



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-64-2009
November 13, 2009

SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT OF 2008 – FINAL RULE

Registration of Residential Mortgage Loan Originators (Part 365, Subpart B)

Summary: The FDIC Board of Directors has approved the attached draft final rule implementing the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). The rule has been posted on the FDIC's Web site, but will not be published in the *Federal Register* until the other agencies involved in this rulemaking complete their review and approval of the rule. To the extent there are differences between the attached draft final rule and the version ultimately published by the agencies in the *Federal Register*, the FDIC will highlight those changes in a revised Financial Institutions Letter at the time of publication.

Distribution:

FDIC-Supervised Banks (Commercial and Savings)

Suggested Routing:

Chief Executive Officer
Chief Credit Officer
Compliance Officer

Related Topics:

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

Attachments:

Draft Final Rule, Subpart B to 12 CFR Part 365
Real Estate Lending Standards
<http://www.fdic.gov/news/board/2009nov12no8.pdf>

Contact:

Thomas F. Lyons, Examination Specialist, at (202) 898-6850 or tyons@fdic.gov; or Victoria Pawelski, Senior Policy Analyst (Compliance), at vpawelski@fdic.gov or (202) 898-3571

Note:

FDIC financial institution letters (FILs) may be accessed from the FDIC's Web site at www.fdic.gov/news/news/financial/2009/index.html.

To receive FILs electronically, please visit <http://www.fdic.gov/about/subscriptions/fil.html>.

Paper copies of FDIC financial institution letters may be obtained via the FDIC's Public Information Center, 3501 Fairfax Drive, E-1002, Arlington, VA 22226 (1-877-275-3342 or 703-562-2200).

Highlights:

- The SAFE Act improves the accountability and tracking of residential mortgage loan originators (MLOs), enhances consumer protection, reduces fraud, and provides consumers with easily accessible information regarding the professional background of MLOs.
- The rule will implement the requirements of Section 1507 of the SAFE Act and will apply to insured state nonmember banks (including state-licensed insured branches of foreign banks), their subsidiaries and employees of such banks or subsidiaries who act as MLOs.
- The rule:
 - tracks the SAFE Act definition of an MLO and provides examples of when a person is or is not acting as an MLO;
 - requires employees of insured state nonmember banks and their subsidiaries who act as MLOs to register with the Nationwide Mortgage Licensing System and Registry (NMLSR);
 - requires institutions and MLOs to provide certain information to the NMLSR, including MLO fingerprints (to run a criminal background check);
 - allows *de minimis* exceptions to the registration requirements for low-volume MLOs;
 - requires appropriate written policies and procedures for ensuring compliance with the rule and establishes minimum standards for such policies and procedures; and
 - explains how an MLO's unique identifier must be disclosed.
- The draft final rule is publicly available and has been posted on the FDIC's Web site at <http://www.fdic.gov/news/board/2009nov12no8.pdf>. When finalized, this rule will be added as a new subpart B to Part 365 of the FDIC's Rules and Regulations (12 C.F.R. Part 365).