

## WELCOME!

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For ALTA® "Seven Pillars of Best Practices" articles see [archived newsletters](#).

#### *Coming up in future issues:*

**March 2014 Issue:**  
Compliance in Marketing and Sales

**April 2014 Issue:**  
RESPA Compliance plus Notary and Mobile Notary Compliance

**In last month's issue of *TheFourthC*, I summarized some of WFG's compliance and audit related activities from 2013 and provided a preview of what we might expect in 2014. Since writing that article, I have realized – again – the incredibly vast landscape and the almost undefinable depth and breadth compliance-related initiatives have had on the financial services industry. Undeniably, loan originators and mortgage servicers have been the ones most directly impacted. Third party providers (what settlement providers like WFG are commonly known as) and fourth party providers (including notaries and couriers we engage to assist in the closing process) have also been significantly affected by new rules.**

Every day I hear from compliance managers, title agents and WFG managers, asking compliance related questions. Compliance as a new rigor and discipline – and specific compliance related issues is a common topic of conversation. When this increased awareness is coupled with the ground swell of initiatives designed to mitigate compliance related risk, we have to conclude the title and settlement services businesses have entered a new era. For all the right reasons, gone are the days of open offices, the free unfettered exchange of customer non-public private information, unencrypted emails, unprotected data storage and even the messy unattended desk. The financial services industry, including loan originators and the title and closing professionals who provide services to their borrowers, will continue to be directly and intractably tied to the new requirements created by the Dodd Frank Wall Street Reform and Consumer Protection Act (July 21, 2010) and the rules issued by the Consumer Financial Protection Bureau (CFPB) in 2013. I continue to hear from employees suggesting new ways to serve customers while meeting new, stricter security requirements, and about employees pointing out compliance issues to fellow employees in an effort to improve WFG's overall compliance awareness. While our awareness campaign is not complete, we have made significant progress.

This month in *TheFourthC*, we focus our attention on WFG's Ethical Business Standards and Code of Conduct. What better way to tie all our compliance efforts together than to ask employees to follow a common Code outlining what WFG expects of all its employees and defining our individual roles in distinguishing WFG as an industry leader in compliance and audit practices.

Enjoy this month's issue of *TheFourthC*.

*Donald A. O'Neill*  
Executive Vice President & Chief Compliance Officer  
WFG National Title Insurance Company

## *Ethics = Eighth Most Popular Word*



### **TIPS AND TOOLS you can use**

#### Recognize Situations That Can Create Concerns—Where to Find Answers?

- Ethical Business Standards and Code of Conduct Policy
- Employee Handbook
- Policies and Procedures
- Operational Process Reviews and Audits
- Underwriting and Compliance Bulletins
- Supervisor, Management or Compliance

## **WFG Ethical Business Standards and Code of Conduct**

**Ethics – the buzzword of the day.** Did you know that the word “ethics” is the eighth most popular word on the Merriam-Webster website? ([www.merriam-webster.com](http://www.merriam-webster.com)) The word ethics comes from the Greek word “ethos” meaning character. It can be defined as “the rules of behavior based on ideas about what is morally good and bad,” ([www.merriam-webster.com](http://www.merriam-webster.com)) but that definition does not help us understand our obligations to be an “ethical” employee. Another dictionary defines ethics as “the rules or standards governing the conduct of a person or the members of a profession.” ([www.thefreedictionary.com](http://www.thefreedictionary.com)) This definition begins to approach the concept that we should be discussing. What are the rules or standards that an employee of WFG should comply with? In an industry that is as regulated as title insurance, we have to look at rules, regulations, laws and a code of conduct. However, is technical compliance with the laws sufficient? Those of us who have attended law school may remember the often-stated standard that, as attorneys, we should not just avoid impropriety but avoid the **appearance** of impropriety. Commonly, this is interpreted to mean that we should behave in a manner that is above question. This higher standard of behaving in a manner that is above reproach should be our goal. To be an ethical employee includes setting the example for our fellow employees. That may be an uncomfortable role, but ultimately, the actions of the employees of WFG determine how ethical the company is.

Lenders are asking us to verify and document that we have a Code of Conduct (or Ethics). Were you aware that WFG does have a Code of Conduct? If not, you should take the time to read and understand the requirements and implications of the [WFG Ethical Business Standards and Code of Conduct Policy](#). Does an ethical person know all the answers? No, an ethical person recognizes situations that can create concerns. An ethical person then researches for the correct (compliant/ethical) resolution to the situation. Where do they search? The Ethical Business Standards and Code of Conduct, the Employee Handbook, Policies and Procedures, Memos or Bulletins. If they cannot find the answer, they notify their supervisor OR they contact the Compliance Department. WFG employees have the benefit of that resource to answer questions when there is any doubt in an employee’s mind if an action is questionable. What type of situations should raise questions? Unfortunately, the answer is, “it depends”. Certain actions are illegal regardless of where an office is located including violations of RESPA. Other actions depend on a particular state’s rules and regulations. Even when the action is legal, the question may remain whether it is ethical.

What happens when unethical conduct is not questioned? In some instances, an entire operation is shut down by either state or federal regulators. I know of agencies and even direct operations that developed a culture of unethical behavior. Although it may have created a short-term increase in orders or revenue, eventually those operations were closed and key employees and owners were fined. Ultimately, an employee of such an operation may have to leave the industry because many license applications inquire about enforcement actions at prior places of employment.

*Deborah Everett  
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## The Importance of WFG's CMS



### TIPS AND TOOLS you can use



#### What's in a CMS?

- Policies and Procedures
- Training
- Monitoring and Corrective Actions
- Effective Response to and Resolution of Consumer Complaints

## The Importance of Having a Robust Compliance Management System (CMS)

The Consumer Financial Protection Bureau (CFPB) published its CFPB Supervision and Examination Manual (version 2) in October 2012 (Manual). Since then the Manual has been followed by updates and supervisory highlights providing additional guidance and the results of audit and enforcement actions. In the latest **Supervisory Highlights – Summer 2013** the CFPB makes it clear that it expects every supervised entity to have an effective CMS – one that is adapted specifically to the supervised entities business strategy and operations. By having in place robust compliance management processes and systems, the CFPB believes supervised entities will be better able to prevent violations of Federal consumer financial laws and the resulting harm to consumers.

When I first read the Manual, I was overwhelmed by the detailed requirements and documentation expected of lenders. After reading through it, I concluded that since lenders were required to create, update and make available for inspection their CMS, why not create a CMS for WFG as a title insurance underwriter. That way, when asked to produce evidence that WFG was a qualified third party vendor, I would pull out WFG's CMS as proof that WFG was qualified and could be trusted to close loans for them. My logic was that by using a common compliance vocabulary and the CMS components required of lenders WFG would be better positioned when asked about its compliance programs. I reasoned that whatever lenders were creating as a CMS would be a good starting point for what a lender would want to see from its title and settlement service provider.

#### What's in a CMS?

Although the CFPB does not require any specific CMS structure and permits supervised entities to organize their compliance programs in a way most effective for the supervised entity, the Manual lists four specific things to be included:

**Policies and Procedures**

**Training**

**Monitoring and corrective action**

**Effective response to and resolution of consumer complaints**

#### Why is having a CMS important?

As a reminder, supervised entities, specifically mortgage lenders, are permitted to use third party vendors to perform services. Escrow and settlement agents are third party vendors selected by lenders to close their loans. CFPB's April 13, 2012 Bulletin #2012-003 made it clear that although a lender selects a third party vendor, the lender retains the responsibility and liability for the acts of the third party vendor. With that exposure lenders have implemented detailed, extensive and comprehensive compliance due diligence reviews of third party vendors, especially escrow and settlement agents, to determine if they are qualified to perform services for them.

In my view, by having a CMS that tracks some or all of the requirements of a lender's CMS, the settlement service agent will distinguish itself from competitors who don't.

*Donald A. O'Neill  
Executive Vice President & Chief Compliance Officer  
WFG National Title Insurance Company*



WFG Scholar is the New Employee Learning Management System for WFG Employees

**WFG SCHOLAR**  
powered by Williston Financial Group

...it's a great place to learn

Corporate Policies and Procedures, Regulations, Industry Best Practices, Professional Development

Watch for this **NEW** course in March: **Responsible Use of Social Media**.



To receive credit for outside job-related courses, please send certificate of completion and course agenda to: [training@wfgnationaltitle.com](mailto:training@wfgnationaltitle.com)

For **WFG Portal & WFG Scholar** questions, please contact: [training@wfgnationaltitle.com](mailto:training@wfgnationaltitle.com)

Need help logging in? Click on [WFG Scholar](#) and [WFG Portal](#) to learn more.



## WHAT'S NEW FOR MARCH?

### Responsible Use of Social Media - **Mandatory Course**

**Course Description:** The Federal Financial Institutions Examination Counsel (FFIEC) recently issued supervisory guidance to address the applicability of federal consumer protection and compliance laws, regulations, and policies to activities conducted via social media by entities supervised by the Consumer Financial Protection Bureau. This course is designed to bring to the forefront the serious risk that our organization could face if an inappropriate post or comment was made on a social media network. For example, an inappropriate post or comment could result in severe consequences for our organization such as the loss of proprietary information, damaged reputation, and even civil suits. Plus, online networking increases the risk for threats such as social engineering and malware infection.



## Important Information on Course Completions in WFG Scholar

The system does not recognize that a user completed the course if they click on the next button before the recording is finished on each screen. Therefore, a decision has been made to not allow the use of the "next button" in order to skip screens. Each user needs to make sure they have uninterrupted time in which to complete each course.

The links in the assigned emails are for a limited time. You can access the site by going to [www.wfgscholar.com](http://www.wfgscholar.com) and use your Williston credentials as your username and password. As an example, Williston\firstnamelastname for your username and the password would be your normal password to access any of your production software systems. All assigned courses must be completed within 30 days.

If you have any questions regarding your account, please contact us at [training@wfgnationaltitle.com](mailto:training@wfgnationaltitle.com).

*Lee Ann Fenske  
Senior Vice President/Compliance and National Training Manager  
WFG National Title Insurance Company*

Turn to The FourthC Fast Facts each month for continued information from the 1888 pages of the final CFPB rule on the Integrated Mortgage Disclosures.

## Do we have to send out the Closing Disclosures to each consumer if there are multiple borrowers?

When two consumers are joint obligors with primary liability on an obligation, the disclosures may be given to either one of them. If one consumer is merely a surety or guarantor, the disclosures must be given to the principal debtor. In rescindable transactions, however, separate disclosures must be given to each consumer who has the right to rescind. Refer to page 1670 of the Official Interpretations.

## May a borrower waive their right to view the Closing Disclosure?

The borrower may waive their right to view the Closing Disclosure only if they have a bona-fide personal financial emergency. The only example the Bureau gave is if the imminent sale of the consumers home through foreclosure where the proceeds of the new mortgage can save the home from foreclosure. Refer to pages 1691 and 1725 of the Official Interpretations.

## Do we still have to split out the title premiums between the underwriter and the agent?

No, the new Closing Disclosure will no longer split the premiums out between the underwriter and the agent. All of the costs will be fully itemized, thus eliminating the “roll up or groupings” format that we have today on the HUD-1. Loan policy premiums and the settlement agent fee (closing fee) will be services that the borrower can shop for and will be shown under subcategory C of the Closing Disclosure, while the optional owner’s policy premium will be reflected under subcategory H.

## Can we still show the sellers and buyers figures on separate Closing Disclosures?

Yes, pursuant to page 1854 of the Official Interpretations, it is permissible to have two separate Closing Disclosures in a transaction. One that reflects the buyer’s costs and credits only, which are provided to the buyer, and one that reflects the seller’s costs and credits only, which is provided to the seller. Some State laws may prohibit provision of information about the buyer to the seller and about the seller to the buyer.

## Can additional pages be added to the Closing Disclosures?

Additional pages may be attached to the Closing Disclosure to add lines, as necessary, to accommodate the complete listing of all items required to be shown pursuant to page 1854 of the Official Interpretations. For example, breakdown of payoff figures, a breakdown of the consumer’s total monthly mortgage payments, an accounting of debits received and checks disbursed, a statement stating receipt of funds, applicable special stipulations between buyer and seller, and the date funds are transferred. A reference such as “See attached page for additional information” should be placed in the applicable section of the closing disclosure.



**WFG National Title Insurance Company**  
a Williston Financial Group company

The **WFG Compliance Program** incorporates the latest industry best practices, as well as CFPB's most recent guidance for third party settlement service providers. Simply put, if it affects our customers, it will affect our day-to-day operations. Through our corporate directive to communicate, collaborate and co-exist, our three "C's," along with our commitment to compliance, the fourth "C," we continue to proactively work with our customers in the consumer's best interests.



WFG POLICIES AND PROCEDURES	STATE & FEDERAL LAWS AND REGULATIONS	TRAINING AND CERTIFICATIONS	AUDIT
<ul style="list-style-type: none"> <li>- Licensing</li> <li>- Escrow Trust Accounting</li> <li>- Privacy and Information Security</li> <li>- Real Estate Settlement Policies and Procedures</li> <li>- Title Production Policies and Procedures</li> <li>- Liability Insurance and Fidelity Coverage</li> <li>- Consumer Complaint Tracking and Resolution</li> </ul>	<p><b>EXPECTATIONS:</b> CFPB &gt; Lenders &gt; Service Providers</p> <p><b>FIVE STEPS:</b> Service Providers &gt; Lenders &gt; CFPB</p> <p>RESPA, Dodd-Frank Act, CFPB, GLB, Reg Z and Anti-Rebating</p>	<ul style="list-style-type: none"> <li>- Employees and Agents</li> <li>- WFG Corporate Policies and Procedures and Regulatory Compliance</li> <li>- Continuing Education Credit Hours</li> <li>- Certification (Annual)</li> </ul>	<p><b>DIRECT OPERATIONS AND SERVICE CENTERS:</b> Adhere to WFG Policies and Procedures; Regulatory Compliance</p> <p><b>AGENTS:</b> New Agents Onboarding; WFG underwriting requirements; all compliance related matters</p>

For more information about WFG National Title Insurance Company find us at [www.wfgnationaltitle.com](http://www.wfgnationaltitle.com)