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# ADVISORY BULLETIN

Lenders Compliance Group

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## SAFE Mortgage Licensing Act

### Requirements – Standards - Mandates

Title V of the Housing and Economic Recovery Act of 2008 (HERA), the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act or Act), requires every residential mortgage loan originator to be either federally registered or state licensed by August 1, 2009. The SAFE Act was enacted into law on July 30, 2008.

Starting August 1, 2009, any individual who, for compensation or gain, takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan application must be licensed or registered as a Mortgage Loan Originator. Mortgage loan originators must register with the Nationwide Mortgage Licensing System and Registry (NMLS).

The SAFE Act does not provide any exceptions to licensing or registration for individuals conducting loan origination activities. Real estate brokerage, loan processing, and loan underwriting activities are not covered.

The following brief outline is a guide to certain salient features of the Safe Act.

#### Requirements

**All Mortgage Loan Originators** must:

- Provide fingerprints for an FBI criminal history background check
- Provide authorization for the NMLS to obtain a credit report
- Input and maintain their licensing and personal Mortgage Loan Originator record in the NMLS for each state in which they conduct loan origination activity
- Pass a national mortgage test
- Take 20 hours of pre-licensing education courses approved through the NMLS

The education must include:

- 3 hours of federal law and regulations
- 3 hours of ethics, which must include fraud, consumer protection, and fair lending
- 2 hours of standards on non-traditional mortgage lending

#### Standards

**State licensed Mortgage Loan Originators** must meet the following standards:

- Never had a loan originator license revoked

- Has had no felonies in the past seven years
- Never had a felony involving fraud, dishonesty, breach of trust or money laundering
- Demonstrates financial responsibility and general fitness
- Scores 75% or better on a national test approved by the NMLS

The test must include:

- Ethics
  - Federal law and regulation
  - State law and regulation
  - Federal and state law and regulation vis-à-vis fraud, consumer protection, nontraditional mortgages, and fair lending
- Takes eight hours of continuing education annually
- The education must include:
- 3 hours of federal law and regulations
  - 3 hours of ethics, which must include fraud, consumer protection, and fair lending
  - 2 hours of standards on non-traditional mortgage lending
- Maintain licensing through the NMLS

## Mandates

### Industry Mandate

- All residential mortgage loan originators must be either state-licensed or federally registered
- A mortgage loan originator employed by a federally insured depository institution or any credit union or an owned and controlled subsidiary that is federally supervised must be registered
- All other mortgage loan originators, without exception, must be state licensed
- All state licensed and federally registered mortgage loan originators must be registered with the Nationwide Mortgage Licensing System & Registry (NMLS)

### States Mandate

- All states must have a system of licensing in place for residential mortgage loan originators by August 1, 2009 that meets national definitions and minimum standards, to include, among other things:
  - criminal history and credit background checks
  - pre-licensing education
  - pre-licensing testing
  - continuing education
  - net worth, surety bond or recovery fund
- All states must license mortgage loan originators through the NMLS

## **U.S. Department of Housing and Urban Development (HUD) Mandate**

- HUD must determine that:
  - The state's mortgage loan originator licensing standards meet the federally mandated minimums, and
  - Each state is participating in the NMLS.
- If HUD determines that a state is not in compliance with both items above, HUD must implement a system for all state licensed mortgage loan originators in that state.

## **Federal Banking Agencies / FFIEC / Farm Credit Administration Mandate**

- Must develop and maintain a system for registering employees of federally insured depositories and subsidiaries they own and control, and employees of Farm Credit Administration regulated entities, with the NMLS. Registering with the NMLS requires registered loan officers to submit fingerprints for a state and federal background check and personal history and experience.
- Shall coordinate with the NMLS in assigning unique identifier.

## **CSBS / AARMR Mandate**

The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) must:

- Develop and maintain the Nationwide Mortgage Licensing System and Registry (NMLS).

## **Nationwide Mortgage Licensing System and Registry (NMLS) Mandate**

- Must establish protocols for the issuance of unique identifiers
- Must receive and process fingerprints for national and state criminal history background checks
- Must review and approve, using reasonable standards, pre-licensing and continuing education courses
- Must develop a qualified written test and approve the test providers
- Must develop a mortgage call report
- Must provide public access to licensing information

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The **Advisory Bulletin** is issued by: Lenders Compliance Group, 167 West Hudson Street – Suite 200, Long Beach, NY 11561

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