



FEDERAL RESERVE BANK *of* KANSAS CITY

April 9, 2012

Supervisory Expectations for S.A.F.E. Act Compliance

To the Chief Executive Officer of Each 10th District State Member Bank and Bank Holding Company:

The purpose of this letter is to remind you of certain requirements contained in the Consumer Financial Protection Bureau's rule implementing the Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE Act"), which calls for residential mortgage loan originators ("MLOs") employed by banks, savings associations, credit unions, or Farm Credit System institutions to register with the Nationwide Mortgage Licensing System and Registry ("Registry"), obtain a unique identifier from the Registry, and maintain their registrations.

First, the rule requires these institutions to adopt written policies and procedures to ensure that their MLO employees are registered and that their registration information, as reflected in the institution's records, is accurate. These policies and procedures should be appropriate to the nature, size, complexity, and scope of residential mortgage lending activities of each institution. Federal Reserve-supervised institutions should be aware that Safety and Soundness examiners will begin reviewing institutions' policies and procedures in this area, effective immediately.

Furthermore, the SAFE Act rule requires a federally-regulated institution to conduct an annual test to review its compliance with the rule. Such independent compliance activities may be conducted by an institution's internal audit function, compliance (or similar) function, or by an outside party. The deadline date for completion of the 2012 test by Federal Reserve-supervised institutions is July 29, 2012, which is one year from the close of the initial registration period for federal MLOs. Thereafter, institutions are required to independently test for compliance with the rule at least annually.

If you have any questions concerning this letter, please feel free to contact this Reserve Bank's SAFE Act Coordinator, Andrew Thompson, at (800) 333-1020, ext. 22535, or via e-mail at andrew.thompson@kc.frb.org.

Sincerely,

James H. Hunter
Vice President

Attachment

S.A.F.E. ACT REQUIRED POLICIES & PROCEDURES

Section 208.104 of Regulation H—Policies and Procedures

A bank that employs one or more mortgage loan originators must adopt and follow written policies and procedures designed to assure compliance with this subpart. These policies and procedures must be appropriate to the nature, size, complexity, and scope of the mortgage lending activities of the bank, and apply only to those employees acting within the scope of their employment at the bank. At a minimum, these policies and procedures must:

- (a) Establish a process for identifying which employees of the bank are required to be registered mortgage loan originators;
- (b) Require that all employees of the bank who are mortgage loan originators be informed of the registration requirements of the S.A.F.E. Act and this subpart and be instructed on how to comply with such requirements and procedures;
- (c) Establish procedures to comply with the unique identifier requirements in section 208.105;
- (d) Establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records;
- (e) Establish reasonable procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures;
- (f) Provide for independent testing for compliance with this subpart to be conducted at least annually by bank personnel or by an outside party;
- (g) Provide for appropriate action in the case of any employee who fails to comply with the registration requirements of the S.A.F.E. Act, this subpart, or the bank's related policies and procedures, including prohibiting such employees from acting as mortgage loan originators or other appropriate disciplinary actions;
- (h) Establish a process for reviewing employee criminal history background reports received pursuant to this subpart, taking appropriate action consistent with applicable Federal law, including section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) and implementing regulations with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees; and
- (i) Establish procedures designed to ensure that any third party with which the bank has arrangements related to mortgage loan origination has policies and procedures to comply with the S.A.F.E. Act, including appropriate licensing and/or registration of individuals acting as mortgage loan originators.

Section 208.105 of Regulation H—Use of Unique Identifier

- (a) The bank shall make the unique identifier(s) of its registered mortgage loan originator(s) available to consumers in a manner and method practicable to the institution.
- (b) A registered mortgage loan originator shall provide his or her unique identifier to a consumer:
 - (1) Upon request;
 - (2) Before acting as a mortgage loan originator; and
 - (3) Through the originator's initial written communication with a consumer, if any, whether on paper or electronically.