

INTERPRETIVE LETTER 10-04 (JULY 2, 2010)

Rescinded and Superseded by 11-01

EMPLOYEES OF ILLINOIS CHARTERED BANKS AND THRIFTS ARE NOT SUBJECT TO LICENSURE UNDER THE S.A.F.E. ACT, BUT THEY MUST REGISTER WITH THE NMLS.¹

Must employees of Illinois chartered banks and thrifts obtain a license under the S.A.F.E. Act?

No. The Illinois Department of Financial and Professional Regulation, Division of Banking, Bureau of Banks, Trust Companies and Savings Institutions (“Division”) finds that employees of Illinois chartered banks and thrifts are not subject to licensure under Title V of the Housing and Economic Recovery Act of 2008, 12 USCA §5101 et seq. (“S.A.F.E. Act”). However, employees of Illinois chartered banks and thrifts must register with the Nationwide Mortgage Licensing System and Registry (“NMLS”)² and obtain a unique loan originator identification number from the NMLS.

When do I have to complete my registration?

At this time there is no action required by any mortgage loan originator who is an employee of an Illinois chartered bank or thrift and whose origination activities are solely within the scope of that employment. Illinois chartered banks and thrifts will be provided public notice by the federal banking agencies when the system is available for registration. This notice will come after the final rule is officially adopted. Banks will then have 180 days to transition onto the system.

Has a rule been established by the federal banking agencies to implement registration requirements for employees of Illinois chartered banks and thrifts?

No. However, the federal banking agencies have jointly developed a draft final rule creating a Federal registration system for individual employees of Illinois chartered banks and thrifts, and/or their first-tier subsidiaries, who engage in the business of residential mortgage loan origination.

What does it mean to be “registered” and what are the registration requirements under the Agencies’ draft final rule?

The rule has not been officially published as “final.” However, the federal banking agencies have prepared a draft final rule, which the Federal Deposit Insurance Corporation Board recently approved, for the registration required by the S.A.F.E. Act. Under the draft final rule and the Federal Register notice³:

¹ This response is meant solely as a general overview of the applicable law and should not be relied upon as legal advice or counsel.

² For more information on the NMLS please see <http://www.stateregulatoryregistry.org> (last accessed on February 8, 2010).

³ The draft final Federal Register notice explains that Agency-regulated institutions are: national and state banks, savings associations, and their applicable subsidiaries, credit unions, Farm Credit System institutions, branches and agencies of foreign banks, and certain other foreign entities.

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- Individual residential mortgage loan originators employed by Agency-regulated institutions must:
 - Register with the Registry and maintain their registration.
 - Obtain a unique identifier through the Registry that will remain with that originator, regardless of employment changes. Mortgage loan originators and their employing institutions must provide their unique identifiers to consumers.
- Agency-regulated institutions must:
 - Require their employees who are mortgage loan originators to comply with these requirements.
 - Adopt and follow written policies and procedures to assure compliance with the registration requirements.

Where can I get more information about Federal registration?

For questions regarding the S.A.F.E. Act visit <http://www.ffiec.gov/safeact.htm>.