

Idaho Department of Finance



THE IDAHO COMPLIANCE CONNECTION

FALL 2010

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Dodd-Frank Wall Street Reform and Consumer Protection Act



During the summer of 2010, Congress passed and the President signed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Since the coverage of the Dodd-Frank Act is very broad, this article focuses on the areas of the law that may have an effect on the business activities of entities licensed by the Idaho Department of Finance Consumer Finance Bureau. The Dodd-Frank Act covers a wide range of financial services and financial market activities. Among other things, it provides regulatory agencies with enhanced oversight capabilities and creates a new federal agency, called the Consumer Financial Protection Bureau (CFPB). The CFPB is tasked with the development of regulations specific to certain financial services and the entities that provide those services. The Dodd-Frank Act also implements changes to mortgage loan origination and servicing requirements through changes of existing law. It is important that licensees are aware of these changes and the impact it may have on their current practices.

The Dodd-Frank Act provides coverage for a long list of consumer financial services and products, which includes most of the activities in which Consumer Finance Bureau licensees engage, such as consumer finance lending, payday lending, debt collection, debt management and counseling, real estate related lending and mortgage brokering. It also includes many other activities in which licensees may engage but for which there is no specific licensing requirements in Idaho, including mortgage loan servicing, check cashing, issuance of stored value cards, and leasing personal or real property. In general, the Dodd-Frank Act grants to the CFPB oversight responsibility of entities that engage in offering or providing consumer financial services or products. Also, under certain circumstances, the CFPB has the authority to adopt regulations that may bring within its oversight additional financial products and services not specifically named in the Dodd-Frank Act.

Under the Dodd-Frank Act, the CFPB's oversight of financial product and service providers begins with its authority to interpret, develop, and implement regulations related to financial services. The CFPB will also have the authority to require reporting by entities engaged in offering financial services and products and to conduct examinations of such entities. Under the Dodd-Frank Act, the CFPB also has the authority to bring enforcement actions against financial services providers for unfair, deceptive, or abusive business practices, as defined in existing federal laws and regulations. The CFPB may also define by regulation certain practices as being unfair or abusive if those practices are likely to cause unavoidable injury to a consumer; are not outweighed by a benefit to the consumer; materially interferes with a consumer's ability to understand the terms of a transaction; or,

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takes unreasonable advantage of a consumer’s lack of understanding of the risks, costs or conditions of a financial service.

It is important to know that the federal oversight granted to the CFPB through the Dodd-Frank Act does not replace existing state licensing requirements, laws, or rules. In fact, the Dodd-Frank Act provides for the preservation of state authority based on existing state laws. However it is also important to note that the Dodd-Frank Act amends certain federal laws and requires changes to federal regulations which do have an impact on existing state laws, such as the Idaho Residential Mortgage Practices Act.

Specifically, Title XIV of the Dodd-Frank Act incorporates the Mortgage Reform and Anti-Predatory Lending Act (Title XIV). Title XIV adopts changes to the Truth-In-Lending Act (TILA) which include the addition of definitions related to mortgage originators, residential mortgage loans, and the Nationwide Mortgage Licensing and Registration System. Along with the new definitions, TILA is also amended to create standards for mortgage originators, to prohibit certain types of compensation for mortgage originators; to allow for the adoption of regulations prohibiting steering consumers to specific types of loans and from engaging in unfair or abusive practices; and, to create liability for violations of TILA by mortgage originators.

Title XIV also implements mortgage origination standards through amendments to TILA that impose obligations on creditors to determine a consumer’s ability to repay a mortgage loan depending on various factors, including a consumer’s income, the number of loans the consumer has or

has applied for on a property, and the features of the mortgage loan for which the consumer has applied. Under the Dodd-Frank Act, violations of certain provisions of the Title XIV provide consumers with defenses to foreclosure. Additional provisions of the Dodd-Frank Act specific to mortgages grant authority to various agencies to establish, coordinate, and monitor housing counseling activities, as well as develop mortgage resolution and modification programs. Also, Title XIV implements changes to certain mortgage servicing requirements and appraisal activities.

Although several of the provisions of the Dodd-Frank Act became effective after its passage, many other provisions must be incorporated through regulations. Several existing federal agencies which received rulemaking authority under the Dodd-Frank Act have already issued a number of rules governing requirements for mortgage loans. These include rules revising escrow account requirements for jumbo loans, rules regarding anti-steering practices and loan originator compensation, mortgage loan transfer and sales notifications, the registration of bank and credit union employed loan originators, enhanced mortgage disclosures, and appraisal independence requirements.

Because the Idaho Residential Mortgage Practices Act incorporates TILA and other mortgage related laws and regulations, many of the provisions of the Dodd-Frank Act that amend TILA or require the adoption of mortgage related regulations will have an impact on Idaho’s consumer finance and mortgage lending laws. However, the overall impact of the Dodd-Frank Act on Idaho’s laws will not be known until final regulations are adopted by the CFPB and other federal agencies. The Department intends to issue additional announcements as it learns of proposed federal regulations under the Dodd-Frank Act that could impact Idaho’s licensed providers of consumer financial services.

**Mortgage Brokers/Lenders/
Mortgage Loan Originators**

Foreclosure related issues
Modification practices

Collection Agencies

Account and fee disputes
Aggressive tactics
Communication to the incorrect party
Unlicensed collection activity

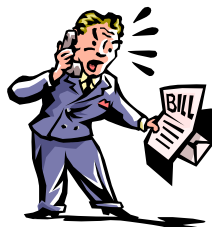
**Regulated Lenders (includes payday
and title lenders)**

Customer service
Modification of debts

Other

Unlicensed activity—constituted the number one complaint across all categories

**TOP CONSUMER
COMPLAINTS**





ENFORCEMENT ACTIONS

JUNE 1, 2010 THROUGH OCTOBER 31, 2010



COLLECTION AGENCIES

FEDERAL RECOVERY ACCEPTANCE, INC., dba PARAMOUNT ACCEPTANCE (Holladay, Utah) – July 8, 2010 – Consent Order. The company paid \$55,000 to the Department constituting penalties, investigative costs, and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

ARMADA CORP. (Wenatchee, Washington) – September 9, 2010 – Consent Order. Armada paid \$16,000 to the Department constituting penalties, investigative costs, and attorney fees. Later, Armada applied for and was granted an Idaho collection agency license.

VISION FINANCIAL CORP. (White Plains, New York) – September 21, 2010 – Consent order. Vision paid \$16,000 to the Department constituting penalties, investigative costs, and attorney fees. Later, Vision applied for and was granted an Idaho collection agency license.

PROFESSIONAL RECOVERY CONSULTANTS, INC. (Durham, North Carolina) – September 28, 2010 – Consent order. The company is making monthly payments totaling \$10,000 to the Department constituting penalties, investigative costs, and attorney fees. The company applied for and was granted an Idaho collection agency license.

CHRISTIAN DEBT CONSOLIDATION, INC. (Boca Raton, Florida) – October 13, 2010 – Consent order. The company paid \$16,000 to the Department constituting penalties, investigative costs, and attorney fees. The company is currently working to compile a complete list of moneys owed to Idaho consumers in restitution and fees.

AUTOMATED COLLECTION SYSTEMS, INC., dba RECEIVABLES MANAGEMENT, INC. (Southfield, Michigan) – October 26, 2010 – Consent order. The company paid \$11,000 to the Department constituting penalties, investigative costs, and attorney fees. Later, the company applied for and was granted an Idaho collection agency license.

MORTGAGE LOAN ORIGINATORS

KARL RICHARD AGUILERA (Boise, Idaho) – On February 18, 2010, the Department rejected Mr. Aguilera's loan originator license renewal application for failure to disclose information and for attesting that information contained in his renewal application was true and correct when it was not. After requesting that the Department reconsider its decision, on July 9, 2010, the Department and Mr. Aguilera entered into a consent order resolving such issues. Mr. Aguilera currently maintains an active Idaho loan originator license.

TIMOTHY EDMUND SAMUELS (Tracyton, Washington) – September 14, 2010 – Consent order entered addressing Mr. Samuel's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Samuel's Idaho mortgage loan originator license was terminated.

RENEE LYNN DICKINSON (Nampa, Idaho) – September 24, 2010 – Consent order entered addressing Ms. Dickinson's failure to meet

Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Ms. Dickinson's Idaho mortgage loan originator license was terminated.

YELENA ANDRONIKOVNA SAAKOVA (Post Falls, Idaho) – September 28, 2010 – Consent order entered addressing Ms. Saakova's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Ms. Saakova's Idaho mortgage loan originator license was terminated.

CHARLES GRANT SAYERS (Dove Canyon, California) – September 29, 2010 – Consent order entered addressing Mr. Sayers' failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Sayers' Idaho mortgage loan originator license was terminated.

LAURA KAE FISCHER (Nampa, Idaho) – September 30, 2010 – Consent order entered addressing Ms. Fischer's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Ms. Fischer's Idaho mortgage loan originator license was terminated.

ERIK FREDERICK GRIMMER (Bolingbrook, Illinois) – September 30, 2010 – Consent order entered addressing Mr. Grimmer's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Grimmer's Idaho mortgage loan originator license was terminated.

JASON SKINROOD (Pleasant Grove, Utah) – October 5, 2010, – Consent order entered addressing Mr. Skinrood's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Samuel's Idaho mortgage loan originator license was terminated.

JOHN MICHAEL REDDINGTON (Pawtucket, Rhode Island) – October 5, 2010 – Consent order entered addressing Mr. Reddington's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Reddington's Idaho mortgage loan originator license was terminated.

EMANUELE DEMONTE (Manorville, New York) – October 5, 2010 – Consent order entered addressing Mr. Demonte's failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Demonte's Idaho mortgage loan originator license was terminated.

TREVOR WILLIAM ADAMS, JR. (Kuna, Idaho) – October 7, 2010 – Consent order entered addressing Mr. Adams' failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Adams' Idaho mortgage loan originator license was terminated.

ROBERT JAMES LEWIS IV (Frisco, Texas) – October 7, 2010 – Consent order entered addressing Mr. Lewis' failure to meet Idaho S.A.F.E. Act requirements by the July 31, 2010 deadline. Mr. Lewis' Idaho mortgage loan originator license was terminated.

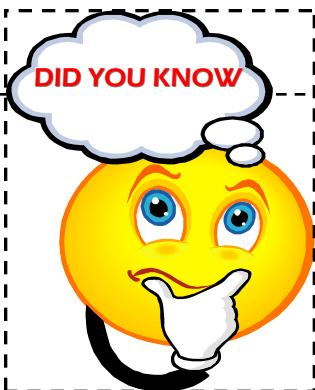
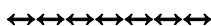
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Mortgage Broker/Lenders

ACCESS MORTGAGE COMPANY, INC. (Seattle, Washington) – August 4, 2010 – A judgment and permanent injunction was entered by an Ada County district judge finding that Access Mortgage had engaged in numerous violations of law, to include submitting a false mortgage loan application to a lender, violating an order previously issued against Access Mortgage by the Department, misrepresenting information Access Mortgage provided to the Department, refusing to provide the Department with information requested during an investigation of the company’s activities in Idaho, originating mortgage loans in Idaho through unlicensed mortgage loan originators. The judgment permanently enjoined Access Mortgage from engaging in further violations of the Idaho Residential Mortgage Practices Act and the Idaho Financial Fraud Prevention Act. The judgment included a penalty of \$1,055,000 and ordered Access Mortgage to pay restitution in the amount of \$27,322.18 on behalf of an elderly Idaho couple injured by the company’s violations.

Regulated Lenders, Title Lenders & Payday Lenders

MONEY TRAIN TITLE LOANS, LLC (Midvale, Utah) – September 9, 2010 – Consent order entered addressing violations of the Idaho Credit Code. Money Train paid \$11,000 to the Department constituting penalties, investigative costs, and attorney fees. Money Train further forfeited title loan amounts extended while unlicensed, in the amount of \$57,501.98. Later, Money Train applied for and was granted an Idaho regulated lender license.



Credit Reports are now required of all mortgage loan originators (MU4). Credit report authorizations are required for all new applicants, and are required as part of the renewal process for existing licensees that began November 1, 2010. Credit reports will NOT be reviewed prior to an MLO filing a renewal. Additionally, credit report content and evaluation will NOT be part of the renewal process. No impact on the licensee will occur without further communication from the Department. Credit report evaluation policies are currently under development.

The Bureau no longer mails annual renewal forms. For the past several years the Bureau has sent courtesy email notifications as a reminder to renew licenses and how to obtain necessary forms. It is important that all licensees keep current (preferably personal) email addresses on file with the Bureau.

The Bureau does not issue paper mortgage loan originator licenses. All approved license information is displayed on the Department’s website at <http://finance.idaho.gov> and is contained in the Nationwide Mortgage Licensing System (NMLS).

The Bureau only issues paper mortgage company licenses at the time of initial approval or when a change affects the face of the license. No paper licenses are issued for licensees under the Idaho Collection Agency Act, the Idaho Credit Code or the Idaho Escrow Act. Renewal confirmation and other detailed information may be obtained on the Department’s website. Licenses may also be verified in the NMLS for mortgage brokers and lenders, mortgage loan originators and registered regulated lenders and exempt entities.

The Nationwide Mortgage Licensing System (NMLS) can be reached by phone at (240) 386-4444 AND email at NMLS_CallCenter@statemortgageregistry.com.

Bureau examiners participated in 17 consumer education conferences, high school and college financial education training programs reaching over 1,525 participants and attendees between June 1, 2010 and October 31, 2010.

The Bureau has processed 24,045 loan originator sponsorship/relationship requests since January 2, 2008 when the NMLS went live.



CONSUMER FINANCE BUREAU STATISTICS

AS OF OCTOBER 31, 2010



Active Licensees (as of 10/31/10)

Mortgage Brokers/Lenders	787
Mortgage Loan Originators (Approved-Active)	1689
Mortgage Loan Originators (Approved-Inactive)	409
Escrow /1031 Exchange Companies	41
Regulated Lenders (including title lenders)	496
Payday Lenders	226
Collection Agencies	600
Debt/Credit Counselors	44
Debt Buyers	68
Credit Repair Company/Organization	5
Collection Agency Agents/Solicitors	41,029

New Applications Received (6-1-10 to 10-31-10)

Mortgage Brokers/Lenders	110
Mortgage Loan Originators	268
Regulated Lenders (including payday/title)	29
Collection Agencies (all categories)	52
Escrow/1031 Exchange Companies	1

Revocations/Denials (6-1-10 to 10-31-10) 0

Withdrawals (6-1-10 to 10-31-10)

Mortgage Broker/Lenders	89
Mortgage Loan Originators	467
Escrow	1
Regulated Lenders (including payday/title)	0
Collection (all categories)	4

Terminations (failed to renew licenses) (6-1-10 to 10-31-10)

Mortgage Broker/Lenders	N/A
Mortgage Loan Originators	N/A
Escrow	N/A
Regulated Lenders (including payday/title)	N/A
Collection (all categories)	N/A

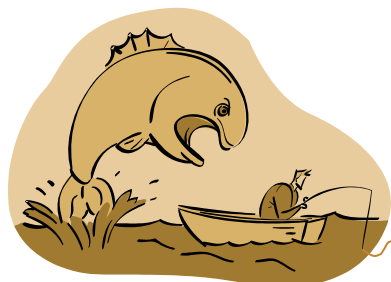
Exams Conducted (6-1-10 to 10-31-10)

Mortgage Brokers/Lenders	18
Escrow	0
Regulated Lenders (including payday/title)	80
Collection Agency	12

Complaints filed (written) (6-1-10 to 10-31-10)



Mortgage (origination/servicing)	19
Loan Originators	0
Escrow/1031 Exchange	1
Collection Agency	62
Payday Lender, Regulated Lender (finance co., payday, title)	21
Idaho/Federal chartered banks and credit unions	25
Unlicensed activity (all categories)	100

Complaints Closed (all) (6-1-10 to 10-31-10) 149



Watch the Department's website for the Renewal Packet for Collection Agency Licensees. This packet should be available about February 1, 2011.



 Most popular comment given to the Department – “Why didn’t you let me know that the due date was imminent?” If your email address is not current, you will not receive any notices of renewal reminders, newsletters, information from the department, notices of educational opportunities, training notices, or application and license deficiency notifications. 



IMPORTANT INFORMATION !!

KEEP YOUR EMAIL ADDRESS

CURRENT WITH THE DEPARTMENT OF FINANCE

The Department’s primary method of communication and information distribution is electronic. Electronic communications include, but are not limited to:

- ◆ training notices
- ◆ newsletters
- ◆ renewal reminders and information
- ◆ application and license deficiency notifications

Since 2008 the Department has significantly moved to electronic communication as a cost reduction measure. Licensees risk not receiving pertinent information if their company, individual work and personal emails, as applicable, are not kept current. Companies are encouraged to have a general email on record that more than one party in their business can access and is not subject to change due to employee turnover. Individual licensees are encouraged to keep a personal, non-work related email address current. Ultimately, it is the licensee’s responsibility to know the requirements of the law, rules and policies to maintain their licenses and operate their business activities within those standards.

RENEWAL INFORMATION



IMPORTANT! All mortgage broker/lender licenses, mortgage loan originator licenses, independent contractor licensees, regulated lender **registrations** and exempt entity **registrations** **MUST BE RENEWED THROUGH THE NMLS BY DECEMBER 31, 2010.** Review your MU1, MU2, MU3 and MU4 records and submit any needed amendments to keep the records current. Remember the NMLS policy is to file within 30 days of occurrence of the change. Make sure your records are up to date and current to avoid filing a false attestation at time of renewal (e.g. certifying you have completed testing or education requirements when you haven’t or failing to update disclosure questions, etc). False attestations may lead to disciplinary reportable actions. No mortgage loan originator license will be renewed until all SAFE Act license requirements have been met. If you want to make sure your renewal will be reviewed and processed prior to your license expiration date you **MUST** file your renewal on or before December 15, 2010.

Renewals filed on or after December 16 will be reviewed but may not be completed prior to the expiration date of December 31, 2010.

ATTENTION ALL COLLECTION AGENCIES:

DON'T FORGET TO FILE YOUR QUARTERLY REPORT OF DECEMBER 15, 2010.

HAVE YOU FILED ALL OF YOUR QUARTERLY REPORTS?

“NOTIFICATION OF AGENTS” REPORT

Quarterly Notification is DUE June 15, September 15, and December 15;

IDAHO CODE—COLLECTION AGENCY ACT 26-2240 AGENT IDENTIFICATION — QUARTERLY NOTICE — FEE.

Each applicant for a license under this act, with its initial license application, and each licensee at annual renewal, shall file with the director a list of all agents including the name of each agent and any other identifying information the director may require. A fee of twenty dollars (\$20.00) for each listed agent shall accompany the list. Each licensee shall notify the director in writing of any additions to its agent list no less often than every calendar quarter. A fee of twenty dollars (\$20.00) shall be paid to the director for each additionally identified agent in the quarterly notification of additions to the licensee’s agent list. An agent is not required to be listed, nor the fee paid therefore, unless the agent acted for the licensee for more than thirty (30) business days.

QUARTERLY REPORT INSTRUCTIONS:

- ☛ Send the Quarterly Report only once a quarter on or near the due date;
- ☛ Complete the entire top left portion of the report (information about the licensee);
- ☛ Mark the quarter being reported with the year (i.e. 2009, 2010 etc) on the top right portion of the report;
- ☛ The list must be in alphabetical order and by location order;
- ☛ List terminated employees at the end of the Quarterly Report in alphabetical order and location order;
- ☛ A fee of \$20.00(each) for all new agents, must accompany this reporting;
- ☛ Attach ONE check payable to the Idaho Department of Finance for the total fees due (\$20 for **each new** agent you are registering);
- ☛ The Quarterly Report form may be accessed at finance.idaho.gov; be sure the form is signed.



This report is to be mailed if there are funds required. If there is no change or only terminated agents, then this report can be faxed to 208-332-8096 or emailed to Karen.Carlyle@finance.idaho.gov.

DOF
**Idaho Department
of Finance**



Fall Colors in Idaho

This newsletter is produced semi-annually as a part of the Consumer Finance Bureau's continued communication outreach with the companies it regulates. Delivery is provided by electronic notification of its availability on the Department's website at <http://finance.idaho.gov>.

Suggestions and comments concerning the newsletter or its contents should be sent to the Bureau at PO Box 83720, Boise, Idaho 83720-0031 or via email to kc.schaler@finance.idaho.gov or mortgage@finance.idaho.gov

USPS (REGULAR MAIL)

IDAHO DEPARTMENT OF FINANCE
P O BOX 83720
BOISE ID 83720-0031

OVERNIGHT DELIVERY

IDAHO DEPARTMENT OF FINANCE
800 PARK BLVD STE 200
BOISE ID 83712

Phone:
(208) 332-8000

Consumer Finance Bureau:
(208) 332-8002

Facsimile:
(208) 332-8096

Toll Free in Idaho:
888-346-3378

Website:
<http://finance.idaho.gov>

IMPORTANT DATES TO REMEMBER!

Renewals

- Collection Agencies
- Escrow/1031 Exchange Companies
- Regulated Lenders (includes payday and title lenders)
- Mortgage Brokers/Lenders
- Mortgage Loan Originators

Last Date to Complete

- March 15th
- April 30th
- May 31st
- December 31st
- December 31st

Annual Reporting of Activity

- Collection Agencies
- Mortgage Broker/Lenders Call Reports
- Escrow/1031 Exchange Companies
- Regulated Lenders

- March 15th
- March 31st
- April 30th
- May 31st

Idaho Safe Act Mortgage Loan Originator License

Requirement Completion Deadline

December 31, 2010

* Idaho Collection Agency Quarterly Agent Report filings are due on June 15, September 15 and December 15. These should be filed as close to the 15th as possible to report accurate hiring additions and terminations **as of that date**—not weeks in advance or after.

Please mark your calendar.