



| agstar.com

**Via Federal Express and E-Mail**

July 9, 2009

Farm Credit Administration  
[Reg-comm@fca.gov](mailto:Reg-comm@fca.gov)  
RIN 3052-AC52  
Gary K. Van Meter, Deputy Director  
Office of Regulatory Policy  
1501 Farm Credit Drive  
McLean, VA 22102-5090

Re: Registration of Mortgage Loan Originators.

Dear Mr. Van Meter:

AgStar Financial Services, ACA ("AgStar") appreciates the opportunity to comment on the Farm Credit Administration's ("FCA") proposed rule regarding a registration system for residential mortgage loan originators. These proposed rules are issued in conjunction with other "Agency-regulated institutions" in response to the S.A.F.E. Act provisions for a Nationwide Mortgage Licensing System and Registry ("Registry") that was published in the June 9, 2009 *Federal Register*.

AgStar, one of the nation's largest Farm Credit associations, is a member-owned cooperative and a part of the Farm Credit System ("System"). One of AgStar's main missions, and indeed the main mission of the entire System under the Farm Credit Act, is to support agriculture and rural America.

**General Comments**

As the FCA is aware, the System's total loan volume of residential mortgage loans is a small percentage of the total loan volume, yet it is an important segment as it provides portfolio diversification, and serves as an alternative, competitive source of credit to rural residents. The System is well aware of the circumstances, and the abuses by many mortgage originators, leading to Congress' adoption of the S.A.F.E. Act. At the same time, AgStar takes pride in the fact that System lenders did not engage in the practices that legislation now addresses. We recognize the need for additional safeguards, but encourage the Federal banking agencies to adopt regulations for all aspects of the Act that target the abusive practices that have occurred, and not burden lenders who only offer more standardized, traditional mortgage products. In general, AgStar supports the outline for the registration process in the proposed rule. As noted below, there are specific areas where we believe additional guidance or clarification is appropriate.

## Specific Comments

1. Sec. 101 – the “de minimis” exception is too low. AgStar believes a more appropriate threshold would be at least one loan a month for an individual (12 per year), and at least 60 loans per year for each institution. Also, an institution should be exempt from reporting if it does not meet the threshold for reporting for Reg C HMDA compliance. In calculating the number of loans made, loan modifications and assumptions, made after loan closing should not be included.
2. Sec. 102 –the definition of “residential mortgage loan” should be clarified to specifically exclude a contract for deed and a land contract utilized by an institution to sell an acquired property.
3. Sec. 102 – the definition of “mortgage loan originator” should be clarified. AgStar believes a great deal of confusion centers on the first prong of the definition of mortgage loan originator, regarding an individual who *“takes a residential mortgage loan application”*. The Appendix to Part 610 goes on to further state that this includes *“receiving information that is sufficient to determine whether the consumer qualifies for a loan, even if the employee has had no contact with the consumer and is not responsible for further verification of information.”* This definition could seemingly include all individuals who have contact with the mortgage loan application. The potential licensing of these individuals would not forward the goals of the Act. In order to reduce confusion, the first prong of the Mortgage loan originator definition should be eliminated.

If the definition of mortgage loan originator is changed to encompass just those individuals who are directly negotiating the loan terms and making loan offers to consumers, it would simultaneously reduce confusion and accomplish the goals of the Act. The offer/negotiation of loan terms is the point in time at which a consumer is most at risk. The licensing, monitoring, and disclosure of the individuals who have those discussions with consumers is paramount in making available to consumers information about the personnel having the most consequence in the loan process.

AgStar also supports placing in the Appendix to Part 610 a specific exemption for personnel who may have some involvement with the terms of a residential mortgage loan of the consumer for reasons related to the credit analysis function, servicing or underwriting of the loan, which would be distinct from the offer/negotiation. Loan modifications subsequent to closing, including those that would constitute a new extension of credit, should be included as a subset of servicing. Managing loans that are distressed or may be distressed, including restructuring and workouts of such loans, is a subset of servicing which we believe should be included in such an exemption as well.

AgStar proposes that the FCA make the following changes to the regulation:

- Change §610.102(b)(1) to read as follows:

Mortgage loan originator means an individual who:

- (i) Offers or negotiates directly with a consumer regarding the terms of a residential mortgage loan for compensation or gain.

- Change the Appendix to Part 610 by adding (b)(2)(vi) to read as follows:

Credit analysis, servicing and underwriting personnel

- Change the Appendix to Part 610 by removing (a)

Mortgage loan originator means an individual who:

- (i) Offers or negotiates directly with a consumer regarding the terms of a residential mortgage loan for compensation or gain.

These proposed changes would also reduce confusion that could exist through the use of automated scoring systems to approve loans. In some cases, electronic systems are used by institutions to receive applications, and the customer information is received prior to any “actual” contact with System personnel. Even at that point, the contact might be with someone functioning in a solely support capacity. As a possible alternative, in the event the institution receives an application through an electronic, or other automated system, the institution should be able to designate an employee as the “originator”, and communicate that to the customer in writing or an electronic response.

4. Registration or mortgage loan originations – 34.103. The proposed rule contemplates that a great deal of personal information will be collected on originators. AgStar encourages the banking agencies to disclose the safeguards used to prevent the disclosure of non-public information. We also urge that careful consideration be given to the breadth of the information collected. Access to employment information, work contact information, criminal, civil, and regulatory actions is appropriate. However, we question the relevance of birth data and similar information.
5. AgStar generally supports 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.
6. AgStar is unclear as to how the RSSD numbering system would be used for System institutions. Consideration should be given to using FCA’s existing numbering system as an alternative.
7. Finally, AgStar encourages all the banking agencies to develop model guidelines for policies and procedures. By providing illustrative models, the costs of both implementation and on-going maintenance would be reduced. In addition, the burden on examiners in monitoring compliance would be reduced as well.

AgStar appreciates this opportunity to provide comments on the proposed rule, and I would be happy to discuss any of these points with you.

If you have any questions, please feel free to contact me (952-997-1270).

Sincerely,

A handwritten signature in black ink that reads "Chrystal Donnell". The signature is written in a cursive style with a large, prominent initial "C".

Chrystal M. Donnell, Senior Attorney

'09 JUL 10 14:31:55