

# What to expect during a Hawaii DFI examination and other hot topics.

Iris Ikeda, Commissioner

Division of Financial Institutions

Department of Commerce and Consumer Affairs

July 2016



# Agenda

- ▶ Introduction letter
- ▶ Examination
- ▶ Post-Examination
- ▶ New laws
- ▶ Reminders

# Introduction Letter

- ▶ Dates of the examination
  - ▶ What to send for pre-examination review
  - ▶ What to have available for the on-site review
  - ▶ Questionnaire
- 
- ▶ Based on your response, we assess the risk and determine what we will review

# Examination – Off-site review

## ▶ Pre-examination

- ▶ Review the documents prior to the on-site review
- ▶ MCR filings
- ▶ Annual filing
- ▶ Policy and procedures

# Examination - on-site

- ▶ Review loan files
  - ▶ Originated
  - ▶ Withdrawn
  - ▶ Denied
  - ▶ Pre-approvals
- ▶ Review policies and procedures

# Post-Examination

- ▶ Exit call
- ▶ Report of Examination
- ▶ Review any follow up responses from Report of Examination

# Break

▶ Questions??

# Examination Process - Example

- ▶ Process
- ▶ Sent through a secured portal, accessible only to the contact person
- ▶ Send documents through the same portal for review



# Examination Process - Example

- ▶ Review regulatory compliance
- ▶ Bank Secrecy Act and Anti-Money Laundering Law (BSA/AML),
- ▶ Regulation B (Equal Credit Opportunity Act),
- ▶ Regulation P (Privacy of Consumer Financial Information),
- ▶ Regulation V (Fair Credit Reporting Act),
- ▶ Regulation X (Real Estate Settlement Procedures),
- ▶ Regulation Z (Truth in Lending),
- ▶ Chapter 454F, Hawaii Revised Statutes
- ▶ Financial condition
- ▶ Consumer complaints

# Examination Process - Example

- ▶ Examination Findings and Comments
- ▶ Apparent violations
- ▶ Observations

# Examination Process - Example

## Most frequent State violations

- ▶ HRS 454F-10.5(g) - Authorized places of business; designation of qualified individuals and branch managers; branch offices; principal office; relocation.
  - ▶ Place of business not open to the public (not identified on website)
  - ▶ Office hours
  - ▶ Website or electronic posting of office hours

# Examination Process - Example

## Most frequent State violations

- ▶ **Secure And Fair Enforcement for Mortgage Licensing Act (“SAFE Act”), Section 454F-17(1) HRS, Prohibited practices**
  - ▶ Not keeping website up to date with current MLO contact information

# Examination Process - Example

## Most frequent Federal violations

- ▶ **Bank Secrecy Act (“BSA”)/Anti-money Laundering (“AML”), Title 31 CFR 1029.210: Anti-Money laundering programs for loan or finance companies**
  - ▶ Policies and procedures not tailored to MLOC business
  - ▶ Designation of a qualified BSA/AML officer
  - ▶ Adequate ongoing training (documented)
  - ▶ Periodic independent testing
    - ▶ Independent audit not independent
    - ▶ No risk assessment

# Examination Process - Example

## Most frequent Federal violations

- ▶ Equal Credit Opportunity Act (“ECOA”), Title 31 CFR (1002.5)(c)(2) - Permissible inquiries and 31 CFR (1002.6)(8) - Marital status
  - ▶ OK to ask if spouse financially obligated on the loan
  - ▶ OK to ask about domestic partners if s/he is financially obligated on the loan

# BSA reminders

## 4 pillars

- ▶ Internal controls
- ▶ BSA Officer
- ▶ Training
- ▶ Independent audit
- ▶ CIP

# Examination Process - Example

- ▶ Typical observations
- ▶ 454F-1.7(c)(11) Duties of a mortgage loan originator company's qualified individual and branch manager - Record Retention
  - ▶ 7 years
  - ▶ Paper based or electronic documents



# Examination Process - Example

- ▶ Typical observations
- ▶ Title 16 CFR, Part 313, Privacy of Consumer Financial Information - Model Privacy Form
  - ▶ Fill out the form
- ▶ Equal Credit Opportunity Act ("ECOA"), Title 12 CFR 1002.9(a)(2) - ECOA Notice
  - ▶ Identify the federal agency & address

# Break

▶ Questions??

# New Laws

- ▶ Act 122 (SLH2016)
  - ▶ Administration sponsored bill to separate MLO/MLOC laws from MS laws
  - ▶ Clarified the scope of activity in the MLO/MLOC and MS chapters
  - ▶ Improve the consistency of terminology in the 2 chapters
  - ▶ Eliminate the requirement of the mortgage loan servicer loan mod license

# New Laws

- ▶ Act 144 (SLH2016)
  - ▶ HAMB sponsored bill to clarify office hours.
  - ▶ MLOCs are required to be open for business during posted business hours, some of which shall be during regular business hours.

# Reminders

- ▶ Examinations can occur at any time
- ▶ Examination fees include
  - ▶ \$60/hour per examiner
  - ▶ Travel costs
  - ▶ Range
- ▶ Investigations can occur at any time based on any consumer complaint
  - ▶ Note, anonymous complaints - if you complain anonymously, you will not receive any updates from DFI.
  - ▶ In order to get two sides of story, DFI will ask you to respond to any consumer complaint with any action you may have taken

# Reminders

## ▶ CyberSecurity

- ▶ Cyber hygiene should be practiced
- ▶ Protection of personally identifiable information
- ▶ Using encryption

## ▶ RESPA

- ▶ RESPA prohibits kickbacks and unearned fees
- ▶ MLO sponsoring a luncheon w/continuing education
- ▶ MLO sponsoring educational activity

# Reminders

- ▶ Truth in Lending/RESPA Disclosures
  - ▶ Must be provided 3 days after application
  - ▶ Do you have to provide this disclosure?
    - ▶ Taking an application?
    - ▶ Pulling a credit report?

# Contact us

- ▶ Website: <http://cca.Hawaii.gov/dfi>
- ▶ Twitter: @HawaiiDFI
- ▶ Email: [dfi-nmls@dcca.Hawaii.gov](mailto:dfi-nmls@dcca.Hawaii.gov)
- ▶ Telephone: 808.586.2820