

July 15, 2015

## Regulatory Compliance E-News

Your source for guidance on regulatory issues and updates that may impact your organization.

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### Frequently Asked Compliance Question

#### Question

When completing adverse action notices where the credit report was used in rendering the decision, which credit reporting agency should the lender disclose in order to comply with section 615(a) of the Fair Credit Reporting Act?

#### Short Answer

The lender should disclose the contact information for the credit reporting agency that provided the information. The waters get a little muddied when creditors obtain tri-merged reports or use third parties to obtain information from one or more of the national credit reporting agencies. There are three national credit reporting agencies (TransUnion, Equifax and Experian); however, there are many specialty credit reporting agencies that provide supplemental and merged credit reports to lenders.

In many cases these specialty agencies will provide one free report to a consumer every twelve months if requested. As such, a lender may identify the specialty provider as the as the agency that was relied upon when making the credit decision...[click here to view the more detailed answer](#).

If you have a question that you would like us to answer in an upcoming Regulatory Compliance E-News, contact [Stephen King, JD, AMLP](#), at 617-428-5448 or [sking@wolfandco.com](mailto:sking@wolfandco.com), or Brian Shea, CRCM, at 617-261-8133 or [bshea@wolfandco.com](mailto:bshea@wolfandco.com).

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### Agencies Issue Final Flood Insurance Rule



On June 22, 2015, five federal regulatory agencies announced the approval of final rule modifying regulations that apply to loan secured by properties in special flood hazard areas. The final rule implements provisions of the Homeowner Flood Insurance Affordability Act of 2015 and the Biggert-Waters Flood Insurance Reform Act of 2012.

The final rule will require institutions with assets in excess of \$1 billion to escrow for flood insurance premiums on loans that are originated on or after January 1, 2016. The rule also requires that institutions give borrowers of outstanding residential loans as of that date the option to escrow flood insurance premiums if the loan is secured by property located in a flood zone. Detached structures that are part of a residential property, but do not serve as a residence, will be exempt from flood insurance requirements, although lenders may still choose to require flood insurance on the structure.

Finally, the rule clarifies that regulated institutions have the authority to charge a borrower for the cost of force-placed flood insurance coverage beginning on the first day of lapsed coverage. The rule does not comment upon private flood insurance provisions in Biggert-Waters, which the agencies plan to address in a separate rulemaking.

This rule was issued by the Federal Reserve Board, the Farm Credit Administration, the Federal Deposit Insurance Corporation (“FDIC”), the National Credit Union Administration (“NCUA”) and the Office of the Comptroller of the Currency (“OCC”).

The Federal Reserve’s press release can be found [here](#).

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## CFPB Formally Proposes Two Month Extension for TRID Rule

As identified in a previous edition of this Regulatory Compliance E-Newsletter, the Consumer Financial Protection Bureau (“CFPB”) has proposed to delay the effective date of the Integrated Disclosure rules to October 2015. On June 24, 2015, the CFPB formally issued its proposed amendment to move the effective date of the rule to October 3, 2015.



The CFPB believes that moving the date of enactment will benefit the industry and consumers by providing a smoother transition to the new rule. The proposal will be open for public comment until July 7.

The CFPB’s press release can be found [here](#).

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## Supreme Court Rules on Disparate Impact Case



The U.S. Supreme Court has made a ruling in the disparate impact case *Texas Department of Housing and Community Affairs v. Inclusive Communities Project*. The case surrounded the allocation of federal low-income housing credits and provides guidance for the industry on how courts will approach claims for disparate impact under fair lending rules.

While the court ruled that an entity can be held liable for disparate impact, the court noted that disparate impact claims should be made based on statistical disparities only if such disparities can be connected to a policy that causes the disparity.

Further information on the case can be found [here](#).

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## Agencies Issue Loan-to-Deposit Ratios

On June 29, 2015, three federal regulatory agencies including the Federal Reserve, FDIC and OCC issued the host loan-to-deposit ratios that they will be relying upon when determining compliance with Interstate Banking and Branching rules.



Under rules established by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, banks are prohibited from establishing or acquiring branches outside of their home state primarily for deposit production purposes. The agencies utilize the loan-to-deposit ratios to test compliance with these rules.

The ratios are reflective of data released on July 2, 2014. The Federal Reserve’s press release can be found [here](#).

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## CFPB Begins Publishing Complaint Narratives on Website



On June 25, 2015, the CFPB announced that it will now be publishing specific consumer complaint comments on its website. The CFPB has collected and analyzed consumer complaints since June of 2012. Effective June 25, 2015, the CFPB will publish the complaints of consumers who wish to have their stories heard on its website.

Since the CFPB has given consumers the option to make their stories public, 59% have chosen to do so. The CFPB has also issued a Request for Information regarding ways to make the complaint data useful to the public.

The CFPB’s press release can be found [here](#).

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## CFPB Releases Summer 2015 Supervisory Highlights

On June 24, 2015, the CFPB released the latest edition of its “Supervisory Highlights” publication. In this edition, the CFPB discusses examination findings in the areas of consumer reporting, student loan servicing, mortgage origination, fair lending, mortgage servicing and debt collection.



The publication also includes information about public enforcement actions and supervisory program developments which highlight matters such as loan originator compensation and overdraft protection programs. The publication also provides additional information on the Bureau’s risk-based approach to supervision.

The Supervisory Highlights publication can be found [here](#).

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## FATF Releases List of Deficient Jurisdictions



On June 26, 2015, the Financial Action Task Force (“FATF”) identified several jurisdictions that have strategic deficiencies in their standards for anti-money laundering (“AML”) and the combating the financing of terrorism (“CFT”).

Iran and the Democratic People’s Republic of Korea have been listed as jurisdictions that are directed to apply countermeasures to protect the international financial system. Algeria and Myanmar are listed as jurisdictions previously identified as having deficiencies that have not made adequate progress in addressing deficiencies.

The FATF Public Statement can be found [here](#).

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## FATF Issues Statement on De-Risking

On June 26, 2015, the FATF issued a press release regarding the process of de-risking means to identify, assess and analyze the money laundering and terrorists financing risks and to implement appropriate anti-money laundering and counter-terrorist financing measures. When establishing correspondent relationships, institutions are required to perform customer due diligence and obtain sufficient information on the respondent institution, however are typically not required to perform typical customer due diligence on customers of the respondent institution.



Currently the FATF is working with regulators and private sector entities to further clarify their standards on correspondent banking and other intermediated relationships and will be taking into account de-risking trends.

The FATF press release can be found [here](#).

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## CFPB Updates TILA-RESPA Small Entity Compliance Guide



The CFPB has issued an updated version of its Truth in Lending Act (“TILA”) and Real Estate Settlement Procedures Act (“RESPA”) Integrated Disclosure rule Small Entity Compliance Guide. The updated version, released in June of 2015, reflects miscellaneous administrative changes relating to the TILA-RESPA Integrated Disclosure rule.

The updated compliance guide can be found [here](#).

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## FDIC Issues Interagency TILA and RESPA Examination Procedures

On June 30, 2015, the FDIC issued Financial Institution Letter (“FIL”) 27-2015. The FIL announces the issuance of interagency examination procedures for the TILA (Regulation Z) and RESPA (Regulation X).



In particular, the examination procedure edits cover the Integrated Disclosure rule and provide for certain updates with respect to mortgage servicing rules, Ability to Repay/Qualified Mortgage rules, and Higher Priced Mortgage Loans appraisal rules.

The FIL can be found [here](#).

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## OCC Issues Risk Perspective Report



On June 30, 2015, the OCC issued its Semiannual Risk Perspective for Spring 2015 report. The report identifies risks that are impacting national banks and federal savings associations and is based on data through the end of 2014.

Compliance-related matters that the report focuses on in particular include new mortgage lending requirements and Bank-Secrecy Act/Anti-Money Laundering risks. The report also focuses on cyber threats, information technology vulnerabilities and other risks facing such institutions.

The OCC's press release can be found [here](#).

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## Important Regulatory Dates

### 2015

**July 18** – Certain Higher Priced Mortgage Appraisal Exemptions for existing manufactured homes expire

**October 3 (Proposed)** – The new *proposed* effective date of TILA and RESPA Disclosure Integration rules

**December 31** – Sunset of Servicemembers Civil Relief Act (“SCRA”) foreclosure protections that were extended from ninety days to one year following a period of active duty

### 2016

**January 1** - Flood Escrow and other rule changes take effect

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PDFs of the Regulatory Compliance E-News from 2015 can be found [here](#).

This information in this newsletter is based on our preliminary analysis of the regulatory language. It is communicated with the understanding that the Firm is not rendering legal services. If legal advice is required, the services of an attorney should be sought.

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