

# Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act)



# Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act)

NCUA Regulatory Overview

NCUA

NAFCU Webinar  
January 2011



# Regulation Overview

*Regina Metz, NCUA OGC*

---

# Examination Expectations

*Lisa Dolin, NCUA E&I*



# *Regulation Overview*

# *Why the SAFE Act?*

## Secure And Fair Enforcement for Mortgage Licensing Act

(Title V, Housing and Economic Recovery Act of July 30, 2008)

- Increase Uniformity
- Centralize Licensing and Supervisory Database
- Streamline Licensing Process
- Consumer Protection & Transparency

# *What is the SAFE Act?*

- All residential **mortgage loan originators** (MLOs)
- Must be federally **registered** or state **licensed**
- Through Nationwide Mortgage Licensing System & Registry (NMLS).
- By *Conference of State Bank Supervisors (CSBS) & American Association of Residential Mortgage Regulators.*

# What is a residential mortgage loan?

*Something an MLO originates! 😊 NOT FUNNY!*

Includes *any* loan primarily for consumer or household purposes secured by a mortgage...

- 2d mortgages
- Home equity lines of credit (HELOCs)
- Reverse mortgages
- Does not include timeshares.

# Who is an MLO???????

## A MORTGAGE LOAN ORIGINATOR 😊

- Based on duties, not job title
- Does it include tellers?
- Does it include call center employees?
- Does it include board members?
- Does it include volunteers?



# *How does the SAFE Act work?*

- Company Enters Information
- MLOs Enter Information
- Company Verifies MLO Information and Employment Status

**<http://www.stateregulatoryregistry.org>**

Database up and running for states.

Not yet for federal registration.



- Home
- SRR
- NMLS
- Contacts
- Press Releases

### About State Regulatory Registry LLC

The Conference of State Bank Supervisors (CSBS) in cooperation with the American Association of Residential Mortgage Regulators (AARMR) established the State Regulatory Registry LLC (SRR) on September 29, 2006. A limited-liability company, SRR is to develop and operate nationwide systems for state regulators in the financial services industry. Such systems are intended to enhance state's ability to protect consumers; improve supervision and enforcement of licensed entities; and streamline licensing and other processes for state agencies and the industry through the use of modern technology and centralizing redundant state agency operations. [More...](#)



### S.A.F.E Act

Visit the CSBS website for information and resources regarding the S.A.F.E. Mortgage Licensing Act of 2008.



### Nationwide Mortgage Licensing System

State mortgage regulators from around the country have been working since 2003 to develop a nationwide licensing system for the residential mortgage industry that will improve supervision of the mortgage industry, streamline the licensing process for mortgage companies and professionals, and enhance consumer protection.

[More...](#)



### News

[CSBS Reports to Congress: States on Track to Meet Deadline](#)

[Nationwide Mortgage Licensing System Marks Successful First Year](#)

[SRR Selects Vendors for S.A.F.E. Education and Testing Requirements](#)

[More...](#)



# SAFE Act Federal Registration

- SAFE Act directs federal bank regulatory agencies (includes NCUA)
- to develop a system
- through which depository institution employees
- must register with the nationwide system
- and obtain a unique identifier.

# What has happened so far?

- **NCUA Legal Opinion Letters**
  - *09-1018 - Notice of Exemption Requirement in NC Mortgage Lending Act (12/09/2009)*
  - *08-0843 - Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (10/03/2008)*
- NCUA SAFE Act Proposed Rule:
- Federal Register (June 9, 2009)
  - Public Comments

# *NCUA Final Rule*

NCUA Rules & Regulations Parts 741 and 761

**Final NCUA Regulation** 75 Fed. Reg. 44656 (July 28, 2010);

**Correction** 75 Fed. Reg. 51623 (Aug. 23, 2010)

- Other agencies cites:
  - OCC: 12 CFR Part 34
  - FRB: 12 CFR Part 208
  - FDIC: 12 CFR Part 365
  - OTS: 12 CFR Part 563
  - FCA: 12 CFR Part 610

# NCUA reg. §761.101- SCOPE

---

**All** CUs making residential mortgage loans.

- Does it include State charters? *Yes.*
- Does it include Privates? Yes *–via NASCUS - MOUs w/state regulators.*
- Does it include CUSOs? ? ?

De Minimis exception –

- MLOs who do 5 or less do not register.
- 5 or less over when? *Prior 12 months.*

# NCUA SAFE Act reg. §761.102

---

- What is Residential Mortgage Loan?
  - see SAFE Act; note-includes refinancing.
- Who is MLO? **2 prongs**
  - Takes residential mortgage loan application;  
AND
  - Offers or negotiates terms of a residential mortgage loan for compensation or gain.
  - See Appendix A to part 761-**not admins/clerks.**

# NCUA SAFE ACT reg. §761.103

## *Registration*

---

- MLO must register before originating

*What does register mean?*

*Any exceptions?*

Credit unions must ensure their MLOs comply. *How?*

**[SEE NEXT 3 SLIDES for answers!]**



# 1. MLO Registration

---

- What information must MLO provide?
- Some kept private/ some goes public.
  - Identifying information
  - 10 yrs. Financial services employment history
  - Certain civil & criminal & regulatory actions
- Fingerprints – *How do I get those?*
- MLO *attestation* – *What is that?*
- Updates and renewals – *When & how often?*



## 2. What must credit unions do?

---

- CU must provide: Identifying info.
  - Primary point of contact (POC) &
  - Administrator(s) authorized to act for CU

*e.g., “Batch processing”*

*When can this be the same person?*

- CU must do Information attestation *What is that?*
- CU must confirm MLO works for CU!
- Updates and renewals. *When and how often?*

# 3. When is all this happening?

---

SOON! 😊

- Initial registration 2011.
- 180 days grace period
- Annual 11/1- 12/31.
- What happens with CU mergers, acquisitions, & reorganizations?



# 104. Is there more? What else?

## Policies and Procedures (Ps&Ps)

---

- Ps&Ps Appropriate for size & complexity. *Of CUs residential lending activity*
- CU must ensure compliance w/SAFE Act & 761. *How do I do that?*
- 761 requires annual independent testing. *By Whom?*
- What about 3rd party arrangements?

# 105. Use of Unique Identifier (*U UI*)

*(enough acronyms for U? 😊)*

---

- CU must give member access to MLO's UI
  - CU must make UI reasonably available.
  - MLO to provide to member before acting as an MLO.
  - Unique Identifier is FOR LIFE.

# Dodd–Frank Wall Street Reform and Consumer Protection Act

---

- SAFE Act transfer to *Who?*  
Bureau of Consumer Financial Protection (CFPB):  
*When? What? Why? How?*
- Rulemaking
- Examine & Enforce?



# *Examination Expectations*

# *2011 Examinations*

- Procedures formalized mid to late 2011
- Required area of review
- Incorporated into AIREs (checklist)

**Work in  
Progress**

Please excuse our delays



# *Credit Union Implementation*

- Policies & Procedures:
  - Employee Registration
  - Employee Registration Maintenance
  - Program Oversight (Audit)
  - Employee Information Verification
  - Employee Disciplinary Action
  - Unique Identifier Disclosure
- Registration Progress/Plan



# *Resources*

NCUA SAFE Act Resource Webpage

<http://www.ncua.gov/Resources/SAFEAct.aspx>

# Questions?

