

Advocacy Submits Comments on the Joint Proposed Rulemaking on Registration of Mortgage Loan Originators

On July 9, 2009, the Office of Advocacy of the U.S. Small Business Administration (Advocacy) submitted a comment on the proposed rulemaking on Registration of Mortgage Loan Originators. The proposal is a joint rulemaking of the Office of Comptroller of the Currency, the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, Farm Credit Administration and National Credit Union Administration (hereinafter collectively “the Agencies”). A copy of Advocacy’s comments can be found at www.sba.gov/advo/laws/comments.

- The proposed rule implements the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act). The S.A.F.E. Act requires an employee of a bank, savings association, credit union or other depository institution and their subsidiaries who acts as a residential mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry. It also requires financial institutions to require their employees who act as residential mortgage loan originators to comply with the S.A.F.E. Act’s requirements to register and obtain a unique identifier. Agency-regulated institutions must adopt and follow written policies and procedures to assure compliance.
- Advocacy expressed concerns that the agencies may have underestimated the economic burden of the proposal.
- The proposal provides for a *de minimus* exception, which the agencies defined as being a financial institution processing less than 25 mortgages per year in the aggregate. Advocacy stated that the Agencies are defining *de minimus* in an extremely restrictive manner. As such, this rule may be unduly burdensome on small community banks that had little to do with the recent problems in the mortgage industry. Advocacy encouraged the agencies to work with representatives from small financial institution industry to develop a better definition.
- The proposal provides a grace period for initial registrations for 180 days from the date that the agencies provide public notice that the Registry is accepting initial registrations. Advocacy recommends that the agencies expand the time period for compliance to at least one year to provide small financial institutions with the additional time that is needed to register employees, develop compliance polices, and make any other necessary changes.

For more information, visit Advocacy’s webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.