

# RESCINDED

Transmittal – See OCC 2020-11

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## S.A.F.E. Act Mortgage Loan Originator Registration Requirements: Joint Final Rule

The Office of the Comptroller of the Currency, along with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, the Farm Credit Administration, and the National Credit Union Administration (collectively, the agencies), published a final rule on July 28, 2010, to implement the S.A.F.E. Mortgage Licensing Act of 2008 (S.A.F.E. Act).

The S.A.F.E. Act requires the agencies to develop and maintain jointly a federal registration system for individuals employed by banks, thrifts, credit unions, and Farm Credit System institutions and certain of their subsidiaries, who engage in the business of residential mortgage loan origination. These mortgage loan originators must be registered with the Nationwide Mortgage Licensing System and Registry (registry), a database established by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators. As part of this registration process, mortgage loan originators must furnish to the registry background information and fingerprints for a background check. The S.A.F.E. Act generally prohibits employees of an agency-regulated institution from originating residential mortgage loans without first registering with the registry.

The attached final rule amends 12 CFR 34 to implement these requirements with respect to national banks, federal branches and agencies of foreign banks, and their operating subsidiaries (national banks). Each of the other agencies has issued identical rules for its regulated entities as part of this joint rulemaking.

Specifically, the final rule requires mortgage loan originators employed by national banks to register with the registry and maintain their registration. Pursuant to the S.A.F.E. Act, the mortgage loan originators also are required to obtain a unique identifier through the registry that will remain with that originator, regardless of changes in employment. The rule requires mortgage loan originators (and national banks) to provide these unique identifiers to consumers in certain circumstances. The rule provides an exception to these requirements for originators who originate a *de minimis* number of residential mortgage loans.

The final rule provides that a national bank must require its employees who are mortgage loan originators to comply with these requirements and specifically prohibits the bank from permitting its employees to act as mortgage loan originators unless registered with the registry pursuant to the final rule and the S.A.F.E. Act. Furthermore, the rule requires national banks to adopt and follow written policies and procedures to assure compliance with the registration requirements.

To

Chief Executive Officers of All  
National Banks, Department and  
Division Heads, All Examining  
Personnel, and Other Interested  
Parties

This final rule is effective on October 1. National banks must establish the policies and procedures required by the final rule by that date.

Because the necessary modifications to the registry have not been completed, national banks and their employees are **not** required to comply with the final rule's registration requirements at this time. The agencies expect that the registry will be capable of accepting federal registrations in January 2011 at the earliest. However, the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 will transfer the agencies' responsibilities under the S.A.F.E. Act to the Bureau of Consumer Financial Protection on a transfer date that is no earlier than January 2011 and (subject to a six-month extension) no later than July 2012. If the OCC has jurisdiction to administer the S.A.F.E. Act on the date when the registry begins accepting federal registrations, it will announce that date in advance and notify national banks and their residential mortgage loan originator employees that they will then have 180 days to comply with the final rule's initial registration requirements.

The final rule was published in the *Federal Register* on July 28. The *Federal Register* republished the preamble to the final rule on August 23 to correct inaccurate footnote numbering.

For further information, contact Michele Meyer, Assistant Director; Heidi M. Thomas, Special Counsel; or Patrick T. Tierney, Senior Attorney, in the Legislative and Regulatory Activities Division at (202) 649-6670. Further information regarding the registry and the registration process is available at the registry's Website:

<http://mortgage.nationwidelicensingsystem.org/fedreg/Pages/default.aspx>.

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#### Related Links

- [Joint Final Rule](#) (PDF)
- [Correction](#) (PDF)