Appendix A of this subpart provides examples of activities that would, and would not, sale of covered securities within one year after OTS approval or non-objection under this section. A savings association may request an extension of the offering period by filing a written request with OTS. The savings association must demonstrate good cause for the extension and file the request at least 30 days before the expiration of the offering period or any extension of the offering period.

(g) Reports. A savings association must file the following information with OTS within 30 days after the savings association completes the sale of covered securities includable as supplementary capital. If the savings association filed its application or notice following the completion of the sale, it must submit this information with its application or notice:

1. A written report indicating the number of purchasers, the total dollar amount of securities sold, the net proceeds received by the savings association from the issuance, and the amount of covered securities, net of all expenses, to be included as supplementary capital;
2. Three copies of an executed form of the securities and a copy of any related documents governing the issuance or administration of the securities; and
3. A certification by the appropriate executive officer indicating that the savings association complied with all applicable laws and regulations in connection with the offering, issuance, and sale of the securities.


Subpart D—Registration of Residential Mortgage Loan Originators

Source: 75 FR 44696, July 28, 2010, unless otherwise noted.

§ 563.101 Authority, purpose, and scope.


(b) Purpose. This subpart implements the S.A.F.E. Act’s Federal registration requirement for mortgage loan originators. The S.A.F.E. Act provides that the objectives of this registration include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of mortgage loan originators; enhancing consumer protections; supporting anti-fraud measures; and providing consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

(c) Scope—(1) In general. This subpart applies to savings associations, their operating subsidiaries (collectively referred to in this subpart as savings associations), and their employees who act as mortgage loan originators.

(2) De minimis exception. (i) This subpart and the requirements of 12 U.S.C. 5103(a)(1)(A) and (2) of the S.A.F.E. Act do not apply to any employee of a savings association who has never been registered or licensed through the Registry as a mortgage loan originator if during the past 12 months the employee acted as a mortgage loan originator for 5 or fewer residential mortgage loans.

(ii) Prior to engaging in mortgage loan origination activity that exceeds the exception limit in paragraph (c)(2)(i) of this section, a savings association employee must register with the Registry pursuant to this subpart.

(iii) Evasion. Savings associations are prohibited from engaging in any act or practice to evade the limits of the de minimis exception set forth in paragraph (c)(2)(i) of this section.

§ 563.102 Definitions.

For purposes of this subpart D, the following definitions apply:

(a) Annual renewal period means November 1 through December 31 of each year.

(b)(1) Mortgage loan originator means an individual who:

Appendix A of this subpart provides examples of activities that would, and would not,
(i) Takes a residential mortgage loan application; and
(ii) Offers or negotiates terms of a residential mortgage loan for compensation or gain.

(2) The term mortgage loan originator does not include:
(i) An individual who performs purely administrative or clerical tasks on behalf of an individual who is described in paragraph (b)(1) of this section;
(ii) An individual who only performs real estate brokerage activities (as defined in 12 U.S.C. 5102(3)(D)) and is licensed or registered as a real estate broker in accordance with applicable State law, unless the individual is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, and meets the definition of mortgage loan originator in paragraph (b)(1) of this section; or
(iii) An individual or entity solely involved in extensions of credit related to timeshare plans, as that term is defined in 11 U.S.C. 101(53D).

(3) Administrative or clerical tasks means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the residential mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(c) Nationwide Mortgage Licensing System and Registry or Registry means the 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 mortgage loan originators and the registration of mortgage loan originators pursuant to 12 U.S.C. 5107.

(d) Registered mortgage loan originator or registrant means any individual who:
(1) Meets the definition of mortgage loan originator and is an employee of a savings association; and
(2) Is registered pursuant to this subpart with, and maintains a unique identifier through, the Registry.

(e) 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, 15 U.S.C. 1602(v)) or residential real estate upon which is constructed or intended to be constructed a dwelling, and includes refinancings, reverse mortgages, home equity lines of credit and other first and additional lien loans that meet the qualifications listed in this definition.

(f) Unique identifier means a number or other identifier that:
(1) Permanently identifies a registered mortgage loan originator;
(2) Is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry, the Federal banking agencies, and the Farm Credit Administration to facilitate:
(i) Electronic tracking of mortgage loan originators; and
(ii) Uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators; and
(3) Must not be used for purposes other than those set forth under the S.A.F.E. Act.

§ 563.103 Registration of mortgage loan originators.

(a) Registration requirement—(1) Employee registration. Each employee of a savings association who acts as a mortgage loan originator must register with the Registry, obtain a unique identifier, and maintain this registration in accordance with the requirements of this subpart. Any such employee who is not in compliance with the registration and unique identifier requirements set forth in this subpart is in violation of the S.A.F.E. Act and this subpart.

(2) Savings association requirement—(i) In general. A savings association that employs one or more individuals who act as a residential mortgage loan originator must require each such employee to register with the Registry, maintain this registration, and obtain a unique identifier in accordance with the requirements of this subpart.