

By ANDY ZAVOINA, CRCM

## Communication

IN THIS INSTALLMENT OF WORK SMARTER—NOT HARDER, we will examine communication. In 23 years in banking, I have worked with many examiners, both as a banker and as a co-worker on ABA committees. Just as there are good and bad bankers, there are good and bad examiners. In each of these groups, however, I am pleased to say that the vast majority are good.

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As I work with bankers across the country, I see how critical communication is. I realize how lucky I was that my bank's management was supportive of the compliance function and that the examiners were more concerned that we were compliant, and trained to comply, than that they could play "gotcha" at the next exam. Strong communication skills are more than a catchphrase in a compliance officer's job description. These skills let you work smarter, not harder, because with good communication, everyone understands the common goals, problems, and solutions.

Working smarter means getting the job done in an efficient manner. If compliance cannot communicate—with the board, management, department supervisors, platform level employees, and examiners—compliance cannot do its job. It is imperative that you get your ideas across. You must be able to gain support from each of these entities because you manage compliance activities more than you "do" compliance. As compliance officer, you manage the process—but compliance is "done" by everyone else in the bank.

Communication requires two things. First, you must have a channel through which to communicate. Second, you must have a message that is credible, authoritative, and confident. You must keep in mind that as a bank officer, you have a responsibility to the bank. One question you should ask yourself often is "What is the right thing

to do?" You must balance the needs of the bank and the regulatory requirements you oversee, which doesn't mean you cut corners or ignore regulatory requirements. It means you look for the middle ground so that the bank will achieve its goals and the requirements imposed upon it will be met. It's easy to be the "naysayer" and move on to the next audit on your calendar.

Assume the marketing director has approached you, in advance, to tell you about a new ad campaign. Your bank is finally getting an overdraft program so you can better compete with the bank down the street. The marketing department wants to really sell it on free accounts because this program is expected to boost income, and your free account is better than the other guy's product: "Free accounts with overdraft protection built in." The marketing director is depending on you to bless this campaign so it can launch on time, in three days.

You could refer the marketing director to the interagency guidance and the new Regulation DD amendments, telling him or her there is no way you would ever sign off on this because you already know it will be a focal point during your next exam. You could state that the risks outweigh the rewards and this is ripe for consumer complaints and lawsuits. Having studied the changes to the regulations, the additional disclosures, and the media, you are sensitive to these risks and you could simply tell the marketing direc-

tor to go where no marketing director has gone before.

Instead, you should work together. Explain the new requirements—especially those triggered by advertising an overdraft program. Explain the guidance and the problems with the ads, and work with the marketing director to correct the errors and mitigate the risks. Your popular account may be free, but you tell them it cannot appear that the overdraft program has no cost. You communicate with them in a way that is sensitive to their needs and the bank's goals, and is compliant in every way. Look for the middle ground and a win-win situation, not an adversarial relationship.

New accounts is looking to streamline the process of opening accounts. Your customer information program (CIP) has created work. While the new accounts department staff know it has to be done, they need to improve the way they do it. They have figured out that getting a Social Security account number after opening will help them. They understood that you wanted them to actually see each new customer's blue card with the SSN on it, and that is sending would-be customers out the door.

As compliance officer, address employee concerns over the need for this tax ID number. Having to obtain it is interfering with their sales goals and thus their bonus pay incentives. Take the time to explain why this extra step is necessary as well as the penalties the bank is subject to if it is not completed. Because follow-up is costly and these accounts are considered questionable, the bank's bottom line is improved. That is a goal everyone should seek.

You might also clarify that the accounts that count toward the goals are

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only those that are complete and error free, so getting the tax ID at opening is a common goal. You might also point out that the actual SSAN card is not required. There are alternative ways to verify customers' identities. You improve your training materials and thank the new accounts staff for their assistance.

Supervisors are a key to the bank's success, and yours. You can work with supervisors efficiently, because they know what you want and why, and they are in a position to ensure employees are compliant. Support and “buy-in” from supervisors will greatly impact the effectiveness of your compliance program. Because your examiners review your compliance program for effectiveness, this is one component of how much good you have done for the bank. This reduces the stigma of being a cost center and instead promotes educated customers and employees.

You report to, and work for, senior management and the board. Your communication with them is not one of “compliance cop,” but compliance planner and reporter. Your job is to keep them from getting a call from your examiner concerning a problem for which they need to “hold a special meeting and bring a checkbook.”

You should be in routine contact with management. Remember, your goals and theirs are similar. You must have an open door so that small problems don't become big ones. Again, effective communication is essential. If there are any misunderstandings, you may create work for yourself and others or cause violations. When you approach management with a problem, you must explain it well. They must understand what the problem is, what is being done wrong, why, and what the requirements actually are, and you must provide a compliant solution.

**Example:** Your marketing department has asked you about sending this year's privacy statements, which came up on their calendar while you were on vacation. They were proactive and had the statements printed, so they are ready to mail.

But you just sent the marketing department a memorandum advising them of the FCRA/FACTA notice on the reporting of credit. You knew that the supply of privacy notices was down to 2,000. In the memo you told them that you wanted the FCRA text added to the privacy notice to make disclosing easier. You stated they should reprint them with the additional paragraph you provided and then place all existing stock into recycling.

You were not aware of their actions when they complained in a senior management meeting about the changes you required. They just had 300,000 privacy notices printed and delivered. Now compliance and marketing are pointing fingers at each other. With adequate planning and communication, this can be resolved, and could have been avoided. Working with marketing, you agree to determine whether an additional flier, an overprint, or a sticker for the FCRA text on the privacy notice will be the most cost-effective solution.

Communication is essential with the board, too. Here, your role is typically to deliver information. As with senior

management, you discuss the state of compliance in your bank as well as the industry. By knowing what is outside the walls of your market, you can better predict what is coming your way. This keeps the board informed, shows you are proactive, and begins to lay the foundation for resources you will need in the future. You may be telling board members in advance of an upcoming exam for which you need assistance completing a HMDA review, or that you will use some of this HMDA data combined with a purchased report to evaluate expansion plans. You are uniquely qualified to report on loan and deposit information for your bank as well as others in your market and the expansion market. You routinely work with this type of data for the Community Reinvestment Act and have the capability of mapping the entire project.

Lastly, you want to have routine contact with your examiners. They are often one of the most underutilized assets you have available. Your examiners likely have an outreach program to involve the president and CEO. When compliance matters are discussed at these programs, are you involved?

When you review new products or disclosures, how can you know what other bankers have done, what problems resulted, and how they would do things differently? Your examiners may well have knowledge in this area. While they are not a substitute for legal advice or a replacement for outside consultants, they are helpful in understanding your bank, your market, and your products. Seek their advice. If they cannot assist you, they will say so. But they may be able to point you toward warning signs, industry best practices, or problems they see arising from a particular issue.

There are variances by agency, by region, and perhaps by the examiners themselves as to what assistance they can provide and how often. But in my discussions with different regulators from different agencies, they are all willing to assist their banks. Some would consider a quarterly call a part of their outreach program, and all parties are winners because each receives and shares information. Some are willing to help whenever you have a problem but would rather not chat merely to chat. Always have a purpose and a reason to speak with them as nobody has time to waste. Use these conversations as a training opportunity to discuss compliance issues.

This outreach is a two-way street and the examiner may detect a trend after hearing similar concerns from several bankers. Good information comes from this, more than blame. Some bankers discussed this year's new HMDA data concerns with their regulators. Sharing the results of early analysis and loan underwriting criteria helped bankers and regulators understand and prepare for articles in the press and criticism from politicians. It also helped some banks correct flawed data prior to submission.

Ask examiners generic questions such as “Would this new fee be a finance charge?” instead of “We've already done hundreds of these and never counted this as a finance charge. Shouldn't it be one?” While they can't ignore violations of law, such as discriminatory practices, they aren't

taking notes to follow up in your next exam, either. Generally, discussions with regulators on the telephone, at conferences, and at most other “informal” gatherings are off the record. This is a prime opportunity to ask your questions and get free advice from those really are in the know.

And when you’re in your next senior management meeting and you reiterate good ideas on new products or services you heard about while networking, expand on ideas your group brought up, and discuss concerns over internal controls that your regulators have expressed, you will come across as a “go-to” resource. This kind of information speeds delivery and eases the fear of having to revise products later. Doing it right the first time is always the least expensive way to accomplish your goals. Being involved—communicating your concerns and needs in advance—improves your value to the bank, helps achieve compliance proactively, and gets the job done in the fastest, most efficient way.

Compliance is the tie that binds. Because you touch so much in so many areas at the bank you are uniquely aware of policies, procedures, and tasks, and who does what, when, where, how, and why, and you can assist others with this information. Communication saves your bank time and money. Who says compliance has to be a cost center? The vehicle for this communication throughout the bank is compliance. You can be a genuine asset by being involved. Your bank and your career will benefit. EC

**ABOUT THE AUTHOR:**

**Andy Zavoina, CRCM**, is an executive vice president with the Gila Group, best known for its involvement with BankersOnline.com, where he is also a BankersOnline Guru. He joined Gila in 2003.

Mr. Zavoina, who has been in finance and banking for 23 years, was the 2003 recipient of the American Bankers Association’s Distinguished Service Award for his involvement and accomplishments in the field of regulatory compliance management. He is a past chairman of the ABA Compliance Executive Committee and currently serves on the ABA Bank Compliance Editorial Advisory Board, Compliance Action magazine, and is a member of the ABA Compliance School Board. He also served on the Texas Bankers Association’s Compliance Committee.

He is a graduate of the ABA National Commercial Lending School, National Compliance and National Graduate Compliance Schools, and is a Certified Regulatory Compliance Manager with the Institute of Certified Bankers. You can reach Andy on the Internet by using his e-mail address, [andyz@bankersonline.com](mailto:andyz@bankersonline.com), or visiting his personal Web site at <http://home.hot.rr.com/zavoina/home.html>.

## Compliance issues hiding in your hardware?

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**Hazardous components = Environmental liability**

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