
WHEN YOU LIVE IN TIMES OF CHANGE, HOW DO YOU CURSE?

Lucy Griffin's guide to living through a dark and stormy night for Compliance

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We've all heard the famous curse: "May you live in times of change." But what about when you actually are living in times of change? What could be worse?

Compliance managers should be used to this. After all, compliance is about managing change and risk.

Living in times of change is part of the job description. But for now, change is coming at us so fast that it is like being trapped in the fast lane with no chance of moving into a slower lane. Everything is running at high speed. And it isn't going to slow down for quite a while.

Formation of new bureau makes for a rocky boat.

800-pound gorilla in the compliance room

With the passage of the Dodd-Frank Act, continued change is guaranteed. The act calls for massive change in the form of new regulations and a new regulator. The new regulator-the Bureau of Consumer Financial Protection-will become the agency that regulates all aspects of consumer credit products and relationships.

But don't get excited. There will be no suspension of regulatory activity while the Bureau of Consumer Financial Protection is set up. In fact, the designated head of the agency, Elizabeth Warren, has already made pronouncements about her intentions. She plans to hold hearings, conduct consumer research, and be in a position to issue final new rules before the designated statutory deadlines.

It takes time to set up an agency. There are mundane issues, such as job descriptions and office furniture. And then there is the staffing process. Staffing will be no easy feat. So you might expect some down-time for the start-up when everyone is focused on setting up the Bureau and not working on new regulations.

Don't count on it. Warren promises no down-time. Those statutory deadlines are looming and she intends to beat them.

Meanwhile, back at the Fed

Meanwhile, the Federal Reserve is still busy revising Regulation Z. The Fed is not sitting back and waiting for the hand-off. Instead, this is being treated like an Olympic relay race. The Fed is hard at work and shows no signs of slowing down before passing the baton to the new Bureau.

Some of the regulatory changes are now in final form, with pending effective dates. Others are out in proposed form. And for some, the comment period has closed and the Federal Reserve could take action any day.

There are moments when it seems that the Federal Reserve is trying to make all the regulatory changes contemplated by the Dodd-Frank Act before the Bureau of Consumer Financial Protection is up and running.

There are deadlines pending every month for this year and next. Between credit card rules, gift card rules, mortgage payment schedule disclosures, loan originator compensation, loan originator registration, and everything else, it is a challenge to keep up-to say nothing of plan ahead.

What you know today won't be current tomorrow. Worse yet, your staff won't be current tomorrow either. This is living in times of change.

Ripple effects of the Bureau's formation

We are also facing changes in the staffing at regulatory agencies because of staffing the new bureau. The primary source of Bureau staff is personnel at the existing regulatory agencies. There are researchers, lawyers, and examiners with valuable experience. But ... they may not want to move.

So far, most people are being offered a choice: go or stay. The option to stay has appeal because it is a familiar berth; pay and benefits don't change; and there is job security.

It is in the interests of the current regulatory agencies to keep staff because they still have compliance responsibilities.

What if not enough experienced people want to move to the new Bureau? Then the Bureau will be staffed with new hires. These new hires may mean well, but they may not know much about the business of writing rules, examining, or banking.

Under these circumstances, even the best intentions can result in a disastrous rule.

Coping with the new environment

How do we cope?

First, give up on perfection.

It simply isn't possible under these circumstances. Period.

Instead, focus on what's most important.

To determine what is most important, use your customers as a starting point. What customers know and understand about products is the central issue. If you get that right, the rest is "just" compliance. If it's not quite right, there is no real harm as long as no one is hurt.

But treating customers unfairly will be reflected in new regulations.

Second, recognize that we are all-bankers and examiners alike-in the same rocky boat.

Play together. Make a team with the examiner and work through problems together. Instead of using a "fight or flight" approach, work on the playbook together, whenever possible.

Third, participate in the comment process.

Information in comment letters, explaining how work is actually done and what customers actually seem to want can make the difference between an awful rule and one that is, at least, something you can live with.

Finally, go for all the resources you can get.

There has never been such a good opportunity to justify and illustrate what you need to do the job.

Consequences of failure are clear.

Success is elusive.

But failure is not acceptable.

Lucy's September 2010 ABA Banking Journal column, "What to expect from the new Consumer Bureau," also contains helpful information for bankers in preparing for this agency's debut. You can either read it in blog form or in the digital magazine.

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Some resources for you. If you find others, apropos of Lucy's admonition to "play together," please share them in the comments field below.

• White House announcement concerning Elizabeth Warren's special post

• White House video of President Obama explaining need for Bureau

• ABA's "Building the Bureau" Page

• ABA's Regulatory Reform Center

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About Lucy Griffin

"Lucy and Nancy's Common Sense Compliance" is blogged by both Lucy Griffin and Nancy Derr-Castiglione, both longtime ABA Banking Journal contributing editors on compliance.

- Lucy, a Certified Regulatory Compliance Manager, has over 30 years experience in compliance. She began as a regulator, including stints with the Federal Reserve Board, the Federal Trade Commission, and the Federal Home Loan Bank Board. For many years she managed the ABA Compliance Division. Since 1993 she has served as a compliance consultant as president of Compliance Resources, Inc., Reston, Va. She is also editor of Compliance Action newsletter

and senior advisor with Paragon Compliance Group, a compliance training firm.

In addition to serving as a Contributing Editor of ABA Banking Journal, Lucy serves on the faculty of ABA's National Compliance Schools board. For more than a decade she developed and administered the case study at ABA's National Graduate School of Compliance Management. She can be reached at lucygriffin@earthlink.net

- Community Bank Compliance Officers: Be sure to check out our other compliance blog, "AML, Fraud, and Other Things." BSA expert John Byrne blogs on money-laundering and related matters with a definite point of view. Check it out

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