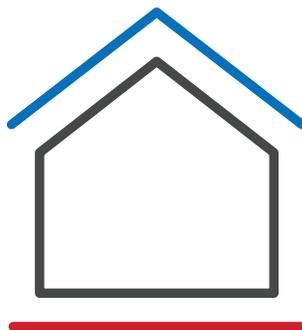


Introduction:
**GETTING YOUR COMPLIANCE
HOUSE IN ORDER**

In the Consumer Finance Protection Bureau's (CFPB) guidance on unlawful auto repossessions, they noted that most auto finance entities act in good faith to follow the law. When it comes to repossessions, third-party repossessors across the spectrum, from prime to deep subprime, strive to comply with CFPB regulations guidance.

Making sure your organization is compliant can be daunting. In this whitepaper, learn how you can set up your compliance house as it relates to oversight of third-party vendors.



Foundation – Understand the foundational elements of CFPB's guidance.

Frame – Review the CFPB Supervision and Examination Manual key points to develop a framework for compliance criteria and compliance partners.

Roof – How to maintain regulatory compliance through a changing compliance landscape.



WHY?

Compliance is not only the right thing to do, it's smart business, with significant financial, reputational and risk management implications. Being out of compliance can result in fines of up to [\\$14.82 million per incident](#) and damage a lender's reputation both within the industry and with clients and consumers. Having a strong compliance program also ensures stability and continuity by helping reduce overall risk within a business—which helps leaders focus on their true priorities rather than managing crises.

MBSi understands compliance is a critical priority for our clients—making it one for us as well.

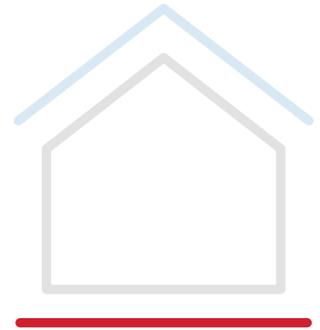
As a leading Software as a Service (SaaS) provider in the auto finance industry, we are committed to developing technology solutions that increase efficiency, security, and compliance, helping our clients streamline operations and minimize risk.

We partner with organizations including [CFPB](#), American Financial Services Association ([AFSA](#)), American Recovery Association ([ARA](#)) and Recovery Industry Services Company ([RISC](#)) to stay at the forefront of industry compliance trends and regulatory activity. We also work closely with our clients to understand their specific compliance-related needs and priorities.

FOUNDATION

UNDERSTANDING THE CFPB'S GUIDANCE TO AUTO LENDERS REGARDING THIRD-PARTY – REPOSSESSION VENDORS

Formed in 2011, the CFPB is a federal agency that implements and enforces laws to protect borrowers from unfair, deceptive, or abusive practices. The agency maintains written guidelines for and monitors the practices and procedures of the entire financial sector.



The Three Documents You Need to Understand

In the auto finance arena, there are three reference documents the CFPB released that provide lenders with guidance as to what is expected of them to maintain compliance with CFPB regulations:

1. *CFPB Bulletin 2022-04,*
2. *Supervision and Examination Manual, and*
3. *Supervisory Highlights*



THE CFPB BULLETIN 2022-04

The *Bulletin* provides guidance on expectations for managing third-party service providers and potential violations. Understanding this bulletin provides a foundation for planning the framework of your compliance strategy.

- I. Background:** Compliance planning requires an understanding of the current state of the auto finance industry and practical reasons the CFPB believes regulations are needed.

- II. Unfair and Deceptive Acts or Practices in Supervision and Enforcement Matters:** This section gets to the heart of the law, providing real-world breach and Federal consumer financial law violations discovered during examinations.

- III. The Bureau's Expectations:** Bookmark this section and make sure your processes, vendors and technology support these expectations. This section provides explicit details on what not to do and violations that have resulted in action by the CFPB.

- IV. Conclusion:** The bulletin details the CFPB's promise to continually monitor industry practices and take any necessary action.

FRAMING

LEVERAGING THE CFPB'S SUPERVISION AND EXAMINATION MANUAL TO DEVELOP A COMPLIANCE FRAMEWORK

The **CFPB's Supervision and Examination Manual** is a public document updated annually and provides the CFPB auditor with guidelines and resources laws, regulations and examinations.

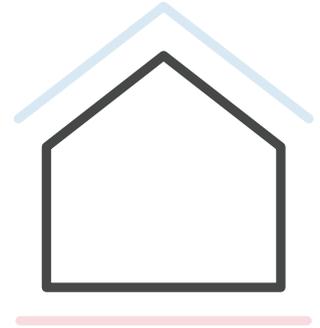
The manual is broken down into three parts:

1. Compliance Supervision and Examination
2. Examination Procedures
3. Examination Process Template (plus the exam manual)

Taken together, the three parts form a useful framework for compliance guidelines and processes and can help you evaluate your compliance vendor needs.

At the end of the manual you will find the Unfair, Deceptive or Abusive Acts or Practices (UDAAP) section covering CFPB Consumer Law and Regulations.

Make note of Supervisory Highlights, published seasonally, that share examination findings, changes to the program, and any recent guidance documents. [FOUND HERE](#)



WHAT THIRD-PARTY AUTO FINANCE VENDORS NEED TO KNOW

CFPB Bulletin 2022-04: Mitigating Harm from Repossession of Automobiles

What: Reminder of legal obligations and limitations under federal laws

Includes: Laws and violation examples

Key Section: Unfair and Deceptive Acts or Practices in Supervision and Enforcement Matters

Explainer: The Dodd-Frank Act prohibits committing unfair, deceptive or abusive acts.

THE UNFAIR, DECEPTIVE OR ABUSIVE ACTS OR PRACTICES (UDAAP) SECTION COVERING CFPB CONSUMER LAW AND REGULATIONS:

A representation, omission, act, or practice is deceptive when:

- The representation, omission, act, or practice misleads or is likely to mislead the consumer.
- The consumer's interpretation of the representation, omission, act, or practice is reasonable under the circumstances; and
- The misleading representation, omission, act, or practice is material.

An act or practice is unfair when:

- It causes or is likely to cause substantial injury to consumers.
- The injury is not reasonably avoidable by consumers; and
- The injury is not outweighed by countervailing benefits to consumers or to competition.

An abusive act or practice:

- Materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service;
- Takes unreasonable advantage of statutorily specified market imbalances
- A lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service;
- The inability of the consumer to protect the consumer's interests in selecting or using a consumer financial product or service; or
- The reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

**Source: <https://www.consumerfinance.gov/compliance/supervisory-guidance/cfpb-bulletin-2022-04-mitigating-harm-from-repossession-of-automobiles/>*

TRAINING AND EDUCATING YOUR STAFF

Additional Acts to Know

- **The Fair Debt Collection Practices Act (FDCPA)** which governs collection activities conducted by third-party collection agencies, as well as servicer collection activities if the servicer acquired the loan when it was already in default.
- **The Fair Credit Reporting Act (FCRA)** and its implementing regulation, Regulation V, which requires furnishers of information to consumer reporting agencies ensure the accuracy of the data placed in the consumer reporting system. Additionally, the FCRA prohibits the use of consumer reports for impermissible purposes, and requires users of consumer reports to provide certain disclosures to consumers. The FCRA also limits certain information sharing between affiliated companies.
- **Dodd-Frank prohibition on Unfair, Deceptive and Abusive Acts and Practices** and The Gramm-Leach-Bliley Act (GLBA) and its implementing regulation, Regulation P, which require entities to provide privacy notices and limit information sharing in particular ways.



WHAT LENDERS NEED TO KNOW

The Bulletin covers the Bureau's expectation for lending institutions and the vendors they work with in the repossession process.

What: Accountability for collateral repossessed in error

Includes: Regulations and consequences for borrowers who are charged unlawful fees and borrower complaint resolutions

Key Section: Section II, unfair or deceptive practices during the repossession process

Explainer: Frequently occurring violations

CFPB supervision observed that these violations frequently occurred after consumers acted to prevent repossession because of one of the following errors:

- Servicers incorrectly coded consumers as delinquent;
- Servicer representatives failed to cancel repossession orders that had previously been communicated to repossession agents; or
- Repossession agents failed to confirm that the repossession order was still active prior to repossessing a vehicle.

SOLUTION BRIEF



MBSI'S RECOVERYCONNECT PLATFORM AND MOBILE APPLICATION IS DESIGNED TO PREVENT UNINTENDED SCENARIOS THAT COULD LEAD TO CFPB CENSURE.

Preventing Unintended Repossessions in the Field: RecoveryConnect’s real-time data enables lenders to inform the service provider immediately if terms have been agreed upon or a collateral is no longer eligible for recovery.

How it Works: Account status is the most critical element of preventing unintended repossessions in the field. Your agents need to know the correct status of the account prior to securing the unit. Regardless of whether work is direct or distributed through a forwarder, case status flows through RecoveryConnect to ensure accurate, real-time information on all accounts. This status is always on and available to the field agents with RecoveryConnect Mobile (RCM).

In RCM, only assignments that have an open status and eligible for recovery are visible to the recovery agent. If a case is no longer eligible (marked hold or close) it displays as ineligible with a red Hook icon in real-time, is removed from the the My Address list, and is no longer visible on the map.

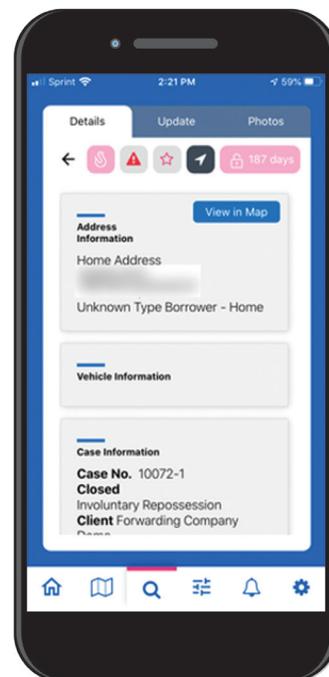
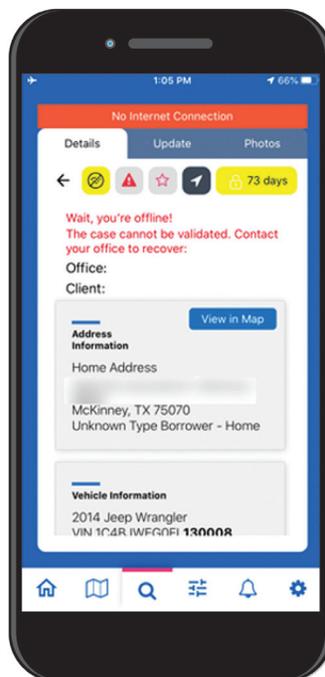
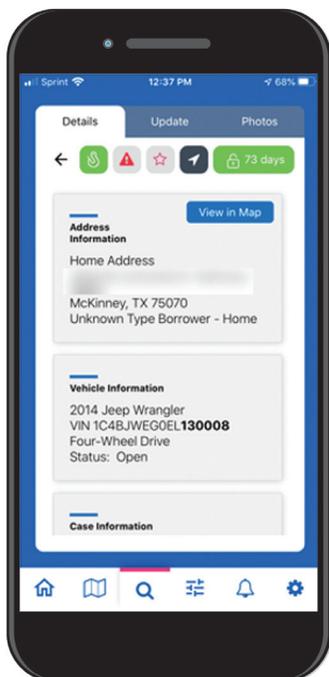


 **On-Hook Status**

Green
Eligible for recovery

Yellow
No signal

Red
Ineligible for recovery



SOLUTION BRIEF

An Industry First to Prevent Unintended Repossessions

Preventing unintended repossessions requires the lender to know when a unit is secured so customer payment arrangements can be made with a clear understanding of the vehicle status.

Step 1

On-Hook: In RCM, the agent will see a green hook icon  indicating the case is open and available to be secured. When the field agent pushes the On-Hook button, this allows them to quickly and safely notify the lender that they have secured the unit. The lender then receives a real-time status of “pending recovery”, informing them the unit is secured.

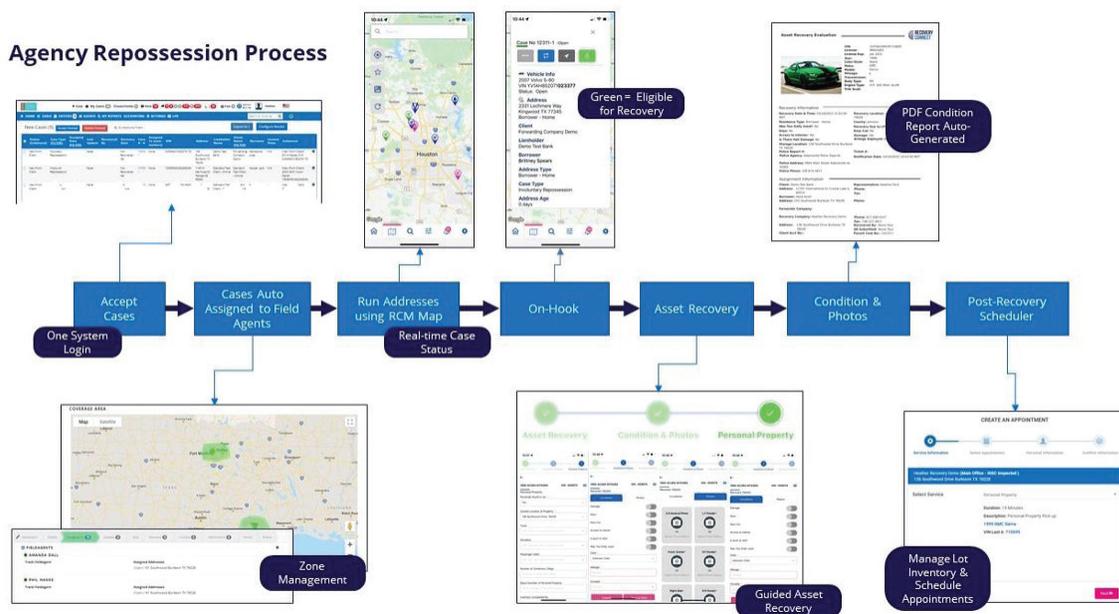
Even though lenders may not have direct relationships with field agents and often rely on a fourth-party vendor to perform repossessions, they will still get real-time updates from agents and forwarders. If a payment is accepted, the assignment is immediately removed from the app, and field agents are not able to the unit in RCM regardless of other systems being used. When lenders use RecoveryConnect, it becomes their system of truth for all recovery activity.

Step 2

Asset Recovery: Once the field agent has reached a safe location, they can complete the recovery information—i.e., storage location, time and police report information.

The RecoveryConnect platform provides full and immediate transparency and case status from open to close and everything in between.

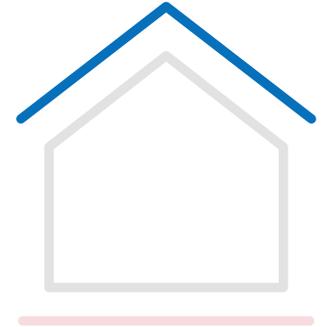
One large subprime lender went from several thousand wrongful repossessions per month to nearly zero by using RecoveryConnect for real-time case status.



ROOF

To top off your understanding of CFPB’s guidance, update your knowledge with the CFPB Supervision and Examination Manual.

The full document provides examiners with a general audit overview, as well as guiding principles, examination procedures, and recommended policies for every step in the process—from scheduling to post-audit.



Unfair, Deceptive or Abusive Acts or Practices (UDAAP): Part I – Compliance Supervision and Examination

Key Takeaway: The guiding principles of the supervision process include three focus areas: risks to the borrower, data analysis, and consistency.

Explainer: This section outlines the bureaus call to action: “The Bureau shall seek to implement and, where applicable, enforce Federal borrower financial law consistently for the purpose of ensuring that all borrowers have access to markets for borrower financial products and services and that markets for borrower financial products and services are fair, transparent, and competitive.”

Explainer: The CFPB operates a continuous examination cycle: CFPB Supervision and Examination Process Overview [FOUND HERE](#)

PRE-EXAMINATION/SCOPING

- Review and analyze available information to identify risk, areas of inquiry, and focus
- Request and review documents and information needed to begin examination (e.g., internal policies, audit reports, training materials, recent data)
- Make initial plan for on-site testing and review

EXAMINATION (OFFSITE AND ONSITE)

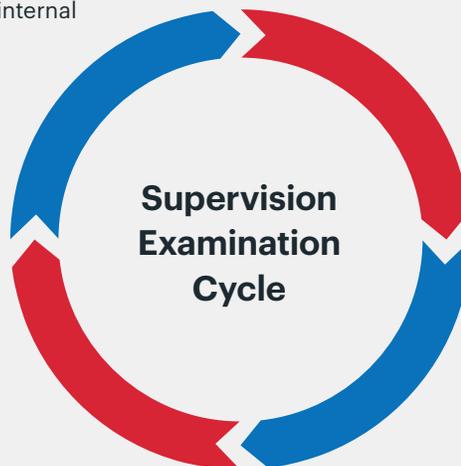
- Interview senior managers, loan officers, compliance officers, and account personnel as appropriate
- Observe operations (e.g., call center, branches)
 - Compare policies and procedures to actual practices by reviewing a sample of transaction
 - Compare conduct to legal requirements and policy guidance

MONITORING

- Product/Market analysis
- Periodic checks on institution activities; calls and meetings
- Review reports and information
- Review status of corrective actions
- Scoping for the next exam

COMMUNICATE CONCLUSION AND REQUIRED CORRECTIVE ACTION

- Communicate findings and expected corrective actions to management and Board of Directors
- Pursue appropriate supervisory agreement or formal enforcement action as needed

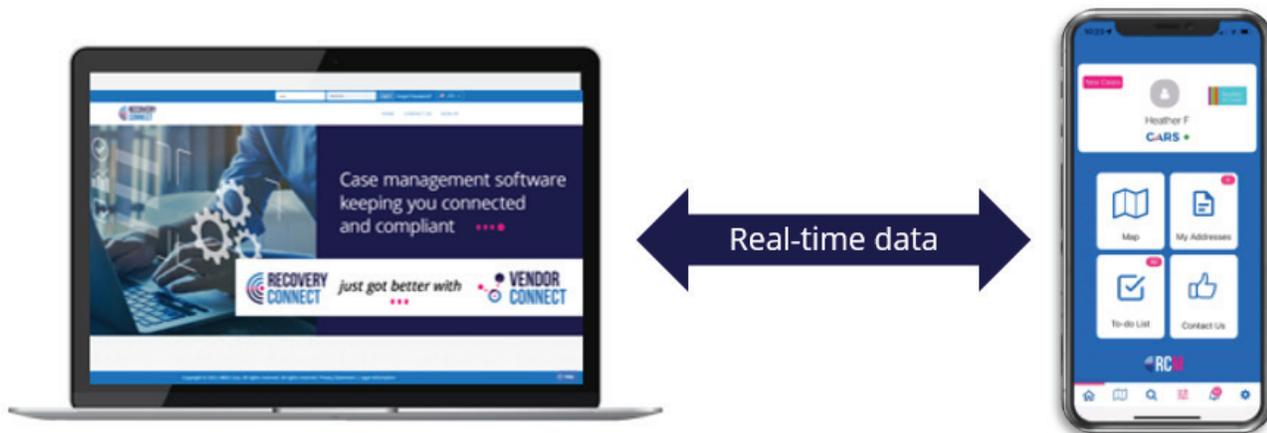


SOLUTION BRIEF

In an environment where lenders use multiple forwarders and recovery agencies—all of whom use different software systems to operate their business—preventing and mitigating unintended repossessions can be a complex challenge.

The RecoveryConnect platform and the RCM mobile app were specifically designed to offer the most comprehensive tools in the industry to mitigate risk and prevent unintended repossessions.

- Real-time data flow keeps all parties up-to-date with the latest information and eligibility status for every case running through the system.
- RecoveryConnect offers a comprehensive, fully integrated Compliance Marketplace, giving lenders unprecedented flexibility and control over their compliance processes.
- Working with compliance partners like ARA and RISC, MBSi has created the industry's only system-driven compliance solution that ensures that every assignment, regardless of the forwarder is recovered by an agent who has been vetted and inspected by an independent third-party.
- The MBSi Compliance Verification process provides lenders the comfort of knowing that every single user who accesses their customers' sensitive data has received training and certification related to borrower protection and self-help repossession laws.



WHAT: COMPLIANCE MANAGEMENT SYSTEM EXAMINATION MANUAL

Key Section: Page 38–39

Explainer: The manual is broken down into five modules:

1. Board and Management Oversight
2. Compliance Program
3. Service Provider Oversight
4. Violations of Law and Borrower Harm
5. Examiner Conclusions and Wrap-Up



Compliance Program

NEED: Having a sound compliance program in place protects lenders not only in their day-to-day business, but also in the event they are examined by the CFPB.

SOLUTION: VendorConnect, embedded within the RecoveryConnect platform provides immediate access to compliant agents who are fully vetted and available to work for creditors and national forwarders. VendorConnect provides full transparency to third-party vendors and includes client propriety documents, insurance ACORDs, licenses, background checks, onsite inspections, and CARS certifications. With VendorConnect, a client can be sure that the third-party vendors they use to handle sensitive borrower data are 100% compliant with their unique standards.

With the Compliance Marketplace, any compliance company can join the platform to offer services to lenders and forwarders. This creates a competitive marketplace for compliance checks, driving innovation and service improvements. It also streamlines vendor management into one platform with customizable solutions and services.

The powerhouse combination of MBSi’s software and compliance partnerships creates the most comprehensive compliance management solution for recovery agencies, national forwarders, and auto finance lenders.

Service Provider Oversight

This section gets to the heart of your CME and Compliance Strategy, listing several areas that the auditor should “evaluate”, and document and review to determine if there is risk to the borrower.

Board Management and Oversight:

This section covers responsibilities of service providers:

“The CFPB recognizes that the use of service providers is often an appropriate business decision for institutions. Institutions may outsource certain functions to service providers due to resource constraints, use service providers to develop and market additional products or services, or rely on expertise from service providers that would not otherwise be available without significant investment.”



WHAT LENDERS NEED TO KNOW

Regardless of your business relationship with a service provider, you are responsible for complying with federal borrower and financial law.

You must:

- Know the legal requirements applicable to the products or services you offer
- Make efforts to implement those requirements carefully and effectively, and
- Exhibit strong internal controls to prevent harm to borrowers and reduce potential liabilities

SOLUTION BRIEF

When it comes to working with service providers, lenders should be able to prove that they have a vetting process in place to ensure the vendors are operating in the most compliant way possible. With the VendorConnect compliance management system, lenders have access to the most comprehensive list of vetted and compliant third-party vendors in the industry.

Two areas of concern when working with service providers:

1. Ensuring the service provider is adequately trained
2. Preventing recovery agencies from charging unlawful fees for personal property redemption—in addition to having a process in place for personal property redemption.

MBSi's compliance partnerships provides lenders with the major value of knowing that the agents managing their assignments and handling sensitive information are adequately trained and certified, and that vendors have gone through a vetting process.

VendorConnect: We partner with ARA and RISC to provide compliance monitoring for third and fourth-party vendors, including: vendor vetting (i.e. insurance, business licenses, policy/procedure documents), background checks, onsite inspections, and training.

RecoveryConnect: Enables the lender to regulate fees the recovery agencies are able to charge, as well as upload fee agreements to prevent unlawful fees.

Appointment Scheduler: Allows the borrowers to schedule and change appointments for personal property redemptions.



SUPERVISORY HIGHLIGHTS

Supervisory Highlights are documents which contain examination results and are published periodically by the CFPB. These documents are broken into:

1. Introduction
2. Supervisory observations
3. Remedial actions
4. Supervision program developments
5. Conclusion

Pay Attention:

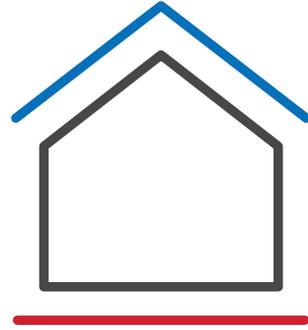
Citing one Supervisory Highlights issue 16, CFPB found that “one or more entities were repossessing vehicles after the repossession was supposed to be canceled.” The cancellation was due to:

1. Borrowers making a sufficient payment,
2. Borrower entered into an agreement to avoid repossession, or
3. The repossession agent not verifying if the collateral was no longer eligible for repossession.

The CFPB referenced the use of a mobile application as an effective method to prevent unintended repossessions due to an agent recovering a vehicle despite the repossession order being closed. With MBSi’s RCM app, anytime an assignment is closed or put on hold by the lender, it is immediately removed from the field agent’s case list and map.

CONCLUSION

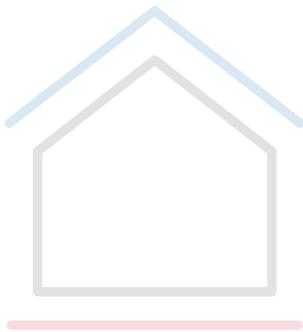
No house is sound without a solid foundation, framing, and roof. Similarly, a compliance strategy requires a strong foundation—understanding CFPB regulations and guidance regarding auto repossessions and third-party vendors is critical to remaining compliant and protecting your assets and your business.



Next, a clear and well-planned strategy—including effective compliance partnerships—will support your efforts to remain in good standing and avoid costly mistakes and even litigation.

Finally, as the roof to your compliance practices, MBSi's RecoveryConnect and VendorConnect platforms seamlessly integrate recovery case management and third-party vendor vetting and oversight with data-driven automation, mobile technology and other solutions to ensure system-wide compliance.

Getting your compliance house in order: MBSi adds an important level of protection for your business by helping you maintain regulatory compliance through an ever-changing landscape.



**START BUILDING YOUR COMPLIANCE HOUSE WITH MBSi.
CONNECT WITH US BY FILLING OUT [THE FORM](#) OR
EMAILING US AT SALES@MBSICORP.COM.**