



Commissioner J. Thomas Cardwell
Florida Office of Financial Regulation
200 East Gaines Street
Tallahassee, FL 32399

RE: Proposed Rule 69V-40.001

July 9, 2010

Dear Commissioner Cardwell:

The Mortgage Bankers Association¹ (MBA) appreciates the opportunity to comment on Proposed Rule 69V-40.001, which implements key aspects of Florida's SAFE Mortgage Licensing Act. MBA has long supported robust uniform national standards for licensure and registration of mortgage loan originators. Rigorous uniform standards are needed to achieve the important objectives of ensuring fair and open competition, better serving and protecting consumers, while reducing fraud and unnecessary regulatory burden.

As such, MBA supports Florida's efforts to bring the state into compliance with the SAFE Act and participate in the National Mortgage Licensing System (NMLS) beginning this fall. However, MBA strongly objects to Florida's requirement that loan processors and underwriters of state regulated mortgage lenders be required to be licensed as loan originators, as outlined in recently-enacted HB 1281 and section 69V-40.0331 of the proposed rule. While MBA recognizes that many of the requirements were dictated by the Legislature, we hope that you will consider our concerns with regard to the licensure of processors and underwriters.

The SAFE Act is clear that it is intended to require licensure by the states of loan originators of state licensed mortgage lenders that work with customers and not processors or underwriters who do not communicate with the public². Loan processors and underwriters do not originate loans, do not work with customers and perform functions separate from loan originators on behalf of their companies. Unlike originators, who receive compensation on a per transaction

¹ The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

² According to Section 1504 (B) (1) of SAFE, "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 business cards, stationery, brochures, signs, rate lists, or other promotional items), that such individual can or will perform any of the activities of a loan originator shall not be required to be a State-licensed loan originator."

basis, processors and underwriters receive a salary that is not tied to a particular loan application or specific action taken or attempted.

Furthermore, in response to a range of internal and external concerns, including the Home Valuation Code of Conduct (HVCC), mortgage lenders have erected firewalls between loan originators and underwriters and certain loan processors to keep originators from unduly influencing companies' underwriting decisions. MBA does not believe that implementation of the SAFE Act should inadvertently undermine these initiatives by demanding that loan processors and underwriters be treated the same as loan originators for purposes of licensure.

Finally, requiring processors and underwriters to be licensed as loan originators places state regulated non-bank mortgage lenders at a distinct competitive disadvantage to depository lenders. Under the SAFE Act, employees of federally regulated depository institutions must register with the NMLS, but are not subject to the education and background investigation requirements necessary to obtain a license. Moreover, the regulations that the federal banking agencies are expected to approve do not require loan processors and underwriters to be licensed. Requiring processors and underwriters to be licensed by state regulated mortgage lenders creates an even greater imbalance between depository and non-bank lenders and will significantly increase costs for independent mortgage lenders and, consequently, decrease consumer choice in the State of Florida.

MBA looks forward to working with you to ensure a smooth transition to NMLS. Again, we recognize that the Legislature enacted many of the requirements, but nonetheless appreciate the opportunity to share our concerns. Should you have any questions or concerns, please contact Meghan Sullivan at (202) 557-2866 or msullivan@mortgagebankers.org.

Sincerely,

A handwritten signature in cursive script that reads "John A. Courson". The signature is written in black ink and is positioned below the word "Sincerely,".

John A. Courson
President and Chief Executive Officer