

## MMC SAFE ACT EXAMINATION GUIDELINES (SEGs)

### MODULE I. INTRODUCTION AND PURPOSE OF SAFE ACT EXAMINATION GUIDELINES

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (hereinafter referred to as the SAFE Act or SAFE) was enacted into law on July 30, 2008 with the primary objective of establishing minimum standards for individual States to license and register mortgage loan originators (MLOs). The SAFE Act, included in these guidelines as Attachment A, also calls upon the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) to establish and administer the Nationwide Mortgage Licensing System and Registry (NMLS). The NMLS provides, among other things, a uniform licensing and reporting system, as well as a comprehensive database that allows regulators to better monitor licensees. NMLS Consumer Access provides consumers information about companies and individuals they may be working with.

These guidelines are published by the Multistate Mortgage Committee (MMC)<sup>1</sup>. The MMC is responsible for developing uniform processes of examination and for oversight of multistate mortgage examinations of nondepository institutions. These guidelines are developed and intended for use by state nondepository mortgage regulators.

The primary purpose of the SAFE Act Examination Guidelines (SEGs) is to ensure that all individuals acting as MLOs, as defined by the SAFE Act<sup>2</sup>, are properly licensed and registered under the SAFE Act, in all States in which they are conducting business. While the SAFE Act is primarily<sup>3</sup> limited in coverage to MLOs, state law further encompasses the licensing of mortgage institutions through the NMLS.<sup>4</sup> These guidelines provide a standardized set of examination procedures that will result in a thorough review of an institution's compliance with state licensing through the NMLS and individual MLO compliance with state law and the SAFE Act.

The SAFE Act is designed to enhance consumer protection and reduce fraud by requiring states to establish minimum standards for the licensing and registration of state-licensed or non-depository mortgage loan originators and registration of depository mortgage loan originators through the NMLS. Although each state establishes its authority to supervise and examine licensees, the SAFE Act also

---

<sup>1</sup> The MMC is the ten state representative body formed under the CSBS/AARMR Nationwide Cooperative Protocol and Agreement for Mortgage Supervision.

<sup>2</sup> As used in these guidelines, "the SAFE Act" or "SAFE", unless specifically noted otherwise, means the Act and federal rules plus any associated state laws. In certain situations, these guidelines may reference the 2008 Model State Law (MSL) for the implementation of the SAFE Act rather than any specific state law. Where conflicts exist between State law and federal law, the examiner should generally follow State law.

<sup>3</sup> Although the SAFE Act specifically covers the MLO, certain sections of the act place responsibilities and compliance burdens on the institution employing the MLO.

<sup>4</sup> NMLS, on behalf of the states, was further authorized to establish operational procedures and compliance requirements for institutions and MLOs licensed through NMLS.

simultaneously sets standards for state oversight while providing additional supervisory authority for states under federal law.<sup>5</sup> Pursuant to Section 1508(d), SAFE sets forth the following requirements:

- (1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.
- (2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

Further, Section 1515 establishes the following:

In addition to any authority allowed under State law a State licensing agency shall have the authority to conduct investigations and examinations as follows:

- (1) For the purposes of investigating violations or complaints arising under this title, or for the purposes of examination, the State licensing agency may review, investigate, or examine any loan originator licensed or required to be licensed under this title, as often as necessary in order to carry out the purposes of this title.
- (2) Each such loan originator shall make available upon request to the State licensing agency the books and records relating to the operations of such originator. The State licensing agency may have access to such books and records and interview the officers, principals, loan originators, employees, independent contractors, agents, and customers of the licensee concerning their business.
- (3) The authority of this section shall remain in effect, whether such a loan originator acts or claims to act under any licensing or registration law of such State, or claims to act without such authority.
- (4) No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

On June 30, 2011, the Office of the Assistant Secretary for Housing–Federal Housing Commissioner, HUD, published its Final Rule, 24 CFR Parts 30 and 3400, SAFE Mortgage Licensing Act: Minimum Licensing Standards and Oversight Responsibilities [Docket No. FR–5271–F–03]. The Rule was replaced by the Consumer Financial Protection Bureau (CFPB) on December 19, 2011, by 12 CFR Part 1007 and 1008 [Docket No. CFPB–2011–0023] S.A.F.E. Mortgage Licensing Act (Regulations G & H). The only change in the rule replacement was a recodification of rule numbers and references to the CFPB. The Final Rule provides important interpretive guidance for nondepository institutions and their MLOs, as well as for State regulators of those institutions and their MLOs. The Final

---

<sup>5</sup> Examiners should familiarize themselves with the SAFE Act (Attachment A) and the CFPB Final Rule (see hyperlink next page).

Rule can be obtained through the following link: [Use Ctrl+click]  
<http://www.gpo.gov/fdsys/pkg/FR-2011-12-19/pdf/2011-31730.pdf>.

While SEGs are not required guidelines, utilization of SEGs should achieve the following objectives:

- A uniform examination process that will allow state agencies to effectively determine compliance with the SAFE Act.
- Consistent and uniform guidelines for use by institution in-house compliance and audit departments conducting SAFE Act and state compliance reviews.

Regulators may wish to use all or portions of SEGs depending on the size and complexity of the institution examined and the available resources of the agency. Examiners should identify within the scope of the examination report if and to what extent SEGs sections of Module IV were used so that other state regulators<sup>6</sup> will know that a standard examination model has been employed.

SEGs are divided into major modules and sections. Module III – SEGs Examiner Instructions provides further guidance on the use of each module.

---

<sup>6</sup> When sharing confidential supervisory information such as reports of examination, examiners should be cognizant of both state confidentiality laws and provisions of the CSBS/AARMR Nationwide Cooperative Agreement for Mortgage Supervision.

## MODULE II. DEFINITIONS AND CLARIFICATIONS

This module provides definitions and clarifications of terms used within SEGs. Official definitions can be found in Attachment A. Your State’s codified definitions should be used for official citations whenever possible.

**Application** means a request, in any form, for an offer (or a response to a solicitation of an offer) of residential mortgage loan terms, and the information about the borrower or prospective borrower that is customary or necessary in a decision on whether to make such an offer.

### **Employee**

(1) Subject to paragraph (2) of this definition, means:

(i) An individual:

(A) Whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and

(B) Whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

(2) Has such binding definition as may be issued by the federal banking agencies in connection with their implementation of their responsibilities under the SAFE Act.

### **Loan originator or mortgage loan originator**

A. In General- the term “loan originator”-

i. means an individual who-

I. takes a residential mortgage loan application; and

II. offers or negotiates terms of a residential mortgage loan for compensation or gain;

*Examiner note: The terms “loan originator” and “mortgage loan originator” are synonymous for SEGs purposes. State law generally replaces the “and” in I. and II. above with “or.” The effect of this replacement is to require individuals to obtain a license if they are conducting either of the activities rather than both activities. Additional clarifications on this definition are contained within SAFE, the Model State Law and actual State Law. Examiners must fully understand the definition of loan originator, as well as “residential mortgage loan originator” (defined in SAFE), prior to determining the need for a license or any exemption from licensing.*

**Independent contractor** means an individual who performs his or her duties other than at the direction of and subject to the supervision and instruction of an individual who is licensed and registered in accordance with § 1008.103(a), or is not required to be licensed, in accordance with § 1008.103(e)(5), (e)(6), or (e)(7).

**Individual** For purposes of SEGs, “individual” shall mean a natural person or employee.

*Examiner note: See your State law and §1008.103 for a detailed discussion on individuals required to be licensed by State law.*

**Loan modification** means a permanent change in one or more of the terms of a mortgagor's loan, allows the loan to be reinstated, and results in a payment the mortgagor can afford.<sup>7</sup>

**Refinance** means a transaction resulting in a new loan, not a modified loan.

**Residential mortgage loan** means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

**Servicer** (for the purposes of SEGs), means a person who engages in activities that may include, but are not limited to, collecting principal and interest payments from borrowers, managing a borrower's escrow accounts, and providing assistance to a borrower in connection with the processing of the borrower's mortgage loan payments, taxes and insurance.

### **Unique Identifier**

- A. In General- The term "unique identifier" means a number or other identifier that-
- i. permanently identifies a loan originator;
  - ii. is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and
  - iii. shall not be used for purposes other than those set forth under this title.

## **MODULE III. SEGs EXAMINER INSTRUCTIONS**

SEGs is intended to promote uniformity, transparency and consistency among examinations of licensees conducted by independent State agencies. SEGs focus the examiner on specific areas and procedures for a thorough review of SAFE compliance by institutions. It should be noted that although the SAFE Act primarily covers individual mortgage loan originators, State examination authority is generally focused on the institutions employing, contracting with or sponsoring MLOs. In general, examiners should attempt to answer the following questions related to SAFE Act compliance:

1. Are policies and procedures adequate?
2. Are internal controls adequate?
3. Are the audit or independent review functions adequate?
4. Are information and communication systems adequate and accurate?
5. Is management oversight sufficient?

---

<sup>7</sup> Source: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/housing/sfh/nsc/faq1m](http://portal.hud.gov/hudportal/HUD?src=/program_offices/housing/sfh/nsc/faq1m). Note, there is no federally accepted definition of loan modification. Examiners should note that SEGs defines the term here for general use and understanding and that State law and regulation should be followed whenever possible.

6. Are recordkeeping controls adequate for determining compliance?
7. In general, have the institution and its MLOs complied with the SAFE Act?

SEGs consist of the following modules designed to assist in answering the above questions:

1. SEGs Examiner Checklist
2. SEGs Institution Information and Data Request (includes Loan Summary sheet identifying mortgage loan originator/originator, processor, underwriter and/or independent contractor for each transaction)
3. SEGs Institution Questionnaire

Module IV, the Examiner Checklist, is a tool intended to guide examiners in specific areas of review. The Examiner Checklist poses a question to the examiner. Following review and analysis, the examiner determines the appropriate answer to the question and drafts the answer in the corresponding column. When used as a Word document, the text box in each answer column will expand to accommodate as much text as the examiner desires.

The Examiner Checklist should be retained in the examination work papers as a contemporaneous journal of examination findings. Any referenced or supporting documentation should be retained as well. If crafted deliberately, the answers within the checklist, especially answers to the section summary questions, may be copied and pasted into the relevant section of the report of examination creating efficiency in the final phase of the exam. For most states, examination work papers are considered confidential supervisory information. Examiners should be familiar with state law protecting confidential information and the confidentiality provisions of the CSBS/AARMR Nationwide Cooperative Agreement for Mortgage Supervision.

### Examination Scope

In “scoping” the examination, the EIC must determine the areas to be focused on during the examination, what documentation will be requested, the amount of time needed to complete the examination, and the resources needed to be most efficient. In general, consider two basic examination scopings:

- **Full Scope Examination:** A full scope examination would typically consist of off-site preparation and meeting, followed by an on-site examination of records and practices, including interviews of management and staff and possibly borrowers. Follow up to the on-site examination would normally consist of an exit review, a report of examination and a response by institution management where necessary. Examiners should consider all components of all sections when performing a full scope examination, with the exception of section F. Financial Condition Review, if incorporated elsewhere in the examination plan.
- **Limited Scope Examination:** The limited scope examination will be similar, but narrower in issues covered, time spent or numbers of transactions reviewed. When appropriate, a limited scope examination may be conducted primarily or entirely off-site. Despite the limits of this type of examination, it nevertheless can be a valuable tool for monitoring or in situations where

the issues or risk do not merit a full examination of the institution. Examiners should determine which components and sections are necessary for an effective limited scope examination.

For further discussion on Examination Scope see various sections of the MMC Examination Manual.

### General Issues

Regardless of the scope chosen, the examiner should evaluate the institution's overall compliance with SAFE and State licensing laws. At a minimum, the examiner should evaluate whether the institution has adequate policies, procedures and controls in place to ensure that MLOs are licensed as required and that the institution itself is in compliance with State law and NMLS licensing and reporting requirements.

## **MODULE IV. EXAMINER CHECKLIST**

The Examiner Checklist consists of questions intended to prompt the examiner for specific review. Much of the checklist can be completed from a thorough, off-site review of the response to the Information and Data Request and Institution Questionnaire. Other sections will require institution books and records review, file-level review and possibly interviews of institution management, staff, borrowers or others.

Module IV is divided into eight sections that can be employed separately or combined for a more comprehensive or complex examination. The sections are as follows:

- A. Pre-Examination: Covers pre-examination elements that should be reviewed and considered regardless of the size, type or scope of the examination. The focus of this section is to determine the scope of the examination via a risk based review of the preplanning materials.
- B. Institution Licensing: Covers institution structure, ownership, affiliations, branches, financial condition, policies and procedures. This section may be combined with other sections for a comprehensive evaluation. A main focus of this section is on accuracy of the institution information provided to the NMLS.
- C. Human Resources: Covers the owners, originators, individuals and independent contractors' human resource files focusing on individual licensing and renewals and the accuracy of individual information provided to the NMLS.
- D. Compliance Management: Covers the areas of compliance with NMLS requirements related to owners, originators, individuals and independent contractors and discrepancies in information maintained by Human Resources, Compliance and the NMLS or discrepancies in policies, procedures and internal controls.
- E. Operational Management: Covers personnel, training, systems, monitoring, reporting, and internal audit.
- F. Financial Condition Review: This section is only completed when conducting a stand-alone SAFE review, or when the examination does not include financial condition review as part of the broader scope of review.

- G. Mortgage Call Report Review: Covers compliance with the institution’s quarterly and annual reporting requirements of loan activity, financial condition and other information.
- H. Interviews: Covers recommended interview subjects and questions.

**A. PRE-EXAMINATION**

	<b>GENERAL</b> <i>Examiner note: This section should be completed regardless of the scope of the examination or size or type of the institution. The questions in this section are general triggers intended to stimulate broad consideration by the examiner. For full scope examinations the examiner should review each loan file identified from A.2 below.</i>	Y	N	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
A.1	Does management have a clear understanding of its responsibilities under SAFE? <i>Examiner note: Consider response to questionnaire, policies, discussions with management and staff, and the actual operations of this institution.</i>			
A.2	Have any complaints been filed with the agency against the institution related to unlicensed originators? <i>Examiner note: Review complaints against responses to the Information and Data Request and Institution Questionnaire.</i>			
A.3	Has the institution been examined by any other state? <i>Examiner note: Obtain a copy of the exam report if possible and discuss the findings with the state regulator where appropriate.</i>			
A.4	Have you (the examiner) reviewed NMLS to determine if there are any outstanding licensing issues or deficiencies with any individuals sponsored by the institution or the institution itself?			
A.5	Does the institution have any individuals who are in a pending status? <i>Examiner note: Obtain the names of all pending individuals from NMLS. This list can be used to focus on whether the institution has been engaging in unlicensed activity.</i>			
	<b>OVERVIEW OF POLICIES AND PROCEDURES</b> <i>Examiner note: Obtain and thoroughly review all policies and procedures related to SAFE compliance, MLO and institution licensing compliance, and reporting to the NMLS.</i>			
A.6	Do written policies and procedures adequately cover (as applicable):			

A.6a	<ul style="list-style-type: none"> <li>Hiring?</li> </ul>			
A.6b	<ul style="list-style-type: none"> <li>Training?</li> </ul>			
A.6c	<ul style="list-style-type: none"> <li>Access rights to NMLS?</li> </ul>			
A.6d	<ul style="list-style-type: none"> <li>Internal controls, monitoring and reporting related to SAFE compliance?</li> </ul>			
A.6e	<ul style="list-style-type: none"> <li>Oversight and supervision of MLOs and institution licensing?</li> </ul>			
A.6f	<ul style="list-style-type: none"> <li>Defined activities, duties and job descriptions that require licensing?</li> </ul>			
A.6g	<ul style="list-style-type: none"> <li>Requirements that individuals notify management of any external events or conduct that could affect their license?</li> </ul>			
A.6h	<ul style="list-style-type: none"> <li>Third party originators?</li> </ul>			
A.7	Does the institution have probationary procedures for new MLOs and if so, do they comply with SAFE requirements?			
A.8	Summary: Do institution policies and procedures adequately cover requirements and responsibilities under SAFE and state law?			

## B. INSTITUTION LICENSING

	<i>Examiner note: In this section you are attempting to determine whether the institution has complied with State licensing requirements and NMLS filing requirements.</i>	Y	N	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
B.1	Is the institution licensed in the states in which it does business? <i>Examiner note: Review applications taken and loans originated to compare to licensing in NMLS. Test that dates of licensing precede application dates.</i>			
B.2	Is the institution's Employer Identification Number (EIN) correctly reported in NMLS?			
B.3	Is the institution's address correctly reported in NMLS?			
B.3a	<ul style="list-style-type: none"> <li>Do address change timings match the timing reported in the NMLS attestation? <i>Examiner note: You are determining whether the institution changed location as disclosed in the attestation.</i></li> </ul>			
B.4	Does the institution do business through locations other than the main office, and if so, has the institution obtained proper licenses or authorizations for all locations, if required?			
B.5	Does the institution use trade names (check letterhead, business cards, advertising, Internet (e.g.,			

	social) media, etc.), and if so have the trade names been properly reported in NMLS for each state in which the names are used?			
B.6	Has the institution reported all websites in the NMLS? <i>Examiner note: Check if the website on business cards, letterhead, etc. matches the NMLS record.</i>			
B.7	Are all contact persons in NMLS accurate, including the following?			
B.7a	<ul style="list-style-type: none"> <li>• Primary.</li> </ul>			
B.7b	<ul style="list-style-type: none"> <li>• Consumer Complaints.</li> </ul>			
B.7c	<ul style="list-style-type: none"> <li>• Books and Records.</li> </ul>			
B.7d	<ul style="list-style-type: none"> <li>• Others at institution option.</li> </ul>			
B.8	Determine if the institution is GSE approved (Fannie Mae, Freddie Mac, Ginnie Mae). If so, has the institution reported this status on the MU1?			
B.9	Do the activities engaged in by the institution match those reported in the Other Business section of the institution's MU-1? <i>Examiner note: Compare portfolio to Other Business section.</i>			
B.10	Does the institution conduct any business activity (e.g. title, appraisal, real estate, etc.) other than direct mortgage business?			
B.10a	<ul style="list-style-type: none"> <li>• Has the institution reported all financial services-related businesses in the NMLS?</li> </ul>			
B.11	Does the institution occupy or share space with any other person(s) engaged in financial services related activity and has the institution reported this correctly in NMLS?			
B.12	Is the institution's legal status appropriately reported in NMLS?			
B.13	Does the institution have any affiliates, and if so, were they properly reported on the institution's license application (MU-1)? (Examiner note: Remember this when looking at any affiliated business agreements, etc.)			
B.14	Does the institution have any subsidiaries, and if so, were they properly reported on the institution's license application (MU-1)?			
B.15	Is the institution controlled by a financial institution, and if so, was that properly reported on the institution's license application (MU-1)?			
B.16	Is ownership properly disclosed on the license application (MU-1)?			
B.17	Review the MU-1 and all MU-2s and answer the			

	following questions: <i>Examiner note: Consider position descriptions, titles and actual duties/roles observed during examination.</i>			
B.17a	<ul style="list-style-type: none"> <li>Are all individuals required to be listed on the institution license application (MU-1) listed on the form?</li> </ul>			
B.17b	<ul style="list-style-type: none"> <li>Are the appropriate control people reported on the institution's license application (MU-1)? (Examiner note: Consider position descriptions, titles and actual duties/roles observed during examination.)</li> </ul>			
B.17c	<ul style="list-style-type: none"> <li>Have all individuals listed on the institution license application (MU-1) also completed a control person application (MU-2) if required?</li> </ul>			
B.18	Review institution license application (MU-1) disclosures and answer the following questions:			
B.18a	<ul style="list-style-type: none"> <li>Are all questions related to Criminal Disclosure accurate?</li> </ul>			
B.18b	<ul style="list-style-type: none"> <li>Are all questions related to Regulatory Action Disclosure accurate?</li> </ul>			
B.18c	<ul style="list-style-type: none"> <li>Are all questions related to Civil Judicial Disclosure accurate?</li> </ul>			
B.18d	<ul style="list-style-type: none"> <li>Are all questions related to Financial Disclosure accurate?</li> </ul>			
B.19	Review control person application (MU-2) disclosures and answer the following questions:			
B.19a	<ul style="list-style-type: none"> <li>Are all questions related to Financial Disclosure accurate?</li> </ul>			
B.19b	<ul style="list-style-type: none"> <li>Are all questions related to Criminal Disclosure accurate?</li> </ul>			
B.19c	<ul style="list-style-type: none"> <li>Are all questions related to Civil Judicial Disclosure accurate?</li> </ul>			
B.19d	<ul style="list-style-type: none"> <li>Are all questions related to Regulatory Action Disclosure accurate?</li> </ul>			
B.19e	<ul style="list-style-type: none"> <li>Are all questions related to Customer Arbitration/Civil Litigation Disclosure accurate?</li> </ul>			
B.19f	<ul style="list-style-type: none"> <li>Are all questions related to Termination Disclosure accurate?</li> </ul>			
B.19g	<ul style="list-style-type: none"> <li>Are all questions related to NMLS or SRR Testing Rules of Conduct Disclosure accurate?</li> </ul>			
B.20	Review any MU-3 Branch Office forms to determine the following:			

B.20a	<ul style="list-style-type: none"> <li>Are any branches using the same address? <i>Examiner note: Determine that the institution has not attempted to license more than one branch at a single address by filing multiple MU-3 forms at the address and/or associated multiple branch managers with the address.</i></li> </ul>			
B.20b	<ul style="list-style-type: none"> <li>Are any branches using the same branch manager where not permitted under applicable state law? <i>Examiner note: This could be a records “clean up” issue rather than a compliance failure.</i></li> </ul>			
B.20c	<ul style="list-style-type: none"> <li>Has the branch reported all financial services-related businesses in the NMLS?</li> </ul>			
B.21	Compare the NMLS submitted financial reports to institution records and answer the following:			
B.21a	<ul style="list-style-type: none"> <li>Are the institution’s financial reports attached in NMLS true and accurate? <i>Examiner note: Review for financial report accuracy may be included elsewhere in the examination including the Financial Condition review.</i></li> </ul>			
B.21b	<ul style="list-style-type: none"> <li>Do the institution’s operational accounts and other records support the financial status reported by the institution in NMLS?</li> </ul>			
	STATE SPECIFIC			
B.22	Does the institution have the appropriate licenses for the types of licensable activity that it engages in? <i>Examiner note: Review loan originations to compare to licensing through the NMLS.</i>			
	[Add additional State specific questions as needed and renumber appropriately.]			
B.23	SUMMARY: Are the institution’s licensing procedures and processes adequate? <i>Examiner note: This section is intended to guide the examiner in determining whether an individual, third party loan modification specialist or attorney, who is engaged in modifications, assumptions or refinances requires a mortgage loan originator or institution license based upon any applicable state law. To the extent that there is no specific state law on any or all of these issues for the states reviewed in the course of the exam, those questions and/or this whole section of the exam is not applicable, and the examiner should</i>			

	<i>move on to the next applicable question and/or portion of the exam.</i>			
	<b>STATE SPECIFIC SERVICER RELATED REVIEW</b>			
	<i>Examiner note: This section is intended to guide the examiner in determining whether an individual, third party loan modification specialist or attorney, engaged in modifications, assumptions or refinances requires a mortgage loan originator or institution license.</i>			
B.24	Is the individual a government employee working in a mortgage loan-related agency? If yes, is the individual excluded from SAFE Act licensing?			
B.25	Is the individual a loan originator for a nonprofit organization with a 501(c) (3) status? If yes, is the individual excluded from SAFE Act licensing?			
B.26	Did the individual offer or provide a refinance? If yes, is the individual required to obtain a license?			
B.27	If an attorney, does he/she perform loan modifications or assumptions other than as an ancillary service to his/her legal practice? If yes, does this activity require a mortgage loan originator license? <i>Examiner note: One test may be whether the attorney performs the service as a direct source of income or profit. For example, an attorney performing a modification as part of a divorce settlement or bankruptcy would not likely receive income for the modification alone.</i>			
	[Add State specific questions as needed and renumber appropriately.]			

**C. HUMAN RESOURCES**

	<p><i>Examiner note: In this section you are determining whether individuals acting as MLOs are appropriately licensed and whether the individual’s record in NMLS is complete, accurate and up to date. Examiners will find the following NMLS Regulator reports helpful in reviewing this section:</i></p> <p><b>Sponsored Individual Roster</b> report displays the MLO’s current sponsorship status, the initial sponsorship acceptance date and whether the</p>	<b>Y</b>	<b>N</b>	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
--	--	----------	----------	---

	<p>institution relationship has been terminated. The report can be filtered by:</p> <ul style="list-style-type: none"> <li>• Date Range (not to exceed a 36 month period).</li> <li>• Sponsorship Status Category (Active, Inactive or Both): <ul style="list-style-type: none"> <li>• Active (sponsorships that were active at the end of the date range will be included)</li> <li>• Inactive (sponsorships that were inactive at the end of the date range will be included)</li> <li>• Both (sponsorships that were active at any time during the date range will be included)</li> </ul> </li> </ul> <p>Reviewing the Initial Sponsorship Date will help to determine if a MLO’s sponsorship was active throughout the date range selected.</p> <p><b><u>Individual Roster</u></b> report includes the MLO’s individual email address from their MU4 record. The report can be filtered by:</p> <ul style="list-style-type: none"> <li>• Including or excluding “Inactive” licenses</li> <li>• As Of Date</li> </ul> <p>Sorting the Individual Email Address column in Excel will quickly determine if a general email address is being used by multiple MLOs.</p>			
C.1	<p>Are there procedures in place to ensure that the requirements of SAFE are met prior to permitting an employee to engage in SAFE regulated activities? <i>Examiner note: Document your review of procedures by retaining notes, document copies, etc.</i></p>			
C.1a	<ul style="list-style-type: none"> <li>• Has management identified an HR person responsible for SAFE Act compliance issues?</li> </ul>			
C.1b	<ul style="list-style-type: none"> <li>• Are there procedures indicating when to add a notation that the job is a SAFE Act position and what the requirements are?</li> </ul>			
C.1c	<ul style="list-style-type: none"> <li>• Does the institution notify MLO applicants that conducting MLO activity is contingent on meeting the SAFE Act requirements?</li> </ul>			
C.1d	<ul style="list-style-type: none"> <li>• Does the institution have screening procedures for background check, credit report, fingerprinting, criminal background check and training?</li> </ul>			
C.1e	<ul style="list-style-type: none"> <li>• Does the institution have procedures for</li> </ul>			

	verifying compliance with the NMLS requirements?			
C.2	Are there ongoing procedures for:			
C.2a	<ul style="list-style-type: none"> <li>Ensuring that the unique identifier is included on business cards, emails, applicable loan documents, and other appropriate documents and correspondence?</li> </ul>			
C.2b	<ul style="list-style-type: none"> <li>Are there periodic verifications that the NMLS data is correct in comparison to the Human Resources file?</li> </ul>			
C.2c	<ul style="list-style-type: none"> <li>Is there a procedure for annual follow up on renewal and training?</li> </ul>			
C.2d	<ul style="list-style-type: none"> <li>Does the institution conduct periodic background, credit, consumer complaints and compliance violations/warnings checks?</li> </ul>			
C.2e	<ul style="list-style-type: none"> <li>Are there termination procedures for when an employee does not subsequently meet the SAFE Act requirements, resigns, dies, does not comply with corrections/warnings or periodic background, credit, consumer complaints, during or at the end of the probationary period, as defined by the institution or state law? <i>Examiner note: Termination procedures should include the removal of an employee from the NMLS system by “terminating the relationship” with the sponsor.</i></li> </ul>			
C.2f	<ul style="list-style-type: none"> <li>Are there monitoring procedures for when an employee changes name, address, phone number and any other personal information? <i>Examiner note: the monitoring should include reviewing NMLS to ensure it is updated properly.</i></li> </ul>			
C.3	Does the institution maintain a list of individuals with corresponding job title, job description, date of hire, and date of termination? <i>Examiner note: Document your review of procedures by retaining note, document copies, etc.</i>			
C.4	Review individual files. Do the files contain the following (where applicable): <ul style="list-style-type: none"> <li>(a) Employment application?</li> <li>(b) Resume?</li> <li>(c) Offer letter?</li> <li>(d) Employment contract?</li> <li>(e) Job description?</li> <li>(f) Background check?</li> </ul>			

	<p>(g) Credit report?</p> <p>(h) References and reference checks?</p> <p>(i) W-4 designating the individual as an employee?</p> <p>(j) W-9 designating the individual as an independent contractor or 1099?</p> <p>(k) Proper identification, i.e. social security card, driver's license, ID card issued by state, U.S. Passport, Foreign Passport with I-551 stamp, etc.?</p> <p>(l) SF87 or a finger print card with results, or other documented criminal background sources?</p> <p><i>Examiner note: This list should be modified as appropriate to conform to the agency's supervisory program. For larger institutions a sample of individuals may be sufficient.</i></p>			
C.5	<p>Comparing the items in C.4, is the individual's self reported information in NMLS accurate? <i>Examiner note: For larger institutions a sample of individuals may be sufficient.</i></p>			
C.6	<p>Comparing the items in C.4 (c), (d), (e), (h) and (i), to the NMLS, is the individual an employee (W2) or a contractor (1099)? <i>Examiner note: For larger institutions a sample of individuals may be sufficient.</i></p>			
C.7	<p>For individuals not identified as MLOs by the institution, do the job descriptions indicate that the duties relate to loan origination or require licensing under SAFE? <i>Examiner note: For larger institutions a sample of individuals may be sufficient.</i></p>			
C.7a	<ul style="list-style-type: none"> <li>For non-MLO individuals is there any indication of commission only as compensation? <i>Examiner note: This may be an indication that the individual is operating as a loan originator and require more in-depth review.</i></li> </ul>			
C.8	<p>For each individual determined to be operating as a loan originator:</p>			
C.8a	<ul style="list-style-type: none"> <li>Does the background check match the NMLS results for identifying information, names, residential history, employment history, businesses, disclosure questions, education, and testing? <i>Examiner note: Use the NMLS MU4 for cross reference. For larger institutions a sample of individuals may be sufficient.</i></li> </ul>			

C.8b	<ul style="list-style-type: none"> <li>Does the resume, application, or offer letter indicate the individual is a controlling person of a business? If so, did the individual complete an MU2 form?</li> </ul>			
C.9	Is there a procedure in place to update the NMLS upon termination of an individual's employment, by "terminating the relationship" of the individual with the sponsor? If so, note a summary of the procedures in the comments section.			
STATE SPECIFIC – HUMAN RESOURCES				
C.10	For those identified as MLOs, determine the individual's status in the HR file (W2 or 1099). Does the individual's status match the NMLS data (i.e. state licensing record)?			
C.11	Does the criminal background check match the NMLS results for identifying information, names, disclosure questions, and criminal background check information? [see MU4, specifically criminal background check section.]			
C.12	Does the institution-pulled credit report match the NMLS results for identifying information, names, residential history, business history, disclosure questions? [see MU4]			
C.13	For non-MLO individuals identified as processors or underwriters determine the individual's status in the HR File (W2 or 1099). Does the individual's status meet the state licensing requirements?			
	[Add additional State specific questions as needed and renumber appropriately.]			
C.14	<b>SUMMARY:</b> Does HR have proper procedures in place in order to maintain compliance with the SAFE Act? <i>Examiner note: You should use your experience and judgment in determining the adequacy of procedures. In general, the larger and more complex the institution, the greater the need for comprehensive procedures.</i>			

#### D. COMPLIANCE MANAGEMENT

	<i>Examiner note: In this section you are attempting to determine whether management is addressing compliance with SAFE and NMLS requirements.</i>	<b>Y</b>	<b>N</b>	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
D.1	Does the institution effectively monitor the MLO			

	renewal process based on the following questions?			
D.1a	<ul style="list-style-type: none"> <li>Are renewals submitted by December 31?</li> </ul>			
D.1b	<ul style="list-style-type: none"> <li>Are renewals submitted within reinstatement period where allowed?</li> </ul>			
D.1c	<ul style="list-style-type: none"> <li>Does the MLO continue to meet the minimum standards for license issuance?</li> </ul>			
D.1d	<ul style="list-style-type: none"> <li>Has the loan originator satisfied the annual continuing education requirements.</li> </ul>			
D.1e	<ul style="list-style-type: none"> <li>Are there any adverse changes within the MU4 disclosures?</li> </ul>			
D.1f	<ul style="list-style-type: none"> <li>Has the MLO paid all required renewal fees?</li> </ul>			
D.2	What procedures are in place to take corrective action should an MLO become ineligible for licensure? <i>Examiner note: Consider changes to background, failure to meet continuing education requirements, etc.</i>			
D. 3	Are procedures in place to ensure all NMLS unique identifier's are accurate and included on the required advertising and applicable loan documents?			
D.4	What procedures are in place to monitor third-party originator compliance with SAFE?			
D.4a	<ul style="list-style-type: none"> <li>Do institution procedures for approving third-party originator relationships include checking against NMLS Consumer Access (<a href="http://www.nmlsconsumeraccess.org/">http://www.nmlsconsumeraccess.org/</a>) to determine that the third-party is properly licensed?</li> </ul>			
D.4b	<ul style="list-style-type: none"> <li>Does the institution review third-party originations to determine that both the originating institution and the MLO are properly licensed at the time of loan origination?</li> </ul>			
C.4c	<ul style="list-style-type: none"> <li>What steps does the institution take when unlicensed activity is identified with third-party originators?</li> </ul>			
	STATE SPECIFIC			
D.5	Does management have procedures in place to identify the following prohibited acts and practices? <i>Examiner note: These Model State Law questions are to be employed by States with laws or regulations covering the specific prohibitions listed. The questions in this section should conform to the language in the State law or regulation.</i>			

D.5a	<ul style="list-style-type: none"> <li>• Directly or indirectly employing any scheme, device, or artifice to defraud or mislead borrowers or lenders or to defraud any person?</li> </ul>			
D.5b	<ul style="list-style-type: none"> <li>• Engaging in any unfair or deceptive practice toward any person?</li> </ul>			
D.5c	<ul style="list-style-type: none"> <li>• Obtaining property by fraud or misrepresentation?</li> </ul>			
D.5d	<ul style="list-style-type: none"> <li>• Soliciting or entering into a contract with a borrower that provides in substance that the person or individual subject to this Act may earn a fee or commission through “best efforts” to obtain a loan even though no loan is actually obtained for the borrower?</li> </ul>			
D.5e	<ul style="list-style-type: none"> <li>• Soliciting, advertising, or entering into a contract for specific interest rates, points, or other financing terms unless the terms are actually available at the time of soliciting, advertising, or contracting?</li> </ul>			
D.5f	<ul style="list-style-type: none"> <li>• Conducting any business covered by the Act without holding a valid license as required under the Act, or assisting or aiding and abetting any person in the conduct of business under this Act without a valid license as required under this Act?</li> </ul>			
D.5g	<ul style="list-style-type: none"> <li>• Failing to make disclosures as required by the Act and any other applicable state or federal law including regulations there under?</li> </ul>			
D.5h	<ul style="list-style-type: none"> <li>• Failing to comply with the Act or rules or regulations promulgated under the Act, or failing to comply with any other state or federal law, including the rules and regulations there under, applicable to any business authorized or conducted under the Act?</li> </ul>			
D.5i	<ul style="list-style-type: none"> <li>• Making, in any manner, any false or deceptive statement or representation to include but not limited to such with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan, or engage in bait and switch advertising?</li> </ul>			
D.5j	<ul style="list-style-type: none"> <li>• Negligently making any false statement or knowingly and willfully making any</li> </ul>			

	omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the Commissioner or another governmental agency?			
D.5k	<ul style="list-style-type: none"> <li>• Making any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan, or make any payment threat or promise, directly or indirectly, to any appraiser of a property, for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property?</li> </ul>			
D.5l	<ul style="list-style-type: none"> <li>• Collecting, charging, attempting to collect or charge or use or propose any agreement purporting to collect or charge any fee prohibited by the Act?</li> </ul>			
D.5m	<ul style="list-style-type: none"> <li>• Causing or requiring a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer?</li> </ul>			
D.5n	<ul style="list-style-type: none"> <li>• Failing to truthfully account for monies belonging to a party to a residential mortgage loan transaction?</li> </ul>			
	[Add State specific questions as needed and renumber appropriately.]			
D.6	SUMMARY: Is management adequately addressing compliance to ensure SAFE and NMLS requirements continue to be met? <i>Examiner note: You should use your experience and judgment in determining the adequacy of procedures. In general, the larger and more complex the institution, the greater the need for comprehensive procedures.</i>			

**E. OPERATIONAL MANAGEMENT** (Covers personnel, training, systems, monitoring, reporting, and internal audit)

	<i>Examiner note: In this section you are attempting to determine whether the institution and management have adequate systems and procedures in place to ensure compliance with SAFE.</i>	Y	N	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
	<b>INSTITUTION RESPONSIBILITIES</b>			
E.1	Does the institution have an adequate internal or external audit program for reviewing compliance with SAFE and NMLS requirements? An effective audit program should include:			
E.1a	<ul style="list-style-type: none"> <li>• A review of policies and procedures.</li> </ul>			
E.1b	<ul style="list-style-type: none"> <li>• Loan transaction testing for compliance with SAFE and NMLS requirements.</li> </ul>			
E.1c	<ul style="list-style-type: none"> <li>• Review of management and staff adherence to SAFE and NMLS requirements.</li> </ul>			
E.1d	<ul style="list-style-type: none"> <li>• Ensuring corrective action is taken when necessary.</li> </ul>			
E.2	Does the institution monitor and perform regular reviews of loan transactions to determine that only licensed MLOs are performing MLO activity and that the MLO Unique Identifier number is reflected accurately on the loan application and other documentation where required?			
E.3	To ensure appropriate renewals or status changes, does the institution have adequate procedures for reviewing MLO names in the NMLS with personnel records to determine current status of MLOs?			
E.4	Does the institution have an adequate process to monitor and control the transfer of loan activity from formerly licensed MLOs to currently licensed MLOs? How is loan activity monitored and transferred?			
E.5	Does management monitor both institution and MLO advertisements, including the Internet (e.g. social media), or any other independent form of advertisement for consistent disclosure of the Unique Identifier?			
E.6	Does the institution have procedures to determine that only licensed MLOs are being compensated to perform MLO activity?			
E.7	Does the institution provide adequate training to managers, MLO supervisors and MLOs on compliance with SAFE and NMLS requirements?			

	EXAMINER REVIEW OF INSTITUTION RESPONSIBILITY			
E.8	Comparing NMLS reports and HR employee reports, are all MLOs licensed and registered as required by SAFE?			
E.9	Is there any evidence that non-unique email addresses are used for MLOs? In other words, is more than one MLO using the same email address? <i>Examiner note: Using the Individual Roster report (see Section C), sort the Individual Email Address column in Excel to quickly determine if a general email address is being used by multiple MLOs.</i>			
E.10	Select a sample of loan files and compare MLO information to NMLS. Are there any discrepancies between NMLS and the MLO information in the loan files? <i>Examiner note: Use NMLS or <a href="http://www.nmlsconsumeraccess.org">www.nmlsconsumeraccess.org</a>.</i>			
E.11	Reviewing a sample of the institution's and any MLO advertisements (including any institution social media), are there any deficiencies in disclosing the institution and/or MLO Unique Identifier number, where required? <i>Examiner note: MLO Unique Identifier must be disclosed on all advertisements under SAFE, however, disclosure of the institution Unique Identifier is controlled by separate state law.</i>			
E.12	Reviewing a sample of <u>MLO</u> advertisements (including any social media or any other independent form of advertisement), are there any deficiencies in disclosing the institution and/or MLO Unique Identifier number? <i>Examiner note: MLO Unique Identifier must be disclosed on all advertisements under SAFE, however, disclosure of the institution Unique Identifier is controlled by separate state law.</i>			
E.13	Reviewing the General Ledger and subsidiary ledgers, does compensation match payroll records? <i>Examiner note: Focus on compensation to non-MLOs that appears to be for MLO activity. Identified deficiencies should be followed by interviews of management and other personnel.</i>			
E.13a	<ul style="list-style-type: none"> <li>Reviewing non-payroll disbursements, are there any indications of compensation or payments to individuals not associated with the institution? If so, investigate each instance to determine if compensation or</li> </ul>			

	payment is related to MLO activity. <i>Examiner note: Disallowed payments may be evidence of both SAFE violations and RESPA kickbacks and should be addressed accordingly.</i>			
E.14	Reviewing institution's internal audit reports and audited financial statements are there any reported instances where auditors have identified non-MLOs compensated as MLOs? <i>Examiner note: Reported instances should be followed by management discussion and when appropriate, interviews of other personnel.</i>			
E.15	When discrepancies in SAFE or NMLS compliance are identified, does management take immediate corrective action? Explain.			
E.16	Are there adequate security controls and procedures in place for accessing NMLS?			
E.17	SUMMARY: Are institution controls and processes adequate to ensure compliance with SAFE and NMLS requirements? <i>Examiner note: You should use your experience and judgment in determining the adequacy of procedures. In general, the larger and more complex the institution, the greater the need for comprehensive procedures.</i>			

## F. FINANCIAL CONDITION

	<i>Examiner note: This section covers those states and territories which consider financial condition as a requirement for licensing. For conducting a financial condition review, the respective states or territories should refer to the Multi-State Mortgage Committee Mortgage Examination Manual chapter on Financial Condition. A public copy of the manual can be found at <a href="http://www.csbs.org/regulatory/policy/policy-guidelines/Documents/MMCEXAMManual-Published.pdf">http://www.csbs.org/regulatory/policy/policy-guidelines/Documents/MMCEXAMManual-Published.pdf</a></i>	Y	N	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
F.1	Is liquidity adequate?			
F.2	Are earnings adequate?			
F.3	Is capital adequate?			
F.4	Is asset quality adequate?			
F.5	Is sensitivity to market risk adequate?			
F.6	What was the financial component rating and comment?			
	<b>PREVIOUS EXAMINATION</b>			
F.7	Was there a previous review of the institution's			

	financial condition?			
F.7a	<ul style="list-style-type: none"> <li>If not, skip to F.8.</li> </ul>			
F.7b	<ul style="list-style-type: none"> <li>If yes, has the institution made corrections? If so, the examiner should note the corrections made.</li> </ul>			
F.7c	<ul style="list-style-type: none"> <li>If no, the examiner should note what corrections were not made.</li> </ul>			
	<b>STATE SPECIFIC</b>			
F.8	Does the institution meet the state specific requirement(s) for capital or net worth?			
F.9	Does the institution meet the state specific requirement(s) for liquidity or liquid assets?			
	[Add State specific questions as needed and renumber appropriately.]			
F.10	<b>SUMMARY:</b> Is the institution’s financial condition safe and sound and adequate?			

**G. MORTGAGE CALL REPORT**

	<i>Examiner note: In this section you are testing the accuracy of the institution’s call report filings. You are responsible for “identifying” differences, not “reconciling” differences. Inaccurate filings should be addressed as appropriate either directly with management or in the Report of Examination. In certain situations it may be appropriate to inform other states and/or NMLS of your findings.</i>	<b>Y</b>	<b>N</b>	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
	<b>COMPLIANCE</b>			
G.1	Has the institution filed the quarterly (or annual if required by State law) mortgage call reports?			
G.1a	<ul style="list-style-type: none"> <li>Determine if the institution is GSE approved (Fannie Mae, Freddie Mac, Ginnie Mae). If so, has the institution reported this status on the MU1? <i>Examiner note: This question is also included in the Institution Licensing section. It is repeated here in the event Section G is used on a standalone basis.</i></li> </ul>			
G.1b	<ul style="list-style-type: none"> <li>If the institution is GSE approved, has it filed the “expanded” call report containing financial information?</li> </ul>			
G.1c	<ul style="list-style-type: none"> <li>If the institution is non-GSE approved, has it filed the quarterly “standard” call report with a report of financial condition filed annually?</li> </ul>			

G.1d	<ul style="list-style-type: none"> <li>Were the reports filed in a timely manner? <i>Examiner note: Call reports must be filed within 45 days of the end of each calendar quarter and annual financial condition report within 90 days of the end of the institution's fiscal year. In some States, filing is only required on an annual basis.</i></li> </ul>			
LOAN DATA REVIEW				
	<p><i>Examiner note: In this section, you are attempting to determine the accuracy of the loan information provided in the call report. NMLS has developed a training guide called MCR DATA QUALITY – Samples of Common Issues that may be of assistance in conducting your review. The PDF document can be found at <a href="http://mortgage.nationwidelicencingsystem.org/slr/comm/mcr/NMLS%20Document%20Library/MCR%20Data%20Quality%20Samples.pdf">http://mortgage.nationwidelicencingsystem.org/slr/comm/mcr/NMLS%20Document%20Library/MCR%20Data%20Quality%20Samples.pdf</a></i></p>			
G.2	Does any application or loan data appear to be mismatched (e.g. number and amount columns transposed)?			
G.3	Do any numbers appear in the Count column without a corresponding dollar amount shown in the Amount column?			
G.4	Does the average loan size appear very high or very low?			
G.5	Are there closed loans reported with no loan fees reported? For example, does the AC500 series show loans with no fees in the AC600 series?			
G.6	Do broker fees bear a reasonable relationship to the count and amount of brokered loans?			
G.7	Do the totals of Lien Type (AC100s), Property Type (AC200s), Purpose of Loan (AC300s), and Lien Status (AC500s) all equal the same number?			
G.8	Do the Application Data, Closed Loan Data and MLO Data fields all equal?			
G.9	Are all licensed MLOs listed in the ACMLO fields?			
G.10	Does total amount of MLO loan activity match total amount of institution loan activity? Specifically, review the following call report fields:			
G.10a	<ul style="list-style-type: none"> <li>Does AC070 (broker and retail) match the total of the AC100 series (broker and retail)?</li> </ul>			
G.10b	<ul style="list-style-type: none"> <li>Does the total of the AC700 series (broker and retail) equal the sum of the ACMLO fields (ACMLOTO)?</li> </ul>			
G.11	Are surety bond or recovery fund amounts sufficient for corresponding loan volume data? <i>Examiner note: Sufficiency of coverage, if variable, is dictated by State</i>			

	<i>law or regulation.</i>			
	<b>FINANCIAL CONDITION REVIEW</b>			
	<i>Examiner note: In this section you are attempting to determine the accuracy of the institution's financial condition filing in the call report. Examiners are not responsible for "reconciling" differences between reporting sources, but rather should identify apparent failures and needed corrections. If possible, obtain financial statement information for comparisons independent of the call report filing. For most companies and most states, you should be able to obtain PDF financial statements uploaded directly to NMLS. Other sources are public filings or the institution itself. If you have any reason to suspect intentional mis-filings, expand your inquiry as necessary.</i>			
G.12	Do the major sections of the balance sheet shown on the financial statements match the call report filings?			
G.13	Do the major sections of income and expense shown on the financial statements match the call report filings?			
G.14	<b>SUMMARY:</b> Has the institution accurately complied with call report filing requirements?			

## H. INTERVIEWS

	<i>Examiner note: Interview MLO supervisors, HR management, MLOs and others as needed to determine sufficient knowledge of, and compliance with SAFE and NMLS requirements. It is recommended that you take notes and/or obtain written and signed statements of the interviewee for retention in your work papers. The following questions serve as a general guideline for conducting interviews. Examination findings may dictate alternate or additional questions. Consider whether managements' explanation of process and procedure is corroborated by employee understanding of process and procedure.</i>	<b>Y</b>	<b>N</b>	<b>Examiner Notes</b> [Document supporting evidence and note determinations and findings made.]
	<b>QUESTIONS FOR MANAGEMENT</b>			
H.1	What definitions does the institution use for the terms: loan origination, processing and underwriting, and what are the activities included in each? <i>Examiner note: You are attempting to determine if the institution's definition matches the actual activity.</i>			
H.2	According to management, who must to be licensed or registered to comply with the requirements of the SAFE Act, including State licensing law?			

H.3	Is there a particular individual or division within the institution responsible for overseeing SAFE Act compliance? Is so, who is responsible for overseeing SAFE Act compliance and what are their duties?			
H.4	What internal controls are in place to ensure compliance with the SAFE Act's licensing and registration requirements? Does management feel that these controls are adequate?			
H.5	Who in the institution has direct or indirect contact with consumers for the purpose of originating residential mortgage loans? <i>Examiner Note: If not already provided, obtain positions/titles, general job descriptions and employment status (W-2 vs. independent contractor). Check to make sure that employment records are consistent with management's response.</i>			
H.6	Who in the institution has direct or indirect contact with consumers for the purpose of processing residential mortgage loans? <i>Examiner Note: If not already provided, obtain positions/titles, general job descriptions and employment status (W-2 vs. independent contractor). Check to make sure that employment records are consistent with management's response.</i>			
H.7	Who in the institution has direct or indirect contact with consumers for the purpose of underwriting residential mortgage loans? <i>Examiner Note: If not already provided, obtain positions/titles, general job descriptions and employment status (W-2 vs. independent contractor). Check to make sure that employment records are consistent with management's response.</i>			
H.8	Please explain the entire application process from initial contact with the consumer to the point in which closing documents are signed. Describe, in detail, who has access to the loan application and at which point such access is granted.			
H.9	Are there guidelines or procedures in place to control the activity of individuals who have applications pending to become a MLO? If so, what are the guidelines or procedures?			
H.10	Does management ensure that all NMLS records are complete, accurate and up to date with respect to the MLO licensing requirements? If so, how is this completed? <i>Examiner Note: Please keep in mind that all changes to a MLO's MU4, particularly the</i>			

	<i>disclosure questions, must be updated in a timely manner.</i>			
H.11	What steps do management take to address the activity of MLO's that become ineligible due to background check requirements, education requirements or any other requirement removing their eligibility?			
H.12	What steps does management take to ensure that the information submitted by the MLO to the NMLS is complete and accurate?			
H.13	When and how are NMLS Unique Identifiers used for both the institution and MLOs? <i>Examiner note: Consider obtaining documentation showing or lacking Unique Identifiers (e.g. advertisements, business cards, loan applications, disclosures).</i>			
H.14	(For third party originations / wholesale activity) For residential mortgage loans that are originated by third party sources, does management ensure that such third party sources are properly licensed or registered? If so, what is the process?			
	<b>ALL EMPLOYEES</b> <i>Examiner note: Interview at least one individual per position/title (i.e. at least one MLO, one processor, one underwriter, one administrative assistant, etc.).</i>			
H.15	What are your current job duties? How long have these duties been in place? Do your current job duties require you to have direct or indirect contact with consumers? <i>Examiner Note: Check to make sure that employment records and management's response are consistent with the employee's response. Request documentation if necessary.</i>			
H.16	(And if applicable...) What were your previous job duties with this institution? How long were these duties in place? Did your previous job duties require you to have direct or indirect contact with consumers? <i>Examiner Note: Here you are attempting to determine if titles, rather than duties, have been changed to avoid licensing requirements. Check to make sure that employment records and management's response are consistent with the employee's response. Request documentation if necessary.</i>			
	<b>MORTGAGE LOAN ORIGINATORS</b> <i>Examiner Note: For questions in this section check to make sure that employment records and management's response are consistent with the</i>			

	<i>employee's response. Request documentation if necessary.</i>			
H.17	Please explain the entire application process from marketing and initial contact with the consumer to the point in which closing documents are signed. Please be sure to describe, in detail, who has access to the loan application and at which point such access is granted. Also describe the types of contact with the consumer, and the matters discussed at each point in the process.			
H.18	Were guidelines or procedures in place to control your activity when you had a pending application to become a MLO? If so, what were the guidelines or procedures?			
H.19	Do you ensure that all personal NMLS records are complete, accurate and up to date with respect to your SAFE MLO licensing requirements?			
H.20	When and where do you use your NMLS Unique Identifier? <i>Examiner note: Consider obtaining documentation showing or lacking Unique Identifiers (e.g. advertisements, business cards, loan applications, disclosures).</i>			
H.21	Summary: Considering the above questions and any other examination review, do supervisors, managers and MLOs exhibit sufficient knowledge of SAFE and compliance with requirements?			

## MODULE V. INSTITUTION INFORMATION AND DATA REQUEST

*Examiner note: Module V. is a standardized template to guide the examiner in making pre-examination information requests of the institution. The examiner should modify Module V. to conform to the agency's supervisory program.*

1. Licensees and examined institutions must complete Module VI, Institution Questionnaire.
2. Please provide copies of all policies, procedures, standards and underwriting guidelines for SAFE compliance.<sup>8</sup> Policies should include hiring, training, licensing, access to the NMLS, internal controls, monitoring and reporting, oversight and supervision, and where appropriate, third-party relationships. Include the effective date for all policies, procedures, standards and underwriting guidelines.
3. Please provide copies of all marketing materials, including, but not limited to printed materials (print ads, brochures, direct mailings, flyers, etc.), radio or television transcripts, telemarketing scripts, Internet screen shots, email solicitations, and any instructions on oral solicitations by sales staff. Include the date and venue for publication of each item.
4. Copies of all complaints filed against the institution in which the loan originator was not licensed at the time of application.
5. Provide a list of all regulatory examinations conducted by other states since the date of the last exam, or within the last five years, whichever is shorter. The list should include the agency name, date of the exam and the type of examination. Institution should be prepared to make examination reports available upon request.
6. List all states in which the institution conducts or has conducted mortgage origination business.
7. List all locations from which the institution conducts business, including locations from which business is solicited.
8. List all trade names, as well as parent company, affiliates and subsidiaries.
9. List all website addresses.
10. List and describe all types of business conducted by the institution.
11. Identify other companies sharing the institution's business space.
12. Provide a list of all owners holding XX% or more of voting stock.

---

<sup>8</sup> SAFE compliance refers to compliance with State law implementing SAFE requirements as well as requirements to license and maintain information through the Nationwide Mortgage Licensing System.

13. List and describe any regulatory actions taken against the institution, affiliates and subsidiaries.
14. List all civil suits or actions, pending or resolved, since the last examination, or within the last five years, whichever is shorter.
15. List all customer litigation/arbitration not listed above since the last examination, or within the last five years, whichever is shorter. *Examiner note: Where state law retention requirements are shorter than five years, use the state law requirements.*
16. List all mortgage loan originators whose employment or contract has been terminated since the last examination, or within the last five years, whichever is shorter.
17. Provide a copy of the institution's two most recent financial statements (audited if available).
18. List all individuals and entities, including attorneys and law firms, the institution employs or contracts with to conduct loan modification or loss mitigation work.
19. Identify the person(s) responsible for SAFE Act and state licensing issues.
20. Provide a list of individuals with corresponding job title, job description, date of hire, and date of termination since the last examination, or within the last five years, whichever is shorter.
21. Make available upon request, all employee files including, for example, the following documentation (as applicable):
  - (a) Employment application
  - (b) Resume
  - (c) Offer letter
  - (d) Employment contract
  - (e) Job description
  - (f) Background check
  - (g) References and reference checks
  - (h) Credit report
  - (i) W-4 designating the individual as an employee
  - (j) W-9 designating the individual as an independent contractor or 1099
  - (k) Proper identification, i.e. social security card, driver's license, ID card issued by state, U.S. Passport, Foreign Passport with I-551 stamp, etc.
  - (l) SF87 or a finger print card with results, or other documented criminal background sources
22. Make available upon request all internal audit or compliance reports.
23. Make available upon request all records relating to payroll including ledgers and registers (e.g. general ledger).

24. Provide a list of transactions made that required an exception to SAFE or licensing policies.

25. Provide a list of all institutions with whom you regularly do business that originate or make loans, along with the estimated percentage of transaction activity conducted with each. In other words, if you are an originator, the list should include each lender you have originated transactions for. If you are a lender, the list should include each third-party originator you have accepted transaction submissions from.

## MODULE VI. INSTITUTION QUESTIONNAIRE

*Examiner note: Module VI. is intended as a standardized template to guide the examiner in pre-examination questions of institution management. The questions in this template should be modified to conform to the agency's supervisory program.*

The following questionnaire is intended to save time and resources for both the institution and the examination team. Unless instructed otherwise, this questionnaire is to be completed and returned as instructed in the examination entry letter. Please answer all questions thoroughly. Simple Yes/No answers are not sufficient for most questions. Please provide further explanation as needed to assist in clarifying the institution's response and aid the examiner in understanding your practices.

The questions are divided into subsections matching the Examiner's Checklist as follows:

- A. Pre-Examination: Covers pre-examination elements that should be reviewed and considered regardless of the size, type or scope of the examination. The focus of this section is to determine the scope of the examination via a risk based review of the preplanning materials.
- B. Institution Licensing: Covers institution structure, ownership, affiliations, branches, financial condition, policies and procedures. This section may be combined with other sections for a comprehensive evaluation. A main focus of this section is on accuracy of the institution information provided to the NMLS.
- C. Human Resources: Covers the owners, originators, individuals and independent contractors' human resource files focusing on individual licensing and renewals and the accuracy of individual information provided to the NMLS.
- D. Compliance Management: Covers the areas of compliance with NMLS requirements related to owners, originators, individuals and independent contractors and discrepancies in information maintained by Human Resources, Compliance and the NMLS or discrepancies in policies, procedures and internal controls.
- E. Operational Management: Covers personnel, training, systems, monitoring, reporting, and internal audit.
- F. Financial Condition Review: This section is only completed when conducting a stand-alone SAFE review, or when the examination does not include financial condition review as part of the broader scope of review.
- G. Mortgage Call Report Review: Covers compliance with the institution's quarterly and annual reporting requirements of loan activity, financial condition and other information.
- H. Interviews: Covers recommended interview subjects and questions..

## **INSTITUTION QUESTIONNAIRE**

### **A. GENERAL**

1. Have any complaints been filed against the institution or any of its employees, contractors or third parties relating to unlicensed activity? Include any situations in which the complainant provides any information that has informed the institution that unlicensed activity has occurred, such as, MLO solicitations prior to the holding of an MLO license, branch activity prior to the holding of a branch license, or out of state activity when no out of state license was held.
2. Has the institution been the subject of any other regulatory examination or investigation in the last five years? Provide agency names and dates.
3. Explain the institution's business process for policy development, including oversight responsibility, approval process and on-going review. Include procedures for training, monitoring for compliance, enforcement and actions for non-compliance with policies.
4. Has management established written policies for compliance with SAFE (refer to Module V., question 2)? If not, please explain.
5. Have all policies been fully implemented? If not, please explain.

### **B. INSTITUTION LICENSING**

1. During the exam period, was the institution licensed in all states in which it conducted licensable business?
2. During the exam period, was the institution licensed for all locations from which it conducted licensable business?
3. Is the institution approved by Fannie Mae, Freddie Mac, or Ginnie Mae?
4. Does the institution conduct any business activity (e.g. title, appraisal, real estate, etc.) other than direct mortgage business?
5. Does the institution service mortgage loans?

6. Does the institution occupy or share space with any other person(s) engaged in financial services related activity?
7. What is the institution's legal status (e.g. corporation, LLC, etc.), and the date and state of incorporation? Please provide any relevant details such as, change of status, mergers, etc.
8. Do any branches use the same address?
9. Do any branches use the same branch manager?

Questions 10 through 19: For purposes of responding to the questions below, the term "control affiliate" means: a partnership, corporation, trust, LLC, or other organization that directly or indirectly controls, or is controlled by, the applicant.

10. Has the institution or a control affiliate ever been charged with, convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony?
11. To the institution's knowledge, are there pending charges against the institution or a control affiliate for a felony?
12. In the past 10 years, has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO):
  - a. Found the institution or a control affiliate to have made a false statement or omission or been dishonest, unfair or unethical?
  - b. Found the institution or a control affiliate to have been involved in a violation of a financial services-related regulation(s) or statute(s)?
  - c. Found the institution or a control affiliate to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?
  - d. Entered an order against the institution or a control affiliate in connection with a financial services-related activity?
  - e. Denied, suspended, or revoked the institution's or a control affiliate's registration or license or otherwise, by order, prevented it from associating with a financial services-related business or restricted its activities?
13. Has the institution's or a control affiliate's authorization to act as an attorney, accountant, or State or federal contractor ever been revoked or suspended?

14. To the institution's knowledge, is there a pending regulatory action against the institution for any alleged violation? *Examiner note: As of publication, this question was under consideration for amendment. While the question is usable in its current form, you should check for updates to the MU forms and modify this question appropriately.*
15. Has any domestic or foreign court:
- In the past ten years enjoined the institution or a control affiliate in connection with any financial services-related activity?
  - In the past ten years found the institution or a control affiliate to be in violation of any financial services-related statute(s) or regulation(s)?
  - In the past ten years dismissed, pursuant to a settlement agreement, a financial services-related civil action brought against the institution or control affiliate by a State or foreign financial regulatory authority?
16. Is there a pending financial services related civil action in which the institution is named for any alleged violation described in 15?
17. In the past ten years has the institution or a control affiliate been the subject of a bankruptcy petition? *Examiner note: As of publication, this question was under consideration for amendment. While the question is usable in its current form, you should check for updates to the MU forms and modify this question appropriately.*
18. Has a bonding company ever denied, paid out on, or revoked a bond for the institution?
19. Does the institution have any unsatisfied judgments or liens against it?

### **C. HUMAN RESOURCES**

- Describe or summarize the institution's procedures to ensure that the requirements of SAFE are met prior to the hiring of an individual employee who will be engaging in SAFE regulated activities.
- Has management identified an HR person responsible for SAFE Act compliance issues?
- Are there procedures indicating when to add a notation that the job is a SAFE Act position and what the requirements are?
- Does the institution notify applicants that engaging in SAFE regulated activities is contingent on meeting the SAFE Act requirements?
- Does the institution have screening procedures for background check, credit report, fingerprinting, criminal background check and training?
- Are there ongoing procedures for:

- a. Ensuring that the unique identifier is included on business cards, emails and other appropriate documents and correspondence?
  - b. Are there periodic verifications that the NMLS System data is correct in comparison to the Human Resources file?
  - c. Is there a procedure for annual follow up on renewal and training?
  - d. Does the institution conduct periodic background, credit, consumer complaints and compliance violations/warnings checks?
  - e. Are there termination procedures for when an employee does not subsequently meet the SAFE Act requirements, resigns, dies, does not comply with corrections/warnings or periodic background, credit, consumer complaints, during or at the end of the probationary period, as defined by the institution or state law?
  - f. Are there monitoring procedures for when an employee changes name, address, phone number and any other personal information?
7. Do any non-MLOs conduct any loan origination activity covered under SAFE or state law?
  8. Are any non-MLO individuals paid on commission?

#### **D. COMPLIANCE MANAGEMENT**

1. Does the institution have procedures in place to take corrective action should an MLO become ineligible for licensure?
2. What procedures does the institution have in place to monitor third-party originator compliance with SAFE?
  - a. Do procedures for approving third-party originator relationships include checking against NMLS Consumer Access (<http://www.nmlsconsumeraccess.org/>) to determine that the third-party and MLOs are properly licensed?
  - b. Does the institution review third-party originations to determine that both the originating institution and the MLO are properly licensed at the time of loan origination?
  - c. What action does the institution take when unlicensed activity by third-party originators is identified?

#### **E. OPERATIONAL MANAGEMENT**

1. Does the institution monitor and perform regular reviews of loan transactions to determine that only licensed MLOs are performing MLO activity and MLO Unique Identifier number is reflected accurately on the loan application?

2. Does the institution have a process to monitor and control the transfer of loan activity from formerly licensed MLOs to currently licensed MLOs? How is loan activity monitored and transferred?
  
3. Does management monitor both institution and MLO advertisements, including Internet advertisements (e.g. social media), or any other independent form of advertisement for consistent disclosure of the Unique Identifier?
  
4. What security controls and procedures are in place for accessing NMLS?

## **Attachment A**

### **TITLE V—S.A.F.E. MORTGAGE LICENSING ACT**

Sec. 1501. Short title.

Sec. 1502. Purposes and methods for establishing a mortgage licensing system and registry.

Sec. 1503. Definitions.

Sec. 1504. License or registration required.

Sec. 1505. State license and registration application and issuance.

Sec. 1506. Standards for State license renewal.

Sec. 1507. System of registration administration by Federal agencies.

Sec. 1508. Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system.

Sec. 1509. Backup authority to establish a nationwide mortgage licensing and registry system.

Sec. 1510. Fees.

Sec. 1511. Background checks of loan originators.

Sec. 1512. Confidentiality of information.

Sec. 1513. Liability provisions.

Sec. 1514. Enforcement under HUD backup licensing system.

Sec. 1515. State examination authority.

Sec. 1516. Reports and recommendations to Congress.

Sec. 1517. Study and reports on defaults and foreclosures.

#### **SEC. 1501. SHORT TITLE.**

This title may be cited as the “Secure and Fair Enforcement for Mortgage Licensing Act of 2008” or “S.A.F.E. Mortgage Licensing Act of 2008”.

#### **SEC. 1502. PURPOSES AND METHODS FOR ESTABLISHING A MORTGAGE LICENSING SYSTEM AND REGISTRY.**

In order to increase uniformity, reduce regulatory burden, enhance consumer protection, and reduce fraud, the States, through the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, are hereby encouraged to establish a Nationwide Mortgage Licensing System and Registry for the residential mortgage industry that accomplishes all of the following objectives:

(1) Provides uniform license applications and reporting requirements for State-licensed loan originators.

(2) Provides a comprehensive licensing and supervisory database.

(3) Aggregates and improves the flow of information to and between regulators.

(4) Provides increased accountability and tracking of loan originators.

(5) Streamlines the licensing process and reduces the regulatory burden.

(6) Enhances consumer protections and supports anti-fraud measures.

(7) Provides consumers with easily accessible information, offered at no charge, utilizing electronic media, including the Internet, regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

- (8) Establishes a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer.
- (9) Facilitates responsible behavior in the subprime mortgage market place and provides comprehensive training and examination requirements related to subprime mortgage lending.
- (10) Facilitates the collection and disbursement of consumer complaints on behalf of State and Federal mortgage regulators.

### **SEC. 1503. DEFINITIONS.**

For purposes of this title, the following definitions shall apply:

- (1) **FEDERAL BANKING AGENCIES.**—The term “Federal banking agencies” means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.
- (2) **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.
- (3) **LOAN ORIGINATOR.**—
  - (A) **IN GENERAL.**—The term “loan originator” —
    - (i) means an individual who—
      - (I) takes a residential mortgage loan application; and
      - (II) offers or negotiates terms of a residential mortgage loan for compensation or gain;
    - (ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause;
    - (iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator; and
    - (iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.
  - (B) **OTHER DEFINITIONS RELATING TO LOAN ORIGINATOR.**—For purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential mortgage loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.
  - (C) **ADMINISTRATIVE OR CLERICAL TASKS.**—The term “administrative or clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.
  - (D) **REAL ESTATE BROKERAGE ACTIVITY DEFINED.**—The term “real estate brokerage activity” means any activity that involves offering or providing real estate brokerage services to the public, including—
    - (i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;
    - (ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

(4) **LOAN PROCESSOR OR UNDERWRITER.**—

(A) **IN GENERAL.**—The term “loan processor or underwriter” means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

(B) **CLERICAL OR SUPPORT DUTIES.**—For purposes of subparagraph (A), the term “clerical or support duties” may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

(5) **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**—The term “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Secretary under section 1509.

(6) **NONTRADITIONAL MORTGAGE PRODUCT.**—

The term “nontraditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.

(7) **REGISTERED LOAN ORIGINATOR.**—The term “registered loan originator” means any individual who—

(A) meets the definition of loan originator and is an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(8) **RESIDENTIAL MORTGAGE LOAN.**—The term “residential mortgage loan” means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

(9) SECRETARY.—The term “Secretary” means the Secretary of Housing and Urban Development.

(10) STATE.—The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

(11) STATE-LICENSED LOAN ORIGINATOR.—The term “State-licensed loan originator” means any individual who—

(A) is a loan originator;

(B) is not an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(C) is licensed by a State or by the Secretary under section 1508 and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

(12) UNIQUE IDENTIFIER.—

(A) IN GENERAL.—The term “unique identifier” means a number or other identifier that—

(i) permanently identifies a loan originator;

(ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Federal banking agencies to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this title.

(B) RESPONSIBILITY OF STATES.—To the greatest extent possible and to accomplish the purpose of this title, States shall use unique identifiers in lieu of social security numbers.

#### **SEC. 1504. LICENSE OR REGISTRATION REQUIRED.**

(a) IN GENERAL.—Subject to the existence of a licensing or registration regime, as the case may be, an individual may not engage in the business of a loan originator without first—

(1) obtaining, and maintaining annually—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State licensed loan originator; and

(2) obtaining a unique identifier.

(b) LOAN PROCESSORS AND UNDERWRITERS.—

(1) SUPERVISED LOAN PROCESSORS AND UNDERWRITERS.—A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator.

(2) INDEPENDENT CONTRACTORS.—An independent contractor may not engage in residential mortgage loan origination activities as a loan processor or underwriter unless such independent contractor is a State-licensed loan originator.

**SEC. 1505. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.**

(a) **BACKGROUND CHECKS.**—In connection with an application to any State for licensing and registration as a State-licensed loan originator, the applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and Registry information concerning the applicant’s identity, including—

(1) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(2) personal history and experience, including authorization for the System to obtain—

(A) an independent credit report obtained from a consumer reporting agency described in section 603(p) of the Fair Credit Reporting Act; and

(B) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) **ISSUANCE OF LICENSE.**—The minimum standards for licensing and registration as a State-licensed loan originator shall include the following:

(1) The applicant has never had a loan originator license revoked in any governmental jurisdiction.

(2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court—

(A) during the 7-year period preceding the date of the application for licensing and registration; or

(B) at any time preceding such date of application, if such felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

(3) The applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of this title.

(4) The applicant has completed the pre-licensing education requirement described in subsection (c).

(5) The applicant has passed a written test that meets the test requirement described in subsection (d).

(6) The applicant has met either a net worth or surety bond requirement, or paid into a State fund, as required by the State pursuant to section 1508(d)(6).

(c) **PRE-LICENSING EDUCATION OF LOAN ORIGINATORS.**—

(1) **MINIMUM EDUCATIONAL REQUIREMENTS.**—In order to meet the pre-licensing education requirement referred to in subsection (b)(4), a person shall complete at least 20 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) **APPROVED EDUCATIONAL COURSES.**—For purposes of paragraph (1), pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) **LIMITATION AND STANDARDS.**—

(A) **LIMITATION.**—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer pre-licensure educational courses for loan originators.

(B) **STANDARDS.**—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

(d) **TESTING OF LOAN ORIGINATORS.**—

(1) **IN GENERAL.**—In order to meet the written test requirement referred to in subsection (b)(5), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test developed by the Nationwide Mortgage Licensing System and Registry and administered by an approved test provider.

(2) **QUALIFIED TEST.**—A written test shall not be treated as a qualified written test for purposes of paragraph (1) unless the test adequately measures the applicant’s knowledge and comprehension in appropriate subject areas, including—

(A) ethics;

(B) Federal law and regulation pertaining to mortgage origination;

(C) State law and regulation pertaining to mortgage origination;

(D) Federal and State law and regulation, including instruction on fraud, consumer protection, the nontraditional mortgage marketplace, and fair lending issues.

(3) **MINIMUM COMPETENCE.**—

(A) **PASSING SCORE.**—An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than 75 percent correct answers to questions.

(B) **INITIAL RETESTS.**—An individual may retake a test 3 consecutive times with each consecutive taking occurring at least 30 days after the preceding test.

(C) **SUBSEQUENT RETESTS.**—After failing 3 consecutive tests, an individual shall wait at least 6 months before taking the test again.

(D) **RETEST AFTER LAPSE OF LICENSE.**—A State-licensed loan originator who fails to maintain a valid license for a period of 5 years or longer shall retake the test, not taking into account any time during which such individual is a registered loan originator.

(e) **MORTGAGE CALL REPORTS.**—Each mortgage licensee shall submit to the Nationwide Mortgage Licensing System and Registry reports of condition, which shall be in such form and shall contain such information as the Nationwide Mortgage Licensing System and Registry may require.

## **SEC. 1506. STANDARDS FOR STATE LICENSE RENEWAL.**

(a) **IN GENERAL.**—The minimum standards for license renewal for State-licensed loan originators shall include the following:

(1) The loan originator continues to meet the minimum standards for license issuance.

(2) The loan originator has satisfied the annual continuing education requirements described in subsection (b).

(b) **CONTINUING EDUCATION FOR STATE-LICENSED LOAN ORIGINATORS.**—

(1) **IN GENERAL.**—In order to meet the annual continuing education requirements referred to in subsection (a)(2), a State-licensed loan originator shall complete at least 8 hours of education approved in accordance with paragraph (2), which shall include at least—

(A) 3 hours of Federal law and regulations;

(B) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues; and

(C) 2 hours of training related to lending standards for the nontraditional mortgage product marketplace.

(2) APPROVED EDUCATIONAL COURSES.—For purposes of paragraph (1), continuing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry.

(3) CALCULATION OF CONTINUING EDUCATION CREDITS.—A State-licensed loan originator—

(A) may only receive credit for a continuing education course in the year in which the course is taken; and

(B) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(4) INSTRUCTOR CREDIT.—A State-licensed loan originator who is approved as an instructor of an approved continuing education course may receive credit for the originator's own annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

(5) LIMITATION AND STANDARDS.—

(A) LIMITATION.—To maintain the independence of the approval process, the Nationwide Mortgage Licensing System and Registry shall not directly or indirectly offer any continuing education courses for loan originators.

(B) STANDARDS.—In approving courses under this section, the Nationwide Mortgage Licensing System and Registry shall apply reasonable standards in the review and approval of courses.

## **SEC. 1507. SYSTEM OF REGISTRATION ADMINISTRATION BY FEDERAL AGENCIES.**

(a) DEVELOPMENT.—

(1) IN GENERAL.—The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, and together with the Farm Credit Administration, develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employee of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on the date of enactment of this title.

(2) REGISTRATION REQUIREMENTS.—In connection with the registration of any loan originator under this subsection, the appropriate Federal banking agency and the Farm Credit Administration shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the employees' identity, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) COORDINATION.—

(1) **UNIQUE IDENTIFIER.**—The Federal banking agencies, through the Financial Institutions Examination Council, and the Farm Credit Administration shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(2) **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY DEVELOPMENT.**—To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Federal banking agencies, through the Financial Institutions Examination Council, and the Farm Credit Administration concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

(c) **CONSIDERATION OF FACTORS AND PROCEDURES.**—In establishing the registration procedures under subsection (a) and the protocols for assigning a unique identifier to a registered loan originator, the Federal banking agencies shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 1504(a), shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this title.

#### **SEC. 1508. SECRETARY OF HOUSING AND URBAN DEVELOPMENT BACKUP AUTHORITY TO ESTABLISH A LOAN ORIGINATOR LICENSING SYSTEM.**

(a) **BACKUP LICENSING SYSTEM.**—If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on the date of the enactment of this title or at any time thereafter, the Secretary determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 1505 and 1506 and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Secretary shall provide for the establishment and maintenance of a system for the licensing and registration by the Secretary of loan originators operating in such State as State-licensed loan originators.

(b) **LICENSING AND REGISTRATION REQUIREMENTS.**—The system established by the Secretary under subsection (a) for any State shall meet the requirements of sections 1505 and 1506 for State-licensed loan originators.

(c) **UNIQUE IDENTIFIER.**—The Secretary shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Secretary as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) **STATE LICENSING LAW REQUIREMENTS.**—For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Secretary determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or nonrenewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or has established a recovery fund paid into by the loan originators.

(e) TEMPORARY EXTENSION OF PERIOD.—The Secretary may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 1505 and 1506 and subsection (d) if the Secretary determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

#### **SEC. 1509. BACKUP AUTHORITY TO ESTABLISH A NATIONWIDE MORTGAGE LICENSING AND REGISTRY SYSTEM.**

If at any time the Secretary determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this title for a comprehensive licensing, supervisory, and tracking system for loan originators, the Secretary shall establish and maintain such a system to carry out the purposes of this title and the effective registration and regulation of loan originators.

#### **SEC. 1510. FEES.**

The Federal banking agencies, the Farm Credit Administration, the Secretary, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

#### **SEC. 1511. BACKGROUND CHECKS OF LOAN ORIGINATORS.**

(a) ACCESS TO RECORDS.—Notwithstanding any other provision of law, in providing identification and processing functions, the Attorney General shall provide access to all criminal history information to the appropriate State officials responsible for regulating State-licensed loan originators to the extent criminal history background checks are required under the laws of the State for the licensing of such loan originators.

(b) AGENT.—For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (a), the Conference of State Bank Supervisors or a wholly owned subsidiary may be used as a channeling agent of the States for requesting and distributing information between the Department of Justice and the appropriate State agencies.

## **SEC. 1512. CONFIDENTIALITY OF INFORMATION.**

(a) **SYSTEM CONFIDENTIALITY.**—Except as otherwise provided in this section, any requirement under Federal or State law regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 1509, and any privilege arising under Federal or State law (including the rules of any Federal or State court) with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the system. Such information and material may be shared with all State and Federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by Federal and State laws.

(b) **NONAPPLICABILITY OF CERTAIN REQUIREMENTS.**—Information or material that is subject to a privilege or confidentiality under subsection (a) shall not be subject to—  
(1) disclosure under any Federal or State law governing the disclosure to the public of information held by an officer or an agency of the Federal Government or the respective State; or  
(2) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry or the Secretary with respect to such information or material, the person to whom such information or material pertains waives, in whole or in part, in the discretion of such person, that privilege.

(c) **COORDINATION WITH OTHER LAW.**—Any State law, including any State open record law, relating to the disclosure of confidential supervisory information or any information or material described in subsection (a) that is inconsistent with subsection (a) shall be superseded by the requirements of such provision to the extent State law provides less confidentiality or a weaker privilege.

(d) **PUBLIC ACCESS TO INFORMATION.**—This section shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public.

## **SEC. 1513. LIABILITY PROVISIONS.**

The Secretary, any State official or agency, any Federal banking agency, or any organization serving as the administrator of the Nationwide Mortgage Licensing System and Registry or a system established by the Secretary under section 1509, or any officer or employee of any such entity, shall not be subject to any civil action or proceeding for monetary damages by reason of the good faith action or omission of any officer or employee of any such entity, while acting within the scope of office or employment, relating to the collection, furnishing, or dissemination of information concerning persons who are loan originators or are applying for licensing or registration as loan originators.

## **SEC. 1514. ENFORCEMENT UNDER HUD BACKUP LICENSING SYSTEM.**

(a) **SUMMONS AUTHORITY.**—The Secretary may—

- (1) examine any books, papers, records, or other data of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508; and
- (2) summon any loan originator referred to in paragraph (1) or any person having possession, custody, or care of the reports and records relating to such loan originator, to appear before the Secretary or any delegate of the Secretary at a time and place named in the summons and to

produce such books, papers, records, or other data, and to give testimony, under oath, as may be relevant or material to an investigation of such loan originator for compliance with the requirements of this title.

(b) EXAMINATION AUTHORITY.—

(1) IN GENERAL.—If the Secretary establishes a licensing system under section 1508 for any State, the Secretary shall appoint examiners for the purposes of administering such section.

(2) POWER TO EXAMINE.—Any examiner appointed under paragraph (1) shall have power, on behalf of the Secretary, to make any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508 whenever the Secretary determines an examination of any loan originator is necessary to determine the compliance by the originator with this title.

(3) REPORT OF EXAMINATION.—Each examiner appointed under paragraph (1) shall make a full and detailed report of examination of any loan originator examined to the Secretary.

(4) ADMINISTRATION OF OATHS AND AFFIRMATIONS; EVIDENCE.—In connection with examinations of loan originators operating in any State which is subject to a licensing system established by the Secretary under section 1508, or with other types of investigations to determine compliance with applicable law and regulations, the Secretary and examiners appointed by the Secretary may administer oaths and affirmations and examine and take and preserve testimony under oath as to any matter in respect to the affairs of any such loan originator.

(5) ASSESSMENTS.—The cost of conducting any examination of any loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508 shall be assessed by the Secretary against the loan originator to meet the Secretary's expenses in carrying out such examination.

(c) CEASE AND DESIST PROCEEDING.—

(1) AUTHORITY OF SECRETARY.—If the Secretary finds, after notice and opportunity for hearing, that any person is violating, has violated, or is about to violate any provision of this title, or any regulation thereunder, with respect to a State which is subject to a licensing system established by the Secretary under section 1508, the Secretary may publish such findings and enter an order requiring such person, and any other person that is, was, or would be a cause of the violation, due to an act or omission the person knew or should have known would contribute to such violation, to cease and desist from committing or causing such violation and any future violation of the same provision, rule, or regulation. Such order may, in addition to requiring a person to cease and desist from committing or causing a violation, require such person to comply, or to take steps to effect compliance, with such provision or regulation, upon such terms and conditions and within such time as the Secretary may specify in such order. Any such order may, as the Secretary deems appropriate, require future compliance or steps to effect future compliance, either permanently or for such period of time as the Secretary may specify, with such provision or regulation with respect to any loan originator.

(2) HEARING.—The notice instituting proceedings pursuant to paragraph (1) shall fix a hearing date not earlier than 30 days nor later than 60 days after service of the notice unless an earlier or a later date is set by the Secretary with the consent of any respondent so served.

(3) TEMPORARY ORDER.—Whenever the Secretary determines that the alleged violation or threatened violation specified in the notice instituting proceedings pursuant to paragraph (1), or the continuation thereof, is likely to result in significant dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest prior to the completion

of the proceedings, the Secretary may enter a temporary order requiring the respondent to cease and desist from the violation or threatened violation and to take such action to prevent the violation or threatened violation and to prevent dissipation or conversion of assets, significant harm to consumers, or substantial harm to the public interest as the Secretary deems appropriate pending completion of such proceedings. Such an order shall be entered only after notice and opportunity for a hearing, unless the Secretary determines that notice and hearing prior to entry would be impracticable or contrary to the public interest. A temporary order shall become effective upon service upon the respondent and, unless set aside, limited, or suspended by the Secretary or a court of competent jurisdiction, shall remain effective and enforceable pending the completion of the proceedings.

**(4) REVIEW OF TEMPORARY ORDERS.—**

**(A) REVIEW BY SECRETARY.—**At any time after the respondent has been served with a temporary cease and desist order pursuant to paragraph (3), the respondent may apply to the Secretary to have the order set aside, limited, or suspended. If the respondent has been served with a temporary cease and desist order entered without a prior hearing before the Secretary, the respondent may, within 10 days after the date on which the order was served, request a hearing on such application and the Secretary shall hold a hearing and render a decision on such application at the earliest possible time.

**(B) JUDICIAL REVIEW.—**Within—

- (i) 10 days after the date the respondent was served with a temporary cease and desist order entered with a prior hearing before the Secretary; or
- (ii) 10 days after the Secretary renders a decision on an application and hearing under paragraph (1), with respect to any temporary cease and desist order entered without a prior hearing before the Secretary, the respondent may apply to the United States district court for the district in which the respondent resides or has its principal place of business, or for the District of Columbia, for an order setting aside, limiting, or suspending the effectiveness or enforcement of the order, and the court shall have jurisdiction to enter such an order. A respondent served with a temporary cease and desist order entered without a prior hearing before the Secretary may not apply to the court except after hearing and decision by the Secretary on the respondent's application under subparagraph (A).

**(C) NO AUTOMATIC STAY OF TEMPORARY ORDER.—**The commencement of proceedings under subparagraph (B) shall not, unless specifically ordered by the court, operate as a stay of the Secretary's order.

**(5) AUTHORITY OF THE SECRETARY TO PROHIBIT PERSONS FROM SERVING AS LOAN ORIGINATORS.—**In any cease and desist proceeding under paragraph (1), the Secretary may issue an order to prohibit, conditionally or unconditionally, and permanently or for such period of time as the Secretary shall determine, any person who has violated this title or regulations thereunder, from acting as a loan originator if the conduct of that person demonstrates unfitness to serve as a loan originator.

**(d) AUTHORITY OF THE SECRETARY TO ASSESS MONEY PENALTIES.—**

**(1) IN GENERAL.—**The Secretary may impose a civil penalty on a loan originator operating in any State which is subject to a licensing system established by the Secretary under section 1508, if the Secretary finds, on the record after notice and opportunity for hearing, that such loan originator has violated or failed to comply with any requirement of this title or any regulation prescribed by the Secretary under this title or order issued under subsection (c).

(2) **MAXIMUM AMOUNT OF PENALTY.**—The maximum amount of penalty for each act or omission described in paragraph (1) shall be \$25,000.

#### **SEC. 1515. STATE EXAMINATION AUTHORITY.**

In addition to any authority allowed under State law a State licensing agency shall have the authority to conduct investigations and examinations as follows:

(1) For the purposes of investigating violations or complaints arising under this title, or for the purposes of examination, the State licensing agency may review, investigate, or examine any loan originator licensed or required to be licensed under this title, as often as necessary in order to carry out the purposes of this title.

(2) Each such loan originator shall make available upon request to the State licensing agency the books and records relating to the operations of such originator. The State licensing agency may have access to such books and records and interview the officers, principals, loan originators, employees, independent contractors, agents, and customers of the licensee concerning their business.

(3) The authority of this section shall remain in effect, whether such a loan originator acts or claims to act under any licensing or registration law of such State, or claims to act without such authority.

(4) No person subject to investigation or examination under this section may knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other information.

#### **SEC. 1516. REPORTS AND RECOMMENDATIONS TO CONGRESS.**

(a) **ANNUAL REPORTS.**—Not later than 1 year after the date of enactment of this title, and annually thereafter, the Secretary shall submit a report to Congress on the effectiveness of the provisions of this title, including legislative recommendations, if any, for strengthening consumer protections, enhancing examination standards, streamlining communication between all stakeholders involved in residential mortgage loan origination and processing, and establishing performance based bonding requirements for mortgage originators or institutions that employ such brokers.

(b) **LEGISLATIVE RECOMMENDATIONS.**—Not later than 6 months after the date of enactment of this title, the Secretary shall make recommendations to Congress on legislative reforms to the Real Estate Settlement Procedures Act of 1974, that the Secretary deems appropriate to promote more transparent disclosures, allowing consumers to better shop and compare mortgage loan terms and settlement costs.

#### **SEC. 1517. STUDY AND REPORTS ON DEFAULTS AND FORECLOSURES.**

(a) **STUDY REQUIRED.**—The Secretary shall conduct an extensive study of the root causes of default and foreclosure of home loans, using as much empirical data as is available.

(b) **PRELIMINARY REPORT TO CONGRESS.**—Not later than 6 months after the date of enactment of this title, the Secretary shall submit to Congress a preliminary report regarding the study required by this section.

(c) **FINAL REPORT TO CONGRESS.**—Not later than 12 months after the date of enactment of this title, the Secretary shall submit to Congress a final report regarding the results of the study required by this section, which shall include any recommended legislation relating to the study,

and recommendations for best practices and for a process to provide targeted assistance to populations with the highest risk of potential default or foreclosure.