MORTGAGE LOAN ORIGINATORS WHAT'S NEW IN THE NEWS?

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Topics

- New laws & regulatory requirements
- Common exam violations
- Cyber security
- Coming up next. . .

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New laws & regulatory requirements Federal S2155 – law 05.24.18

- Sec. 102. Safeguarding access to habitat for humanity homes ***Effective immediately***

• Appraisal services donated voluntarily to an organization eligible to receive tax-deductible charitable contributions (e.g., Habitat for Humanity) considered "customary and reasonable" under TILA.

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New laws & regulatory requirements Federal S2155 – law 05.24.18

- Sec. 103. Exemption from appraisals of real property located in rural areas ***No specified effective date (Regulations required to give effect)***

• Exempts mortgages of $400,000 or less in rural areas from appraisal requirements if the originator is unable to find a State certified or State licensed appraiser to perform an appraisal after a good faith effort to do so.

• Exemption from appraisal requirements generally not transferable

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New laws & regulatory requirements Federal S2155

- Sec. 106. Eliminating barriers to jobs for loan originators ***Must be made effective within 18 months after the date of enactment of this Act (11.24.19)***

• CSBS-MBA negotiated language that provides 120-day temporary authority to operate as state-licensed mortgage loan originator for individuals who are:

(1) a registered LO who becomes employed by a state-licensed mortgage company, or

(2) a state-licensed LO who becomes employed by a state-licensed mortgage company in a different state.

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New laws & regulatory requirements Federal S2155

- Sec. 109. No wait for lower mortgage rates ***No specified effective date (Regulations required to give effect)***

• Removes the 3D wait period required for the combined TILA/RESPA mortgage disclosure if a creditor extends to a consumer a second offer of credit with a lower annual percentage rate.

• BCFP should provide clearer guidance on the application of TRID to mortgage assumptions, construction-to-permanent home loans, and the reliability of the Bureau's model disclosures. Implementation details to regulations and/or guidance to be written later.

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New laws & regulatory requirements Federal S2155

- Sec. 301. Protecting consumers' credit ***Goes into effect 120 days after enactment.*** **(09.21.18)**

• Amends the Fair Credit Reporting Act to provide that credit bureaus will be required to include in the file of a consumer fraud alerts for at least a year and provide a consumer unlimited free security freezes and removals of security freezes.

• The Federal Trade Commission (FTC) is required to establish a public webpage, with links to credit reporting agency security freeze webpages (no deadline for implementation).

• Preempts state laws providing specific timelines for placing and removing security freezes.

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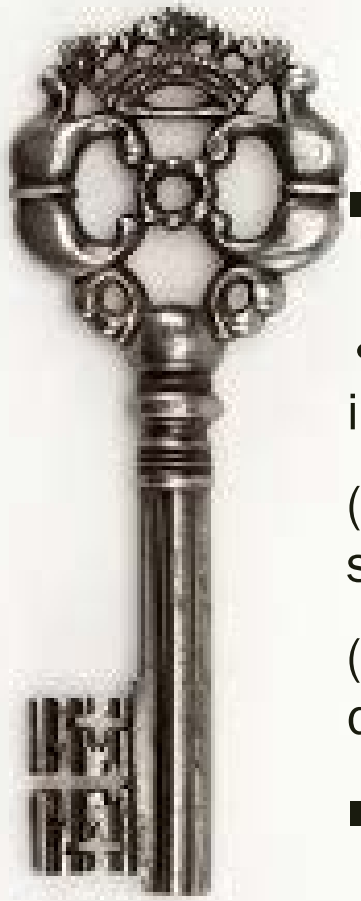
New laws & regulatory requirements Federal S2155



- Sec. 302. Protecting veterans' credit ***No specified effective date (Regulations required to give effect – May 2019*)***

• Amends the Fair Credit Reporting Act to exclude from consumer report information:

(1) certain medical debt incurred by a veteran if the hospital care or medical services relating to the debt predates the credit report by less than one year; and

(2) a fully paid or settled veteran's medical debt that had been characterized as delinquent, charged off, or in collection.

- Department of Veterans Affairs to establish a database (within 1/yr) to allow consumer reporting agencies to verify veterans' medical debts. The FTC is directed to provide free credit monitoring services to active duty members of the military, including members of the National Guard.

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New laws & regulatory requirements Federal S2155

- Sec. 309. Protecting Veterans ***Goes into effect 180 days after enactment. (11.20.18)***

• Requires VA lenders to demonstrate a material benefit to consumers when refinancing their mortgage.

- Department of Veterans Affairs to create regulations to implement the provisions designed to ensure that financial institutions that offer to refinance a veteran's residence demonstrate there will be a "net tangible benefit," (i.e., the refinancing is in the financial interest of the borrower).

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New laws & regulatory requirements State

- Act 22 Effective 7-1-18 (SLH2018) Relating to Consumer Protection
  - *Expands the methods by which a consumer may request a security freeze.*
  - *Specifies that a consumer credit reporting agency shall not charge a fee for placing, lifting, or removing a security freeze on a consumer's credit report or for placing or removing a security freeze on a protected consumer's credit report or records.*

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New laws & regulatory requirements State

- Act 241 (SLH 2015) Medical Cannabis program
  - *Residential loans to employees*
  - *Cash deposits*
  - *Unexplained wealth*

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New laws & regulatory requirements

- Questions??

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Common violations
Physical location

- Section 454F-10.5(g), HRS, provides that the principal place of business and each branch office of the mortgage loan originator company shall be identified in NMLS to consumers as a location at which the licensee holds itself out as a mortgage loan originator company.
- The Company provided photos of a commercial location that did not resemble the description of its Hawaii location.
- The Company admitted the photos were not of the Hawaii location.
- The Company did not have a sign showing business hours nor did they have business hours posted on their website.

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Common violations
Record retention

- Section 454F-1.7(c)(11), HRS, provides that a qualified individual for a mortgage loan originator company shall be responsible for ensuring that the records, loan documents, and agreements including mortgage loan originator agreements are retained for seven years on paper or in electronic format by the mortgage loan originator company.
- The Company indicated that the Company's retention period for open and closed loan files is four years, and two years for denied, canceled, and rescinded loan applications.

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Common violations
Mortgage Call Reports

- Section 454F-16, HRS, and in accordance with the requirements of the Federal Safe Act, all State mortgage licensees must submit within 45 days of the end of every calendar quarter a report of condition to NMLS in such form and containing such information as NMLS may require. . . In addition, all State mortgage licensees that submit a Standard MCR must also submit the FC component of the Standard MCR within 90 days of the Company's fiscal year end.
- The Company was required to file its 2017 Financial Condition ("FC") component of the Standard Mortgage Call Report ("MCR") through the NMLS by March 31, 2018.
- On April 1, 2018, the Company was sent a notice that the FC component was not filed.
- On April 4, 2018, the Company filed its 2017 FC component, four days after the report was due.

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Common exam violations
Mortgage foreclosure

- **Mortgage Foreclosures, Section 667-41, Hawaii Revised Statutes ("HRS") - Public information notice requirement**
- Section 667-41(a), HRS: "All financial institutions, mortgagees, lenders, business entities and organizations without limitation, and persons, who intend to use the power of sale foreclosure under this part, . . . shall provide the public information notice . . . and to any applicant submitting a loan application where residential property is required to be used to secure the loan. The notice shall be provided to all applicants and all owners of the residential property . . . within three business days after the submission of a written loan application, or within three business days after the time residential property is required to be used to secure a loan, whether or not there is a written loan application."
- In 3 of 10 originated/closed loan transactions the Company did not provide the Hawaii mortgage foreclosure public information notice to the applicant.

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Common exam violations Privacy laws

- Title 16 CFR, Part 313, Privacy of Consumer Financial Information – Model Privacy Form
- Section C of Appendix A, Information required in the Model Privacy Form, includes general instructions for the disclosure table and specific disclosures and corresponding legal provisions.
- The Company issued a different privacy notice depending on which MLO processed the loan. Examiners identified that in some instances, the Company issued a self-created Privacy Policy Notice. In other instances, the Company issued a Model Privacy Form but left sections of the table blank.

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Common exam violations
Reg Z - TILA

Loan A

- Consumer locked the interest rate on October 15, 2017.
- The Company then issued a revised LE dated October 18, 2017 that disclosed zero loan points, with an interest rate lock expiration date of November 13, 2017.
- November 1, 2017, the Company issued a revised LE due to interest rate pricing disclosing a one percent loan origination fee in the amount of $11,580. However, the change in interest rate pricing is not a change in circumstance event because the interest rate lock from the prior LE had not expired.
- The Company was ordered to pay the consumer $11,579.93 which is the actual loan points erroneously charged to the consumer as disclosed on the final CD.

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Common exam violations
Reg Z - TILA

Loan B

- The consumer locked the interest rate on 01.27.17. The Company then issued a revised LE on the same day that disclosed lender credits of $506, with an interest rate lock expiration date of 03.11.17.
- The Company reduced the lender credits to $397.11 on the CDs dated 03.10.17, 03.11.17and 03.14.17. The Company did not provide an explanation for the revised LE for a valid change in circumstance.
- The lender credits of $505.91 originally disclosed on 01.27.17 LE should have been honored at loan closing.
- The Company was ordered to refund $108.80 to the consumer, which is the difference in lender credits between the 01.27.17 LE and the final CD.

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Common exam violations Reg Z - TILA

- **Truth in Lending (Regulation Z), Title 12 Code of Federal Regulations ("CFR") 1026.19(e)(3): Good Faith Determination for Estimates of Closing Costs**
- 12 CFR 1026.19(e)(3)(i) provides that an estimated closing cost on the Loan Estimate ("LE") is in good faith if the charge paid by or imposed on the consumer does not exceed the amount originally disclosed.
- *12 CFR 1026.19(e)(3)(iv) provides that f*or the purpose of determining good faith, a creditor may use a revised estimate of a charge instead of the estimate of the charge originally disclosed if the revision is due to valid reasons.

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Common exam violations
Reg Z - TILA

- Examiners reviewed 10 residential mortgage loans and identified four loans where the Company did not list the homeowner's association charges under Closing Cost Details, Section H. Others.
- The Company erroneously listed homeowner's association charges under Closing Cost Details, Section C. "Services You Can Shop For on Loan Estimates" and Section C. "Services Borrower Did Shop For on Closing Disclosures."

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Common exam violations
Reg Z - TILA

- **Truth in Lending (Regulation Z), Title 12 CFR 1026.37(g)(4) and 1026.38(g)(4), Content of disclosures for certain mortgage transactions (Loan Estimate and Closing Disclosure) - Closing Cost Details**
- *12 CFR 1026.37*(g)(4) states "Under the subheading "Other," an itemization of any other amounts in connection with the transaction that the consumer is likely to pay or has contracted with a person other than the creditor or loan originator to pay at closing and of which the creditor is aware at the time of issuing the Loan Estimate, a descriptive label of each such amount, and the subtotal of all such amounts."
- Official Interpretation to Section *1026.37*(g)(4), item 4, provides examples of other items that are disclosed under this section, which include homeowner's association and condominium charges associated with the transfer of ownership.

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Common exam violations ECOA

- **Equal Credit Opportunity Act (Reg B), Title 12 CFR 1002.9: Notifications**
- 12 CFR 1002.9(a)(1) requires a creditor to notify an applicant of action taken within: (i) 30 days after receiving a completed application concerning the creditor's approval of, counteroffer to, or adverse action on the application; (ii) 30 days after taking adverse action on an incomplete application, unless notice is provided in accordance with paragraph (c) of this section; (iii) 30 days after taking adverse action on an existing account; or (iv) 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.
- Examiners found 3 of 10 cancelled, withdrawn or rescinded files that exceeded the 30-day notification requirement.

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Common exam violations ECOA

- **Equal Credit Opportunity Act (Regulation B), Appendix A to Part 1002 - Federal Agencies To Be Listed in Adverse Action Notices**
- The Federal Equal Credit Opportunity Act ("ECOA") prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided the applicant has the capacity to enter into a binding contract). . . Appendix A to Part 1002 lists the name and address of the Federal agencies that should be listed in notices provided by creditors.
- In 10 of 10 originated and closed residential mortgage loans reviewed, the Company incorrectly disclosed the wrong office as the Federal Agency that administers compliance with this law. The correct federal agency and address should be **Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580**.

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Common exam violations

- Questions??

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Cyber security-
Tips on how to keep information safe

TOPICS

What is a cyber threat?

Cyber Hygiene

What to do if you are the target

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What is a cyber threat?

- Your day starts at 5:30 am. You check your social media sites and wish friends happy birthday. You check to see what events are going on this evening or this weekend.
- Time to exercise. You grab your Fitbit, hit the treadmill and exercise.
- During breakfast you grab your iPad or tablet and catch up on the daily news, check weather and traffic while listening to Alexa or Hey Google.
- You log into your Pop Money account and pay a friend back for yesterday's lunch.
- You schedule Lyft to take you and your friends out this evening.

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What is a cyber threat?

- Time for work. You grab your phone and head out the door. You turn on the Bluetooth so you can get updates on traffic and calls via your car stereo.
- You step into your office door and cannot remember if you locked the door and set the alarm. You activate the lock and alarm with your phone and turn off the air conditioner.
- During the day you check your bank and investment accounts, use your phone to deposit a check. OnStar lets you know your car needs an oil change.
- End of work day. You order pizza to be delivered on your mobile app, turn on the air conditioning.

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What is a cyber threat?

- You pick up milk and eggs with Apple Pay or Google wallet after you check the refrigerator app to see that you are running low.
- At home, you log into your Pelaton class via your smart TV then Skype your friends to have dinner together.
- Before you go to bed you pay a couple of bills via your laptop, deposit a check with your phone, buy new shoes, transfer money to your college son, and finally make sure your Fitbit is auto-synced, answer emails and update your social media.

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What is a cyber threat?

- How much information about you did you transmit today?
- Do you use Alexa or Hey Google at work?
- How is that information being protected? By whom?
- Where is the information stored?
- How is the information being used?
- When and how is the data destroyed?

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What is a cyber threat?

- Information security deals with all data and information in all formats.
  - *Hard copies*
  - *Electronic*
  - *Intellectual property*
- Cybersecurity is a subset of information security.
  - *It implements key data management controls.*
  - *It protects any device that connects to the web, programs, apps & data from unauthorized access.*

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What is a cyber threat?

- Information privacy is the right to have some control over how your personal information is collected and used.
- Data privacy is how our personal data is used. Privacy departments focus on developing policies to ensure personal information is collected, shared, and used in appropriate ways.
- Cyber security is about protecting electronic information & data from vulnerabilities.
- Cyber threat is anything that threatens the protected information & data.

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What is a cyber threat?

- During the day – how many times was personal information shared and potentially endangered?

- That's why we are talking about Cyber Threats and Cyber Hygiene

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Cyber hygiene

- IDENTIFY internal and external cyber risks
- PROTECT organizational systems, assets, and data
- DETECT system intrusions, data breaches, and unauthorized access
- RESPOND to a potential cybersecurity event
- RECOVER from a cybersecurity event by restoring normal operations & services

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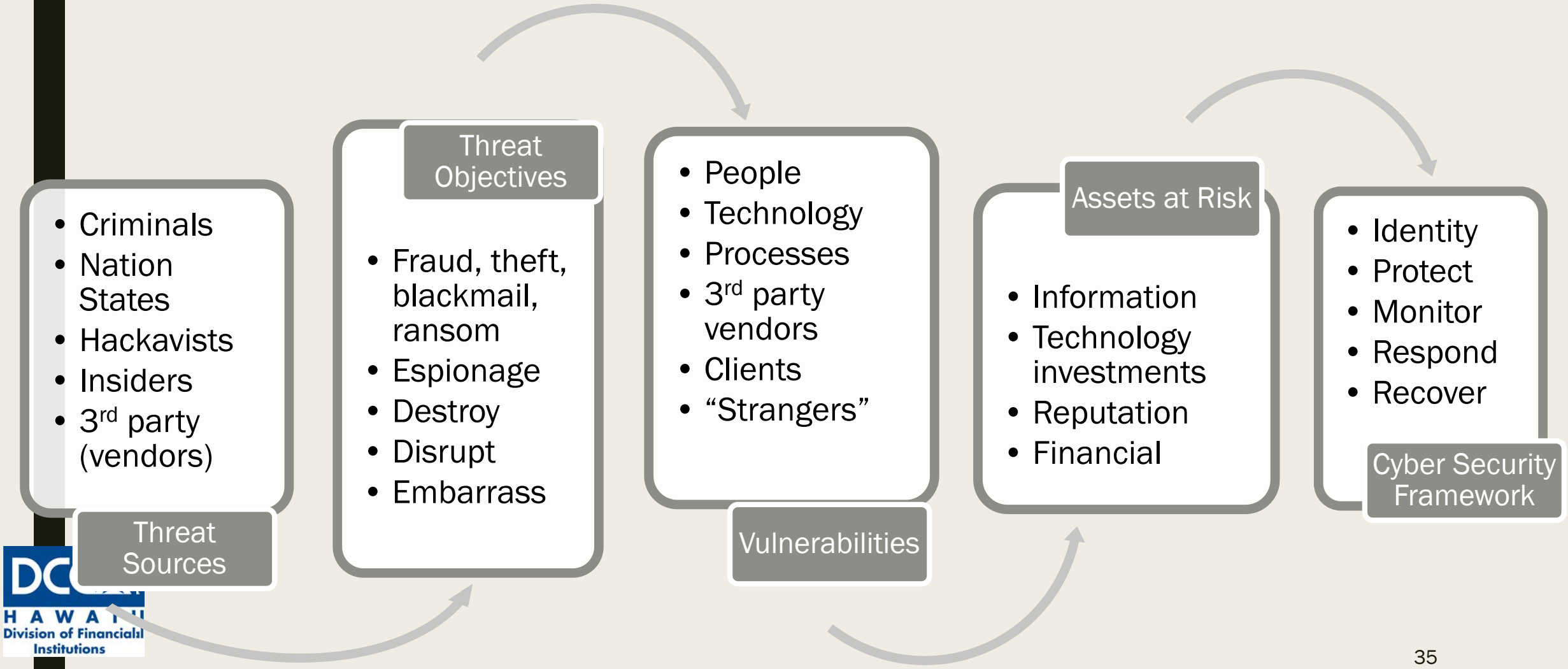
Cyber hygiene Framework



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Cyber: IDENTIFY

- Risk assessment
  - *Classify your "crown jewels"*
  - *Identify threats & vulnerabilities*
  - *Measure risk*
  - *Communicate risk*

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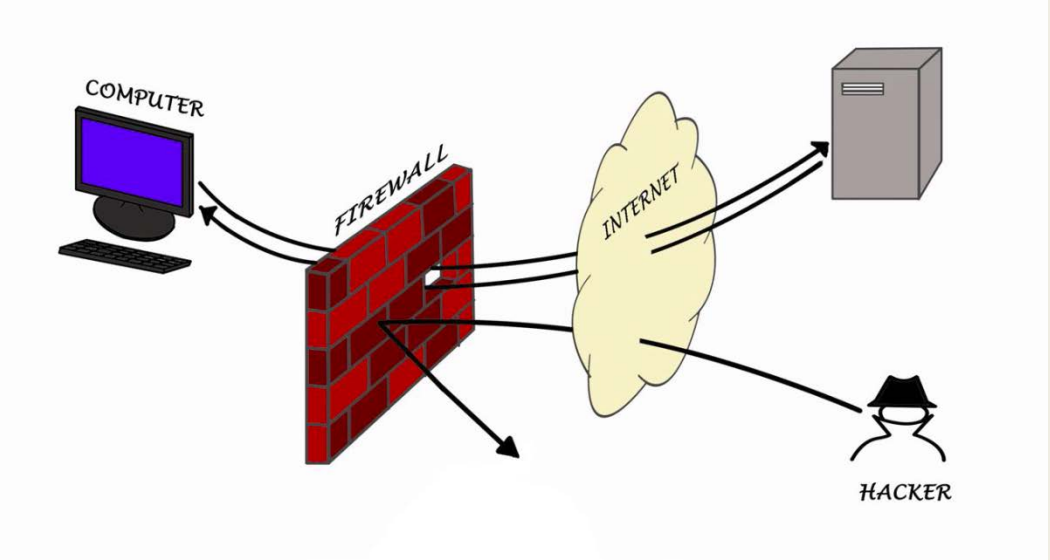
Cyber: PROTECT

- Cyber hygiene:
  - *Steps computer users take to protect and maintain systems & devices.*
- Customer authentication
- Access controls
- Data security



Source: CSBS

Cyber: DETECT

DETECT tools are the reinforcement of the Protect tools

- Intrusion Detection Systems;
- Network Behavior Anomaly Detection Tools;
- Security Information and Event Management /Log Analyzer;
- Configuration Management Tools; and
- Integrity Monitoring Tools.

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Cyber: DETECT examples

Common cyber-attacks that you should know about and understand are:

- Distributed Denial of Service (DDoS) attacks;
- Corporate Account Take Over (CATO) attacks; and
- CryptoLocker attacks.

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Cyber: RESPOND

Cybersecurity data breaches are now part of our way of life.

- The Incident Response Plan
- Communicating the Data Breach
  - *State law on notification*
- You've Been Hacked/Attacked, What Are Your Next Steps?
- The following are three steps to consider:
  - *Triage/Evaluate the Cyber-event;*
  - *Invoke the Incident Response Plan; and*
  - *Review the effectiveness of the plan.*

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Cyber: RECOVER

Restore & Review

- Recover infrastructure – step-by-step plan to rebuild
- Restore data – use back up data
- Reconnect service – this may take weeks to restore normal operations

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Cyber Hygiene

Planning

- Who has the lead responsibility for different elements of the cyber incident
- How to contact critical personnel 24/7
- How to proceed if critical personnel is unreachable
- Protect the crown jewels
- How to preserve data related to the intrusion
- How to determine whether data owners, clients or partner companies need to be notified
- Procedures for notifying law enforcement

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Cyber Hygiene

Back up

- Have ready access to technology & services
- Off-site data back-up
- Intrusion detection capabilities
- Data loss prevention technologies
- Devices for traffic filtering or scrubbing
- Servers should be configured to ID a network security incident
- Install software updates

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Cyber Hygiene

Network monitoring

- Real-time monitoring
- Computer user agreements, workplace policies & training

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Cyber Hygiene

Cyber Incident management

- Cyber incidents can raise unique legal questions
- Have ready access to advice from lawyers familiar with cyber incident response

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Cyber Hygiene

Up-to-date policies

- Review personnel and human resource policies
- IT policies
- Reasonable access controls on networks

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What to do if you are the TARGET STEP 1: Initial Assessment

- Immediately make an assessment of the nature and scope of the incident
- Have appropriate network logging capabilities
- Identify: users, connections, processes, open ports
- External communications
- Look for evidence of criminal incident

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What to do if you are the TARGET STEP 2: Minimize Damage

- Reroute network traffic
- Filter or block a distributed denial-of-service attack or
- Isolate all or parts of the compromised network
- Block illegal access
- Keep detailed records of steps taken to mitigate the damage and any associated costs
- Abandon network & restore with back-up file

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What to do if you are the TARGET
Step 3: Record & Collect Information

- Create a “forensic image” of the affected computers
- Locate back ups
- Use new or sanitized equipment
- Restrict access to protect data

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What to do if you are the TARGET
Step 3: Record & Collect Information

- Describe all incident-related events, including dates and times;
- Include incident-related phone calls, emails, and other contacts;
- Identify persons working on tasks related to the intrusion;
- Identify the systems, accounts, services, data, and networks affected and describe how these network components were affected;
- Retain information relating to the amount and type of damage inflicted by the incident, important in civil actions and criminal cases;
- Know the type and version of software being run on the network; and
- Are there peculiarities in the firm's network architecture, like proprietary hardware or software.

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What to do if you are the TARGET
Step 4: Notify

- People in your company
- Notify your clients
- Law enforcement
- Other potential victims

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What NOT to do after a Cyber Incident

- Do NOT used the compromised system to communicate
- Do NOT hack into or damage another network

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Recovery

- Continue to monitor the network for any unusual activity
- Continue to monitor the network to make sure the intruder is expelled
- Conduct a post-incident review to identify deficiencies in planning and execution

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CYBERSECURITY

Questions?

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