

Auditing the SAFE Act

Presented by the Baxter Credit Union Audit Team



Polling Questions

1. Who offers Mortgage or Home Equity Loans?
2. Do you perform your SAFE Act Audit in-house, or do you outsource it?
3. Who in the room is your Credit Union's SAFE Act Administrator?

Agenda

1. Objectives of the SAFE Act
2. History behind the SAFE Act
3. Definitions
4. Requirements
5. Auditing The SAFE Act
 - a) Institution Registration
 - b) Program Documentation
 - c) Identification of MLOs
 - d) Use of Third Party Servicers
 - e) Registry Information
 - f) Disclosure Requirements

What is the SAFE Act?

- * Secure And Fair Enforcement for Mortgage Licensing Act
- * Passed by Congress in July 2008
- * October 1, 2010 - Mandatory Due Date for Compliance for Federally Insured Financial Institutions
- * Affects all Mortgage Brokers, Banks, Thrifts, and Credit Unions

Objectives of the SAFE Act

- * Purpose to aggregate and improve information to and between regulators
- * Increased accountability and tracking of Mortgage Loan Originators (MLOs)
- * Reduce Fraud in residential mortgage loan originations
- * Enhance Consumer protection
 - * Provide the consumer with easily accessible information regarding the employment and background of MLOs
 - * Provide a means to warn consumers of disciplinary and enforcement actions taken against MLOs

History of The SAFE Act

*The Subprime Mortgage Crisis

- * First emerged in 2006
- * Subprime lending boom leading up to this period created a “housing bubble”
- * Borrowers with poor credit history received high cost mortgages
- * “No Doc, Low Doc” Loans - homeowners received mortgages they could not afford because their financial qualifications were never verified
- * Adjustable rate mortgages that borrowers did not understand
- * Many borrowers got in financial difficulty as they could not afford escalating monthly payments or refinance their loans

History of the SAFE Act (Continued)

- * This led to the Foreclosure Crisis
- * Foreclosure filings exceeded 3 million in 2008
- * Many desperate home owners fell victim to Unscrupulous Lenders engaged in predatory lending practices
 - * Bogus offers of “cash back” refinance deals
 - * Being told subprime loan rates would reset
 - * Hidden, undisclosed closing costs
 - * Mortgage Brokers were making a lot of money to the detriment of borrowers

History of the SAFE Act (Continued)

- * In July 2008, Congress passed the SAFE Mortgage Licensing Act
 - * Ensure all residential mortgage loan brokers and lenders meet basic professional standards
 - * Requires brokers and lenders to obtain a state license
 - * Requires states to establish minimum standards for licensing requirements
 - * No felony convictions for at least 7 years
 - * No similar license revoked
 - * Demonstrated record of financial responsibility
 - * Fulfilling minimum education requirements
 - * Passing a written Exam
 - * Enables consumers to verify whether their broker or lender has a valid state license or is employed by a federally regulated financial institution

History of the SAFE Act (Continued)

- * July 2010, Rules were published by the FFIEC Regulatory Agencies for Federally Insured Financial Institutions
 - * NCUA added Part 761 which established rules for the registration of Residential Mortgage Loan Originators employed by Credit Unions
- * Established additional requirements for State Chartered, non-Federally insured credit unions
- * Established the Nationwide Mortgage Licensing System Registry
- * Compliance Date - October 1, 2010

Definitions

* Mortgage Loan Originator (MLO)

- * An individual who takes a residential mortgage application.
- * Offers or negotiates terms of a residential mortgage loan for compensation or gain.
- * Does not include individuals who perform administrative or clerical tasks (i.e., loan processors)
 - * Receipt, collection and distribution of information common to the processing or underwriting a loan.
 - * Communication with a member to obtain information necessary for processing the loan.

Definitions

- * **Nationwide Mortgage Licensing System and Registry (NMLS)**
 - * A system developed to register all MLOs, Mortgage Companies, and Financial Institutions
 - * Maintained by the Conference of State Bank Supervisors and American Association of Residential Mortgage Regulators
 - * The NMLS is intended to provide improved information sharing among regulators, increased efficiencies for the industry, and enhanced consumer protection
 - * A key function of the NMLS is to provide consumers confirmation that the firm or MLO they wish to conduct business with is authorized to conduct business in their state

Definitions

Residential Mortgage Loan

- Any Loan primarily for personal, family, or household use that is secured by a mortgage, deed of trust, or other consensual security interest on a dwelling.
- Residential Real Estate upon which a dwelling is being constructed or is intended to be constructed.
- Includes purchase, refinancing, reverse mortgages, home equity lines of credit, first and subordinate lien loans

Unique Identifier

- A number assigned within the NMLS that identifies an MLO

Annual Renewal period

- November 1 through December 31 of each year

Polling Question

Do you know how many MLOs you have at your credit union?

- a) Less than 10
- b) 10 to 25
- c) 25 to 50
- d) 50 to 100
- e) Over 100
- f) No Idea!

Requirements

Credit Union Requirements

- * Register the Financial Institution
- * Identify Primary Contact (and Backup)
 - Maintain the registry for CU and employees
 - Update registry as needed
- * Policies and Procedures
- * Procedures to ensure Third Parties comply with SAFE Act
- * Annual audit

Polling Question

Do you use a third party servicer to take real estate loan applications on your behalf?

- a) Yes
- b) No

Non-federally Insured Entities

- * All Federally Insured CU's must comply with NCUA Part 761
- * Examples of Non-Federally Insured Entities
- * NMLS Registration Requirements:
 - For State Chartered CU's:
 - Primary Regulatory must enter into Memorandum of Understanding with NCUA
 - Disclose that institution is not insured by NCUA
 - Oversight fees
 - Third Party Servicers:
 - Obtain state licensing and registration
 - Oversight fees

Polling Question

- * All MLOs must be identified and registered unless:
 - a) They have taken 5 or less applications within the past 12 months and have not been previously registered.
 - b) Their job description doesn't include taking applications.
 - c) They are temporary help and will not be taking applications for more than 6 months.
 - d) They will only be taking applications for 3 months.

MLO Registration Requirements

- * All MLO's must register prior to taking applications
 - Employment Information and Work History
 - Attestation
 - Fingerprinting
 - Criminal Background Check
 - Assign Unique Identifier
- * Previously Registered Employees
- * Annual Renewal and Attestation

Unique Identifier Requirements

- * MLO must provide their unique identifier
 - Upon request
 - Before acting as a MLO
 - Through initial written communication with a consumer (paper or electronic)

Auditing the SAFE Act

- * Four main auditable components:
 - * Procedures and training materials have been created
 - * Ensure that Credit Union, Program Administrator, and all qualifying MLOs are registered
 - * MLO information is accurately recorded
 - * Unique Identifier numbers are properly disclosed
- * Our audit approach is outlined on the following slides

Polling Question

Do you know who your Program Administrator is?

a) Yes!

b) No

Program Documentation

Requirement: *Compliance with SAFE Act must be documented and all MLOs trained on SAFE Act requirements.*

Audit Steps:

- * Review Policies and Procedures for:
 - * Designation of Program Administrator
 - * Process to identify and register MLOs (including background checks and fingerprinting)
 - * When and how to disclose unique identifiers
 - * Procedures to confirm accuracy of NMLS Registry data
 - * Actions to be followed if employees do not comply with the SAFE Act
 - * Procedures to examine third party servicers
 - * Annual testing (which is this audit)

- * Review training materials for:
 - * Registration requirements
 - * Unique Identifier requirements
 - * Provided unique identifier to applicants
 - * Updating information of NMLS Registry
 - * Annual renewal requirements

Polling Question

Can you identify which employees took an application?

a) Yes

b) No

Identification of MLOs

Requirement: All employees who take more than 5 real estate applications must be registered with the NMLS.

Audit Steps:

- * Review the process to identify MLOs with the Program Administrator, including monitoring of employees not registered.
- * Obtain reports that show how many applications each person had taken, and make sure that all MLOs who had taken over 5 applications appeared on the Registry.
- * Review Registry to ensure that it does not contain terminated employees.

Institution Registration

- * Registration of Program Administrator (and backup)
- * Registration of Credit Union - Check to make sure NMLS Registry is accurate

The screenshot displays the NMLS Consumer Access website in a Microsoft Internet Explorer browser window. The page title is "Consumer Access - Company" and the URL is "http://www.nmlsconsumeraccess.org/EntityDetails.aspx/COMPANY/476905". The website header includes the NMLS logo and the text "consumer access" and "verify a mortgage company or individual". A navigation menu contains links for "home", "about", "FAQs", "terms of use", and "contact us". Below the header, there are buttons for "Back to Search Results" and "Start New Search". The main content area shows the details for Baxter Credit Union, including its NMLS ID (476905), street address (340 North Milwaukee Ave, Vernon Hills, IL 60061), phone number (800-388-7000), and website (N/A). It also lists "Prior Legal Names" as None and "Registered MLOs" as 126. The "Federal Registration" section shows the "Primary Federal Regulator" as "National Credit Union Administration - Federally Insured" and the "Status" as "Active". A footer contains a disclaimer about the NMLS system and a link to "Download PDF Reader".

Field	Value
NMLS ID	476905
Street Address	340 North Milwaukee Ave Vernon Hills, IL 60061
Mailing Address	Not provided
Phone	800-388-7000
Toll-Free Number	N/A
Fax	Not provided
Website	N/A
Email	Not provided
Prior Legal Names	None
Registered MLOs	126
Primary Federal Regulator	National Credit Union Administration - Federally Insured
Status	Active

Registry Information

Requirement: *Current MLO information must be provided to the NMLS Registry, and background checks must be performed before registration.*

Audit Steps:

- * Compare identifying information submitted by employees into the NMLS Registry to credit union records.
- * Determined that background checks and fingerprinting were performed through Program Administrator portal to NMLS Registry
- * Compare recent changes made to employee records (address, phone number, email) to NMLS Registry to see if updates had been made within 30 days of the change to credit union records
- * All MLOs have completed annual renewal process

Disclosure of Unique ID

Requirement: *MLO numbers must be provided before an application is taken, on first written communication, and at the member's request.*

Audit Steps:

- * Spot check MLO phone calls to ensure that the Unique Identifier is being disclosed before the application is started.
- * Identify methods MLOs are first communicating with members in writing
 - * Ask MLOs to send copies of email to determine whether they contain the proper Unique Identifier for both themselves and the institution.
 - * Check initial disclosures for proper identifiers.
- * Determine if all staff know how to look up Unique Identifiers if a member asks.

Polling Question

Have you visited the NMLS Consumer Access Website?

- a)** Yes
- b)** No
- c)** There's a consumer access website?

Consumer Access Site

<http://www.nmlsconsumeraccess.org/site?>

The screenshot shows a Microsoft Internet Explorer browser window displaying the NMLS Consumer Access website. The browser's title bar reads "Consumer Access - Microsoft Internet Explorer provided by Baxter Credit Union". The address bar shows the URL "http://www.nmlsconsumeraccess.org/". The website's header features the NMLS logo and the text "consumer access" and "verify a mortgage company or individual". Below the header is a search form with a text input field containing the placeholder "Enter a Name, Company, City, State, Zip Code, NMLS ID, and/or License Number" and a yellow "SEARCH" button. An example text "Example: John Smith Rockville MD 20852 Bank of USA" and a link "[+] Search tips..." are visible below the input field. A second section contains a welcome message: "Welcome to NMLS Consumer Access™, a free service for consumers to confirm that the financial-services company or professional with whom they wish to conduct business is authorized to conduct business in their state. Users of NMLS Consumer Access are subject to the Terms of Use Agreement." and a link "[+] Learn more". The browser's status bar at the bottom indicates "Done" and "Internet | Protected Mode: Off".

Third Party Servicers

- * Identify any third party servicers taking real estate applications on the credit union's behalf.
- * Ask if third party servicers can provide their procedures to comply with the SAFE Act.
- * Review contract with them to ensure it had the following provisions:
 - * Third party has taken steps to comply with the SAFE Act (and employees can be found on the NMLS Registry)
 - * Calls are recorded or monitoring documentation can be provided
 - * Right to audit clause