

Question: *SAFE Act—What is the implementation date, and what will we be the impact on us as a financial institution?*

Answer: The Secure and Fair Enforcement for Mortgage Licensing Act (“SAFE Act”) was enacted as part of the Housing and Economic Recovery Act of 2008. The SAFE Act requires the creation of a nationwide licensing and/or registration system for mortgage loan originators. The SAFE Act includes requirements for both state-regulated entities (e.g., mortgage brokers, etc.) and agency-regulated institutions (e.g., banks, savings associations, credit unions or other depository institutions and their subsidiaries regulated by a federal banking agency, or an employee of an institution regulated by the Farm Credit Administration).

The Indiana SAFE Act¹ requirements do not apply to any national or state-chartered bank or savings association. As a result, national and state-chartered banks and savings associations will not be subject to the state licensing and education requirements of the SAFE Act. They will, however, be required to comply with the background check and registration aspects, as those will be detailed in the federal final rules.

At the time of the writing of this article, the federal final rules have been

ABOUT COMPLIANCE CONNECTION

In order to address compliance inquiries from members, IBA provides Compliance Connection, an assistance program offering advice on Indiana-specific compliance questions. If the matter requires legal advice, IBA Compliance Connection will refer the bank to a law firm. The material in this issue was prepared by **Sonja A. Kriegsmann**, IBA compliance consultant and senior attorney with Krieg DeVault LLP, Indianapolis. To utilize IBA Compliance Connection, submit questions to **Amber Van Til** at the IBA at 317-917-8047, e-mail: avantil@indianabankers.org.



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adopted by the board of directors of the Federal Deposit Insurance Corp., pending approval of the other federal regulatory agencies. Once the final rules have been approved and adopted by all of the federal agencies and published in the *Federal Register*, there will be a 180-day implementation period as outlined in the proposed rule.

Question: *What part of the RREAL IN database requirements apply to us?*

Answer: The Residential Real Estate Acquisition of Licensee Information and Numbers Database is a statutorily mandated² database designed to electronically collect and store information concerning persons who have participated with single-family residential first-lien purchase money mortgage transactions

and single-family residential refinancing transactions (“covered transactions”). Beginning Jan. 1, 2010, all closing agents (defined as a “person that closes a transaction”) are required to input certain information regarding the individuals involved in the above types of transactions into a confidential database maintained by the Indiana Department of Insurance. This requirement applies to anyone that closes covered transactions, and includes bankers that close covered transactions in their offices. Registration for a limited number of complimentary training sessions can be found at www.in.gov/apps/in_ereal. (Links to training schedule and training registration appear at the bottom of the website page.) Additional training sessions may become available.

Included in the information required for the database is the “name and registration number of each originator involved in the transaction.”³ These registration numbers will not be available for national and state-chartered banks and savings associations, until the final federal rules for the SAFE Act are available and the implementation period has passed. The Department of Insurance is aware of this situation and will accept information provided, as long as a good faith attempt is made to provide all information requested.

The RREAL database law requires that the closing agent indicate the date the closing package is received from the creditor and the date that the loan closes. A lender that closes its own loan will need to provide this information. ♦

¹750 IAC 9

²IC 27-7-3-15.5

³IC 27-7-3-15.5(b)(2)

This information is provided for general education purposes and is not intended to be legal advice. Please consult legal counsel for specific guidance as to how this information applies to your institution's circumstances or situation.



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