THE FIVE STAR TITLE & CLOSING COALITION

VOLUME 2, ISSUE 1 SUMMER 2015

COALITION Connection


# TRID Compliance Extension: Good News, Bad News, Who's to Say?

By JAIME KOSOFSKY WITH BRADY & KASOFSKY

While on vacation during the early summer months, I managed to escape the minutia of day-to-day operational challenges, daily conference calls, conferences, presentations and minute-by-minute "breaking news" stories that discussed various aspects of the effect of TRID on different parts of the industry. I have to admit, I do sneak a peek at the news every so often just to keep current.

The biggest news story to break, while I was overseas, was the extension of the August 1, implementation date of TRID, with the date pushed back to October.

Many in the industry are celebrating the extra 90-day delay, some are upset about the delay, and some still have no clue what TRID implementation means to them. From my vantage point, some 6,000 miles away from home, my reaction and comment was simple: "SO WHAT!"

There are two reasons for this response: Required time for an honest implementation of security policies and liability. Our company began planning and working on our TRID implementation plans and tightening our security and privacy controls in March of 2013.

The process has been exhausting and expensive. Our company has expended many hours, re-writing old policies, creating new policies, training our staff on what the policies mean to them, and then implementing all of them.

Some went off without a hitch. Others seemed to have a problem around every corner. Writing the policies was difficult, the training, implementation, and testing period has been very difficult. We went through a period where nobody else in the industry would accept an encrypted email.

At one point, we elected to stop doing business with a client because they refused to comply with proper security protocol. For the longest time we had a white board in our operations center that listed who would not open up encrypted email. We had developed a protocol to encourage its use and we were persistent.

In April of this year, the rest of the industry seemed to "wake up" and we got less pushback on our use of email encryption. In March of 2014, we began looking at how we dealt with consumer nonpublic information. The days of our local real estate agent calling our office and asking for a copy of the preliminary HUD-1 were over.

Our office would also receive other requests from real estate agents for random information on the closing. In response to this, we also had to figure out a way to make sure that the parties who were requesting the information were authorized.

After talking with countless parties, including experts, consumers and real estate agents, we finally came up with a proprietary method. It seems to work, it's nothing elaborate, or technical; it just took some time to figure out.

I could give a blow-by-blow account of everything else we had to do. I could go on for volumes on what did not work and what succeeded. Either way, my point is this: If a party has not made a substantial effort to become compliant with the security aspects of the TRID implementation date by now, it's go-

*Continued*

## IN THIS ISSUE

# MEET THE MEMBERS OF THE FIVE STAR TITLE COALITION

The Five Star Default Title and Closing Coalition is the first industry group established to support specialists within the title sector. Through education, best practices, communication, and networking, the Coalition is committed to the industry and to the success of our coalition members.

**Accurate Group**
Steven Black
Servicing Area: All 50 States
888.456.4383 x1604
sblack@accurategroup.com
www.accurategroup.com

**Affinia Title**
Lora Henke
Servicing Area: Georgia, Florida, Alabama
407.792.6762
lora.henke@affiniacorp.com
www.affiniacorp.com

**ALAW / Brightline Title**
Jonathan Sawyer
Servicing area: Florida, Georgia, Texas
813.221.4743
jsawyer@alaw.net
www.alaw.net

**Allegiance Title Co.**
John Hall
Servicing Area: Texas
214.635.3700
jhall@allegiancetitle.com
www.allegiancetitle.com

**Alliance Title & Escrow Corp./AmeriTitle, Inc.**
Jenny Martin
Serving Idaho, Oregon, Montana, Washington, Wyoming
208.955.9681
Jenny_martin@alliancetitle.com
www.alliancetitle.com

**Brady and Kosofsky**
Jaime Kosofsky
Servicing Area: North Carolina, South Carolina
704.849.8008
jkosofsky@bandklaw.com
www.bandklaw.com

**Continental Real Estate Services**
Katie Van Hook
Servicing Missouri, Kansas, Wisconsin, Nebraska, Arkansas, Colorado, New Mexico, North Dakota, South Dakota, Minnesota, Ohio, Iowa
314.862.2447
kvanhook@gocres.com
www.gocres.com

**Delta Title Corporation**
Howard Leach
Servicing Area: Louisiana, Mississippi
504.885.9222
hleach@deltatitlecorp.com
www.deltatitlecorp.com

**Elizabeth Wellborn, PA**
Elizabeth Wellborn
Servicing Area: Florida, New York
954.354.3544
ewellborn@erwlaw.com
www.erwlaw.com

**First Financial Title of MN**
Larry Zielke
Servicing Area: Minnesota
952.831.5010
lzielke@logs.com
www.firstfinancialtitleagency.com

**First International Title**
Jim Moran
Servicing Area: Florida
954.905.3881
jim.moran@firstintitle.com
www.firstintitle.com

**Florida Agency Network**
Tanya Loper
Serving Florida
813-750-1661
tanya.loper@ptitlefl.com

**Independence Title**
Brian Pitman
Servicing Area: Texas
512.454.4500
bpitman@independencetitle.com
www.independencetitle.com

**Kahane & Associates/ Florida Premier Title & Escrow Company**
Robert Kahane
Servicing Area: Florida
954.356.1280
rkahane@kahaneandassociates.com
www.kahaneandassociates.comm

**LandCastle Title**
Paul Kemp
Serving Alabama, Florida, Kentucky, Ohio
205.972.0272
paul.kemp@fnf.com

**Liberty Bell Agency, Inc**
Jim O'Rourke
Servicing Area: Pennsylvania
215.625.3660
jim@libertybellagency.com
www.libertybellagency.com

**McDonnell and Associates, PA**
Dawn Player
Servicing Area: South Carolina, North Carolina, Georgia
866.931.8793
dawn.player@mcdonnelllawfirm.com
www.mcdonnelllawfirm.com
www.boomerangtitle.com

**Mortgage Connect**
Carla Kennedy
Servicing area: All 50 States
1.866.789.1814
ckennedy@mortgageconnectlp.com
www.MortgageConnectLP.com

**NETCO Title**
Ivy Melton
Servicing Area: All 50 states
949.598.1855
ilmelton@netcotitle.com
www.netcotitle.com

**Oklahoma REO Closing & Title Services, LLC**
Jenny Dean
Servicing Area: Oklahoma
918.491.3140
jdean@oreotitle.com

**Omega Title Agency, LLC**
John D. Clunk
Servicing Area: Ohio, Kentucky
330.436.6700
johnc@johnclunk.com
www.omegatitle.net

**Paramount Land**
Jeffrey Zipser
Servicing Area: New York
631.224.1345
jzipser@paramountland.com
www.paramountland.com

**RedVision Systems, Inc.**
Ailie Ashton
973.854.9582
1055 Parsippany Boulevard, Suite 412
Parsippany, NJ 07054
ailie.ashton@redvision.com
www.redvision.com

**Terra Abstract**
Steven K. Eisenberg, Esquire
Servicing Pennsylvania, New Jersey, New York
215.572.8111
seisenberg@sterneisenberg.com
www.terraabstract.com

**TASC**
Victoria Schlicher
Servicing Area: North and South Carolina
336-794-7956 x2805
Victoria.Schlicher@tasc-us.com

**Title365**
Michelle Hymer
Servicing Area: 42 states
763.295.3513
Michelle.Hymer@Title365.com
www.title365.com

*Continued from front cover.*

ing to be almost impossible for full compliance by October.

Why do I think an additional three months won't matter? Putting the technology in place, buying the software, writing policies is the easy piece (not the cheap piece). Your company can have the best software, cameras, physical security, and cybersecurity policies in place, but it's all for naught if the company does not have a culture of compliance.

The employees will not use the new toys and the security will still be compromised. It takes much more than 90 days to develop your culture of compliance.

For those companies who have embraced this and who were honestly trying to comply by August 1, the extra time will be a huge help for tying up loose ends. For those companies who believe that they need 90 days to become compliant, they are in for a big surprise.

The extension of the August 1 deadline merely delays the regulatory risks of all parties for 90 days. The Consumer Financial Protection Bureau is the new sheriff in town and everyone is afraid of them. The Bureau has a great deal of power and can place fines against parties for astronomical sums of money.

The delay means, that the Bureau will relax its enforcement of regulations for the use of the integrated closing disclosure and the timelines until September. Again, I ask, "SO WHAT?"

The secondary market was hit very hard by bad loans, bad closings, and worthless loans. We have begun to see the secondary market tighten their benchmarks as to what loans they will buy and what loans are "scratch and dent".

The secondary market does not use fines or penalties, rather the secondary market utilizes buy backs, which require loan originators to buy back and service their own scratch and dent portfolios.

The extension of the August 1 deadline does nothing to protect the loan originators from buybacks which might occur in June of 2016.

The loan might have closed before the deadline, but the foreclosure or other method of discovering the deficiencies of that loan might not occur until after October. The liability remains the same.

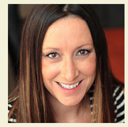
So don't be surprised when you see the originators and servicers start imposing stringent compliance guidelines immediately. The October start date simply does not matter.

In summary, these are two of the countless issues that our industry must face in the foreseeable future. An extra 90 days is but a drop in the bucket.

A year from now, we will look back and not even remember that there was a delay.

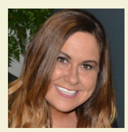
**About the Author:** *Jaime A. Kosofsky is a founding Partner in the Matthews North Carolina–based law firm of Brady & Kasofsky, PA. His practice focuses on Residential, Loss Mitigation, REO Dispositions, Real Estate Title and Closing transactions in North Carolina and South Carolina. Much of his time is spent managing and developing the compliance benchmarks for the firm, including matters concerning the practice of law in "Attorney Closing States," and security and compliance under the Dodd Frank Act, RESPA/TILA and other areas of consumer protection. He can be reached at jkosofsky@bandklaw.com.*

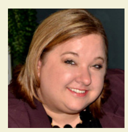
# MEMBER ANNOUNCEMENTS



Minnesota-based First Financial Title Agency of Minnesota, Inc., is pleased to announce the promotion of **Melissa Schwan** to Assistant Operations Manager. "Melissa started her career with First Financial Title in 2005 as a closing agent. She was then promoted to closing manager, and is now supervising all departments," said FFT President Larry Zielke. First Financial is an REO title insurance agency affiliated with the Default Services firm of Shapiro & Zielke, LLP, and the LOGS Network, serving all 87 Minnesota Counties with professionalism and integrity.

**Janet Ward** has fully stepped into the role of Vice President/Managing Attorney for Paramount Land, Inc. After 17-plus years representing banks and REO transactions, Janet was given the opportunity to move to the title side of the business. Paramount Land, a full-service title company that focuses specifically on REO transactions, offered the VP/Managing Attorney position to Ward. Prior to joining Paramount, Janet was the managing attorney for the closing department for Rosicki, Rosicki & Associates for 15 years.





Additionally, CRES announced that **Jennifer Oats** has been promoted to Title Supervisor and **Libbi Walker** has become Closing Supervisor to handle the escalating volume of work on key accounts. Oats has played a key role in CRES's title curative department and has served two years as title coordinator and team leader, where she assisted in solving complex title challenges in real estate owned/bank owned property (REO). With a strong background in customer service management for retail and property leasing, Walker has been recognized for her exceptional abilities, including three promotions in the seven years she has worked at CRES.

Continental Real Estate Services (CRES) has hired six new staff members and promoted two others. Joining the company are **David Young**, title coordinator; **Mary Kay Rapa**, closer; **Kayla Redensek**, order entry/lienable specialist; **Paul LeFebvre**, closing assistant; **Michael Fitzsimmons**, lienable specialist, and **Anthony Pellock**, lienable specialist. All are experienced professionals in the real estate industry.

## IN MEMORIUM

Rosenberg & Associates, LLC, is sad to announce that our long time Evictions Manager, **Tim Seward**, passed away unexpectedly in June 2015. Tim had been with us since the inception of our firm and worked hard to make our firm a better, happier environment. A smile on his face, a joke to make you laugh and toys on his desk; he will be sorely missed. Taking over his role are co-leads Danelle Smith and Aizelea Aggasid, both of whom have worked under Tim's supervision in the evictions department for over 12 cumulative years. Attorneys Mark Meyer and Jullie Evasco continue to oversee the department. In his memory, donations can be made to www.melanoma.org.

# TRID Troubles: Implementation will Change the Default Title Business

*By* JEFFREY PUTHOFF, ESQ., OMEGA TITLE

The TILA/RESPA Integrated Disclosure Rule ("TRID") originally scheduled to become the rule of the land on August 1st, 2015, is now slated to become a full reality in October after the CFPB announced a few extensions.

TRID is part CFPB's "Know Before You Owe" campaign, which was designed to inform consumers of key features and costs of their future mortgage. Although consumer protection is a noble goal, every large-scale government action—no matter how well-meaning in nature—is prone to far-reaching, unforeseen consequences apart from those desired. TRID is no exception.

The Rule affects every aspect of the Default Title Industry from foreclosing attorneys, property servicers, title insurance agents, and settlement service providers, though the latter two are impacted the most severely. Title and settlement companies provide two key services to consumers: first, preparing and issuing title insurance to protect a consumer's interest in real property and, second, facilitating real estate transactions as a third-party neutral between the consumer, the lender, and the seller.

Both of these functions fall under the purview of the CFPB's new regulation.

The exorbitant cost of TRID preparation and compliance alone has been enough to put many title and settlement companies out of business. Those companies which survive are faced with decreasing revenue as lenders conduct closings in-house to prevent third-party liability.

Is consumer education worth these costs to the default industry? Perhaps. Surely, though, stricter lending practices would reduce the number of loans entering default than will this round-about effort to educate consumers through a new disclosure format: a format which actually contains incorrect information by design.

The CFPB has mandated title and closing agents to withhold the actual cost of title insurance to the consumer. Moreover, the disclosure itself may actually expose consumers to greater risk by dissuading them from purchasing title insurance altogether.

Whether or not TRID will ultimately have a positive effect on the consumer or on the real estate lending world itself remains to be seen. One thing is for sure, however: it will have a significant—and likely unintended—impact on the Default Title industry.

## The Origins of the New TILA/RESPA Integrated Disclosure

The CFPB was created by the Dodd-Frank Act. The Dodd-Frank Wall Street Reform and Consumer Protection Act was passed on July 21st, 2010 as a response to the Great Recession, the U.S. Financial Crisis of 2007, and the Subprime Mortgage Crisis of 2007.

According to its own language, the stated aim of the Act was "to promote financial stability of the United States by improving accountability and transparency in the financial system, [and] . . . to protect consumers from abusive financial services practices."

Prior to its passage, President Obama referred to the legislation as a "sweeping overhaul of the financial regulatory system . . . on a scale not seen since the reforms that followed the Great Depression."

He was right. The Act itself contains sixteen separate titles which require regulators to create 243+ new federal rules and regulations (one of which is TRID). Apart from these new rules, the Act also called for the creation of a new federal agency: the CFPB.

The CFPB is an independent agency of the U.S. government tasked with regulating the American lending and finance industries. The Bureau's own website describes its mission as "making markets for consumer financial products and services work for Americans — whether they are applying for a mortgage, choosing among credit cards, or using any number of other consumer financial products."

The CFPB was often referred to as a "cop on the beat" by Elizabeth Warren, one of the Bureau's top incorporators whom many assumed would be its first director. Warren's analogy perfectly foretold the Bureau's regulation-through-enforcement approach.

The CFPB spent its first year issuing various rules, proposals, and marketing material aimed at reforming the consumer finance world. One of these rules was TRID.

The Bureau first proposed TRID in a 1099-page document on July 9th, 2012. The final Disclosure Rule was then issued four months later on November 20, 2013. This new rule will go into full force and effect in October of this year.

The idea behind the Integrated Disclosure is relatively simple: to protect consumers. However, the Disclose only applies to some mortgages. The rule does not apply to equity lines of credit, reverse mortgages, mortgages secured by mobile and manufactured homes, and those mortgages by creditors of five or fewer mortgages per year.

## Does The TILA/RESPA Integrated Disclosure Protect Consumers?

While the Disclosure as a whole may very well be beneficial, it has two major pitfalls regarding the default title industry which may operate to financially injure consumers. First, the form exposes new homeowners to significant risk by potentially dissuading them from purchasing title insurance. Second, the form itself intentionally discloses erroneous costs of title insurance to the consumer.

The CFPB requires Owner's Title Insurance to be listed as "optional" on the Disclosure. While this at first appears to be merely an innocuous label, it may in fact serve to the detriment of homeowners. Title Insurance plays a pivotal role in any real estate transaction, protecting the homeowner's property interest against claims resulting from defects, liens, and encumbrances on title. In fact, more than a third of all title searches reveal a problem according to ALTA. Such defects are typically costly, with the potential to deprive a homeowner of some or all of her property.

The danger of listing owner's insurance as "optional," then, is that a thrifty purchaser may be tempted to opt out of title insurance to save on the cost of the premium: an ultimate savings which pales in comparison the financial risk of title defects on the consumer's new investment. Does this serve to "protect" the consumer?

The second—and more disturbing—pitfall of the TRID is that title insurance costs are inaccurately disclosed by design. When obtaining title insurance in most states, the homebuyer will receive a discount on the lender's policy when purchased simultaneously along with their own owner's policy.

The premium of the lender's policy is discounted because both policies share the same substantive title search, examination, and underwriting process. The new discounted rate of the lender's policy is referred to as "simultaneous-issue pricing."

Under TRID, the simultaneous-issue discounted rate is not disclosed to the consumer. Instead, the CFPB has mandated that the Loan Estimate and Closing Disclosure show the full, non-discounted rate of the lender's policy premium. Of course, the full rate is not what the homebuyer will pay at closing. To adjust for this difference, TRID fiddles with the owner's premium using a system of behind-the-scenes calculations which are not apparent on the face of the form nor disclosed to the consumer.

The result, of course, is that correct price of title insurance is withheld from the consumer.

In her May 14, 2015 testimony before Congress's House Committee on Financial Services, ALTA President Diane Evans urged the CFPB "to allow the title and settlement industry to disclose the price of title insurance accurately to consumers" saying that "TRID fails consumers in this regard."

This is the only instance on the entire form where the actual charge for a product or service is incorrectly disclosed.

How does withholding the actual price of title insurance serve to educate consumers? Well, it doesn't. It's just another unintended consequence.

*Continued on back cover.*

# Flourishing Market Requires Understanding of Back-Up Contracts

By DAWN ENOCH MOORE, CEO, ALLEGIANCE TITLE COMPANY

In a robust real estate market, like the one we are experiencing in North Texas, homes can be listed for sale and receive multiple offers all in the same day. As a result, no matter how good the offer is, another offer may win the contract. Therefore, it helps to have a refresher on how to write and handle Back-Up Contracts.

It is important to remember that Back-Up Contracts are enforceable contracts; they are simply subject to one additional contingency i.e. termination of the First Contract. Sometimes Back-Up Contracts are treated as less binding than a First Contract, but that is not the case.

A Back-Up Contract is a binding contract, and as such both option and earnest money must be paid per the terms of the contract. Many times with Back-Up Contracts, the option fee and earnest money called for will be much less than with a First Contract, however; regardless of the amount, the earnest money and option fee must be delivered per contract. It is mistakenly believed that holding the option fee, or waiting to deposit earnest money on a back-up until the first offer falls out, is proper.

If the terms of the Back-Up Contract are not followed, just as in a First Contract, the party who fails to comply with the terms will be in default and subject to the default remedies afforded the other party.

The language in the Back-Up Addendum protects the Buyer from having to incur expenses until the contingency as to termination of the First Contract is satisfied, by stating, "Except as provided by this Addendum, neither party is required to perform under the Back-Up Contract while it is contingent upon the First Contract." However, the first paragraph of the Addendum states option fee and earnest money must be paid as required in the Back-Up Contract.

Many concerns have been expressed about the option fee and that it shouldn't be called for in the situation where a buyer may not even have an opportunity to buy the property. The option fee paid in a Back-Up Contract is for the right for Buyer to terminate the Back-Up Contract.

Remember, the purpose of a Back-Up Contract is to have the right to purchase the property if the First Contract falls through.

REMEMBER, THE PURPOSE OF A BACK-UP CONTRACT IS TO HAVE THE RIGHT TO PURCHASE THE PROPERTY IF THE FIRST CONTRACT FALLS THROUGH.

The Seller is bound to the Back-Up Buyer in the event the First Contract terminates.

On the other hand, if Buyer pays for an option, Buyer has the right to walk away from that binding contract. The fact that the Buyer never exercises that right is immaterial; the Buyer is paying for that right from the minute the Back-Up Contract is executed.

Without the option, Buyer would be bound to the Seller subject to the contingencies under the contract, which in the case of a Back-Up Contract includes termination of the First Contract.

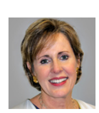
Again, remember the option fee is negotiable; the right to terminate under a Back-Up Contract may be worth less than a right to terminate under a primary contract. As for the other obligations of Buyer under the contract, the Buyer is not required to perform until the First Contract terminates.

The Seller is required to give notice to Buyer that the First Contract is terminated. The date of Seller's notice that the First Contract has been terminated becomes the new "amended" effective date of the contract and the date from which the Buyer is required to perform all other obligations.

Many Back-Up Contracts are on terms better than the First Contract, which puts stress on the First Contract. The Seller who has a Back-Up Contract is less likely to negotiate amendments favorable to the buyer under the First Contract.

We have thousands moving into North Texas over the next couple of years to work for major companies including Toyota, State Farm and Liberty Mutual Insurance. In a market where inventory is already tight and new home starts are below where they were before the recession due to this year's wet weather, shortages of labor, and rising construction costs, Buyers face a challenging market.

Multiple offers and Back-Up Contracts are here to stay for a long while.



**About the Author:** *Dawn Enoch Moore is the Chief Executive Officer for Allegiance Title Company, TLTA Past President 2014–2015 and a popular lecturer and speaker in the real estate industry. She is active in her community and currently serving her second term as City Councilmember for the City of University Park, Texas. Moore holds a B.S. degree in Economics, graduating Magna Cum Laude, and J.D. degree from Southern Methodist University.*

# Two Weird Ways to Derail a Closing

By KATIE VAN HOOK, BUSINESS DEVELOPMENT MANAGER, CONTINENTAL REAL ESTATE SERVICES

We've all heard the war stories about the "Closing from Hell." You think you've got all the i's dotted and t's crossed, and then something unexpected crops up. While there isn't much you can do to prevent situations such as these, you can learn–and hopefully chuckle–after everything gets straightened out. Read on and enjoy.

## We'll Drink to This!

A borrower needed to provide proof that his child support payments were current in order for us to close. He was told that we could accept an affidavit signed by his ex-wife stating that his payments were up-to-date through the month of closing. Fine so far. However, he showed up at our office the day before closing clutching a cocktail napkin with a handwritten message: "He don't owe me no child support," apparently signed by his ex-wife. Here are the issues with this "document":

- It was not recordable.
- It was not notarized.
- The double negative is ambiguous. "Don't owe no?" Does this mean he does, in fact, owe child support?
- And, of course, the fact that it was written on a cocktail napkin from a local drinking establishment makes one wonder whether the woman was sober when the "document" was signed.

The bottom line: It's always a good idea to have the parties involved sign documents in the local title office. P.S.–the closing was delayed.

## No Deed Goes Unrecorded

The bank foreclosed on a property owned by Ms. Smith, consisting of two parcels—one containing a house and the other a two-acre piece of land directly behind it.

The agent had trouble marketing the home because a neighbor kept disrupting the showings, claiming to have an interest in the property. However, the agent still managed to find a buyer and the property and the home went under contract and were scheduled for closing.

Then came the Big Surprise. The neighbor presented a sheet of 8 x 14 stained, creased yellow legal pad paper on which was a handwritten note indicating that the prior owner had, in fact, given the two-acre parcel to the individual for $2,000. The "document" contained a legal description and was notarized, legally proving that the neighbor did indeed have a claim to the land.

While the document was written in such a way that it could not be recorded, it was still legal because it contained a grantor, grantee, legal description and was notarized. Not only should the bank never have encumbered the two acres because Ms. Smith didn't own it at the time she took out her loan, but the foreclosure against the land was also an error.

This scenario is only an issue in states that are not race notice. In states where unrecorded deeds can affect title to property, this can kill a closing–which is what happened in this case.

The moral of the story: Do your homework.

**About the Author:** *With more than a dozen years of experience in loan processing, escrow and title work in multiple states, refinance, asset portfolio management, HUD signings and REO closings, Katie Van Hook oversees national training and development, customer service and client relationships.*

## NEW COALITION MEMBERS

In the summer of 2015, the Title and Closing Coalition welcomed the following new members:

Allegiance Title: Allegiance is an independent title insurance agency that offers residential, commercial and lender services throughout the state of Texas and the nation. The Coalition granted Allegiance Title one of the five remaining Coalition membership slots available in Texas, leaving the Lone Star state with only four remaining spots for new members.

NETCO Title: NETCO offers title and escrow services in all 50 states. NETCO began operations in 1987 with its first corporation, Equity Title Company of Illinois, Inc. The company provides services across the U.S., making it a national member.

Mortgage Connect: Mortgage Connect joined the Coalition in July. The Moon, Penn.-based firm provides mortgage solutions for originators and servicers, supporting all residential and commercial real estate title and closing transactions, including refis, purchase, reverse mortgage, loss mitigation and default transactions. The company builds its services off the foundation of flexible technology and customized service solutions for clients.

**Stay in Touch with the Coalition!**

Search for Five Star Title and Closing Coalition | www.facebook.com/TheFiveStar | www.twitter.com/FiveStarInst

*Continued from page 4*

## Effects on the Default Industry.

Default title companies will be required to rework their current software and internal processes to comply with the new requirements. The CFPB estimates that it will cost $1.3 billion for the lending and real estate industry to implement TRID. The title and settlement industry alone is thought to incur $67,800,000 per year over the next five years.

These exorbitant costs will largely be placed on small businesses.

According to the CFPB, 85% of lenders, brokers, and closing agents qualify as small businesses. In fact, the majority of ALTA member-companies report as employing three or fewer people each. Brett C. Beehler, Vice President of Acer Title & Escrow, has concerns that smaller companies will not fare well under the CFPB's regulation.

"Undoubtedly, the new regulations will have a major impact on some smaller, family-owned settlement companies that may deem the costs of compliance to be too great to continue operating as a profitable title company and, unfortunately, we are already seeing some of this play out throughout the industry."

Can smaller agencies survive the cost of preparing for and ultimately complying with TRID? One thing is for certain: the default title and settlement landscape will radically transform over the next year.

Outside of the implementation costs, current settlement companies are faced with a potential decrease in business. As previously mentioned, lenders are liable for the numbers contained in the TRID Closing Disclosure form regardless of whether the form is prepared by the lender or a third party.

Due to this liability, many lenders have chosen to prepare the forms in-house. The threat posed to existing title and settlement agents is that these same lenders may choose to conduct the closings in-house, depriving title insurance agents of the escrow portion of a transaction. The CFPB itself has acknowledged this as a very real possibility during various workshops and webinars.

The emphasis on lender-liability is yet another instance where the TRID inadvertently exposes consumers to unintended risk. Closings conducted by lender-owned or lender-affiliated agents mean less independent oversight traditionally provided by settlement professionals.

Without third-party neutral settlement agents, in-house closings increase the likelihood of abusive lending costs harmful to the consumer. Moreover, many believe there's a risk homebuyers will pay more for title insurance premiums than they otherwise should if the lender hastily uses the erroneous title premiums from the Loan Estimate on the Closing Disclosure presented to the consumer.

The Default Title Industry must move forward under the Rule.

October is coming and the Default Title industry had best be ready. First and foremost, this means becoming informed on the CFPB's new rules and requirements. Meet with your regular lenders and business partners about the new disclosures. Lenders themselves will need to know their closing vendors are in compliance. Perhaps the best way to demonstrate this compliance is to self-certify the adoption of ALTA's Best Practices.

ALTA released its "Title Insurance & Settlement Company Best Practices" in 2012 as a response to the relative lack of guidance from the CFPB. The guide is designed to provide lenders with an ideal business model by which to judge its vendors' preparation for the CFPB's new regulations. By certifying under the Best Practices, a title or closing company is essentially telling its business partners that it is ready for the CFPB and for TRID.

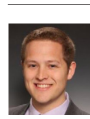
The Best Practices contain seven "pillars" which cover all aspects of the title and settlement services. These pillars range from the adoption of title production and settlement procedures, to reconciliation of escrow accounts, security standards for the protection of non-public consumer information, and even the tracking of consumer complaints.

Beehler is confident that many settlement companies will be prepared, stating that "the changing requirements in policies bring new challenges, but also opportunities." And he is right.

Despite the adverse effects of TRID, our industry can prepare for the new regulation.

For Omega Title—the title and settlement company affiliated with the Law Office of John D. Clunk serving statewide in Ohio and Kentucky—preparing for the upcoming changes has been an ongoing effort since mid-2014. Omega has worked closely with our lenders, underwriters, and other business partners to ensure our dedicated, propriety software is in full-compliance and our professional staff fully-trained well in advance of the roll-out date.

Bottom line: Omega is ready. Are you?



**About the Author:** *Jeffrey Puthoff is a Staff Attorney at Omega Title Agency, LLC based in Stow, Ohio. Mr. Puthoff joined Omega in 2014 after practicing law in a boutique foreclosure firm, handling foreclosures throughout the State of Ohio. He received his B.A. from Miami University of Ohio and his J.D. from Capital University Law School. Mr. Puthoff is a licensed title agent in Ohio, focusing on residential REO closings.*


**CONTACT THE COALITION: Kerri Panchuk** Executive Director of Membership Goups | 214.525.6705 | kerri.panchuk@thefivestar.com


1909 Woodall Rodgers
Suite 300
Dallas, Texas 75201