

**§ 5102. Definitions**

For purposes of this chapter, the following definitions shall apply:

**(1) Bureau**

The term “Bureau” means the Bureau of Consumer Financial Protection.

**(2) Federal banking agency**

The term “Federal banking agency” means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

**(3) Depository institution**

The term “depository institution” has the same meaning as in section 1813 of this title, and includes any credit union.

**(4) Loan originator****(A) In general**

The term “loan originator”—

(i) means an individual who—

(I) takes a residential mortgage loan application; and

(II) offers or negotiates terms of a residential mortgage loan for compensation or gain;

(ii) does not include any individual who is not otherwise described in clause (i) and who performs purely administrative or clerical tasks on behalf of a person who is described in any such clause;

(iii) does not include a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable State law, unless the person or entity is compensated by a lender, a mortgage broker, or other loan originator or by any agent of such lender, mortgage broker, or other loan originator; and

(iv) does not include a person or entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in section 101(53D) of title 11.

**(B) Other definitions relating to loan originator**

For purposes of this subsection, an individual “assists a consumer in obtaining or applying to obtain a residential mortgage loan” by, among other things, advising on loan terms (including rates, fees, other costs), preparing loan packages, or collecting information on behalf of the consumer with regard to a residential mortgage loan.

**(C) Administrative or clerical tasks**

The term “administrative or clerical tasks” means the receipt, collection, and distribution of information common for the processing or underwriting of a loan in the mortgage industry and communication with a consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

**(D) Real estate brokerage activity defined**

The term “real estate brokerage activity” means any activity that involves offering or

providing real estate brokerage services to the public, including—

(i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of real property;

(ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property;

(iii) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) offering to engage in any activity, or act in any capacity, described in clause (i), (ii), (iii), or (iv).

**(5) Loan processor or underwriter****(A) In general**

The term “loan processor or underwriter” means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of—

(i) a State-licensed loan originator; or

(ii) a registered loan originator.

**(B) Clerical or support duties**

For purposes of subparagraph (A), the term “clerical or support duties” may include—

(i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(ii) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

**(6) Nationwide mortgage licensing system and registry**

The term “Nationwide Mortgage Licensing System and Registry” means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the State licensing and registration of State-licensed loan originators and the registration of registered loan originators or any system established by the Director under section 5108 of this title.

**(7) Nontraditional mortgage product**

The term “nontraditional mortgage product” means any mortgage product other than a 30-year fixed rate mortgage.

**(8) Registered loan originator**

The term “registered loan originator” means any individual who—

(A) meets the definition of loan originator and is an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(B) is registered with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

**(9) Residential mortgage loan**

The term “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 (as defined in section 1602(v)<sup>1</sup> of title 15) or residential real estate upon which is constructed or intended to be constructed a dwelling (as so defined).

**(10) Director**

The term “Director” means the Director of the Bureau of Consumer Financial Protection.

**(11) State**

The term “State” means any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands.

**(12) State-licensed loan originator**

The term “State-licensed loan originator” means any individual who—

(A) is a loan originator;

(B) is not an employee of—

(i) a depository institution;

(ii) a subsidiary that is—

(I) owned and controlled by a depository institution; and

(II) regulated by a Federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(C) is licensed by a State or by the Director under section 5107 of this title and registered as a loan originator with, and maintains a unique identifier through, the Nationwide Mortgage Licensing System and Registry.

**(13) Unique identifier**

**(A) In general**

The term “unique identifier” means a number or other identifier that—

(i) permanently identifies a loan originator;

(ii) is assigned by protocols established by the Nationwide Mortgage Licensing System and Registry and the Bureau to facilitate electronic tracking of loan originators and uniform identification of, and public access to, the employment history of and the publicly adjudicated disciplinary and enforcement actions against loan originators; and

(iii) shall not be used for purposes other than those set forth under this chapter.

**(B) Responsibility of States**

To the greatest extent possible and to accomplish the purpose of this chapter, States shall use unique identifiers in lieu of social security numbers.

(Pub. L. 110-289, div. A, title V, §1503, July 30, 2008, 122 Stat. 2811; Pub. L. 111-203, title X, §1100(2)-(4), July 21, 2010, 124 Stat. 2106.)

REFERENCES IN TEXT

Section 1602(v) of title 15, referred to in par. (9), was redesignated section 1602(w) of title 15 by Pub. L. 111-203, title X, §1100A(1)(A), July 21, 2010, 124 Stat. 2107.

AMENDMENTS

2010—Pub. L. 111-203, §1100(4)(A), redesignated pars. (2) to (12) as (3) to (13), respectively.

Par. (1). Pub. L. 111-203, §1100(4)(B), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “The term ‘Federal banking agencies’ means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.”

Par. (2). Pub. L. 111-203, §1100(4)(B), added par. (2). Former par. (2) redesignated (3).

Par. (5). Pub. L. 111-203, §1100(3), substituted “Director” for “Secretary”.

Par. (10). Pub. L. 111-203, §1100(4)(C), added par. (10) and struck out former par. (10). Prior to amendment, text read as follows: “The term ‘Secretary’ means the Secretary of Housing and Urban Development.”

Par. (11)(C). Pub. L. 111-203, §1100(3), substituted “Director” for “Secretary”.

Par. (12)(A)(ii). 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.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

**§ 5103. License or registration required**

**(a) In general**

Subject to the existence of a licensing or registration regime, as the case may be, an individual may not engage in the business of a loan originator without first—

(1) obtaining, and maintaining annually—

(A) a registration as a registered loan originator; or

(B) a license and registration as a State-licensed loan originator; and

(2) obtaining a unique identifier.

**(b) Loan processors and underwriters**

**(1) Supervised loan processors and underwriters**

A loan processor or underwriter who does not represent to the public, through advertising or other means of communicating or providing information (including the use of busi-

<sup>1</sup> See References in Text note below.