Farm Credit Services of America
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July 9, 2009

Mr. Gary K. Van Meter
Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, VA 22102-5090
E-mail: regcomm@fca.gov

Re: Proposed Rule on Registration of Mortgage Loan Originators

Dear Mr. Van Meter:

Farm Credit Services of America appreciates the opportunity to comment on the Farm Credit Administration's ("FCA") proposed rule on the Registration of Mortgage Loan Originators published in the Federal Register on July 9, 2009 (74 FR 27386). The proposed rule was issued in conjunction with other Agency-regulated institutions in connection with the S.A.F.E. Act provisions requiring a Nationwide Mortgage Licensing System and Registry ("Registry").

Although the majority of Farm Credit Services of America's loans are not consumer residential mortgage loans, providing consumer residential mortgage loans is an important aspect of achieving the vision and commitment of Farm Credit Services of America's mission: "Passionately creating value, in service to rural America.

In general, Farm Credit Services of America supports the outline for the registration process in the proposed rule. Our association is well aware of the abuses by many mortgage originators that lead to the S.A.F.E. Act and recognizes the need for additional safeguards. Farm Credit Services of America takes great pride in knowing that we did not engage in such practices, so we encourage the Federal banking agencies to adopt regulations that do not unreasonably burden lenders who offer more standardized, traditional mortgage products. As noted below, there are specific areas where we believe additional guidance or clarification is appropriate.

Specific Comments

1. Sec. 610.101 – We request clarification that the proposed rule does not apply to seller-sponsored financing of an acquired property (i.e., where the lender is the owner of the property).

2. Sec. 610.102 – We request that the first prong of the definition of "mortgage loan originator" be eliminated. We think a great deal of confusion is created by the first prong of the definition regarding an individual who "*takes a residential mortgage loan application.*" The Appendix to Part 610 further states that this includes "*receiving information that is sufficient to determine whether the consumer qualifies for a loan, <u>even if the employee has had no contact with the consumer and is not responsible for further verification of information</u>.*" This definition could be interpreted to include all individuals who have contact with the mortgage loan application. Quite often a person who *takes a residential mortgage loan application* or who *receives information sufficient to determine whether the consumer qualifies for a loan* does not make the loan offer and does not negotiate the loan terms. The potential licensing of these individuals would not forward the goals of the S.A.F.E. Act.

Such confusion is reduced while still accomplishing the goals of the S.A.F.E. Act if the definition of mortgage loan originator encompasses only individuals who directly negotiate the loan terms and make loan offers to consumers. A consumer is most at risk when loan offers are made and loan terms are negotiated. Licensing, monitoring, and disclosing information about the individuals who make the loan offers and negotiate the loan terms provides consumers with the information about the personnel who have the most impact on the loan terms.

We request an example in Appendix to Part 610 clarifying that non-sales personnel involved with a residential mortgage loan due to a credit analysis/underwriting function or the processing of the loan would not be considered personnel who make the loan offers and negotiate the loan terms.

These proposed changes would also reduce confusion that could exist through the use of automated systems to take loan applications. Electronic systems are often used to receive applications and customer information is received prior to any personnel having actual contact with a consumer. Additionally, personnel contact with a consumer might be in a solely support capacity. If a lender receives an application through an electronic, or other automated system, a possible alternative should be to designate an employee as the mortgage loan originator and communicate to the customer in writing or an electronic response who is the mortgage loan originator.

We also request clarification that personnel who take loan servicing actions after loan closing, such as loan restructurings, assumptions, or modifications, not be included as a mortgage loan originator unless a new mortgage and note are executed or additional "new money" is loaned.

3. Section 610.103. The proposed rule contemplates that a great deal of personal information will be collected on originators. We encourage the banking agencies to describe the safeguards that will be used to prevent the disclosure of non-public information.

4. Section 610.105. It is unclear how the RSSD numbering system would be used for Farm Credit System institutions. Consideration should be given to using FCA's existing numbering system as an alternative.

5. We generally support the 180-day implementation process for institutions and employees, assuming there are no unusual delays in accessing the system and inputting the data. However, we do not believe a shorter time frame is practical.

Again, Farm Credit Services of America appreciates this opportunity to provide comments to FCA. Should you or your staff require additional information, please feel free to contact me at (402) 348-3333.

Sincerely,

Leigh Cheloha

Leigh Cheloha
Associate General Counsel
Farm Credit Services of America