



THE IDAHO COMPLIANCE CONNECTION

Winter 2014

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STATE COORDINATION WITH THE CFPB IN EXAMINATIONS

The Department of Finance is a member of various regulatory associations whose members include agencies in other states that supervise various financial services, such as debt collection, consumer finance, and mortgage brokering/lending. Through these associations, the Department often shares information regarding its examination practices, enforcement results, and its licensing activities with states that regulate similar financial services. In addition to this, the Department is also a signatory to various information sharing agreements that provide a formal process of information sharing between the Department and various state and federal agencies. One such agreement is an information sharing agreement signed by the Department with the Consumer Financial Protection Bureau (CFPB) in 2011. As part of that agreement the Department, along with financial regulatory agencies in other states, has worked with the CFPB to develop a framework for coordinating examination activities between the states and the CFPB.

In May of 2013, state agencies and the CFPB began a process of coordinating their regulatory activities so as to achieve greater efficiency in their shared oversight of financial services, to reduce duplication of examination activities, and to reduce the amount of resources expended, both by regulators and by regulated companies, through examinations. This process led to the creation of a State Coordinating Committee (SCC), made up of representatives from the various regulatory associations of which the Department is a member.

The SCC meets regularly with the CFPB to establish a schedule for the coordinated examinations of several different types of financial services. In 2014 as a result of this coordination, forty-seven states joined the CFPB in the examination of four mortgage companies and eight states



(Continued from page 1)

joined with the CFPB in the examination of two debt collection agencies. For 2015, the SCC and the CFPB have established a schedule for coordinated examinations that will include up to 19 examinations of financial service providers in the mortgage origination and mortgage servicing industries, the debt collection industry, the money transmission industry, and the payday lending industry. The Department plans on joining the CFPB on a select number of these examinations, including at least one mortgage examination, one payday lending examination, and three debt collection examinations.

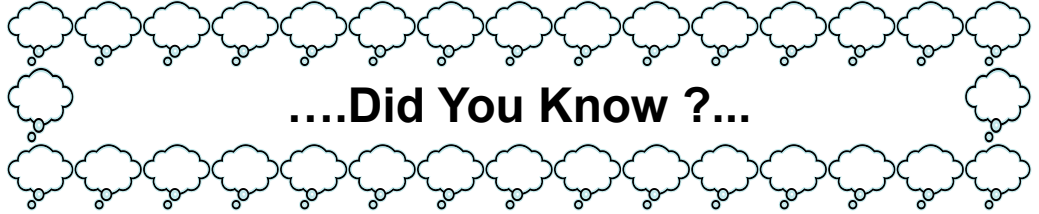
Although the coordinated examination process is new for the CFPB, it is a familiar activity for the Department. The Department has been involved in coordinated examinations with federal and state agencies for many years. From its past experiences in working with other agencies on the examination of financial institutions and non-depository financial service providers, the Department has commonly found that coordinating regulatory activities can be beneficial for both regulators and for the companies that are subject to examination. This is often true when it comes to enforcement also, as it provides the opportunity for states and companies to resolve issues through a single action rather than multiple actions. Therefore, the Department has been working with representatives on the SCC to ensure that coordinated examination activities with the CFPB are modeled after well-working coordinated examination practices with which the Department is familiar.

Not all of the Department's licensees may be subject to a coordinated examination involving the CFPB and multiple states. In general, licensees that meet a CFPB classification as a larger market participant or fall under the direct oversight of the CFPB and that are also regulated by a significant number of states, may be possible subjects for coordinated examinations. Although the likelihood is low that a licensee operating only in Idaho and not meeting the benchmarks for classification as a larger market participant would be examined by CFPB, it's important to note that any licensee that engages in activities that fall within the CFPB's oversight may be subject to regulatory action by that agency. Because of this, and in order to ensure that the Department's licensees have the best opportunities to meet compliance with federal and state laws and regulations, the Department has been incorporating many of the elements found in coordinated examinations within its own examination processes.


During the past year, the Department has worked with the SCC and the CFPB to assist in developing a coordinated examination process that works for the Department and financial service related companies doing business in Idaho. Through its participation in coordinated examinations over the next year, the Department will continue to evaluate the process and work within its associations and with the SCC to ensure that joint efforts by the states and the CFPB meet the Department's stated goals.




PERSONAL IDENTIFICATION SEQUENCES FOR INPUT INTO THE ACCESS IDAHO SITE



....Did You Know ?...


 **UNITED STATES** — ###-##-#### (SSN)

 **CANADA** — ###-###-### (SIN)

 **INDIA** — LLLL####L (PAN)

 **PHILLIPINES** — ##-#####-# OR #####-# (TIN)

 **WEST INDIES** — #####

 **MEXICO** — LLLL#####LLLLL## (CURP)

 **HONDURAS** ####-####-####

 **COSTA RICA** #####-#### (CEDULA)

 **AUSTRALIA** ###-###-###

= NUMBER L= LETTER

Social Security Number or Other Country equivalent



- Credit Reports *are required* of mortgage company **control persons** (Form MU2), which include QPICs and branch managers, as well as **MLOs** (Form MU4) for each new application and **every annual license renewal**. Credit reports must be authorized **prior** to attesting to the filing. Everyone should become familiar with Idaho Policy 2011-01 pertaining to financial responsibility and the requirements to obtain or retain a license.
- Criminal Background Checks for control persons of mortgage company licensees will NOT be required until the functionality is available in the NMLS.
- The Department does not mail annual license renewal forms. For over six years the Bureau has sent courtesy email notifications as a reminder of the process to renew licenses. **It is important that all licensees keep current email addresses on file with the Department.** If your internal control systems block batch or bulk emails you may want to consider contacting your IT department about changing that or adding the Department’s domain as a safe sender.
- The Department does not issue paper licenses for **any** of its license programs. All approved license information is displayed on the Department’s website at <http://finance.idaho.gov>, as well as renewal confirmation and other detailed information. Licenses may additionally be verified in NMLS Consumer Access at <http://www.nmlsconsumeraccess.org> for mortgage broker/lenders, mortgage loan originators, and transitioned regulated lenders, payday lender and collection agencies.
- The Nationwide Mortgage Licensing System (NMLS) can be reached toll-free by phone at (855) 665-7123 **AND** email at NMLS_CallCenter@statemortgageregistry.com.
- Department examiners participated in seven consumer education conferences, high school and college financial education training programs reaching over 1,128 participants and attendees between June 1, 2014, and October 31, 2014.
- As of October 31, 2014, the Department has processed over 46,500 loan originator sponsorship/relationship requests since January 2, 2008, when the NMLS went live.
- Unlicensed activity is still the number one complaint received by the Department. If you become aware of an entity that may need to be licensed in order to conduct business in Idaho please contact the Department by email at mortgage@finance.idaho.gov or phone call at (208) 332-8002 option 1.

CONSUMER FINANCE BUREAU STATISTICS

AS OF OCTOBER 31, 2014

Active Licensees (as of 10-31-2014)

Mortgage Brokers/Lenders	740
Mortgage Loan Originators (Approved-Active)	2171
Mortgage Loan Originators (Approved-Inactive)	625
Regulated Lenders (includes Title Lenders)	615
Payday Lenders	222
Collection Agencies	664
Debt/Credit Counselors	42
Debt Buyers	116
Credit Repair Company/Organizations	8
Debt Settlement Companies	8
Collection Agency Agents/Solicitors	48,902

New Applications Received (6-1-14 to 10-31-14)

Mortgage Brokers/Lenders	268
Mortgage Loan Originators	765
Regulated Lenders (includes payday/title)	44
Collection Agencies	43

Revocations/Denials (6-1-14 to 10-31-14)

	1
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Withdrawals (6-1-14 to 10-31-14)

Mortgage Broker/Lenders	68
Mortgage Loan Originators	110
Regulated Lenders (includes Payday/Title)	41
Collections (all categories)	39

Terminations (failed to renew licenses) (6-1-14 to 10-31-14)

Mortgage Broker/Lenders	0
Mortgage Loan Originators	0
Regulated Lenders (includes Payday/Title)	10
Collection (all categories)	0

Exams Conducted (6-1-14 to 10-31-14)

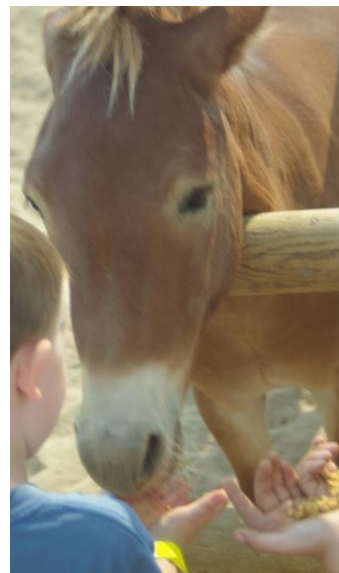
Mortgage Brokers/Lenders/MLOs	561
Regulated Lenders (includes payday/title)	44
Collection Agency	8

Complaints filed (written) (6-1-14 to 10-31-14)

Mortgage (Origination/servicing)	27
Loan Originators	0
Collection Agency	72
Payday Lender, Regulated Lender	25
Idaho/Federal Chartered Banks and Credit Unions	14
Other (Entity Type not Identified)	14
Unlicensed Activity (all categories)	65

Complaints Closed (6-1-14 to 10-31-14)

154



Zonkey—Zebra & Donkey cross at a local petting zoo—She loves to eat right out of your hand

Top Consumer Complaints

Mortgage Servicers

Foreclosure issues; Account disputes

Mortgage Loan Originators

Failure to fund; Failure to communicate services to be performed for borrowers

Debt/Credit Counseling and Collection Agencies

Unlicensed activity; customer service/account disputes

Mortgage Broker/Lender

Customer service; Communication

Payday/Title and Consumer Lenders

Unlicensed activity; Customer Service and aggressive collection tactics

Tips to Remember

Please keep your email addresses and contact personnel information current!

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

Companies are encouraged to have a ***general*** email on record that more than one party in their business can access (not a third party entity) 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 requirements.

Access Idaho Tip for Collection Agency Licensees When Filing Agent Notification Forms

A few Collection Agency Quarterly Notification Filers through Access Idaho have been experiencing account "lock-outs" once a single location has been "finalized" and paid but filings for additional locations have not been completed. When a company "Finalizes" the report and enters payment information, it is indicating that it is submitting the filings for the company and all of its locations for that quarter. This triggers a safety function that will lock out that company for the remainder of that quarter filing period so double filings and payments cannot occur.

EXAMPLE: A company has a "Home" office and five "Branch" offices that each have reportable agents. After completing the filing for one of the branches, the filer goes to "Finalize" and send payment for that one Branch. The company then attempts to go back in to complete the filing reports for the Home office and the remaining four Branches, only to find that they are now locked out of any additional reporting. The payment and reporting is set up for only one "Finalization" per company for a reporting period. The only option for the company to file a "paper" report for the remaining locations for that quarter.

To avoid a lock-out when the report for one location is finished, "SAVE" the work and go on to the other locations to complete and then "finalize" the entire report.

It is important to remember, that there is only one "finalization" per company.

Information About the TILA/RESPA Integrated Disclosures Rule (courtesy of the CFPB)

The Good Faith Estimate (GFE) and the initial Truth-in-Lending disclosure (initial TIL) have been combined into a new form, the Loan Estimate. Similar to those forms, the new Loan Estimate form is designed to provide disclosures that will be helpful to consumers in understanding the key features, costs, and risks of the mortgage loan for which they are applying, and must be provided to consumers no later than the third business day after they submit a loan application. Second, the HUD-1 and final Truth-in-Lending disclosure (final TIL and, together with the initial TIL, the Truth-in-Lending forms) have been combined into another new form, the Closing Disclosure, which is designed to provide disclosures that will be helpful to consumers in understanding all of the costs of the transaction. This form must be provided to consumers at least three business days before consummation of the loan.

The TILA/RESPA Integrated Disclosures Rule is not simply combining two sets of disclosures to create the Loan Estimate and Closing Disclosure; it is merging two federal regulations as well. The rule will not only have an effect on the creditors and settlement agents but also on their technology and services providers as well. This will not only require changes to technology platforms but also to business strategies, processes and partnerships.

For more than 30 years, federal law has required lenders to provide two different disclosure forms to consumers applying for a mortgage. The law also has generally required two different forms at or shortly before closing on the loan. Two different federal agencies developed these forms separately, under two federal statutes: the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act of 1974 (RESPA). The information on these forms is overlapping and the language is inconsistent. Not surprisingly, consumers often find the forms confusing. It is also not surprising that lenders and settlement agents find the forms burdensome to provide and explain.

The first new form (the Loan Estimate) is designed to provide disclosures that will be helpful to consumers in understanding the key features, costs, and risks of the mortgage for which they are applying. This form will be provided to consumers within three business days after they submit a loan application. The second form (the Closing Disclosure) is designed to provide disclosures that will be helpful to consumers in understanding all of the costs of the transaction. This form will be provided to consumers three business days before they close on the loan.

The forms use clear language and are designed to make it easier for consumers to locate key information, such as interest rate, monthly payments, and costs to close the loan. The forms also provide more information to help consumers decide whether they can afford the loan and to compare the cost of different loan offers, including the cost of the loans over time.

In developing the new Loan Estimate and Closing Disclosure forms, the CFPB has reconciled the differences between the existing forms and combined several other mandated disclosures, such as the appraisal notice under the Equal Credit Opportunity Act and the servicing application disclosure under RESPA. The CFPB has also responded to industry complaints of uncertainty about how to fill out the existing forms by providing detailed instructions on how to complete the new forms. This should reduce the burden on lenders and others in preparing the forms in the future.

Scope of the Final Rule

The final rule applies to most closed-end consumer mortgages. It does not apply to home equity lines of credit, reverse mortgages, or mortgages secured by a mobile home or by a dwelling that is not attached to real property. The final rule also does not apply to loans made by a creditor who makes five or fewer mortgages in a year.

The Loan Estimate

The Loan Estimate form replaces two current federal forms. It replaces the Good Faith Estimate designed by the Department of Housing and Urban Development (HUD) under RESPA and the "early" Truth in Lending disclosure designed by the Board of Governors of the Federal Reserve System (the Board) under TILA. The final rule and the Official Interpretations (on which creditors and other persons can rely) contain detailed instructions as to how each line on the Loan Estimate form should be completed. There are sample forms for different types of loan products. The Loan Estimate form also incorporates new disclosures required by Congress under the Dodd-Frank Act.

Provision by mortgage broker. Recognizing that consumers may work more closely with a mortgage broker, under the final rule and similar to the current rules, either a mortgage broker or creditor is required to provide the Loan Estimate form upon receipt of an application by a mortgage broker. However, even if the mortgage broker provides the Loan Estimate, the creditor remains responsible for complying with all requirements concerning provision of the form.

Timing. The creditor or broker must give the form to the consumer no later than three business days after the consumer applies for a mortgage loan. The final rule contains a definition of what constitutes an "application" for these purposes, which consists of the consumer's name, income, social security number to obtain a credit report, the property address, an estimate of the value of the property, and the mortgage loan amount sought.

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Limitation on fees. Consistent with current law, the creditor generally cannot charge consumers any fees until after the consumers have been given the Loan Estimate form and the consumers have communicated their intent to proceed with the transaction. There is an exception that allows creditors to charge fees to obtain consumers' credit reports.

Disclaimer on early estimates. Creditors and other persons may provide consumers with written estimates prior to application. The rule requires that any such written estimates contain a disclaimer to prevent confusion with the Loan Estimate form. This disclaimer is not required for advertisements.

The Closing Disclosure

The Closing Disclosure form replaces the current form used to close a loan, the HUD-1, which was designed by HUD under RESPA. It also replaces the revised Truth in Lending disclosure designed by the Board under TILA. The rule and the Official Interpretations (on which creditors and other persons can rely) contain detailed instructions as to how each line on the Closing Disclosure form should be completed. The Closing Disclosure form contains additional new disclosures required by the Dodd-Frank Act and a detailed accounting of the settlement transaction.

Timing. The creditor must give consumers the Closing Disclosure form to consumers so that they receive it at least three business days before the consumer closes on the loan. If the creditor makes certain significant changes between the time the Closing Disclosure form is given and the closing—specifically, if the creditor makes changes to the APR above 1/8 of a percent for most loans (and 1/4 of a percent for loans with irregular payments or periods), changes the loan product, or adds a prepayment penalty to the loan—the consumer must be provided a new form and an additional three-business-day waiting period after receipt of the new form. Less significant changes can be disclosed on a revised Closing Disclosure form provided to the consumer at or before closing, without delaying the closing. This is a change from the proposal, which would have required that most changes cause an additional three-business-day waiting period before the consumer could close on the loan. The CFPB received extensive public comment raising concerns about this aspect of the proposal, especially about its impact to cause frequent closing delays in the residential real estate market. In response to the public comments received on this issue, the CFPB decided to limit the types of changes that will result in an additional three-business-day waiting period to the three changes described above. This requirement will provide the important protection to consumers of an additional three-day waiting period for these significant changes, but will not cause closing delays for less significant costs that may frequently change.

Provision of disclosures. Currently, settlement agents are required to provide the HUD-1 under RESPA, while creditors are required to provide the revised Truth in Lending disclosure under TILA. Under the final rule, the creditor is responsible for delivering the Closing Disclosure form to the consumer, but creditors may use settlement agents to provide the Closing Disclosure, provided that they comply with the final rule's requirements for the Closing Disclosure. The final rule acknowledges settlement agents' longstanding involvement in the closing of real estate and mortgage loan transactions, as well as their preparation and delivery of the HUD-1. The final rule avoids creating uncertainty regarding the role of settlement agents and also leaves sufficient flexibility for creditors and settlement agents to arrive at the most efficient means of preparation and delivery of the Closing Disclosure to consumers.

Limits on Closing Cost Increases

Similar to existing law, the final rule restricts the circumstances in which consumers can be required to pay more for settlement services—the various services required to complete a loan, such as appraisals, inspections, etc.—than the amount stated on their Loan Estimate form. Unless an exception applies, charges for the following services cannot increase: (1) The creditor's or mortgage broker's charges for its own services; (2) charges for services provided by an affiliate of the creditor or mortgage broker; and (3) charges for services for which the creditor or mortgage broker does not permit the consumer to shop. Charges for other services can increase, but generally not by more than 10 percent, unless an exception applies.

The exceptions include, for example, situations when: (1) The consumer asks for a change; (2) the consumer chooses a service provider that was not identified by the creditor; (3) information provided at application was inaccurate or becomes inaccurate; or (4) the Loan Estimate expires. When an exception applies, the creditor generally must provide an updated Loan Estimate form within three business days. The full text of the rule can be found [here](#).

ENFORCEMENT ACTIONS

June 1, 2014 through October 31, 2014

COLLECTION AGENCIES, DEBT/CREDIT COUNSELORS, DEBT BUYERS, DEBT SETTLEMENT COMPANIES, CREDIT REPAIR COMPANIES

DECA FINANCIAL SERVICES, LLC (Fishers, Indiana) – July 10, 2014– Order of Revocation issued to Deca Financial Services, LLC for failure to maintain a surety bond. Neither the company nor its court-appointed receiver initiated a contested case or requested a hearing.

D. SCOTT CARRUTHERS, dba LAW OFFICE OF D. SCOTT CARRUTHERS (Stanton, California) – October 3, 2014– Order to Cease and Desist issued for conducting collection business in Idaho without the required license.

LEGAL AND DEBT RECOVERY (Orange, California) – October 8, 2014– Order to Cease and Desist issued for engaging in collection activity in Idaho without the required license. The order further alleged that the Department’s communication to Legal and Debt Recovery outlining its position that the company was not exempt from licensure was ignored.

MORTGAGE BROKER/LENDERS

FLAGSHIP FINANCIAL GROUP LLC (Lehi, Utah) – September 19, 2014 –Consent Order entered addressing violations of the Idaho Residential Mortgage Practices Act. Flagship paid an administrative penalty of \$50,000 and attorney fees and investigative costs in the amount of \$1,000. Flagship also agreed to comply with all provisions of the Act and rules promulgated thereunder at all times in the future.

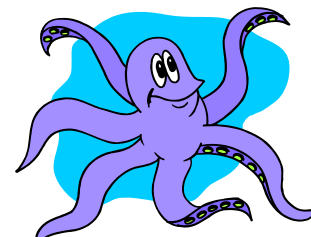


Humorous Thoughts from over the Years

Applicant Comment: "I'm sorry the information you needed is late. It's really hard to get anything done in 30 days in this business." (Referring to Mortgage industry)

Applicant Comment: "Whoever came up with these requirements obviously doesn't know *anything* about mortgage." (Referring to requirements that all applicants submit a forms package to the Department for approval and resume evidencing three years experience)

Applicant Comment: "Ummm...I'm filling out your application and the bottom says 'My Commission Expires'...what does that mean? My commission doesn't expire, it's my payment." (In reference to the Notary Commission Section)





California Condors at the Birds of Prey Sanctuary Boise ID

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

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

Email Contacts

For General Mortgage
 Company email:
mortgage@finance.idaho.gov

For Mortgage Loan Originator
 email:
mlo@finance.idaho.gov

For Regulated Lenders, Title
 Lenders, Payday Lenders:
ICC.mail@finance.idaho.gov

Collection Agency Licenses:
Collections@finance.idaho.gov

Important Dates to Remember

Renewals

- Collection Agencies – **Paper Submissions**
- Collection Agencies – **NMLS**
- Regulated Lenders (includes payday and title lenders)
- Paper Submissions reinstatement with fee**
- Regulated Lenders (includes payday and title lenders) - **NMLS**
- reinstatement with transition and fee**
- Mortgage Brokers/Lenders
- Reinstatement with fee**
- Mortgage Loan Originators
- Reinstatement with fee**

Annual Reporting of Activity

- Collection Agencies (“paper” or NMLS licensees)
- Mortgage Broker/Lenders Call Reports

- Regulated Lenders (“paper” or NMLS licensees)
- Reinstatement with fee**

*Idaho Collection Agency **Annual** Agent Report filings are due March 15 and **Quarterly** Agent Report filings are due on June 15, September 15, and December 15 regardless of whether company license records are maintained in a “paper” format or electronically on NMLS, or whether agent filings are reported on paper or electronically through Access Idaho. These must 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.**

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 Department at PO Box 83720, Boise, Idaho 83720-0031 or via email to kc.schaler@finance.idaho.gov

Last Date to Complete

- March 15, 2015
- December 31, 2014
- May 31, 2015
- July 31, 2015
- December 31, 2014
- February 28, 2015
- December 31, 2014
- February 28, 2015
- December 31, 2014
- February 28, 2015

Final Date to File

- March 15th
- Qtr1 – May 15th
- Qtr2 – August 14th
- Qtr3 – November 14th
- Qtr4 – February 14th
- May 31
- July 31