AUTOMOTIVE COMPLIANCE PROFESSIONAL

MAY 2021

WHAT NOW?

FORETELLING THE BIDEN ADMIN'S CONSUMER PROTECTION AGENDA FOR DEALERS. PG. 3

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FEATURE ARTICLE

Foretelling the Biden Admin's Consumer Protection Agenda for Dealers. **P.3**

FROM THE PUBLISHER

Welcome to the first edition of *Automotive Compliance Professional*. Because communication is central to ADCO's mission, we decided to publish our own magazine! Here you'll find articles on industry trends, trade tips, a calendar of events, and other valuable resources available at adcocommunity.com.

If you are a compliance professional and have something to share with the community, we invite you to submit your idea for publication, as well as suggested article topics. ADCO membership is not required to submit an idea or an article. Article and op-ed submissions will be reviewed by editorial staff. If selected for publication, your submission may be edited for clarity or length. Authors have final approval of the edited article before it runs.

Please submit your article, op-ed or topic suggestions to *Automotive Compliance Professional* at submissions@adcocommunity.com.

We look forward to hearing from you and encourage you to join the Compliance Conversation today!

Linda Robertson
ADCO Executive Director

Legal Information

IN THIS ISSUE

CALENDAR OF EVENTS

JUN

14 CERTIFICATION & TRAINING (3 DAYS)
3:00-3:45PM CST

16 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

23 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

28 APP WEBINAR: DEALERSHIP & FRAUD
1:00-2:00PM CST

30 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

JUL

07 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

13 BUS & ACCOUNTING ROUNDTABLE
1:00-2:00PM CST

14 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

21 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

28 COMPLIANCE CONVERSATIONS
3:00-3:45PM CST

For additional events visit adcocommunity.com/events

WHAT NOW?

FORETELLING THE BIDEN ADMIN'S CONSUMER PROTECTION AGENDA FOR DEALERS

By Terrence J. O'Loughlin, J.D., M.B.A.
Director of Compliance
The Reynolds and Reynolds Company

Almost 60 years ago, Congress passed a federal law that addresses retirement plans: ERISA, the Employee Retirement Income Security Act of 1974. Those who are familiar with ERISA often say that the acronym, ERISA, refers to Every Ridiculous Idea Since Adam. With the Biden administration, and the appointment of consumer advocate crusaders, one could see an agenda that mirrors the mocking acronym of ERISA, or worse. It could create a Parade of Horribles for dealers.

REGULATION & THE CONSTITUTION IN A NUTSHELL

It may be helpful to review the nature and powers of agencies, some of which may be surprising. Article I of the Constitution establishes Congress, and in Article I, section 8, it states that Congress can regulate commerce or, by Supreme Court interpretation over the years, Congress can regulate just about anything. Congress can create agencies such as the Federal Trade Commission or the Consumer Financial Protection Bureau. Congress can also transfer various powers to these agencies, which can have all three kinds of power: executive, legislative and judicial.

Agencies can set the rules that businesses must comply with, can investigate and prosecute those businesses, and can hold administrative hearings for violations of those rules. They can be rule maker, prosecutor and judge. The president appoints various people to lead them. Because agencies can have all three types of powers, they are to be reckoned with by the organizations over which they have jurisdiction.

BIG REGULATION IS BACK

In Obama's last year as President, 97,110 pages were published in the Federal Register, a barometer of federal regulatory activity. In Trump's first year, only 61,950 pages were printed, a whopping 36% reduction in regulation. In Trump's last year, 2020, 76,947 pages were published, the highest number during his years as president but still substantially lower than Obama's.

> "Biden will follow the Obama path in regulation."

CONSUMER ADVOCACY TO THE FORE

Various agencies and organizations that champion consumer rights will have direct access to key agencies such as the FTC, CFPB and state attorneys general, especially in the blue states. These agencies include the Public Interest Research Group (PIRG), Consumer Federation of America (CFA), National Association of Consumer Advocates (NACA), Public Citizen, the American Bar Association (ABA) and the Center for Responsible Lending (CRL).

In fact, the Center for Responsible Lending (CRL) Issue Brief of April 2011, 11 years ago, stated the following:

The portion paid to the dealer is called the "dealer reserve" or "dealer participation." According to CRL research, those who buy cars today are paying $25.8 billion in excess interest over the lives of their car loans just to pay the dealer kickback.

Such comments represent the thinking of FTC Commissioner Rohit Chopra, also the CFPB Executive Director nominee, and the acting chairman of the FTC, Kelly Slaughter. Here are their comments regarding this issue in 2020 in the case entitled: In the Matter of Liberty Chevrolet, Inc. d/b/a Bronx Honda Commission File No. 1623238 May 27, 2020.

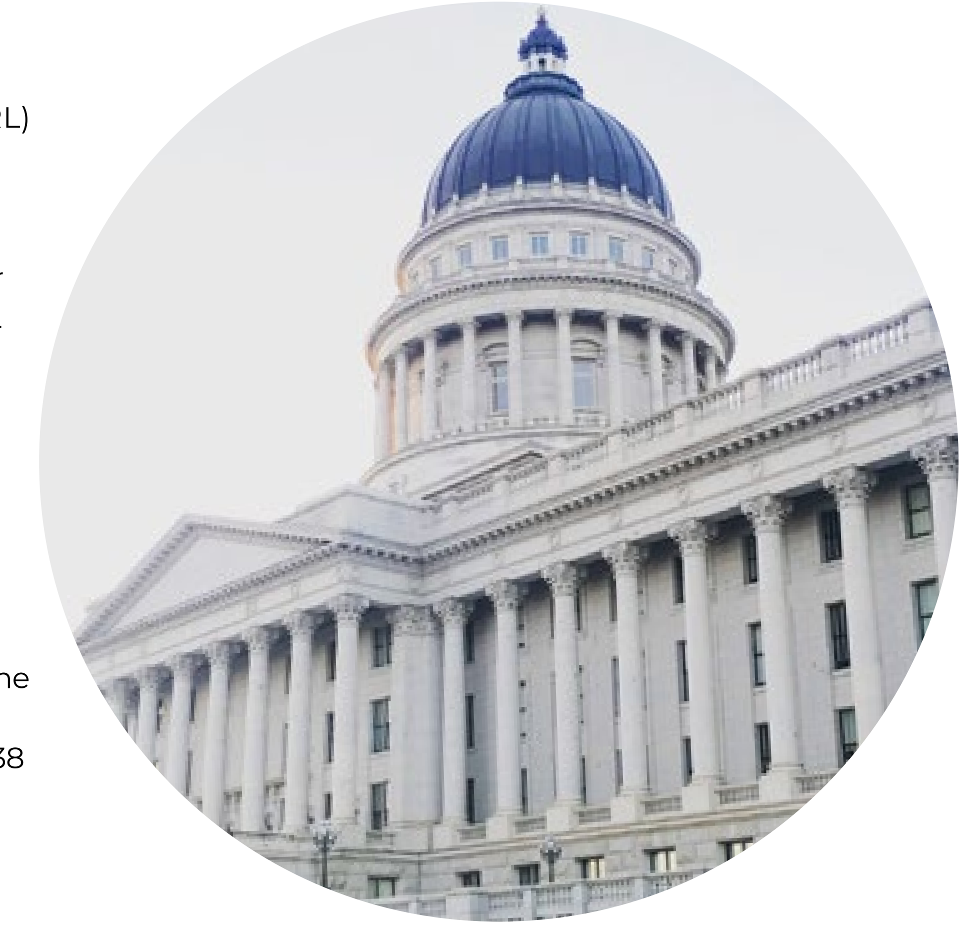
Chopra's published opinion stated:

"Most auto buyers finance their purchase, and auto dealers make much of their money in opaque ways. One of these ways is called a "dealer markup." A dealer markup is an undisclosed kickback that dealers earn for convincing prospective car buyers to agree to a higher interest rate than they actually qualify for with a lender. These kickback arrangements are kept secret from car buyers, who end up paying far more for financing."

Commissioner Slaughter's comments speak for themselves. Here are a few of the more telling quotes from her published opinion:

- "The automobile-financing market in the United States is profoundly broken."
- "In my view, far-reaching structural reform to the automobile financing and sales markets is long overdue and urgently needed: First and foremost, the Commission can start by initiating a rule making, under the Dodd-Frank Act, to regulate dealer markup."
- "On that score, dealer markup has got to go. And I would like to help."

These consumer interest organizations will have progressive advocates in profound positions of authority championing their agenda objectives.



THE FLOATS IN THE PARADE OF HORRIBLES

It would appear, consequently, that the consumer interest agenda will manifest itself in hard public policy. Here is the potential Parade of Horribles of the Biden consumer protection agenda of action items regarding the car business:

- Eliminate the Dodd-Frank Act exception for franchise dealers and certain independent dealers, making them subject to the CFPB's rule making, supervision and enforcement actions.
- Abolish arbitration in retail installment sale and lease contracts.
- Eliminate dealer participation and/or ban dealer interest rate differentials by statute or rule making. Any compensation paid to the dealer as part of the financing process should not be based on the interest rate or other financing terms, and should be consistently applied to all transactions.
- Allow for a three-day cooling-off period for vehicle transactions.
- Enact far stricter pricing disclosures and policing of Voluntary Protection Products.

- Establish interest rate limitations, an all-in rate cap
  - This concept is being adopted by certain states for other transactions and has been proposed in Congress as the "FAIR" formula in the past. It would require fees and charges for voluntary protection products, services, late charges and non-sufficient funds charges to be included in the annual percentage rate (APR) and finance charge calculations.
  - Federal "all-in" interest rate caps are priority for Financial Services Committee of the House and certain Democratic senators
- Amend Equal Credit Opportunity Act (ECOA) regulations (Regulation B) to require the collection and analysis of race and ethnicity data for auto financing transactions. Federal and state authorities should adopt and enforce laws regarding discrimination in vehicle sales transactions. The use of this added information would substantially increase the potential for liability.
- Increase enforcement against general alleged abuses in the sale and financing of cars. It is alleged that there is evidence of discrimination in the sale and financing of cars, and it is further alleged that many other abuses, such as spot delivery, are more likely to affect people of color. Increased enforcement against these purported abuses could help address the so-called disparities.
- Prohibit discrimination in pricing of goods and services. The ECOA prohibits discrimination in the terms of credit but there is no similar protection for pricing of goods and services.
- Take action on insurance rate setting.
- Blue states may begin to adopt their own "mini-ECOAs," creating state-level liability for fair lending violations. In addition, there may be more mini-CFPB's created.
- The Safeguards Rule will be revised by the FTC and dealers will be forced to greatly revamp their data security programs.
  - Each dealer will, consequently, need to have an information security officer
  - A ban (or limitations) on self-help repossessions
  - A report was published by Public Citizen in 2010 entitled Repo Madness that made this recommendation.
- There will be greater cooperation between federal agencies and state attorneys general.
- Provide greater education for attorneys and consumers regarding vehicle transactions.

THERE HAS LONG BEEN CONFRONTATION BETWEEN REGULATORS AND THE CAR BUSINESS.

Confrontation, Cost, and Cure

There has long been confrontation between regulators and the car business. However, this confrontation may be increasing. The Biden administration's selection of leading regulators appears to have a profoundly keen antipathy towards certain car business practices.

It's important to reflect upon the fact that regulation is exacerbated by direct costs and the severe possibility of legal liability. For example, the Center for Automotive Research published a study in 2014: The Impact of Federal Regulation on Franchised Automobile Dealerships. That study concluded that, in 2012, the average dealer incurred $182,754 annually in federal regulatory compliance, a substantial sum. That study is now nine years old and these costs have certainly increased.

However, as the old saying goes, if one thinks that education is expensive, consider the cost of ignorance. The same can be said about compliance. If dealers ignore their compliance responsibilities, their liability for infractions could be staggering, far outweighing the costs of legal fealty to the demands of the regulator community.

Compliance can be the cure as the regulators are watching and waiting.

Terrence J. O'Loughlin, JD, MBA
Director of Compliance
Reynolds and Reynolds

Terry O'Loughlin, Director of Compliance for Reynolds & Reynolds, has nearly 30 years of legal and regulatory experience in motor vehicle-related fields. From 1989 through 2006, he served with the Florida Office of the Attorney General, investigating and prosecuting automobile dealers, manufacturers, and financing and leasing companies.

FOR A CULTURE OF EXCELLENCE

BY TONY MOORE

LEARN TO COLOR INSIDE THE LINES

Coloring was one of my favorite activities as a child. It was one of the things I frequently did with my mom. I loved those books with the large pictures of characters like Scooby-doo, Josie & the Pussycats, & HR Puffin Stuff.

Wait, did I reference HR Puffin Stuff? I think I just aged myself!

As soon as I got my hands on a coloring book, I would open it, pick some crayons, and start coloring. There was no plan to my approach. My goals were simple; get color on the page and have fun. My mom, on the other hand, would start by tracing over all the lines of her picture with a single crayon. She would then color inside those lines. I was always impressed by how neat and orderly her final product was, especially in comparison to mine. Those bold lines made the colors pop.

When it comes to building a culture of excellence, your approach should more closely resemble my mother's methodology. You need lines, boundaries, and clearly stated expectations. Doing so requires a planned approach. You must color inside the lines.

THROWING CAUTION TO THE WIND

The importance of culture can't be overstated. After leading the people-side of multiple mergers and organizational turnarounds, I concluded that culture is the soil in which everything in your organization lives or dies. I also learned that culture develops with or without our permission. We can either be deliberate and intentional in creating the culture we desire (my mother's approach to coloring), or we can throw caution to the wind and hope for the best.

Unfortunately, when we do the latter, at best we end up with a culture that does not support our organization's performance goals, and at worst we end up with chaos. Chaos created by a disconnect between our organization's stated values and the way in which we operate. Allow me to illustrate.

A couple of years ago, I was contacted by a CEO whose organizational values included words like trust, transparency and open communication. She reached out to me to request coaching and training for her managers. She believed the team lacked strategic thinking. Their decisions were described as myopic, failing to take into consideration the bigger picture. I asked if she had any sense as to the root cause and she stated it could be incompetence or lack of experience.

As a firm believer in diagnosis before intervention, I started by interviewing the managers to gather data that would help in designing the approach to coaching and training. Through the course of these interviews, three themes emerged, and they appeared to point to an issue that was neither competence- nor experience-related.

By now, I am sure you have zeroed in on the true root cause of the issue. Sure, they may be lacking in competence or experience, but it was impossible to assess because the culture did not support strategic thinking at their level. To think strategically, these leaders needed access to three things:

1. Knowledge of the vision/direction (the thing about which they were to think strategically)
2. A continuous flow of information
3. Time to think and plan.

Also, there was a disconnect between the organization's stated values (trust, transparency and open communication) and their behavior (hoarding information).

Unfortunately, investing in coaching and training to improve this group's strategic thinking skills would have been a waste of time and money. These seeds would have never taken root because the issue was in the soil. The issue was one of culture. Until they changed the culture, the organization would never be able to change the outcomes they were getting.

CHANGING THE CULTURE

In my work as The Culture Architect, I have the privilege of working with organizations whose leaders desire a culture of excellence but are often unsure where to start. Frequently they use my book, "Culture in 4D," a blueprint for bridging the gap between the desire for a culture of engagement, ownership, and bottom-line performance and establishment of that culture. If you've found yourself in the same situation, here are a few steps to get you started.

SELECT THE PICTURE

Like any great work of art or widely admired edifice, the first step in creating a culture of excellence is visualizing what a culture of excellence would look like. Think of it as applying Steven Covey's Habit 2, "Begin with the End in Mind" (from *The 7 Habits of Highly Effective People*), to the culture building process. How will your team know a culture of excellence when they see it?

Your goal is to be deliberate and intentional in selecting the picture that bests represents your team's desired culture. It is not a top down process, but rather one in which the whole team participates. Here is a sample question to get the discussion started.

What three words or phrases best describe the kind of culture you need to be successful?

Once everyone has had an opportunity to share, work together as a team to agree on 3-5 words and/or phrases (also known as team values) to describe your team's desired culture.

TRACE THE LINES

Once the picture has been selected, the next step is "tracing the lines" or agreeing on a set of behaviors that support the team values. Do not underestimate the importance of this part of the process. It is not enough to say, "Respect." You must also identify and agree on behaviors that demonstrate "Respect." This deep dive on respect can be accomplished by having each member of the team fill in the following blanks: I feel respected when members of my team ________, ________, and ________. Use these answers to identify three to five behaviors on which the team can agree. In the example above, your team would not only agree that respect is important, but they would also reach agreement on how to best demonstrate respect.

COLOR INSIDE THE LINES

Coloring inside the lines involves taking steps to make the culture change stick. It is moving from vision to execution. To do so, the following things must happen:

1. Everyone agrees to take ownership for the culture by operating in accordance with the values and agreed upon behaviors.
2. Everyone agrees to address anyone who fails to operate in accordance with the agreed upon behaviors.
3. Everyone agrees to engage in activities that reinforce the importance of the values. As an example, at the start of your team meeting share a quote, poem, or an excerpt from a book or article that is related to one of your values.

I have fond memories of sitting at the table coloring with my mother and being amazed at the masterpieces she created while coloring inside the lines. Being a bit of a rebel by nature, I naturally resist structure in favor of "flying by the seat of my pants." Ultimately, experience has taught me that when it comes to a culture of excellence, masterpieces can be created when we are deliberate and intentional in our attempts to color inside the lines.

Tony Moore, MBA
Author & Speaker
Tony Moore Inc.

Tony Moore is a Culture Architect, International Keynote Speaker, Author and recovering Human Resource Executive. After 25 yrs of experience in the C-suite leading the people-side of multiple mergers and acquisitions, he developed a proven method of building a CULTURE of engagement, ownership and bottom-line performance. His "Four Laws of Culture" are the revolutionary foundation for all his keynotes.

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Lanphere Auto Group
Tigard, OR

Melanie Gideon
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Northwest Motorsport
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Jennifer Blewett
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THRIVING IN A CULTURE OF COMPLIANCE

BY DAVID ROBERTSON

When the test for success looks beyond dollars and cents to operational and personal factors, there are individuals, GAs, lenders, aftermarket vendors and dealers who stand head-and-shoulders above their peers. For these seemingly charmed individuals – and their business endeavors – everything seems to work.

The common thread? They all manifest a culture of compliance. The inevitable foibles of human nature aside, these individuals and organizations simply do things the right way at every opportunity.

Within these cultures, compliance means mutually equitable dealings in every facet of the operation. It's how they treat their employees, suppliers, field operatives, dealer clients and customers. It's all about respect.

It means staying the course when addressing gray areas in which the correct responses are neither regulated nor clearly defined. In this environment, the potential for an ill-gotten gain will never see the light of day.

Compared to industry norms, organizations with cultures of compliance often experience less remedial action by regulators, fewer legal challenges and higher numbers on their bottom lines. Personnel turnover is minimal. The company benefits from the cumulative expertise of long-tenured employees. Rarely do these enterprises flounder or go out of business during economic downturns.

There's an old adage that the company reflects the personal standards of the person running it. Few would argue the point. Leaders who embrace cultures of compliance have created a legacy of proof that corporate cultures founded on respect and fairness invariably enjoy long-term viability and success.

David Robertson, a founding member of the Association of Finance & Insurance Professionals and its current chairman, has over 48 years of experience in the retail automotive business. He's represented the industry successfully against the National Association of Insurance Commissioners, retained an IRS commissioner to modify an IRS policy that would have decimated VSC providers, and appeared on MSNBC and ABC 20/20, in addition to authoring almost 200 published articles.

ETHICS IN BUSINESS

THE TRUST LEGACY:
SHARING THE EXPERIENCE

by Justin B. Gasman, MPFS

Shared experiences are one of the most rewarding parts of being in F&I. The moment, for example, the product or guarantee you sold a customer four or five years ago pays off – especially when they didn't think they needed to buy it in the first place.

Over 10 years ago, when I was working at my first dealership, a woman I knew from high school started buying cars from me. After her first purchase, she and her husband sent her parents, his parents and her stepparents to the dealership, along with multiple friends and neighbors. Besides being really great people, they're wonderful customers who are basically walking ambassadors for me and my dealership.

In 2014, her husband called me and said they were ready for a new car. They came to the store and we quickly settled on a new 2014 GMC Acadia. Then it was time to complete the necessary paperwork and review available options.

So now we're in the situation that those of us in the car business always hate – sitting across from friends and family in the F&I office. We want to sell our products – we know they need them – and they know we need to sell them. But they don't want to be sold. It's sometimes more awkward than presenting to a total stranger, at least in my experience.

My customer is in the insurance business. In fact, he's a Principal Risk Engineer. If anyone understands risk and insurance, it's this guy. He also understands what he referred to as "extended warranties."

I, on the other hand, also understand how "vehicle service contracts" (VSCs) work and gently corrected his terminology. I explained that today's vehicles are more sophisticated than ever before. With all of the onboard computers, the high-tech electrical features, the sensors, switches, diodes and touch screens – it just makes sense to enroll in a vehicle service contract.

Why? Mainly because when these systems fail, they require replacing parts and components, not repairing them. Many of these components are not "maintainable," meaning they work – until they don't. What do you do when they stop working? So, we signed the deal and they enrolled in a 5-year /100,000 mile exclusionary bumper-to-bumper coverage. Fast forward, and four years have passed. I'm sitting at my desk, my Facebook Messenger lights up and I hear the bing! I look at my phone only to discover a text that says the 2014 Acadia has a leak in the evaporative cooler and it will cost $1,400 to replace it. The contract they bought was only $1,500 (I gave them a screamer on the price). The repair was completed and paid for by the VSC and now they still have coverage for one more year.

When I spoke with my customer after the repair, he said, "I remember when I was sitting across the desk from you and you were telling us how much you believed in the value of the VSC and why we needed one. And I was reluctant because I never buy these things. After all, I'm in the insurance business. I am really grateful you convinced us to add that coverage! At the time, I didn't think we really needed it, but I trust you – and I am really glad we listened. I remember the kids were screaming and it was really hard to concentrate, but I knew we were in good hands."

Who came out ahead on this deal? We all did. The customers were happily taken care of when they needed help the most. And I got to experience the gratification of finding out that the repair was covered – and everything went down as I said it would four years prior when the vehicle was brand new.

I always tell friends and family members they should seriously consider a vehicle service contract. Not only because I believe in the value that it provides, but quite frankly, because I know I'm the one who is going to take the phone call when a component breaks. I want to be able to say with confidence, "Relax – you're covered," then get them a loaner and back on the road. Shared experiences solidify the relationship between the customer and the dealership. They're how we build a business that will continue to grow well into the future!

Justin B. Gasman, MPFS
Financial Services Director, McCaddon Cadillac Buick GMC, Boulder, CO, was honored by *Automotive News* in its 2020 list of "40 Under 40" in auto retailing.

GETTING AN "A" IN COMPLIANCE AUDITS

BY LORI CHURCH

Many people from sales and F&I would rather have a root canal without Novocain than go through a compliance audit or deal review. Some of us sweat a little while someone is poking around our old deals and then feel like a little kid getting called to the principal's office when it's time for the results to be published. Others wonder why the company is wasting money to go through deals that we know are perfect, and still others feel resentful that an outsider is touching them. Very few of us look forward to an audit or review, but I suggest we shoot for getting an A by focusing on four A's: Attitude, Accountability, Action Plan and Acceptance.

ATTITUDE

Stop thinking about the fact that the auditor has probably never done your job, doesn't get what it's like on a busy Saturday, doesn't understand that deal jackets come back missing everything from an odometer to a driver's license, and doesn't understand the pressure of having the GM thinking your department is the "deal prevention department." Stop feeling that the auditors are going for "gotcha" moments. Stop thinking that someone's just trying to justify their job by pointing out problems.

Rather than dread audits and reviews, change your attitude and look forward to them instead. Isn't it better to have someone the company hired look at deals versus having a customer's lawyer subpoena them? It's better to have someone on your side who can identify potential issues. Maybe something has changed in the industry that needs to be passed along. Your attitude should be one of gratitude that someone with a fresh set of eyes can help keep you out of hot water and can share best practices.

ACCOUNTABILITY

Take responsibility for your own actions. We all make mistakes; it's just a matter of whether it was a big one with potential liability or a simple boo-boo. Either way, put up your hand and take responsibility. Don't be defensive. You can explain your reasoning logically and professionally without being defensive. You can say, "I thought I was supposed to do ABC. Was that not correct?"

ACTION PLAN

I experienced my first audit 15 years ago, was told to write an action plan after it, and immediately thought "what a waste of time." After I moved my ego out of the way, I realized that action plans are necessary to create change. They force us to re-look at our processes or create new ones. Humble yourself enough to realize there might be a better way of doing something. Create an action plan so the missed signature or timing of clearing the MLA flows smoothly.

ACCEPTANCE

Accept the audit/review results as a snapshot of how you performed in a certain time-frame. That doesn't mean that's where you'll stay. Did you score less than you wanted? Don't focus on the negative. Accept the results as a challenge to improve. Accept that it was better to have an ally see the mistakes rather than a foe. Did you score well? Accept the compliment and affirmation that you're good at what you do. Be proud, but don't rest on your laurels. Accept the challenge of beating your score next time by implementing a solid action plan so that you can improve.

Get A's in your next audit by having A's about the audit. Have a positive Attitude, be Accountable for your actions, create a solid Action Plan to correct issues, and Accept that there is always room for improvement.

Lori began her automotive career over 25 yrs ago as a salesman and quickly moved to F&I. She spent 10+ years as an F&I director, and graduated with a law degree from the University of Denver while working full-time as a director. She uses her years of finance experience combined with her law degree to help ensure the dealerships are compliant.

DIVERSITY AND INCLUSION BY LANGUAGE CHOICE

BY NICOLE F. MUNRO

Over the past year, our focus as a country and around the world has made a seismic shift toward equality, diversity, and inclusion. In some ways, the financial services industry (at least big banks) had already moved incrementally in that direction with respect to hiring, diversity programs and training, and antidiscrimination efforts. In other ways, it's still playing catch-up. On January 13, 2021, with its release of the Statement Regarding the Provision of Financial Products and Services to Consumer with Limited English Proficiency (the "LEP Statement"), the CFPB may have spurred the industry a bit forward by issuing guidelines for providing disclosures and services in languages other than English.

The LEP Statement is intended to "encourage financial institutions to better serve consumers with limited English proficiency (LEP) and to provide principles and guidelines to assist financial institutions in complying with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), the Equal Credit Opportunity Act (ECOA), and other applicable laws." In other words, the goal is to increase access to fair and nondiscriminatory credit for LEP customers while ensuring compliance with relevant federal, state, and other legal requirements.

Consistent with that purpose, the LEP Statement encourages financial institutions to promote access to financial products and services for all consumers by better serving LEP consumers. In doing so, the CFPB recognizes both the industry's willingness to serve LEP customers and the challenges to LEP program implementation, including balancing legal requirements and practical considerations, such as resource and operational constraints. Specific challenges include language, product and lifecycle selections. With respect to language selection, industry faces the challenge of determining in which non-English languages to provide products and services. Industry must then decide which products and services to offer in non-English languages and where in the product lifecycle to provide services in non-English languages, all while staying fair lending compliant and mitigating UDAAP risk.

Sounds easy, right — just do it. Turns out, it takes a lot of pre-planning, a comprehensive implementation strategy, and post implementation analysis to do this well and in compliance with the law.

The LEP Statement establishes guiding principles for serving LEP customers, suggesting that creditors may implement pilot programs or phased in approaches to better serve LEP customers while mitigating risk by "providing LEP consumers with clear and timely disclosures in non-English languages describing the extent and limits of any language services provided throughout the product lifecycle." This means that creditors must explain what products and services they are and are not providing in the non-English language.

Creditors must evaluate their customers or prospective customers, determine whether to offer products and services in languages other than English, what language(s), and what products and services. The timing of the offerings is important, too. Creditors should ensure that non-English communications are available when they most significantly impact limited English speakers — such as at credit origination and post default servicing.

If you plan to establish an LEP program, we suggest involving your lawyer to help mitigate risk.

Nicole is a partner in Hudson Cook, LLP's Maryland office & Editor in Chief of the firms CounselorLibrary.com CARLAW publication. She counsels financial services providers on compliance with consumer financial services laws, including unfair, deceptive, and abusive acts or practices, as well as the investigations, rule makings, and proceedings of the Consumer Financial Protection Bureau.

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