



# Secure and Fair Enforcement for Mortgage Licensing Act FAQs

The questions and answers below pertain to compliance with the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) as of November 24, 2019, the effective date of the 2018 amendments to the statute. Reviewing these questions and answers is not a substitute for reviewing the SAFE Act or the Bureau's Regulation G or Regulation H. The statute and Regulations G and H are the definitive sources of information regarding the requirements.

## Types of Loan Originators

### QUESTION 1:

What are the categories of loan originators in the SAFE Act?

### ANSWER (UPDATED 9/25/2019):

Under the SAFE Act, to engage in the business of being a residential mortgage loan originator, an individual must meet one of the following sets of requirements:

- *Registered Loan Originator.* For individuals who are employees of covered financial institutions (generally including employees of federally regulated depository institutions, such as banks or credit unions), loan originators must obtain and annually maintain registration with the NMLSR system. Regulation G describes the requirements to become a registered loan originator. [12 USC §§ 5102\(8\) and 5103\(a\)](#); 12 CFR § 1007.103.
- *State-Licensed Loan Originator.* For individuals who are not employees of a covered financial institution (in general, employees of non-depository institutions), loan originators must obtain and annually maintain a valid loan originator license from a state

and obtain registration with the NMLSR system, which generally is accomplished through the licensing process. State law implements the SAFE Act's requirement to obtain a loan originator license in a state. A loan originator should check with their state to determine the full set of state law requirements for obtaining a loan originator license. [12 USC §§ 5102\(12\) and 5103\(a\)](#); 12 CFR § 1008.103.

- *Loan Originator with Temporary Authority.* As of November 24, 2019, certain loan originators have temporary authority to act as a loan originator in a state for a limited period of time while applying for a state loan originator license in that state. Not all loan originators are eligible for temporary authority. Temporary authority applies to loan originators who were previously registered or state-licensed for a certain period of time before applying for a new state license. Additionally, loan originators are eligible for temporary authority only if they have applied for a license in the new state, are employed by a state-licensed mortgage company in the new state, and satisfy certain criminal and adverse professional history requirements described in the SAFE Act. More information about these requirements can be found in the SAFE Act, [12 USC § 5117](#).

Note: Registered Loan Originators and State-Licensed Loan Originators are types of loan originators initially established by the SAFE Act when it was enacted in 2008. Loan Originators with Temporary Authority were added to the SAFE Act by § 106 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), effective as of November 24, 2019.

#### QUESTION 2:

Where can loan originators exercise temporary authority?

#### ANSWER (UPDATED 9/25/2019):

Beginning on November 24, 2019, a loan originator that satisfies the Loan Originator with Temporary Authority eligibility criteria may act as a loan originator in a state where the loan originator has submitted an application for a state loan originator license, regardless of whether the state has amended its SAFE Act implementing law to reflect the EGRRCPA amendments.

For more information on the Loan Originator with Temporary Authority requirements, see [SAFE ACT Types of Loan Originators Question 1](#), above.

## State Transitional Licenses

### QUESTION 1:

What is the Bureau's guidance regarding state transitional license availability under the SAFE Act?

### ANSWER (UPDATED 9/25/2019):

In 2012, the Bureau issued [Bulletin 2012-05](#) on state transitional licenses in response to several inquiries it received regarding whether states may, consistent with the SAFE Act, permit a level of state reciprocity when granting state loan originator licenses. The Bureau explained that under Regulation H, "a state must require and find, at a minimum, that an individual" has met certain standards before granting an individual a state loan originator license. However, the Bureau stated that where a state is considering a licensing application from an individual who already holds a valid loan originator license from another state, the regulation does not limit the extent to which a new state may consider or rely upon the prior state's findings when determining an individual's eligibility under its own licensing laws. The bulletin also noted that the individual needs to meet a net worth or surety bond requirement, or pay into a state fund, as required by the state.

Provided that the individual meets these requirements and that the state is able to make findings that the loan originator meets all of the applicable standards, the SAFE Act permits transitional licensing in this limited sense.

However, state transitional licenses are not available in every situation. The Bulletin explained that states are not permitted to provide transitional licenses to Registered Loan Originators (who are not also State-Licensed Loan Originators) applying for a state loan originator license. In addition, not all states offer transitional licenses.

A loan originator applying for a state license must follow the application procedures established by the state, and generally must wait to begin acting as a loan originator until the state grants the application, including in transitional license situations. Loan originators who are eligible for temporary authority, discussed in [SAFE Act Types of Loan Originator Question 1](#) above, may act as a loan originator in the application state while the state is considering their application.

**QUESTION 2:**

Does EGRRCPA impact the status of state transitional licenses under the SAFE Act?

**ANSWER** (UPDATED 9/25/2019):

No. The EGRRCPA amendments to the SAFE Act will not affect the permissibility of transitional licensing under the SAFE Act and Regulation H, which was addressed in the Bureau's [Bulletin 2012-05](#). The EGRRCPA amendments do not impact the ability of a state to consider or rely on a prior state's findings when considering a State-Licensed Loan Originator's license application, as discussed in the Bureau's 2012 bulletin.

The EGRRCPA amendments establish temporary authority, which provides a way for eligible loan originators who have applied for a new state loan originator license to act as a loan originator in the application state while the state considers the application.

For more information on Loan Originators with Temporary Authority, see [SAFE Act Types of Loan Originators Question 1](#) and [State Transitional Licenses Question 1](#).