty, in violation of §1024.17(k)(1) of Regulation X.[7] The bank adjusted its system to send the payments with a sufficient cushion to ensure they were received on time. The complaints provided insights into compliance issues with the new servicing business and allowed the bank to correct the issues and provide restitution to affected customers. The complaint data also prompted the audit department to increase the intensity of the audit of the servicing business.

Example 3: Tracking complaints assisted with internal audit's risk-focused scoping. The institution's complaint management program documented and tracked complaints through to resolution. This practice assisted the bank's internal audit scoping process, as the scope aimed to focus on higher-risk areas of the bank. By having well-documented metrics on the number, type, and resolution of complaints, the audit department could more accurately align the scope of its audit schedule with the risk of the bank. Thus, an effective complaint management program facilitated the audit department's risk-focused approach.

These examples illustrate the benefits of an effective complaint management program. In all three cases, proactively reviewing customer complaint data identified systemic issues that otherwise might not have been noticed and addressed. Further, the Uniform Interagency Consumer Compliance Rating System (CC Rating System) specifically enhances compliance ratings of institutions demonstrating proactive compliance programs: "Strong compliance programs are proactive. They promote consumer protection by preventing, self-identifying, and addressing compliance issues in a proactive manner. Accordingly, the CC Rating System provides incentives for such practices through the definitions associated with a 1 rating." [8]

CONCLUSION

Financial institutions are expected to have a system in place that adequately addresses complaints. While institutions have flexibility on how they implement their complaint management programs, the five common elements discussed in this article are frequently found in successful programs. Specific questions or concerns should be raised with your primary regulator. ■

Endnotes*

1 Wayne Huang, John Mitchell, Carmel Dibner, Andrea Ruttenberg, and Audrey Tripp, "How Customer Service Can Turn Angry Customers into Loyal Ones," *Harvard Business Review* (January 16, 2018).

2 Supervision and Regulation letter 95-51, "Rating the Adequacy of Risk Management Processes and Internal Controls at State Member Banks and Bank Holding Companies" (November 14, 1995).

3 Christine Negroni, "With Video, a Traveler Fights Back," *New York Times* (October 28, 2009); Nicola Clark, "Airlines Follow Passengers onto Social Media Sites," *New York Times* (July 29, 2009).

4 15 U.S.C. §45(a).

5 "An act or practice may be found to be *unfair* where it 'causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.' A representation, omission, or practice is *deceptive* if it is likely to mislead a consumer acting reasonably under the circumstances and is likely to affect a consumer's conduct or decision regarding a product or service," Federal Reserve Board and the Federal Deposit Insurance Corporation, "Unfair or Deceptive Acts or Practices by State-Chartered Banks" (March 11, 2004).

6 This section of the regulation prohibits misleading or inaccurate advertising, saying an advertisement cannot "refer to or describe an account as 'free' or 'no cost' (or contain a similar term) if any maintenance or activity fee may be imposed on the account."

7 This section of the regulation requires servicer to "pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the borrower's payment is not more than 30 days overdue."

8 81 FR 79473, 79479 (November 14, 2016). The Federal Reserve discussed the rating system in Consumer Affairs letter 16-8, "Uniform Interagency Consumer Compliance Rating System" (November 22, 2016).

* Note: The links for the references listed in the Endnotes are available on the *Consumer Compliance Outlook* website at consumercomplianceoutlook.org.

Consumer Complaints 2023: A Review of Federal Reserve Data

By Alinda Murphy, Lead Examiner, Federal Reserve Bank of Kansas City

> "Consumer complaints are a critical component of the risk-focused supervisory program. The Federal Reserve uses data on consumer complaint activity in its supervisory processes when monitoring financial institutions, scoping and conducting examinations, and analyzing applications."
>
> —Board of Governors of the Federal Reserve System†

The Federal Reserve System (System) collects, analyzes, monitors, and responds to consumer complaints it receives against certain financial institutions under the System's supervision: state-chartered banks that are members of the System (state member banks) and selected nonbank subsidiaries of bank holding companies. Complaints against institutions outside of the System's jurisdiction are forwarded to the agency with supervisory authority. Complaint trends are reported to Congress annually, and the reports emphasize the role of complaint data in providing supervisory perspective and direction.[1]

Banks can use the System's complaint data to inform their risk-focused analysis of where it may be beneficial to test their compliance risk management procedures and controls and provide customer financial education, as the data may reveal common systemic issues of which an institution was unaware.

In this article, we discuss the themes and trends of the 6,012 consumer complaints the System received, investigated, and closed in 2023 for the institutions under the System's supervisory authority (Table 1). Additionally, we highlight the bank products receiving the most complaints, high-volume complaint issues, and the actions taken in response to a complaint investigation. We conclude with lessons community banks may glean from the complaint data themes to enhance their overall consumer compliance risk management.

COMPLAINT PRODUCTS MIX

Of the total complaints investigated and closed in 2023, the products receiving the highest volumes of complaints were deposit accounts (51 percent), prepaid cards (23 percent), and credit cards (20 percent). All other types of bank products and services comprised less than 10 percent of complaint volumes (Figure 1).

TABLE 1: Top Consumer Complaints in 2023 for State Member Banks

	Complaint Topic	Number of Complaints	Percentage of All Complaints
1	Funds Availability/Withdrawals/Unable to Access Funds	1,381	23.0
2	Fraud/Forgery	1,143	19.0
3	Error Resolution	737	12.3
4	Restricted/Blocked Accounts	735	12.2
5	Credit Reporting	340	5.7
6	Fees/Terms/Rates	305	5.1
7	Account Closures	278	4.6
8	Applications/Account Openings	134	2.2
9	Deposits	103	1.7
10	Disbursements	94	1.6
	Subtotal of Top Complaints	**5,250**	**87.4**
	Total	**6,012**	**100**

2023 TOP 10 COMPLAINT CATEGORIES

The 2023 list of top 10 complaint categories was the same as in 2022, with one exception. In 2023, funds availability issues became the highest volume category, surpassing fraud/forgery issues (Figure 2).[2]

Following are examples of common types of complaint allegations within each category.

Funds Availability

Over half of the complaints in this category involved bank prepaid cards and mobile banking services. Consumers often alleged that they were not given timely access to tax refunds and other specific types of deposits or could not activate prepaid cards. Some complaints alleged consumers' funds were held because of bank concerns about potentially fraudulent or suspicious activity by the consumer or a third party. In addition, consumers stated that bank error resolution investigations resulted in their funds being unavailable over long time frames.

Fraud/Forgery

A large percentage of fraud/forgery complaints involved identity theft affecting deposit, credit card, and prepaid card

FIGURE 1: Percentage of 2023 Complaints by Product Type

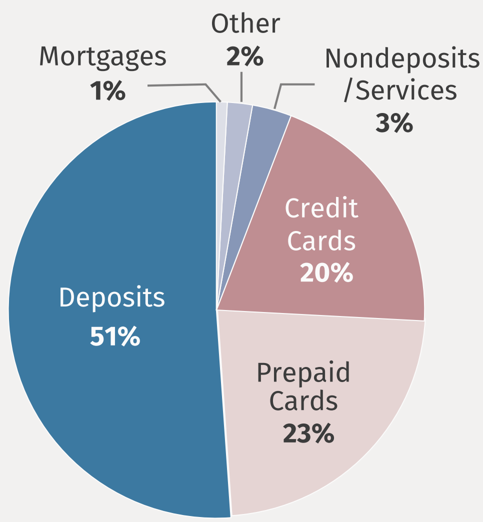
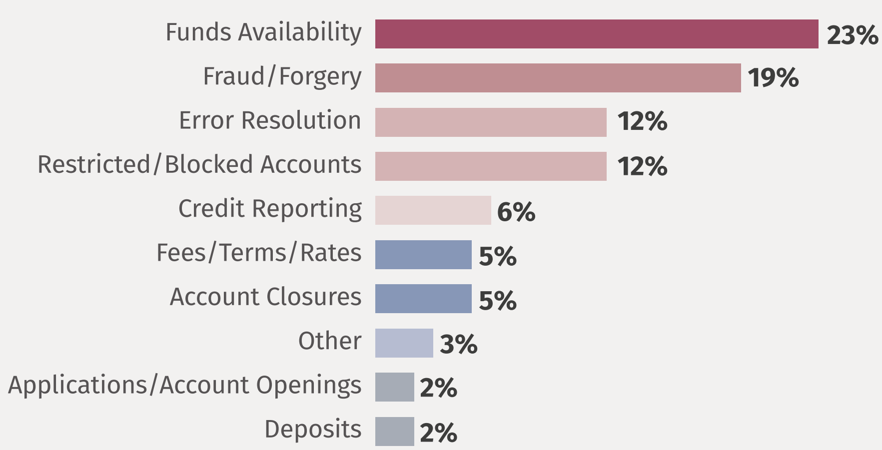


FIGURE 2: Top 10 Complaint Categories in 2023



accounts. Consumers reported accounts opened without their authorization (including receiving unsolicited debit and credit cards) and fraudulent activity on existing accounts. In several instances, consumers stated they were victims of scams, data breaches, or counterfeited and altered checks.

Error Resolution

Complaint allegations primarily related to deposits and prepaid cards, and a substantial majority of the complaints involved mobile banking services. Generally, consumers disputed unauthorized account withdrawals that were, in most instances, electronically generated. Consumers often stated the unauthorized withdrawals resulted from fraud and scams, disputed purchases, and person-to-person transfer errors. Consumers also requested resolution of unanticipated bank fees they stated were applied in error.

Restricted/Blocked Accounts

Most complaints in this category involved prepaid cards and deposit accounts, and a high percentage involved mobile banking services. Consumers alleged that access to their accounts was blocked because they reported identity theft or unauthorized transactions. Additionally, several consumers stated they experienced significant hardship when accounts were blocked over extended time frames, especially when the accounts contained wages or government benefit payments.

Credit Reporting

Over 80 percent of the complaints in this category related to credit cards, including:

- allegations that banks failed to report or misreported data to the consumer reporting agencies (CRAs) and
- requests for the CRAs to remove accounts and inquiries that resulted from fraud or identity theft.

Fees/Terms/Rates

This category includes general complaints about all types of deposit and loan fees, rates, and terms. Complaints involved a wide range of bank products and services but were primarily related to credit cards and mobile banking. This category also included complaints alleging that banks failed to honor specific account terms and promotional offers. The complaints involved fees for credit card activation, overdrafts, late and returned items, account maintenance, and automated teller machine (ATM) use.

Account Closures

Complaints in the account closure category largely related to deposit products and credit cards. In several complaints, consumers alleged accounts were not closed when requested, accounts were closed unexpectedly, or closing fees were improperly assessed. Consumers also reported that the remaining funds in closed accounts were not returned in a timely manner and that rewards, bonuses, and other promotions were not honored after accounts were closed.

> “Banks can use the System’s complaint data to inform their risk-focused analysis of where it may be beneficial to test their compliance risk management procedures and controls and provide customer financial education, as the data may reveal common systemic issues of which an institution was unaware.”

Other

This category included a variety of issues, several of which were not associated with specific bank products or services. Consumers stated concerns about data sharing and privacy, trust accounts, and bank procedures for handling the assets of bankrupt and deceased customers. General concerns related to bank customer service, such as being unable to reach bank employees, including customer service staff, were also raised.

Applications/Account Openings

Application/account opening complaints generally involved deposits and credit cards. Complaint allegations included banks not approving consumers’ requests to open loan or deposit accounts and that, after accounts were opened, account terms differed from what was disclosed or expected. Moreover, consumers disputed bank account opening policies, procedures, and disclosures. Included in this category were complaints about card activation policies and adverse action notices.

Deposits

Deposit complaints related to many types of deposit concerns, with several involving mobile banking systems.

Consumers primarily stated that check and electronic deposits were missing from account balances or were not properly credited or categorized.

Disbursements

Most of these complaints involved tax refund disbursements, including the bank's inability to locate disbursements, releasing disbursements to the wrong accounts, or restricting consumer information about disbursements and their ability make them.

Additional Complaint Issues

The violations discussed above do not reflect complaints potentially subject to Section 5(a) of the Federal Trade Commission Act, which prohibits unfair or deceptive acts or practices (UDAP).[3] In 2023, the System reviewed about 12 percent of consumer complaints for UDAP compliance. The highest volume of potential UDAP complaints related to funds availability.

The data also indicate a high percentage of the top four complaint categories involved bank accounts offered through third-party relationships. Finally, some consumers experienced difficulty reaching appropriate bank staff to resolve their complaints, prompting them to contact Federal Reserve Consumer Help for assistance.

INVESTIGATION FINDINGS

In most cases, consumers are notified in writing of the result of an investigation. Some investigations determined that federal consumer protection laws and regulations were violated or that bank errors occurred unrelated to regulatory violations. If applicable, the bank was ordered to provide restitution to the consumer for violations. In other cases, it was determined no violation of federal law occurred. Finally, some complaints were referred to the appropriate federal agency to investigate.

From 2019 to 2023, the volume of violations and bank errors increased (Figure 3). Nonetheless, the number of complaints resulting in *violations or errors* was relatively low. In 2023, about 3 percent of complaint investigations found regulatory violations.

Violation Statistics

Over the past five years, the largest number of violations found during complaint investigations involved bank Regulation E error resolution procedures for deposit accounts and prepaid cards. In 2023, 74 percent of violations related to Regulation E, concerning restricted/blocked accounts, fraud/forgery, funds availability, and error resolution.

Bank Error Statistics

In 2023, complaint investigations determining bank errors primarily involved funds availability, error resolution, and restricted/blocked accounts. Examples of funds availability complaints resulting from bank error included customers being unable to access specific types of deposits such as tax refunds and government benefit payments (Figure 4). Some complaints involved customers being unable to access funds on prepaid cards.

CONCLUSION

The complaint data themes and trends in this article provide useful compliance risk management information for banks, including these four observations:

FIGURE 3: Trends in Complaint Investigations Finding Violations and Bank Errors

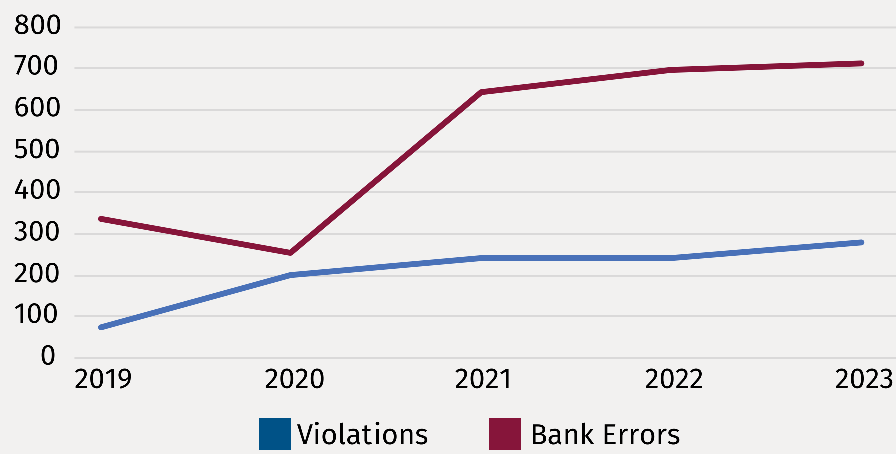
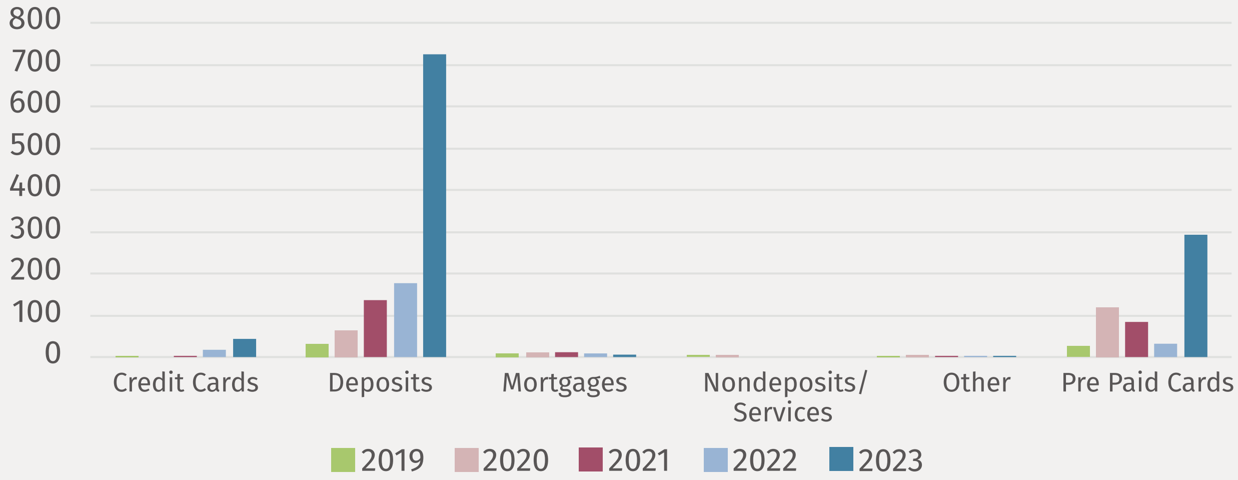


FIGURE 4: Violations by Complaint Product Type



- *Funds availability.* This issue had the highest overall complaint volumes and the largest numbers of complaints resulting in regulatory violations and bank errors. Thus, bank management may consider reviewing and monitoring its policies, procedures, and practices related to the conditions under which deposit account and prepaid card funds are not made available to customers in a timely manner or in accordance with bank contracts, disclosures, or applicable law.
- *Applying a UDAP lens.* The volume of complaint investigations segregated for review for compliance with UDAP indicated the importance of banks analyzing complaints through a UDAP lens.
- *Customer service.* For Regulation E error resolution complaints, consumers stated unresponsive bank customer service and improper error resolution practices prompted them to contact Federal Reserve Consumer Help for assistance. The volume of investigations finding regulatory violations from these complaints underscores the importance of effective bank customer service and compliant error resolution practices.[4]
- *Consistent documentation*. Complaint issues often arose from consumers disputing when deposited funds would be available and the rates, terms, and conditions of loan and deposit accounts. These issues showed the need for clarity, accuracy, and consistency in and between advertisements, contracts, and disclosures.

Specific issues and questions should be raised with your primary regulator. ■

Endnotes*

† "Consumer Compliance," Board of Governors of the Federal Reserve System, accessed July 1, 2024, https://www.federalreserve.gov/supervisionreg/consumer-compliance.htm.

1 See *Report to Congress: 109th Annual Report of the Board of Governors of the Federal Reserve System* (2022), pp. 100–101.

2 In 2022, complaints related to fraud/forgery comprised 21 percent of complaints, while those related to funds availability comprised 15 percent of complaints. See "Introducing Our New Format," Governor Michelle Bowman, *Consumer Compliance Outlook* (First Issue 2023).

3 15 U.S.C. §45(a).

4 See "Regulation E — Error Resolution Examiner Insights," Outlook Live Webinar (December 12, 2019); and "Top Federal Reserve System Violations in 2022: Regulation E Error Resolution Requirements and Regulation X Escrow Account Requirements," *Consumer Compliance Outlook* (Fourth Issue 2023).

* Note: The links for the references listed in the Endnotes are available on the *Consumer Compliance Outlook* website at consumercomplianceoutlook.org.

Enhancing the Compliance Management Program with Complaint Data

By Andrea Sovich, Former Analyst, Board of Governors of the Federal Reserve System

Editor's Note: This article was originally published in 2012.

The purpose of a compliance management program is to identify, measure, monitor, and control the inherent compliance risks in a financial institution's products, services, business lines, and legal entities. While its sophistication and complexity will vary based on a financial institution's inherent risk factors, the program must be composed of the following key elements:

- Active board of directors and senior management oversight
- Comprehensive policies, procedures, and training
- Effective monitoring and testing
- Meaningful reporting

This article focuses on the importance of integrating consumer complaint data into the key elements of a compliance management program. Some financial institutions use complaint data in a limited way by monitoring and reporting only total volumes; however, consumer complaints contain valuable information that can help an organization better understand its compliance risks and issues. Complaint data can be used to validate and strengthen controls and to identify high-frequency trends or individual complaints that may indicate significant compliance risk.

INTEGRATING CONSUMER COMPLAINT DATA INTO THE COMPLIANCE MANAGEMENT PROGRAM

Board and Senior Management Oversight

The board should exercise appropriate oversight of the financial institution's compliance management program and ensure that it is reasonably designed to prevent and detect compliance breaches and issues. The board should also oversee senior management's implementation of the program and appropriate and timely resolution of compliance issues. The board should exercise reasonable due diligence by reviewing reports on the effectiveness of the compliance management program.

Typically, the compliance officer is responsible for reporting on the effectiveness of the compliance management program. Compliance issues and risks derived from complaint analysis should be factored into the overall compliance assessment provided to the board.

The following example illustrates how omitting consumer complaint data can adversely affect the board's ability to provide adequate oversight of the compliance management program.

> The financial institution's analysis of its consumer complaint data revealed that consumers had complaints about a product involving potentially unfair or deceptive acts or practices (UDAP); however, the institution continued to offer the product despite the complaints. When providing its compliance report to the board, the financial institution did not discuss the UDAP issue identified from the complaint analysis. During the next consumer compliance examination, examiners cited the UDAP issue. Ultimately, the financial institution was required to stop offering the product, and its compliance rating was downgraded. In addition, the financial institution was required to strengthen the board's oversight of the compliance management program.

In this scenario, the financial institution was analyzing its complaint data and identified the potential UDAP concern. However, the UDAP issue was not included as a significant compliance issue in the report to the board, and the institution failed to take appropriate action once the UDAP issue was identified. The institution's failure to recognize the importance of the issue resulted in a lower compliance rating, the inability to offer the product, and a directive from examiners to improve board oversight.

Policies, Procedures, and Training

An effective compliance management program has comprehensive policies, procedures, and training to ensure that all employees and third-party providers are aware of consumer protection laws and regulations and to deter or prevent compliance violations. Tracking and analyzing consumer complaint data can help a financial institution determine if its controls are effective and may highlight the need to conduct additional employee training.

The following example shows how a financial institution can use consumer complaints to validate the effectiveness of its compliance controls.

> A financial institution received consumer complaints about branch employees' asking for the signature of an applicant's spouse when the applicant requested individual credit and individually met the

creditworthiness standards. Through its research and analysis of the consumer complaints, the financial institution determined that the procedures and training materials used by its branches did not include the spousal signature requirements under Regulation B. To remedy the situation, the financial institution revised the branch procedures and training materials and provided targeted training on the spousal signature requirements to its branch employees. For its next examination involving Regulation B, it will be important for the financial institution to demonstrate to examiners how it used the consumer complaint data to identify and correct the weakness in controls in its compliance management program.

In this scenario, the financial institution effectively analyzed its complaint data and took action to correct the issues. The financial institution determined the root cause of the complaints and remedied the ineffective control. While the financial institution violated Regulation B, the institution self-identified the violation through complaint analysis and was able to strengthen its compliance controls.

Monitoring and Testing

Self-identification and prompt remediation of compliance violations are critical. Compliance monitoring and testing are necessary to ensure that key assumptions used to measure and monitor compliance risk are reliable. Analyzing complaint data can help a financial institution identify weaknesses in its controls, compliance violations, and the need for enhanced targeted compliance testing.

The following example illustrates how a financial institution can use consumer complaints to validate the effectiveness of its compliance monitoring and testing efforts.

> Through its analysis of consumer complaints, a financial institution learned that consumers complained about not receiving an adverse action notice. The financial institution, which had used a third-party provider, found that the adverse action notices had not been mailed. The financial institution also realized that it lacked a control to monitor the mailing of adverse action notices by the third-party provider. To correct the control weakness, the financial institution implemented a reconcilement report to compare the volume of adverse action notices that should be mailed versus the actual notices mailed by the third-party provider. In its next examination involving Regulation B, the financial institution should explain how it used its consumer complaint data to identify the violation and missing control and how the regulatory requirement will be monitored going forward.

In this scenario, the financial institution effectively analyzed its complaints, from which it learned that customers were not receiving adverse action notices. The financial institution also realized that it did not have a control in place to ensure that its third-party provider was meeting the mandated timeliness requirement. Prompt action was taken to remedy the deficiency in controls. In addition, the financial institution can demonstrate that the violation was self-identified and how it will monitor compliance with its third-party provider.

Reporting

Consumer complaint data should be tracked, analyzed, and reported to communicate potential areas of concern to business lines and management. Financial institutions should develop a way to track important information that will enable analysis and identification of trends and high-risk issues.

Examples of complaint-tracking mechanisms range from basic spreadsheets to sophisticated databases. Complaint data can be tracked in various ways, such as (but not limited to) business line, legal entity, product type or service, complaint reason, law or regulation, and the disposition (i.e., violation, no violation). It is also important to note that even a single consumer complaint has the potential to lead to a broader review of certain products or practices. Financial institutions should also consider establishing a way to track and report complaints with serious allegations or high compliance risk, such as illegal credit discrimination, predatory lending, or unfair or deceptive acts or practices.

USING CONSUMER COMPLAINT DATA TO PREPARE FOR COMPLIANCE EXAMINATIONS

The Board of Governors of the Federal Reserve System (Board) considers complaint data to be a critical component of its risk-focused supervisory program and uses it as a risk factor to assess a financial institution's compliance with consumer regulations.

While consumers complain directly to financial institutions, they also file complaints with institutions' regulators. Consumer complaints filed against state member banks with assets of $10 billion or less, against bank holding companies,[1] and against savings and loan holding companies are investigated by the 12 regional Federal Reserve Banks. If the investigation reveals that a federal law or regulation has been violated, the consumer is informed of the violation and the corrective action the financial institution has been directed to take specific to the consumer's situation. If a broader pattern or practice is identified while investigating a consumer complaint, the Reserve Bank does not share it with the consumer; however, the Reserve Bank can use its enforcement tools with the financial institution, ranging from nonpublic actions to public cease and desist orders, to ensure that the financial institution takes appropriate action to address the issue.

The Board tracks and analyzes the data from the consumer complaints received. Examiners regularly review complaint data to determine the areas on which they should focus during the next scheduled consumer compliance examination or if a targeted examination is warranted.

Financial institutions are encouraged to regularly analyze their consumer complaint data to anticipate areas of potential examination focus and to avoid any surprises from their regulators. In addition, financial institutions can obtain complaint statistics in the banking regulators' annual reports to Congress. The Board's annual report to Congress can be found on the Board's website.

RECOGNIZING THE RELATIONSHIP BETWEEN CONSUMER COMPLAINTS AND NEW REGULATIONS

It is important for financial institutions to recognize that data about consumer complaints are also used to determine the need for future regulations. The Dodd–Frank Wall Street Reform and Consumer Protection Act specifically provides that "in order to support its rulemaking and other functions, the [Consumer Financial Protection] Bureau shall monitor for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services."[2]

To comply with new regulations, the financial institution must integrate the new requirements into all aspects of its compliance management program. By analyzing complaint data, financial institutions can use the results to inform their legislative initiatives and proactively address problems before new legal requirements are imposed.

In addition, some consumers will seek assistance from members of Congress when attempts to resolve complaints with financial institutions are unsuccessful. Consumer complaints filed with Congress are carefully reviewed and referred to the appropriate banking regulators for investigation. Financial institutions should be aware that a consumer complaint filed with Congress can quickly evolve into a broader inquiry of consumer protection practices. For example, consumers often complained about various credit card practices such as payment allocation, the number of fees assessed, and arbitrary increases in the annual percentage rate. In response, Congress passed the Credit Card Accountability Responsibility and Disclosure Act of 2009,[3] which implemented the most sweeping changes to the credit card industry in over 40 years.

Another example that demonstrates the impact of consumer complaints involves a $5 monthly fee proposed by a large financial institution in late 2011 for customers using its debit card. A consumer who was upset with the fee organized an online petition to eliminate the fee. Over 300,000 people signed the petition, and Congress quickly responded. A member of Congress asked the U.S. attorney general to investigate whether banks have illegally conspired to raise fees charged to consumers for banking services. The financial institution ultimately decided to listen to the consumer complaints and canceled the proposed fee. Regardless of the legality of charging the fee, one consumer complaint had significant influence and impact.

Regular analysis of consumer complaints can help a financial institution understand potential areas of scrutiny by banking regulators and Congress. If consumer complaints go unaddressed by financial institutions, the issues raised in the complaints may result in new laws, regulations, or guidance.

CONCLUSION

Analyzing consumer complaint data and appropriately addressing issues noted in complaints will enhance and strengthen a financial institution's compliance management program. A wealth of information can be found in consumer complaint data, and one complaint could be the catalyst for an examination or further review. By analyzing complaint data, a financial institution can use the findings to regularly assess its compliance risk, validate its compliance controls, and provide a comprehensive compliance assessment to its board. A financial institution can also leverage its complaints to proactively prepare for regulatory examinations and to anticipate potential areas of congressional focus for future regulation. ■

Endnotes*

1 In 2011, the Consumer Financial Protection Bureau (CFPB) assumed supervisory authority, including investigating consumer complaints, for banks and affiliates with assets over $10 billion and certain nondepository instituitions with respect to certain enumerated consumer protection laws and regulations.

2 Section 1022(c)(1) of the Dodd–Frank Act, Pub. L. 111-203 (2010), codified at 12 U.S.C. §5512(c)(1).

3 Pub. L. 111-24 (2009).

* Note: The links for the references listed in the Endnotes are available on the *Consumer Compliance Outlook* website at consumercomplianceoutlook.org.

REGULATORY CALENDAR

EFFECTIVE DATE OR PROPOSAL DATE†	IMPLEMENTING REGULATION	REGULATORY CHANGE
07/01/25	Reg. CC	Agencies announce inflation-adjusted dollar thresholds for Regulation CC funds availability
07/30/24	Reg. Z	Consumer Financial Protection Bureau (CFPB) issues interpretive rule applying certain provisions of Regulation Z to Buy Now, Pay Later loans
06/18/24	Reg. V	CFPB issues proposed rule to limit the use of medical debt in underwriting consumer credit
05/14/24*	Reg. Z	CFPB issues final rule for credit card penalty fees
**	Reg. BB	Agencies issue final rule to modernize their implementing regulations for the Community Reinvestment Act
02/23/24	Regs. E and Z	CFPB issues proposed rule to regulate credit overdrafts at very large financial institutions
01/31/24	12 C.F.R. §1042.2	CFPB issues proposed rule to prohibit fees for instantaneously declined transactions
01/01/24	Reg. Z	Agencies announce dollar thresholds for smaller loan exemption from appraisal requirements for higher-priced mortgage loans
01/01/24	Regs. M and Z	Agencies update annual dollar amount thresholds for Regulations M and Z
01/01/24	Regs. C and Z	CFPB adjusts annual dollar amount thresholds under the Home Mortgage Disclosure Act and the Truth in Lending Act
11/17/23	12 C.F.R. §1090.10	CFPB issues proposed larger-participants rulemaking for the market for general-use digital consumer payment applications
11/14/23	Reg. II	Federal Reserve issues proposed rule to lower the maximum interchange fee a large debit card issuer may charge

REGULATORY CALENDAR

EFFECTIVE DATE OR PROPOSAL DATE†	IMPLEMENTING REGULATION	REGULATORY CHANGE
10/31/23	12 C.F.R. Part 1033	CFPB issues proposed rule to implement §1033 of the Dodd–Frank Act
10/30/23	n/a	Agencies issue principles for climate-related financial risk management for large financial institutions
10/12/23	Reg. B	CFPB and Department of Justice issue Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers Under the Equal Credit Opportunity Act
09/19/23	Reg. B	CFPB issues Advisory Opinion on adverse action notice requirements for creditors using artificial intelligence
08/29/23	Reg. B	CFPB's Statement on Enforcement and Supervisory Practices Relating to the Small Business Lending Rule Under the Equal Credit Opportunity Act and Regulation B
07/21/23	n/a	Proposed Interagency Guidance on Reconsiderations of Value of Residential Real Estate Valuations
07/06/23	Reg. B	CFPB issues annual fair lending report for 2022
06/21/23	Reg. Z	Agencies issue proposed rule on quality control standards for automated valuation models
05/11/23	Reg. Z	CFPB issues proposed rule for residential property assessed clean energy financing
04/03/23	UDAAP	CFPB issues policy statement on prohibition of abusive acts or practices
***	Reg. B	CFPB's final rule under §1071 of the Dodd–Frank Act requiring lenders to collect small business loan data

† Because proposed rules do not have an effective date, we have listed the *Federal Register* publication date.

* A lawsuit challenging the final rule is pending.

** On March 29, 2024, a federal district court in Texas issued an injunction suspending enforcement of the rule nationwide while a lawsuit challenging the rule proceeds. The agencies have appealed the ruling to the United States Court of Appeals for the Fifth Circuit.

*** On October 26, 2023, a federal district court in Texas temporarily suspended enforcement of the rule nationwide.

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2024 Calendar of Events

October 2-3, 2024 — **Minorities in Banking Forum**
Federal Reserve Bank of Cleveland
Cleveland, OH

October 9-10, 2024 — **Chicago Payments Symposium**
Federal Reserve Bank of Chicago
Chicago, IL

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