

LENDERS UPDATE™

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PROPOSED NEW RULES FOR CALIFORNIA CFL AND RML LICENSEES

The California Department of Business Oversight has proposed new rules for California Finance Licensees (“CFL”) and California Residential Mortgage Licensees (“RML”). The period for comment to the new rules expires on 7/25/14. The notice, with links to the proposed text appears on the homepage of the Department’s site at <http://dbo.ca.gov/>.

The new rule would make a number of technical changes to the regulations, but it concentrates primarily on determining what is a branch office, how to handle “home offices” and the licensee’s duties of supervision.

Looking at the changes to the CFL regulations in particular, the new rule sets out proposed duties of the licensee to oversee the activities of mortgage loan originators (“MLOs”). Final responsibility rests with the sponsoring lender or broker. The new rule defines “branch office” as any location where the licensee regularly conducts “transactions in, inducing, or attempting to induce, the origination of loans.

However, this definition excludes home offices under specific conditions:

- ✚ only one MLO at a location unless the additional MOL(s) at that location is a member of the immediate family,
- ✚ the location is not held out to the public as an office and no customers are met there,
- ✚ no loan or funding “finalizations” are held there,
- ✚ the MLO working from home is assigned to a branch and all his/her publications (stationary, cards, etc.) reflect that fact,
- ✚ all advertising and communications are supervised,
- ✚ electronic communications are handled through the sponsor’s system,
- ✚ loans are processed through the branch, and
- ✚ a list of all residential locations is maintained by the sponsor.

Also excluded from the definition of a branch office are:

- ✚ Any location of convenience where MLOs occasionally meet with customers which is not held out to be an office.
- ✚ A temporary location established in response to a business continuity plan.

The proposed rule then sets out a detailed requirement and protocol for supervision of MLOs. The MLO who does not physically work in the main or branch office would be required to complete and sign a statement subjecting himself or herself to this supervision. A sample form for this statement is proposed. If a sponsoring company allows a MLO to work outside of the main or branch office, the company would also be required to sign a statement committing to supervising that MLO. Again, a sample statement is proposed.

Finally, the new rule would set out a protocol for the inspection of these sites by the sponsoring lender or broker.

The changes for RML licensees largely mirror these proposed CFL changes.

Remember, if you are a RML or CFL licensee you can check out the full text on the DBO site and comment on them until 7/25/14.

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