

SECURE AND FAIR ENFORCEMENT FOR MORTGAGE LICENSING ACT (SAFE Act) EXAMINATION PROCEDURES

Examination Objectives

- To determine whether the credit union has adopted written policies and procedures designed to assure compliance with the SAFE Act regulation.
- To determine whether the annual independent testing of the institution's policies and procedures for assuring compliance with the SAFE Act regulation has been conducted.
- To determine whether any violations or deficiencies identified during the independent testing have been corrected and that steps have been taken to ensure they do not recur.

Examination Procedures

1. Determine whether the credit union, or any of its subsidiaries, has one or more MLO employees. For those institutions without any MLO employees, these examination procedures do not need to be completed. (12 CFR 1007.103(a)(2))
2. Determine for those credit unions with MLO employees whether the credit union has adopted written policies and procedures and conducts annual independent compliance tests to assure compliance with the SAFE Act regulation. If the credit union has failed to adopt policies and procedures and to perform annual independent compliance tests, the examiners should address the violation in the examination report and require corrective action. (12 CFR 1007.104)
3. Review the credit union's written policies and procedures and the annual independent compliance tests to determine whether the institution has taken appropriate steps to assure compliance with the SAFE Act that at a minimum:
 - a. Establish a process for identifying which employees of the credit union are required to be registered MLOs; (12 CFR 1007.104(a))
 - b. Require that all employees of the credit union who are MLOs be informed of the registration requirements of the SAFE Act and the SAFE Act regulation and be instructed on how to comply with such requirements and procedures; (12 CFR 1007.104(b))
 - c. Establish procedures to comply with the unique identifier requirements in Section 105 of the SAFE Act regulation; (12 CFR 1007.104(c))

- d. Establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records; (12 CFR 1007.104(d))
 - e. Establish procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures; (12 CFR 1007.104(e))
 - f. Provide for independent testing for compliance with the SAFE Act regulation conducted annually by credit union personnel or by an outside party; (12 CFR 1007.104(f))
 - g. Provide for appropriate action in the case of an employee who fails to comply with the registration requirements of the SAFE Act, the SAFE Act regulation, or the credit union's policies and procedures, including prohibiting such employees from acting as an MLO or other appropriate disciplinary actions; (12 CFR 1007.104(g))
 - h. Establish a process for reviewing employee criminal history background reports received pursuant to the SAFE Act regulation, taking appropriate action consistent with applicable federal law, including Section 19 of the Federal Deposit Insurance Act (12 U.S.C. Section 1829) and implementing regulations with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees; and (12 CFR 1007.104(h))
 - i. Establish procedures designed to ensure that any third party with which the credit union has arrangements related to mortgage loan origination has policies and procedures to comply with the SAFE Act, including appropriate licensing and/or registration of individuals acting as MLOs. (12 CFR 1007.104(i))
4. Any significant deficiencies in the institution's SAFE Act regulation policies and procedures or independent compliance tests should be documented in the workpapers and discussed in the examination report together with corrective actions taken.
5. Determine if Mortgage Loan Originators provide their unique identifier to consumers upon request, before acting as a mortgage loan originator and through the initial written communication with a consumer, whether paper or electronically.
6. Determine if the credit union has adopted written policies and procedures designed to assure compliance with the Loan Originator Rule, 12 CFR 1026.36 relating to compensation, background checks, qualifications, and periodic training of loan officers.
7. For consumer credit transactions secured by a dwelling, determine by a review of a sample of loan files whether the loan documents* include the loan originator organization name and NMLS identifier and the individual loan originator NMLS identifier (*credit application, note or contract and the security instrument). 12 CFR 1026.36(g)(2).
8. Training. Determine whether the credit union requires loan originators to complete periodic training covering Federal and State requirements that apply to the individual loan originator's loan origination activities. 12 CFR 1026.36(f)(3)(iii).