§ 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:

(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).

(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:

1Appendix A of this subpart provides examples of activities that would, and would not, cause an employee to fall within this definition of mortgage loan originator.
(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 and unique identifier requirements set forth in this subpart 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.

(b) Savings association requirement—(1) 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.

(ii) Prohibition. A savings association must not permit an employee of the association who is subject to the registration requirements of this subpart to act as a mortgage loan originator for the association unless such employee is registered with the Registry pursuant to this subpart.

(3) Implementation period for initial registration. An employee of a savings association who is a mortgage loan originator must complete an initial registration with the Registry pursuant to this subpart within 180 days from the date that the OTS provides in a public notice that the Registry is accepting registrations.

(4) Employees previously registered or licensed through the Registry—(i) In general. If an employee of a savings association was registered or licensed through, and obtained a unique identifier from, the Registry and has maintained this registration or license before the employee of the association becomes subject to this subpart at this association, then the registration requirements of the S.A.F.E. Act and this subpart are deemed to be met, provided that:

(A) The employment information in paragraphs (d)(1)(i)(C) and (d)(1)(ii) of this section is updated and the requirements of paragraph (d)(2) of this section are met;

(B) New fingerprints of the employee are submitted to the Registry for a background check, as required by paragraph (d)(1)(ix) of this section, unless the employee has fingerprints on file with the Registry that are less than 3 years old;

(C) The savings association information required in paragraphs (e)(1)(i) (to the extent the association has not previously met these requirements) and (e)(2)(i) of this section is submitted to the Registry; and

(D) The registration is maintained pursuant to paragraphs (b) and (e)(1)(i) of this section, as of the date that the employee becomes subject to this subpart.