NORTH CAROLINA COMMISSIONER OF BANKS
NON - DEPOSITORY ENTITIES DIVISION

Regulatory Newsletter

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Charlie's Corner

By Charlie Fields, Jr. Director

Dear Licensee,

I would like to welcome you to our first edition of the North Carolina Office of the Commissioner of Banks (NCCOB) Non-Depository Entities Regulatory Newsletter. The goal of this newsletter is to provide timely and relevant information of changes that affect our licensees.

Over the past year, there have been many changes in our non-depository industries affecting all of us such as: the economy, our transition to the Nationwide Mortgage Licensing System, amendments to the North Carolina Administrative Code and the Mortgage Lending Act. Our agency newsletters will focus on these types of issues to deliver pertinent and useful information in a timely format.

The mission statement of NCCOB is to promote and maintain the strength and fairness

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Mortgage Examinations

By Jeff Browning, Examination Supervisor

Since the middle of 2007 in the wake of the mortgage meltdown and subsequent credit crisis, both the American Association of Residential Mortgage Regulators (AARMR) and the Conference of State Bank Supervisors (CSBS) established the Model Examination Guidelines (MEGs) to help provide consistency and uniformity in the mortgage examination process. The guidelines require the adoption of a technology solution that would help expedite regulatory examinations by verifying loans against numerous federal, state, and municipal laws and regulations such as anti-predatory lending / high-cost legislation, Truth-In-Lending Act (TILA), and state consumer credit laws.

After an eight-month evaluation process, ComplianceEase's automated compliance system, ComplianceAnalyzer®, was selected as the automated examination system to be incorporated into the examination process. NCCOB was one of the first state agencies to

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of the North Carolina financial services marketplace through the supervision and regulation of financial services providers in that marketplace. Providing a useful newsletter will help us in achieving our mission statement.

We certainly welcome any feedback or suggestions that will enhance these newsletters so that they may become a resource of information for our licensees.

Sincerely,
Charlie Fields, Jr.
Director, Non Depository Entities

Mortgage Updates

By Teresa Browning
Assistant Director

In an effort to ensure our licensees meet the financial responsibility requirements such as to command the confidence of the community, the North Carolina Administrative Code was amended in July 2008, as detailed by license type below:

Mortgage Lenders
Lenders are required to provide an audited statement of financial condition that demonstrates a net worth of at least one hundred thousand dollars ($100,000). In addition, if not shown in the audited statement of financial condition, a lender must provide evidence of a warehouse line of credit of one million dollars ($1,000,000) or other evidence of funding capacity to conduct mortgage originations. The audited financial statement must be uploaded into the Nationwide Mortgage Licensing System (NMLS) within 90 days after the company's fiscal year ends. If not shown on the audited statement, evidence of the warehouse line of credit should be mailed to NCCOB.

If you are currently licensed as a lender but do not meet the new financial responsibility requirements or are unable to provide an audited statement, including a warehouse line or adequate liquidity, and wish to continue engaging in the mortgage business, it will be necessary to file a new application for a mortgage broker's license through the NMLS.

Mortgage Brokers
Mortgage brokers are required to provide a certified statement of financial condition that demonstrates a net worth of at least twenty-five thousand dollars ($25,000). The certified financial statement must be uploaded into the NMLS within 90 days after the company's fiscal year ends.

A broker must mail to our office evidence (in the form of a copy of a bank statement or other verifiable documentation) that the broker owns and holds continuously cash or other liquid assets in a demand deposit (or other liquid) account under the firm's name of at least ten thousand dollars ($10,000) in an FDIC-insured financial institution.

If you are a broker and do not meet the new financial responsibility requirement, you should contact our office.

Both lenders and brokers must submit a North Carolina Annual Report Questionnaire by March 31st of every year. The Annual Report Questionnaire is now based on a calendar year (January through December), and collects only North Carolina data and should be electronically entered on the Commissioner of Bank's website at: https://www.nccob.org/Online/NMLS/Default.aspx.

If you have questions, you may call Teresa Browning at 919-733-6904 or email me at TBrowning@nccob.gov.

(Examinations continued from page 1)

begin incorporating both RegulatorConnect and ComplianceAnalyzer® into its examination process.

As part of the examination process, licensees will be requested to submit electronic loan portfolio data through RegulatorConnect for analysis by ComplianceAnalyzer®. Licensees will create a Comma Separated File (CSV) containing loan data from originations during the examination period. Most commercial loan origination software and loan closing software can automatically create the CSV file. Licensees can register at www.regulatorconnect.org to access more information regarding the CSV file.

Legal Updates

By David Worth, Staff Attorney

Fees

How much may we charge for services? If you have questions about the fees that you as a broker or lender may lawfully receive from a borrower, review the provisions of the following statutes: N.C. Gen. Stat. §§ 24-1.1A(c)(1)a.– f.; 24-10(g); 24-1.1E; and 24-1.1F. Additional information can be found on our website at: www.nccob.org at the Legal Compliance Link under Mortgage.

Generally, if the fee is not one listed in G.S. § 24-1.1A(c)(1)a. through c., it will fall under f. and the total of those fees are limited to the greater of ¼ of 1% of the loan amount or $150. If total miscellaneous fees exceed that amount, the loan may be considered usurious, the penalties for which will be expensive. Even if the fee is one listed in G.S. § 24-1.1A(c)(1)a., the fee must relate to the name assigned to it. One may not charge a discount fee if there is no discount of the interest rate nor may you assess a commitment fee if there is never any clearly detailed commitment (not a good faith estimate) communicated to the borrower.

If the loan is a junior or second priority loan, including an equity line, total fees payable to the lender and broker may not exceed 2% and, depending on the lender, may be limited to 1% of the loan amount. See G.S. § 24-10(g) for 2nd loan limits.

Just because the fee may be permitted under the foregoing statutes does not mean you are home free; you must also consider the high cost and rate spread loan statutes. If your analysis of the terms of the loan causes you to conclude because of APR or other factors that the loan is covered by G.S. § 24-1.1F, then there are additional fee limitations, not only as to type (for example, no YSP), but also as to amounts.

Lastly, you should review the provisions of G.S. § 24-1.1E which covers the fees that must be included to determine if the loan is a high cost loan. Generally, if the total of fees payable to the lender and broker (*including PMI or FHA, VA or similar funding or mortgage insurance fee, and any fees payable to an affiliate of the lender or broker or an attorney picked by the lender or broker*) exceeds 5% of the total loan amount, you will be making a high cost loan which triggers additional disclosures and may limit the terms that may be placed on the loan. Failure to comply with those limitations may result in a usurious loan.

Education Updates

By Mary DesChamps, Education Director

Initial Education Requirements

Before applying for a mortgage loan officer license, an individual must:

- Complete a Mortgage Fundamentals Course approved by the NCCOB preceding the date of the application. Course consists of 24 hours of classroom instruction.
- Pass the NC Mortgage Loan Officer Test at an official testing center.
- Submit an application via NMLS and pay the appropriate fees online at: http://www.stateregulatoryregistry.org/.

Continuing Education Requirements

Except for their first year of licensure, loan officers are required to complete eight (8) hours of North Carolina approved continuing education courses to be eligible for renewal by December 31st.

To facilitate a timely renewal and avoid additional paperwork, all loan officers are strongly encouraged to complete coursework prior to October 31st of each year so that these education hours can be documented in the renewal notices which are sent out each October. Continuing education **must be completed by December 31st.**

Failure to meet this requirement may result in loss of license or having to apply and meet all initial educational requirements, including the North Carolina Loan Officer Licensing test.

Mortgage FAQ's

Q. The renewal period ended February 28, 2009 and my license has expired. What are my options?

A. You must reapply for a new license. If you would like to continue in the business as a loan officer, you must begin the process as if you were an initial applicant: (1) take the 24 hour fundamentals course; (2) take the 100 item PSI exam; (3) submit application through the NMLS; and (4) forward a copy of the Authority for Release along with the processed fingerprint card, copy of course completion certificate and test results to NCCOB.

Q. It has been a difficult year and my company is considering closing. What are the steps to ceasing business operations in NC?

A. See highlighted link for steps to closing a mortgage company in NC http://www.nccob.org/NCCOB/Mortgage/LendersBrokers/Instructions+for+Ceasing+Business+in+NC.htm**.**

Q. I wish to operate a "net branch" for a licensed mortgage company. Can I do this under the Mortgage Lending Act?

A: If you solicit loans secured by residential real estate in North Carolina, you will need a loan officer license and at least three years of experience in the mortgage lending business in order to be designated to manage a branch office, *which may not be located at an individual's home or residence*. You must either be a loan officer employee of the licensee or you must obtain a sole proprietor mortgage lender or broker license. *You and your employer should review the Commissioner of Banks' Declaratory Ruling 2003-1* regarding "net branching" to be certain the arrangement you have with the lender or broker licensee satisfies the Mortgage Lending Act's requirements as interpreted in that Ruling. The text of the Ruling is available online at: http://www.nccob.org/.

Q. Is it legal to charge a fee for assisting homeowners with negotiating loan modifications or workout plans for their residential mortgage loans? Is a license required?

A. Generally speaking, it is a criminal offense to engage in the business of debt adjusting as defined in N.C. G.S. § 14-423 et seq. Prohibited "debt adjusting" specifically includes foreclosure assistance or debt settlement services if any advance fees are collected from the consumer. Therefore, it would be unlawful to charge upfront fees to negotiate loan modifications for homeowners.

Creditors and their full-time employees collecting on debts are exempt from this prohibition. In addition, certain other persons are exempt from the criminal statute, such as attorneys not employed by a debt adjuster and accredited non-profit credit counseling agencies in certain situations.

Effective January 1, 2009, NCCOB will license and regulate mortgage servicers that may be involved in loss mitigation activities on behalf of a creditor. While no license is required for persons that act under an exemption, any licensee operating under such an exemption should continue to act with regard to borrowers in a manner that comports with the requirements of good-faith and fair dealing as required under the Mortgage Lending Act.

The best practice if or when contacted by a borrower seeking this type of assistance is to encourage him/her to contact a local non-profit housing or credit counseling agency (a list is on our state foreclosure prevention website www.ncforeclosurehelp.org) or by calling 1-888-995-HOPE to speak with a counselor who is authorized to provide this service. *See loan modification and debt repair memo under latest news found online at* http://www.nccob.org.

Q. How do I print my license and/or view education history?

A. See https://www.nccob.org/Online/NMLS/LoanOfficerLogin.aspx to print your license by entering your license number and last 4 digits of your social security number. This page will also allow you to view your education history of courses that you have taken in past years.

Consumer Industries

By Branton Grimes,
Financial Program Manager

Check Cashing Examinations

Bank Secrecy Act Compliance:
The vast majority of licensed check cashers are also money service businesses (MSBs), which are subject to Bank Secrecy Act requirements (BSA). Some recent examinations have noted significant deficiencies in BSA compliance, especially ones of smaller stores where check cashing is not the primary business. As a result, NCCOB is making efforts to increase compliance awareness and understanding in the industry.

We are sponsoring an MSB compliance training session on **June 9, 2009,** at our Raleigh office for **check cashing licensees** interested in compliance issues. This will be an opportunity to hear from state and federal representatives, and ask any questions you may have. More details are provided in the notice attached for licensed check cashers.

The Financial Crimes Enforcement Network (FinCEN), a division of the U.S. Treasury Department, maintains a website devoted to MSB compliance at www.msb.gov. This site provides guidance, forms, materials, publications, news updates, and more.

Please take advantage of these resources and also feel free to call the NCCOB should you have any questions.

Consumer Finance Examinations

Policies and Procedures:
We have often described our examinations as either "top down" or "bottom up." Consumer finance examinations have traditionally been focused at the "bottom" individual branch locations, reviewing loan transactions for compliance, and transmitting report findings "up" to the licensee's headquarters for adjustments to be made to fix the problem. Over the past two years the NCCOB has conducted several corporate style examinations where the focus is at the "top" or administrative level, reviewing policies and procedures pertaining to compliance with State law, where recommended changes and enhancements feed "down" to the branches in order to prevent future violations.

Both styles of examination are effective, but the corporate examination style has brought to our attention the need for strong internal controls to prevent violations. These controls include not only written policies and procedures, but also an automated system effectively designed to maintain compliance, a comprehensive training program, and internal oversight.

All licensees are encouraged to review their internal controls and make any changes necessary to maintain compliance. Preventing violations and exception errors saves time and avoids the inconvenience of making unexpected refunds.

Check Cashing License Renewals

By Rodney Oldham, Financial Program Manager

Check-cashing license renewals for 2010 will begin online **July 15, 2009,** and will end **September 30, 2009.** Renewals not received by this time will not be processed. Our web address for check-cashing renewals is: https://www.nccob.org/Online/OnlineLogin.aspx?System=CCS.

Consumer Industries FAQ's

Q. How long does it take to for my application to be processed (check-cashing, refund anticipation loan facilitator, and consumer finance)?

A. Applications are processed within 30 days of the receipt of a **complete application**.

Q. Where can applications be found?

A. Applications are found on our website at: www.nccob.gov – and clicking on **CONSUMER INDUSTRIES**, then selecting the appropriate application forms, etc., from the drop-down menu.

Current License Status as of April 9, 2009

Mortgage Company License - Approved

Mortgage Brokers	427
Mortgage Lenders	514
Mortgage Servicers	24

Mortgage Individual License - Approved

Loan Officers	8,265
Exclusive Mortgage Brokers	406
Limited Loan Officers	1,149

Consumer Industries License—Approved

Check-Cashers	387
Consumer Finance Licensees	83
Refund Anticipation Loan Facilitator Registrants	874
Money Transmitters	68

Contact Information

N.C. Office of the Commissioner of Banks
316 W. Edenton Street (physical location)
Raleigh, NC 27603

4309 Mail Service Center (mailing address)
Raleigh, NC 27699-4309

Phone:
919.733.3016 Main Number

Fax:
919.733.6918 Main

Mortgage

Phone:
919.733.0589

Fax:
919.733.2978 Mortgage

Email:
Mortgage@nccob.gov

Consumer Industries

Phone:
919.733.3016

Fax:
919.733.6918

Email:
ConsumerIndustries@nccob.gov

Nationwide Mortgage Licensing System (NMLS)

Web address:
http://www.stateregulatoryregistry.org/

NMLS — Help Desk: 240.386.4444

File a complaint at:
https://www.nccob.org/Online/CTS/ComplaintOnline.aspx