USAA FEDERAL SAVINGS BANK

July 7, 2009
Via Federal eRulemaking Portal

Chief Counsel's Office
Office of Thrift Supervision
1700 G Street NW
Washington, DC 20552

Re: OTS-2009-0004

USAA Federal Savings Bank ("USAA") is today providing two comments to the proposed regulation that will implement the requirements of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE). Specifically, the federal banking agencies ("Agencies") have requested comment on whether the definition of "mortgage loan originator" should include individuals who modify existing residential mortgage loans.

First, USAA believes that individuals who process loan modifications should be excluded from the definition. SAFE and its implementing regulations are intended to facilitate responsible behavior by mortgage loan originations. Loan modification documents are prepared by the servicer at the instruction of the lender or investor. Generally, the person who processes the loan modification was not involved in the loan origination. A borrower usually obtains a loan modification (i) to avoid becoming delinquent or defaulting on the loan; (ii) to obtain a refinance of a prior mortgage on better terms; or (iii) to obtain some other change advantageous to the borrower. Most often, the modification merely extends the term of the loan and defers or re-amortizes late payments. Usually, no new funds are advanced. SAFE and the proposed regulation are intended to cover activities of mortgage loan originators, not mortgage loan servicers or collectors.

Second, USAA would recommend that when a lender uses a completely automated application and loan origination system to provide loan options to a mortgage loan applicant (based on underwriting rules incorporated into the system without contact with an individual during the loan process), the individual who obtains information to fulfill the option selected by the applicant be excluded from the definition of mortgage loan originator. In this instance, the individual lacks of opportunity to influence the applicant's loan type decision and the incentive to steer an application to a particular loan product.

Sincerely,

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