

July 8, 2009

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Via E-mail: regs.comments@ots.treas.gov
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Attention: OTS 2009-0004
OCC Docket Number OCC-2009-0005

RE: Registration of Mortgage Loan Originators

To Whom It May Concern:

MidFirst Bank, Oklahoma City, Oklahoma, appreciates the opportunity to comment on the proposed SAFE Act implementing regulations. As a federal savings association MidFirst specifically comments on and references herein the proposed regulation 12 CFR 563.101 through 563.105 and Appendix A as published in the June 9, 2009, *Federal Register*.

The federal registration concept exempts employees of federal financial institutions from state registration requirements, yet the federal registration system has yet to be adopted or implemented. MidFirst encourages specific affirmation that employees of federal financial institutions will not be subject to state registration laws prior to, or after, the effective date of the federal system, and the federal registration system preempts any state law, oversight, or inquiry regarding the registration of employees via the federal registration system contemplated in Section 1507 of the SAFE Act.

MidFirst respectfully offers the following comments for consideration:

1. MidFirst is opposed to any concept that would extend registration requirements to employees engaged in activities related to loan servicing and back office processing. Specifically --
 - a. The definition of "Mortgage Loan Originator" should exclude persons who modify existing residential mortgage loans that are delinquent or in default.
 - Persons who perform activities related to loan modification and loss mitigation for delinquent loans (or loans at imminent risk of default) work in the loan servicing area and do not work with origination staff.

- The goal of the loan modification in the loss mitigation context is to rehabilitate the loan so that the borrower can become current and stay in the home. In these situations, the customer became obligated on the loan well before the modification process was initiated.
 - Requiring loan servicers to go through the rigorous procedures required of loan originators for their loss mitigation staff would direct resources away from providing responsive customer service with no direct benefit.
- b. The definition of “Mortgage Loan Originator” should exclude persons who process qualifying assumption applications.
- Assumptions activities are administrative and clerical in nature.
 - While these persons interact with the new borrower for the purpose of obtaining information necessary to process the assumption application, there is no offering or negotiation of new terms as persons who qualify would be added to the obligation and subject to the previously existing terms of the existing obligation.
 - Assumptions personnel are employed in the servicing area and do not work with origination staff.
- c. The regulation should provide clarification that persons employed by the lender who engage in “backroom” administrative and clerical functions, such as underwriters and loan processors, but who do not necessarily act “on behalf of” the individual mortgage loan originators, are not subject to the provisions of the Act.

Requiring personnel involved in loss mitigation, assumptions, or backroom mortgage originations to register would not accomplish three of the four goals established by Congress in Section – reduce regulatory burden, enhance consumer protection, and reduce fraud.

2. MidFirst notes that comparison of registrant’s information against basic records of employment will be a large initial and ongoing task especially for long term employees. MidFirst requests a) a list of specific primary employee records that should be reviewed as part of the registration process, b) a list of alternative records that could supplement missing or inconclusive primary employee records, and c) a safe harbor for appropriate procedure regarding such particularly in situations in which an employee misled the depository institution despite reasonable efforts implemented by the institution to prevent such fraud.

3. MidFirst references the definition of “registered loan originator” as being, in part, an employee of a depository institution or a subsidiary that is owned and controlled by a depository institution and is regulated by a federal banking agency pursuant to Section 1503 of the SAFE Act. MidFirst also acknowledges that the scope of the banking agency regulations as proposed includes only financial institutions and operating subsidiaries but not service corporations. MidFirst suggests that service corporations controlled by a federal savings association (as control is defined by federal banking agencies such as in

12 CFR 574) and are regulated by federal banking agencies, and regardless of any other state or federal regulatory oversight or licensing, should qualify for the federal registration option. Such a process would create efficiencies in the registration process within a single corporate structure and thereby meeting the purposes of the Act as outlined in Section 1502 of the Act.

4. MidFirst encourages consideration be given to the mandatory compliance date of the federal registration system. The process of identifying employees subject to the scope of the SAFE Act, confirming their eligibility for registration, inputting the data, obtaining fingerprint, etc. will likely be a large task requiring more than the 180 day implementation period. Additionally rather than a 30 day time period to update changes to the system to reflect loan originator name changes or employment changes, MidFirst suggests a 90 day period.

Once again, MidFirst appreciates the opportunity to comment on this proposal. Should additional information be required, please contact the undersigned.

Sincerely,

Charles R. Lee
Vice President and
Director of Bank Regulatory Affairs
MidFirst Bank

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