

(Pub. L. 110-289, div. A, title V, §1506, July 30, 2008, 122 Stat. 2816.)

§ 5106. System of registration administration by Federal agencies

(a) Development

(1) In general

The Bureau shall develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on July 21, 2010.

(2) Registration requirements

In connection with the registration of any loan originator under this subsection, the Bureau shall, at a minimum, furnish or cause to be furnished to the Nationwide Mortgage Licensing System and Registry information concerning the identity of the employee, including—

(A) fingerprints for submission to the Federal Bureau of Investigation, and any governmental agency or entity authorized to receive such information for a State and national criminal history background check; and

(B) personal history and experience, including authorization for the Nationwide Mortgage Licensing System and Registry to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.

(b) Coordination

(1) Unique identifier

The Bureau,¹ and the Bureau of Consumer Financial Protection shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each registered loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and publicly adjudicated disciplinary and enforcement actions against loan originators.

(2) Nationwide Mortgage Licensing System and Registry development

To facilitate the transfer of information required by subsection (a)(2), the Nationwide Mortgage Licensing System and Registry shall coordinate with the Bureau,¹ and the Bureau of Consumer Financial Protection concerning the development and operation, by such System and Registry, of the registration functionality and data requirements for loan originators.

(c) Consideration of factors and procedures

In establishing the registration procedures under subsection (a) and the protocols for as-

signing a unique identifier to a registered loan originator, the Bureau shall make such de minimis exceptions as may be appropriate to paragraphs (1)(A) and (2) of section 5103(a) of this title, shall make reasonable efforts to utilize existing information to minimize the burden of registering loan originators, and shall consider methods for automating the process to the greatest extent practicable consistent with the purposes of this chapter.

(Pub. L. 110-289, div. A, title V, §1507, July 30, 2008, 122 Stat. 2817; Pub. L. 111-203, title X, §1100(2), (5), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Subsec. (a)(1). Pub. L. 111-203, §1100(5)(A)(i), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The Federal banking agencies shall jointly, through the Federal Financial Institutions Examination Council, and together with the Farm Credit Administration, develop and maintain a system for registering employees of a depository institution, employees of a subsidiary that is owned and controlled by a depository institution and regulated by a Federal banking agency, or employees of an institution regulated by the Farm Credit Administration, as registered loan originators with the Nationwide Mortgage Licensing System and Registry. The system shall be implemented before the end of the 1-year period beginning on July 30, 2008.”

Subsec. (a)(2). Pub. L. 111-203, §1100(5)(A)(ii), in introductory provisions, substituted “Bureau” for “appropriate Federal banking agency and the Farm Credit Administration” and “identity of the employee” for “employees’s identity”.

Subsec. (b). Pub. L. 111-203, §1100(5)(B), which directed substitution of “and the Bureau of Consumer Financial Protection” for “through the Financial Institutions Examination Council, and the Farm Credit Administration”, was executed in both places those words appeared, to reflect the probable intent of Congress.

Subsecs. (b)(1), (2), (c). Pub. L. 111-203, §1100(2), substituted “Bureau” for “Federal banking agencies”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 5107. Bureau of Consumer Financial Protection backup authority to establish loan originator licensing system

(a) Backup licensing system

If, by the end of the 1-year period, or the 2-year period in the case of a State whose legislature meets only biennially, beginning on July 30, 2008, or at any time thereafter, the Director determines that a State does not have in place by law or regulation a system for licensing and registering loan originators that meets the requirements of sections 5104 and 5105 of this title and subsection (d) of this section, or does not participate in the Nationwide Mortgage Licensing System and Registry, the Director shall provide for the establishment and maintenance of a system for the licensing and registration by the Director of loan originators operating in such State as State-licensed loan originators.

(b) Licensing and registration requirements

The system established by the Director under subsection (a) for any State shall meet the requirements of sections 5104 and 5105 of this title for State-licensed loan originators.

¹ So in original. The comma probably should not appear.

(c) Unique identifier

The Director shall coordinate with the Nationwide Mortgage Licensing System and Registry to establish protocols for assigning a unique identifier to each loan originator licensed by the Director as a State-licensed loan originator that will facilitate electronic tracking and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators.

(d) State licensing law requirements

For purposes of this section, the law in effect in a State meets the requirements of this subsection if the Director determines the law satisfies the following minimum requirements:

(1) A State loan originator supervisory authority is maintained to provide effective supervision and enforcement of such law, including the suspension, termination, or non-renewal of a license for a violation of State or Federal law.

(2) The State loan originator supervisory authority ensures that all State-licensed loan originators operating in the State are registered with Nationwide Mortgage Licensing System and Registry.

(3) The State loan originator supervisory authority is required to regularly report violations of such law, as well as enforcement actions and other relevant information, to the Nationwide Mortgage Licensing System and Registry.

(4) The State loan originator supervisory authority has a process in place for challenging information contained in the Nationwide Mortgage Licensing System and Registry.

(5) The State loan originator supervisory authority has established a mechanism to assess civil money penalties for individuals acting as mortgage originators in their State without a valid license or registration.

(6) The State loan originator supervisory authority has established minimum net worth or surety bonding requirements that reflect the dollar amount of loans originated by a residential mortgage loan originator, or has established a recovery fund paid into by the loan originators.

(e) Temporary extension of period

The Director may extend, by not more than 24 months, the 1-year or 2-year period, as the case may be, referred to in subsection (a) for the licensing of loan originators in any State under a State licensing law that meets the requirements of sections 5104 and 5105 of this title and subsection (d) if the Director determines that such State is making a good faith effort to establish a State licensing law that meets such requirements, license mortgage originators under such law, and register such originators with the Nationwide Mortgage Licensing System and Registry.

(f) Regulation authority**(1) In general**

The Bureau is authorized to promulgate regulations setting minimum net worth or surety bond requirements for residential mortgage

loan originators and minimum requirements for recovery funds paid into by loan originators.

(2) Considerations

In issuing regulations under paragraph (1), the Bureau shall take into account the need to provide originators adequate incentives to originate affordable and sustainable mortgage loans, as well as the need to ensure a competitive origination market that maximizes consumer access to affordable and sustainable mortgage loans.

(Pub. L. 110-289, div. A, title V, §1508, July 30, 2008, 122 Stat. 2818; Pub. L. 111-203, title X, §1100(3), (6), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Pub. L. 111-203, §1100(3), (6)(A), inserted section catchline, struck out former section catchline which read “Secretary of Housing and Urban Development backup authority to establish a loan originator licensing system”, and substituted “Director” for “Secretary” wherever appearing in text.

Subsec. (f). Pub. L. 111-203, §1100(6)(B), added subsec. (f).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 5108. Backup authority to establish a nationwide mortgage licensing and registry system

If at any time the Director determines that the Nationwide Mortgage Licensing System and Registry is failing to meet the requirements and purposes of this chapter for a comprehensive licensing, supervisory, and tracking system for loan originators, the Director shall establish and maintain such a system to carry out the purposes of this chapter and the effective registration and regulation of loan originators.

(Pub. L. 110-289, div. A, title V, §1509, July 30, 2008, 122 Stat. 2819; Pub. L. 111-203, title X, §1100(3), July 21, 2010, 124 Stat. 2106.)

AMENDMENTS

2010—Pub. L. 111-203 substituted “Director” for “Secretary” in two places.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-203 effective on the designated transfer date, see section 1100H of Pub. L. 111-203, set out as a note under section 552a of Title 5, Government Organization and Employees.

§ 5109. Fees

The Bureau, the Farm Credit Administration, and the Nationwide Mortgage Licensing System and Registry may charge reasonable fees to cover the costs of maintaining and providing access to information from the Nationwide Mortgage Licensing System and Registry, to the extent that such fees are not charged to consumers for access to such system and registry.

(Pub. L. 110-289, div. A, title V, §1510, as added Pub. L. 111-203, title X, §1100(7), July 21, 2010, 124 Stat. 2107.)

PRIOR PROVISIONS

A prior section 5109, Pub. L. 110-289, div. A, title V, §1510, July 30, 2008, 122 Stat. 2819, which related to fees,