

TAKE ACTION!

THE CFPB EXAMINATION MANUAL REVISITED

An FNI Incorporated newsletter serving
the auto and consumer finance industry.

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Nobody likes to have to read the manual – whether it's for the television, the lawnmower or, especially now, when it's for the CFPB. After the AFSA Independents show, I had the opportunity to attend Hudson Cook's annual auto and housing finance conference in Annapolis. I have attended since 2008 and this year was another demonstration of the firm's deep bench of legal talent and mastery of the legal issues and regulatory environment facing the consumer finance industry. **Following one speaker's query, "Who here has actually read the CFPB's examination manual?"** and the smattering of responsive hands, I realized it was time to go back to the Manual which I had not perused since its original release. In fact, the CFPB Supervision and Examination Manual was updated late last year to Version 2.0 and is available by [clicking here](#).

Weighing in at well over 900 pages, this is not a project for everyone, particularly the busy executive running a finance company. So, here are the first sections I focused on and a brief summary of my thoughts about their application to the kind of subprime auto finance companies FNI works with in conjunction with F&I products and product compliance. Disclaimer: This is just for starters folks – *Take Action!* is a Churchill inspired "Put it on one page for me" newsletter!

- **UDAAP ACCORDING TO THE CFPB**
(Manual Part II – Examination Procedures; pp 174-190)

You won't need any heavy analysis to realize that UDAAP: Unfair, Deceptive, or Abusive Acts or Practices is where much of the "action" will be when it comes to scrutiny on products like GAP, vehicle service contracts, car clubs, and other products commonly offered in conjunction with auto finance. **Key considerations for finance companies funding dealer products or with a captive/preferred product array of their own:** 1) Do the products have **value** for the consumer? 2) How are the products **presented** to the consumer; 3) Are **dealers trained** to sell the product compliantly? 4) Are product **marketing materials** compliant? 5) Are finance company **due diligence efforts, product policy and training fully documented**? 6) Does the finance company have a process for **monitoring product performance/consumer complaints**?

- **CFPB'S CONSUMER RISK ASSESSMENT TEMPLATE**
(Manual Part III – Examination Process Templates; pp 855-876)

This template is used by CFPB examiners to determine the level of risk to consumers in a supervised entity's business and to identify the sources of the risk. The Assessment is based on "inherent risk" in the business like the potential for UDAAP or other federal consumer protection law issues, balanced against the quality of controls the entity has in place to manage those risks. **Big takeaways:** 1) **Product pricing** matters; 2) Interestingly, **the traditional "protected classes" list is expanded** for the purpose of the analysis to add consumers with "FICO[s] below 620", consumers on any type of public assistance, and "consumers with limited education" amongst other things; 3) **Compensation structures** must be justified and documented; 4) Compliance **training and documentation** is critical; 5) **An effective consumer complaint management process** seems like it would go a long way to preventing problems in the first place and mitigating risk in the formal Bureau analysis.

- **CFPB'S COMPLIANCE MANAGEMENT REVIEW TEMPLATE**
(Manual Part III – Examination Process Templates; pp 885-898)

It is clear the kind of "Compliance Management System" considered by the CFPB applies to very large businesses and those of you who attended the AFSA Independents conference will recall the question of compliance "scalability" for smaller institutions to be a serious issue. **Boiling down the CFPB's template, I come away with these basics for finance companies of any size:** 1) Have a **formal policies and procedures** company manual; 2) Provide (and document) consumer protection **compliance training** regularly for employees; 3) Manage and monitor **Service Providers** for compliance; 4) Document **consumer complaints**, follow-ups and resolutions.

So, that's 900 pages down to 1 PAGE. Now, how about the biggest takeaway in just 1 WORD? It appears in the Manual too many times to count (Ok, it actually appears **80 times**. Thanks, Adobe!): **DOCUMENTATION. Because just doing the right thing isn't enough anymore.**



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Take Action Newsletter Archive Available Online

FNI's Take Action! Newsletter celebrated its first anniversary this March. FNI and Take Action! have been discussing CFPB Service Provider and Add-On Product compliance issues since the Bureau released guidance bulletins on the topics in 2012. Now, all previous editions of *Take Action!* are archived and available anytime by [clicking here](#) or visiting the [myFNI.com](#) Resources page.

WHAT DOES FNI DO?

Due Diligence & Process Design

FNI conducts third party Service Provider and product due diligence on behalf of CFPB regulated financial institutions. You can rely on FNI industry expertise for development and implementation of effective compliance monitoring and risk mitigation processes for F&I product Service Provider relationships and product offerings subject to CFPB oversight.

Income Development

Discover FNI income producing products and benefit programs that provide real consumer value and enhanced business profitability. FNI bundles superior products from select administrators with a proprietary, complete vendor and product management solution designed for financial institution compliance with CFPB's Service Provider and Add-On Product Bulletins.

TAKE ACTION!

With 16 years of combined experience in F&I administration executive management, product development and marketing, auto finance sales management, and law, you can count on FNI's total vision of industry products and issues for complete profitability and product compliance solutions for your business.

**Get expert assistance –
Contact FNI Today.**

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