

employees from acting as mortgage loan originators or other appropriate disciplinary actions;

(h) Establish a process for reviewing employee criminal history background reports received pursuant to this subpart, taking appropriate action consistent with applicable Federal law, including section 19 of the Federal Deposit Insurance Act (12 U.S.C. 1829) and implementing regulations with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees; and

(i) Establish procedures designed to ensure that any third party with which the bank has arrangements related to mortgage loan origination has policies and procedures to comply with the S.A.F.E. Act, including appropriate licensing and/or registration of individuals acting as mortgage loan originators.

#### § 34.105 Use of unique identifier.

(a) The national bank shall make the unique identifier(s) of its registered mortgage loan originator(s) available to consumers in a manner and method practicable to the institution.

(b) A registered mortgage loan originator shall provide his or her unique identifier to a consumer:

- (1) Upon request;
- (2) Before acting as a mortgage loan originator; and
- (3) Through the originator's initial written communication with a consumer, if any, whether on paper or electronically.

#### APPENDIX A TO SUBPART F OF PART 34— EXAMPLES OF MORTGAGE LOAN ORIGINATOR ACTIVITIES

This appendix provides examples to aid in the understanding of activities that would cause an employee of a national bank to fall within or outside the definition of mortgage loan originator. The examples in this appendix are not all inclusive. They illustrate only the issue described and do not illustrate any other issues that may arise under this subpart. For purposes of the examples below, the term "loan" refers to a residential mortgage loan.

(a) *Taking a loan application.* The following examples illustrate when an employee takes, or does not take, a loan application.

(1) Taking an application includes: receiving information provided in connection with

a request for a loan to be used to determine whether the consumer qualifies for a loan, even if the employee:

- (i) Has received the consumer's information indirectly in order to make an offer or negotiate a loan;
- (ii) Is not responsible for verifying information;
- (iii) Is inputting information into an on-line application or other automated system on behalf of the consumer; or
- (iv) Is not engaged in approval of the loan, including determining whether the consumer qualifies for the loan.

(2) Taking an application does not include any of the following activities performed solely or in combination:

- (i) Contacting a consumer to verify the information in the loan application by obtaining documentation, such as tax returns or payroll receipts;
- (ii) Receiving a loan application through the mail and forwarding it, without review, to loan approval personnel;
- (iii) Assisting a consumer who is filling out an application by clarifying what type of information is necessary for the application or otherwise explaining the qualifications or criteria necessary to obtain a loan product;
- (iv) Describing the steps that a consumer would need to take to provide information to be used to determine whether the consumer qualifies for a loan or otherwise explaining the loan application process;
- (v) In response to an inquiry regarding a prequalified offer that a consumer has received from a bank, collecting only basic identifying information about the consumer and forwarding the consumer to a mortgage loan originator; or
- (vi) Receiving information in connection with a modification to the terms of an existing loan to a borrower as part of the bank's loss mitigation efforts when the borrower is reasonably likely to default.

(b) *Offering or negotiating terms of a loan.* The following examples are designed to illustrate when an employee offers or negotiates terms of a loan, and conversely, what does not constitute offering or negotiating terms of a loan.

- (1) Offering or negotiating the terms of a loan includes:
  - (i) Presenting a loan offer to a consumer for acceptance, either verbally or in writing, including, but not limited to, providing a disclosure of the loan terms after application under the Truth in Lending Act, even if:
    - (A) Further verification of information is necessary;
    - (B) The offer is conditional;
    - (C) Other individuals must complete the loan process; or
    - (D) Only the rate approved by the bank's loan approval mechanism function for a specific loan product is communicated without authority to negotiate the rate.