

## **Frequently Asked Compliance Question**

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### **Question**

At what point is my institution required to disclose NMLS ID Numbers on loan documents? For example, our tellers may provide consumers with blank applications that may be completed and returned to us at a later point. Do NMLS ID Numbers have to be included on these applications?

### **Short Answer**

Both the SAFE Act and Regulation Z require the disclosure of NMLS ID Numbers. The SAFE Act mandates that the NMLS ID Numbers must be provided on the initial written communication from the Mortgage Loan Originator (“MLO”) to the applicant. More specifically, Regulation Z requires both the MLO’s and the financial institution’s NMLS ID Numbers to be disclosed on the note/loan contract, the security instrument and even the credit application whenever such a document is provided to a consumer or presented to a consumer for a signature. To determine whether the NMLS ID Numbers must be disclosed on the initial credit application...

### **Detailed Answer**

...You must determine the specific circumstances regarding the actual distribution of the application to the consumer. Under the provisions of the SAFE Act, an individual loan originator must disclose his or her NMLS ID Numbers in three situations: upon request; before acting as a mortgage loan originator; and through the originator’s initial written communication with a consumer. The disclosure requirements of the SAFE Act can be met in different ways depending on the circumstances of each transaction and the institution’s policies and procedures. The originator’s NMLS ID Numbers may be disclosed to consumers in ways such as through inclusion on the credit application, business cards, email signatures and written correspondence.

With the implementation of certain Dodd-Frank Act amendments in 2014, Regulation Z now requires the disclosure of the NMLS ID Numbers of both the institution and the individual originator in certain circumstances. For closed-end consumer credit transactions secured by a dwelling, 12 CFR §1007.36(g) requires that names and NMLS ID Numbers of both the institution and the individual loan originator be disclosed on the credit application, the note or loan contract and the security instrument documents. 12 CFR §1026.36(a)(1) describes the term loan originator, as a person who engages in specific activities such as accepting a credit application from a consumer or negotiating an extension of credit.

Furthermore, the regulation provides specific exemptions to the term loan originator, which are clarified in the Official Staff Commentary. The Commentary states that an individual who provides a credit application form from the institution for which he or she works to a consumer for completion does not meet the definition of loan originator.

In order to meet this exemption, the individual must not assist the consumer in completing the application, engage in processing or analyzing the consumer's information or discuss particular credit terms with the consumer. The individual may describe the application process or the information needed to complete the application and still meet the exemption as long as particular credit terms are not discussed. Therefore, as long as the individual employee refrains from engaging in loan originator activity, disclosure of the NMLS ID Number would not be required.

In fact, the act of providing a blank application or general information to a consumer could be performed by non-registered employees, such as tellers or platform personnel. Likewise, the simple act of receiving or accepting a completed application merely to forward to the appropriate party within the institution for analysis does not trigger the NMLS ID Number disclosure requirement. However, if the consumer returns the completed loan application to the institution and the individual accepting the application performs other "MLO activities" such as discussing specific credit terms in relation to the consumer's specific information; this activity would trigger the need to disclose the names and NMLS ID Numbers of both the institution and the individual loan originator.

A fairly common question we receive is whether an institution should pre-print its NMLS ID Number on its stock of blank applications. While doing so would not be prohibited by the regulation and would prevent it from being left off due to human oversight, we recognize that this option may not necessarily be the most feasible, especially if the application forms are custom-made by a vendor. Should your institution choose not to pre-print the information in its applications, we do suggest that internal controls be developed to ensure that the institution's name and NMLS ID Number are included along with those of the loan originator whenever *loan origination* activity occurs.

For additional information or if you have a question that you would like us to answer in an upcoming Regulatory Compliance E-News, contact [Stephen King, JD, AMLP](mailto:sking@wolfandco.com), Member of the Firm and Director of the Regulatory Compliance Group, at 617-428-5448 or [sking@wolfandco.com](mailto:sking@wolfandco.com), or Brian Shea, CRCM, Regulatory Compliance Manager, at 617-261-8133 or [bshea@wolfandco.com](mailto:bshea@wolfandco.com).