

THE COMPLIANCE CONNECTION

REGULATORY NEWS FOR VIRGINIA MORTGAGE COMPANIES
STATE CORPORATION COMMISSION - BUREAU OF FINANCIAL INSTITUTIONS

2015 VOLUME I



The Compliance Connection is part of the Bureau's efforts to improve communication with the companies we regulate. It is distributed to Virginia mortgage and industrial loan association licensees, and other interested parties. It is the licensee's responsibility to read this newsletter and to be familiar with the positions and interpretations stated herein.

Suggestions and comments concerning the newsletter or its contents should be addressed to the Bureau at P.O. Box 640, Richmond, VA 23218-0640 or via email at bfquestions@sc.virginia.gov.

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TILA-RESPA Integrated Disclosures

Is your company ready for these changes? If not, the Consumer Financial Protection Bureau ("CFPB") has multiple resources for mortgage companies to help them comply by August 1, 2015, the date that the integrated disclosure rule goes into effect:

- Compliance Guide: in a FAQ format, this is a plain language resource to the new rules
- Guide to Forms: provides illustrated instructions on completing the Loan Estimate and Closing Disclosure
- Disclosure Timeline: provides the process and timing of disclosures for a sample real estate purchase transaction
- Integrated loan disclosure forms and samples: downloadable forms (in English and Spanish) and samples for different loan types
- Videos: recordings of previously held webinars on this topic (registration is required to view these recordings)

To view these and other resources provided by the CFPB go to www.consumerfinance.gov/regulatory-implementation/tila-respa

Commitment Agreements – Required or Not?

The Bureau often receives questions regarding the statutory requirements relating to commitment agreements. Although neither the statute nor the regulation require that a commitment agreement (or commitment disclosure) be given to an applicant, the Virginia Administrative Code sets forth what must be included.

Virginia Regulation 10 VAC 5-160-10 defines a "commitment" as a written offer to make a mortgage loan signed by a person authorized to sign such offers on behalf of a mortgage lender. It further defines the term "commitment agreement" as a commitment accepted by an applicant for a mortgage loan, as evidenced by the applicant's signature thereon. The term "commitment fee" is also defined in the Regulation.

Virginia Regulation 10 VAC 5-160-30 A states that commitment agreements must include the following information:

- Identification of the property intended to secure the mortgage loan (a formal legal description is not required);
- The principal amount and term of the loan;
- The interest rate and points for the mortgage loan if the commitment agreement is also a lock-in agreement or a statement that the mortgage loan will be made at the mortgage lender's prevailing rate and points for such loans at the time of closing or a specified number of days prior to closing;
- The amount of any commitment fee and the time within which the commitment fee must be paid;

(continued on page 4)

Action Taken for Deceptive Advertising

Section 6.2-1614 (8) of the Code of Virginia and Virginia Regulation 10 VAC 5-160-60 include prohibitions relating to deceptive, misleading and false statements in advertising. The Commission has imposed civil penalties against licensees for using solicitations that state or imply that a licensee is affiliated with or an agent or division of, a government agency, depository institution or other entity with which no such relationship exists.

Please review the prohibitions of the above referenced Virginia statute and Regulation, as well as the Truth in Lending Act, the Mortgage Acts and Practices Advertising Rule, and other federal consumer laws to ensure compliance and avoid regulatory action. Licensees are warned not to rely on claims by third party advertising vendors that advertisements comply with the state and federal requirements, because many times they do not. The Bureau holds licensees responsible for any violations relating to advertisements and solicitations.

On April 9, 2015, the CFPB took action against a mortgage lender for deceptive mortgage advertising practices, including ads that led consumers to believe that the company was affiliated with the U.S. government. The mortgage company paid a civil penalty of \$250,000 and was ordered to end its illegal and deceptive practices.

The CFPB's investigation found that the company's practices violated the Truth in Lending Act, the Mortgage Acts and Practices Advertising Rule, and other federal consumer laws. The 2011 Mortgage Acts and Practices Advertising Rule prohibits misleading claims in mortgage advertising, including implying a government affiliation. Under the terms of the consent order, the company will be prohibited from falsely implying a government affiliation in future advertisements in addition to the payment of the civil penalty.



A copy of the administrative consent order related to this case is available at:

http://files.consumerfinance.gov/f/201504_cfpb_consent-order_rmj-financial-corporation.pdf

Annual Assessments Sent

It's that time of year again – annual assessment time. Mortgage company assessments were sent and are shown as a deficiency on the company's NMLS record (look at the external notes section of the deficiency for instructions on how to obtain the assessment invoice(s)). Licensed as a mortgage lender AND mortgage broker? Then you will receive two separate bills – one for the mortgage broker license (a base fee plus a fee for each brokered loan originated), and the other for the mortgage lender license (a base fee plus a fee for each lender loan originated). Be sure you pay both bills by the due date or you will be subject to regulatory action (e.g.: civil penalty, suspension or revocation of license). It is also important to make sure the company's contact person listed in NMLS is accurate to ensure the appropriate person receives the deficiency information.



Assessments must be paid by May 25, 2015 and they can be paid through NMLS either by ACH or by credit card. Credit card payments will be assessed a 2.5% service fee which covers the cost NMLS incurs to process the credit card payment. Once paid, the Bureau will remove the deficiency from the mortgage company's record.

Assessments are used to defray the costs of examination, supervision and regulation, pursuant to § 6.2-1612 of the Code of Virginia. Virginia Regulation 10-VAC 5-160-40 provides the details of how the assessment is calculated including the base fee for the different license types and the "per loan" fee.

License Update

The following is a list of companies and individuals that have been barred, had their license revoked, had an application denied, or paid a fine or civil penalty since October 22, 2014. This list should be helpful to keep track of companies with which you do business. These lists are accurate as of May 11, 2015. Call the Bureau if you have a question concerning a recent denial or regulatory action taken by the Commission.

Settlement Orders

MC — 5355 EC Financial LLC – settlement order entered December 8, 2014. Paid \$2,500 for failing to maintain a surety bond, in violation of § 6.2-1604 of the Code of Virginia.

MC – 2840 Alcovia Mortgage LLC d/b/a Alcovia Home Lending – settlement order entered April 7, 2015. Paid \$16,000 for allegedly failing to comply with §§ 6.2-406, 6.2-1614 (8), 6.2-1621 of the Code of Virginia and Virginia Regulation 10 VAC 5-160-20 (7) and 12 C.F.R. § 1024.7.

Dean Lob – settlement order entered March 16, 2015. Paid \$2,500 for allegedly failing to obtain Commission approval prior to acquiring 25% or more of the ownership of Pacific Home Loans, Inc. (MC – 5741) in violation of § 6.2-1608 of the Code of Virginia.

MC – 4817 Atlantic Mortgage Direct LLC – settlement order entered March 19, 2015. Based on various alleged violations of law and regulations, the licensee agreed to (i) cease taking Virginia mortgage loan applications (effective February 8, 2015), (ii) surrender its mortgage broker license in lieu of revocation, and (iii) refund overcharges cited in the Bureau's Report of Examination.

Gustavo Rios — settlement order entered April 23, 2015. Paid \$2,500 for allegedly failing to obtain Commission approval prior to acquiring 25% or more of the ownership of City Lending Inc. (MC-5740) in violation of § 6.2-1608 of the Code of Virginia.

MC—1867 Trustworthy Mortgage Corporation—settlement order entered May 11, 2015. Paid \$22,000 for allegedly failing to comply with §§ 6.2-406, 6.2-1609 B, 6.2-1614 (1), and 6.2-1616 B 4 of the Code of Virginia; 10 VAC 5-160-20 (7), 10 VAC 5-160-30 A, 10 VAC 5-160-50 and 10 VAC 5-160-60 A of the Commission's Rules Governing Mortgage Lenders and Brokers and 12 C.F.R. § 1024.7.

The following Settlement Orders were inadvertently omitted from our last issue:

MC- 3639 St Fin Corp d/b/a Star Financial – settlement order entered April 2, 2014. Paid \$2,500 for allegedly violating § 6.2-1614 (8), 10 VAC 5-160-60 D & G of the Commission's Rules Governing Mortgage Lenders and Brokers.

The following companies entered into settlement agreements on May 5, 2014 and paid civil penalties of \$500 for allegedly failing to timely file its annual report in violation of § 6.2-1610 of the Code of Virginia:

MC – 5572 First Capital Mortgage Group, Inc.

MC – 5589 Select Mortgage Group, Inc.

MC – 4943 U S Loans Mortgage, Inc.



MLO Denials

MLO — 11343 Christopher Garland Hood – February 12, 2015

Mortgage Company Revocations

MC – 2871 A-1 Mortgage Corporation – order entered December 12, 2014 for failing to pay its annual fee, in violation of § 6.2-1612 of the Code of Virginia.

MC—4505 Security Trust Mortgage, LLC - order entered May 11, 2015. Security Trust and its sole owner and officer do not meet the qualifications for licensure required by § 6.2-1606 of the Code of Virginia.

Mortgage Call Report (MCR) changes

Effective April 1, 2015, NMLS made changes that impact the Residential Mortgage Loan Activity (RMLA) section of the MCR Report for Standard and Expanded filers. The changes include the addition of fields that capture qualified mortgages, changes in the application amounts and new nationwide and state-specific servicing fields. Any questions related to the filing of MCRs should be directed to the NMLS Call Center at 1-855-665-7123.



Commitment Agreements – Required or Not? (continued from page 1)

- Whether or not funds are to be escrowed and for what purpose;
- Whether or not private mortgage insurance is required;
- The length of the commitment period;
- A statement that if the loan is not closed within the commitment period, the mortgage lender is no longer obligated by the commitment agreement and any commitment fee paid by the applicant will be refunded only if
 - The commitment period was not a reasonable period of time given the prevailing market conditions at the time the commitment agreement was entered into;
 - The mortgage loan is turned down because of the applicant's lack of creditworthiness; or
 - The mortgage loan is turned down because of the appraised value of the property intended to secure the mortgage loan; and
 - Any other terms and conditions of the commitment agreement required by the lender.

Please review your company policies relating to commitment agreements and make any adjustments necessary to ensure compliance and avoid violations in your next examination. You can view the Regulation referenced above at: <http://law.lis.virginia.gov/admincode/title10/agency5/chapter160/>.

“To Do” List

Be sure to file your company's Quarterly mortgage call reports in NMLS 45 days after the end of each quarter to avoid a violation on your next exam. Do you have other quarterly MCRs missing in NMLS?

You can still file them to avoid regulatory issues in the future.

2015 MCR DUE DATES:

- | | |
|----|-------------------|
| Q1 | May 15, 2015 |
| Q2 | August 14, 2015 |
| Q3 | November 14, 2015 |
| Q4 | February 14, 2016 |



Company & Branch Renewals in NMLS

While Virginia mortgage company and branch licenses are perpetual, it is a requirement of NMLS for all company and branch licenses to be renewed by the end of each year. Section 6.2-1601 B of the Code of Virginia states in part that every mortgage lender and broker required to be licensed shall register with the Registry and be subject to such registration and renewal requirements as may be established by the Registry. Therefore, any company and branch license that has not been renewed through NMLS should be renewed immediately. If it is the intention of a company or branch to close or cease doing Virginia business, then the license must be surrendered through NMLS.



Electronic Record Retention

The Bureau continues to receive inquiries relating to electronic record retention. Generally, this is permitted as long as the electronic records are readily available for examination. Mortgage lenders and brokers required to be licensed in Virginia must maintain such records in a licensed location. In addition, mortgage brokers storing records in this fashion need to be aware that for borrower paid transactions, brokers are still required to maintain the *original* contract for compensation (broker agreement).

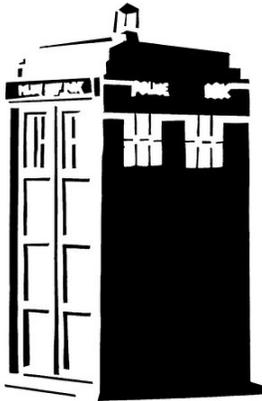
Problems encountered while examining electronic records include (1) documents that were not scanned properly and cannot easily be read and (2) more than one PDF file per loan. We have examined a few companies that had a different PDF file for every document. Please keep these things in mind when converting your records to an electronic format.

Licensees should review the Federal Trade Commission's Safeguards Rule and/or consult with an attorney knowledgeable in this area to ensure that the manner in which you store your mortgage records meet the requirements of the Safeguards Rule.



Disclosure of Regulatory Actions

Companies and MLOs who have had regulatory action (e.g. revocation or suspension of license, settlement orders) taken against them by the Commission will have the action posted in NMLS. **There are no exceptions to this policy.**



IMPORTANT COMMISSION TELEPHONE NUMBERS

Non Depository Supervision (mortgage examinations)	(804) 371-9701
Licensing (applications, name changes, relocations)	(804) 371-9690
Consumer Complaints	(804) 371-9657
Depository Supervision (banks/credit union exams)	(804) 371-9704
Corporate Information – Clerk's Office	(804) 371-9733
FAX Number - Bureau of Financial Institutions	(804) 371-9416



Bureau of
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