DEBT SALES AUDIT CHECKLIST

Place an "x" in the boxes below where the institution needs to improve its policies and procedures or transaction practices.

I. Policies and Procedures

- ☐ The debt sales policy identifies the organizational unit and/or people responsible for debt sales activity.
- ☐ Multiple people/functions in the institution are involved in the debt sale approval process so that all risks are fully considered.

  (Note: Functions that should be involved include compliance, credit, legal, collections, recovery, and information technology.)
- ☐ A financial analysis is conducted to validate management's decisions to sell the debt rather than collect it internally.
- ☐ Due diligence procedures are specified for use in the selection and monitoring of third-party debt buyers.
- ☐ Documentation requirements and a records retention schedule ensure that accurate and reliable information is provided to debt buyers at the time of sale.
- ☐ Internal audit or a debt sales quality control function affirmatively signs off on each debt sale transaction, verifying that the sale assets meet the requirements of the purchase and sale agreement and account balances are accurate.
- ☐ Charged-off credit accounts that should not be sold are clearly specified, based on such considerations as regulatory compliance (for example, the Servicemembers Civil Relief Act applies to the debtor) or account characteristics that make it ineligible for sale, such as the accountholder is a minor or is deceased with no remaining responsible party; the account has been settled; the accountholder resides in a declared disaster area; a bankruptcy is pending; there is evidence of fraud; the account lacks clear title or proof of right-to-cure or notice of intent-to-sell letters; the account has balances largely consisting of interest and fees; an account is subject to a cease-and-desist order; payments were recently received from the borrower; and an account is in ongoing loss mitigation programs, such as short sale and deed in lieu of foreclosure.

II. Best Practices

- ☐ Use debt buyer scorecards

  As part of the due diligence process in selecting a debt buyer, use a scorecard or check sheet to evaluate the legal and reputation risks posed to the institution by the debt buyer, taking into account consumer complaints and legal actions filed against the firm, repurchase experience, and other regulatory and policy compliance concerns.
- ☐ Establish an oversight committee

  An institution regularly engaged in selling debt should consider naming an oversight committee to monitor third-party debt buyers and the debt sales internal control structure.
- ☐ Use sound contract language

  The contract with a debt buyer should require confirmation that account balances are accurate, accounts are free and clear of all liens, and account documentation is complete and accurate. Boilerplate contract language applicable across lines of business may be appropriate.

DEBT SALES AUDIT CHECKLIST, CONT.

- [ ] Require thorough documentation

  The institution should provide sufficient documentation to the debt buyer, including relevant codes and code explanations (such as an item is being handled by an attorney), to allow debt collection to proceed.

- [ ] Prohibit debt resale

  The debt sale agreement should limit the ability of the buyer to resell the debt to another entity. If this is not done, an institution cannot control who will ultimately collect its customers' debt, and the documentary paper trail may become corrupted over time, calling legal validity and ownership into question.

- [ ] Evaluate the debt buyer's litigation strategy

  Before contracting with a debt buyer, the institution should evaluate the litigation strategies of debt buyers and determine how often they use litigation to collect unpaid debts. The evaluation should question whether the strategy considers the borrower's ability to repay, whether the strategy is based on an objective model, or whether the strategy is to litigate all accounts from the start. The latter strategy heightens reputation and legal risks for the original creditor.

- [ ] Develop adequate management information and reporting systems

  Information technology capabilities should be in place to track debt sales by line of business, record debt sales prices, and document repurchases.

- [ ] Establish internal audit and quality control procedures

  The internal auditor should evaluate all debt sales for compliance with loan and debt collection regulations and the institution's policies and procedures.

- [ ] Revise credit reporting to reflect debt transferred or sold

  The institution is obliged to accurate reflect changes in status of credit accounts when reporting to the credit reporting agencies.

- [ ] Consider a look-back review

  Depending on an institution's past practices and controls, a look-back review may be advisable to determine whether previous debt sales resulted in consumer harm.