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Mr. Gary K. Van Meter, Deputy Director
Office of Regulatory Policy
Farm Credit Administration
1501 Farm Credit Drive
McLean, Virginia 22101-5090

In Re: Proposed Rule on Registration of Mortgage Loan Originators
74 FR 27386, June 9, 2009 – RIN 3052-AC52

Dear Mr. Van Meter:

Thank you for the opportunity to present our comments on the federal regulatory agencies' proposed rules regarding implementation of the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act). In addition to our comments herein, AgFirst supports the comments submitted by the Farm Credit Council on behalf of all System institutions.

The proposal to permit thresholds tied to loan volumes seem to be an appropriate compromise between covering as many entities as possible while remaining sensitive to the burden placed on smaller institutions. However, the proposed "de minimis" exception is too low. A more appropriate volume threshold would be 12 loans during the past 12 months for an employee (one loan per month) and for institutions 60 loans during the past 12 months (five loans per month) before coverage is triggered. This would accommodate the occasional agricultural customer whose financing needs include a home loan, but would not exclude from coverage mortgage loan originators or System lenders who routinely provide rural home financing.

While the purpose of the Registry is to serve the consumer protection purposes of the SAFE Act, requiring the home address, gender and date/place of birth information of the mortgage loan originators who register seems to go beyond what is necessary to protect consumers. The ability to maintain employment history and work contact information, along with the social security number, credit history, and criminal, civil and regulatory actions – all tied to the mortgage loan originator's name and unique identifier – should be more than sufficient to meet the goals as set forth in the SAFE Act. Further, given the amount and sensitivity of mortgage loan originator information that will be collected and stored by the Registry, we encourage the regulators to disclose what safeguards and protections will be in place to prevent the dissemination of the non-public portions of the data, including when and how such information can be accessed by the agencies.

Since the primary purpose of the legislation and accompanying proposed regulation is to ensure that consumers know who they are dealing with in regards to their home loan transactions, it would not seem appropriate to include modification of existing loans in coverage. Modifications typically involve a beneficial change to the borrower in loan terms or conditions, such as reductions in rate, payments, or principal. Similarly, loan restructuring or similar servicing actions implemented to assist the borrower in avoiding foreclosure are activities typically conducted outside by employees who specialize in servicing and special assets management. Thus, these employees should not be required to register as "originators" under the provisions of the SAFE Act.

In that same regard, the use of automated underwriting and separation of the marketing functions from the credit functions in some institutions may result in employees performing these functions but not being considered a "mortgage loan originator" under the two prong definition in the proposed rule. For example, a "loan officer" might solicit the business, make contact with the potential borrower, advise them on products and rates and then take an application. However, the credit decisioning (which would include the offering or negotiating of the terms of loan) might come from another individual such as an underwriter, lending department manager, branch manager or the like. As such, none of these employees would meet the definition of "mortgage loan originator" and therefore no one would be required to register. Additional clarification should be provided to ensure that institutions understand their compliance obligations in situations such as the one described above.

While we appreciate the proposed 180-day implementation period after the Registry becomes operational in order to complete the initial registration process, the rule should be flexible in order to permit each regulator the ability to grant additional time, if necessary, for their supervised institutions to complete the process should the Registry become backlogged or inundated with the anticipated large initial volume of registrations. Further, additional clarification should be provided on the anticipated time and costs involved in registering each covered employee so that institutions can plan accordingly.

Lastly, FCS institutions would benefit tremendously from model guidelines for policies and procedures as prepared by the FCA and other regulators. Not only would such models assist in offsetting the compliance cost of developing the same from scratch, but would also provide consistency across the Farm Credit System and ensure that institutions are in accord with the agency's position on the how these rules should be implemented.

AgFirst again wishes to thank FCA for the opportunity to have our comments heard on this important matter.

Sincerely,

Tom Welsh

Thomas S. Welsh
Executive Vice President