

SAFE Act Mortgage Registration Regulations Proposed

Individual employees of financial institutions who take and negotiate mortgage loan applications will be required to register as “mortgage originators” under regulations proposed on June 1, 2009. The Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act) was adopted on July 30, 2008 as part of the Housing and Economic Recovery Act of 2008 (P.L. 110-289). The act required creation of a national registry for mortgage loan originators who are employed by banks, credit unions and other depository institutions.

The proposed regulation defines a mortgage originator as an employee who both takes a residential mortgage loan application and offers or negotiates terms of such a loan. A limited exception exists for employees who took five or fewer applications during the prior 12 months, provided that the employer acted as a mortgage originator on 25 or fewer loans during the same period. Employees who perform purely clerical functions with respect to mortgage loans are excluded as well.

All types of residential mortgages are covered: first and subordinate liens; open-end and closed-end credit; and temporary and permanent financing. Thus home equity lines and loans, construction loans and permanent mortgages are all covered.

The rule is expected to become final by the deadline set by Congress of July 29, 2009. The deadline for initial registrations will be 180 days after that, perhaps around January 30, 2010. Registrants will be required to submit fingerprints and a host of financial and personal information. One may hope that a registration form will be provided. The registry is to be web based.

Members of the Bankers' Compliance Group can expect a Handout on the final SAFE regulations later this summer, probably in August or September, in any event well before the registration deadline. In the meantime all institutions – members and non-members – are invited to contact Janet Bonnefin at jbonnefin@aldrichandbonnefin.com, Robert Olsen at rolsen@aldrichandbonnefin.com or Jill Kovar at jkovar@aldrichandbonnefin.com for more information.