

Division of Finance & Corporate Securities



2010 Stakeholder Report

KEEPING OREGONIANS' MONEY SAFE

Message from the administrator



David Tatman

2010 was another dynamic year for us at the Division of Finance and Corporate Securities as well as for the industries we regulate.

One of the biggest changes we underwent in 2010 was moving to the National Mortgage Lending Licensing System (NMLS). Federal law required that states begin licensing mortgage brokers and loan originators using

the new system by July 31, 2010. This was a significant undertaking for our Mortgage Lending Program, and I am proud to say we were able to complete the project on time. The mortgage industry now has a streamlined process to apply for and renew licenses and consumers have a great tool to check out mortgage professionals, at <http://www.nmlsconsumeraccess.org>.

Another change for the division was the addition of a new program: appraisal management companies. We spent much of 2010 meeting with members of the appraisal management industry and other interested parties and developing rules and registration requirements. We began registering companies on Jan. 1, 2011, and currently have 110 registered AMCs. The Oregon State Legislature, in the 2011 session, transferred the program to the Appraiser Certification and Licensure Board, effective Jan. 1, 2012. This move is to comply with the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires the state agency responsible for licensing and supervising individual appraisers to be the agency charged with appraisal management company regulation.

We are implementing other changes from the Dodd-Frank Act as well, including expanded state oversight of investment advisers and more flexible requirements for out-of-state banks.

The economic climate remains challenging for our financial institutions. We had to close three of our banks in 2010, but, fortunately, in each case another bank in the region acquired the failed bank's deposits so that no depositor lost money. There were, however, some bright spots in banking as several of our state-chartered banks successfully raised capital. We see this as a sign that the industry is stabilizing.

Oregon also became one of the first states to strengthen its laws against fraudulent credit card debt and mortgage relief service providers. With the downturn in housing values and job losses, many Oregonians were challenged to meet credit card debts and their mortgages. Too many people were paying significant upfront fees in violation of Oregon law. The division has worked hard to stop and eliminate these fraudulent practices and has helped consumers to recover more than \$125,000 in these illegal fees.

Real estate and mortgage fraud continued to be a focus for our enforcement staff in 2010. Besides taking administrative actions, we worked closely with law enforcement on a number of criminal cases. Perhaps most notable was the national "Operation Broken Dreams" initiative, which resulted in 40 indictments and convictions in Oregon for mortgage-related fraud. You can read more about our enforcement efforts on page 8.

Of course, we would rather prevent fraudulent activity before a consumer becomes a victim. To help achieve that, we launched some new consumer outreach initiatives in 2010. With a grant from the Investor Protection Trust, we developed and aired public service announcements on television stations around the state. The PSAs aim to help Oregonians avoid scams by encouraging them to be skeptical about investment offers and to do research before investing. You can view the PSAs on YouTube at <http://www.youtube.com/user/DFCSOutreach>. We also developed consumer materials regarding debt management service providers, available at dfcs.oregon.gov, to help consumers understand their rights when working with these companies that offer help with debt.

We look forward to continuing to work with the public and the financial services businesses on these and other issues over the next year. As new issues and programs develop, I encourage you to check out our website at <http://dfcs.oregon.gov>. And, as always, please feel free to contact me or any member of the division staff with questions or suggestions.

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Mission

To encourage a wide range of financial services, products, and information for Oregonians, provided in a safe, sound, equitable, and fraud-free manner.

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Regulatory mandate

Administer and enforce state laws and rules covering 16 unique programs, the statutory authority for which is found in 24 chapters of the Oregon Revised Statutes.

Staff: 80 full-time employees

Budget: \$16,558,006 for the 2011-2013 biennium.

Funding:

DFCS is funded exclusively from Other Fund revenue sources, primarily assessments and fees. The Securities Licensing and Registration Program generates surplus funds that are transferred to the General Fund.

Goals and strategies:

- Provide effective, fair, and objective program supervision while valuing excellent customer service.
- Contribute to DCBS goals:
 - Protect consumers and workers in Oregon.
 - Provide excellent customer service.
 - Regulate in a manner that supports a positive business climate.
- Contribute to progress for four of the 14 DCBS performance measures.
- Serve as a resource for consumers and stakeholders, including legislators and licensees.

Budget

	Staff	2009-2011 Budget	Staff ¹	2011-2013 ¹ Budget
Division of Finance and Corporate Securities	75	\$16,232,692	80	\$16,558,006
Finance	42	\$11,687,539	48	\$11,557,489
Banks and trusts	16	\$5,356,788	19	\$4,967,402
Credit unions	7	\$1,947,923	7	\$2,102,867
Mortgage lending/MH structure dealer licensing	12	\$3,408,865	15	\$2,881,093
Nondepository programs	7	\$973,963	7	\$1,606,127
Securities and enforcement	24	\$4,545,153	22	\$5,000,517

¹ Staff count and budget-expenditure limitation are from the 2011-2013 legislatively adopted budget. 2011-2013 budget distribution among programs is an estimate based on the previous year distribution. Total staff count includes 10 administrative positions.



Securities Section

- Protects investors from fraud and promotes legitimate capital raising by regulating the sale of securities; registering securities offerings made in Oregon; and licensing businesses and persons who sell investment securities and investment advisers
- Educates investors to help them identify and avoid fraudulent investment schemes

Enforcement Section

- Investigates violations and brings administrative, civil, and criminal actions against those who violate the Oregon Identity Theft Protection Act, securities, franchise, mortgage lending, and non-depository program laws, often in partnership with federal, state, and local authorities
- Obtains restitution for victims of fraud when possible

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Mortgage Lending Section

- Licenses and examines mortgage bankers, mortgage brokers, and mortgage loan originators to ensure compliance with Oregon laws and fair dealing with consumers
- Receives, reviews, and resolves customer complaints about licensees
- Educates consumers to help them identify and avoid predatory mortgage lending and foreclosure practices
- Licenses and examines manufactured structures dealers
- Takes enforcement actions to enforce mortgage lending and manufactured structures dealer laws in Oregon

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Nondepository Section

- Licenses, registers, examines, and investigates consumer finance companies, including pay-day and title lenders; pawnbrokers; collection agencies; debt management service providers (replaced both the credit service organization and the debt consolidating agency programs, effective Jan. 1, 2010); money transmitters; check cashers; prearranged funeral plans; endowment care cemeteries; and appraisal management companies until Jan. 1, 2012.
- Receives, reviews, and resolves customer complaints about licensees

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Banks, Trusts, and Credit Unions

- Charters banks, credit unions, and trust companies, ensuring competent management by officers and boards, in accordance with laws and safe, sound practices
- Examines banks, credit unions, and trust companies in concert with the Federal Deposit Insurance Corporation and National Credit Union Administration to ensure state-chartered financial institutions are safely and soundly operated in accordance with laws, sound practices, and their charters

Banks and Trusts

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Credit Unions

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Licensees and registrants as of December 31 each year

Program	2008	2009	2010
Banks	35	32	29
Trusts	7	6	6
Credit unions	20	20	20
Mortgage brokers/bankers	1,210	832	643
Manufactured structure dealers	292	259	261
Loan originators	6,088	4,687	3,771
Collection agencies	761	821	847
Debt management companies*			62*
Conventional consumer finance	167	128	113
Short-term consumer finance	80	76	68
Prearranged funeral trust providers	214	220	224
Endowment care cemeteries	85	81	79
Pawnbrokers	67	71	71
Money transmitters	66	72	76
Check cashers	299	295	259
Broker-dealer firms	1,970	1,791	1,744
Investment adviser firms	1,588	1,410	1,386
Appraisal Management Companies	N/A	N/A	15

*Previously debt consolidators and credit service organizations

Examinations conducted and percent rated satisfactory or better¹

	2008		2009		2010	
	Exams	Satisfactory	Exams	Satisfactory	Exams	Satisfactory
Banks and trusts	27	74%	55 ²	27% ³	43 ²	25% ³
Credit unions	12	100%	15	87%	16	88%
Conventional consumer finance	108	95%	69	91%	70	77%
Short-term consumer finance	71	80%	46	72%	40	80%
Mortgage broker/banker	233	63%	315	72%	143	69.2%
Securities (no established rating system)	48	NA	76	NA	66	N/A

¹ Based on established uniform-rating systems

² Exam count includes 30 full-scope bank exams and 19 bank visitations.

³ Satisfactory percentage is based on full-scale exams only. The severe economic downturn in Oregon has caused a larger-than-usual number of banks to score less than satisfactory on examinations. Those institutions that are rated less than satisfactory are under an operating agreement with the division to address specific concerns; they are not insolvent and their deposits are secure, up to the FDIC limits.



Applications processed

Banks and trusts	2006	2007	2008	2009	2010
New charters	1	1	0	0	0
Mergers	3	3	1	1	0
Branch offices approved	84 ¹	36	17	30 ²	35 ³
<i>¹59 as the result of acquisitions; ²10 as the result of acquisitions, ³26 as the result of acquisitions</i>					
Credit unions	2006	2007	2008	2009	2010
New charters	0	0	0	0	0
Mergers	0	1	0	1	1
Branch offices approved	10	10	8	10	6
Bylaw amendments	13	15	7	14	13
Securities registration	2006	2007	2008	2009	2010
Reg D 506 private placements	859	883	782	452	550
Mutual funds/Unit Investment Trust (UIT) ⁴	6,496	6,515	6,729	7,895	7,674
Employee benefit/compensation plans	107	103	93	94	103
Registration by qualification	159	130	129	105	120
<i>⁴Includes paper and electronic filing. Prior years did not include electronic filing.</i>					

Complaints opened

Banks and trusts	24	155	62	58	54 ⁵
Credit unions	78	41	46	56	52
Nondeposit programs	117	207	236	236	366 ⁶
Mortgage brokers/bankers, manufactured structures dealer licensing	319	395	283	396	278
Securities	114	57	201	214	203
ID theft	NA	NA	NA	22	18
Total	652	855	784	982	971
<i>⁵Includes complaints against state-chartered banks only</i>					

Investigations

	2008		2009		2010	
	Open	Closed	Open	Closed	Open	Closed
Mortgage brokers/bankers	44	27	71	48	42	29
Securities	56	36	80	47	62	44
Nondepository programs	14	16	29	16	105 ⁶	20
ID theft/financial institution/other	7	7	5	2	1	4
Total	121	86	185	113	210	97

⁶Significant increase reflects new debt management services laws taking effect in 2010.



Below are highlights of the many initiatives the Division of Finance and Corporate Securities undertook during 2010.

Consumer protection and outreach

- Implemented the Nationwide Mortgage Licensing System for Oregon lenders and loan originators to better track them and ensure they are following the law across state lines.
- Began enforcing new consumer protections around debt management companies as a result of House Bill 2191. The division now registers companies that offer Oregonians help with debt and educates consumers about how to protect themselves when using debt management services.
- Developed public service announcements that aired throughout the state to help Oregonians recognize and avoid financial scams. The campaign was paid for by a grant from the Investor Protection Trust.
- Continued to work with a national task force of state securities regulators to investigate auction-rate securities sales practices, resulting in restitution for many Oregonians who lost money. These settlements brought an additional \$1.5 million to Oregon's General Fund in 2010.
- Conducted 85 presentations to more than 2,450 people in 2010, partnering with other agencies and highlighting fraud-prevention and consumer-protection information related to mortgage lending, financial fraud and abuse, securities, and identity theft.
- Continued to help Oregonians facing mortgage foreclosure, including co-sponsoring a foreclosure prevention event in Bend in which homeowners could meet with counselors and lenders.
- Participated in the national enforcement sweep, Operation Broken Dreams, that resulted in 40 indictments and convictions in Oregon for mortgage-related fraud.
- Joined national initiative among securities regulators and the medical industry to prevent elderly financial abuse.

Customer Service

- Developed a standardized electronic complaint form that consumers can submit to the division, the Department of Justice, and federal regulators.
- Continued to improve the process for electronic license application, renewal, and payment to make it easier, quicker, and less expensive for individuals and regulated entities to do business with us.

Supervision of regulated entities

- Ordered the closures of **Columbia River Bank**, **Home Valley Bank**, and **LibertyBank** in 2010. Each of these banks became insolvent after experiencing significant financial problems related to the downturn in the economy and the effect of the housing crisis. In all cases, another regional bank took over customer deposits to ensure no consumers lost money and to ensure continuing involvement in the community.
- Began registering appraisal management companies.
- Expanded the focus of mortgage lending examinations. The division has examined all in-state mortgage lending licensees in the past three years and has examined several out-of-state companies.
- Began collecting annual data from mortgage lenders under Senate Bill 1064 (2008).



The Division of Finance and Corporate Securities protected Oregonians from financial fraud by opening nearly 192 complaints and 65 litigation files in 2010. These cases resulted in 60 administrative actions, including cease-and-desist orders, with monetary penalties of approximately \$11.1 million. In addition, the division actively investigated 22 criminal cases and prosecuted or participated in the prosecution of 11 white-collar criminal cases. A sampling of recent cases is below. To read all enforcement orders, go to www.dfcs.oregon.gov.

Securities

- Helped secure the conviction of Medford-area developer and mortgage broker James C. Nistler in a complex real estate Ponzi scheme to defraud investors. Nistler took in \$1.2 million from investors to build a housing development in Medford, but spent less than \$400,000 of the money on the project. Nistler was unlicensed and the securities he sold were unregistered. About a dozen investors, mostly elderly, lost more than \$800,000.
- Issued a cease-and-desist order and fined AXA Advisors LLC \$75,000 for failing to supervise its former representative, Jacqueline Atkinson. AXA agreed to compensate clients that Atkinson defrauded of more than \$1.9 million. Over numerous years, Atkinson sold fictitious investments with promised guaranteed rates of return ranging from 6 percent to 10 percent, but actually deposited client funds into her bank account and used them for her personal expenses.
- Continued to work with a national task force of state securities regulators to investigate auction-rate securities sales practices, resulting in restitution for many Oregonians who lost money. Additionally, these settlements have brought more than \$3 million to Oregon's General Fund.

Mortgage lending/foreclosure rescue

- Issued a cease-and-desist order against First Financial and Real Estate Services, Inc. and its two principals for sending misleading direct mail advertisements in Oregon suggesting their current mortgage lender would refinance at a lower rate when, in reality, First Financial would be the one refinancing the loan. First Financial surrendered its mortgage lender license.
- Revoked the mortgage lending license of Killion Enterprises Inc., dba Spartan Mortgage, and barred owner Steve Killion from reapplying for a mortgage lending license or acting as a loan originator in Oregon and barred Killion from applying for a securities license. The company had numerous violations, including operating from an unlicensed branch and employing originators with disqualifying convictions.
- Issued a cease-and-desist order and assessed \$30,000 in fines against David Richard Lies and his company Home Rescue Financial Services LLC of Ashland for not being registered or licensed to help homeowners with loan modifications. Lies collected \$1,500 from a homeowner with the promise of helping stop a foreclosure; Oregon law allows a maximum upfront fee of \$50.
- Helped secure conviction of Julian James Ruiz III of Salem for stealing his former clients' identity to obtain fraudulent home loans, forging documents relating to illegal loan modification services, and collecting more than \$300,000 in advance fees for foreclosure consultant activity. The division revoked Ruiz's mortgage license and permanently barred him from the industry.
- Assisted in the investigation of Jeremy Richardson of Portland, who pleaded guilty to money laundering, was sentenced to three months in federal prison, and ordered to pay more than \$496,000 in restitution for falsifying buyer/investor qualifications and using customers money intended for down payments for his personal expenses.



Nondepository

- Fined American General Finance \$75,000 and required heightened supervision of employees to ensure they properly safeguard customers' personal information. Conditioned the company's licenses for its Oregon branch offices for two years. The Salem branch manager discarded into the trash 773 checks made payable to the firm by Oregon residents, instead of shredding them. The checks contained personal identifying information, including bank account numbers.
- Issued a cease-and-desist orders and levied penalties against several companies — including Authorized Payday LLC and E-Payday-Loan — for providing online payday loans to Oregonians without a license and charging interest rates and fees in excess of statutory limits.



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