

Mortgage Regulation

NEWS

Oregon Division of Finance & Corporate Securities

Winter 2009

Administrator's message



David Tatman

As another year ends, it's a great opportunity for us to take the time to reflect on what we've accomplished and think about where we are going. The past year brought

significant changes to the national and state economies, to the mortgage industry, and to the Division of Finance and Corporate Securities (DFCS). For the mortgage industry, change seems to be the only constant lately as we have seen significant changes in the number of licensees, the regulations that affect them, and the lending environment as a whole. These are challenging times as we transition through significant economic fluctuations. Unemployment and large decreases in housing values have been a double-barreled hit to the Oregon economy. Within DFCS, in addition to the reduction in licensing numbers, we had several banks fail for the first time in more than 20 years.

Since the beginning of the year, DFCS has seen a 23.4 percent decline in the number of licensed companies. As of Sept. 30, there are 893 licensed companies. The number of loan originators registered in Oregon has dropped to just over 5,000 – representing a 14 percent decline this year alone. Looking forward, we think those numbers could continue to decline further in 2010 as the financial markets find a new equilibrium in the wake of the continuing recession and changing regulations and lending standards.

This year has seen significant changes to legislation and regulation, such as the implementation of the Mortgage Disclosure Improvement Act and all 50 states racing to pass legislation to implement the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (the SAFE Act). The SAFE Act requires that loan originators of financial institutions be registered in a national database. It also requires that all states adopt laws by July 31, 2009, to license mortgage loan originators employed by companies that are not financial institutions and then have the licensing system in place by July 31, 2010. The SAFE Act set minimum standards that states must use for licensing. Those minimum standards include a surety bond scaled to the dollar volume of loan originations, criminal records check based on fingerprints, demonstrated financial responsibility, and minimum education and testing requirements for all mortgage loan originators.

For Oregon, our SAFE-compliant legislation came in the shape of HB 2189, which will go into effect in 2010. HB 2189 requires the division to begin licensing loan originators in compliance with the requirements of the SAFE Act and to use the Nationwide Mortgage Licensing System and Registry (NMLSR) as our database for licensing mortgage companies and loan originators. We are currently in the rulemaking process to adopt rules to implement HB 2189. The proposed rules were recently mailed to all licensees and are available on our Web site at <http://www.oregondfcs.org/rulestat.html>.

Continued on Page 2

Inside this issue

License transition	3
Licensing fees	3
Surety bond changes.....	4
Mortgage loan originator licensing	5
State office closures	5
Who can I contact with questions?.....	6
Application/renewal freeze..	8
Loan originators at CUSOs and companies licensed under the consumer finance license	9
Loan originators of national banks and credit unions.....	9



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Administrator's message, continued

The hearing on the rules will be held on Dec. 15, 2009, at 9 a.m. in Room 260 of the Labor and Industries Building in Salem. We expect the final rules to be in place in January 2010.

In this newsletter, there are a number of articles explaining:

- How we will transition our licensed companies onto the NMLSR
- Changes to the surety bond requirements
- When and how loan originators may apply for their individual mortgage loan originator licenses
- How we are converting from multi-year licenses based upon the license anniversary date to annual calendar-year based licensing
- How we are transitioning our existing education and testing system to the new SAFE-compliant education

The legislature also passed HB 2188, which addresses lending practices in Oregon with regard to negative amortization loans and for loans solicited and negotiated in a language other than English. First, HB 2188 prohibits making a negative amortization loan, unless the lender has verified the borrower's ability to repay the loan or the loan contains a prepayment penalty of more than 24 months. In addition, mortgage lenders may not collect a prepayment penalty for refinancing a consumer out of one negative amortization loan into a new negative amortization loan. Excluded from the neg-am prohibitions are reverse mortgages, bridge loans, loans of \$50,000 or less with a combined loan-to-value of 50 percent or less, or HELOCs.

The second part of HB 2188 applies if a lender solicits or advertises a mortgage in a language other than English and then negotiates the loan in that other language. In such cases, the lender must provide the consumer with a copy of the federal good faith estimate, federal Truth in Lending disclosure, and a notice that loan documents will still be in English and the borrower is advised to obtain assistance with any necessary translations. DFCS will provide these documents in the three most commonly spoken languages other than English, which are Spanish, Russian, and Vietnamese. These translations must be used with loan transactions beginning Jan. 1, 2010. We will be posting the translated documents to our Web site prior to this deadline.

It's been a year of many changes. The coming year promises more of the same, with the huge changes to licensing we've been working on finally going into effect here in Oregon and across the nation. This is happening at the same time as the implementation of RESPA and TILA changes, a new good faith estimate form, and new disclosure requirements for certain higher-cost loans. We appreciate the support and cooperation the mortgage industry has given us to help Oregon implement the SAFE Act and hope that the rest of this newsletter provides you with the information your company and loan originators need to transition to this new system. ■

License transition

Implementation Update

Nationwide Mortgage Licensing System and Registry (NMLSR)

The Oregon Division of Finance and Corporate Securities (DFCS) is in the process of implementing HB 2189 (2009 Legislature) to comply with the federal Secure and Fair Enforcement for Mortgage Licensing Act (the SAFE Act). DFCS will begin using the Nationwide Mortgage Licensing System and Registry (NMLSR) in 2010 to license mortgage bankers, mortgage brokers, and mortgage loan originators. The Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) developed the NMLSR, which allows companies to manage their mortgage licenses electronically through a secure Web site. Oregon intends to use a two-step process for transitioning to the NMLSR – first transitioning mortgage brokering and mortgage banking companies onto the system between Jan. 4, 2010, and March 31, 2010, then beginning to take applications for individuals to be licensed as mortgage loan originators beginning April 1, 2010. This two-step process ensures companies are on the system when loan originators begin applying for their licenses.

Oregon's transition plan

Oregon will stop accepting license applications in paper form or through our current online system at www.oregonimla.org effective **Dec. 18, 2009**, in order to transition to the NMLSR system. On Jan. 4, 2010, DFCS will begin using the NMLSR. All licensing applications must be submitted electronically through the NMLSR. Each company holding an Oregon mortgage banker or mortgage broker license will be required to create a company record (Form MU1) in the NMLSR and one for each branch location (Form MU3), and to electronically submit these to the NMLSR. For currently licensed mortgage bankers and mortgage brokers, these applications may be submitted beginning on Jan. 4, 2010, and must be completed by March 31, 2010.

The SAFE Act also requires mortgage loan originators to obtain a mortgage loan originator license in order to originate a residential mortgage loan in Oregon after July 31, 2010. The mortgage loan originator will apply for the license using the NMLSR system and must meet certain minimum requirements set by the SAFE Act.

Accessing NMLSR for the first time

In order to begin using NMLSR, currently licensed Oregon mortgage brokers and mortgage bankers must complete a *Company Account Request Form* and identify a *Primary Account Administrator* and a *Secondary Account Administrator*. Companies will submit this form electronically through the NMLSR Web site in the "Getting Started" section. (NOTE: A company that has already requested and been given an account number, and is participating in the system to do mortgage lending in another state, does not have to resubmit these forms. They are only submitted once for each company and will cover their activities in all states. A company will only have to identify the appropriate license type for Oregon and complete a few state-specific fields.) After completing and submitting the *Company Account Request Form*, the *Primary Account Administrator* will receive login information within three business days. This will give full rights to access NMLSR, submit information to DFCS and other participating state mortgage regulators, and set-up access for other users within the company.

Because Oregon is changing from a two-year license, based on the company's license anniversary date, to a one-year calendar-based license, some companies will need to apply for a license during the state's transition to NMLSR while other companies will simply transition their licenses. If a company's license expires between Jan. 1, 2010, and June 30, 2010, the company will apply for a license through the NMLSR between Jan. 4, 2010, and March 31, 2010. If the company's

Continued on Page 4

Licensing fees

The division has completed a rulemaking to change our licensing fees and set the new loan originator licensing application fee.

Effective Jan. 1, 2010, the licensing fee for a company seeking a new mortgage banker or broker license will be \$1,100. The cost to renew a company's license will be \$550 per year. A new branch license will cost \$500 while the cost to renew a branch license will be \$250. The new loan originator license application fee will be \$100 for the initial license and to renew the license. ■

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Surety bond changes

The SAFE Act requires that each licensed mortgage loan originator be covered by a surety bond scaled upon the dollar volume of loans originated. While Oregon currently has a surety bond requirement, it is based upon locations licensed, not dollar volume of loans originated. Therefore, we are required to change the surety bond amounts and are currently researching this issue. We expect to require the updated bonds no earlier than July 31, 2010, but possibly as part of the company license renewal process in November 2010. We expect to put forth a proposed administrative rule in the next month or so. We will post updates to our Web site as soon as this information is available. ■

License transition, continued

license expires on or after July 1, 2010, the company still needs to transition its license onto NMLSR during this same period in early 2010.

NMLSR Forms and Fees

After getting access to NMLSR, current mortgage bankers and mortgage brokers licensed in Oregon will need to submit the following uniform mortgage applications (“MU Forms”) to NMLSR by March 31, 2010. (Instructions and tutorials on how to complete these forms are available online on the NMLSR Web site.)

- Licensed companies submit **Form MU1**.
- Companies submit a **Form MU2** for each *Control Person* (such as an executive officer, experience person, any person directly or indirectly owning 10 percent or more of the company, and branch manager) as part of their Form MU1 filing.
- Companies submit a **Form MU3** for each *Licensed Branch*.

Mortgage bankers and mortgage brokers may begin completing these forms prior to Jan. 4, 2010, but will not be able to submit them to NMLSR for Oregon until that date. *These must be submitted by March 31, 2010.* On April 1, 2010, NMLSR will no longer permit a company to request transition for its license. If a transition request is not submitted during this period, the mortgage banker or mortgage broker must apply for a new license through the NMLSR and pay the regular licensing fee. These license applications will be processed, but DFCS cannot guarantee that it will be processed in time to ensure continuous license coverage. If mortgage bankers or mortgage brokers conduct business during a period in which they are not licensed, they will be subject to civil penalties.

For companies transitioning an existing license onto NMLSR, the system charges a one-time \$100 system processing fee per company license per state, and \$20 fee per licensed branch location. Applicants will pay these fees electronically, through NMLSR.

Going forward, NMLSR charges an annual processing fee of \$100 per company license, \$20 per licensed branch location, \$30 per mortgage loan originator license, and \$30 each time a mortgage loan originator changes employment.

These processing fees pay for NMLSR operations, including licensee access to the system 362 days per year; ability to maintain, renew, and run reports on licenses; and call center support.

NMLSR Training

There is a training workshop audio program and webinar, conducted by the operators of the NMLSR on Dec. 9, 2009, from 11 a.m. to 12:30 p.m. (PDT). This webinar will provide licensees with tips on transitioning to NMLSR. The fee for this workshop is \$75. Registration information is available at <http://mortgage.nationwidelicingsystem.org/news/events/Pages/CompanyBasicsWorkshop.aspx>.

This training will explain how to establish account administrators and other users for a company account; how to navigate the system to complete Forms MU1, MU2, MU3, and MU4; workflows to most efficiently transition onto NMLSR; and the tools that NMLSR provides licensees.

NMLSR Website

Information on NMLSR, including instructions and tutorials on how to access and use the system, are available on the Web site: www.stateregulatoryregistry.org/NMLSR.

The site provides step-by-step instructions on how to access the system, guides on how to complete the application forms, the transition plans for each state, tutorials, current and future participating states, system alerts, system processing fees, and general background information.

There are also links to NMLSR and Oregon-specific information, including a copy of Oregon’s transition plan, on the DFCS Web site: <http://dfcs.oregon.gov/nmls.html>. ■

Mortgage loan originator licensing

As of Aug. 1, 2010, any person who wants to originate an Oregon residential mortgage loan must have a loan originator license. Beginning on April 1, 2010, a mortgage loan originator may begin applying for an Oregon mortgage loan originator license through NMLSR. **Applicants must submit required information by May 31, 2010**, in order to have the applications processed by July 31, 2010. (NOTE: Depending on the number of mortgage loan originators applying for licensure in early 2010, DFCS may choose to issue an interim mortgage loan originator license pending regular license approval.) Applicants for a mortgage loan originator license will apply for licenses through NMLSR using a **Form MU4**.

The requirements to obtain a loan originator license in Oregon are:

- Submission of fingerprints for an FBI criminal background check
- Pass criminal background check
- Authorize credit report
- Demonstrate financial responsibility
- Complete 20 hours of pre-licensure education
- Pass a state examination
- Pass the SAFE test (national test)
- Evidence of surety bond coverage
- Complete licensing application (MU4) through NMLSR

These requirements cover four areas: criminal records requirements, financial responsibility, testing and education, and the process.

Criminal records requirements

The SAFE Act prohibits a state from issuing a loan originator license to any person who has been convicted of: 1) a felony involving an act of fraud, dishonesty, or a breach of trust, or money laundering at any time, or 2) any felony within the past seven years. Therefore, as part of the licensing process, applicants will need to have fingerprints taken

through an NMLSR-authorized vendor and submitted to the FBI for a criminal background check. Even if an applicant has had fingerprints taken before, they need to be taken again and submitted under this new system. We do not yet have all the details, including the name of the NMLSR-authorized vendor or its locations. We will post updates to our Web site as soon as this information is available.

In the past, Oregon's rules prohibited a person from acting as a loan originator if the person had a felony conviction or certain misdemeanor convictions, such as theft. If a loan originator had one of these disqualifying convictions, an employer could ask for a "no action" letter in which DFCS agreed to allow a person to continue working as a loan originator despite the disqualifying conviction. Typically, such people were granted an exception when a conviction was fairly old. However, the SAFE Act does not allow DFCS the discretion to grant such waivers. If an applicant has received a waiver ("no action" letter), it expires on July 31, 2010. In order to continue to originate after July 31, 2010, this applicant will need to apply for, and be granted, a mortgage loan originator license. Applicants who have been convicted of a felony involving an act of fraud, dishonesty, or a breach of trust, or money laundering at any time, or any felony within the past seven years, will not be granted a license.

Financial responsibility

In addition to submitting fingerprints and an FBI criminal background check, mortgage loan originator applicants will also need to authorize the NMLSR to pull a credit report. DFCS staff will review the credit report to determine if the applicant has demonstrated financial responsibility. The factors DFCS will review are being developed in administrative rule, but are likely to include consideration of a pending

Continued on Page 6

State office closures

The current recession has reduced state revenues, and has forced the Legislature to make deep cuts in agency budgets. Coping with these cuts requires closing most state offices and facilities on 10 specific days during the 2009-2011 biennium. State workers affected by the closures will take unpaid furloughs on those days. We apologize for any inconvenience these closures might cause, and we look forward to restoration of a full work schedule for all state agencies when the economy improves.

The remaining closure days are:

2010

- Friday, March 19
- Friday, April 16
- Friday, June 18
- Friday, August 20
- Friday, Sept. 17
- Friday, Nov. 26

2011

- Friday, March 18
- Friday, May 20

Who can I contact with questions?

If you have questions, please contact one of the licensing examiners, who are assigned to licensees based upon the company name A-Z.

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Mortgage loan originator licensing, continued

bankruptcy or bankruptcy completed within the past five years, a foreclosure within the past three years, an outstanding government lien, any unpaid judgments, or a pattern of seriously delinquent accounts in the past three years. If a credit report discloses one or more of those factors, an applicant will be required to submit information confirming the validity of this information, the circumstances of the problems, and steps taken to address them.

We understand that many mortgage loan originators are having financial difficulties as a result of the change in the market. We want to have adequate information to determine what has caused the financial difficulty and the steps being taken to address it. We will consider mitigating factors, such as illness, death, divorce, and job loss.

Testing and education

In addition to the criminal records check and credit report, applicants will need to show that they have completed 20 hours of pre-licensure education and passed both a state test and the SAFE national test in order to obtain a license. Since Oregon has had education and testing for several years, we will be able to certify that any person who has taken at least 20 hours of MLEB-approved education since Jan. 31, 2002, meets these pre-licensure education requirements. Applicants who have not completed 20 hours of MLEB-approved education since 2002, will have until Dec. 31, 2009, to take the necessary courses. Applicants who do not finish the 20 hours of MLEB-approved education by Dec. 31, 2009, would have to instead take a pre-licensure education approved by NMLSR before applying for a mortgage loan originator license.

Every applicant for a mortgage loan originator license must pass a state test. Oregon currently requires all entry-level loan originators to take a state test administered by Applied Measurement

Professionals (AMP). This test will be considered to be sufficient to meet the SAFE Act requirements. Applicants who have not passed the AMP test will need to do so before applying for an Oregon mortgage loan originator license. This includes those grandfathered into Oregon's existing education requirements and those who took the CompUSA/Cerebra test. Registration for the test is at www.goamp.com.

Finally, all applicants must pass the SAFE national test that was developed this past summer. Applicants may enroll to take a test through the NMLSR Web site.

The process

Beginning April 1, 2010, applicants may submit their Form MU4 applications for a mortgage loan originator license in Oregon, demonstrating that they have met all of the requirements. (NOTE: A loan originator that has already requested and been given an account number, and is participating in the system to do mortgage lending in another state, will only have to identify the appropriate license type for Oregon and complete a few state-specific fields.) Applications are due by May 31, 2010, in order for DFCS to review and approve the license prior to the Aug. 1, 2010, deadline.

It is possible that pieces of the process won't be in place in time to issue a license by the Aug. 1, 2010, deadline, such as the criminal records check may not be back from the FBI. If that is the case, Oregon intends to issue interim licenses allowing the person to act as a loan originator pending the receipt of the criminal background check. However, any person who fails to submit an application for a mortgage loan originator license by May 31, 2010, will not be issued an interim license.

Along with the criminal background check, financial responsibility, and education and testing, the SAFE Act

Continued on Page 7

requires that all licensed mortgage loan originators in Oregon be covered by a surety bond. Generally, the company (employer's) bond can be used to cover mortgage loan originators so most loan originators in Oregon won't need to do anything. However, the handful of

mortgage loan originators who work for a company that is exempt from licensure in Oregon, such as a law firm, will have to personally provide a surety bond that covers the volume of Oregon loan originations if their company does not elect to provide it for them.

NMLSR Transition Timeline

The chart below contains the important dates regarding Oregon's transition to NMLSR and the changes to licensing at a glance. DFCS will post updated versions on the Web site as necessary. ■

Date	Event
July 2009	NMLSR SAFE test becomes available. All loan originators must pass this test before obtaining a license.
Oct. 1, 2009	Oregon AMP test becomes available to all loan originators regardless of whether they have completed entry-level education. All loan originators must pass this test before obtaining a license.
Dec. 18, 2009	Oregon stops accepting any paper applications or license applications in www.oregonimla.org .
Dec. 31, 2009	Last day to complete entry-level education courses approved by Oregon MLEB. In addition, it is also the deadline to complete MLEB courses for certification toward the pre-licensure education requirement.
Jan. 1, 2010	Entry-level education courses must be NMLSR-approved. <i>MLEB-approved entry-level courses are no longer accepted.</i>
Jan. 4, 2010	Oregon begins accepting company license applications or transitions of company licenses in NMLSR.
March 31, 2010	Transition period for company licenses ends in Oregon. Annual reports for 2009 are due.
April 1, 2010	Loan originators may begin applying for Oregon mortgage loan originator licenses in the NMLSR.
May 31, 2010	All applications for an Oregon mortgage loan originator license must be submitted if the applicant wants to have a license decision by July 31, 2010
July 31, 2010	Oregon issues first loan originator licenses.
Aug. 1, 2010	Originating a loan in Oregon without a loan originator license is prohibited.
Nov. 1, 2010	First license renewal period opens in Oregon. Companies must increase surety bonds to levels based upon previous year's dollar volume of Oregon loan originations.
Dec. 1, 2010	Oregon license renewal applications are due. Any applications submitted after this date are subject to the late renewal fee and may not be reviewed in time to issue a renewal license before Jan. 1, 2011.
Dec. 31, 2010	Last day that Oregon MLEB-approved continuing education courses are valid.
Jan. 1, 2011	Only NMLSR-approved education courses are valid in Oregon.

Application/renewal freeze

In order for DFCS to transition to the NMLSR in 2010, DFCS must freeze our data on existing licensing data to be able to share it with the NMLSR. **This will mean that DFCS will not accept any new, renewal, or branch applications, or requests for changes to existing licenses between Dec. 18, 2009, and Jan. 3, 2010.** This will allow us to complete pending applications that are received on or before Dec. 17, 2009, and have them included in the NMLSR.

Beginning Jan. 4, 2010, the only method for a new company to apply for a mortgage lender license or for existing licensees to make changes to their license (other than for a notification of a loan originator change) will be through the NMLSR at www.stateregulatoryregistry.org/NMLS/. DFCS will no longer accept paper forms or licensing applications submitted through the online system (www.oregonimla.org).

Between Jan. 4, 2010, and July 31, 2010, mortgage bankers and mortgage brokers must continue to provide notification of the hire or termination of a loan originator within 30 days. Licensees can file this information through either the online system at www.oregonimla.org or using the paper forms found at <http://www.oregondfcs.org/forms.html#mortgage>. As of Aug. 1, 2010, licensees will all loan originator notifications will be made through NMLSR. ■

LICENSE CHANGES FOR MORTGAGE BANKERS AND MORTGAGE BROKERS

When	What system do I use?
Prior to Dec. 18, 2009	www.oregonimla.org , paper forms
Dec. 18, 2009, through Jan. 3, 2010	No changes can be submitted
Jan. 4, 2010, or later	NMLSR

LOAN ORIGINATOR NOTIFICATIONS

When	What system do I use?
Prior to Dec. 18, 2009	www.oregonimla.org , paper forms
Dec. 18, 2009, through Jan. 3, 2010	No changes can be submitted
Jan. 4, 2010, through July 31, 2010	www.oregonimla.org , paper forms
Aug. 1, 2010, or later	NMLSR

Loan originators at CUSOs and companies licensed under the consumer finance license

The SAFE Act requires that mortgage loan originators working for CUSOs and for consumer finance licensees be licensed as mortgage loan originators just the same as those working for licensed mortgage brokers or bankers. These mortgage loan originators are expected to complete all the requirements for a mortgage loan

originator license and submit an application through the NMLSR when it opens on April 1, 2010. Applications are due by May 31, 2010. The loan originator will be required to provide a surety bond if the CUSO or consumer finance company does not. For more information about mortgage loan originator licensing requirements,

please see the Loan Originator Licensing article in this newsletter. No mortgage loan originator for a CUSO or consumer finance licensee may take an application for an Oregon residential mortgage loan on or after Aug. 1, 2010, without having an Oregon mortgage loan originator license. ■

Loan originators of national banks and credit unions

The SAFE Act requires that mortgage loan originators working for an insured depository or its owned or controlled subsidiary regulated by a federal banking agency, or for an institution regulated by the Farm Credit Administration, be “registered.” The process for developing this has begun at the federal level. On May 29, 2009, the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (FRB), Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), Farm Credit Administration (FCA), and National Credit Union Administration (NCUA) (collectively, the agencies) jointly proposed rules to implement the SAFE Act.

These rules would require 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 NMLSR and obtain a unique identifier.

As required by the SAFE Act, the unique identifier issued by the NMLSR

will remain with each originator, regardless of changes in employment. When the system is fully operational, consumers will be able to use the unique identifiers to access employment and other background information of registered mortgage loan originators. The SAFE Act also requires mortgage loan originators to provide their unique identifiers to consumers in certain circumstances and agency-regulated institutions to make them available to consumers.

The proposed rules also require these regulated financial institutions to adopt and follow written policies and procedures designed to assure that their mortgage loan originators comply with these requirements.

The SAFE Act does not require the NMLSR to screen or approve registrations received from financial institution employees, as is required of licensed mortgage loan originators. Instead, financial institutions will be responsible for reviewing their employees’ submissions to the system. Neither the NMLSR

system, nor state regulators, will be involved in the registration process, or subsequent regulation, of registered loan originators.

The comment period for the agencies’ rules ended on Aug. 10, 2009, and they are expected to publish final rules to implement the SAFE Act later this year. It is likely that employees of regulated financial institutions will begin registering with the NMLSR in mid-to-late 2010.

Under the proposed rules, the agencies plan for a six-month period, following the start of the registration requirement, for all mortgage loan originators to submit their registrations. During this period, there would be no sanctions on employees doing mortgage loan originations if they have not completed their registration.

Information on the registration of mortgage loan originators is continually updated at <http://mortgage.nationwidelicencingsystem.org/fedreg/Pages/default.asp>. ■



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