

Loan servicer compliance due diligence spans myriad collection, security protocols

*By Charles Friedman and Daniel Warskow
Concord Servicing*

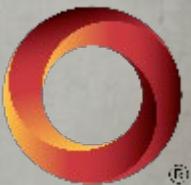




When it comes to loan servicer collections compliance and security, there are two types of companies: Those that promise the moon and stars to lure clients in the door, then don't follow through; and those that exercise thorough due diligence to provide comprehensive protection that speaks for itself.

For more than three decades, **Concord Servicing** has invested needed dollars and determination to ensure that all compliance initiatives and policies are pursued correctly and completely.

Supporting these efforts is a dedicated workforce that buys in to the core value of doing it right—which has proven to be a major competitive advantage according to our clients and is supported by our track record.

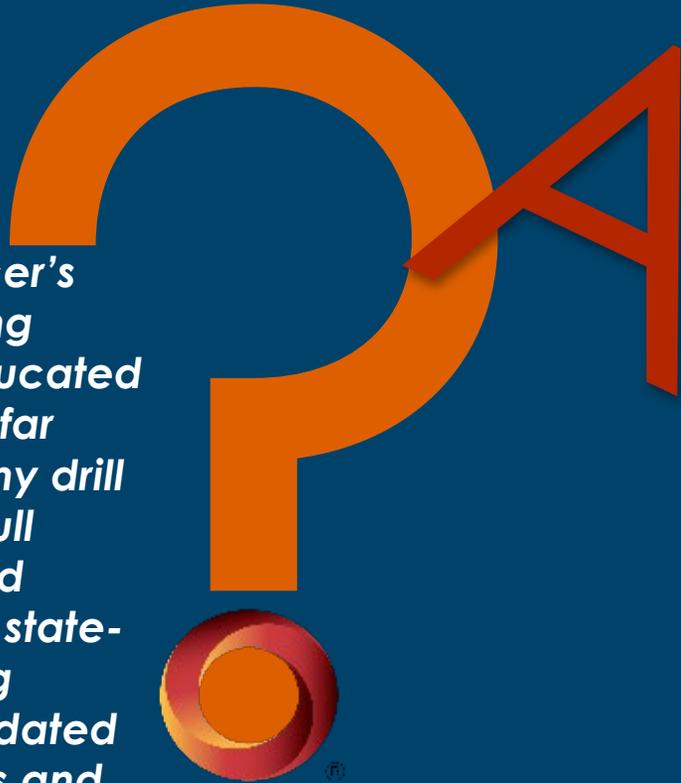


When considering loan servicers, in-depth questioning to ascertain and confirm the level of diligence, consistency and reliability in both customer-facing efforts (e.g., collections) and security merit attention.

Following are queries and insightful background to help frame the review process.



What is the servicer's process for staying informed and educated on the law? How far does the company drill down to ensure full knowledge of and compliance with state-by-state licensing regulations, mandated privacy practices and protections, and consumer protection?



New client due diligence is a multipronged effort. Continuing education yearly, studying litigation trends, reviewing legislative sessions, and gathering intelligence and insights from multiple industry groups—e.g., The International Association of Credit and Collection Professionals (ACA International)—are all helpful to get issues on the radar.

Overlaying all of this is tapping into the huge resource of collections and credit industry communities addressing affairs in Washington, D.C.; and staying up-to-date on the statuses of several hundred bills pending at state levels at any one time. Subscribing to regulatory agency communications and notifications is yet another layer.

It's also vital to listen to and learn from prospective clients' experiences, to help seam together best practices that will work most effectively with that particular client.

***How best can the
loan servicer stay
abreast of regulations
at the federal level?***

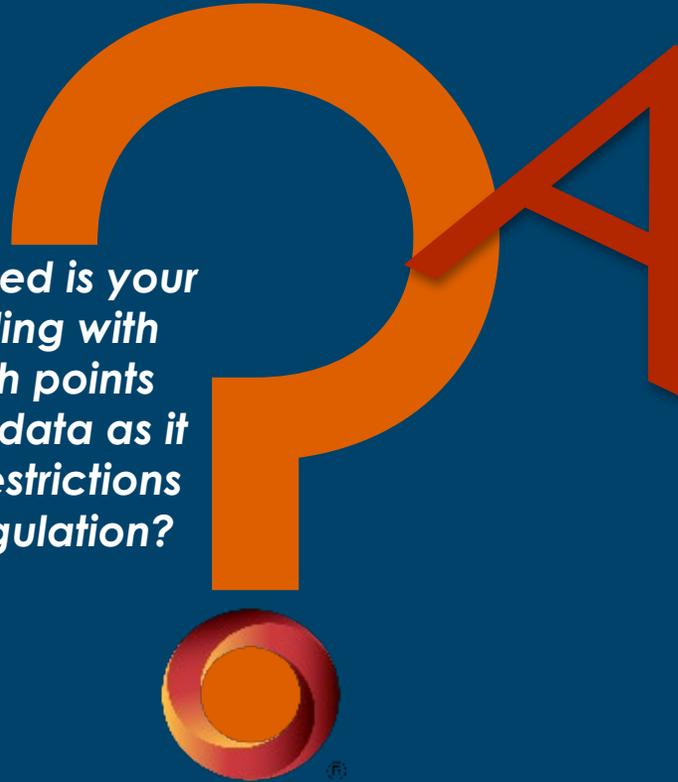


It's critical to stay up to speed and compliant with everything mandated by The Consumer Finance Protection Bureau (CFPB), which oversees consumer practices and protections.

It's particularly vital for loan servicers engaging in consumer collections on behalf of clients. The CFPB has broad authority to regulate the industry through policymaking, enforcement, and penalizing bad actors with significant fees.

Their regulatory guidance drives our policies, and should be the guiding federal force for any company engaging in debt collection—looking at risk assessment issues, and validating compliance with such areas as debt collection law and credit reporting law. The CFPB sets the standard we need to meet.

How experienced is your servicer in dealing with consumer touch points and consumer data as it relates to the restrictions imposed by regulation?

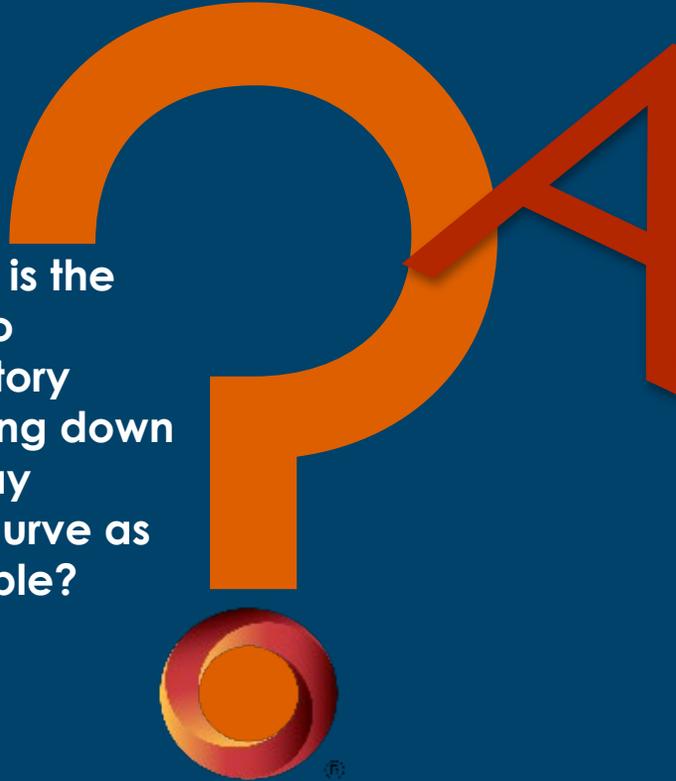


Through 30+ years in business, we've seen a lot of core services that haven't changed in combination with many that have. This extensive knowledge amassed by a workforce averaging more than a decade with Concord makes for the best of both worlds—an incredible amount of retained knowledge, experience and expertise gained over the long haul, and teamwork that produces enthusiastic and consistent understanding of consumer collection regulations of all types at all levels.

We've learned many lessons along the way about what's effective and what's not in the world of collections and servicing. Clients get both the know-how to do it right, and fresh perspectives on existing regulations as well as new proposals on the horizon. Challenges that can jeopardize collections compliance don't occur because of a lack of background or a jaded view of the arena—either of which can create huge gaps in the quality and reliability of compliance.

All of this provides a good grasp of what will drive better portfolio performance while establishing and maintaining trust both with clients and their customers.

How proactive is the loan servicer to identify regulatory changes coming down the road, to stay ahead of the curve as much as possible?



One huge area meriting in-depth study and understanding is the ongoing evolution of the Fair Debt Collection Practices Act (**FDCPA**), a federal law that protects consumers from over-aggressive debt collection.

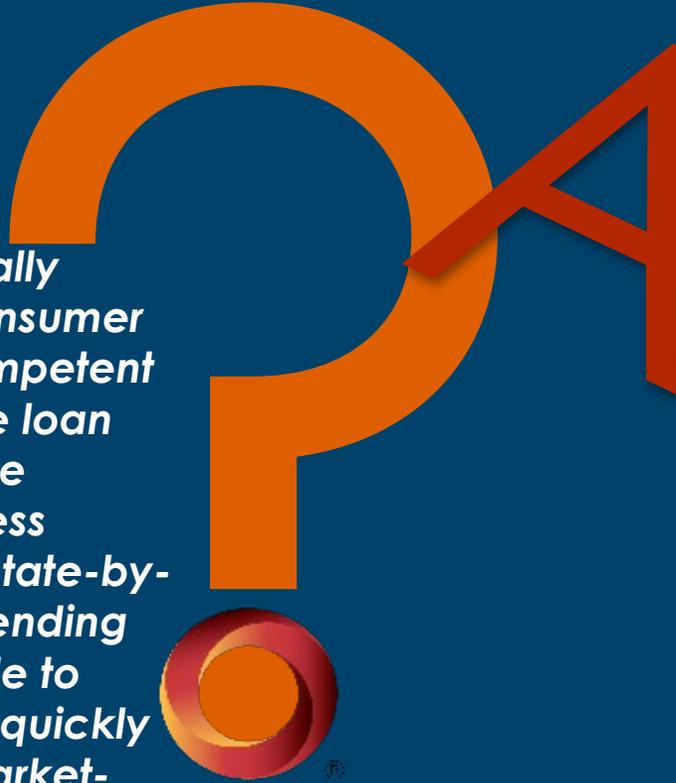
Changes effective later this year will modernize the FDCPA, providing clarity on a number of ambiguous issues.

It will make text messaging and email standard business practices where they haven't been before.

There is varying complexity depending on where the consumer lives, and efforts always must be tailored to comply with the FDCPA as well as state courts and other relevant regulatory opinions.

It's a huge amount to track and incorporate, but if the loan servicer doesn't do it correctly, there can be devastating downsides for the client.

In areas specifically applicable to consumer lending, how competent and flexible is the loan servicer's software platform to address everything from state-by-state usury and lending laws to being able to change strategy quickly in response to market-place volatility and/or downturn (such as has been seen with COVID)?



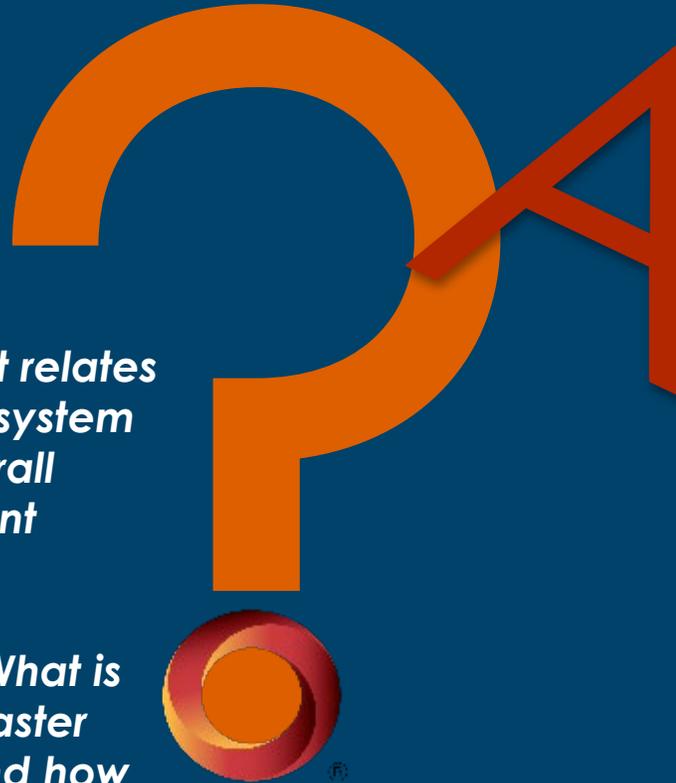
Our software system has been exceptionally flexible, adapting rapidly and reliably to address such pandemic-triggered practices as late-fee waivers and deferments.

Along with that, collections became more of a customer service protocol—working with financially-challenged consumers to find solutions that would give them the relief and time they need, versus just trying to collect past-due payments.

On top of the pandemic, multiple natural disasters across the country also necessitated moratoriums on collection calls and related procedures.

Overall, the challenge posed—and met—has been to pivot rapidly to deal with a variety of challenging circumstances in states across the country.

What is the loan servicer's current infrastructure as it relates to data security, system security and overall protection of client information and customer confidentiality? What is the servicer's disaster recovery plan and how often is it tested? Do they employ outside vendors to test and challenge their platform?

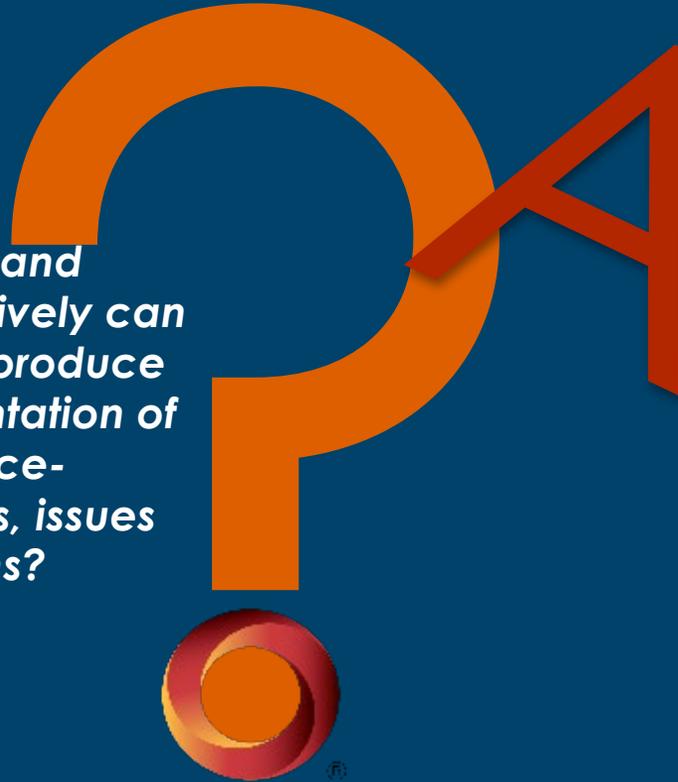


There is a comprehensive plan in place to meet best practices in data and system security. All certification requirements are regularly checked to ensure the latest standards are met. Outside vendors are used to do penetration testing to audit all data and system security protocols.

As part of this due diligence, our disaster recovery committee meets regularly, and looks at all risks to create a robust business continuity plan. There are quarterly drills to check and recheck everything. This proved its worth last year, when the workforce had to pivot quickly to work remotely because of the pandemic. There was very little business disruption.

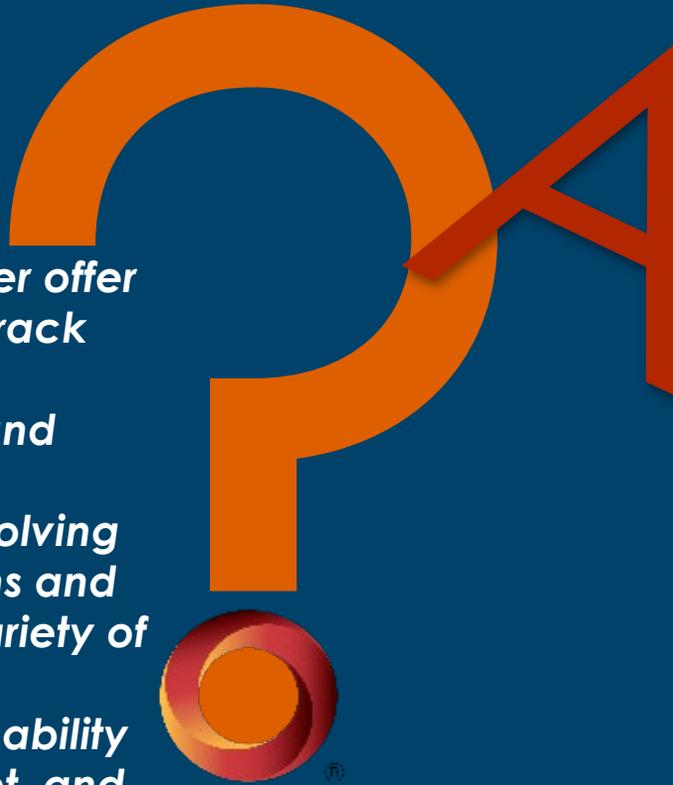
Testing and drilling over the years leading up to the pandemic, coupled with a very mature, well-run, well-managed disaster recovery team paid off big-time when we had to flip the switch. Our systems became a port in the storm for lenders and creditors struggling to maintain these protocols when confronted with myriad challenges brought on by COVID.

How quickly and comprehensively can the servicer produce full documentation of all compliance-related areas, issues and concerns?



Our documentation is buttoned down and readily available for examination. In the compliance world, you're never done. It's a constantly-evolving force, and different clients have different theories and preferences regarding compliance-related issues. We work really hard to meet both client and regulatory needs in ways that allow the most effective and efficient performance.

Can the servicer offer a time-tested track record of its performance and ability to meet challenges involving both collections and security in a variety of industries—demonstrating ability to adopt, adapt, and address with a fresh set of eyes?



Even time-tested track records get tested mightily when an unpredictable catastrophic event such as a pandemic occurs. Continuity and ability to function in a suddenly-different world become front and center. Compliance pivots, involving both collections and security in a variety of industries, have to occur literally overnight.

How does a company pivot on a dime when suddenly the staff is working from home? How does that change data security efforts and secure connections? How do documents get printed securely? How do consumer calls from home get handled in the most confidential and compliant manner?

COVID necessitated an on-the-spot review of all practices to ensure compliance with evolving state, local, national and international laws. When clients and banking partners want to see what we're doing, we show advanced internal compliance management system policies and procedures that form a documented picture across the organization.

Total transparency to meet ever-more-sophisticated compliance requirements and requests is the result. Clients, partners and compliance organizations demand more accountability and ability to pivot nimbly when responding to “trickle down” issues (e.g., new government bank regulations that must be addressed with all involved parties, including loan servicers).

Collections and security compliance matters will continue to grow in importance and complexity. There will be more emphasis on protecting consumers and more stringent enforcement of consumer protection laws. Both proposed CFPB regulation and current political winds will drive the importance of complete compliance for years to come.

Charles Friedman is Vice President & Corporate Counsel.
Daniel Warskow is Director of Corporate Compliance.



Corporate Headquarters

4150 N. Drinkwater Boulevard, Suite 200

Scottsdale, AZ 85251

(866) 493-6393 toll free

email: bd@concordservicing.com