KEY REALTY
SCHOOL

NMLS-SAFE 2019 CE

NMLS Continuing Education 2019

Rules of Conduct for NMLS Approved Pre-Licensure (PE) and Continuing Education (CE) Courses:

The Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act), requires that state-licensed MLOs complete pre-licensing (PE) and continuing education (CE) courses as a condition to be licensed. The SAFE Act also requires that all education completed as a condition for state licensure be NMLS approved. Since 2009 NMLS has established course design, approval, and delivery standards which NMLS approved course providers are required to meet. To further ensure students meet the education requirements of the SAFE Act, NMLS has established a Rules of Conduct (ROC). The ROC, which have been approved by the NMLS Mortgage Testing & Education Board, and the NMLS Policy Committee, both of which are comprised of state regulators, are intended to stress that NMLS approved education be delivered and completed with integrity.

Rules of Conduct

As an individual completing either pre-licensure education (PE) or continuing education (CE), I agree to abide by the following rules of conduct:

1. I attest that I am the person who I say I am and that all my course registration information is accurate.

2. I acknowledge that I will be required to show a current government issued form of identification prior to, and during the course, and/or be required to answer questions that are intended to verify/validate my identity prior to, and during the course.

3. I understand that the SAFE Act and state laws require me to spend a specific amount of time in specific subject areas. Accordingly, I will not attempt to circumvent the requirements of any NMLS approved course.

4. I will not divulge my login ID or password or other login credential(s) to another individual for any online course.

5. I will not seek or attempt to seek outside assistance to complete the course.

6. I will not give or attempt to give assistance to any person who is registered to take an NMLS approved pre-licensure or continuing education course.

7. I will not engage in any conduct that creates a disturbance or interferes with the administration of the course or other students' learning.

8. I will not engage in any conduct that would be contrary to good character or reputation or engage in any behavior that would cause the public to believe that I would not operate in the mortgage loan business lawfully, honestly or fairly.

9. I will not engage in any conduct that is dishonest, fraudulent, or would adversely impact the integrity of the course(s) I am completing and the conditions for which I am seeking licensure or renewal of licensure.

I understand that NMLS approved course providers are not authorized by NMLS to grant exceptions to these rules and that I alone am responsible for my conduct under these rules. I also understand that these rules are in addition to whatever applicable rules my course provider may have.

I understand that the course provider or others may report any alleged violations to NMLS and that NMLS may investigate alleged violations and that it may report alleged violations to the state(s) in which I am seeking licensure or maintain licenses, or to other states.

I further understand that the results of any investigation into my alleged violation(s) may subject me to disciplinary actions by the state(s) or the State Regulatory Registry (SRR), including removal of any course from my NMLS record, and/or denial or revocation of my license(s).

Table of Contents

8 Hour Compliance/CE NMLS-SAFE Act for 2019

Course Description and Purpose - This course digests the core lending regulations of and recent changes to the Truth in Lending Act (TILA) and Regulation Z (Reg Z), the Real Estate Settlement Procedures Act (RESPA) and Regulation X (Reg X), mortgage fraud detection, the Red Flags Rule as well as a review of predatory lending and ethical practices.

COURSE PROVIDER

Key Realty School
Address: 3320 East Flamingo Road, Las Vegas, NV 89121
Phone: 1.702-313-7000
Location: Main Campus

Date/Times: Classroom Instruction – Monday – Sunday

COURSE INSTRUCTOR

Name: Thomas Payne (NMLS# 1017004)
Qualifications: NMLS License/Teaching Credentials/ Broker

COURSE LEARNING OBJECTIVES

● Review existing TILA and Regulation Z requirements, including understanding permissible fees, finance charges and their disclosure, advertisement requirements and annual percentage rates.
● Review existing RESPA and Regulation X requirements, including types of loans subject to RESPA and steps required before initiating foreclosure.
● Understand common mortgage fraud schemes, and how to detect them.
● Identify protections which need to be in place to prevent identity theft
● Identify unlawful and misleading practices in communicating with consumers.
● Understand how nontraditional Non-QM's function, and the benefits and risks they pose for consumers.
● Identify and understand NMLS licensing laws under both the Consumer Residential Mortgage.

COURSE COMPLETION

Upon completion, all students will receive a course completion certificate and 8 hours of education credit. Key Realty School will submit your course completion directly to the NMLS. PLEASE NOTE: To ensure proper credit

is given, it is extremely important that you provide us with your correct NMLS ID when enrolling.

COURSE EVALUATION

At the conclusion of the course, you will be asked to complete a Course Evaluation.

COURSE OUTLINE

Module 1: FEDERAL MORTGAGE RELATED LAWS & REGULATIONS
Estimated Time 180 minutes

UNIT 1.1
Real Estate Settlement Procedures Act (RESPA)
● RESPA Overview ● RESPA & Timing Part I
● RESPA & Timing Part II ● RESPA Section 6 – Mortgage Servicing & Mortgage Servicing Abuses
● RESPA Section 8 - Prohibits kickbacks, fee-splitting & unearned fees
● RESPA Section 9 - Title Insurance
● RESPA Section 10 – Escrow Accounts

UNIT 1.2
The Truth in Lending Act (TILA) Reg Z
● TILA Overview ● TILA Disclosures & Finance Charges
● Right of Recession ● The Mortgage Disclosure Improvement Act (MDIA Act)
● TILA Advertising Disclosures
● Prohibition in Advertising

Unit 1.3
Non-Traditional Mortgages – Non-QM
● Definition
● Disclosure requirements
● Risk to consumer
● Consumer Awareness and Education

ACTIVITY: Knowledge Checks

Module 2: GENERAL MORTGAGE KNOWLEDGE
Estimated Time 120 minutes

UNIT 2.1
2.2 General Mortgage Knowledge Review
● Qualified Mortgages & Ability-to-Repay (ATR)
● Government (FHA, VA, USDA) ● Traditional vs Non-Traditional Mortgage Products (NMP)
● Adjustable Rate Mortgages
● Other Mortgage Products
● Mortgage Terms & Credit Freeze

Financial Calculations
● Computing Gross Income
● Payments (Principal, Interest, Taxes, and Insurance; Mortgage Insurance) ● Periodic Interest
● Calculating Down Payment
● Calculating PMI Mortgage Insurance
● Loan-to-Value (Loan-To-Value, Combined Loan-to-Value, Total Loan-to-Value)
● Calculating Acquisition Cost
● Calculating Debt-to-Income Ratios

ACTIVITY: Knowledge Checks

Module 3: ETHICS
Estimated Time 120 minutes

UNIT 3.1 Ethics and Fraud
● Ethics and Fraud Overview
● Common Mortgage Fraud Schemes Predatory Lending
● Statement on Subprime Lending
● Red Flags of Mortgage Fraud
● Fraud Enforcement
● Bank Secrecy Act/Anti-Money Laundering – Failure to comply
● Section 8 of RESPA
● Regulation X, 12 C.F.R

ACTIVITY Knowledge Checks

Module 4: THE NEW 1003
Estimated time 45 minutes

Uniform Residential Mortgage Application
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ACTIVITY Knowledge Checks

Module 5: UNIFORM STATE CONTENT
60 minutes

Uniform State Content
- The SAFE Act (Title V of HERA)
- State Regulatory Responsibilities
- Persons Required to Be Licensed
- License Qualifications
- Education and Testing Requirements
- Licensing Renewal, Continuing Education & License Maintenance
- Compliance - Prohibited Conduct and Practices

ACTIVITY Knowledge Checks

Final Exam and Course Evaluation
30 minutes

Final Exam – 25 questions
Complete course Evaluation

Total Estimated Time: 480 minutes

FEDERAL MORTGAGE RELATED LAWS & REGULATIONS

Unit 1.1

A home mortgage is one of the largest credit transactions a consumer can make, and that opens the door for all sorts of issues. In the past, lenders have misled consumers about mortgage loans. Some lenders denied loans based on discrimination. Other lenders hid the truth about mortgage loan terms, including interest rates and closing costs. To address a variety of issues, the federal government enacted a series of key mortgage lending laws.

Truth-In-Lending

The federal act is part of the Consumer Credit Protection Act. Since 1968, it has required that lenders disclose the annual percentage rate, finance charges, amount financed, total number of payments and total sales price on a loan. The law also gives consumers three days to cancel a loan before it becomes permanent. In addition to requiring lenders to disclose information at the time the loan is offered, the Truth in Lending Act also has requirements for advertising. These requirements ensure that lenders do not mislead consumers.

Equal Credit Opportunity Act & Fair Housing Act

The Equal Credit Opportunity Act, which was passed by Congress in 1975, bans lenders from discriminating against consumers. Before the law, some lenders denied certain individuals loans based on discrimination. The law now states that lenders cannot discriminate based on race, color, sex, religion, national origin, age or receipt of public assistance. To ensure compliance, the federal government reviews application forms to ensure that they do not pose unacceptable questions. The Fair Housing Act also prohibits discrimination in mortgage lending. In addition to prohibiting lenders from refusing to offer loans, the Act prohibits the lenders from providing information about loans and from imposing different terms or conditions on loans. For example, a lender cannot assess a higher interest rate only because the borrower is Jewish or elderly.

Real Estate Settlement Procedures Act

In 1974 Congress passed RESPA to provide consumer protection for loans on residential properties consisting of 1 to 4 family units. On Jan. 1, 2010, new RESPA regulations took effect. These laws cover closing costs on mortgage loans and settlement procedures. The laws require that consumers receive disclosures at various points in a mortgage transaction. The laws also outlaw kickbacks that increase the cost of the mortgage loan. The U.S. Department of Housing and Urban Development enforces RESPA laws. One important part of RESPA is that it requires lenders to provide a "Good Faith Estimate" of the likely closing costs that will be required on a mortgage loan. Prior to the law, some lenders were deceptive about the true closing costs for mortgage loan products.

New Homeowner's Protection Act

In 1998, Congress passed the Homeowner's Protection Act, which took effect on July 29, 1999. HPA gives consumers the right to request the cancellation of PMI when they pay down their mortgage loans to 80 percent or more of the home's value at the time of the loan. To qualify, homeowners must have not made any payments 30 or more days late in the past year or 60 days late within the past two years. Lenders also can request evidence that the value of the home has not declined below its original value and that there is no second mortgage on the home.

Nationwide Licensing System and Standards

In 2008, the federal government passed legislation requiring mortgage lenders to obtain licensing. The special licensing is designed to improve ethics and adherence to federal and state laws. The licensing provision was designed to stop lending practices that contributed to a collapse in the residential real estate market. Additionally, Congress set new standards that require all lenders to provide training, testing, and criminal and credit screening of employees. The standards took effect in 2010. The licensing requirement prior to the new standards was less stringent. Under the previous law, only the lending institution needed to obtain a license. Individual employees were not required to obtain their own licenses.

What Are Disclosures in Federal Mortgage Related Laws:

Before 2015 there were 2 disclosures in mortgage: TILA (Truth-In-Lending Act) and RESPA (Real Estate Settlement Procedures). After October 3, 2015 there were combined and integrated into one disclosure TILA-RESPA. This rule modified disclosure requirements for most closed-end loans. A reverse mortgage (an Open-end loan) require four disclosures:

- TILA (an initial disclosure containing the annual percentage rate)
- Good Faith Estimate of closing costs
- HUD-1 Settlement Statement
- a final TILA Disclosure

Most closed end loans (including construction-only loans as well as loans for vacant land) are required to use only two disclosures

- Loan Estimate form (contains the initial APR disclosure)
- Closing Disclosure form (contains the final APR disclosure)

To make it even more complicated, above types of loans require a TILA Disclosure but not a Good faith Estimate or Loan Estimate and not a HUD-1 Settlement Statement or Closing Disclosure: equity line of credit, a manufactured housing loan that is not secured by real estate, and some types of home-buyer assistance loans.

1. **Loan Application Disclosures**

There are three disclosures the Lender provides to the borrower within 3 business days of receiving a loan application. However, the requirements don't apply if a lender turns down the application during those days. RESPA doesn't specify a penalty for noncompliance. Disclosures are

- Special Information Pamphlet (common mortgage terms & closing costs) – **only for purchase mortgage loans**
- GFE – Good Faith Estimate of the anticipated closings costs (reverse mortgage) or the **Loan Estimate**
- **MSD – Mortgage Servicing Disclosure** that informs the applicant whether the lender intends to service the loan or transfer the servicing rights to another lender.

2. Pre-Settlement Disclosures

a) HUD-1 Settlement Statement (reverse mortgages) or Closing Disclosure

Shows all credits and debits to the buyer and any disbursements to third parties.

he borrower has the right to review the HUD-1 one business day before closing date (the initial Closing Disclosure must be received at least 3 business days before closing)

b) Affiliated Business Agreement

One-stop shopping it's possible when one parent company owns multiple service provider firms. For example, one entity may own or have a partial interest in real estate, mortgage and title companies. RESPA requires that when one of these entities refers the applicant to another affiliated provider, the loan applicant receives an Affiliated Business Arrangement Disclosure at or prior companies and the charges for the second company.

3. Settlement Disclosures

1. Final HUD-1 Settlement Statement or Financial Closing Disclosure (needs to be signed by buyer)
2. Initial Escrow Statement – the borrower receives it within 45 days after closing. It estimates the first-year escrow payment for property taxes and homeowner's insurance.

4. Post-Settlement Disclosures

a) Servicing Transfer Statement

Servicing rights for loans may change hands frequently, sometimes a borrower receives multiple notifications that instruct them to send payment to a different address and company. These Servicing Transfer Statements are required by RESPA. Borrowers cannot be penalized for non-payment if they continued to make payments to the prior servicer. (they should receive a phone call in 60 days from a new company). We sometimes refer to them as a "Good-Bye" and "Hello" letters.

5. Annual Escrow Analysis Statement

Lenders are required to contact an annual analysis of escrow accounts and must inform the borrower if the findings and refund an excess of $50.00 or more.

Loan Estimate – The LE

The Loan Estimate includes also the financing charges and terms, which eliminates the need for a separate **TILA disclosure.**

- Credit report fee it's the only fee that can be collected before a delivery of the Loan Estimate and the borrower's notification of moving forward with loan process.
- Any estimates of costs provided to the borrower before the estimate must clearly state that the charges could change.
- The borrower cannot be required to submit any documents prior the delivery of the estimate.
- The estimate may be provided by the lender or the loan originator.
- It must be delivered not later than 3 days after a loan application is submitted.
- It must be delivered or mailed no later than seven business days prior to loan consummation. This can be waived if the borrower has an emergency, such as an impending foreclosure, that justifies an approved faster closing. The borrower must provide a written explanation of the emergency.

A Complete Loan Application

A loan application is considered "complete" for purposes of disclosure when the loan originator has the following information:

- Consumer's Name
- Monthly Income
- Social Security Number
- Property Address

- Estimated Property Value
- Loan Amount

Once the Loan Originator has collected these six items, the Loan Estimate must be delivered to the applicant(s) within three (3) business days. This information may be in the form of a live conversation, via the U.S. Mail Service, or sent electronically.

Closing Disclosure

Borrowers who apply for a mortgage now get a five-page form designed to make home loans easier to understand before they finalize the deal.

The Closing Disclosure, as it's called, lays out all of the critical terms of the loan and replaces the old HUD-1 Settlement Statement.

And while consumers usually didn't get a chance to review the HUD-1 until they arrived at the loan closing, the Closing Disclosure must be presented at least three days prior to signing on the dotted line.

That should give borrowers plenty of time to compare the final terms they're accepting — including such key elements as the interest rate and closing costs — to what they were promised when they applied for the mortgage.

By matching information on the Closing Disclosure to that on the Loan Estimate they received at the start of the process, consumers can quickly tell if anything has changed.

The borrower can demand an explanation, negotiate a better deal or cancel the loan before walking into a pressure-packed settlement meeting.

Question 1. **How much is the applicant borrowing?**

Question 2. **What's the interest rate?**

Question 3. **Is this a fixed-rate or adjustable-rate mortgage?**

Question 4. **What's the monthly payment?**

Question 5. **What's this mortgage going to cost?**

Question 6. **Are discount points being charged?**

Question 7. **How much money is needed at the loan closing?**

RESPA – Section 6:

Section 6 of the Real Estate Settlement Procedures Act (12 U.S.C. 2605) gives certain classes of borrower's rights, regardless of whether the borrowers loan was held by the lender or the loan service was transferred to one or more loan servicing companies. If a borrower believes there is an issue with the loan servicing (including escrow account questions) on their loan the following steps must be carefully followed:

1. The borrower or the borrower's attorney must send a "Qualified Written Request" to the loan servicer. *See below as to what is required on a Qualified Written Request Letter.

2. The loan servicer must provide the borrower or borrower's attorney with a written acknowledgment within twenty (20) Business Days of receipt of the borrower's request.

3. The loan servicer has no more than 60 days Business Days after receiving the borrower's request to correct the errors on the borrower's loan account or the loan servicing company must provide the borrower with a written clarification disputing any such error.

4. Its extremely important to note that during this sixty (60) Business Day period that the borrower's servicer is forbidden to provide a credit reporting agency any information concerning any overdue payment related to such period or qualified written request.

What kind of damages would a borrower or a loan servicing company potentially be entitled/subjected to? Well Section 6 of RESPA provides for actual damages, additional damages, and costs for individuals or classes of individuals in circumstances where the services are shown to have violated the requirements of Section 6.

Section 6 of RESPA has a 3-year statute of limitations.

It is important to note that borrowers who are experiencing loan servicing irregularities continue to make their monthly mortgage payments.

**What is a "Qualified Written Request?"

A RESPA Qualified Written Request is a written letter which includes the borrower's name, account number, and must specifically ask the loan servicer for specific documentation regarding the loan.

RESPA – Section 8:

Section 8 of RESPA prohibits a person from giving or accepting anything of value for referrals of settlement service business related to a federally related mortgage loan. It also prohibits a person from giving or accepting any part of a charge for services that are not performed. These are also known as kickbacks, fee-splitting and unearned fees.

Violations of Section 8 are subject to criminal and civil penalties. According to HUD, a person who violates Section 8 may be fined up to $10,000 and imprisoned up to one year. In a private law suit a person who violates Section 8 may be liable to the person charged for the settlement service an amount equal to three times the amount of the charge paid for the service.

RESPA – Section 9:

Section 9 of RESPA prohibits home sellers from requiring home buyers to purchase their settlement services from a company either directly or indirectly, as a condition of sale. Buyers may sue a seller who violates this

provision for an amount equal to three times all charges made for the title insurance.

RESPA – Section 10:

Section 10 of RESPA limits the amount of money a lender may require the borrower to hold in an escrow account for payment of taxes, hazard insurance and other charges related to the property. RESPA does not require lenders to impose an escrow account on borrowers; however, certain government loan programs or lenders may require escrow accounts as a condition of the loan.

RESPA also prohibits a lender from charging excessive amounts for the escrow account. The lender may require a borrower to pay into the escrow account no more than 1/12 of the total of all disbursements payable during the year, plus an amount necessary to pay for any shortage in the account. In addition, the lender may require a cushion, not to exceed an amount equal to 1/6 of the total disbursements for the year. The lender must perform an escrow account analysis once during the year and notify borrowers of any shortage. Any excess of $50 or more must be returned to the borrower.

Unit 1.2

Truth-In-Lending

Truth in Lending Act – Consumer Rights and Protections

The Truth in Lending Act (TILA) is a federal law passed in 1968 to ensure that consumers are treated fairly by businesses in the lending marketplace and are informed about the true cost of credit. The TILA requires lenders to disclose credit terms in an easily understood manner so that consumers can confidently comparison shop interest rates and conditions.

Truth in Lending Disclosures

Lenders must provide a Truth in Lending (TIL) disclosure statement that includes information about the amount of your loan, the annual percentage rate (APR), finance charges (including application fees, late charges, prepayment penalties), a payment schedule and the total repayment amount over the lifetime of the loan.

The TILA outlines rules that apply to closed-end accounts, such as home or auto loans, and open-ended accounts like credit cards. It does not put restrictions on banks regarding how much interest they may charge or whether they must grant a loan. It does require lenders to disclose information about all charges and fees associated with a loan.

Consumers who are refinancing residential mortgage loans have the "right of rescission," which is a three-day cooling off period during which they may cancel the loan without losing any money.

What Is Regulation Z?

TILA and the CARD Act

The most significant amendments had to do Regulation Z rules regarding credit cards that came with the 2009 signing of the Credit Card Accountability Responsibility and Disclosure Act (CARD Act).

The CARD Act requires financial institutions and businesses to disclose vital information when issuing new credit cards. A card issuer must disclose interest rates, grace periods and annual fees. The issuer is also required to remind you of an upcoming annual fee prior to a card's renewal. If the issuer offers credit insurance, you must be made aware of changes in coverage.

A 2015 study by the CFPB found that the CARD Act helped reduce over-the-limit fees by $9 billion and late fees by $7 billion — a total of $16 billion saved by consumers.

The same study said that the total cost of credit was down two percentage points in the first five years since the CARD Act was passed and that more than 100 million credit card accounts were opened in 2014.

Other Acts Related to TILA

As consumer needs changed over the years, the Truth in Lending Act was amended to help consumers in several area. TILA now includes the following acts to protect consumers:

- Fair Credit Billing Act
- Fair Credit and Charge Card Disclosure Act
- Home Equity Loan Consumer Protection Act
- Home Ownership and Equity Protection Act

The Fair Credit Billing Act

Dating back to 1975, the Fair Credit Billing Act (FCBA) protects consumers from unfair billing practices and provides a method for addressing errors in open-end credit accounts such as credit cards. Billing issues include math errors, charges for the wrong date or amount and unauthorized charges. The act also covers statements mailed to a wrong address or failure to credit payments to an account.

To dispute a billing error, the consumer must send a written notice of the discrepancy to the creditor within 60 days of the statement date. Include details of the error, as well as copies of receipts and any other forms of proof. Send the information to the “billing inquiries” address on your statement.

The creditor is required to respond to the dispute within 30 days and has a maximum of 90 days to investigate and resolve the error. If the applicant has taken the appropriate steps to report an error, their liability is limited to $50.

Fair Credit and Charge Card Disclosure Act

The Fair Credit and Charge Card Disclosure Act (FCCCDA), enacted in 1988, requires financial institutions and businesses to disclose vital information when issuing new credit cards. A card issuer must disclose interest rates, grace periods and all fees, such as cash advances and annual fees. The issuer is also required to remind their customer of an upcoming annual fee prior to a card’s renewal.

One other important requirement is that the same information must be part of any “pre-approved” offer, either by direct mail, telephone or other solicitations. The terms and conditions must be presented in writing. Card issuers must inform customers if they make changes in rates or coverage for credit insurance.

Home Equity Loan Consumer Protection Act

The Home Equity Loan Consumer Protection Act (HELCPA) of 1988 requires lenders to disclose the terms of a home equity loan before the loan is finalized. Interest rates, payment terms and miscellaneous charges must be disclosed with the loan application and before the first transaction. If terms change during that time, the consumer has the right to refuse the loan and are entitled to a refund of all application fees.

The act also prevents creditors from changing or terminating a home equity plan after it is opened — except under special circumstances.

Home Ownership and Equity Protection Act

Enacted in 1994, the Home Ownership and Equity Protection Act (HOEPA) helps protect against predatory lending (i.e. unfair lending practices designed to take advantage of consumers with potential financial shortcomings).

Unfair tactics may include lying, coercion and taking advantage of a lack of financial experience. Lenders may add terms and conditions to a home loan which benefit themselves, or they might manipulate the customer or pressure them to agree to a loan.

It can be difficult to identify predatory lending. Low income customers and those with low credit scores tend to pose higher risks for lenders because they are less likely to be able to repay a loan. To compensate, such individuals justifiably receive higher interest rates and fees.

HOEPA attempts to draw the line between predatory and valid lending. It bars practices associated with predatory lending such as frequently refinancing a home loan in order to charge fees. It also requires lenders to consider the home owners’ ability to repay the loan with interest. Lenders cannot offer a loan which they know cannot be repay.

Effectiveness of TILA

The Truth in Lending Act was passed in 1968 to help clear up confusion in the credit and lending markets that left most consumers dazed about exactly what they were signing up for.

TILA, at its base, was intended to provide a clear, easily understood explanation of the cost of credit. Since this would apply to all lending institutions, consumers would have an easy time comparing costs between competitors and thus make more informed decisions on the credit they were seeking.

Unfortunately, that has not happened in all cases.

Consumers certainly have a far easier time understanding the cost of credit now than in 1968, but the TILA has taken on so many aspects of credit and government agencies have added so many amendments, rules and regulations to them, that the process is just as complex and unwieldy as ever.

It seems that as soon as a rule or a regulation is enacted, lending institutions and credit card companies find a way to go around it and more rules become necessary. The sub-prime mortgage fiasco that contributed to the 2008 Great Recession is an excellent example.

More rules were put in place to force lenders to do a better job of qualifying borrowers, which may have helped mortgage consumers, but the auto industry jumped in on sub-prime loans and there are indications the same disaster could happen there.

One bond issue dealing with subprime auto loans, the Skopos Auto Receivable Trust 2015-2, had 12% of its underlying loans 30 days or more delinquent in just the first four months. About one-third of those were 60 days delinquent and 2.6% of borrowers already had filed for bankruptcy or had their vehicles repossessed.

That much failure in just four months! And they are not alone.

According to the Federal Reserve, the average auto loan balance in 2015 is $4,070, a 9% increase over 2014 and 38% increase in just five years. According to Fitch Ratings, the delinquency rate on subprime car loans is at its highest in two decades.

According to a study by the CFPB, the credit card industry still has some work to do to make things easier on consumers. The CFPB study from 2015 says that consumers have a tough time understanding rewards programs. Agreements tend to be too long and complex for most consumers to understand, and subprime credit companies have entered the market and are charging fees and interest rates that take advantage of consumers with low credit scores.

So expect more amendments, rules and regulations with the credit industry under the Truth in Lending Act, and know that agencies like the Consumer Financial Protection Bureau are trying to keep up with changes in the financial marketplace. Still, the responsibility ultimately lies with the consumer to understand how much credit is being receiving, what percentage interest is being paid, how long it will take to pay off the loan and what the total cost will be when the final payment is made.

TILA: Right of Recession

What is a Right of Rescission?

Historical Context of the Right of Rescission

The TILA protects the public against inaccurate and unfair credit billing and credit card practices. Among other things, it requires lenders to provide borrowers with relevant information about their loans, along with the right to cancel loans. The right of rescission was created to protect consumers from unscrupulous lenders, giving borrowers a cooling-off period and the time to change their minds.

Not all mortgage transactions have the right of rescission. The right of rescission exists only on home equity loans, home equity lines of credit and refinances of existing mortgages in which the refinancing is done with a lender other than the current mortgagee. The right of rescission does not exist on a mortgage for the purchase of a home, or a mortgage on a second home or investment property.

In 2010, the Dodd-Frank Wall Street Reform Act expanded the TILA to grant consumers added protections when taking out a high-cost mortgage. It also added provisions for pre-loan counseling.

How to Exercise the Right of Rescission
The TILA does not provide a formal way for consumers to exercise their right of rescission. However, the lender is obligated to give the borrower a notice advising of the right to rescind, and that notice should include the procedure used by the lender when a borrower wants to cancel a transaction. If it does not, the borrower must ensure that, in the three-day time frame, they make their intention to cancel the loan clear and do so in writing. Borrowers also have the obligation to prove that the notice was given during the right period and should, therefore, make sure that they can document the moment when the notice was sent.

TILA - Advertising Disclosures

TRUTH IN LENDING AND ADVERTISING - HOW TO ADVERTISE CREDIT

If an advertisement promoting closed-end credit for real estate contains any of the following trigger terms, the three specific disclosures listed at the bottom of this page must also be included in the advertisement. The triggering terms are:

1. The amount of the down payment, expressed either as a percentage or as a dollar amount.

EXAMPLES: **"10% down**"
"25% down"
"90% financing"

2. The amount of any payment expressed either as a percentage or as a dollar amount.

EXAMPLES: "**Monthly payments less than $67"**
"Pay 5% each month"
"$9 per month"

3. The number of payments.

EXAMPLES: "**36 small payments are all you make**"
"48 monthly payments and you're paid up"

4. The period of repayment (the total time required to repay).

EXAMPLES: "**Five years to pay**"
"36 months to pay"
"4-year loans available"

5. The amount of any finance charge.

EXAMPLES: "**Financing costs less than $100"**
"Less than $100 interest"
"$100 financing"
The following are examples which do not trigger the required disclosures:
"No down payment"
"18% Annual Percentage Rate"
"Rate loans available here"
"Easy monthly payments"
"Loans available at 5% below our standard annual percentage rate"
"Low down payment accepted"
"Pay weekly"
"Terms to fit your budget"
"Financing available"

Required Disclosures

If any triggering term is used in a closed-end credit advertisement, then the following three disclosures must also be included in that advertisement:
1. The amount or percentage of the down payment;

2. The terms of repayment; and

3. The "**annual percentage rate,** "using that term spelled out in full. If the annual percentage rate may be increased after consummation of credit transaction, that fact must be disclosed.

Unit 1.3

Non-Traditional Mortgages – Non-QM

Definition

Nontraditional mortgage is a broad term describing mortgages that do not have standard conventional characteristics. Generally, this can refer to any type of mortgage that does not conform to a standard amortization schedule or does not have standard installment payments. Nontraditional mortgages will usually require higher rates of interest due to higher payment risks associated with the loan.

Growing market share

Non-QM lending may surge 400% in 2019, per the annual Origination Solutions Survey from *Altisource Portfolio Solutions*.
The company asked more than 200 “decision makers” in the mortgage origination business what they thought was the most promising market opportunity.
Unsurprisingly, near the top of the list were non-QM loans, cited by 20% of the respondents, only narrowly beaten out by construction loans at 25%. However, the non-QM category excluded jumbo loans, which are quite common in the non-qualified mortgage space.

While 2019 is expected to be challenging due to a decline in refinance volume, assuming mortgage rates move higher, non-QM lending might be one of the bright spots.

The non-QM numbers are still somewhat hard to track reliably, but Altisource did reference a *HousingWire* article in saying the non-QM market is predicted to grow by 400% this year. That could be a move from $2 billion in annual production to $10 billion in 2019.
They noted that while this exponential growth figure only represents an increase of $5 to $8 billion in production annually, “the appetite for this asset class is still growing and the non-QM opportunity should be watched.”

In other words, that rather bold prediction may wind up being too conservative depending on how the mortgage market turns in 2019.

They added that now, “demand does not represent supply and therefore the non-QM opportunity is something to watch over the next 12-24 months.”

Default Rates on Non-QM Loans Reportedly Very Low

While the non-QM loan market is still very new and ostensibly untested, it appears that the loans originated thus far are holding up well.

A new report from *Fitch Ratings* revealed that borrower claims have been “nonexistent” since the Ability-to-Repay (ATR) and Qualified Mortgage (QM) rule was implemented in early 2014.
Of course, the data should be taken with a grain of salt because most home loans these days meet the QM definition or are exempted thanks to the temporary QM status linked to loans backed by Fannie Mae, Freddie Mac, and government agencies like FHA, VA, and USDA.

That doesn’t leave too many loans left to be considered non-QM, but it’s still a relief that the nascent industry hasn’t derailed early on.
Loans that meet the QM definition receive safe harbor from the ATR rule, so lenders are more likely to originate them to avoid any undue liability.

And of the 10,000+ loans included in Fitch-rated newly originated mortgage pools since the rule went live, just 14 have been classified as “non-QM,” making them susceptible to potential ATR claims.

Of all those loans, only three are more than 60 days delinquent and none of them are non-QM loans. Granted with only 14 in the bunch, the odds were low it would be one of them.

Disclosure Requirements

Risk to Consumer

Caution must be taken so we don't see a repeat of the financial crisis. With added disclosures and scrutiny, we are hopeful that the consumer is better equipped to understand the ramifications of these loans.

- Borrower may find within a short time they can afford the payments.
- Some Non-QM mortgages are difficult to understand by the consumer.
- Bank Statement loans may mask the true income of the applicant.
- Some ARM's may increase more rapidly than the borrower's income.
-

Consumer Awareness and Education

The MLO must take every opportunity to educate their borrower. Nothing can be left to chance. Although it is the borrower's obligation to ask questions and understand the potential challenges the Non-QM bring, the MLO is obligated to explain in understandable language the benefits as well as the short-falls these loans bring.

Unit 2.1

General Mortgage Knowledge

Definition

A Qualified Mortgage is a category of loans that have certain, more stable features that help make it more likely that your mortgage applicant will be able to afford the loan.

Ability to Repay

A lender must make a good-faith effort to determine that the borrower can repay the mortgage before the transaction closes. This is known as the "ability-to-repay" rule. If a lender closes on a Qualified Mortgage it means the lender met certain requirements and it's assumed that the lender followed the ability-to-repay rule.

A limit on how much of income can go towards debt, including the mortgage and all other monthly debt payments. This is also known as the debt-to-income ratio.

No excess upfront points and fees. When offering a Qualified Mortgage, there are limits on the amount of certain up-front points and fees the lender can charge. These limits will depend on the size of the loan. Not all charges, like the cost of an FHA insurance premiums, for example, are included in this limit. If the points and fees exceed the threshold, then the loan can't be a Qualified Mortgage.

Traditional versus Non-Traditional Mortgages

The SAFE Act defines a non-traditional mortgage product as any mortgage product other than a 30-year fixed rate.

Traditional mortgage presents these three characteristics:

1) 30-year term
2) Fixed Interest Rate
3) Fully amortizing

The lack of any of these characteristics results in a non-traditional mortgage.

For most, we consider Non-QM as non-traditional. Non-traditional mortgage products were available and utilized for years within the mortgage industry. These products were historically offered and managed with great attention paid to the heightened risk associated with them. In past years, the popularity and availability of nontraditional mortgage products allowed many borrowers to obtain mortgage loans who would not otherwise have been able to buy a home. It has also reduced the stringent risk management that originally accompanied these once limited loan options.

The Secure and Fair Enforcement Act of 2008 (S.A.F.E. Act) defines a "nontraditional mortgage product" as: *"…any mortgage product other than a 30-year fixed-rate mortgage"* (Title V, Sec. 1503 (6)). The definition as it appears in the *Guidance on Nontraditional Mortgage Product Risks* is not as broad. The Guidance offers a narrower definition of "nontraditional

mortgage product" which includes loans that have "interest-only" and "payment option" terms described as *"…adjustable-rate mortgages (ARMs) where a borrower has flexible payment options with the potential for negative amortization."*
The housing market in the U.S. has seen increased rates of default and foreclosure stemming, in part, from some of these products. Though the financial collapse of 2007-2008 cannot be based solely on one cause, the increased availability of nontraditional mortgage products, an increased applicant pool, borrower inexperience, instances of fraud and misrepresentation, and predatory lending, all contributed to the situation.

Other Mortgage Products

It is expected that 2020 will see a proliferation of products. We may see an increase in some of the following:

- 3-2-1 Buydowns for conventional and FHA buyers
- Graduated Payment Mortgages
- Interest Only Mortgages
- Balloon Mortgages
- Blanket Mortgages
- Shared Appreciation Mortgages (SAM's)

Credit Freeze

As of September 21, 2018, consumers were able to freeze their credit at no cost.

Security freezes, also known as credit freezes, restrict access to your credit file, making it harder for identity thieves to open new accounts in your name. You also can get a free freeze for your children who are under 16. And if you are someone's guardian, conservator or have a valid power of attorney, you can get a free freeze for that person, too.

How will these freeze work? Contact all three of the nationwide credit reporting agencies – Equifax, Experian, and TransUnion. If you request a freeze online or by phone, the agency must place the freeze within one business day. If you request a lift of the freeze, the agency must lift it within

one hour. If you make your request by mail, the agency must place or lift the freeze within three business days after it gets your request. You also can lift the freeze temporarily without a fee.
Don't confuse freezes with locks. They work in a similar way, but locks may have monthly fees. If you want a free freeze guaranteed by federal law, then opt for a freeze, not a lock.

Year-long fraud alerts

A fraud alert tells businesses that check your credit that they should check with you before opening a new account. Starting September 21, 2018, when you place a fraud alert, it will last one year, instead of 90 days. Fraud alerts will still be free and identity theft victims can still get an extended fraud alert for seven years.

Credit freezes and the military

If you're in the military, you'll still have access to active duty alerts, which let you place a fraud alert for one year, renewable for the time you're deployed. The active duty alert also gives you an added benefit: the credit reporting agencies will take your name off their marketing lists for prescreened credit card offers for two years (unless you ask them to add you back on).

You can place a fraud alert or active duty alert by visiting any one of the three nationwide credit reporting agencies – Equifax, Experian or TransUnion. The one that you contact must notify the other two. You also can find links to their websites at IdentityTheft.gov/CreditBureauContacts.

Issues with a credit freeze

If you think a credit reporting agency is not placing a credit freeze or fraud alert properly, you can submit a complaint online or by calling 855-411-2372. If you think someone stole your identity, visit the FTC's website, IdentityTheft.gov, to get a personalized recovery plan that walks you through the steps to take.

You may choose to put a credit freeze on your credit report. A credit freeze restricts access to your credit report, making it harder for identity thieves to

open new accounts in your name. But a credit freeze may not stop misuse of your existing accounts or some other types of identity theft. Also, companies that you do business with would still have access to your credit report for some purposes.

Putting a credit freeze on your credit file does not affect your credit score. If you place a credit freeze on your credit file, you can:

- Get a copy of your free annual credit report.
- Open a new account, apply for a job, rent an apartment, buy insurance, refinance your mortgage, or do anything else that requires your credit report. If you want a business, lender, or employer to be able to review your credit report, you must ask the credit bureau to lift the freeze. You can ask to lift the freeze temporarily or permanently. It's free to place and lift a freeze. If you place or lift your freeze by phone or online, then the credit bureau must place the freeze within one business day and lift it within one hour. If you make a request by mail, then the credit bureau must place or lift the freeze within three business days of getting your letter.

Credit Bureau Contact Information

- Contact the national credit bureaus to request fraud alerts, credit freezes (also known as security freezes), and opt outs from pre-screened credit offers.
- **Equifax**
  Equifax.com/personal/credit-report-services
  800-685-1111
- **Experian**
  Experian.com/help
  888-EXPERIAN (888-397-3742)
- **Transunion**
  TransUnion.com/credit-help
  888-909-8872

Unit 2.2

Computing Gross Income

For starters, as you already know we use Gross Monthly Income when calculating debt-to-income ratios. For those self-employed, we use the Adjusted Gross Income found on their federal tax returns. At times we add additional income reflected on those returns.

Salaried Individuals

By far, this income calculation is the easiest once you know your applicant's annual salary. Simply take their annual salary and divide that number by 12 to determine monthly income.

Hourly Income

You must determine the number of hours typically worked weekly. Take their hourly wage and multiply that by the average number of hours worked weekly. Multiply their weekly income by 4.3 weeks to determine monthly income.

A double check would be to look at their year-to-date income to further justify the monthly income.

Overtime, tip, or bonus income

This brings on additional scrutiny as you must determine how long the applicant has received this income, and the likelihood of its continuance. A generally rule of thumb is that you need to verify that it has been present for the past 24 months and will continue in to the future.

Bi-Weekly Income verses Twice Monthly

When paid bi-weekly, your applicant receives a pay check every other week, or 26 times each year. If paid for example on the 15th and last day of the month, your applicant receives 24 pay checks. Not all applicants recognize the difference, and it is best to have four to six weeks of pay stubs to determine how often they are paid.

Self-Employment Income

Most mortgage programs require a minimum of two years of federal tax returns when determining stable monthly income. The calculations can be challenging when your mortgage applicant takes several deductions or does not claim much income.

Bank Statement Income

The bank statement income programs are used for Non-QM products. FHA, VA, USDA, FNMA & FHLMC do not recognize this as a method to determine income.

Typically, those programs use twelve to twenty-four months on consecutive bank statements when using this calculation. Many times, both business and personal bank statements are used. Some, but not all deposits may be eligible toward stable monthly income.

Stated Income
Although this was a popular method used by many borrowers from 2004 to 2008, it is no longer considered eligible. As of this writing, stated income programs are nonexistent.

Payments of Principle, Interest, Taxes, Insurance & PMI/MIP
When qualifying a borrower for a mortgage loan, the MLO takes into consideration 1/12 of the annual property taxes, home owners' insurance, flood insurance (if required) and PMI or MIP if applicable.
These figures are added to the principle and interest payment when calculating the housing ratio.

Calculating Down Payment
If you are writing a purchase transaction, down payment is calculated by using the sale price of the property or the appraisal, whichever is lowest. Here is an example:

A home sells for $325,00 and is appraised at $330,000. In this example, the sale price is lower than the appraised value. Therefore $325,000 is used when calculating the down payment.
In the event of a VA or USDA loan, where no down payment is typically required, you will still use $325,000.

Calculating PMI (private mortgage insurance)
Traditionally when a buyer makes less than a 20% down payment of the purchase price, PMI is required. PMI effects conventional mortgage, MIP is required on FHA loans. More on that later.

PMI comes as a monthly payment added as part of the escrow payment, or is may be paid as a single-payment at time of closing.

Single-Payment Mortgage Insurance

The most common way for mortgage insurance to be paid is as a monthly premium rolled into the mortgage payment. Many buyers do not realize that there is also an option to pay the premium as a single lump sum upfront

called single-payment mortgage insurance. Paying it upfront may end up being a significant cost saving over the life of the loan.

For a buyer with good credit scores and a 5 percent down payment on a $300,000 loan, the monthly PMI cost is estimated to be $167.50. Paid upfront it would be $6,450. If this lump sum makes you gasp, consider the fact that after only three and a half years of monthly premiums, your borrower would have paid over $7,000 to the PMI company.

While lenders usually allow the removal of monthly PMI once the loan reaches 78 percent loan to value, in this scenario the borrower would not yet be close to this threshold if paying on a standard 30-year amortization schedule.

Why It's Not for Everyone

When making only a 5 percent down payment, many buyers don't have an extra $6,450 laying around. However, if the seller is making any concessions toward closing costs, it can be used toward the single-payment mortgage insurance.

Ask your applicant if they can aggressively pay more on their mortgage than the 30-year schedule. This would be a reason to take monthly PMI.

Lastly, calculate what this $6,450 could be used for. You could suggest adding those funds toward the down payment. Maybe the homeowner wants to direct those funds toward home improvements or upgrades once the transaction closes.

The calculation

This text does not adequately allow us to explore the cost of PMI in a meaningful way. The cost of PMI varies based on several circumstances, such as down payment, credit scores, loan amount, to name a few. Work with your PMI provider to better understand these calculations.

One Last Word

Your mortgage applicant cannot shop for PMI as they do home owners' insurance. The PMI company is always determined by the lender. This is reflected on the LE and CD as "items you may not shop for".

Acquisition Cost

Acquisition cost are typically defined at the purchase price, and closing expenses associated with the purchase. Closing costs usually run two to five percent of the loan amount.

Debt-to-Income Ratios

Debt-to-income ratio is all monthly debt payments divided by gross monthly income. This number is one-way lenders measure the ability to manage the payments made monthly to repay the money you have borrowed.

To calculate the debt-to-income ratio, add up all your applicant's monthly debt payments and divide them by their gross monthly income. Gross monthly income is generally the amount of money earned before income taxes and other deductions are taken out. For example, if you pay $1500 a month for your mortgage and another $100 a month for an auto loan and $400 a month for the rest of your debts, your monthly debt payments are $2,000. ($1500 + $100 + $400 = $2,000.) If your gross monthly income is $6,000, then your debt-to-income ratio is 33 percent. ($2,000 is 33% of $6,000.)

Evidence from studies of mortgage loans suggest that borrowers with a higher debt-to-income ratio are more likely to run into trouble making monthly payments. The 43 percent debt-to-income ratio is important because, in most cases, that is the highest ratio a borrower can have and still get a Qualified Mortgage.

There are some exceptions. For instance, a small creditor must consider debt-to-income ratio but can offer a Qualified Mortgage with a debt-to-income ratio higher than 43 percent. In most cases the lender is a small creditor if it had under $2 billion in assets in the last year and it made no more than 500 mortgages in the previous year.

Larger lenders may still make a mortgage loan if the debt-to-income ratio is more than 43 percent, even if this prevents it from being a Qualified Mortgage. But they will have to make a reasonable, good-faith effort, following the CFPB's rules, to determine that you followed the ability to repay the loan.

Debt-to-Income ratios vary based on loan type, i.e. FHA, VA, USDA, Conventional as well as credit scores, down payment and several additional factors.

Module 3 Unit 3.1

ETHICS in Mortgage Lending

It can easily be said that ethics in mortgage lending was missing, especially just prior to the mortgage crisis. Still, all too often ethics takes a back seat. Here are some points to remember.

Honesty

MLO's should not deliberately mislead consumers or make false statements regarding any financial transaction. MLO's must avoid exaggeration, misrepresentation, or concealment of pertinent facts relating to the transaction, closing costs, fees, points, loan amount, loan program, mortgage strategy or interest rate. This includes reasonable explanation of the risks involved in reverse mortgages, interest-only, deferred-interest and adjustable rate mortgages. MLO's should not engage in any type of financial fraud in their personal or business dealings.

Advice

MLO's and their staff should advise clients to seek legal, tax, and investment advice from qualified advisors prior to making decisions involving mortgages or real estate. MLO's should never engage in activities that constitute the unauthorized practice of law and must recommend that legal counsel be obtained whenever the interest of the client requires it.

Communications

Loan Originator's need to communicate professionally with clients and strategic partners. Here are a few examples. You can add more!

- Return phone calls and emails in a timely manner.
- Provide regular updates during the loan process.
- Avoid the use of profane and lewd language.
- Communicate clearly and concise.
- Don't use your knowledge of our industry against your mortgage applicants. Speak in terms they can easily understand.
- Do what is best for your customer.

Competence

All Loan Originators must conduct their business affairs in a way that demonstrates reasonable competency and proficiency. Take time to conduct proper research on behalf of your customer or put them in contact with more suitable professionals if you are unable to help.

Code of Conduct 1.5: Relationship and Impact

The Loan Originator needs to conduct their business affairs in a way that puts the client relationship ahead of the transaction. This means you will take reasonable care to:

- Notify the client if he/she would not benefit by engaging in a transaction.
- Help the client understand the options presented.
- Offer as many financing alternatives as the applicant qualifies for.

No Referral Fees

In accordance with the Real Estate Settlement Procedures Act (RESPA), Loan Originator's cannot compensate nor offer to compensate, directly or indirectly, any third party for a client referral or mortgage transaction referral. MLO's are not to receive, directly or indirectly, any form of compensation for referrals provided by them to other mortgage professionals, real estate agents, family members, friends, etc.

I can't emphasis how important this statement is. You are risking your license every time you give or receive "compensation". Not only is your license at risk, so is your company, and the industry we work it.

Honesty & Integrity

Loan Originators should never knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices. MLO's should not knowingly or recklessly file false or unfounded ethics complaints. MLO's shall never intentionally impede the any investigation or disciplinary proceedings.

Continuous Improvement

Mortgage Originators should regularly seek to improve their loan process and their co-worker relationships. This includes acting in a reasonable manner when given suggestions for improvement. A professional Originator should continuously lead themselves and others on their team toward higher standards of excellence.

Taking an eight-hour CE class once a year should only be part of your on-going training. Immerse yourself in this industry, learn all that you can. Don't be complacent. Read.

Common Fraud Schemes & How to Prevent Them

Rising interest rates, record-high home prices, and tighter markets mean applying for a mortgage may be more expensive and more difficult than in the past few years. Not only will borrowers need more income to buy higher priced houses, but lenders will need to find strategic ways to originate loans, while still making a profit.

In order to stay profitable, underwriting standards have started to change. Recently, Fannie Mae raised the maximum DTI (debt-to-income ratio) from 45% to 50%, and lenders have started to originate more non-qualified mortgages. While this provides some opportunity for non-traditional applicants, the reality is that in the current housing market it may be harder to buy a home.

According to the CoreLogic Fraud Index, fraud risk rose an additional 10% this year compared to 2017. These days, lenders must be extremely diligent and proactive when it comes to preventing mortgage fraud, especially when developing new underwriting standards to fit today's housing market.

It is important to note that there are two main types of mortgage fraud: fraud for housing and fraud for profit.

Two areas of increased fraud are

- Primary residence when it is not
- Misstating income – seems hard, but it's happening

Straw Borrowers

These transactions typically fall into two scenarios – 1) more complex schemes involving multiple loans coordinated by a group of people and 2) where an individual uses their credit to purchase a home for another person. Straw borrower schemes involve real people and real information, but they are not real borrowers. The more complex schemes often result in significant losses, with most loans going into default before the first payment. Individual transactions most often involve one person applying for a mortgage for a family member or friend due to credit issues, but in some cases can be the result of identity theft.

Red flags for straw borrowers include:

- Mortgage payments are made by an entity other than the borrower
- First-time home buyer with a substantial increase in housing expense
- Buyer does not intend to occupy the property due to unrealistic commute, size or condition of the property, etc.
- No real estate agent is employed
- Signing of the contract with no changes
- Power of attorney may be used

- Income, savings, and/or credit patterns are inconsistent with the applicant's overall profile
- High loan-to-value (LTV), limited reserves, and/or seller-paid concessions
- Inconsistent signatures found throughout the file
- Title to the property is transferred after the sale closes

Air Loans

These are like straw borrower loans in that they are loans not only to non-existent buyers but also non-existent properties. The damage is done to a lender when the loan defaults. Since there is no home to foreclose on, there is no way a lender can recoup its loss. The red flags of an air loan are like those of straw borrowers.

Property Flip

Property flipping fraud occurs when a property is purchased and resold at an artificially high price, usually after making only a few cosmetic improvements. Straw borrowers are often used in these transactions.

Red flags for illegal property flip include:

- Seller very recently acquired the property title
- No real estate agent is used
- Property was recently in foreclosure or acquired at a low price
- Appraised value is inflated
- Appraiser frequently uses other property flips as comparisons

Foreclosure Rescue

Foreclosure rescue scams target homeowners who are facing foreclosure. A scammer will offer to prevent foreclosure by paying off the mortgage for a fee. In most cases, the mortgage is never paid, and the homeowner loses the property anyway.

Red flags for foreclosure rescue fraud include:

- The borrower states that he or she will be renting back from the new owner.
- The borrower was advised by a foreclosure specialist to avoid contact with the servicer.
- The borrower states that he or she is sending mortgage payments to a third party.
- The borrower claims he or she does not have to pay because the mortgage is invalid (debt elimination).

Buy and Bail

This scheme is the mortgage industry's version of a dine and dash. When a homeowner is current on their existing mortgage and their home value has fallen below the amount owed, they apply to purchase another home. Once the mortgage on the new home has been secured, the borrower will allow the first home to go into foreclosure.

Red flags for buy and bail fraud include:

- The borrower defaults on the original mortgage shortly after purchasing a second property.
- The borrower has minimal or no equity in the original property.
- The borrower is a first-time landlord.

It is important to note that fraud is often cyclical and heavily influenced by the economy. The popularity of short sale schemes and loan modification scams may happen at different times compared to straw borrower, air loan and illegal flipping fraud. It's important to be aware of industry trends and what to watch for in order to avoid fraud losses.

Mortgage fraud can be discovered at various times throughout the mortgage process, but the best time to prevent it is prior to closing. On average, quality control reviews sample only about 10% of all loan

originations, therefore enhancing the verification process and establishing strict underwriting and closing standards are so important.

Predatory Lending: Red Flags You're Dealing with a Predatory Loan

Know these warning signs:

The offer seems too good to be true. If a loan's marketing language entices your client with promises such as fast cash, easy loan approval or an ultra-low interest rate, you should look for the catch. The contract might reveal fees and terms that aren't clear upfront. For example, the interest rate may skyrocket after six months. Unfortunately, not everyone reads that fine print.

It's hard to tell what the loan costs. The disclosure helps ensure you can research and compare the details of loans, including APR, term length and fees, before signing. If that information is not clearly presented or you can't easily see how to qualify for reasonable terms, it may be a sign of a predatory loan.

No one will directly answer your questions. Some contracts are so hard to understand it's like they're "written in haiku," says Joseph Toms, president and chief investment officer of online lender FreedomPlus. If the lender isn't clear, it may be masking an important detail, such as the true cost of the loan. Similarly, ditch lenders who promise something orally but don't put those details in the contract, as they can renege on the deal.

When the lender answers these questions, there should be no gray area, Toms says:

- Is the interest rate capped, or will it change during the loan?
- Is the term capped, or can it be extended at any time?
- Are there prepayment penalties?
- What are all the fees I may incur, including ones that may fall outside the loan such as account fees?
- Are there any changes to the loan that you can make that I need to know about?

The interest rates and fees are inflated. If the loan is saddled with adjustable interest rates that dramatically increase or fees that triple the

total amount owed, steer clear. Also try to avoid loans that contain prepayment penalties, as they can make refinancing or paying the loan off early expensive.

Loans should have a realistic payoff plan. An acceptable interest rate for a small loan (not a mortgage) is about 36 percent or less, according to the National Consumer Law Center. Federally chartered credit unions take that a step further and cap their interest rates on all loans at 18 percent, according to the National Credit Union Administration. These caps are designed to result in payments that consumers can reasonably afford.

"Once you get above 36 percent, you should be concerned about the cost of borrowing," says Toms.

The lender doesn't check your ability to repay. As a lender you should perform a credit check to find out what your borrower can afford and how they have handled debt in the past. Lenders who skip this step may instead ask for collateral such as a checking or savings account and may even request access to checking and/or savings accounts. This is never a good idea; if your borrower can't repay the loan, then their home may be at risk.

The lender doesn't help you build credit. Good lenders should report your payments to the credit bureaus. This helps consumers establish a good payment record and build a credit history. With improved credit, borrowers can qualify for lower interest and fees on loan products in the future. Before agreeing to a mortgage loan, applicants need to ask whether the lender will report monthly payments.

Mortgage fraud is getting worse as more people lie about their income to qualify for loans.

- Mortgage fraud risk jumped more than 12 percent year over year at the end of the second quarter, according to CoreLogic. One in every 109 mortgage applications is estimated to have indications of fraud.
- Loan applications for real estate purchases are more likely to have fraud than for refinancing, and that may be part of the reason for the increase in overall fraud risk.
- Some borrowers are therefore juicing their incomes in order to qualify. How? The internet is making it a lot easier.

Mortgage fraud putting lenders in a tough spot

Home values are high, the housing market is competitive, and more buyers want to get in. As a result, an increasing number of buyers are lying and cheating.

Mortgage fraud risk jumped more than 12 percent year over year at the end of the second quarter, according to CoreLogic, which measures six fraud indicators: identity, income, occupancy, property, transaction and undisclosed real estate debt. One in every 109 mortgage applications is estimated to have indications of fraud.

"Because home prices are rising, and demand is strong, most mortgage fraud in this type of market is motivated by bona fide borrowers trying to qualify for a mortgage," said Bridget Berg, principal of fraud solutions strategy for CoreLogic. "Undisclosed real estate liabilities, credit repair, questionable down payment sources and income falsification are the most likely misrepresentations."

Loan applications for real estate purchases are more likely to have fraud than for refinancing, and that may be part of the reason for the increase in overall fraud risk. Because of higher interest rates, refinancing activity has slowed, so the share of purchase applications is higher.

The biggest jump in mortgage fraud risk was due to income reporting, up 22 percent annually. Since the epic housing crash a decade ago, lenders have had very strict limits on the amount of debt a borrower can have compared to his or her income. Some borrowers are therefore juicing their incomes in order to qualify. How? The internet is making it a lot easier.

A casual search will result in any number of online services that will not only generate fake pay stubs but will also answer phone calls and "confirm" income verbally, all for a fee.

"Sites will have a disclaimer, claiming it's for novelty purposes or similar qualifying statements," said Berg. "Some are out of the country and not traceable. There are sites where you can buy credit lines to increase your credit."

That has wide-ranging consequences for banks, investors and even taxpayers. Mortgage giants Fannie Mae and Freddie Mac, which are under government control, either own or securitize many new mortgages today.

Mortgage fraud tips are on the rise, according to sources at Fannie Mae — from law enforcement, consumers, trade groups and lender partners who sell loans to Fannie Mae and are required to self-report.

"Technology is definitely part of the problem," said Nima Ghamsari, CEO of Blend, a software company for mortgage originators. "We should use data and we should use the ability to find trusted sources of information, like direct deposit streams, like payroll provided directly from employers' databases, so that the consumer isn't providing that information that can be altered or doctored."

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Blend CEO: To prevent mortgage fraud, lenders shouldn't ask consumers for pay stubs

At Apex Home Loans in Rockville, Maryland, senior mortgage banker Matt Lieberman said he is seeing the biggest increase in occupancy fraud. This is likely due to the recent surge in rental investment and house flipping.

"Most people want to say they'll live in the property because their terms will be better than if they're renting out the property," Lieberman said.

For lenders like Apex, fraudulent applications can certainly hurt their business because in the end they are responsible for the loans they originate.

"If somebody lies on an application, the investor that we sell the loan to will or can investigate the attributes of the loan," Lieberman said. "If, for some reason, they see something that we missed, that we should have caught, they could then force us to buy back the loan, meaning they won't purchase it, and they'll make us buy it back and keep it. We need make sure all our i's are dotted and t's are crossed."

The areas with the highest rate of fraud risk are New York, New Jersey, Florida, Washington, D.C., and New Mexico. California, which has some of

the priciest housing markets in the nation, ranked ninth, according to CoreLogic.

The survey also found a far higher risk for fraud in loans coming from wholesale lenders or brokers — which don't fund the loans but instead gather a borrower's information and shop it to lenders. That implies brokers are also committing fraud. This was common during the last housing boom, when mortgage fraud helped bring about one of the worst financial crises in U.S. history.

Margins in the mortgage industry right now are tight. With employees at lenders driven to score commissions, according to sources at Fannie Mae, it potentially raises the incentives to cut corners to put the loans through pipelines.

The problem is nowhere near as severe as it was just over a decade ago, and the subprime market is nowhere near as large. (Subprime loans are those made to borrowers with low credit scores and little documentation.) Still, it is a slippery slope.

"I think that when there's a lot of optimism, not much risk aversion, and a lot of money around, people tend to get dumb," Howard Marks, co-chairman of Oaktree Capital, said in an interview on CNBC's "Power Lunch." "They compete to make investments, and that never works out well. I'm not concerned that we're anyplace near where we were in '07."

Bank Secrecy Act/Anti-Money Laundering – Failure to comply

DEFINITION of Bank Secrecy Act (BSA)
The Bank Secrecy Act (BSA) is legislation created in 1970 to prevent financial institutions from being used as tools by criminals to hide or launder their ill-gotten gains. The law requires banks and other financial institution to provide documentation such as currency transaction reports to regulators. Such documentation can be required from banks whenever their clients deal with suspicious cash transactions that involve sums of money in excess of $10,000. This grants authorities the ability to more easily reconstruct the nature of the transactions.

This legislation is also known as the "Currency and Foreign Transactions Reporting Act."

The OCC's 5 Key Areas of Focus for 2019

On September 25th, the OCC released its bank supervision operating plan for 2019. According to the OCC, "the operating plan guides the development of supervisory strategies for individual national banks, federal savings associations, federal branches, and federal agencies, as well as technology service providers."

The OCC is focusing on these five areas for the upcoming year:

- Cybersecurity and operational resiliency.
- Commercial and retail credit loan underwriting, concentration risk management, and the allowance for loan and lease losses.
- Bank Secrecy Act/anti-money laundering (BSA/AML) compliance management.
- Compliance-related change management to address regulatory requirements.
- Internal controls and end-to-end processes necessary for product and service delivery.

Cybersecurity

Financial institutions have been in the spotlight recently due to the frequency and scale of data breaches over the past few years. More than "1,500 data breaches occurred in 2017, exposing more than 170 million records" (Statista). So, it's no surprise that regulators like the OCC will be holding institutions more responsible for the protection of consumers' data in the future. The OCC will focus on operational resiliency and remediating identified concerns.

Underwriting and Risk Management

The OCC will continue to evaluate institutions' underwriting policies and decisions for Fair Lending violations. The OCC also made it clear that preparation for the new Current Expected Credit Loss (CECL) model is a

priority in 2019. This new accounting model will require more data than before to estimate the expected loss over the life of the loan. The new CECL standards take effect after December 15, 2019.

Bank Secrecy/Anti-Money Laundering Compliance

On May 11, 2018, the beneficial ownership rule became mandatory. This rule requires institutions to use a Customer Identification Program to collect information on individuals who own more than 25% of the equity interests in a company or are single individuals who exercises control when an account is opened. The OCC wants to further evaluate whether Anti-Money Laundering (AML) compliance programs keep pace with changing risk environments and regulatory developments.

Change Management

The OCC wants to make sure that institutions have processes in place to ensure they can respond to compliance implications of regulatory and product changes. In 2019, the OCC will focus on the implementation of regulatory requirements, including the Home Mortgage Disclosure Act (HMDA), the integrated mortgage disclosure requirements under the Truth in Lending Act and Real Estate Settlement Procedures Act (TRID), and the Military Lending Act (MLA).

Internal Controls

Internal controls should be both preventive and detective. Each internal control should have strong policies and procedures in place to ensure compliance, promote efficient operations, ensure data reliability and safeguard information. The OCC will focus on an institution's implementation of new or revised products and strategic partnerships.

Anti-Money Laundering/BSA and the Mortgage Originator

We each have responsibility in this area as well. Many times, overlooked, it is something all Loan Originators should be aware of.

Red flags

Individual originators should watch for red flags that could indicate money laundering, fraud or other suspicious activities. These red flags include recent large deposits on bank statements before a loan application, large cash downpayments, discrepancies or irregularities with income or employment verification, applicant- or borrower-identification discrepancies, excessive real estate commissions and anything that creates uncertainty or suspicion about the legitimacy of a transaction or document.

In addition, while the loan application is being processed and underwritten, originators and staff should watch for anything that creates uncertainty or suspicion about the legitimacy of a transaction or document; any indication that a party is not acting on his or her own behalf; or that a party is attempting to hide his, her or the borrower's identity, as well as any indication of identity theft. When identified, red flags should be reported internally per an institution's AML program.

Many times, red flags simply require additional diligence to satisfactorily address concerns. There should be a process for addressing red flags, however, as well as determining when to escalate them and how to document results. It is critical to document anything identified as suspicious and the rationale used in determining the decision on whether a suspicious activity report (SAR) is filed.

Awareness of red flags is critical to an institution's effectiveness in reporting valuable suspicious activity to assist law enforcement investigations and identification of fraud and laundering risks affecting the institution.

Common schemes

In 2016, a California residential mortgage fraud and money laundering scheme cost financial institutions more than $16 million. Multiple parties involved in the scheme purchased more than 30 homes through straw buyers using fraudulent loan applications. The straw buyers secured more than $30 million worth of residential mortgages before the scheme was uncovered.

According to a Department of Justice press release, "The loan applications contained materially false information as to the straw buyers' income, employment, assets and intent to occupy the residences. The loan paperwork also hid from lenders millions of dollars of payments that went to the defendants."

Another mortgage scheme from 2015 involved a former real estate developer purchasing a multifamily residence and then selling the individual units as condominium units. According to the U.S. Department of Justice, the developer and two co-conspirators fraudulently recruited straw buyers, promising them that they would not have to pay anything upfront or make any mortgage payments along the way, while also agreeing to cut them in on a share of the profits once the real estate was sold.

To gain approval for these individuals' mortgage loans, the perpetrators provided applications falsely representing key information, including income, personal assets, downpayments and occupancy intention. Nine national mortgage companies and one local bank were led to believe the straw buyers had made significant downpayments.

A well-oiled AML program should have been able to uncover these schemes in a timelier manner and should have prevented the levels of loss experienced by the financial institutions. Often, one individual piece of the puzzle may not uncover a crime, but several pieces viewed together can create a clearer image, which is often what is required to further pursue and uncover these criminal activities.

Thus, the ability for law enforcement to receive information from all institutions and aggregate the data is crucial to identifying schemes that take advantage of multiple institutions. Successful efforts to combat money laundering, fraud and terrorist financing depend heavily on private industry sharing information with law enforcement through legal channels.

Eyes on the prize

All covered institutions are required by law to have an effective BSA/AML program in place. Beyond the requirement, it makes sense for financial institutions to implement a strong program to combat the threats from criminals. Once an AML program is established, training is regularly being administered and procedures are functioning, it is critical to remain vigilant.

The following steps will ensure continued adherence to the program:

- **Conduct regular evaluations** to identify changes of inherent risk.
- **Monitor the program** periodically to determine if it and internal controls are adequate.
- **Observe staff** to ensure they are abiding by the program and controls.

Environmental risks undoubtedly will evolve over time. These changes likely will require updates to the organization's risk assessment and AML program to ensure risks are mitigated to an acceptable level. A BSA/AML program should not be static. As risks evolve over time because of various factors, it is critical for lenders and mortgage companies to regularly monitor their businesses for unique risks and have a process in place to identify when a program change is necessary. As the frontline defense against fraudulent schemes, mortgage originators must remain vigilant.

USA PATRIOT Act deals with Money Laundering

The purpose of the USA PATRIOT Act is to deter and punish terrorist acts in the United States and around the world, to enhance law enforcement investigatory tools, and other purposes, some of which include:

- To strengthen U.S. measures to prevent, detect and prosecute international money laundering and financing of terrorism;
- To subject to special scrutiny foreign jurisdictions, foreign financial institutions, and classes of international transactions or types of accounts that are susceptible to criminal abuse;
- To require all appropriate elements of the financial services industry to report potential money laundering;
- To strengthen measures to prevent use of the U.S. financial system for personal gain by corrupt foreign officials and facilitate repatriation of stolen assets to the citizens of countries to whom such assets belong.

Section 8 of RESPA (more to follow)

Section 8 of RESPA specifically addresses prohibitions on kickbacks and unearned fees given or accepted in connection with a settlement service for a federally related mortgage loan (loans covered by RESPA). RESPA prohibits any settlement service provider from giving or receiving anything of value for the referral of business in connection with a mortgage or charging fees or markups when no additional service has been provided. In plain language, to give or accept a fee, actual work must be performed and there must be evidence of the work exchanged for the fee documented in the file to evidence compliance. RESPA prohibits unearned fees for services not actually performed, including fee splitting.

Violations of Section 8's anti-kickback, referral fees, and unearned fees rules are subject to criminal and civil penalties. In a criminal case, a person who violates Section 8 of RESPA may be fined up to $10,000 and imprisoned up to one year. In a private law suit, a person who violates Section 8 may be liable to the person charged for the settlement service an amount equal to three times the amount of the charge paid for the service.

RESPA enforcement is alive and well. Here are some examples:

On June 7, 2018, the Bureau of Consumer Financial Protection (formerly the Consumer Financial Protection Bureau) dismissed the case against PHH Corp., indicating that "PHH did not violate RESPA if it charged no more than reasonable market value for the reinsurance it required the mortgage insurers to purchase, even if the reinsurance was a quid pro quo for referrals." This decision follows years of litigation and appeals through two different administrations and raises the question of what service providers can understand the current rules of the road to be with regards to RESPA, and what the dismissal means for prior court rulings.
This case stems from a 2014 administrative proceeding before the Bureau, in which the bureau alleged that PHH, a mortgage originator, created a kickback scheme that violated RESPA. The questioned business arrangement related to the alleged practice by PHH of referring business to mortgage insurers in exchange for insurers entering into reinsurance contracts with PHH's wholly-owned reinsurance subsidiary.

The initial proceedings were held in 2014 before an Administrative Law Judge (ALJ). PHH argued that the reinsurance premiums it received were lawful under RESPA Section 8(c)(2), which provides that RESPA should not be interpreted to forbid compensation for "services actually performed," and that this position had been long accepted by HUD, which had responsibility for the interpretation of RESPA prior to the creation of the Bureau. The ALJ rejected this defense, ruling that the premiums PHH received were in excess of the fair market value of the services provided, and as such were not "services actually performed" under 8(c)(2), imposing a $6.4 million penalty on PHH.

The Bureau sought *en banc* review of this order, and on Feb. 16, 2017, the Court of Appeals granted that request and vacated the panel decision. On Jan. 31, 2018, most of the Court ruled in favor of the Bureau on the constitutional issues but reinstated the panel's prior ruling against the Bureau on the application of RESPA. The matter was then remanded to the Bureau's administrative process to determine whether the relevant mortgage insurers paid more than reasonable market value to the captive reinsurer, applying a three-year statute of limitations, rather than the limitless time period that former Director Cordray indicated applied. Neither PHH nor the Bureau appealed that decision, so the matter was remanded to the Bureau's administrative process, where, on June 7, 2018, Acting Director Mick Mulvaney dismissed the case.
While the dismissal of the case may reflect changing enforcement priorities at the Bureau and a return to a more traditional interpretation of RESPA section 8(c)(2), the dismissal does nothing to moot the rulings of the DC Circuit Court. As a result, the rulings made by the Court as to the interpretation of the statute and the applicable statute of limitations remain binding on matters before that Court and its subordinate courts, even if a future administration appoints a Director with an interpretation closer to that of former Director Cordray. Accordingly, any new interpretation by a future administration would likely have to take the form of new rulemaking or official guidance before any enforcement action would be accepted by the courts.

January 2014 – The CFPB initiated an administrative proceeding against PHH Corporation and its affiliates (PHH), alleging PHH harmed consumers through a mortgage insurance kickback scheme that started as early as 1995.

June 2014 – The CFPB ordered a New Jersey company, Stonebridge Title Services Inc., to pay $30,000 for paying illegal kickbacks for referrals.

January 2015 – The CFPB and the Maryland Attorney General took action against Wells Fargo and JPMorgan Chase for an illegal marketing-services-kickback scheme they participated in with Genuine Title, a now-defunct title company. The marketing-services-kickback scheme violated Section 8 of RESPA, which prohibits giving a "fee, kickback, or thing of value" in exchange for a referral of business related to a real-estate-settlement service.

February 2015 – The CFPB announced action against NewDay Financial, LLC for deceptive mortgage advertising (see *Weekly NewsLINEs* "Mortgage Advertising Compliance – A Path with Many Turns") and Section 8 kickbacks. According to the order, NewDay deceived consumers about a veterans' organization's endorsement of NewDay products and participated in a scheme to pay kickbacks for customer referrals. NewDay is ordered to pay a $2 million civil money penalty for its actions.
NewDay sent direct mail solicitations that contained a recommendation from the veterans' organization to its members, urging them to use NewDay's products, which, together with other telephone and web-based referral activities, constituted a referral of settlement service business. NewDay's payments to the veterans' organization and the coordinating company for these referral activities constituted illegal kickbacks violated Section 8 of RESPA.

12 CFR Part 1024 - Real Estate Settlement Procedures Act:

(Regulation X)

This part, known as Regulation X, is issued by the Bureau of Consumer Financial Protection to implement the Real Estate Settlement Procedures Act of 1974, as amended, 12 U.S.C. 2601 *et. seq.* This Regulation is long and important to the Loan Originator. This section will highlight a few areas of concern.

Application means the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan, which shall include the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator. An application may either be in writing or electronically submitted, including a written record of an oral application. You need to understand when you have an "application" for Disclosure purposes.

(a) Section 8 violation. Any violation of this section is a violation of section 8 of RESPA (12 U.S.C. 2607).

(b) No referral fees. No person shall give, and no person shall accept any fee, kickback or other thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or part of a settlement service involving a federally related mortgage loan shall be referred to any person. Any referral of a settlement service is not a compensable service, except as set forth in § 1024.14(g)(1). A company may not pay any other company or the employees of any other company for the referral of settlement service business.

(c) No split of charges except for actual services performed. No person shall give, and no person shall accept any portion, split, or percentage of any charge made or received for the rendering of a settlement service in connection with a transaction involving a federally related mortgage loan other than for services performed. A charge by a person for which no or nominal services are performed or for which duplicative fees are charged is an unearned fee and violates this section. The source of the payment does not determine whether a service is compensable. Nor may the prohibitions of this part be avoided by creating an arrangement wherein the purchaser of services splits the fee.

(d) Thing of value. This term is broadly defined in section 3(2) of RESPA (12 U.S.C. 2602(2)). It includes, without limitation, monies, things, discounts, salaries, commissions, fees, duplicate payments of a charge, stock, dividends, distributions of partnership profits, franchise royalties, credits representing monies that may be paid at a future date, the opportunity to participate in a money-making program, retained or increased earnings, increased equity in a parent or subsidiary entity, special bank deposits or accounts, special or unusual banking terms, services of all types at special or free rates, sales or rentals at special prices or rates, lease or rental payments based in whole or in part on the amount of business referred, trips and payment of another person's expenses, or reduction in credit against an existing obligation. The term “payment” is used throughout §§ 1024.14 and 1024.15 as synonymous with the giving or receiving of any “thing of value” and does not require transfer of money.

Violations of **Section 8's** anti-kickback, referral fees and unearned fees rules are subject to criminal and civil **penalties**. In a criminal case, a person who violates **Section 8** of **RESPA** may be fined up to $10,000 and

imprisoned up to one year. Most likely you will have your NMLS license revoked, and unable to originate mortgages. Is it worth it?

The New 1003

The following provides answers to questions frequently asked about the redesigned Uniform Residential Loan Application (URLA) and the corresponding dataset, the Uniform Loan Application Dataset (ULAD). New questions that were added since the last update are labeled, while updated questions are labeled. Visit the Fannie Mae URLA page or the Freddie Mac URLA page for additional information.

1) What is the Uniform Residential Loan Application?

2) What is the Uniform Loan Application Dataset?

3) Why now?

4) Who participated in the URLA redesign?

5) How do I support the updated HMDA Regulation for collecting the demographic information?

6) Why are the GSEs still supporting the URLA in its paper form?

7) What is the page length of the redesigned URLA?

8) Has the information on the form been reorganized?

9) Does the redesigned URLA change the application origination process?

10) What is the difference between the ULAD Mapping Document and each GSE's AUS specification?

11) Why is ULAD based on MISMO Version 3.4 instead of the MISMO Version 3.3 used by the Uniform Closing Dataset (UCD)?

12) When will the GSEs require the updated AUS datasets to be delivered?

13) What should I be doing now to prepare for the redesigned URLA and updated AUS specifications?

14) Why is there a new Homeownership Education and Housing Counseling section on the redesigned URLA?

15) Why is the Preferred Language Question being asked?

16) How does the decision to add the Language Preference question to the redesigned URLA affect the implementation timelines published by the GSEs on September 26, 2017?

17) Has the wording and location of the Language Preference question been approved by CFPB for Regulation B Safe Harbor?

18) Should the redesigned URLA be viewed in a web browser

19) What version of Adobe is suggested for completing the redesigned URLA?

20) How do I use the redesigned URLA when there is a non-borrower spouse in a community property state?

21) How do I provide more than two borrower signatures when I use more than one Additional Borrower component?

22) The redesigned URLA has several date fields where the format is month and year (i.e., MM/YYYY). The GSEs' AUS systems require the date format of year, month, and day (i.e., CCYYMM-DD or YYYY-MM-DD) for those same fields. Which date format should we use on the form?

23) Will the GSEs be updating the Freddie Mac Form 1077 / Fannie Mae Form 1008 Uniform Underwriting and Transmittal Summary as part of the redesigned URLA project?

24) Can a lender submit the current AUS formats with the redesigned URLA?

25) What schemas should I use for my file validations?

26) What should an aggregator do if they receive a redesigned URLA or loan submission file in MISMO V3.4 and they are not ready to submit to the GSEs in the new format?

27) When will the GSEs freeze their AUS specifications for production readiness?

28) How does the implementation of the redesigned URLA and updated AUS data submission requirements affect data delivery requirements for the Uniform Closing Dataset (UCD) and the Uniform Loan Delivery Dataset (ULDD

29) Are borrowers required to provide explanation(s) for "YES" responses in Section 5. Declarations on the Borrower and Additional Borrower components of the Redesigned URLA?

30) Do the GSEs have any plans to update or replace the Fannie Mae 1003 v3.2 Flat File used as the "de facto" industry standard for data exchange between industry partners for loan application data?

Nevada – Division of Mortgage Lending www.mld.nv.gov

The Nevada Division of Mortgage Lending is a regulatory agency housed within the Department of Business and Industry that is statutorily charged with the authority and responsibility to implement and administer five different licensing and regulatory programs and one registration program primarily related to non-depository mortgage lending activity.

The Division does not regulate the mortgage related business of banks, savings banks, trust companies, savings and loan associations, industrial loan companies, credit unions, thrift companies, or insurance companies unless the business conducted in this state is not subject to supervision by the appropriate regulatory authority for their activity.

The Division of Mortgage Lending

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Mission

The Division of Mortgage Lending's mission is to promote and grow Nevada's non-depository mortgage lending and related industries through reasonable and firm, but fair, implementation and enforcement of our laws; to protect industry and consumer interests and safeguard the public trust by creating a regulatory climate that fosters a competitive level playing field and advances professionalism, education, compliance, and ethics in the mortgage lending and related industries; and to provide a thorough and fair consumer complaint resolution process.

Vision

To ensure a safe, transparent and professional non-depository lending environment for Nevada consumers, and fair oversight of the businesses and individuals who serve them.

Secure and Fair Enforcement for Mortgage Licensing Act[1]

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 [2] (SAFE Act) was enacted on July 30, 2008, and mandates a nationwide licensing and registration system for residential mortgage loan originators (MLOs).[3] The SAFE Act prohibits individuals from engaging in the business of a residential mortgage loan originator without first obtaining and maintaining annually:

• For individuals who are employees of covered financial institution, registration as a registered mortgage loan originator and a unique identifier (federal registration), or

• For all other individuals, a state license and registration as a state-licensed mortgage loan originator, and a unique identifier (state licensing/registration).

The SAFE Act requires that federal registration and state licensing and registration be accomplished through the same online registration system, the Nationwide Mortgage Licensing System and Registry (Registry).

The objectives of the SAFE Act include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of MLOs; 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 MLOs. [4]

On July 28, 2010, the OCC, Board, FDIC, OTS, NCUA, and FCA (collectively the Agencies) published substantively similar regulations implementing the SAFE Act federal registration requirements for the institutions they supervise and the institutions' MLO employees (SAFE Act regulation). [5]

On July 21, 2011, Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) transferred rule-making authority for the SAFE Act from the Agencies to the Consumer Financial Protection Bureau (CFPB). [6] On December 19, 2011, the CFPB restated the implementing SAFE Act regulations to 12 CFR 1007 (76 Federal Register 78483), establishing a new Regulation G, SAFE Mortgage Licensing Act–Federal Registration of Residential Mortgage Loan Originators.[7]

These examination procedures lay out the background and requirements of the SAFE Act and the SAFE Act regulation concerning federal registration.

Definitions — Section 1007.102

Annual renewal period means November 1st through December 31st of each year.

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.

Covered financial institution means any national bank, federal branch or agency of a foreign bank, member bank, insured state non-member bank, (including state-licensed insured branches of foreign banks), savings association, or certain of their subsidiaries; branch or agency of a foreign bank or commercial lending company owned or controlled by a foreign bank; Farm Credit System institution; or federally insured credit union, including certain non-federally insured credit unions.[8]

Employee is not defined in the SAFE Act or SAFE Act regulation. However, the regulation's preamble explains that the meaning of "employee" under the SAFE Act regulation is consistent with the common-law right-to-control test. For example, the results of this test generally determine whether an institution files an Internal Revenue Service Form W-2 or Form 1099 for an individual.[9]

Mortgage loan originator or MLO means an individual who **(1)** takes a residential mortgage loan application and **(2)** offers or negotiates terms of a residential mortgage loan for compensation or gain. The term mortgage loan originator does not include:

• An individual who performs purely administrative or clerical tasks on behalf of an individual who is an MLO;

• An individual who only performs real estate brokerage activities (as defined in 12 U.S.C. Section 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 MLO or

by any agent of such lender, mortgage broker, or other MLO, and meets the MLO definition; or
• An individual or entity solely involved in extensions of credit related to time-share plans, as that term is defined in 11 U.S.C. Section 101(53D).

Appendix A to the SAFE Act regulation provides examples of activities of taking a loan application and offering or negotiating loan terms that fall within or outside of the definition of MLOs for federal registration purposes.

Registry means the Nationwide Mortgage Licensing System and Registry, or NMLS 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 MLOs, and through which federal MLO registrations must be accomplished.[10]

Registered mortgage loan originator or registrant means any individual who **(1)** meets the MLO definition; **(2)** is an employee of a covered financial institution; **(3)** is registered pursuant to the regulation with the Registry; and **(4)** maintains a unique identifier through the Registry.

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. Section 1602(v)) or residential real estate upon which is constructed or intended to be constructed a dwelling (including manufactured homes) and includes refinancing, reverse mortgages, home equity lines of credit, and other first and additional lien loans.

Unique identifier means a number or other identifier that: **(1)** permanently identifies a registered MLO; **(2)** is assigned by protocols established by the Registry and the Bureau to facilitate electronic tracking of MLOs, as well as uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against MLOs; and **(3)** must not be used for purposes other than those set forth under the SAFE Act.

De Minimis Exception — Section 1007.101(c)(2)

The SAFE Act regulation provides an exception to the MLO registration requirements for any employee of a covered financial institution who has never been registered or licensed through the Registry as an MLO if during the past 12 months the employee acted as an MLO for five or fewer residential mortgage loans.
When an institution relies on the de minimis exception in lieu of registration, the MLO employee must register prior to originating the sixth residential mortgage loan within 12 months. Covered financial institutions are prohibited from engaging in any acts or practices to evade the registration requirement.

Mortgage Loan Originator (MLO) Registration Requirements — Section 1007.103

Each MLO employee of a covered financial institution must register with the Registry, [11] obtain a "unique identifier," maintain the registration by updating certain information within 30 days of specified changes, and annually renew the registration during the annual renewal period.

Initial Registration — Section 1007.103(a)

Each employee of a federally regulated institution who is an MLO must submit to the Registry the following:
• identifying information, including name, home address, social security number, gender, date of birth, and principal business location;
• financial-services-related employment history for the prior 10 years;
• disclosure of specified criminal, civil, judicial, or state, federal, or foreign financial authority regulatory actions against the employee; and
• fingerprints, for purposes of a Federal Bureau of Investigation background check.

The employee must attest to the correctness of the information submitted to the Registry; must authorize the Registry and the institution to obtain information related to any administrative, civil, or criminal action to which the employee is a party; and must authorize the Registry to make certain information available to the public.

Maintaining Registration — Section 1007.103(b)

Renewal

An MLO must renew his or her registration during the annual renewal period by confirming and updating his or her registration records. This requirement does not apply to an MLO who completed his or her initial registration less than six months prior to the end of the annual renewal period. Any registration that is not renewed during this period will become inactive, and the individual cannot act as an MLO at a covered financial institution until the registration requirements are met. Individuals who fail to update their registrations during this two-month renewal period may renew their registration at any time and need not wait until the start of the next annual renewal period.

Updates to Registration

An MLO must update his or her registration within 30 days for specified significant changes, including name changes, employment termination, and reportable changes to legal or regulatory actions.

Previously Registered Employees — Change of Employment

The regulations provide streamlined registration requirements for an MLO employee previously registered or licensed through the Registry who maintained this registration or license and who changes employment. Such an employee must update certain information, provide the required attestation and authorizations, and submit new fingerprints unless the employee has fingerprints on file with the Registry that are less than three years old. There is no grace period in this situation. An employee must update his or her Registry record before acting as a loan originator for the new employer

Previously Registered Employees — Mergers, Acquisitions, or Reorganizations

A registered or licensed MLO whose employment changes as the result of a merger, acquisition, or reorganization has 60 days from the effective date of a merger, acquisition, or reorganization to update information in the Registry.

Financial Institution Requirements for MLO Registration, Renewal, and Changes to Information — Section 1007.103(e)

Required Financial Institution Information — Section 1007.103(e)(1)(i) In connection with the registration of one or more MLOs, financial institutions and certain of their subsidiaries must submit certain required information to the Registry: • contact information;
• Employer Tax Identification Number;
• Research Statistics Supervision and Discount (RSSD) number issued by the Board;
• primary Federal regulator; • primary point of contact for the Registry;
• individuals with authority to enter information into the Registry; and
• if a subsidiary of a financial institution, indication of that fact and the RSSD number of the parent institution, as applicable.

Once registered, the institution will receive an NMLS identification number for the institution to use in attesting to MLO employment and for other Safe Act-related purposes. Attestation — Section 1007.103(e)(1)(ii) An individual with authority to enter information in the Registry must verify his or her identity and attest that he or she has that authority, that the information is correct, and that the institution will keep the information current.[12]

Registration — Section 1007.104(b)

A covered financial institution must require an MLO employee to register with the Registry, maintain this registration, and obtain a unique identifier. A covered financial institution must also confirm each MLO's employment status once the MLO submits registration information to the Registry and before the registration is activated.

Within 30 days of the date an MLO ceases to be an employee of the institution, the institution must notify the Registry of that fact along with the date the MLO ceased being an employee, so that consumers searching for an MLO in the publicly available consumer access portal will know that the MLO no longer has a relationship with the institution.

Renewal and Updates — Section 1007.103(e)(1)(iii) and (iv)

A covered financial institution must update the information it submitted to the Registry during the annual registration renewal period and must confirm the registration information provided by MLO employees during this period. An institution must update the required institution information provided to the Registry within 30 days of any change in such information.

Policies and Procedures — Section 1007.104

Covered financial institutions that have one or more MLO employees must adopt and follow written policies and procedures to carry out their SAFE Act responsibilities.[13] The requirement to adopt and follow policies and procedures applies to all covered financial institutions that employ individual MLOs, where MLOs act within the scope of their employment, and regardless of the application of any *de minimis* exception to their employees. In addition, covered financial institutions must conduct annual independent compliance tests to ensure compliance with the regulation. The policies and procedures must be appropriate to the nature, size, complexity, and scope of the institution's mortgage lending activities and apply only to those employees acting within the scope of their employment at the institution. The policies and procedures must:

• Establish a process for identifying which employees of covered financial institutions must be registered;

• Require that all employees who are MLOs be informed of the registration requirements of the SAFE Act and SAFE Act regulation and instructed on how to comply;
• Establish procedures to comply with the SAFE Act regulation's unique identifier requirements;
• Establish reasonable procedures for confirming the adequacy and accuracy of MLO employee registrations, including updates and renewals, by comparisons with its own records;
• Establish reasonable procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures;
• Provide for annual independent testing for compliance with the SAFE Act regulation by institution personnel or an outside party;
• Provide for appropriate action if an employee fails to comply with the registration requirements of the SAFE Act regulations or the institution's

related policies and procedures, including prohibiting such employees from acting as MLOs or other appropriate disciplinary actions;
• Establish a process for reviewing employee criminal history background reports received pursuant to the regulation, taking appropriate action consistent with applicable federal law[14] and implementing regulations with respect to the reports, and maintaining records of the reports and actions taken with respect to applicable employees;[15] and
• Establish procedures designed to ensure that any third party with which the institution has arrangements related to mortgage loan origination has policies and procedures to comply with the SAFE Act and SAFE Act regulation, including appropriate licensing and/or registration of individuals acting as MLOs. [16]

Unique Identifier — Section 1007.105

When an MLO registers with the Registry, he or she receives a unique identifier – a series of numeric characters assigned for life. The unique identifiers allow MLOs to be tracked if they move between state and federal jurisdictions and/or change employers, and help consumers to find certain information about a particular MLO when they search on the Registry's consumer access portal. The MLO information that is publicly available on the consumer access portal will ultimately include federal and state registrations and licenses held, the MLO's employment history, and publicly adjudicated disciplinary and enforcement actions, if any.

To make sure that consumers have access to an MLO's unique identifier before committing to a mortgage loan transaction, an MLO must provide the unique identifier upon request (orally or in writing), before acting as an MLO (orally or in writing), and in any initial written communication (paper or electronic) from the MLO to the consumer (such as a commitment letter, good faith estimate, or disclosure statement). MLO unique identifiers may be used on written materials or promotional items distributed by the institution for general use, for example on loan program descriptions, advertisements, business cards, stationery, notepads, and similar materials; the SAFE Act regulation does not prohibit such use.

The regulation also requires institutions to make MLO unique identifiers available to consumers in a practicable way. This could be achieved, for example, by:

• Directing consumers to a listing of registered MLOs and corresponding unique identifiers on the institution's website;
• Posting the information prominently in a publicly accessible place, such as a branch office lobby or lending office reception area; and/or
• Establishing a process to ensure that institution personnel provide MLO unique identifiers when requested by consumers from employees other than the MLO.

Relation to Other Laws

TILA, GSE, and HUD Requirements

Title XIV, Section 1402 of the Dodd-Frank Act amended the Truth in Lending Act (TILA) to require **(1)** MLOs to include on all loan documents any unique identifier of the MLO provided by the NMLS, and **(2)** the CFPB to issue implementing regulations requiring depository institutions to establish and maintain procedures reasonably designed to assure and monitor compliance with the SAFE Act's federal registration requirements.[17]

In 2009, the Federal Housing Finance Agency directed government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac to require mortgage loan applications to include the MLO's unique identifier.18 The GSEs announced that for federally regulated institutions, the unique identifier information is required for all applications on or after July 29, 2011. [19]

On January 5, 2011, HUD issued a mortgagee letter requiring the collection of NMLS unique identifiers for all individuals and entities participating in the origination of Federal Housing Administration (FHA) loans.[20] The mortgagee letter also requires all FHA-approved mortgagees and their employees to comply with the NMLS registration requirements and "entities with jurisdiction over their activities" must register in accordance with the guidance set forth by NMLS.

References

Laws

12 U.S.C. 5101 et seq: Secure and Fair Enforcement for Mortgage Licensing Act of 2008, amended by the Dodd-Frank Act, Section 1100

Regulations

Consumer Financial Protection Bureau Regulations (12 CFR)

Secure and Fair Enforcement for Mortgage Licensing Act:

Part 1007 Federal Registration of Residential Mortgage Loan Originators (Regulation G)
Part 1008 State Compliance and Bureau Registration System (Regulation H)

Secure and Fair Enforcement for Mortgage Licensing Act[1]

Examination Objectives

• To determine whether the financial institution has adopted written policies and procedures designed to assure compliance with the SAFE Act regulation.
• To determine whether the annual independent testing of the institution's policies and procedures for assuring compliance with the SAFE Act regulation has been conducted.
• To determine whether any violations or deficiencies identified during the independent testing have been corrected and that steps have been taken to ensure they do not recur.

Examination Procedures

1) Determine whether the financial institution, or any of its subsidiaries, has one or more MLO employees. For those institutions without any MLO employees, these examination procedures do not need to be completed. (12 CFR 1007.103(a)(2))

2) Determine for those financial institutions with MLO employees whether the institution has adopted written policies and procedures and conducts annual independent compliance tests to assure compliance with the SAFE Act regulation. If the institution has failed to adopt policies and procedures and to perform annual independent compliance tests, the examiners should address the violation in the examination report and require corrective action. (12 CFR 1007.104)

3) Review the financial institution's written policies and procedures and the annual independent compliance tests to determine whether the institution has taken appropriate steps to assure compliance with the SAFE Act that at a minimum:

a) Establish a process for identifying which employees of the financial institution are required to be registered MLOs; (12 CFR 1007.104(a))
b) Require that all employees of the financial institution who are MLOs be informed of the registration requirements of the SAFE Act and the SAFE Act regulation and be instructed on how to comply with such requirements and procedures; (12 CFR 1007.104(b))
c) Establish procedures to comply with the unique identifier requirements in Section 105 of the SAFE Act regulation; (12 CFR 1007.104(c))
d) Establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records; (12 CFR 1007.104(d))
e) Establish procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures; (12 CFR 1007.104(e))
f) Provide for independent testing for compliance with the SAFE Act regulation conducted annually by institution personnel or by an outside party; (12 CFR 1007.104(f))
g) Provide for appropriate action in the case of an employee who fails to comply with the registration requirements of the SAFE Act, the SAFE Act regulation, or the financial institution's policies and procedures, including prohibiting such employees from acting as an MLO or other appropriate disciplinary actions; (12 CFR 1007.104(g))
h) Establish a process for reviewing employee criminal history background reports received pursuant to the SAFE Act regulation, taking appropriate action consistent with applicable federal law, including Section 19 of the Federal Deposit Insurance Act (12 U.S.C. Section 1829) and implementing

regulations with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees; and (12 CFR 1007.104(h))
i) Establish procedures designed to ensure that any third party with which the institution has arrangements related to mortgage loan origination has policies and procedures to comply with the SAFE Act, including appropriate licensing and/or registration of individuals acting as MLOs. (12 CFR 1007.104(i))

4) Any significant deficiencies in the institution's SAFE Act regulation policies and procedures or independent compliance tests should be documented in the workpapers and discussed in the examination report together with corrective actions taken.

1 These reflect FFIEC-approved procedures.

2 See 12 U.S.C. Sec. 5101-5116, Title V of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289, 122 Stat. 2654, 12 U.S.C. 5101 et seq.) as amended by Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) (Pub. L. No. 111-203, 124 Stat. 1376).

3 More specifically, the SAFE Act required the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), and National Credit Union Administration (NCUA), with the Farm Credit Administration (FCA) and through the Federal Financial Institutions Examination Council (FFIEC), to develop and maintain a federal system for registering MLOs employed by covered financial institutions.

4 SAFE Act Sec. 1502.

5 75 Fed. Reg. 44656 (July 28, 2010). The interagency Federal Register notice may be found at http://edocket.access.gpo.gov/2010/pdf/2010-18148.pdf. See also the revised Federal Register Preamble (Aug. 23, 2010), available at http://edocket.access.gpo.gov/2010/pdf/C1-2010-18148.pdf (revising footnote numbering from the original release). CFPB's SAFE Act regulations for federally regulated institutions subject to its supervisory responsibilities are at 12 CFR Part 1007, followed by its rule for State compliance and Bureau registration at 12 CFR Part 1008. 76 Fed. Reg. 78483 (Dec. 19, 2011).

6 On July 21, 2011, pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act), the CFPB assumed: (1) responsibility for developing and maintaining the federal registration system (including rule-making authority), (2) supervisory and enforcement authority for SAFE Act compliance for entities under the CFPB's jurisdiction, and (3) authority to oversee state compliance with SAFE Act requirements that had previously been

under HUD's authority. Refer to Dodd-Frank Act Secs. 1025, 1061, and 1100. In addition, the Dodd-Frank Act merged functions of the OTS into the OCC, FDIC, and Board.

7 The SAFE Act also authorized the U.S. Department of Housing and Urban Development (HUD) to monitor and enforce states' compliance with the statute's requirements for state licensing and registration, and HUD issued rules setting minimum standards for state licensing and registration. 76 Fed. Reg. 38464 (June 30, 2011). The Dodd-Frank Act transferred that authority from HUD to the CFPB. The CFPB thereafter published Regulation H, SAFE Mortgage Licensing Act – State Compliance and Bureau Registration System, 12 CFR Part 1008, based on HUD's regulation. 76 Fed. Reg. 78483, Dec. 19, 2011. These examination procedures do not cover the state registration requirements.

8 12 CFR Secs. 1007.101(c), 1007.102.

9 See 75 Fed. Reg. at 44664 for a discussion of the meaning of "employee" as used in the SAFE Act regulation. Covered financial institutions that are credit unions sometimes rely upon volunteers to originate mortgage loans. The right-to-control test under the common law agency doctrine likewise applies to these credit unions. Credit union management establishes the policies, procedures, and practices that volunteers use in performing their functions. Therefore, these volunteers qualify as employees of the covered financial institution for purposes of the SAFE Act regulation.

10 See the Nationwide Mortgage and Licensing System and Registry website at: http://mortgage.nationwidelicensingsystem.org/fedreg/Pages/default.aspx. System information on federal registration can be found under the Federal Registration tab at that site.

11 The SAFE Act rule implementing federal registration took effect on October 1, 2010. It provided a registration period from January 31, 2011, to July 29, 2011, for MLOs who are employees of covered financial institutions to register. After July 29, 2011, those employees must meet the registration requirements before they may originate residential mortgage loans.

12 An institution may designate one or more individuals to serve as the system administrator(s) who may submit required information to the Registry on behalf of employees and attest to their authority to submit information, the accuracy of information submitted, and that the institution will keep information current and submit updates on a timely basis. System administrators generally may not be MLOs; however, an institution is exempt from this regulatory requirement if it has 10 or fewer full-time employees and is not a subsidiary.

13 The Registry and the Agencies do not screen or approve registrations received from employees of Agency-related institutions.

14 Including Sec. 19 of the Federal Deposit Insurance Act (FDI Act); (12 U.S.C. 1829); Sec. 5.65(d) of the Farm Credit Act of 1971 (12 U.S.C. 2277a-14(d)); or Sec. 206 of the Federal Credit Union Act (12 U.S.C. 1786(i)).

15 Sec. 19 of the FDI Act (12 U.S.C. 1829) prohibits, without the prior written consent of the FDIC, insured depository institutions from employing a person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering or has entered into a pretrial diversion or similar program in connection with a prosecution for such offense. See the FDIC Statement of Policy for Section 19 of the FDI Act, 63 Fed. Reg. 66184 (Dec. 1, 1998;

amended May 10, 2011), available at: http://www.fdic.gov/regulations/laws/rules/5000-1300.html.

16 See FFIEC Statement on Risk Management of Outsourced Technology Service (November 28, 2000) for guidance on the assessment, selection, contract review, and monitoring of a third party that provides services to a regulated institution. See also FDIC Guidance for Managing Third-Party Risk (FIL-44-08); OCC Bulletin 2001-47, Third-Party Relationships (Nov. 1, 2001); OTS Thrift Bulletin 82a, Third-Party Arrangements (Sept. 1, 2004); NCUA Letter to Credit Unions: 01-CU-20, Due Diligence Over Third-Party Service Providers (Nov. 2001), 07-CU-13, Supervisory Letter-Evaluating Third-Party Relationships (December 2007), 08-CU-09, Evaluating Third-Party Relationships Questionnaire (Apr. 2008).

17 See Pub. L. No. 111-203 (July 21, 2010), available at http://www.gpo.gov/fdsys/pkg/PLAW-111publ203/pdf/PLAW-111publ203.pdf (p. 2139).

18 See the FHFA news release at http://www.fhfa.gov/webfiles/400/LoanOrigIDS11509.pdf.

19 See Fannie Mae and Freddie Mac Frequently Asked Questions at https://www.efanniemae.com/sf/guides/ssg/relatedsellinginfo/pdf/mortgageloandelreqsfaqs.pdf and http://www.freddiemac.com/sell/secmktg/loan_level_faq.html.

20 See Mortgagee Letter 2011-4 at http://portal.hud.gov/hudportal/documents/huddoc?id=11-04ml.pdf

1 These reflect FFIEC-approved procedures.

Who Is Required To Be Licensed:

Who is required to be licensed as a Mortgage Broker under NRS 645B?

Commercial Mortgage Brokers

A mortgage broker that only conducts commercial mortgage activity (loans secured by real property other than a dwelling) may submit its application for licensure or renewal and applicable fees directly to the Division. The

application and further instruction may be obtained by contacting the Division.

Mortgage Agents (Loan Originators)

All initial license and renewal applications and applicable fees for mortgage agents (loan originators) are submitted to the Division through the Nationwide Multistate Licensing System and Registry ("NMLS") using the Individual Form (external link).

Pre-Licensure Education Requirements

New state-licensed MLOs are required to complete 30 hours of NMLS-approved education. This education must include 3 hours of Federal law, 3 hours of ethics (which shall include fraud, consumer protection, and fair lending issues), 2 hours of non-traditional mortgage lending, 18 hours of undefined education (referred to as electives) + 4 hours of NV law. Number of hours is 3/3/2/18/+ 4hrs of NV law = 30

Nevada has a requirement for 4 hours of instruction on state-specific law which may be satisfied by either taking a NV comprehensive course or a state-specific elective course.

Continuing Education Requirements

Every state-licensed MLO (in any approved status) is required to complete at least 8 hours of NMLS approved education annually beginning the year they are licensed (unless PE was completed in the same year). Annual CE education must include 3 hours of Federal law, 2 hours of ethics (which shall include fraud, consumer protection, and fair lending issues), and 2 hours of non-traditional mortgage lending, plus one additional hour of undefined education (referred to as an elective). Number of hours is 3/2/2/1 = 8

MLOs are advised that to comply with the SAFE Act's "successive years" rule, they may not take the same CE course two years in a row. MLO's are advised not to retake pre-licensure education (PE) unless directed to by a State Regulator. PE education does not count towards meeting annual CE requirements.

Deadline

The deadline to complete CE is December 31, 2019. However, MLOs in Nevada are prohibited from submitting an application to renew their license if they have not completed CE. Since it may take as long as seven (7) days for a course provider to report a course completion into NMLS, MLOs are strongly encouraged not to wait until the last minute to try to complete CE or they may be prevented from submitting for renewal on time.

Individual Loan Originator Compensation and Borrower Paid Transactions

QUESTION

As a mortgage broker, our company pays the loan originator the same, irrespective of whether it is a lender paid or borrower paid transaction. However, we are hearing that

we may be able to pay the loan originator differently on borrower paid transactions, which would allow us to be more competitive. So, can we vary compensation based upon lender paid versus borrower paid?

QUESTION I want to hire a mortgage loan officer. I've been told it may be to my benefit to classify the loan officer as a 1099 independent contractor versus a W-2 employee. Am I able to do that? What are the benefits?

1. Must the individual take instructions from your management staff regarding when, where, and how work is to be done?

2. Does the individual receive training from your company?

3. Is the success or continuation of your business somewhat dependent on the type of service provided by the individual?

4. Must the individual personally perform the contracted services?

5. Have you hired, supervised, or paid individuals to assist the worker in completing the project stated in the contract?

6. Is there a continuing relationship between your company and the individual?

7. Must the individual work set hours?

8. Is the individual required to work full time at your company?

9. Is the work performed on company premises?

10. Is the individual required to follow a set sequence or routine in the performance of his work?

11. Must the individual give you reports regarding his/her work?

12. Is the individual paid by the hour, week, or month?

13. Do you reimburse the individual for business/travel expenses?

14. Do you supply the individual with needed tools or materials?

15. Have you made a significant investment in facilities used by the individual to perform services?

16. Is the individual free from suffering a loss or realizing a profit based on his work?

17. Does the individual only perform services for your company?

18. Does the individual limit the availability of his services to the general public?

19. Do you have the right to discharge the individual?

20. May the individual terminate his services at any time? No one question determines the worker's status. Agencies and courts typically look at the totality of the employment circumstances when determining whether a worker qualifies as an independent contractor.