

SAFE Act Examination Procedures for Depository Institutions

Examination Objectives

1. To determine whether the financial institution has adopted written policies and procedures designed to assure compliance with the SAFE Act regulation.
2. To determine whether the annual independent testing of the institution's policies and procedures for assuring compliance with the SAFE Act regulation has been conducted.
3. To determine whether any violations or deficiencies identified during the independent testing have been corrected and that steps have been taken to ensure they do not recur.

Examination Procedures

- 1) Determine whether the financial institution, or any of its subsidiaries, employs one or more MLOs. For those institutions without any MLOs, these examination procedures do not need to be completed.
- 2) Determine for those financial institutions with MLOs whether the institution has adopted written policies and procedures and conducts annual independent compliance tests to assure compliance with the SAFE Act regulation. If the institution has failed to adopt policies and procedures and to perform annual independent compliance tests, the examiners should address the violation in the examination report and require corrective action.
- 3) Review the financial institution's written policies and procedures and the annual independent compliance tests to determine whether the institution has taken appropriate steps to assure compliance with the SAFE Act that at a minimum:
 - (a) Establish a process for identifying which employees of the financial institution are required to be registered MLOs;
 - (b) Require that all employees of the financial institution who are MLOs be informed of the registration requirements of the SAFE Act and the SAFE Act regulation and be instructed on how to comply with such requirements and procedures;
 - (c) Establish procedures to comply with the unique identifier requirements in section 105 of the SAFE Act regulation;
 - (d) Establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records;
 - (e) Establish procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures;

(f) Provide for independent testing for compliance with the SAFE Act regulation conducted annually by institution personnel or by an outside party;

(g) Provide for appropriate action in the case of an employee who fails to comply with the registration requirements of the SAFE Act, the SAFE Act regulation, or the financial institution's policies and procedures, including prohibiting such employees from acting as an MLO or other appropriate disciplinary actions;

(h) Establish a process for reviewing employee criminal history background reports received pursuant to the SAFE Act regulation, taking appropriate action consistent with applicable federal law, including section 19 of the Federal Deposit Insurance Act (12 USC section 1829) and implementing records of these reports and actions taken with respect to applicable employees; and

(i) Establish procedures designed to ensure that any third party with which the institution has arrangements related to mortgage loan origination has policies and procedures to comply with the SAFE Act, including appropriate licensing and/or registration of individuals acting as MLOs.

4) Any significant deficiencies in the institution's SAFE Act regulation policies and procedures or independent compliance tests should be documented in the workpapers and discussed in the examination report together with corrective actions taken.