

# LENDERS UPDATE™

## ALT & ASSOCIATES NEWSLETTER

A COMPLIMENTARY SERVICE TO THE MORTGAGE LENDING INDUSTRY

David Jerome Alt  
Attorney at Law  
[David.j.alt@altandassociates.com](mailto:David.j.alt@altandassociates.com)  
[www.altandassociates.com](http://www.altandassociates.com)

Main Office:  
2102 BUSINESS CENTER DRIVE  
SUITE 130  
IRVINE, CA 92612

January 5, 2016



## CFPB'S CORDRAY REASSURES INDUSTRY?

As a result of meetings and conversations between the staff of the Mortgage Bankers Association and the Consumer Financial Protection Bureau's staff and also the MBA President David Stevens' December 21, 2015 letter to the CFPB, Director Richard Cordray, in a letter dated December 29<sup>th</sup> has addressed the MBA's concerns relative to the implementation of TRID. His letter to Stevens can be found on the MBA's website at:

[http://static.ow.ly/docs/Director%20Cordray%20to%20David%20Stevens%20MBA%202015.12.29%20copy\\_49CV.pdf](http://static.ow.ly/docs/Director%20Cordray%20to%20David%20Stevens%20MBA%202015.12.29%20copy_49CV.pdf).

Cordray's letter makes a number of accurate points about CFPB's stated initial tolerant regulatory enforcement of TRID and also of the somewhat limited civil liability resulting from some violations of this regulation. The letter however does little to address the concerns of the mortgage banking industry.

Cordray acknowledges the significant systems and operational changes that have been required to implement TRID, as well as the extensive coordination with 3<sup>rd</sup> parties. He further acknowledges the “substantial resources” required by this effort. It is because of this, he says, that the Bureau has previously indicated that their examinations for the first few months will focus on good faith efforts to comply and not on punitive actions. (How will this play out? We would guess, to use a phrase often associated with the CFPB, “we will know it when we see it”.)

The director points out that the FHA and GSE’s have agreed not to conduct closing reviews for technical compliance or exercise post-closing remedies such as repurchase, where good faith efforts to comply have been taken.

In response to the MBA’s concerns about the lack of adequate cure provisions for defective disclosures, Cordray responds that there are post disclosure remedies to correct an errant CD in some circumstances and that the general rules of the TILA allow for other corrective actions. He also points out other statutory limits on regulatory and civil liability found in other provisions of TILA and RESPA. These claims are generally accurate.

However, Cordray states that he believes “the risk of private liability to investors is negligible for good-faith formatting errors and the like”. He further claims that the rejection by investors of loans based on formatting and other minor errors must be based on reasons unrelated to TRID disclosures. (What those reasons may be, remain unstated.) Cordray also says that these investor concerns may “be an overreaction!”

It seems clear that what the industry wants is some certainty to govern their actions; some clear road map to follow to ensure that there are not unknown risks lurking with millions or more of damages to follow for the companies and officers involved. Cordray has only provided a response that any knowledgeable attorney could have prepared as to existing limitations on liability and the empty reassurance that “these concerns will dissipate as the industry gains experience with closings, loan purchases, and examinations.”

*Wow!*

The Lenders Update is published via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States.

Only those persons who have personally requested this newsletter are on our distribution list.

SHOULD YOU NOT WISH TO CONTINUE TO RECEIVE THIS SERVICE, PLEASE JUST SEND US AN EMAIL TO "OP-OUT" AT:

[special@altandassociates.com](mailto:special@altandassociates.com)

ALSO, SHOULD YOU HAVE COLLEAGUES WHO WISH TO BE ADDED TO THIS COMPLIMENTARY SERVICE, PLEASE HAVE THEM E-MAIL US AT:

[special@altandassociates.com](mailto:special@altandassociates.com)

ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past three decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations.

If you have any questions please contact:

David J. Alt, Esq.  
[David.j.alt@altandassociates.com](mailto:David.j.alt@altandassociates.com)

You may view previous issues on our website at:  
[www.altandassociates.com](http://www.altandassociates.com)

*Who's Who in American Law*

*Martindale Hubble Pre-Eminent Attorney*