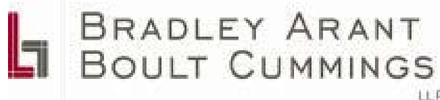
Keys to Effective Law Firm Vendor Management



David Roth, Partner
droth@babc.com • 205.521.8428

During the past five years, the relationship between financial service companies (FSCs) and their default related legal service providers (firms) has shifted profoundly. Driven by increasingly active regulators, customers, and lawyers, and a fundamentally transformed market, FSCs increasingly view firms not only as professional legal advisors, but also as high-risk vendors. With this new role as vendor has come increased FSC oversight traditionally confined to non-legal vendors. In our work with FSCs designing and implementing law firm vendor management programs (LFVMPs), we have learned a number of critical lessons that help the square law firm peg fit into the round vendor management hole.

Foster internal collaboration and cooperation. There is inevitable tension between internal vendor management teams and legal teams, with both sometimes perceiving invasions into their traditional space. This friction must be transitioned into collaboration so the teams combine into an integrated whole. Leveraging this subject matter expertise and creating a single unit can forge a strong LFVMP.

There is no "one-size fits all" LFVMP. Vendor management ground-rules are established by common regulatory pronouncements and publications (Fannie Mae SVC-2012-22, OCC 2013-29, FDIC FIL-44-2008, CFPB 2012-03, etc.). While these guidelines create a baseline on which to build a LFVMP, the LFVMP itself must be folded into the organization's existing corporate structure and management architecture. The most effective LFVMPs bear unmistakable hallmarks of the organization's identity and synchronize that identity with regulatory expectations.

If it isn't written, it doesn't exist. A LFVMP must be created and administered with the understanding that regulators may eventually want to review the LFVMP and its results. To ensure this "audience" will be satisfied, those regulators must be able to see actual documentation upon which they can rely. Put another way, the LFVMP must create an audit trail that can be validated months, or even years later.

Emphasize with firms the collaborative nature of the process. While the LFVMP process burdens all parties involved, the burden on firms is in many ways unique. Firms have invested thousands of dollars in information technology resources, security measures, and entirely new compliance departments. They have devoted countless hours to answering over-lapping questionnaires and assembling hundreds of pages of documents. On top of that, they have made these investments without any supplemental reimbursement. It is easy to understand how they might feel beleaguered. FSCs should recognize this and try to manage the process collaboratively so that, to the extent possible, it minimizes the impact on the firm. Other tips: Use senior personnel or outside counsel to perform firm reviews, have the reviewer review the documentation before meeting with the firm, and above all, never forget firms are not only vendors, but also legal professionals. Audits need not always be adversarial.

Infrastructure is important, but don't lose perspective. Policies, procedures, training, and other infrastructure is important. But the LFVMP must never lose sight of the details: Review actual files and see how the firm is handling those files, and talk with firm personnel about their training and how they communicate with borrowers. Remember that firms spend a great deal of time interacting with borrowers—either directly or through the legal foreclosure process. Given that level of interaction, there is tremendous risk that must be fully assessed and managed.

LFVMPs are becoming increasingly complex and nuanced. As the financial industry continues to evolve, however, FSCs will need to have the flexibility to modify their programs to meet new challenges and developments that will, if the past is any lesson, be all but impossible to predict.