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PLANNING AND EXECUTING EFFECTIVE REMEDIATIONS

In this article, the authors discuss the benefits of self-identifying events that warrant remediation and implementing an effective, comprehensive, and sustainable remediation framework.

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At some point, nearly all financial institutions, no matter how well managed, discover one or more issues that require consumer remediation. While each remediation event is unique, an institution can take steps to ensure a successful remediation both before the event arises and immediately upon discovery. This article discusses the benefits of self-identifying events that may warrant remediation, strategies for developing an effective remediation framework, steps to take upon discovering an issue that may prompt monetary and non-monetary forms of consumer redress, the importance of an effective communication plan, and factors to consider when crafting an effective remediation plan.

While the term "consumer" is used throughout this article, the concepts described apply to any type of customer (or prospective customer), regardless of whether the product or service is for consumer or business/commercial purposes. Additionally, this article is not intended to address data breach or cyber incident responses, as those have very specific and urgent timelines and may also include reporting to state entities.

WHY SELF-IDENTIFY AND REMEDIATE?

Institutions remediate consumers because it is the right thing to do and because it makes good business sense. Effective remediation aims to make affected consumers whole, thus enhancing both customer experience and customer retention. Proactively developing a remediation plan can also mitigate or avoid subsequent regulatory findings, enforcement actions, or private litigation. By proactively devising a remediation plan, an institution may be able to resolve issues on its own without the distraction or cost of an exam, investigation, or lawsuit, thereby mitigating any reputational harm that accompanies mandated remediation. An institution's self-identification of potential violations and proactive remediation of consumer harm may also serve as evidence of an effective compliance management system ("CMS"), including proper board and management oversight.

The Consumer Financial Protection Bureau ("CFPB" or the "Bureau") and the federal prudential regulators all

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IN THIS ISSUE