



KANSAS

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DATE: November 7, 2008
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TO: Board of Directors and Managers of Kansas Chartered Credit Unions
SUBJECT: The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act)

The S.A.F.E. Mortgage Licensing Act is Title V in the housing rescue bill that President Bush signed into law on July 30, 2008.

The following are some commonly asked questions about the S.A.F.E. Act.

What is the purpose of the S.A.F.E. Mortgage Licensing Act?

The Act requires people who originate residential mortgage loans to be licensed or registered with a state agency and to be assigned a permanent "unique identifier" to track employment and legal history.

Are state-chartered credit unions included in the Act?

Yes. The definition of a depository institution in the S.A.F.E. Act includes "any credit union." Federal banking agencies, with Federal Financial Institutions Examination Council (FFIEC), are to develop and maintain the System.

Do mortgage loan originators from state-chartered credit unions need to be licensed or registered?

Mortgage loan originators who are employees of a depository institution will need to be registered. Additionally, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency will need to be registered. More details about registration appear below.

How will the mortgage licensing system be developed?

The law calls for the federal banking agencies, including the National Credit Union Administration (NCUA) through the FFIEC, to develop and maintain a system for registering bank and credit union employees. The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) launched the Nationwide Mortgage Licensing System (NMLS) earlier this year. NMLS is likely to be used as a model for the national system required by the S.A.F.E. Act.

What information will a registered loan originator have to provide?

An employee of a credit union who is a residential loan originator will provide:

- Fingerprints for submission to the Federal Bureau of Investigation and other agencies for a state and national criminal history background check;

- personal history and experience, including authorization for the system to obtain information about any administrative, civil or criminal finding by any jurisdiction; and
- be assigned a unique identifier that will facilitate electronic tracking and public access to his or her employment history and enforcement action record.

Will residential mortgage loan originators employed by a credit union service organization (CUSO) have to be licensed or registered?

The language of the Act is not clear. However, according to a recent NCUA legal opinion¹, as NCUA does not have direct regulatory oversight or enforcement authority for a CUSO, individuals employed by CUSOs that engage in loan origination activities, whether the CUSO is owned by a state or a federal credit union, would need to be licensed.

What is the timeline for implementation?

Kansas must have in place by law or regulation a system for licensing and registering loan originators by the end of a one-year period from the July 30, 2008 date of enactment of the S.A.F.E. Act. If Kansas does not develop a system, the Secretary of Housing and Urban Development has backup authority to do so. According to the Kansas Office of the State Bank Commissioner, an effort to modify Kansas statutes to comply with the Act will occur in the 2009 Kansas legislature.

1. NCUA Legal Opinion 08-0843 can be found at <http://ncua.gov/>.



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