

# LENDERS UPDATE™

A MONTHLY SERVICE TO THE MORTGAGE LENDING INDUSTRY

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## AN ALT & ASSOCIATES NEWSLETTER

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The purpose of the Lenders Update is to provide a “heads-up” of new legislation and regulations affecting the mortgage lending industry. We provide summaries of new matters so our readers can judge whether the subject impacts their operations. We recommend that our readers review the entire new statute, regulation or other material in detail where it is relevant to them. For convenience, the applicable matter can be easily identified in the summary, and, where possible, a link is provided.

**The Update includes information available to Alt & Associates as of March 10, 2010.**

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## **NEW MORTGAGE LICENSING PROCEDURES IN CALIFORNIA**

As we know, the Housing and Economic Recovery Act of 2008 included in its provisions the Secure and Fair Enforcement For Mortgage Licensing Act of 2008 or the “SAFE Act”. The Act was designed to provide consumer protection by providing minimum standards for licensing and registration of mortgage loan originators. The Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators were encouraged to, and did, establish a Nationwide Mortgage Licensing System (“NMLS”). That system, as of January 4, 2010, has been implemented into California law, regulations and procedures.

Because of California’s unique licensing system, in which a company can obtain one of 3 licenses to originate/broker residential loans, the “how to” of getting into this system to get properly licensed,

can be confusing. Over the past several months, we have had a great number of questions regarding the “how to”.

As a result we thought it might be helpful to provide a brief summary of the procedures for licensing in California through the new NMLS. The Department of Corporations (“DOC”) has set forth its procedures for licensees under the California Residential Mortgage Lending Act (“CRMLA”) and the California Finance Lenders Law (“CFLL”). The Department of Real Estate (“DRE”) has its own procedures and practices. In an effort to maintain some clarity between the two different systems we will attempt to describe that of the Department of Corporations in this Lenders Update and follow it up shortly with a Supplemental Update describing the DRE system.

### **DEPARTMENT OF CORPORATIONS SUMMARY**

Most of the following summary is exactly that, a summary of information that can be found on the Department of Corporations website at [www.corp.ca.gov](http://www.corp.ca.gov) under the Financial Services Department and the SAFE menu items. In most instances, this is not new material but rather an attempt to provide a general framework of DOC procedures and systems, in hopes that, if summarized, the pieces will fit together a bit more easily.

California’s response to SAFE was Senate Bill 36 summarized in our Lenders Update in 2009 (see our website at [www.altandassociates.com](http://www.altandassociates.com)). This Bill implemented the SAFE Act which required state licensing and minimum requirements for mortgage loan originators. These requirements are:

- License or Registration
- Background Criminal and Credit Checks
- Initial and Continuing Education and Testing
- A minimum net worth and surety bond requirement
- Abiding by the obligations of the NMLS

NMLS can be accessed by completing a Company Request Form. Primary and secondary account administrators are identified. This form can be submitted electronically through the NMLS website at [www.stateregulatoryregistry.org/nmls](http://www.stateregulatoryregistry.org/nmls) . This step has to be accomplished only once regardless of the number of states in which the company is licensed and need not be redone for

California if it has already been done for another state. The primary account administrator then will have full rights to access the systems, submit information and set up company users.

Once the “Request” is completed, 4 forms will be used. We have heard these often referred to as one of the “MU” forms, but here are the distinctions:

- Licensed companies submit a form MU 1
- Control persons such as executive officers, qualified individuals and branch managers submit a form MU 2
- Licensed branches submit a form MU 3
- Company and/or mortgage loan originators submit a form MU 4

This procedure applies to both CRMLA and CFLL licensees.

The main thrust of SB 36, however, the required licensing of mortgage loan originators employed by DOC licensees whether Residential Mortgage Lenders or Consumer Finance Lenders. These licenses must be obtained by July 31, 2010. To allow for appropriate processing time, applications should be filed by May 28, 2010.

The cost of the processing of these forms/applications/registrations for existing licensees is low. DOC has waived any transition costs and NMLS charges \$100 per company and \$20 per branch. Fees for new applications are higher and can be found on either the DOC site or NMLS site.

Again, the NMLS website is [www.stateregulatoryregistry.org/nmls](http://www.stateregulatoryregistry.org/nmls). It provides, in detail, further information on the issues summarized above.

The DOC website at [www.copr.ca.gov](http://www.copr.ca.gov) provides 2 transition plans for California Residential Mortgage Lender licensees and California Finance Lender licensees. Much of this we have just discussed. Nonetheless, reviewing these plans is suggested for licensees.

Required forms should be submitted by May 28, 2010 so that changes or corrections can be made and the mortgage loan originator sponsorships can be completed by July 31, 2010. The MU 1, MU

**3 (if the originator works from a branch) and the MU 4 must all be submitted prior to the company sponsoring a mortgage loan originator licensee.**

**If the mortgage loan originator has submitted an MU 4 in another state, the originator need not re-submit an MU 4. We further note, that mortgage loan originators or their company can complete the form MU 4. In our judgment, it might seem appropriate to have compliance/licensing departments submit these MU 4s themselves in order to assure compliance and consistency.**

**Please remember that effective October 11, 2009, CFLL licensees employing one or more mortgage loan originators, shall maintain a minimum net worth of at least \$250,000.**

### **MORTGAGE LOAN ORIGINATORS**

**A mortgage loan originator is an individual who, for compensation or gain or in the expectation of compensation or gain, takes a residential mortgage loan application or offers or negotiates the terms of a residential mortgage loan.**

**A residential mortgage loan means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling that contains 1-4 residential units.**

**The person who acts as a mortgage originator must receive a license by July 31, 2010. These originators must be sponsored by a RML lender or a CFL lender. Originator licenses must be reviewed annually and expire December 31<sup>st</sup>.**

### **PREREQUISITES FOR LICENSE APPLICATIONS**

- An MU 4 filed and sponsorship received from an appropriately licensed/registered company**
- Background checks, including FBI fingerprint checks, or similar administrative records checks**
- Authorization to obtain an independent credit report**
- Demonstration of financial responsibility, character and fitness**

- **20 hours of pre-licensing education**
- **A passing score on the National and California Components of the Mortgage Loan Originator Tests**
- **Surety Bond coverage provided by the employer**

The DOC has identified 3 areas which would disqualify an applicant from obtaining a license:

1. **License revocation in any governmental jurisdiction**
2. **Conviction of a felony in the 7 year period preceding the date of application or at any time preceding the date of application if the crime involved fraud, dishonesty, breach of trust or money laundering**
3. **Demonstration that the individual is not financially responsible**

As well as the 20 hours of pre-license education which must contain 3 hours of Federal law and regulation, 3 hours of ethics and 2 hours of training related to nontraditional mortgage products, mortgage loan originators must complete 8 hours of continuing education each year. License applicants must complete and pass the National and California test. The California test just became available last month.

The initial 20 hour requirement is waived for DRE licensees but not for DOC originators even if they also are DRE licensees.

DOC sets for the following procedures for applying for a license:

- **The MU 4 must be submitted electronically for each originator through the NMLS website at [www.mortgage.nationwidelicencingsystem.org](http://www.mortgage.nationwidelicencingsystem.org) .**
- **Sponsorship requests must be submitted by the originator's employer.**
- **When the initial criteria for approval have been submitted, an "approved/conditional" status is issued. "Approval" status is issued when the criteria referenced above are met.**
- **License costs must be paid and are collected through the NMLS.**

We hope this has provided you a helpful structure for understanding the system.

As stated previously, within the next few days, we will provide a similar summary for DRE procedures.

Our monthly Lenders Update is published via e-mail as a complimentary service to our friends and clients in the financial industry throughout California and the United States. Only those persons who have requested this newsletter are on our mailing list. Should you have colleagues who wish to receive this complimentary service, please have them e-mail us at

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ALT & ASSOCIATES provides regulatory, compliance, operational advice and transactional assistance, as well as litigation representation, to the financial services industry. Over the past two decades, members of the firm have represented Institutional Lenders and Mortgage Bankers and Brokers in all aspects of their operations. If you have any questions please contact:

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