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July 9, 2009

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Robert E. Feldman, Executive Secretary  
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Attn: Comments RIN 3064-AD43  
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Jennifer J. Johnson, Secretary  
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Regulation Comments  
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Re: **Registration of Mortgage Loan Originators**

Dear Sir or Madam:

Bank of America appreciates the opportunity to comment on the regulations proposed to implement the Secure and Fair Enforcement for Mortgage Licensing Act ("SAFE" or "the Act"). We commend the efforts of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of Thrift Supervision, as well as the National Credit Union Administration and Farm Credit Administration (collectively "the Agencies") to provide a thoughtful regulatory framework for the registration of mortgage loan originators.

Bank of America operates the largest and most diverse banking network in the United States with more than \$1.8 trillion in total assets and over \$850 billion in worldwide deposits. We offer full service consumer and commercial services in 35 states and the District of Columbia with over 6,100 retail bank branch locations and over 18,500 ATMs.

We are one of the largest residential mortgage lenders and servicers in the nation. The company originates and services one out of every five loans in the country, representing a servicing portfolio of almost 14 million loans. Since acquiring Countrywide Financial Corporation in July of 2008 and through the newly branded Bank of America Home Loans unit, we provide a vast array of products that incorporate our history of strong commitment to fair and affordable mortgage lending. These products are offered through centralized facilities, mortgage lending offices, and banking centers throughout

the country. From January 1, 2008 through May 31, 2009, our servicing and loss mitigation employees helped approximately 410,000 Americans modify their existing mortgage loans in our efforts to avoid foreclosure.

Bank of America fully supports the stated objectives of the registry created by the SAFE Act: to aggregate and improve the flow of information to and between regulators; to provide increased accountability and tracking of mortgage loan originators; to enhance consumer protections; to reduce fraud in the residential mortgage loan origination process; and to provide consumers with easily accessible information at no charge regarding the employment history of, and publicly adjusted disciplinary and enforcement actions against, mortgage loan originators. However, we also believe that the following comments and suggestions to the proposed rule advance Congressional goals, minimize confusion for lenders and consumers, and reduce unnecessary burdens to help strengthen SAFE, especially as applied to national banks and their operating subsidiaries.

### **Discrepancies Between State and Federal Systems after SAFE**

We support delaying the mandatory compliance date for registering loan originators until such time as the National Mortgage Licensing System ("NMLS") is properly able to accommodate the registration process. However, several states have already carried out the mandate placed upon them by the Act and have passed licensing laws that will become effective before the NMLS is able to handle processing applications for registered loan originators. This mismatch between the effective dates of the state and federal registration requirements may force certain entities, especially those state-chartered institutions which nevertheless are "depositories" for SAFE purposes, to comply with a state law that becomes effective prior to the availability of the federal registration system.<sup>1</sup> The final rule should clarify that, as to depository institutions subject to the regulation of the Agencies, application of any state loan originator licensing requirements be tolled concurrently with the delayed implementation date for federal registration. This is especially important since the state definition of "mortgage loan originator" is more expansive than how that term has been defined in the Act.

The Conference of State Bank Supervisors ("CSBS") has published model legislation that has been approved by the Secretary of Housing and Urban Development ("HUD") as being compliant with the licensing burden placed upon states under the Act. This model legislation, which was the basis for many of the laws already passed and which are now becoming effective, provides a specific limited exemption for individuals who are "registered loan originators" as that term is defined in SAFE. The only way in which an individual qualifies for the exemption is if he or she meets the Act's definition of "registered loan originator" and, also, is "registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry." Thus, it is impossible to qualify for the exemption without a unique identifier. Unfortunately, neither the model legislation nor any of the state laws passed to date account for the possibility that registered loan originators would be unable to acquire a unique identifier merely because the NMLS was not capable of providing one.

It is clear that, in enacting SAFE, Congress intended to create two separate types of loan originators: those who are employed by depository institutions and those who are not. The former category of individuals are subjected to the system

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<sup>1</sup> Bank of America, N.A. and its operating subsidiaries such as BAC Home Loans Servicing, LP and Home Loan Services, Inc. (which was acquired as part of the Merrill Lynch acquisition) are subject to the National Bank Act, which preempts state licensing laws from being applicable to employees of national banks and their operating subsidiaries (see 12 USC § 24 and 12 USC § 484). Nevertheless, the manner in which the states have crafted their exemptions to not take into account the impact of preemption makes the requested clarification necessary to eliminate disputes and avoid confusion for consumers and state regulatory authorities.

of registration as set forth in Section 1507 of the Act while the latter are subjected to the licensing system set forth in Sections 1505 and 1506. Said another way, SAFE subjects only those individuals not employed by depository institutions to the state licensing system. Irrespective of how the exemptions have been worded in state laws, the Act makes clear that employees of depositories are subject only to the federal registration system as created and maintained by the Agencies.

We respectfully request that the final rule makes clear that loan originators employed by depository institutions, as those terms are defined both in SAFE and the proposed rule, are subject only to the registration system. In this regard, employees of depository institutions should not be subject to state licensing laws even though the definition of "mortgage loan originator" is broader than that set forth in the Act itself. Even more specifically, it should provide that the lack of a unique identifier, especially based upon systematic challenges with the NMLS, will not impact the status of an individual who was intended to be a registered (and not state licensed) loan originator.<sup>2</sup>

### **The 180 Day Initial Registration Period**

Bank of America commends the Agencies for expressly recognizing that, no matter how the issues surrounding modifying the NMLS are ultimately addressed, regulated entities and their employees will need time to adapt their technology, system controls, policies, and procedures to a system of registering employees which has not previously existed. The proposed rule sets forth a 180 day implementation period between the time the database is capable of receiving applications for registration and the time by which compliance with the Act will be mandatory. The internal gathering and entering of this data will be extraordinarily time-consuming as will the development of those necessary technological enhancements, system controls, policies, and procedures. Thus, for the following reasons, we suggest that the final rule expand, to twelve months, the time period between the announcement of the database's ability to accept applicants for registration and the date by which registration is required for engaging in the activities of a loan originator.

The proposal recognizes that the process of registering loan originators upon the initial availability of the NMLS registration system will involve data submission on hundreds of thousands of individuals. Within an entity such as Bank of America, this number of registrations is likely to be in the tens of thousands.<sup>3</sup> The individuals who will ultimately be registered are employed at centralized corporate facilities, stand-alone banking centers and individual loan origination offices throughout the country. In order to efficiently control the process of registration and ensure that only those individuals with appropriate credentials act in the capacity of a loan originator, systematic controls will need to be programmed and implemented. Such a process typically requires at least nine months of time from design to programming to testing to being made available to affected employees. Additionally, and as the proposal requires in Section 104, sufficient policies and procedures will need to be developed and employees will need to receive adequate training on the same so that all

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<sup>2</sup> This clarification will also be helpful for entities such as Bank of America that sell residential mortgage loans to the Government Sponsored Entities regulated by the Federal Housing Finance Agency. Both Fannie Mae and Freddie Mac have indicated that, effective January 1, 2010, they will begin requiring sellers to include the loan originator's unique identifier on the Uniform Residential Loan Application (Form 1003) of any loan being offered for purchase.

<sup>3</sup> As of December 31, 2008, there were approximately 33,000 loan originators within the Bank of America family of companies. This number does not include loss mitigation or servicing personnel that do not meet the definition of "loan originator" under SAFE or clerical and support staff that are expressly carved out of the definition in the Act itself. Should the final rule increase the types of employees who would need to be registered, this number would increase accordingly.

individuals required to be are, in fact, SAFE compliant. This activity cannot take place until a final rule is published and the technical requirements of the NMLS registration system are announced.<sup>4</sup>

Although we believe that the use of the MU-4 form in the registration process is inappropriate and requires information far beyond that which Congress intended to be submitted by registrants, the information required by the proposal to be submitted by registrants currently mirrors this form. Many of the individual employees working for depository institutions have never gathered such data or completed such a form in connection with their employment. Once the data is gathered by potential registrants, it will then have to be entered into the NMLS. As the rule currently proposes, an authorization and authentication step will then need to be performed in the database by the individual applicant. Upon completion of that step, the proposal then requires a verification to be completed by the employer. Not only do these requirements present an unnecessarily complicated technical challenge that increases the difficulty of making computer system enhancements, but they will also require time to complete for each of the tens of thousands of employees affected, especially during the initial registration period. Simply stated, 180 days will not be sufficient for regulated entities to come into compliance with SAFE during the initial period of registration.

### **Staggering of Registrations**

We do not believe it is practical or reasonable to expect that the NMLS will be able to simultaneously handle the initial boarding process for all institutions subject to the Agencies' final rule. By the estimate included in the proposal, approximately 350,000 individuals will have to be registered when the database first comes on-line. It is not unreasonable to expect that this number might ultimately prove to be conservative, especially if further changes are made to the definition of loan originator. Even if the number of registrants closely mirrors the initial estimates, permitting (let alone requiring) simultaneous registrations does not appropriately consider the burden on a database that has never been so taxed. This is especially true when considering the volume of individuals who will be simultaneously submitting their initial applications for a state license.<sup>5</sup>

Thus, we believe that a staggered approach at the time of initial registration would be appropriate. The final rule should provide a staggered initial period by institution as well as by some unique characteristic of the potential registrants within institutions, such as birth date, last name, or some similar qualifier. Utilizing such a staggered approach by entity and individual applicant should help reduce the burden on the database through the initial process.

### **Definition of Loan Originator**

The proposal leaves the definition of "loan originator" unchanged from the language of the definition of the term originally included in the Act. Congress only intended individuals engaged in application taking<sup>6</sup> AND offering or negotiating loan terms

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<sup>4</sup> For example, as of the submission of this comment, there has yet to be any communication from the Agencies or the NMLS as to what fees are to be charged for initial registration or subsequent renewals. The appropriate development of the technological changes, system controls, policies, and procedures would need to be based, at least in part, on the manner in which fees are to be paid in connection with the registration process.

<sup>5</sup> While, prior to SAFE, most states did not require individual loan originator licensing, all states will have some form of licensing by the middle of 2010.

<sup>6</sup> The term "application" is not defined in either the Act or in the proposal. As Footnote II of this comment letter provides in greater detail, leaving this term undefined creates unnecessary confusion and has the potential effect of expanding the scope of individuals who might have to register even though they were never intended by Congress to be considered "loan originators." Also potentially expanding the scope of the registration requirement is the overly broad example of "taking an application" that is provided in Appendix A. The standard of "receiving information that is sufficient to determine whether the consumer

for compensation to be “registered loan originators,” and the proposal reflects this intent. That said, the Agencies did recognize that there are some gaps in this definition created by the manner in which the mortgage lending industry currently operates in practice and have sought significant input from commentators as to how to close them.

*Originations Generally.* Within a diverse financial institution, new residential mortgages are originated through many different channels. There is no question that certain individuals’ primary job duties involve the sales of new residential mortgage loans. These employees take loan applications and offer or negotiate terms on new loans and their compensation is derived almost exclusively from these activities. Such employees readily meet the definition of “loan originator” who must be registered as such under the Act. However, there are other employees whose employment is not so focused and for whom registration would be unduly burdensome and would not meet the policy objectives of the Act.

Bank of America employs a number of individuals within its retail banking centers who may, from time to time, assist customers in obtaining new home equity loans or lines of credit. By their specific job descriptions, these individuals are engaged in such activities less than ten (10%) percent of their time on the job. Accordingly, compensation is only marginally based upon or affected by mortgage lending activity. These individuals offer only home equity loans along with other depository and non-depository financial products and services available to customers who visit banking centers. These employees were not hired for the purpose of being, nor are they principally engaged in the business of being mortgage loan originators. While the Agencies recognized that a *de minimis* exception was worth considering, we do not believe the proposed solutions were sufficient. Accordingly, we urge consideration of an exemption from registration for any individual not “principally engaged” as a loan originator.

In the Appendix to the proposed rule, the Agencies indicate that, for registration purposes, compensation need not be based on a per loan commission or fee but simply part of what an individual receives “in the course of carrying out employment duties.” The inclusion of such a broad standard creates a situation where an employee of a large complex financial institution would be required to register as a loan originator simply because his or her job description might reference mortgage lending, even though such activity is necessarily going to be rare and involve very limited products. Adopting the “principally engaged” standard we suggest would avoid this unwarranted result. Said another way, in order to be subjected to the burdens of registration, the rule should require that an individual’s compensation must be based primarily on the fact that originating new residential mortgage loans is his or her primary function at a regulated entity.<sup>7</sup> Without such an exception, the number of individuals unnecessarily burdened with registration will be significant. Moreover, an overbroad definition may result in significant reductions in service and convenience to customer if institutions react to the added cost and burden by reducing the number of internal staff who are permitted, even occasionally, to provide minor assistance to customers seeking certain mortgage products.

*Servicing Generally.* By its terms, the Act is focused on the activity of originating mortgages. Unless carefully implemented, however, regulations could also inappropriately impact employees engaged in servicing already-originated loans, especially so with respect to the customer service functions of processing modifications and assumptions. We urge the Agencies to make clear that registration applies only to those individuals engaged in taking applications for and offering or negotiating

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qualifies” suggests that even individuals who passively receive consumer information have “taken an application.” This is an overly broad interpretation of “application” that does not further any of the stated purposes of the Act.

<sup>7</sup> The utilization of the “principally engaged” standard would also make clear the Act’s exclusion of individuals employed as underwriters or processors.

terms on *new* mortgage loans and does not apply to individuals engaged in modification, servicing, and home retention-related activities on existing accounts.<sup>8</sup>

By their plain meanings, origination and servicing involve two distinct functions in the mortgage lending industry. At institutions which both originate and service residential mortgage loans, these activities are typically carried out in two separate and distinct business functions that rely upon separate and distinct day-to-day management, computer systems, and policies and procedures. The originations businesses take applications for new extensions of credit including, but not limited to purchase money loans, construction loans, refinances, lines of credit, and reverse mortgages, secured by new mortgages on residential real property. On the other hand, the servicing businesses are focused on providing customer service to customers of existing accounts being serviced by such institutions. As part of this customer service function, servicing also modifies mortgage loans for eligible distressed borrowers but does not charge the borrower for performing this function. We believe that, by use of the term "originator" coupled with the stated goals of the registration system, Congress intended SAFE to be applicable only to those individuals principally engaged in the "new loan" business. It is important to clarify that servicing personnel, particularly those personnel that perform home retention activities, are not "originators" and, thus, these employees should not be subject to registration under SAFE.<sup>9</sup>

*The HUD FAQs and Servicing.* HUD recently published a document entitled "Frequently Asked Questions and Answers" in order to clarify HUD's position on certain issues relating to the state licensing laws being adopted in response to SAFE. Specifically, Topic #5, entitled "Loan Modifications Performed by Loan Servicers," asks the question "Do the licensing requirements of the SAFE Act apply to individuals who perform loan modifications for loan servicers that modify existing loans?" The answer that follows suggests that, while HUD plans to issue a proposed rule in the near future, it is generally inclined to suggest that a "loan originator" includes one who offers or negotiates loan terms that are materially different from the original loan. While there is nothing in Act itself that suggests such an interpretation is warranted, it is important to point out that, unlike the Agencies, the States and HUD were within the bounds of the Act to adopt requirements above and beyond those set forth as minimums in SAFE. Accordingly, the model legislation proposed by the CSBS, which has been blessed by HUD and already adopted by several states, has expanded the definition of loan originator to include individuals who take applications *OR* offer or negotiate loan terms. We believe HUD is inappropriately expanding the Act out of residential mortgage loan originations and into residential mortgage loan servicing. Moreover, we believe that the Agencies, by adhering to the black letter of the statute, neither can nor should follow suit.

*Home Retention.*<sup>10</sup> The home retention activities of servicers such as Bank of America include intense focus on determining whether distressed homeowners qualify to modify or restructure their existing mortgage loans under programs such as the Making Home Affordable program announced by Treasury in March of 2009<sup>11</sup>. In order to efficiently carry out these efforts on a large volume of loans, it is important for regulated entities to employ large numbers of individuals to process requests

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<sup>8</sup> Refinances at Bank of America are not processed within any Loan Servicing line of business. Customers requesting a refinancing are referred to the Loan Originations line of business where they are assisted by a loan originator subject to registration under SAFE.

<sup>9</sup> The ability of a consumer to review the information contained in the database is an important tool for comparing and contrasting lenders and loan offers and proposals being considered by that consumer, but is not similarly helpful in the context of servicing an existing loan.

<sup>10</sup> While we believe that an exemption is appropriate for loss mitigation personnel, at the very least the final rule should provide a delayed implementation of registration of these employees. Such a delay would be consistent with the current economic climate and the foreclosure prevention efforts initiated by the Administration, Congress, the Agencies, and regulated entities.

<sup>11</sup> Importantly, while the volume of loss mitigation activity has most definitely increased, the overall duties performed by employees in this line of business have remained the same. Our home retention division responds to a daily average of 80,000 customer calls and makes 20 million additional outbound calls to distressed borrowers each month. These employees do not add collateral or additional borrowers to existing obligations.

in an expedient fashion. Presently, we employ more than 7,400 individuals in our Home Retention Division. These individuals assist distressed borrowers who may be eligible for a loan modification or restructuring. And while these employees are not selling new mortgage loans, they may, as part of the regular course of interacting with customers, collect certain borrower information and may ultimately offer a modification plan for consideration by that borrower when possible<sup>12</sup>. Without the final rule appropriately making clear that these servicing employees were never intended to be included in the definition of "loan originator" and thus subject to registration, home retention efforts will be unnecessarily subject to delay while registration information is entered into and processed by the NMLS without any corresponding benefit.<sup>13</sup>

*Assumptions.* Within Bank of America, the assumptions group is managed separate and apart from the general originations operation. Assumptions do not involve negotiation of loan terms because the existing obligation is assumed by another borrower. There is no furthering of the purposes of the Act by expanding the definition of loan originator to include individuals who process assumptions.

### **Registration**

*Security.* The Agencies have indicated that one of the many items still left open to be addressed with the NMLS, as part of a final agreement, is "data privacy and security requirements." Considering the significant personal information being required of registered loan originators, including social security number, the importance of having a strict standard for data encryption and limiting access cannot be understated. The protection of the identity and all other personal nonpublic information of registrants should be of paramount importance to the Agencies and the NMLS. This should include specific assurances by and liability in the NMLS for failing to appropriately meet the highest standards of identity protection and in the event that security is breached. We respectfully request that Agencies consider permitting regulated entities an opportunity to comment on the terms and conditions of the anticipated agreement with NMLS before it is executed to ensure the personal nonpublic information of employees is appropriately protected.

*Background checks and Fingerprints.* In Section 1507(c) of the Act, Congress mandated that the Agencies "shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators." The final rule should authorize the provision of certain information in the possession of regulated entities in lieu of the submission of all of the data required in the proposal.

Individuals with certain types of criminal activities in their backgrounds are precluded from becoming an "institution-affiliated party" with a depository institution subject to the Federal Deposit Insurance Act (the "FDIA"). Insured institutions, such as Bank of America, are thus required to utilize a pre-employment background screening process to avoid violating Section 19 of the FDIA which subjects non-compliant institutions to significant fines. As part of the process, fingerprints are obtained from potential bank employees and background checks are conducted prior to an individual's start date. These

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<sup>12</sup> The information gathered in connection with the processing of a modification request should not be treated as an application. Consider the definition of "application" provided in Regulation X which implements the Real Estate Settlement Procedures Act: "the submission of a borrower's financial information in anticipation of a credit decision relating to a federally related mortgage loan which shall include the borrower's name, the borrower's monthly income, the borrower's social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator."

<sup>13</sup> Distinguishing modifications from originations is also consistent with the manner in which required disclosures are handled in connection with the origination of a new loan under Regulation Z. For example, see Official Commentary to Regulation Z, Paragraph 20(a)(4) where it is stated "a workout agreement is not a refinancing unless the annual percentage rate is increased or additional credit is advanced beyond amount already accrued plus insurance premiums."

restrictions and requirements apply throughout a depository institution and are certainly applicable as to individuals hired to serve as mortgage loan originators. Other than creating an additional expense and delay with the boarding of new employees, there does not seem to be any reason for requiring the submission of fingerprints and the conducting of a second background check for individuals seeking to become registered as loan originators. The final rule should allow for an alternative process whereby background checks conducted pursuant to an institution's burdens under FDIA Section 19 are deemed to be compliant with the fingerprint and background requirements of SAFE.<sup>14</sup>

Individuals who qualify as registered loan originators under the Act may also be engaged in other activities subject to a similar licensing or registration scheme as part of their regular employment with the regulated entity. This activity could include, just by way of example, employment as an insurance agent or a securities broker-dealer. In many instances, background checks and fingerprints would have already been completed and utilized as part of that formal registration process. Much like with the deference paid to the background check efforts engaged in by a depository institution subject to its requirements under the FDIA, the Agencies should recognize the validity of these existing employment and licensure protocols.

If the final rule will require that fingerprints be submitted to the NMLS, it should not set a limitation on the age of those prints. We are not aware of any reason why prints older than the proposed 36 months would be invalid or otherwise unable to be properly processed in connection with an FBI Background check. Additionally, further clarification is requested as to whether the fingerprints of registrants on file with the NMLS and regulated entities will be subject to a similar three year rule in order to be considered valid, should they need to be resubmitted to the database. The final rule should make clear that regulated entities would not need to ensure that new fingerprints for registered loan originators be obtained every three years.

Should the final rule not provide for the utilization of existing background check or fingerprint information in lieu of new submissions, a mechanism should then be set forth by which a regulated entity receives notification of the completion of the NMLS background check and a means by which the resulting report could be accessed.

*System Delays.* We would suggest that the final rule provide a mechanism for provisionally registering individuals in situations where all steps have been properly completed on their behalf.<sup>15</sup> In the proposal, the Agencies recognize that the NMLS will simply be a repository of information relating to individuals registered or licensed and registered as loan originators. Although it is not expressed in the proposal, we expect the database to immediately return a unique identifier upon the completion of all registration steps set forth in the proposal. However, should there be any impediments to an individual receiving his or her unique identifier, that individual should not be precluded from engaging in loan origination activities when he or she has completed all registration steps.

## **Processes**

*Review of data submissions.* Employing institutions have a vested interest in the information that should be shared by their employees with the general public. Understanding that one of the purposes of the NMLS is to provide public access to a wide

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<sup>14</sup> This request is based upon the fact that the proposal is silent on what is going to be asked for and likely to be returned by the FBI Background check and the background check requirements placed upon FDIA institutions.

<sup>15</sup> In the alternative, a set grace period (such as 15 days) permitting all applicants to act as loan originators following submission of all necessary registration information to the NMLS would achieve essentially the same result.

range of information pertaining to the registered loan originator, including explanatory annotations to certain sections of background data, an employer should be able to review any such information much as it would have the right to review any other information shared by its employees with the general public. While employing institutions could not unreasonably deny an individual's ability to provide explanatory information on the database, those entities should still have some level of oversight of information that is shared with the public. Further, any subsequent submissions to the database should similarly be reviewable by the employer.

*The new applicant process.* The proposal outlines a three-part process by which an individual becomes registered in the NMLS for the first time. It is recognized by the Agencies that the initial data entry can and likely will be processed by centralized employees of the institution other than the individual loan originator. We concur that the centralized management of database interactions is the safest and most efficient means by which to preserve the integrity of the database and the final rule should continue to expressly provide for this means of working within the database. However, the manner in which the proposal requires a potential registrant to access the NMLS undermines the concept of data security and efficiency.

We believe that, while the use of the MU-4 form in the registration process unnecessarily expands the scope of the information that needs to be submitted by potential registrants, it does provide a guide to a more appropriate way in which to obtain employee acknowledgements and authorizations. In its current form, the MU-4 contains several attestations followed by a requirement that it be signed by the applicant and that the signature be notarized by a duly qualified notary public. A similar (yet much less invasive) form, including any sworn consents ultimately required by the final rule, should be authorized to be utilized by institutions as evidence of an employee's acknowledgement and consent as required in the proposal. The final rule should thus equate the completion of an alternative method with the need to have individual loan originators access the database for the purpose of doing the same. Adopting such a process would help to eliminate an unnecessary step in the process between data entry and employer verification and still preserve in the employee loan originator the ability to consent to the background check and review and authorize all information being submitted on his or her behalf.

*The transfer of employment process.* The proposal is unclear as to the process that needs to be followed when an individual transfers employers. The rule also does not distinguish a transfer between affiliates within the same bank or holding company. Finally, it does not sufficiently address the transfer between two depository institutions. Clarity is needed to reconcile the 60 day grace period for mergers and acquisitions, the change of employment and resubmission of fingerprint data for transferred employees and the maintenance of data requirements as set forth in Section 103(b).

*Renewals.* The final rule should not provide for one renewal period applicable to all registered or licensed individual loan originators. Such a set requirement is unnecessary to providing consumer protection under the Act. Rather, the final rule should provide for a different mechanism for renewal and should take into account the number of registrants and licensees, the manner in which the initial registration period is handled at the outset of the NMLS being able to accept registrants, and the time between an individual's initial registration and his or her need to renew only on an annual basis.

*Unique Identifier Made Available.* The final rule should clarify that any reasonable means by which an institution decides to make available the unique identifier information to the public is acceptable. Beyond that, though, as the database is intended to be an internet-based application, a regulated entity making the unique identifier information exclusively on an internet website should be approved as being a reasonable means of complying with the requirement of 105(a) and (b).

Additionally, we believe that the requirement that a registered loan originator provide his or her unique identifier "before acting as a mortgage loan originator" is cumbersome and does not provide any actual benefit to a consumer. We support the inclusion of this identifier on initial written communications and upon request by the consumer. We believe that, when these requirements are coupled with the duty placed upon regulated entities to provide a means by which unique identifiers can be obtained, sufficient protection is provided to consumers.

We appreciate the opportunity to comment on the Agencies' proposed regulations, and we thank you for your consideration of the foregoing. Should you have any questions about material contained within this letter, you may feel free to contact me at (949) 222-8305.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Thomas J. Noto". The signature is written in a cursive, slightly slanted style.

Thomas J. Noto  
Associate General Counsel