

**M&M Consulting, LLC  
Compliance Group**

**Jay Friedland**  
(207) 650-4665  
[jaybanker@mmconsulting.info](mailto:jaybanker@mmconsulting.info)

**Edward Bambauer**  
(774) 275-7017  
[ebambauer@mmconsulting.info](mailto:ebambauer@mmconsulting.info)

**Daniel Capozzi**  
(781) 507-4579  
[dcaozzi@mmconsulting.info](mailto:dcaozzi@mmconsulting.info)

**Martha Howell**  
(207) 240-0134  
[mhowell@mmconsulting.info](mailto:mhowell@mmconsulting.info)

**Jeff Hubbard**  
(603) 440-3702  
[jhubbard@mmconsulting.info](mailto:jhubbard@mmconsulting.info)

**Kevin Hughes**  
(603) 339-7088  
[khughes@mmconsulting.info](mailto:khughes@mmconsulting.info)

**Deanne Kiilsgaard**  
(207) 929-0757  
[dkiilsgaard@mmconsulting.info](mailto:dkiilsgaard@mmconsulting.info)

**Eddie Milhorn**  
(207)653-3015  
[emilhorn@mmconsulting.info](mailto:emilhorn@mmconsulting.info)

**Linda Ness**  
(860) 227-3564  
[lness@mmconsulting.info](mailto:lness@mmconsulting.info)

**Steve Plourde**  
(207) 841-7100  
[splourde@mmconsulting.info](mailto:splourde@mmconsulting.info)

**Bruce Ray**  
(207) 712-2587  
[bray@mmconsulting.info](mailto:bray@mmconsulting.info)

**Marcy Rodrigue**  
(207) 240-6527  
[mrodrigue@mmconsulting.info](mailto:mrodrigue@mmconsulting.info)

**Linda Stevens**  
(508) 450-4174  
[lstevens@mmconsulting.info](mailto:lstevens@mmconsulting.info)

**Dean Stockford**  
(207) 458-8559  
[dstockford@mmconsulting.info](mailto:dstockford@mmconsulting.info)

**Kristine Taylor**  
(207) 400-5121  
[ktaylor@mmconsulting.info](mailto:ktaylor@mmconsulting.info)

**Deborah Yates**  
(207) 677-6354  
[dyates@mmconsulting.info](mailto:dyates@mmconsulting.info)

**IN THIS ISSUE**

<a href="#">UDAP in Collections</a>	1
<a href="#">Short Clips</a>	2
<a href="#">Proposals Not Final Rules</a>	4
<a href="#">In the States</a>	5
<a href="#">Good to Know</a>	5
<a href="#">Important Dates</a>	6

## UDAP in Collections

By Kevin Hughes

Financial institutions that use a third party debt collector should be aware of the requirements of the federal Fair Debt Collection Practices Act (FDCPA). Recent federal court cases serve as reminders of the importance of due diligence by financial institutions when using a third party debt collector. The federal government began to scrutinize some financial institutions after a vendor, Williams, Scott & Associates and its successor company, WSA, LLC, faced civil and criminal charges for violating the FDCPA and other laws in their debt collections work.

The complaint alleged that employees of those vendors posed as law enforcement officers and threatened to arrest various debtors, while attempting to collect debts from 2010 through April 2014. The Federal Trade Commission filed legal action in the U.S. District Court for the Northern District of Georgia against Williams, Scott & Associates and its successor company, WSA, LLC and John Williams, individually and as an officer of Williams, Scott & Associates, LLC and as manager of WSA, LLC ([Case No. 1:14 - CV-1599](#)), for injunctive relief under the Federal Trade Commission Act, [15 U.S.C. § 53\(b\)](#), for violation of the FTC Act, [15 U.S.C. § 45\(a\)](#) and “in connection with abusive and deceptive debt collection practices” under the [FDCPA, 15 U.S.C. §§ 1692-1692p](#). The FTC alleged that the defendants engaged in a national debt collection scheme to deceive consumers into paying debts that consumers do not actually owe or that the defendants do not have authority to collect.

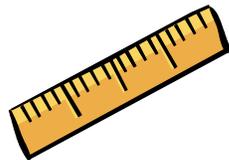
In its complaint ([Case No. 1:14 - CV-1599](#)), the FTC alleged that the defendants “falsely claimed to be attorneys or working for law firms”. The complaint stated they “falsely claimed that consumers have committed crimes, such as check fraud and theft by deception by not paying the debts that the consumers allegedly owe.” The complaint went on to describe that in various cases in the initial communication with consumers, the defendants did not inform consumers that they were debt collectors attempting to collect a debt and that any information would be used for that purpose. It was alleged that they also used profane language when they called consumers and repeatedly contacted consumers at their home, cell and work numbers as a means of intimidating and harassing consumers to convince them to pay the

alleged debt. In short, the FTC claimed that defendants' actions in its debt collections "are false or misleading and constitute deceptive acts and practices in violation of S. 5(a) of the FTC Act".

After the filing of the above FTC complaint, Federal authorities arrested seven people at those companies on criminal charges in November 2014. According to an [FBI release](#), a criminal complaint filed in Manhattan federal court charged Williams, the company and six employees with conspiracy to commit wire fraud in connection with the scheme. In addition, in [prepared remarks](#) Manhattan U.S. Attorney Preet Bharara said he reached out to the Consumer Financial Protection Bureau and the Federal Trade Commission about bringing more cases as part of a broad crackdown. The U. S. Attorney was also looking into creditors who assign debts to abusive collectors.

In summary, the primary defendants Williams, Scott & Associates and its successor company, WSA, LLC and John Williams, face criminal charges for wire fraud and civil charges for violations of the FDCPA. The financial institutions that contracted with those debt collectors may face the prospect of charges of UDAP violations if they neglected to complete due diligence of those debt collectors prior to contracting with them or neglecting ongoing due diligence after contracting with them.

## Short Clips



### FINCEN UPDATES BSA EXAMINATION MANUAL

On December 2nd, the Federal Financial Institutions Examination Council (FFIEC) [announced](#) that they updated the [BSA/AML Examination Manual](#), which replaces the prior 2010 version. Updates were made to clarify supervisory expectations and incorporate regulatory changes since 2010. The sections with the most significant changes are indicated in the table of contents.

### CHANGES TO CUBA SANCTIONS

The Department of the Treasury's Office of Foreign Assets Control (OFAC) amended [the Cuban Assets Control Regulations](#) effective January 16th as a result of the policy changes announced by the President to further engage and empower the Cuban people. Financial institutions will be effected by two of the changes: remittances and correspondent accounts. For example, remittances levels were raised from \$500 to \$2,000 every three months to Cuban nationals, although there are some exclusions. In addition, U.S. financial institutions are permitted to open correspondent accounts with financial institutions in Cuba to process authorized transactions. OFAC released an [FAQ](#) to aid in implementing the policy changes.

### CONSUMER COMPLIANCE OUTLOOK

The Philadelphia Federal Reserve System published the [Consumer Compliance Outlook](#) issue for 4th quarter 2014. These publications provide helpful information on current consumer compliance issues and anyone can subscribe to receive notification of the quarterly newsletters [here](#). This issue includes information on: transitioning from an intermediate small bank to a large bank under the Community Reinvestment Act, managing compliance risk through consumer compliance risk assessments, regulatory updates and calendar including Regulation E, mortgage servicing, debt collection, and recent Federal court opinions.

### SOCIAL SECURITY DISABILITY INCOME VERIFICATION

In its November 18<sup>th</sup> [blog](#) the CFPB announced [Bulletin 2014-03](#) to remind creditors of their obligations under Regulation B regarding public assistance income and Social Security Disability Insurance and Supplemental Security Income received by mortgage applicants. Sometimes creditors require these applicants to provide additional documentation to show how long they will receive benefits, which may be a challenge for the applicants, and may cause Fair Lending concerns by potentially requiring unnecessary documentation. The CFPB requires that lenders assume benefits will continue once they confirm that the Social Security benefit verification letter or equivalent documentation does not indicate the benefits will expire within three years after loan origination.

## NCUA AMENDS TWO APPRAISAL REGULATIONS

On December 19th, the National Credit Union Administration (NCUA) issued a [Final Rule](#) effective January 20<sup>th</sup> 2015 amending two regulations regarding appraisals as part of the NCUA's initiative to modernize regulations in response to the CFPB's recent amendments to Regulation B. The NCUA has removed the duplicative requirement for federal credit unions to make appraisals available upon request. In addition, the current exemption for certain transactions involving an existing extension of credit has been expanded to enable a federally insured credit union (FICU) to refinance or modify a real estate related loan held by the FICU, without having to obtain another appraisal if the transaction does not involve new monies or if there is adequate collateral protection even with the advancement of new monies.

## SERVICEMEMBERS CIVIL RELIEF ACT FORECLOSURE PROTECTION EXTENDED

The President signed [S.2008](#), the Foreclosure Relief and Extension for Servicemembers Act of 2014 on December 18th to extend foreclosure protection for another year until December 31, 2015. Foreclosure protection for servicemembers, initially increased in 2012 from 90 days to one year after return from active-duty, was scheduled to expire December 31, 2014. Efforts are already underway in Congress to make the one year extension permanent.

The U.S. Department of Housing and Urban Development released an updated [Servicemembers Civil Relief Act Notice Disclosure](#) to reflect the extension. The notice now indicates an expiration date as December 31, 2017, perhaps in anticipation of further action by Congress. We recommend providing this notice to delinquent borrowers within 45 days of a late mortgage loan payment.

## ANNUAL DOLLAR ADJUSTMENT TO HIGHER-PRICED MORTGAGE LOANS EXEMPT FROM APPRAISAL REQUIREMENTS

On December 23rd, the Federal Reserve Board [announced](#) the annual adjustment of the dollar amount used to determine whether a loan is exempt from the special appraisal requirements that apply

to higher-priced mortgage loans. The exemption threshold of \$25,000 has been increased to \$25,500, effective January 1, 2015 based on the increase in the CPI as of June 1, 2014.

## ANNUAL CRA ASSET-SIZE THRESHOLD ADJUSTMENTS FOR SMALL AND INTERMEDIATE SMALL INSTITUTIONS

On December 29th, the OCC, Federal Reserve System, and Federal Deposit Insurance Corporation amended their Community Reinvestment Act (CRA) regulations by [adjusting the asset-size thresholds](#) used to define a "small bank" or "small savings association" and "intermediate small bank" or "intermediate small savings association", effective January 1, 2015. As a result of the 1.40% increase in the CPI for the period ending November 2014, the definitions of small and intermediate small institutions for CRA examinations will change as follows:

- "Small bank" or "small savings association" means an institution that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.221 billion.
- "Intermediate small bank" or "intermediate small savings association" means an institution with assets of at least \$305 million as of December 31 of both of the prior two calendar years, and less than \$1.221 billion as of December 31 of either of the prior two calendar years.

## ADJUSTMENTS TO HMDA EXEMPTION THRESHOLDS

On December 29th, the Consumer Financial Protection Bureau (CFPB) announced the [annual adjustment](#) to the asset-size exemption threshold for Regulation C from \$43 million to \$44 million. The CFPB also announced the [annual adjustment](#) to the asset-size threshold for certain small creditors to qualify for an exemption to the Regulation Z requirement to establish an escrow account for higher-priced mortgages from \$2.028 billion to \$2.060 billion.

These thresholds pertain to banks, savings associations, and credit unions and are based on the annual percentage change in Consumer Price Index (CPI). These threshold changes became effective January 1, 2015.

## FDIC AMENDS FLOOD REGULATIONS

The FDIC issued a [Final Rule](#) on December 19th to rescind and remove “Loans in Areas Having Flood Hazards” regulations and to amend “Loans in Areas Having Flood Hazards” regulations effective January 20th. There were no changes in the requirements. The purpose of the final rule is just to integrate flood insurance regulations for State nonmember banks and State savings associations with the requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

## OCC ISSUES UPDATED RETAIL NONDEPOSIT INVESTMENT PRODUCT BOOKLET

The Office of the Comptroller of the Currency (OCC) issued an updated booklet for Retail Nondeposit Investment Products on [January 14th](#) to replace the previous booklet issued in February 1994. The booklet provides guidance to examiners of national banks and federal savings associations to include the recommendation or sale of nondeposit investment products to retail customers. Although the booklet primarily focuses on safety and soundness concerns, it also addresses the regulatory structure and requirements that institutions face with offering these products, including regulatory changes in the Gramm-Leach-Bliley Act and the Dodd-Frank Wall Street Reform and Consumer Protection Act. These requirements apply to examinations of all banks that offer these products.

*Welcome! Welcome! Welcome! Welcome!*  
The Compliance Group at M&M Consulting LLC is pleased to announce the addition of Kristine Taylor as a Compliance Consultant. Kristine is an attorney living in Southern Maine with experience in real estate and mortgages.

*Welcome! Welcome! Welcome! Welcome!*

## Proposals–Not Final Rules

### PREPAID ACCOUNTS UNDER REGULATION E AND REGULATION Z

The CFPB [proposed](#) amendments to both Regulation E, which implements the Electronic Fund Transfer Act, and Regulation Z, which implements the Truth in Lending Act, on December 23<sup>rd</sup>. The proposal is intended to create consumer protections for prepaid financial products to generally include prepaid accounts that are cards, codes, or other devices capable of being loaded with funds and that are usable at unaffiliated merchants or for person-to-person transfers, and that are not gift cards (or certain other related types of cards). Regulation E would be modified in the sense that disclosures would be required prior to and after the acquisition of these prepaid accounts. Additional changes relative to Regulation E include offering an alternative to providing a periodic statement, limited liability and error resolution provisions, required consent to overdraft services or credit features, and overdraft services or credit features would have to be properly disclosed. Regulations Z and E will be amended to regulate prepaid accounts with overdraft services or credit features. Prepaid account issuers would also be required to provide the CFPB with terms and conditions for prepaid accounts. The comment period closes March 23<sup>rd</sup>.

### REGULATION X AND REGULATION Z SERVICING RULES

The CFPB [proposes](#) to amend certain mortgage servicing rules issued in 2013. Published December 15, 2014, the amendments primarily focus on clarifying, revising, or amending provisions regarding force-place insurance notices, policies and procedures, early intervention, loss mitigation, and periodic statement requirements. Servicing requirements when a successor in interest is in bankruptcy or sends a cease communication request are also addressed. The comment period closes March 16th.

## In the States



### NEW HAMPSHIRE INTEREST PAYABLE ON ESCROWS

On January 20th, the New Hampshire Banking Department announced that the [minimum interest rate](#) payable of 0.00% to be paid on mortgage escrow accounts will be effective for the period February 1st through July 31, 2015. This is consistent with prior rates.

### BANK MODERNIZATION ACT IN MASSACHUSETTS

Massachusetts passed an extensive Bank Modernization Act late in 2014, signed by the Governor on January 7th. [Chapter 482](#) of the Session Laws updates and modernizes Massachusetts's banking laws for the first time in over 30 years.

Provisions will update corporate governance, provide new authority to the Div. of Banks, and streamline the merger process. According to [Massachusetts Bankers Association](#) the new law will "streamline and modernize compliance with many of the state's consumer protection laws by bringing them into conformity with federal laws and regulations".

### MASSACHUSETTS: TRUTH IN LENDING REGULATION

On December 21st, the Massachusetts Division of Banks [announced](#) finalized amendments to [209 CMR 32.00](#): "Disclosure of Consumer Costs and Terms" to recognize compliance with outlined requirements of the CFPB regulation as equivalent to compliance with the DOB regulation. The regulation gives consumers the right to cancel certain transactions, regulates certain credit card practices, and provides for fair and timely resolution of credit billing disputes. The amendments were effective January 2, 2015.

## Good To Know

Send your questions to the [answerperson@mmconsulting.info](mailto:answerperson@mmconsulting.info)

*Sending requests to the above address gets you a written response to your questions. Emails sent to the answer person are received five days a week. Call the answer person toll free at (888) 483-4333.*

**Q:** What are the correct addresses for the CRA lobby notice?

**A:** We know you bankers are already thinking about updating your CRA Public File, right? We have heard clients go for years without knowing that the address on their lobby notice for their regulator is outdated. We also know the agencies are not good about getting such information distributed; it sometimes arrives on the president's desk but does not filter down. So, here's what we found online for clients here in New England. The Federal Reserve is the only one that did not provide a specific address for CRA, though we believe all our clients would use the Boston address.

#### FDIC:

NEW YORK REGIONAL OFFICE  
Deputy Regional Director  
Federal Deposit Insurance Corporation  
350 Fifth Avenue, Suite 1200  
New York, NY 10118-0110

#### OCC:

Deputy Comptroller  
Northeastern District  
Office of the Comptroller of the Currency  
340 Madison Avenue  
Fifth Floor  
New York, NY 10173-0002

#### Fed:

Federal Reserve Bank of Boston  
600 Atlantic Avenue  
Boston, MA 02210-2204

## Practical Compliance Webinars

As part of our service to our clients we have always included training opportunities. The new **CFPB Integrated Disclosures** become effective August 1, 2015. M&M Consulting LLC is offering three webinars to keep you on track for the changes.

The first session on **Thursday, January 22** provided an overview of the changes coming! We had a great audience with some excellent questions asked.

Invitations are being sent automatically through our WebEx system for the next two sessions, with plenty of lines available. If you don't receive an email invitation, ask around, check your junk mail or email us. Sign up for your group. Once again, the cost is only \$50 per dial in line.

**February 18, 2015 2:00 PM** Integrated Disclosures, Loan Estimate  
**February 19, 2015 2:00 PM** Integrated Disclosures, Closing Disclosure

---

## Important Dates- Don't Forget!

*(Generally we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of final rules, or end of the comment period for proposed rules.)*

01/01/2015 [Regulation Z](#). Annual Threshold Changes for the CARD Act, HOEPA, and ATR/QM  
01/01/2015 [Regulation Z](#). Threshold for Small Loan HPML Appraisal requirement raised to \$25,500.  
01/01/2015 [Regulation Z](#). Increased Dollar Threshold for consumer loans exemption to \$54,600.  
01/01/2015 [Regulation Z](#). Increased Assets Threshold to \$2.060 Billion for Escrows on HPMLs  
01/01/2015 [Regulation M](#). Increased Dollar Threshold for consumer leases exemption to \$54,600.  
01/01/2015 [Regulation C](#). HMDA reporting Assets Exemption increased to \$44 million as of 12/31/2014.  
01/01/2015 [Regulation BB](#). CRA small and intermediate small asset size adjusted.  
01/20/2015 [Flood Insurance](#). FDIC combined state non-member and state associations regulations.  
02/01/2015 [NH Escrow Interest](#). Rate remains the same at 0%.  
03/16/2015 [Regulation X & Z](#). Comments end on proposed clarifications to servicing rules.  
03/23/2015 [Regulation E & Z](#). Comments end on prepaid financial products proposed amendments.  
08/01/2015 [Integrated Disclosures](#). TILA and RESPA combined disclosures required.  
08/01/2015 [Integrated Disclosures](#). TILA and RESPA amendments for combined disclosures.  
1/01/2016 Flood Insurance. Escrow rules effective date as delayed by [HR3370](#) in Sec.25

---