

DEPOSITORY INSTITUTION LOAN ORIGINATOR REGISTRATION UNDER THE S.A.F.E. ACT

FACT SHEET

UPDATE: On November 13, 2009, the FDIC posted notice that the FDIC Board of Directors had approved a draft final rule implementing the S.A.F.E. Act. The rule has been posted on the FDIC's web site, but will not be published in the *Federal Register* until the other agencies involved in the rulemaking complete their review and approval of the rule. To the extent there are differences between the draft final rule and the version ultimately published by the agencies in the *Federal Register*, those changes will be highlighted by the FDIC at the time of final publication. The FDIC's discussion of the draft, along with a link to the draft final rule itself, can be found on the FDIC's website at FIL – 64-2009, or at <http://www.fdic.gov/news/news/financial/2009/fil09064.html>.

The S.A.F.E. Act* requires that by July 31, 2009, the federal banking agencies (including the FDIC and NCUA) must adopt and enforce rules requiring registration of loan originators who work at depository institutions and who work at subsidiaries "owned and controlled" by a depository institution. The term "depository institution" has the same meaning as in section 3 of the Federal Deposit Insurance Act, and includes any credit union. It does not include bank holding companies, however.

The rule will require the registration to take place through the Nationwide Mortgage Licensing System and Registry (NMLSR). The proposed rule deals with the procedures, requirements and deadlines for the registration of depository institution loan officers through the NMLSR. The rules that are adopted will be enforced by the NCUA and the FDIC.

- Loan originators will be required to maintain a registration (not a license) that includes the following:
- fingerprints
- personal history and experience (including reports of publicly adjudicated disciplinary and enforcement actions)
- unique identifier number, which will be assigned by the NMLSR.

Loan originators who do not work at depository institutions or their subsidiaries are required to submit to a more extensive license process through the NMLSR. State law is currently being enacted and implemented to regulate the license process. This law had an initial deadline of April 1, 2009.

A "loan originator" is an individual who takes a residential mortgage loan application, or offers or negotiates terms of a residential mortgage loan for compensation or gain.

A "loan originator" does not include a person who performs purely administrative or clerical tasks on behalf of a person who is a "loan originator". It also does not include a person who performs only real estate brokerage activities or a person who is solely involved in extensions of credit relating to timeshare plans.

***For more information**, and a link to the S.A.F.E. Act, the Conference of State Bank Supervisors (CSBS) has a wealth of information about S.A.F.E. and the NMLSR on its website, at www.csbs.org and <http://mortgage.nationwidelicencingsystem.org/fedreg/pages/default.aspx> .