

# InfoBytes

November 11, 2011

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## Federal Issues

**CFPB Releases Prototypes of Combined Final TIL and HUD-1 for Public Comment.** On November 8, the Consumer Financial Protection Bureau (CFPB) released for public comment two alternative versions of a new mortgage disclosure form that would effectively combine the current disclosure requirements of the final federal Truth in Lending (TIL) and HUD-1 Settlement Statement forms. The release of these prototype forms marks the second phase of the CFPB's Know Before You Owe program designed to revamp consumer disclosures relating to mortgages with the first phase being CFPB's release of a combined initial TIL and Good Faith Estimate (GFE) form. A primary feature of both versions of the proposed disclosure is a prominent text box that highlights whether a mortgage loan payment or interest rate can change during the life of the loan. The CFPB stated that it considered public and industry feedback on the combined initial TIL and GFE during development of the combined final TIL/HUD-1 prototypes. In addition to soliciting public comments, the CFPB will hold substantive discussions with members of the public and mortgage industry representatives as part of its testing process. The CFPB expects to release the draft forms for official notice and comment rulemaking in July 2012, as required under the Dodd-Frank Wall Street Reform and Consumer Protection Act. [Click here for more information.](#)

**CFPB to Provide Advance Notice of Enforcement Actions.** On November 7, the Consumer Financial Protection Bureau (CFPB) announced that it will provide advance notice of potential enforcement actions to individuals and firms under investigation. The opportunity to receive advance notice will be discretionary and decided on a case-by-case basis. The subjects of investigations who do receive advance notification will be given an opportunity to submit a response in writing within 14 days. [Click here for a copy of the announcement.](#)

**HUD Announces Proposed Rule for HOME Affordable Housing Block Grant Program.** On November 4, the Department of Housing and Urban Development (HUD) announced that it was presenting Congress with a proposed rule to increase standards under the HOME Investment Partnership Program (HOME), with details to follow. HOME is the largest federal block grant to state and local governments exclusively designed to provide affordable housing for low-income families. Specifically, HUD's proposed rule for HOME would (i) require state and local governments to adopt

policies and procedures to improve project oversight, assess risks, and more closely monitor HOME-funded sub-recipients; (ii) require state and local governments to assess developers' capacity and the long-term viability of a project before committing HOME funds, (iii) require more frequent reporting from state and local governments and (iv) establish timeframes for taking corrective action against jurisdictions that fail to complete projects. Additionally, HUD is revamping its Integrated Disbursement and Information System which tracks HOME funds and project-by-project expenditures. [Click here for a copy of HUD's press release.](#)

**Freddie Mac Publishes Bulletin 2011-21, Updating and Revising its Income Guidance, Appraisal Requirements, and Repurchase Late Fee Remittance.** On November 4, Freddie Mac published *Single-Family Seller/Service Guide* Bulletin 2011-21, providing updates and revisions to its selling requirements with regard to income guidance for mortgage eligibility and credit underwriting, appraisal requirements, and repurchase late fee remittance. Specifically, the Bulletin provides additional guidance regarding qualifying income for Borrowers on temporary leave from their current employment, as well as guidance on the consideration of "other income," including retirement income, survivor and dependent benefits, long-term disability, and Social Security Supplemental Security Income, as stable income. The Bulletin further updates Sections 72.3 and 8.8.1 to indicate that repurchase late fees are charged monthly and that the amount of any repurchase late fee will appear on the Seller account activity statement described in Section 17.2(e) and be drafted from the Seller's Automated Clearing House (ACH) account in accordance with Section 17.2(g). The updates and revisions to Freddie Mac's selling requirements are effective immediately with regard to the appraisal requirements and repurchase late fee remittance and effective for Mortgages with Delivery Dates on or after February 15, 2012 with regards to the income guidance. [Click here for a copy of the Bulletin.](#)

## State Issues

**Texas Revises Various Regulations Applicable to Loan Originators, Mortgage Brokers, Regulated Lenders, and Registered Bankers.** On November 4, the Texas Department of Savings and Mortgage Lending and the Texas Office of Consumer Credit Commissioner amended various regulations affecting lenders to implement Senate Bill 1124 and House Bill 2594 which cover the Texas Secure and Fair Enforcement (SAFE) for Mortgage Licensing Act of 2009. The Texas SAFE Act contains tighter rules than the federal version, and some of the amendments were designed to bring them closer in line. The amendments include an exemption for owners who sell five or less properties in a 12 month period. The amendments also include, among others, changes affecting licensing, registration, investigations, reporting, and professional conduct, which are effective on November 13. Further amendments include changes affecting licensing and reporting, which are effective on November 10. [Click here for a copy of the amendments.](#)

**Utah Division of Real Estate Amends Rules.** The Utah Division of Real Estate recently amended the Utah Residential Mortgage Practices and Licensing Rules to clarify the procedures and requirements for renewing and reinstating a current license and reapplying for a terminated license. The amendments also made related definitional changes with respect to the renewal and reinstatement of licenses. The rule, as amended, provides an exemption under which a person who obtains a license on or after November 1 of a given year is not required to renew it within the same

calendar year. In addition, the educational requirements for license renewal, reinstatement and reapplication have been delineated and the state's procedures for license renewal, reinstatement, and reapplication now comport with recent Nationwide Mortgage Licensing System policies. [Click here for the changes regarding renewing, reinstating, and reapplying for a license.](#) [Click here for the related definitional changes.](#)

## Firm News

### **STAGE Network Webinar: Brave New World of State AGs and State Regulation: What Banks, Hedge Funds, and Investment Advisers "Need to Know"**

STAGE Network's first webinar, featuring an interview with North Carolina Attorney General Roy Cooper, was well attended and received good reviews. We are excited to present our second webinar, which will focus on the rapidly expanding role state law enforcement is playing in the regulation of financial services providers.

When: November 17, 2011 at 2:00 ET

To register: <https://www1.gotomeeting.com/register/499380488>

After registration, you will receive a confirmation email containing information about joining the webinar.

Cost: There is no charge to attend this webinar.

#### Agenda:

- State AG Round-up
  - An up-to-the-minute summary of recent, important State AG and state-level regulatory initiatives
- State Law Preemption Post-Dodd-Frank
  - Section 1044 of Dodd-Frank and Barnett Bank as preemption "baselines"
  - OCC's interpretation re: preemption's extent (and Treasury's disagreement)
  - Congressional concerns re: OCC's interpretation of preemption standard
  - Recent Federal District Court rulings re: Dodd-Frank preemption standard
  - Sources of guidance on relevant state laws

- Preemption, Hedge Funds and Investment Advisers (IAs)
  - Expansion of oversight by state-level AGs and other securities regulators
  - The "mid-sized adviser" exception from SEC IA registration
  - Issues faced by IAs forced to switch from SEC to state registration
  - Rule 506 of SEC Regulation D (for accredited investors)
  - House bills re: general solicitation for Rule 506 offerings and exemption for "crowdfunding" offerings

[James Parkinson](#) will be speaking on an ABA India Committee telephone conference entitled "Anti-Corruption: Perspectives on Legal Implications for India" on November 16.

[Donna Wilson](#) will be speaking in the Strafford Privacy Data Breach Class Action Webinar on Wednesday, December 7, from 1:00 to 2:30 PM EST/10:00 to 11:30 AM PST. Ms. Wilson's session is entitled: "Class Actions on Data Breach and Privacy on the Rise; Litigating Class Claims, Alleging and Challenging Damages, and Evaluating Insurance."

[David Baris](#), [Sam Buffone](#), and [Donna Wilson](#) will be hosting and presenting in an AABD complimentary webinar entitled "Legal Actions by the FDIC to Recover Losses of Failed Banks: The Potential Liability of Officers and Directors" on December 7, from 3:00 to 4:30 PM EST/12:00 to 1:30 PM PST. Joining Mr. Baris, Mr. Buffone, and Ms. Wilson will be Richard Osterman, head of the FDIC's Professional Liability Program.

[David Krakoff](#) will be participating in a panel at the International Association of Defense Counsel program on worldwide anti-corruption laws in Palm Springs in February 2012.

[James Parkinson](#) will be speaking on a panel entitled "Assessing the Risk of Personal Liability in Bribery Investigations" at the ACI Latin America Summit on Anti-Corruption in Sao Paulo, Brazil on February 8, 2012.

[Donna Wilson](#) will be speaking at the ABA Section of Litigation Insurance Coverage CLE Seminar held at the Loews Ventana Canyon Resort in Tucson, Arizona from March 1-3, 2012. Ms. Wilson will be representing the defense counsel perspective in a plenary session panel entitled "The Credit Crisis and D&O Insurance Coverage: Challenges facing Insureds, Insurers, and Regulators" on March 1 from 1:00 PM to 2:10 PM.

[James Parkinson](#) will chair a panel entitled "The Privileged Profession: Risks Faced by Legal Professionals Advising in International Transactions" at the International Bar Association's 10th Annual Anti-Corruption Conference in Paris on March 14, 2012.

## Mortgages

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We welcome reader comments and suggestions regarding issues or items of interest to be covered in future editions of InfoBytes.

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