

PART 610 - REGISTRATION OF MORTGAGE LOAN ORIGINATORS

Authority: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 1.13, 2.2, 2.4, 2.12, 5.9, 5.17, 7.2, 7.6, 7.8 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2021, 2073, 2075, 2093, 2243, 2252, 2279a-2, 2279b, 2279c-10); and secs. 1501 et seq. of Pub. L. 110-289, 122 Stat. 2654.

§ 610.101 Authority, purpose, and scope.

(a) Authority. This part is issued pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008 (S.A.F.E. Act) (Pub. L. 110-289, 122 Stat. 2654, 12 U.S.C. 5101 et seq.).

(b) Purpose. This part implements the S.A.F.E. Act's Federal registration requirement for mortgage loan originators. The S.A.F.E. Act provides that the objectives of this registration include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of mortgage loan originators; enhancing consumer protections; supporting anti-fraud measures; and providing consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

(c) Scope.

(1) In general. This part applies to any Farm Credit System lending institution that actually originates residential mortgage loans pursuant to its authority under sections 1.9(3), 1.11, or 2.4(a) and (b) of the Farm Credit Act of 1971, as amended, and their employees who act as mortgage loan originators.

(2) De minimis exception.

(i) This part and the requirements of 12 U.S.C. 5103(a)(1)(A) and (2) of the S.A.F.E. Act do not apply to any employee of a Farm Credit System institution who has never been registered or licensed through the Registry as a mortgage loan originator if during the past 12 months the employee acted as a mortgage loan originator for 5 or fewer residential mortgage loans.

(ii) Prior to engaging in mortgage loan origination activity that exceeds the exception limit in paragraph (c)(2)(i) of this section, a Farm Credit System institution employee must register with the Registry pursuant to this part.

(iii) Evasion. Farm Credit System institutions are prohibited from engaging in any act or practice to evade the limits of the de minimis exception set forth in paragraph (c)(2)(i) of this section.

[75 FR 44700, July 28, 2010]

§ 610.102 Definitions.

For purposes of this part, the following definitions apply:

(a) Annual renewal period means November 1 through December 31 of each year.

(b)(1) Mortgage loan originator¹ means an individual who:

(i) Takes a residential mortgage loan application; and

(ii) Offers or negotiates terms of a residential mortgage loan for compensation or gain.

(2) The term mortgage loan originator does not include:

(i) An individual who performs purely administrative or clerical tasks on behalf of an individual who is described in paragraph (b)(1) of this section;

(ii) An individual who only performs real estate brokerage activities (as defined in 12 U.S.C. 5102(3)(D)) and is licensed or registered as a real estate broker in accordance with applicable State law, unless the individual is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, and meets the definition of mortgage loan originator in paragraph (b)(1) of this section; or

(iii) An individual or entity solely involved in extensions of credit related to timeshare plans, as that term is defined in 11 U.S.C. 101(53D).

(3) *Administrative or clerical tasks* means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the residential mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

(c) *Nationwide Mortgage Licensing System and Registry* or *Registry* means the system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed mortgage loan originators and the registration of mortgage loan originators pursuant to 12 U.S.C. 5107.

(d) *Registered mortgage loan originator* or *registrant* means any individual who:

(1) Meets the definition of mortgage loan originator and is an employee of a Farm Credit System institution; and

(2) Is registered pursuant to this part with, and maintains a unique identifier through, the Registry.

(e) *Residential mortgage loan* means any loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act, 15 U.S.C. 1602(v)) or residential real estate upon which is constructed or intended to be constructed a dwelling, and includes refinancings, reverse mortgages, home equity lines of credit and other first and additional lien loans that meet the qualifications listed in this definition. This definition does not amend or supersede § 613.3030(c) of this chapter.

(f) *Unique identifier* means a number or other identifier that:

(1) Permanently identifies a registered mortgage loan originator;

(2) Is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry, the Federal banking agencies, and the Farm Credit Administration to facilitate:

(i) Electronic tracking of mortgage loan originators; and

(ii) Uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against mortgage loan originators; and

(3) Must not be used for purposes other than those set forth under the S.A.F.E. Act.

¹ Appendix A of this part provides examples of activities that would, and would not, cause an employee to fall within this definition of mortgage loan originator.

[75 FR 44700, July 28, 2010]

§ 610.103 Registration of mortgage loan originators.

(a) *Registration requirement.*

(1) *Employee registration.* Each employee of a Farm Credit System institution who acts as a mortgage loan originator must register with the Registry, obtain a unique identifier, and maintain this registration in accordance with the requirements of this part. Any such employee who is not in compliance with the registration and unique identifier requirements set forth in this part is in violation of the S.A.F.E. Act and this part.

(2) *Farm Credit System institution requirement.*

(i) *In general.* A Farm Credit System institution that employs one or more individuals who act as a residential mortgage loan originator must require each such employee to register with the Registry, maintain this registration, and obtain a unique identifier in accordance with the requirements of this part.

(ii) *Prohibition.* A Farm Credit System institution must not permit an employee who is subject to the registration requirements of this part to act as a mortgage loan originator for the Farm Credit System institution unless such employee is registered with the Registry pursuant to this part.

(3) *Implementation period for initial registration.* An employee of a Farm Credit System institution who is a mortgage loan originator must complete an initial registration with the Registry pursuant to this part within 180 days from the date that the Farm Credit Administration provides in a public notice that the Registry is accepting registrations.

(4) *Employees previously registered or licensed through the Registry.*

(i) *In general.* If an employee of a Farm Credit System institution was registered or licensed through, and obtained a unique identifier from, the Registry and has maintained this registration or license before the employee becomes subject to this part at this Farm Credit System institution, then the registration requirements of the S.A.F.E. Act and this part are deemed to be met, provided that:

(A) The employment information in paragraphs (d)(1)(i)(C) and (d)(1)(ii) of this section is updated and the requirements of paragraph (d)(2) of this section are met;

(B) New fingerprints of the employee are submitted to the Registry for a background check, as required by paragraph (d)(1)(ix) of this section, unless the employee has fingerprints on file with the Registry that are less than 3 years old;

(C) The Farm Credit System institution information required in paragraphs (e)(1)(i) (to the extent the Farm Credit System institution has not previously met these requirements) and (e)(2)(i) of this section is submitted to the Registry; and

(D) The registration is maintained pursuant to paragraphs (b) and (e)(1)(ii) of this section, as of the date that the employee becomes subject to this part.

(ii) *Rule for certain acquisitions, mergers, or reorganizations.* When registered or licensed mortgage loan originators become employees of another Farm Credit System institution as a result of a consolidation, merger, or reorganization, only the requirements of paragraphs (a)(4)(i)(A), (C), and (D) of this section must be met, and these requirements must be met within 60 days from the effective date of the consolidation, merger, or reorganization.

(b) *Maintaining registration.*

(1) A mortgage loan originator who is registered with the Registry pursuant to paragraph (a) of this section must:

(i) Except as provided in paragraph (b)(3) of this section, renew the registration during the annual renewal period, confirming the responses set forth in paragraphs (d)(1)(i) through (viii) of this section remain accurate and complete, and updating this information, as appropriate; and

(ii) Update the registration within 30 days of any of the following events:

(A) A change in the name of the registrant;

(B) The registrant ceases to be an employee of the Farm Credit System institution; or

(C) The information required under paragraphs (d)(1)(iii) through (viii) of this section becomes inaccurate, incomplete, or out-of-date.

(2) A registered mortgage loan originator must maintain his or her registration, unless the individual is no longer engaged in the activity of a mortgage loan originator.

(3) The annual registration renewal requirement set forth in paragraph (b)(1) of this section does not apply to a registered mortgage loan originator who has completed his or her registration with the Registry pursuant to paragraph (a)(1) of this section less than 6 months prior to the end of the annual renewal period.

(c) *Effective dates.*

(1) *Registration.* A registration pursuant to paragraph (a)(1) of this section is effective on the date the Registry transmits notification to the registrant that the registrant is registered.

(2) *Renewals or updates.* A renewal or update pursuant to paragraph (b) of this section is effective on the date the Registry transmits notification to the registrant that the registration has been renewed or updated.

(d) *Required employee information.*

(1) *In general.* For purposes of the registration required by this section, a Farm Credit System institution must require each employee who is a mortgage loan originator to submit to the Registry, or must submit on behalf of the employee, the following categories of information, to the extent this information is collected by the Registry:

- (i)** Identifying information, including the employee's:
 - (A)** Name and any other names used;
 - (B)** Home address and contact information;
 - (C)** Principal business location address and business contact information;
 - (D)** Social security number;
 - (E)** Gender; and
 - (F)** Date and place of birth;
- (ii)** Financial services-related employment history for the 10 years prior to the date of registration or renewal, including the date the employee became an employee of the Farm Credit System institution;
- (iii)** Convictions of any criminal offense involving dishonesty, breach of trust, or money laundering against the employee or organizations controlled by the employee, or agreements to enter into a pretrial diversion or similar program in connection with the prosecution for such offense(s);
- (iv)** Civil judicial actions against the employee in connection with financial services-related activities, dismissals with settlements, or judicial findings that the employee violated financial services-related statutes or regulations, except for actions dismissed without a settlement agreement;
- (v)** Actions or orders by a State or Federal regulatory agency or foreign financial regulatory authority that:
 - (A)** Found the employee to have made a false statement or omission or been dishonest, unfair or unethical; to have been involved in a violation of a financial services-related regulation or statute; or to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked, or restricted;
 - (B)** Are entered against the employee in connection with a financial services-related activity;
 - (C)** Denied, suspended, or revoked the employee's registration or license to engage in a financial services-related activity; disciplined the employee or otherwise by order prevented the employee from associating with a financial services-related business or restricted the employee's activities; or
 - (D)** Barred the employee from association with an entity or its officers regulated by the agency or authority or from engaging in a financial services-related business;
- (vi)** Final orders issued by a State or Federal regulatory agency or foreign financial regulatory authority based on violations of any law or regulation that prohibits fraudulent, manipulative, or deceptive conduct;
- (vii)** Revocation or suspension of the employee's authorization to act as an attorney, accountant, or State or Federal contractor;
- (viii)** Customer-initiated financial services-related arbitration or civil action against the employee that required action, including settlements, or which resulted in a judgment; and
- (ix)** Fingerprints of the employee, in digital form if practicable, and any appropriate identifying information for submission to the Federal Bureau of Investigation and any governmental agency or entity authorized to receive such information in connection with a State and national criminal history background check; however, fingerprints provided to the Registry that are less than 3 years old may be used to satisfy this requirement.

(2) *Employee authorizations and attestation.* An employee registering as a mortgage loan originator or renewing or updating his or her registration under this part, and not the employing Farm Credit System institution or other employees of the Farm Credit System institution, must:

- (i)** Authorize the Registry and the employing institution to obtain information related to sanctions or findings in any administrative, civil, or criminal action, to which the employee is a party, made by any governmental jurisdiction;

(ii) Attest to the correctness of all information required by paragraph (d) of this section, whether submitted by the employee or on behalf of the employee by the employing Farm Credit System institution; and

(iii) Authorize the Registry to make available to the public information required by paragraphs (d)(1)(i)(A) and (C), and (d)(1)(ii) through (viii) of this section.

(3) *Submission of information.* A Farm Credit System institution may identify one or more employees of the Farm Credit System institution who may submit the information required by paragraph (d)(1) of this section to the Registry on behalf of the Farm Credit System institution's employees provided that this individual, and any employee delegated such authority, does not act as a mortgage loan originator, consistent with paragraph (e)(1)(i)(F) of this section. In addition, a Farm Credit System institution may submit to the Registry some or all of the information required by paragraphs (d)(1) and (e)(2) of this section for multiple employees in bulk through batch processing in a format to be specified by the Registry, to the extent such batch processing is made available by the Registry.

(e) *Required Farm Credit System institution information.* A Farm Credit System institution must submit the following categories of information to the Registry:

(1) *Farm Credit System institution record.*

(i) In connection with the registration of one or more mortgage loan originators:

(A) Name, main office address, and business contact information;

(B) Internal Revenue Service Employer Tax Identification Number (EIN);

(C) Research Statistics Supervision and Discount (RSSD) number, as issued by the Board of Governors of the Federal Reserve System;

(D) Identification of its primary Federal regulator;

(E) Name(s) and contact information of the individual(s) with authority to act as the Farm Credit System institution's primary point of contact for the Registry;

(F) Name(s) and contact information of the individual(s) with authority to enter the information required by paragraphs (d)(1) and (e) of this section to the Registry and who may delegate this authority to other individuals. For the purpose of providing information required by paragraph (e) of this section, this individual and their delegates must not act as mortgage loan originators unless the Farm Credit System institution has 10 or fewer full time or equivalent employees and is not a subsidiary; and

(G) If an operating subsidiary of an agricultural credit association, indication that it is a subsidiary and the RSSD number of the parent agricultural credit association.

(ii) *Attestation.* The individual(s) identified in paragraphs (e)(1)(i)(E) and (F) of this section must comply with Registry protocols to verify their identity and must attest that they have the authority to enter data on behalf of the Farm Credit System institution, that the information provided to the Registry pursuant to this paragraph (e) is correct, and that the Farm Credit System institution will keep the information required by this paragraph (e) current and will file accurate supplementary information on a timely basis.

(iii) A Farm Credit System institution must update the information required by this paragraph (e) of this section within 30 days of the date that this information becomes inaccurate.

(iv) A Farm Credit System institution must renew the information required by paragraph (e) of this section on an annual basis.

(2) *Employee information.* In connection with the registration of each employee who acts as a mortgage loan originator:

(i) After the information required by paragraph (d) of this section has been submitted to the Registry, confirmation that it employs the registrant; and

(ii) Within 30 days of the date the registrant ceases to be an employee of the Farm Credit System institution, notification that it no longer employs the registrant and the date the registrant ceased being an employee.

[75 FR 44701, July 28, 2010]

§ 610.104 Policies and procedures.

A Farm Credit System institution that employs one or more mortgage loan originators must adopt and follow written policies and procedures designed to assure compliance with this part. These policies and procedures must be appropriate to the nature, size, complexity, and scope of the mortgage lending activities of the Farm Credit System institution, and apply only to those employees acting within the scope of their employment at the Farm Credit System institution. At a minimum, these policies and procedures must:

- (a) Establish a process for identifying which employees of the Farm Credit System institution are required to be registered mortgage loan originators;
- (b) Require that all employees of the Farm Credit System institution who are mortgage loan originators be informed of the registration requirements of the S.A.F.E. Act and this part and be instructed on how to comply with such requirements and procedures;
- (c) Establish procedures to comply with the unique identifier requirements in [§ 610.105](#);
- (d) Establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records;
- (e) Establish reasonable procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures;
- (f) Provide for independent testing for compliance with this part to be conducted at least annually by Farm Credit System institution personnel or by an outside party;
- (g) Provide for appropriate action in the case of any employee who fails to comply with the registration requirements of the S.A.F.E. Act, this part, or the Farm Credit System institution's related policies and procedures, including prohibiting such employees from acting as mortgage loan originators or other appropriate disciplinary actions;
- (h) Establish a process for reviewing employee criminal history background reports received pursuant to this part, taking appropriate action consistent with applicable Federal law, including section 5.65(d) of the Farm Credit Act of 1971, as amended, 12 U.S.C. 2277a-14(d) and implementing regulations with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees; and
- (i) Establish procedures designed to ensure that any third party with which the Farm Credit System institution has arrangements related to mortgage loan origination has policies and procedures to comply with the S.A.F.E. Act, including appropriate licensing and/or registration of individuals acting as mortgage loan originators.

[75 FR 44703, July 28, 2010]

§ 610.105 Use of unique identifier.

- (a) The Farm Credit System institution shall make the unique identifier(s) of its registered mortgage loan originator(s) available to consumers in a manner and method practicable to the institution.
- (b) A registered mortgage loan originator shall provide his or her unique identifier to a consumer:
 - (1) Upon request;
 - (2) Before acting as a mortgage loan originator; and
 - (3) Through the originator's initial written communication with a consumer, if any, whether on paper or electronically.

[75 FR 44703, July 28, 2010]