

REGULATORY IMPACT ANALYSIS

For

Registration of Mortgage Loan Originators Final Rulemaking

January 8, 2010

(Revised July 1, 2010)

Office of the Comptroller of the Currency

REGULATORY IMPACT ANALYSIS

Executive Order 12866 requires federal agencies to conduct a regulatory analysis for any economically significant regulatory action, which includes any rule that may have an annual effect on the economy of \$100 million or more. The Office of the Comptroller of the Currency (OCC) anticipates that the Registration of Mortgage Loan Originators Rulemaking (the joint interagency Rule or the Rule) will meet the \$100 million criterion and is thus an economically significant regulatory action.

In conducting the regulatory analysis of a significant regulatory action that may, among other things, have an annual effect on the economy of \$100 million or more (economically significant regulatory action), Executive Order 12866 requires each federal agency to provide to the Administrator of the Office of Management and Budget's (OMB) Office of Information and Regulatory Affairs (OIRA):

- The text of the regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need;
- An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory requirement and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions;
- An assessment, including the underlying analysis, of benefits anticipated from the regulatory action together with, to the extent feasible, a quantification of those benefits;
- An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets including productivity, employment, and competitiveness), together with, to the extent feasible, a quantification of those costs; and
- An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable nonregulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives.

We submit this regulatory impact analysis (RIA) to meet the requirements of Executive Order 12866. In doing so, we believe that this RIA meets the regulatory assessment requirement of the Regulatory Flexibility Act with respect to determining if the joint interagency Rule has a significant economic impact on a substantial number of small entities.

EXECUTIVE SUMMARY

Overall Impact

We have examined the impact of the joint interagency Rule being issued to interpret and implement the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Title V of the Housing and Economic Recovery Act of 2008 (P.L. 110-289, 122 Stat. 2654, 12 U.S.C. 5101 *et seq.*) (the Act or statute) as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), as amended by Executive Order 13258 (February 26, 2002), and the Regulatory Flexibility Act (RFA) (September 19, 1980, P.L. 96-354). The rule will be jointly issued by OCC, Board of Governors of the Federal Reserve, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, and Farm Credit Administration (collectively, the Agencies). We believe the joint interagency Rule will have economically significant effects.

The joint interagency Rule requires loan originators to register and disclose their registration numbers to consumers. Information about the registration status and employment history of, and publicly adjudicated disciplinary and enforcement actions taken against,¹ registered mortgage loan originators employed by financial institutions will be available to consumers through the Nationwide Mortgage Licensing System and Registry (NMLSR) Web site. This information will enhance consumers' ability to compare the registration status of mortgage loan originators. Based on the stated objectives of the Act, supported by statements made by members of Congress, the licensing or registration of mortgage loan originators is intended to enhance consumer protections and support anti-fraud measures,² eliminate bad actors from the mortgage business,³ and help to combat abuses in the subprime mortgage origination process.⁴

Alternatives

We analyze the costs and benefits of two alternatives to adopting the joint interagency Rule. We consider (1) an alternative whereby the Agencies would do only what is necessary to implement the statute and (2) adopting a less stringent performance-based rule.⁵

The Joint Interagency Rule

This analysis estimates the costs of the joint interagency Rule. There are clear and identifiable costs associated with the joint interagency Rule that exceed those a bank must incur to comply with the statute. Among other things, the joint interagency Rule requires banks to adopt written policies and procedures to assure compliance with the statutory requirements in the joint interagency Rule, in addition to the requirements of the joint interagency Rule itself. For purposes of this analysis, we assume the Agencies start the 180-day implementation period on August 1, 2010.⁶ Table 2 provides a cost comparison using the mean cost of the joint interagency Rule; Section VI of this RIA contains assumptions and explains our cost analysis. Section V provides information specifically related to the joint interagency Rule and the alternatives.

¹ Publicly adjudicated disciplinary and enforcement actions will be available to the public through the NMLSR at the Full Operational Capability stage of system deployment, which is scheduled for first quarter 2011.

² Section 1502 of the Act.

³ Congressional Record S5798, June 19, 2008.

⁴ Congressional Record H7001, July 23, 2008.

⁵ The *status in quo* is the baseline, and therefore is not included in the list of alternatives.

⁶ August 1, 2010 is the date specified in the OCC system requirements documents provided to State Regulatory Registry, LCC (SRR). SRR is a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS). SRR operates the system developed for the State-licensing of mortgage loan originators.

Under the lower cost estimate for the joint interagency Rule, we assume banks work with SRR to increase banks' efficiency and reduce banks' costs.⁷ Alternately, banks develop a work-around which we assume will require SRR's cooperation, but minimal time and effort on the part of SRR.

In general, the benefits associated with the joint interagency Rule and of the alternatives are qualitative rather than quantitative. Section VII of this document includes a discussion of qualitative benefits associated with a rule and Section VIII describes the constraints imposed on the OCC by the Act.

Final Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) of 1980, P.L. 96-354, requires agencies to describe and analyze the impact of the Rule on small entities. Based on our cost estimates, the joint interagency Rule will have a significant impact on a substantial number of small national banks.

We estimate 623 national banks with employees originating loans secured by residential real estate are small entities based on the Small Business Administration's general principles of affiliation (13 C.F.R. 121.103(a)) and the size threshold for a small bank. We believe the joint interagency Rule will have a significant impact on approximately 65 (10 percent) small national banks.⁸ Therefore, we believe the joint interagency Rule will have a significant impact on a substantial number of small banks. We classify the impact of total costs on a small bank as significant if the total costs in a single year are greater than 5 percent of total salaries and benefits, or greater than 2.5 percent of total non-interest expense. Mean total costs per small bank in the group of small banks where compliance costs are significant is approximately \$25,000 per bank.⁹

Conclusion

The mean of the higher and lower cost estimates for the joint interagency Rule is less than the cost of minimally implementing the statute, and more than the cost of a performance standard approach. Our estimate of the mean monetized cost under the joint interagency Rule is \$52 million less than the estimated cost to minimally implement the statute (as described in Section V). We estimate that the first year monetized costs to banks under the joint interagency Rule are between \$232 million and \$343 million. We estimate banks' costs over five years, discounted at 3 percent, are between \$552 and \$958 million.

The constraints described in Section VIII, preclude the Agencies from implementing the Act using the less costly performance standard (described in this RIA) that minimizes banks' burden through automation. Given the constraints imposed on OCC by the Act, and based on the estimated mean cost, the joint interagency Rule is the least cost option available to the OCC.¹⁰

The costs of the joint interagency Rule are summarized in Table 1 below and in Table A-4 of the appendix. As noted above, the benefits associated with the joint interagency Rule are qualitative rather than

⁷ For purposes of this document and the issues discussed herein, SRR and NMLSR describe the same organizations and people. CSBS invited banks to participate in a bank user group. The group started meeting in December 2009. The group's membership expanded following the February 2010 NMLSR user conference when bank employees responsible for implementing the joint interagency Rule became aware of the user group.

⁸ We estimated the impact on small banks both with and without employee turnover because it is our understanding that the turnover rate at small banks is significantly less than the rate at large banks and there may be no turnover for several years in a row at some banks. However, even without employee turnover, there is a significant impact on a substantial number of small banks.

⁹ The mean totals of the cost estimates (i.e., the higher cost estimate and the lower cost estimate) for all (623) small banks impacted by the joint interagency Rule are \$32,000 and \$27,000, respectively. The mean total cost per small bank in the group of small banks where compliance costs are significant is approximately \$26,000 under the higher cost estimate, and \$23,000 under the lower cost estimate.

¹⁰ We describe the constraints in section VIII.

quantitative, and have not been monetized. Because we are unable to quantify the benefits, we base our conclusion on a combination of (a) the cost estimates and (b) the constraints.

Table 1: Cost estimates for the Joint Interagency Rule

Cost Component	Cost estimates
Banks' total cost 2010	\$232 - \$343 million
Banks' 5 year cost (2010 – 2014) discounted at 3% ¹¹	\$552 - \$958 million
Banks' 5 year cost discounted at 7%	\$523 - \$904 million
Government cost 2010	\$4 million
Government 5 year cost discounted at 3%	\$10 million
Government 5 year cost discounted at 7%	\$ 9 million
Total Cost 2010	\$236 - \$347 million
Total 5 year cost discounted at 3%	\$562 - \$968 million
Total 5 year cost discounted at 7%	\$532 - \$913 million

REGULATORY IMPACT ANALYSIS

I. The Act

Background

The Act mandates a nationwide licensing and registration system for mortgage loan originators. Specifically, the Act requires all States to provide for a licensing and registration regime.¹² In addition, the Act requires the Agencies to develop and maintain a system for registering mortgage loan originators employed by Agency-regulated institutions. The Act specifically prohibits an individual from engaging in the business of residential mortgage loan origination without first obtaining and maintaining annually (1) a registration as a “Registered Loan Originator” and obtaining a unique identifier if employed by an Agency-regulated institution (i.e., Federal registration), or (2) a license and registration as a “State-Licensed Loan Originator” and obtaining a unique identifier.¹³

The primary way in which the Act distinguishes between a State-licensed loan originator and a Federally-registered loan originator is whether a loan originator is an employee of an institution, or a subsidiary of an institution, regulated by a Federal banking agency or the Farm Credit Administration. A State-licensed loan originator (i.e., a loan originator that is not an employee of an Agency-regulated institution or a subsidiary of such an institution) is required to be licensed by a State or by the Secretary of Housing and Urban Development (HUD) under §1508 of the Act¹⁴ and register with the NMLSR. In contrast, a loan originator employed by a depository institution (or its subsidiary) is not required to obtain a license but is required to register. In general, the Act requires any individual who meets the definition of loan originator and who is an employee of an institution regulated by a Federal banking agency or the Farm Credit Administration to register with, and maintain a unique identifier through, the NMLSR.¹⁵

¹¹ We calculate costs in 2010 dollars and discount costs for 2011 through 2014.

¹² States are required to establish a licensing regime within one year of enactment of the Act or two years for States whose legislatures meet biennially. If the Secretary of Housing and Urban Development determines that any State fails, within the statutorily prescribed timeframe, to establish a licensing regime that meets the requirements of the Act, the Secretary is required to establish a system for licensing in that State. See §1508 of the Act.

¹³ See Registered Loan Originator is defined in §1503(7) and State-Licensed Loan Originator is defined in §1503(11).

¹⁴ See §1503(11)(C) of the Act.

¹⁵ See §1503(7) of the Act.

The objectives of the S.A.F.E. Act of 2008 include:¹⁶

- Aggregating and improving the flow of information to and between regulators (including the collection and disbursement of consumer complaint information);
- Providing a comprehensive licensing and supervisory database;
- Enhancing consumer protections and supporting anti-fraud measures;
- Increasing accountability and tracking of loan originators;
- Establishing a means by which residential mortgage loan originators would, to the greatest extent possible, be required to act in the best interests of the consumer; and
- Providing consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, loan originators.

As evidenced by these objectives, as well as by statements of members of Congress who supported the legislation, an important purpose of the “new mortgage broker and lender licensing requirement...[was] to address many of the abuses of the mortgage process that have been perpetrated by brokers.”¹⁷ Senator Martinez of Florida, who worked on the development of the Act, stated during the deliberations on the Act that it would help eliminate bad actors from the mortgage business.¹⁸ Rep. Lynch stated that the bill gets to the root of the financial problem, which, in his view, is the origination process for subprime mortgages and stated that the bill includes a new tool that will allow Congress to combat abuses of the subprime origination process by creating a nationwide mortgage licensing system and registry to license and register mortgage loan brokers.¹⁹

Congress enacted the Act as part of the Housing and Economic Recovery Act of 2008²⁰ and requires the establishment of a nationwide system for the State licensing and registration of State-licensed loan originators and the registration of loan originators.²¹

The NMLSR is required to coordinate with the Agencies (through the FFIEC) concerning the development of registration functionality and data requirements for loan originators.

State Licensing, education and testing

Section 1505(b) of the Act outlines the minimum standards for the issuance of a license. In addition to the applicant never having a license revoked, and never having been convicted of, or pleading guilty to a felony involving an act of fraud, dishonesty, or a breach of trust, or money laundering (or another felony during the 7-year period preceding the date of the application for licensing), the applicant is required to:

- Demonstrate “financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the loan originator will operate honestly, fairly, and efficiently within the purposes of [the Act];”
- Complete “the pre-licensing education requirements described in subsection (c)” of the Act;

¹⁶ See § 1502 of the Act.

¹⁷ Congressional Record S6520, July 10, 2008.

¹⁸ Congressional Record S5798, June 19, 2008.

¹⁹ Congressional Record H7001, July 23, 2008.

²⁰ Public Law 110-289, Division A, Title V, sections 1501-1517, 122 Stat. 2654, 2810-2824 (July 30, 2008), codified at 12 U.S.C. 5101-5116.

²¹ Under the Rule, a “registered mortgage loan originator” is an employee of a depository institution who meets the definition of mortgage loan originator, is registered, and obtains (and maintains) a unique identifier through the NMLSR.

- Pass “a written test that meets the test requirement described in subsection (d)” of the Act; and
- Meet “either a net worth or surety bond requirement, or [pay] into a State fund, as required by the State pursuant to section 1508(d)(6).”

The NMLSR is required to review and approve pre-licensing education courses. However, the NMLSR may not offer, directly or indirectly, pre-licensure educational courses for loan originators. Under §1505 of the Act, each loan originator applying for a state license must complete at least 20 hours of pre-licensing education.²² Each year loan originators are required to obtain an additional eight hours of continuing education to meet the standards for license renewal for State-licensed loan originators.²³

Federal banking agency requirements

- Section 1507 of the Act requires the Agencies to:
Jointly, through the Federal Financial Institutions Examination Council (FFIEC), and together with the Farm Credit Administration (FCA), develop and maintain a system for registering employees of institutions regulated by a Federal banking agency or the FCA, as registered loan originators with the NMLSR;
 - At a minimum, furnish or cause to be furnished to the NMLSR (in connection with the registration of any loan originator) information concerning an employee’s identity –
 - Including fingerprints for submission to the Federal Bureau of Investigation (FBI), and
 - Personal history and experience, including authorization for the NMLSR to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction.
 - Make such *de minimis* exceptions as may be appropriate to the requirement to obtain and maintain annually a registration (as a registered loan originator) and to obtain a unique identifier;
 - Make reasonable efforts to utilize existing information to minimize the burden of registering loan originators; and
 - Consider methods for automating the process to the greatest extent practicable.²⁴
- Coordinate with the NMLSR (through the FFIEC) 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.²⁵

²² The education requirement includes (a) at least three hours on federal law and regulations; (b) three hours of ethics, which shall include instruction on consumer protection and fair lending issues; and, (c) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

²³ See § 1506(b)(1).

²⁴ See § 1507 of the Act.

²⁵ See § 1507(b) of the Act.

II. Pre-S.A.F.E. Act Environment

Supervision of national banks

The OCC extensively regulates the mortgage business of national banks and their subsidiaries. Because of the standards applied by the OCC, national banks were not significant originators of subprime loans. Loan originators, employed by or associated with non-depository institutions, originated the vast bulk of such loans. These loan originators were subject to a significantly less rigorous system of regulation, oversight, and examination.²⁶

“Non-depository institution mortgage providers originated the overwhelming preponderance of subprime and ‘Alt-A’ mortgages during the crucial 2005-2007 period, and the loans they originated account for a disproportionate percentage of defaults and foreclosures nationwide, with glaring examples in the metropolitan areas hardest hit by the foreclosure crisis. Lenders and brokers associated with non-depository institutions have been widely recognized as the overwhelming source of abusive subprime mortgages resulting in waves of foreclosures. Reflective of the practices used by those non-bank lenders, nearly one-half of the mortgages they originated in some major markets are in foreclosure. As the 2007 Report of the Majority Staff of the Joint Economic Committee recognized, “[s]ince brokers and mortgage companies are only weakly regulated, another outcome [of the increase in subprime lending] was a marked increase in abusive and predatory lending.”²⁷

The OCC addresses operating deficiencies, violations of laws and regulations (including violations of consumer protection standards), and unsafe or unsound practices at national banks through supervisory actions and the use of civil enforcement powers and tools. “National banks and their operating subsidiaries are subject to comprehensive, ongoing supervision that...enables examiners to identify problems early and obtain early corrective action. Because of the OCC’s regular, and in some cases, on-site presence at national banks, we have the power and ability to promptly halt unsafe or unsound practices or violations of law.”²⁸

Loan originators and licensing requirements

As HUD noted in its first annual report to the Congress required by the Act:

“Loan originators are the frontline intermediaries between institutional lenders and consumers, often responsible for facilitating the single largest purchase many Americans make in their lifetimes, the purchase of a home. The SAFE Act recognizes this fact and establishes professional licensing requirements for all state-licensed loan originators. Under the SAFE Act, originators are now treated more like securities brokers, lawyers, and certified public accountants. Through standardized testing, education, and character and fitness requirements, the Act will increase integrity in the residential mortgage loan market, enhance consumer protections, and help track and prevent systemic residential mortgage fraud.”²⁹

²⁶ See Testimony of John C. Dugan, Comptroller of the Currency before the Committee on Financial Services of the U.S. House of Representatives (March 20, 2009).

²⁷ *Id.*

²⁸ *Id.*

²⁹ See “Report to Congress: Secure and Fair Enforcement for Mortgage Licensing Act,” Department of Housing and Urban Development (July 2009), 6.

The Act establishes standardized state licensing requirements. It not only creates a single nationwide licensing system for all mortgage loan originators, but, in theory, it brings uniformity and consistency to state licensing standards, and establishes reporting requirements for mortgage companies (*i.e.*, mortgage call reports). The Act eliminates arbitrary title-based distinctions between individuals performing functionally equivalent activities through the creation of a two-part test for determining whether an individual is a loan originator. For example, before the Act required states to enact or modify state licensing laws, in Florida, loan originators performed the same job as mortgage brokers, but originators were not required to obtain a license. In an investigation, the Miami Herald found that half the mortgage professionals registered in Florida entered the industry without the state issuing a license.³⁰ Dozens of people in Florida “stripped of their licenses as mortgage brokers were able to sidestep regulators by becoming loan originators.”³¹

Mortgage fraud and the regulatory gap

Despite an increase in the state regulation of some non-bank mortgage lending activities during the past decade, there was still a lack of uniformity among the various state requirements and a “regulatory gap” between banks and non-bank residential mortgage lenders and originators. Loan originators employed by or associated with non-banks are subject to a significantly less rigorous system of regulation, oversight, and examination than loan originators employed by banks. The Act imposes requirements on state-licensed loan originators analogous to some of the requirements that applied to loan originators employed by banks before the Act.³² For example, banks have well established programs to comply with federal consumer protection, real estate settlement procedures, and anti-money laundering regulations. In general, these programs include: (1) the development of internal policies, procedures, and controls; (2) the designation of a compliance officer; (3) ongoing employee training; and (4) an independent audit function.

Reporting and monitoring fraud

Some mortgage loan fraud is reported through Suspicious Activity Reports (SARs) required under the Bank Secrecy Act (BSA).³³ Original and acquiring mortgage lenders may file SARs documenting suspicions of mortgage loan fraud based on irregularities identified in loan documentation, but a significant portion of the mortgage industry is void of any mandatory fraud reporting, in part, because some mortgage lenders are not directly subject to the BSA. Therefore, the true level of mortgage fraud is largely unknown.³⁴

The BSA defines the term “financial institution” to include, in part, a “loan or finance company” and “persons involved in real estate closings and settlements.” On April 29, 2002, and again on November 6, 2002, the Financial Crimes Enforcement Network (FinCEN) temporarily exempted both of these categories of financial institutions, among others, from the requirement to establish an anti-money laundering (AML) program. In July of 2009, FinCEN contemplated “an incremental approach to implementation of AML regulations for loan and finance companies that would focus first on those business entities that are engaged in residential mortgage

³⁰ Dolan, Jack, Barry, Rob and Haggman, Matthew “Borrowers Betrayed,” The Miami Herald (July 19, 2008).

³¹ Dolan, Jack, Barry, Rob and Haggman, Matthew “Brokers on the fringe: Ex-convicts find niche,” The Miami Herald (July 21, 2008).

³² Some state licensing laws and requirements existed before the Act. However, the licensing regimes were not always effective. See Dolan, Jack, Barry, Rob and Haggman, Matthew “Brokers on the fringe: Ex-convicts find niche,” The Miami Herald (July 21, 2008).

³³ See the Privacy Impact Assessment for the Mortgage Fraud Database for an example of how SARs can be used by law enforcement. http://foia.fbi.gov/mortgage_fraud.htm. The Miami-Fort Lauderdale-Pompano Beach metropolitan area is ranked first in the nation for the number of local subjects named in Suspicious Activity Reports (SARs) filed by depository institutions concerning suspected mortgage fraud. *Financial Fraud Enforcement Task Force Hosts Mortgage Fraud Summit in Miami*, Department of Justice Press Release (February 24, 2010).

³⁴ http://www.fbi.gov/publications/financial/fcs_report2007/financial_crime_2007.htm#mortgage.

lending or origination and [that] are not currently subject to any AML program requirement under the BSA or other federal law. These ‘non-bank’ residential mortgage lenders and originators are primary providers of mortgage finance - in most cases dealing directly with the consumer - and are in a unique position to assess and identify money laundering risks and fraud while directly assisting consumers with their financial needs.”³⁵

In its ANPR, FinCEN noted such regulations would complement efforts underway by mortgage companies to comply with the nationwide licensing system and registry under development since the passage of the Act. As mortgage companies implement systems and procedures to comply with the Act, there will be opportunities for them to review and enhance their educational and training programs to ensure that employees are able to identify and appropriately deal with fraud, money laundering and other financial crimes.

Non-bank lenders vulnerable to fraud

The disparity in regulation between bank and non-bank mortgage lenders may make non-bank mortgage lenders and originators more vulnerable to fraud. Financial institutions have experienced an increase in the number, volume, and types of mortgage fraud schemes resulting in significant losses.³⁶ Consistent with findings of the Miami Herald investigation that banks were often the target of mortgage fraud, FinCEN’s mortgage fraud reports show non-bank mortgage lenders and originators initiated many of the mortgages that were associated with financial mortgage SAR filings. Furthermore, FinCEN studies have shown a connection between persons involved in mortgage fraud and other suspected financial crimes.³⁷ In an ANPR issued in July of 2009, FinCEN stated, “[b]oth mortgage fraud and the act of laundering mortgage fraud proceeds are crimes under federal and state laws, and both are destructive to consumers, individual businesses and the financial system as a whole.”³⁸

Background checks

Most prospective bank employees are already the subject of a background check before their first day on the job at a bank.³⁹ P.L. 92-544 (found in the notes to 28 United States Code § 534) authorizes the FBI to exchange records "with officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions." The same broad language is used in the regulation governing such checks at 28 C.F.R. § 50.12(a). Pursuant to this authority, for many years banks have conducted criminal history record checks on prospective bank employees.

Existing mortgage industry data exchange

The LexisNexis® Mortgage Asset Research Institute, Mortgage Industry Data Exchange (MIDEX) is an industry-contributed repository used for verifying, credentialing, and monitoring mortgage professionals and companies. The database contains a unique combination of industry-contributed investigations of adverse activity, public disciplinary, and licensing information, including incidents of verified fraud and

³⁵ See FinCEN ANPR, 74 Fed. Reg. 35,830 (July 21, 2009).

³⁶ See “The Detection and Deterrence of Mortgage Fraud Against Financial Institutions: A White Paper,” Appendix C, FFIEC, July 2009.

³⁷ See FinCEN, Mortgage Loan Fraud Connections with Other Financial Crime: An Evaluation of Suspicious Activity Reports Filed by Money Services Businesses, Securities and Futures Firms, Insurance Companies and Casinos, Mar. 2009. http://www.fincen.gov/news room/rp/files/mortgage_fraud.pdf

³⁸ 74 Fed. Reg. 35,832 (July 21, 2009).

³⁹ See endnote 10 to Table A-2 for a discussion of banks duplicating or conducting a second FBI background check because under NMLSR’s proposed procedures banks would not be able to conduct a pre-employment background check. One of the reasons banks may currently perform background checks is to avoid violating 12 U.S.C. § 1829. 12 U.S.C. § 1829 prohibits individuals convicted of any criminal offense involving dishonesty or a breach of trust or money laundering, or who have agreed to enter into a pretrial diversion regarding such an offense from (i) becoming or continuing as an Institution Affiliated Party (IAP); (ii) owning or controlling a financial institution; or (iii) participating in the conduct of the affairs of a financial institution.

misrepresentations, public administrative actions, and regulatory sourced professional license information. According to the MIDEX Web site, MIDEX “provides ongoing automated protection from mortgage fraud with individual and company licensing verification, combined public and non-public adverse incidents, and continuous monitoring of selected search files and automated change alerts.”⁴⁰

III. Need for Regulatory Action

The Agencies are issuing the joint interagency Rule pursuant to Title V of the Act. In accordance with Executive Order 12866, §1 “Federal agencies should promulgate only such regulations as are required by law, are necessary to interpret the law, or are made necessary by compelling need.” The Agencies are issuing the joint interagency Rule to interpret and implement the Act. More specifically, the joint interagency Rule implements:

- §1504 of the Act, which provides that, subject to the existence of a registration regime, an individual may not engage in the business of a loan originator without first (i) obtaining and maintaining annually a registration as a registered loan originator, and, (ii) obtaining a unique identifier;
- §1507 of the Act, which requires the Agencies to furnish information, or cause information to be furnished, to the NMLSR; and⁴¹
- The joint interagency Rule enhances accountability for compliance with the Act’s registration requirements by placing an explicit requirement on national banks (and other institutions subject to the Federal registration requirement) to require each of their loan originators to register with the Registry, maintain registration, and obtain a unique identifier. The joint interagency Rule also enhances the ability of the OCC to take remedial action (including enforcement action, if necessary) to ensure compliance with the Act and the joint interagency Rule.

IV. The Joint Interagency Rule and Alternatives Considered

The joint interagency Rule

To implement the Act and to hold banks accountable for the registration of employees acting as mortgage loan originators, the joint interagency Rule generally requires a national bank to require each of its employee mortgage loan originators to register with the Registry, maintain registration, and obtain a unique identifier. Furthermore, consistent with the Act, the joint interagency Rule requires a national bank to prohibit its employees from acting as mortgage loan originators for the bank unless the employees have registered and obtained a unique identifier. The Agencies designed these regulatory requirements to ensure that loan originators who are employees of a national bank (or its operating subsidiary) will register and obtain a unique identifier.

The Act requires each loan originator to obtain a unique identifier to facilitate the electronic tracking of loan originators, and the uniform identification of, and public access to, the employment history and

⁴⁰ See http://www.lexisnexis.com/risk/solutions/midex.aspx?l2=credentialing_research&bc=bbcr&sb=b.

⁴¹ Section 1507(a) of the Act provides that the Agencies are to jointly develop and maintain a system for registering mortgage loan originators employed by federally regulated financial institutions or their subsidiaries. In addition, pursuant to section 1507(b) of the Act, the Agencies must coordinate with the NMLSR concerning the establishment of protocols for assigning a unique identifier to each registered loan originator and the development and operation of the NMLSR’s registration functionality and data requirements for loan originators.

publicly adjudicated disciplinary and enforcement actions against an originator. To effectively implement this provision of the Act, the joint interagency Rule requires a national bank to make the unique identifiers of its employee mortgage loan originators available to consumers in a manner and method practicable to the bank. In addition, the joint interagency Rule requires a registered loan originator to provide the originator's unique identifier to consumers upon request, before acting as a loan originator, and through the originator's initial written communication with consumers, if any.⁴²

The requirements described above will provide a consumer access to an originator's unique identifier early enough in the mortgage origination process to enable a consumer to access the Registry before committing to a mortgage loan transaction. For consumers wishing to verify the registration status of a loan originator employed by a national bank, receiving a notice with an originator's unique identifier will facilitate a consumer's ability to access a loan originator's registration information.⁴³

To enhance the OCC's supervision of mortgage origination and banks' compliance with the requirements of the Act, the final joint interagency Rule requires that national banks adopt and follow written policies and procedures designed to ensure compliance with the joint interagency Rule by placing certain regulatory requirements on both national banks and their employee loan originators. Requiring national banks to establish and follow written policies and procedures will facilitate the monitoring of national banks' and their employee mortgage loan originators' compliance with the joint interagency Rule. The Agencies require written policies and procedures to provide a national bank and its employees with the expectations of the bank's board of directors regarding implementation of the Act and the joint interagency Rule, including guidance that is applicable to the activities of a specific bank. Policies and procedures also enhance the ability of OCC examiners to evaluate the effectiveness of a national bank's program for complying with the joint interagency Rule.

We provide two cost estimates for the joint interagency Rule. The primary difference between the higher and lower cost estimates is the use of technology. The higher cost estimate is based on the system requirements specified by the Agencies and includes labor-intensive manual processes that are necessary to comply with the joint interagency Rule, but are not supported by the NMLSR system specified by the Agencies. The lower estimate assumes banks increase efficiency by automating labor-intensive processes (e.g., eliminating manual data entry). Less labor is required because either (i) SRR will work with banks to meet their requirements, or (ii) banks will develop work-arounds. See Table A-4 of the appendix for the higher, lower, and mean cost estimates for the joint interagency Rule.

⁴² The Board has proposed amendments to 12 C.F.R. § 226 (Regulation Z) that would require disclosure of the unique identifier as part of Truth in Lending Act (TILA) disclosures, which generally must be provided to a borrower within three business days of the residential mortgage loan application and seven business days before consummation of a mortgage loan transaction.

⁴³ There is uncertainty about whether the Registry itself, or information about national bank loan originators available to consumers through the Registry, will be of value to consumers. We do not know if, or the extent to which, consumers will access the Registry. Furthermore, in the event a consumer reviews a loan originator's background information we do not know if a consumer will be able to evaluate effectively the information contained therein.

Alternative regulatory approaches⁴⁴

After we determined regulatory action was appropriate, we considered alternative regulatory approaches. In this RIA, we evaluate alternatives consistent with the principles of Executive Order 12866. Consistent with the Executive Order and Circular A-4 we explore modifications to the joint interagency Rule's attributes and provisions (not specially required by statute).⁴⁵ The first alternative that we considered was to minimally implement the provisions of the Act. This alternative would be less stringent than the joint interagency Rule, but would require banks and/or loan originators employed by national banks to provide more information to NMLSR than is required by the joint interagency Rule.

The second alternative considered was a performance based standard. Performance standards express requirements in terms of outcomes rather than specifying the means to those ends. A less prescriptive performance based rule (e.g., banks would not be compelled to establish any specific policies) would allow for a reduction in the burden imposed on banks through automation and by allowing banks to benefit more from their information technology investments.

V. Analysis of the cost of the joint interagency Rule and the alternatives

This section describes the costs for the joint interagency Rule and the alternatives considered. Table 2 at the end of this section presents a comparison of those costs. The following section presents additional detail on the assumptions used in the cost estimates.

To place the cost of the joint interagency Rule in context, Executive Order 12866 requires a comparison between the joint interagency Rule, a pre-statute baseline, the statute without the joint interagency Rule, and reasonable alternatives to the joint interagency Rule. Table A-1 of the Appendix provides a comparison of the requirements of the Rule and the alternatives. When a statute establishes a specific requirement, and an agency is considering a more stringent standard, the agency must examine the benefits and costs of reasonable alternatives that reflect the range of the agency's statutory discretion, including the specific statutory requirement. In this section, we provide information specifically related to alternatives (i.e., the statute or the performance standard) or the joint interagency Rule. There are no costs associated with the pre-statute baseline.

In general, the joint interagency Rule, or a design standards rule, provides a more structured approach, and imposes more costs on banks than a performance standards rule. Section VI provides a detailed description of how we calculated the cost of the Rule and the alternatives. Table A-2 lists selected unit costs and cost assumptions.

1) The statute: Implement and define the Act

The statute alternative analyzes the situation where the Agencies take the minimal regulatory action necessary to implement the Act. Costs to banks are equivalent to the costs banks would incur if the Agencies did not take any regulatory action.

We assume banks will make decisions about how to implement the statutory requirement as efficiently as possible given the requirements imposed by the NMLSR, while ensuring all loan originator employees

⁴⁴ See Table A-1 for a comparison of the requirements under the statute, the joint interagency Rule and the performance standard alternative.

⁴⁵ One of the alternatives we consider uses performance standards because Executive Order 12866 requires that "[e]ach agency shall identify and assess alternative forms of regulation and shall, to the extent feasible, specify performance objectives, rather than specifying the behavior or manner of compliance that regulated entities must adopt." See Executive Order 12866.

comply with the registration requirements. Because national banks generally maintain records to demonstrate compliance with a statute or regulation, we assume national banks will maintain some of the same records to demonstrate compliance with the statute that they would to demonstrate compliance with a rule (including the joint interagency Rule). In lieu of demonstrating compliance by showing examiners a set of policies and procedures, if necessary, banks could demonstrate compliance with the Act by showing evidence of registration (*i.e.*, the registration number obtained from the NMLSR for each loan originator the bank identified as an employee required to register).

Under this alternative, we assume SRR uses the same system and electronic form to register loan originators as currently used to license originators under the state system.⁴⁶ In the absence of a joint interagency Rule, we assume banks and/or loan originators employed by national banks will have to provide more information to NMLSR than is required by the joint interagency Rule and pay a per branch registration fee. Under the existing state licensing system, state-licensed entities and their mortgage loan originators have to provide more information to the NMLSR than is required by the joint interagency Rule. Therefore, the statute alternative assumes additional time is required to enter information into the NMLSR system than the amount of time associated with initial registration under the Rule for each loan originator and system administrator. We estimate the time required for each originator to register and to gather and enter data into the NMLSR system, based on the requirements of the Rule and the requirements and functionality of the NMLSR system, is four hours per originator employed by a Group 4 or Group 5 bank, and 6 hours per originator at Group 1 – 3 banks. The difference in hours required based on the bank's originator group is to account for differences in efficiency between those banks that invest in technology and those that do not. The hours per originator under the statute alternative are 7.5 and 8 hours, respectively. For additional information on this topic see the subsection in Section VI entitled 'Cost to collect and enter data.'

We show the cost associated with collecting and entering more information about each loan originator in the 'Cost to collect and enter data' row of Table 2. Based on the figures in this row of Table 2 the cost associated with collecting and entering data under the statute alternative exceeds the mean cost for the same activity under the joint interagency Rule by approximately \$55 million.⁴⁷ The 'NMLSR fees 2010' row of Table 2 shows that the mean cost of fees under the joint interagency Rule and the statute are \$12 and \$15 million, respectively. Thus we estimate the costs of fees under the statute are \$3 million higher than the mean cost of fees under the joint interagency Rule. SRR currently charges companies registering a fee of \$20 per office. Under a minimal implementation of the statute we assume banks pay a fee of \$20.00 per domestic office (*e.g.*, branch). Because the joint interagency Rule does not require banks to individually register each domestic office, the Agencies effectively eliminated SRR's ability to impose this fee on banks.

Some of the additional information banks and/or originators have to provide under the statute alternative includes financial and residential history for ten years, non-financial services-related employment history for the last 10 years, other business activities, nonfinancial-related felony actions, pending criminal and civil actions, and the reason for termination in their employment history. See Table A-3 for a detailed list of the data elements that we believe would most likely be collected both with and without a joint interagency Rule.

⁴⁶ Because national banks have already obtained a bank charter and provide information about ownership and financial condition to regulators, we assume banks would not be required to provide the same information state licensed firms are required to provide for a company license.

⁴⁷ The cost to collect and enter data includes costs associated with submitting information to the NMLSR for system administrators.

2) *Performance standard based alternative*

A performance-based alternative assumes that national banks are required to adopt a risk-based compliance program appropriate to the nature, size, complexity, and scope of the mortgage lending activities of the bank (e.g., recordkeeping or other procedures to enable a bank to demonstrate compliance with the registration and renewal requirements of the Act). A less prescriptive performance based rule will allow for a reduction in the burden imposed on banks through automation and by allowing banks to benefit more from their information technology investments.

Under the performance standard alternative, banks are not required to submit information about loan originators (other than information specifically required by both the FBI and §1507 of the Act for submission to the FBI) that is not made available to the public because the information is not necessary to implement §1504 or §1507 of the Act.⁴⁸

A key driver for cost estimates in the performance standard alternative is increased use of automation by national banks (and efficient use of existing information and technology by the NMLSR) consistent with §1507(c) of the Act. Under the performance alternative, we assume the Agencies utilize existing information to minimize the burden of registering loan originators and automate the registration process to the greatest extent practicable consistent with §1507(c) of the statute. In general, the performance standard system requirements are consistent with the regulatory approach (i.e., the performance standard alternative regulatory approach does not contain the same system functionality and requirements as those specified and provided to SRR by the Agencies in September 2009).

Under this alternative, we assume originators are required to spend less time registering, when the Agencies reduce burden by using, and/or allowing banks to use, existing information, avoiding duplication, and not collecting unnecessary information. We also assume the burden will be lowest for originators who have worked at the bank for at least ten years, or for originators hired during or after 2009 because we assume (especially for new hires at larger banks) the bank collects information electronically when the originator applies for a job at the bank.

Under the joint interagency Rule, both the employee and the employing institution must submit information to the NMLSR (and log onto the NMLSR system more than once) to complete a registration. Renewals also require the participation of both the employee and employer even when there are no changes to the information previously provided to the NMLSR. This is not the case under the performance standard alternative.

3) *The joint interagency Rule*

We are able to distinguish between the costs associated with the statute and the joint interagency Rule because there are some costs associated with requirements in the joint interagency Rule not found in the statute.⁴⁹ We do not attempt to distinguish between costs associated with requirements in the joint interagency Rule and the requirements or burden imposed by the combination of the joint interagency Rule with the system (i.e., NMLSR). We believe this is justified because system requirements specified by the Agencies mirror or reinforce many of the joint interagency Rule's requirements (or vice-versa). Similarly, system shortcomings or banks' requirements for NMLSR functionality omitted from the Agencies' list of

⁴⁸ Although not required, banks would be able to submit additional non-public information, such as any unique identifier the bank may wish to use to facilitate matching.

⁴⁹ See Table A-1. Table A-1 provides a comparison of the requirements under the statute, the joint interagency Rule, and the performance alternative.

requirements for modifications to the NMLSR system may increase the burden associated with the joint interagency Rule.⁵⁰

We obtained information from banks regarding compliance operations. However, compliance operations costs under the Rule may vary from banks' estimates because many of the controls upon which banks rely involve technology and automation and the large banks we interviewed did not have complete or accurate information about the NMLSR system when they prepared their estimates. For the most part, to calculate the higher cost estimate we use variable costs to account for the costs of manual processes we believe are not included in banks' compliance operations estimates because an efficient automated process is not supported by, or consistent with, the NMLSR system requirements specified by the Agencies.

We assume that prior to the start of the 180-day implementation period banks working with CSBS as part of the bank user group (i.e., the Lending Committee) will develop and implement ways to increase banks' efficiency and reduce banks' costs below the cost estimate based on the system requirements. Banks (especially those banks employing a substantial number of originators) will reduce their compliance costs in one of two ways. First, we assume banks will attempt to effect change by working with the CSBS through the bank user group to close the gap between banks' requirements and the NMLSR system functionality (which falls short of banks' requirements).⁵¹ Second, we assume those banks employing a substantial number of originators will develop a contingency plan to ensure their ability to efficiently comply with the Rule's requirements by developing ways to work-around SRR and the NMLSR system.

Amounts not included in the cost estimate for the joint interagency Rule

Under the joint interagency Rule, our estimate does not specifically include an amount to cover all bank costs, including the bank costs described below.

1. That may be associated with data breaches of personally identifiable information such as social security number and date of birth.⁵²
2. To comply with the Privacy Act's notice requirement (provided on behalf of the government) when an agency collects or requires individuals to provide their social security numbers.⁵³ Under the joint interagency Rule, loan originators must provide a social security number to register and registration is required for a bank loan originator to continue to work at the bank as a loan originator.
3. To comply with the requirements of 28 C.F.R. 50.12(b) to provide loan originators the opportunity to complete or challenge the accuracy of the information contained in an FBI record.
4. Related to time or problems associated with granting company access to employee records in NMLSR

⁵⁰ See *Factors associated with the monetized cost of the joint interagency Rule exceeding the cost of the performance alternative* in this section of the RIA and higher cost estimate for the joint interagency Rule.

⁵¹ CSBS formed a bank user group in December 2009. The group confers approximately every two weeks. However, a representative from a bank participating in the user group told OCC staff the user group schedules a recurring weekly teleconference, but generally cancels every other teleconference. Our assumptions regarding the gap between banks' requirements and the system requirement documents are based on information we gathered in interviews with large banks regarding the efficient implementation of the Rule's requirements. We do not know precisely which issues and/or requests the user group has presented to the CSBS.

⁵² A data breach involving unauthorized access to bank employee records under the joint interagency Rule would more likely than not cause one or more banks to incur costs. We estimate that tangible bank data breach costs per employee would be equal to a bank's per customer cost or \$100 per employee. The cost of \$100 per employee or loan originator does not include costs to the government. Per employee cost is based on information provided by a large bank, and assumes the bank provides both notice and one year of credit monitoring.

⁵³ Under the Privacy Act of 1974, any Federal government agency, which requests an individual to disclose his or her social security account number is required to inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

(a time allowance is included for employees having trouble accessing their own records).

5. Related to mergers and acquisitions, at the company level, and especially the specific requirement in the rule requiring every loan originator to (log in to NMLSR and) attest to a change in the personal employee record following a merger, if, for example, the bank name (employer) changes as part of a merger or acquisition.
6. Associated with routine changes that may occur throughout the year. Under the joint interagency Rule, information that changes, for example a change in the name of the registrant, requires an originator's record to be updated within 30 days of the change. The employer must review the update, confirm its accuracy and compare the updated information with the bank's records. Like any other change, the employee loan originator must attest to the accuracy of the updated record regardless of who made the change. It will increase the cost of the joint interagency Rule and increase the difference between the cost of the joint interagency Rule and the performance alternative. Including this in the estimated cost of the joint interagency Rule will not change the results of our analysis.
7. To comply with the §34.105(b) notice requirement.
8. To comply with the registration requirement for banks to "file accurate supplementary information" as required by the joint interagency Rule.

Factors associated with the monetized cost of the joint interagency Rule exceeding the cost of the performance alternative

The collection of the required information through manual data entry during the initial registration period for between three and four hundred thousand national bank employees is a significant task and imposes a burden on national banks, which is not offset by a quantifiable benefit. The combination of the amount of information required and the lack of automation increase the burden for every data element the Agencies require in the joint interagency Rule that is not required by the statute.⁵⁴ However, the joint interagency Rule does not prohibit banks and the NMLSR from increasing the use of technology which would decrease the burden associated with manual data entry and non-automated processes.⁵⁵

Additionally, banks must establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparing information with the bank's own records. The system requirements specified by the Agencies make it difficult for banks to comply with the requirement in the joint interagency Rule to confirm the accuracy of information associated with employee registrations, and updates and renewals, compounding the burden described in the previous paragraph.⁵⁶

Government Costs

OCC expenditures are costs for compensation and benefits. Compensation and benefit expenditures include expenses related to work on the joint interagency Rule, the NMLSR system (including information technology, acquisitions and legal staff working on the contract between the OCC and SRR and the system

⁵⁴ For example, information banks are required to provide (or require loan originators to provide) that will not be made available to the public (e.g., home address, the registrant's social security number, gender, and date and place of birth).

⁵⁵ All of the documentation we have seen related to the NMLSR system indicates three data elements constitute the minimum required information to establish a loan originator's record in the database (i.e., employee name, social security number and email address). These three data elements are also the extent of the system requirements for information banks may submit to the NMLSR in batches.

⁵⁶ For example, based on the system requirements, banks will not be able to download the information or reports they are likely to need.

requirements specifically designed to implement the joint interagency Rule).⁵⁷ We estimate these costs will be less than \$2 million in 2010, which is less than one percent of OCC's annual budget for compensation and benefits.⁵⁸

In addition to OCC expenditures, the FBI will be required to incur costs associated with the joint interagency Rule and the joint interagency Rule's requirement for banks (and other federally regulated institutions) to review the results of the FBI's background check. Under the statute and the joint interagency Rule, we assume originators submit fingerprints to SRR as a channeler for the FBI. Before an authorized user of fingerprints may submit prints to a channeler that is going to submit those prints to the FBI, all three parties (*i.e.*, the authorized user, the channeler, and the FBI) must execute an outsourcing contract.⁵⁹ The FBI may be required to prepare, circulate, and execute approximately 13,800 of these contracts in a relatively short period of time, which may require additional FBI resources. We estimate a one-time cost to the FBI of approximately \$2 million. We estimate a total cost to the government for OCC's Rule in 2010 of \$4 million.

Total Costs. Table 2 summarizes the total costs of the joint interagency Rule and the alternatives.

Table 2: Cost Comparison

Cost estimate	Rule (mean cost)	Statute	Performance standard
Banks: total cost (2010)	\$ 288 million	\$313 million	\$131 million
Banks: annual expenditures	\$126 million	\$133 million	\$47 million
Banks: 5 year cost discounted at 3%	\$755 million	\$807 million	\$292 million
Cost per bank 1,418 banks (CY2010)	\$22,000 to \$40,000,000	\$11,000 to \$49,000,000	\$13,000 to \$17,000,000
Cost per bank 623 small banks (CY2010)	\$22,000 to \$73,000	\$11,000 to \$66,000	\$13,000 to \$28,000
Banks impacted significantly	10 percent	2 percent	3 percent
Mean cost per bank	\$25,000	\$13,000	\$13,000
Originators registered 2010	318,000	318,000	⁶⁰ 294,000
Cost per originator: minimum	\$735	\$860	\$260
maximum	\$3,900	\$1,890	\$2,400
Pre-implementation fixed costs	\$59 million	\$34 million	\$54 million
NMLSR fees 2010	\$12 million	\$15 million	\$6 million
Cost to collect and enter data	\$80 million	\$135 million	\$37 million
FBI costs (contracts)	\$2 million	\$2 million	\$0
Government cost 2010	\$4 million	\$4 million	\$2 million
Total cost 2010 (banks' and government)	\$292 million	\$317 million	\$133 million
Government 5 year cost discounted at 3%	\$10 million	\$10 million	\$8 million
Total cost five years discounted at 3% ⁶¹	\$765 million	\$817 million	\$300 million

⁵⁷ SRR will bear the costs associated with NMLSR system modifications (including any costs necessary to comply with the Federal Information Security Management Act (FISMA), P.L. 107-347 and related authentication requirements), as part of a no-cost government contract. We assume SRR recovers the costs associated with NMLSR system modifications along with operating costs through fees paid by banks.

⁵⁸ No specific costs are included for bank supervision because, in general, the OCC uses a risk-based approach to supervision. Therefore, in most cases we are unable to determine the amount of time examiners may spend on compliance functions related to a specific Rule. Readers should also note that examiners might examine compliance by function rather than regulation. For example, compliance with some (or all) of this Rule's requirements could be incorporated into a real estate lending consumer compliance examination.

⁵⁹ When a bank is the "authorized user" of criminal history report information obtained from the FBI, channelers are bank service providers and not an FBI contractor.

⁶⁰ See number of originators registered in Section VI.

VI. Notes and Assumptions for the Cost-Benefit Analysis for National Banks

This section provides detail about the assumptions and methods used for estimating costs. We also provide a summary of assumptions and unit costs in Table A-2 of the Appendix.

Organizations affected by the OCC's Rule

The statute and the OCC's Rule applies to national banks, Federal branches and agencies of foreign banks, and their operating subsidiaries (collectively referred to as national banks), and employees of national banks who act as loan originators.

Explanation of cost calculations

The costs of compliance with the Rule include expenditures by national banks to comply with the statutory requirements, plus other requirements in the joint interagency Rule and include costs associated with activities that will change as a result of the joint interagency Rule. Total costs include costs to national banks and costs to the government (*i.e.*, the OCC and the FBI).⁶² Table 2 summarizes our aggregated cost estimates, and Table A-2 contains information on unit costs.

We have taken significant efforts to include reasonable compliance costs in our estimate of costs associated with the statute, the joint interagency Rule, and the performance alternative in our analysis. However, we based our estimate on certain assumptions and there are uncertainty factors that reviewers of this analysis should keep in mind.

Calculations and assumptions applicable to estimates for the joint interagency Rule and the alternatives

Number of banks

We used both supervisory and call report data to determine 1,418 banks are likely to have loan originator employees required to register with the NMLSR. We divide national banks with loan originators into five groups based on the number of loan originator employed by the bank.⁶³ In general, costs and labor hours vary based on the number of originators (or a bank's originator size group). We use a bank's loan originator group for estimating costs that are likely to vary based on complexity, efficiency, or the decisions banks have made, or are likely to make, influenced by the number of loan originators employed by the bank.

Number of loan originators per bank

In the analysis of the proposed rule, OCC estimated the number of loan originators would be equal to ten percent of the number of full-time equivalent employees (FTEs) at the largest banks, and between twenty and thirty percent at small banks. The estimated number of loan originators per bank for the joint interagency Rule is (a) twenty percent of the number of full-time equivalent employees (FTEs) or

⁶¹ Total costs discounted at 7 percent for the Statute, and Performance standard alternatives are \$763 million, and \$307 million, respectively. Table 1 shows the higher cost estimate and lower cost estimates for the Rule discounted at 7 percent.

⁶² We assume SRR recovers all operating costs through fees. Therefore, fees from national banks will offset all SRR expenses. Costs associated with system modifications performed in SRR's capacity as a government contractor, under a no-cost government contract, are not counted as costs to the government. We assume the FBI recovers all costs associated with processing fingerprints but does not recover costs associated with entering into new three party contracts with channelers and end users. (The Rule's requirements will require authorized users of criminal history reports, who are required to register loan originators, to have a contract with SRR signed and approved by the FBI).

⁶³ See the first row of Table A-2 for details, including the number of banks by originator group.

(b) five times the number of the bank's domestic offices, whichever is greater.⁶⁴ The base number of national bank loan originators, without turnover is 271,000.

We revised our estimate based on information obtained through comments on the proposed rule and subsequent interviews with industry representatives. From comment letters⁶⁵ we initially established an estimate for the number of loan originators equal to twenty percent of full time equivalent (FTEs) employees. Through interviews with a small group of large banks, we verified the reasonableness of our estimate and obtained the number of loan originators for a group of large banks in late September and early October 2009. In addition to the total estimated number of loan originators, the banks we interviewed provided us with information about the number of loan originators per branch.

In general, we believe the information we obtained from large banks for loan originators per branch is applicable to banks of other sizes. We also have no reason to believe that the basis for calculating the number of loan originators per bank is likely to be lower for a mid-sized bank than it is for a similarly situated large bank. In addition to interviewing large banks, we obtained information from the Independent Community Bankers of America (ICBA).⁶⁶ From the ICBA we learned that there was tremendous variation in the percent of employees small banks believed would be required to register with the NMLSR. In fact, some community banks informed the ICBA they will be required to register 100 percent of their employees.

Rate of turnover

We assume annual loan originator turnover will be 35 percent for all national banks. This assumption is consistent with information on turnover we received from bankers we interviewed. We use 35 percent in our estimates. More than one large bank we interviewed noted that loan originator turnover is not an indication of the turnover rate for the bank or company as a whole. Many loan originator positions requiring registration are entry level, and loan originators may move to other positions at the bank. We note that the average annual turnover rate is likely to be less than 35 percent at small banks.⁶⁷

Number of originators registered

Given the turnover rate among loan originators, registering employees four or five months before the deadline (during the initial 180-day implementation period) will result in waste or the registration of some employees who will not be working for the bank at the end of the implementation period. Under the performance standard alternative, which assumes the use of an automated process, we believe banks will be able to submit a significant portion of registrations during the final sixty days of the implementation period, thus eliminating the need for banks to register a substantial number of loan originators during the first 120 to 150 days of the implementation period. Automation and the impact of automation on how early in the 180 day implementation period registrations will be completed creates the difference in the number of loan originators required to register under the performance standard alternative. Therefore, with turnover, under the performance standard alternative we assume national banks register 294,000 loan originators during the first 150 days. Under the joint interagency Rule, we assume banks register between 304,000 and 318,000 loan originators during the same period.

⁶⁴ For some banks the actual number provided by the bank is used.

⁶⁵ See the Wells Fargo comment letter and the Johnson Financial Group comment letter to the Board of Governors of the Federal Reserve.

⁶⁶ The ICBA is a trade group that represents community banks.

⁶⁷ Because of our uncertainty regarding the turnover rate at small banks, to determine if there is a significant impact on a substantial number of small entities we calculated the impact both with and without loan originator turnover for small banks.

Recordkeeping practices

We make assumptions about common business practices and the extent to which banks retain certain types of records (e.g., fingerprints and the results of FBI background checks indicating “no match” or “no record”). In general, we base our assumptions on anecdotal information we received in comment letters (and from a limited number of interviews with banks) because empirical data is not available.

De minimis exception

The de minimis exception is not a factor in our estimate. Based on interviews with bankers, banks are not likely to take the risk of violating the joint interagency Rule, by having an employee exceed a volume limit with a very low threshold, to save the incremental cost of registering an additional loan originator.

Pre-implementation costs

Under all of the alternatives, pre-implementation costs include an investment by banks in technology. The investment for banks in Group 4 (banks with $2,000 \leq 9,999$ originators) and Group 5 (banks with $\geq 10,000$ originators) is equal to \$1 million and \$4 million, respectively, per bank under the joint interagency Rule.⁶⁸ Banks’ technology costs under the statute alternative are \$1 million and \$3 million, respectively. We use a variable cost (per originator) to account for an increase in labor in lieu of technology for banks in the smaller size groups.⁶⁹

Under all of the alternatives, pre-implementation costs include the cost of developing a risk based compliance program. Under the joint interagency Rule, pre-implementation costs include developing a risk based compliance program and policies and procedures, (including all the activities associated with developing policies and procedures and establishing a compliance function to implement the bank’s policies and procedures). The costs per bank under the joint interagency Rule are:

- Group 1 and Group 2 banks \$15,000⁷⁰
- Group 3 banks \$18,750 - \$25,000
- Group 4 banks \$187,500 - \$250,000
- Group 5 banks \$1,125,000 - \$1,500,000

We estimate banks’ cost to develop a risk based compliance program under the performance standard alternative is 70 percent of the (higher) cost of the joint interagency Rule, and banks’ cost is 30 percent of the cost of the Rule under the statute alternative.⁷¹

Cost to collect and enter data

The cost to collect and enter data ranges from \$75 million to \$81 million, which primarily represents the cost of employee labor.⁷² The range is from \$2,000 per bank to \$12.4 million per bank. With the exception of certain data entry costs, unless otherwise noted, all references to hourly labor costs refer to our estimate for loan originator labor of \$54.30 per hour. To calculate our estimate for the loan originator hourly rate we obtained data from the Bureau of Labor Statistics (BLS) for loan officers,

⁶⁸ We base our technology estimate for Group 5 on information provided by banks in this group. In years two through five, we estimate banks spend ten percent of the cost of the original investment in technology, per year, to maintain the system.

⁶⁹ With the exception of the performance alternative, the variable cost is \$25 per originator for banks in Group 1 or Group 2, and \$50 per loan originator for banks in Group 3.

⁷⁰ See Table A-2 for the number of originators in each size group.

⁷¹ The percentage reference is to the higher cost estimate and excludes Group 5 banks under the statute alternative where the cost is \$300,000.

⁷² This total does not include any costs associated with capturing or processing fingerprints.

adjusted the hourly rate for the change in wages from the date of the BLS survey, and then added thirty percent for the cost of benefits for the private sector to this number.

Originator Labor. We estimate the time required for each originator required to register to gather and enter data into the NMLSR system, based on the requirements of the Rule and the requirements and functionality of the NMLSR system, is four hours per originator employed by a Group 4 or Group 5 bank, and 6 hours per originator at Group 1 – 3 banks. The difference in hours required based on the bank’s originator group is to account for differences in efficiency between those banks that invest in technology and those that do not. For Group 1 – 3 banks we are using the same number of hours a large bank that is not investing in technology is using for the bank’s own in-house estimate. For Group 4 and 5 banks the estimate is lower because originators will not be required to gather and manually enter the required information because some data elements will be pre-filled by the bank. The hours per originator under the statute alternative are 7.5 and 8 hours, respectively, and 2.0 and 2.5 hours, respectively under the performance standard alternative.

System Administrator Labor. We assume that system administrators will need to have RSA security tokens in order to access the NMLSR system; therefore, the number of system administrators required to register is equal to the number of RSA security tokens a bank receives.⁷³ We assume system administrations, both primary and secondary, are required to submit data using a modified MU-2 form.⁷⁴ We estimate the time required for each system administrator to register is between one and three hours. The number of administrators will vary based on a bank’s originator size group (*i.e.*, 5 for banks in Group 5, 4 for banks in Group 4, *etc.*).

Data entry. Included in the higher cost estimate for the Rule and the statute alternative is \$15 per originator for Group 5 banks (*i.e.*, banks with 10,000 or more originators) to hire temporary employees to enter data into the NMLSR system during the implementation period.⁷⁵

Other labor necessary to complete the registration process

After an originator’s information is entered into the system (by the loan originator or another bank employee), under the Rule and the statute alternative, every loan originator must log onto the NMLSR system and attest to the accuracy of information. Under the higher estimate for the Rule and the statute alternative, the estimated time associated with this task is five minutes per originator. The lower estimate for the Rule reduces the amount of time required per originator by 25 percent.

Section 34.104(d) of the Rule requires banks to adopt and follow written policies and procedures that, at a minimum, establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records. To comply with this requirement, two hours per loan originator is included in the higher cost estimate for the joint interagency Rule for the manual process of verifying the accuracy of information.⁷⁶ Under the higher estimate, we assume banks will not be able to download loan originator files from the NMLSR to

⁷³ We base our assumptions on the September 2009 system requirements documentation.

⁷⁴ Form MU-2 was created for, and must be completed by, “all direct owners, qualifying individuals and controls persons” as part of the state licensing and registration process.

⁷⁵ The plan to hire temporary employees and the per employee cost is based on an estimate developed by a bank, as part of a contingency plan, in case the NMLSR did not provide the type of batch processing necessary for the bank to efficiently register employees. We included the cost of data entry because, based on the system requirements documentation, NMLSR will not be providing the type of batch processing and system functionality banks require to efficiently register loan originators.

⁷⁶ Because banks are not required to confirm adequacy and accuracy using sources (*e.g.*, public records or an FFIEC database) of information other than their own records, it is not clear how, or if, a bank may detect an omission in information a loan originator provides the NMLSR.

automate this process, banks will have to compare information in the NMLSR system associated with each loan originator employed by the bank with information in the bank's personnel file or registration record for every loan originator required to register. Under the lower cost estimate, we assume that through the bank user group this functionality becomes available to banks, reducing the estimated time required to compare information to 0.50 hours per originator. No comparable cost is in the statute or performance standard alternative because this is not a requirement under the statute or performance alternative.⁷⁷

Other assumptions related to labor

Contacting the NMLSR call center for assistance

Based on data from the SRR annual report, December 2008 call center volume was approximately 70 percent of the total renewals processed for calendar year 2009.⁷⁸ Therefore, we determined it was necessary to incorporate the time associated with call center assistance into our cost estimate. We believe the average time to answer a call at a properly staffed and reasonably well run call center should be less than 30 seconds.⁷⁹ Based on the only information available to us, the call center supporting the NMLS is not a reasonably well run call center.

SRR reported limited call center statistics in the NMLS 2008 Annual Report.⁸⁰ SRR reported that at the end of the year the call center employed 34 full-time professionals. SRR reported the following for December 2008.

Total calls	31,994
Abandoned calls	1,993
Average minutes to answer	3.4
Average call length (minutes)	10.3

We do not believe that SRR will be able to maintain the same ratio of call center employees to calls, and the same ratio of calls to annual renewals in the future because if they did (and without an increase in efficiency) we estimate the number of call center employees would have to increase from 34 to over 500.⁸¹ We believe that in the absence of a very substantial increase in the number of call center employees, there is likely to be an increase in the abandoned call rate and the average minutes to answer a call. Despite this fact, our estimate for wait time and abandoned call rate is based on the above call center statistics provided by SRR for December 2008. We did not increase these numbers for the higher estimate because we believe bank provided training (required under the joint interagency Rule) could result in a lower rate of call center contacts than the ratio of call center contacts to 2009 state renewals. However, we also believe the use of RSA security tokens and the banks' reporting needs will place more demands on the call center than those made by state licensees.

⁷⁷ This is not a requirement found in the statute; and it is not necessary to include a comparable cost in the performance alternative because with automation and the batch processing of all required information, data are transferred from banks' files to the NMLSR (directly or through a service provider) thus eliminating the need to compare records.

⁷⁸ By the end of calendar year 2008, the NMLS managed state licenses for less than 51,000 individuals from 19 participating states. In November and December of 2008, SRR processed 44,401 renewals for calendar year 2009 (approximately 7 percent of the annual renewal volume we anticipate the NMLSR will be required to handle each year once the system is fully operational).

⁷⁹ We base our assumption regarding a properly managed call center on the time to answer a call using the actual average time to answer calls for the OCC's Customer Assistance Group (CAG). Average time to answer a call for the CAG was 8 seconds during December of 2008 and the average for the year ending August 2009 was 18 seconds.

⁸⁰ See page 6.

⁸¹ We base our estimate of over 500 call center employees on an estimated 650,000 state and federal registration renewals once the NMLSR is fully operational.

Under the lower cost estimate for the joint interagency Rule, we eliminate the cost associated with abandoned calls and assume a reduction in the number of call center contacts because of automation, such as the bulk loading of data by banks.

We assume there will be little to no wait time under the performance standard alternative because call centers contacts are significantly less than they are likely to be under the joint interagency Rule. We believe contacts will be lower because approximately 300,000 national bank employee loan originators will not be required to log onto the NMLSR system multiple times and use the NMLSR Web based system to input data, provide authorization and attest to the accuracy of the information. Because these individual loan originators are not required to log onto the system, the loan originators are unlikely to contact the call center. (If a comparable provision is adopted by other FFIEC agencies an additional one to two hundred thousand loan originator call center contacts could be eliminated).

NMLSR/SRR fees

Fees paid to SRR include fees associated with registration (initial and annual renewal), a one-time fee for establishing each originator's account, and fees paid to SRR in its role as a channeler of fingerprints submitted to the FBI to obtain a background check. These fees are \$20.00, \$10.00, and \$15.00, respectively under the alternatives and the higher cost estimate for the joint interagency Rule. Under the lower cost estimate for the joint interagency Rule, we assume the one-time fee for establishing each originator's account and the fees paid to SRR in its role as a channeler of fingerprints are \$5.⁸² We exclude fees paid by banks that SRR pays to a third party from the fee line item in Table 2 (but include these fees in the total costs to banks). An additional fee of \$20.00 per domestic office is included in the statute alternative.

Under the performance standard alternative, banks receive a fee off-set or credit to the set-up fees typically charged each originator because a bank using all of the batch processing capabilities available to banks eliminates the need for individual originators to log in and/or contact the call center, thus reducing SRR's system capacity and staffing requirements and the associated costs.

Security tokens

We include a cost of \$80 per RSA security token and assume SRR issues fewer tokens than the number in the estimate prepared by OCC's information technology staff for three reasons. First, because bank employees who obtain reports from NMLSR will use the tokens, we believe the demand for reports will be low if the reports are of little or no value.⁸³ Second, based on the OCC's experience issuing tokens to banks (e.g., with TARP banks) SRR will need to re-issue tokens and issuing the second or third token to the same person should cost less than issuing the first token if part of the cost is related to assuring SRR has correctly identified the person or bank obtaining the token. Third, the OCC's NMLSR project manager indicated that using tokens is an open, unsettled issue.

We do not include the cost of tokens in the performance standard alternative because collecting less information should produce a lower FISMA rating (i.e., personal information that will be transmitted to or from NMLSR will require less security under the performance alternative than the joint interagency Rule because all of the information transmitted under the performance alternatives is available to the public). Furthermore, we assume NMLSR and the Agencies will design a process that leverages established secure channels to issue credentials.

⁸² An increase in the use of automation should reduce the number of times originators will be required to log into the system to complete the initial registration process. This should reduce call center contacts, thus reducing SRR operating expenses, and these savings, in theory, should be passed on to banks through lower fees.

⁸³ Our view of the demand for, and value of, standardized reports available from the NMLSR is based on the sample of reports provided by SRR to the OCC.

Assumptions related to NMLSR fees

- SRR as the operator of the NMLSR may impose a variety of fees on banks and/or loan originators. However, we assume that to the extent the system requirement documents address fee structure, the fees actually charged will be consistent with the Agencies' stated requirements.⁸⁴
- NMLSR will not use national bank fees to offset operating costs or operating losses associated with the state licensing system. No costs specifically associated with operating or developing the state licensing system (or expenses directly related to or associated with the tax exempt purpose under which CSBS operates) will be included in a cost calculation used to determine the fees paid for the registration of employees of national banks.
- We assume for purposes of this analysis that SRR will not generate a material amount of income in excess of expenses. We base our operating expense assumptions on SRR costs for the period ending December 31, 2008. We did not have access to operating statements, pro-forma income statements or any details of income or expenses from prior periods (other than a 2008 income statement summary) to inform our estimates of general operating costs or call center staffing, volume, or expenses.⁸⁵

VII. Qualitative benefits associated with the joint interagency Rule

- The final joint interagency Rule enhances a bank's oversight and OCC's supervision of mortgage origination by requiring national banks to adopt and follow written policies and procedures designed to ensure compliance with the joint interagency Rule and by placing certain regulatory requirements on both national banks and their employee loan originators. Requiring national banks to establish and follow written policies and procedures will facilitate the monitoring of national banks and their employee mortgage loan originators' compliance with the joint interagency Rule. The Agencies require written policies and procedures to provide a national bank and its employees with the expectations of the bank's board of directors regarding implementation of the Act and the joint interagency Rule, including guidance that is applicable to the activities of a specific bank. Policies and procedures also enhance the ability of OCC examiners to evaluate the effectiveness of a national bank's program for complying with the joint interagency Rule.
- The joint interagency Rule requires a national bank to make the unique identifiers of their registered mortgage loan originators available to consumers in a manner and method that is practicable to the bank. The joint interagency Rule also requires a registered loan originator to provide his or her unique identifier to consumers (1) upon request, (2) before acting as a mortgage loan originator, and (3) through the originator's initial written communication with a consumer, if any, whether on paper or electronically.⁸⁶ Only the joint interagency Rule contains these unique identifier disclosure requirements. The OCC acknowledges that there is considerable uncertainty regarding if, how, or the extent to which consumers may access and use the Registry to obtain information about the registration status of, and publicly adjudicated enforcement actions taken against, registered

⁸⁴ In general, and with the exception of the fees associated with domestic offices under the statute alternative, our assumptions regarding the categories or types of fees paid by national banks for loan originator registration are consistent with information provided by staff drafting the Rule regarding the types of fees that SRR will *not* charge. Our assumptions regarding the basis for imposing fees are consistent for the Rule and the alternatives. The statute includes a per domestic office fee (e.g., branches). However, because the statute provides that fees charged are to cover the costs of operations, we link fees to costs thus allowing banks to benefit from the cost difference to SRR associated with a significant reduction in call center volume.

⁸⁵ We base our estimates on information from an abbreviated version of a financial statement from SRR's 2008 Annual Report.

⁸⁶ See §34.105(b) and item 8 in the list of amounts not included in the cost estimate.

mortgage loan originators employed by national banks. However, for those consumers who wish to access the Registry, the Agencies believe the requirement to make unique identifiers available to consumers will facilitate consumer's access to the Registry and the information available therein.

- The joint interagency Rule enhances accountability by placing an explicit requirement on national banks to require each of their loan originators to register with the Registry, maintain registration, and obtain a unique identifier.⁸⁷ To enhance the accountability of banks and loan originators, the joint interagency Rule and the performance standard alternative explicitly require a national bank to prohibit its employees from acting as mortgage loan originators for the bank unless the employees have registered and obtained a unique identifier as required by the Act.
- Placing certain requirements on both national banks and mortgage loan originators enhances the ability of the OCC to take action appropriate to the circumstances to ensure compliance with the policy goals articulated by Congress in the Act. For example, under the joint interagency Rule, the OCC could take action to require a national bank to have its mortgage loan originator employees register with the NMLSR. Under either the joint interagency Rule or the performance standard alternative, the OCC could assess civil penalties against banks and/or bank management for failure to comply with the requirement to prohibit its employees from acting as mortgage loan originators for the bank unless the employees have registered and obtained a unique identifier as required by the Act. If the Agencies did not explicitly place requirements on financial institutions and mortgage loan originators through the rulemaking process it would have limited the range of enforcement tools available to the Agencies in circumstances where supervisory action alone did not achieve compliance with the requirements of the Act.

VIII. Constraints imposed on OCC by the Act

Circular A-4 notes that agencies should identify legal constraints that prevent the selection of a regulatory action that best satisfies the philosophy and principles of Executive Order 12866. The Act imposes significant statutory requirements that affected the development of the joint interagency Rule and the cost associated with it.

First, the Act requires that both federal registration and state licensing and registration be performed through the NMLSR. Section 1507 of the Act dictates the registry platform the Agencies must use to make loan originator information available to the public. It requires, among other things, that the Agencies must develop and maintain a system for registering mortgage loan originators with the NMLSR; and, coordinate with the NMLSR the development and operation, by the NMLSR, of the registration functionality and data requirements for loan originators. The Act, therefore, sets forth an atypical principal/vendor relationship in which the Agencies are required to proceed by developing modifications to an existing state licensing system and are not free to use a competitive process to select a vendor or create a new registry designed solely for federal registrants. This limitation on the Agencies' choice of registry platform creates a monopoly for its operator, SRR (a wholly owned subsidiary of the CSBS). This situation severely limited the ability of the Agencies to negotiate the range and type of implementation options that could have increased efficiency and reduced the regulatory burden (i.e., the cost) of the joint interagency Rule.

Second, section 1507(a)(1) of the Act requires the Comptroller of the Currency, Federal Reserve Board, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration to act jointly, through the Federal Financial Institutions Examination Council, together with

⁸⁷ Section 1504(a) of the Act prohibits an individual from “engage[ing] in the business of a loan originator” without first obtaining a registration as a registered loan originator.

the Farm Credit Administration to develop and maintain the system for registering employees of depository institutions, and their subsidiaries, as registered mortgage loan originators with the NMLSR. Of these agencies, only the OCC and OTS are subject to the requirements, philosophy, and principles of Executive Order 12866. Some of the other independent regulatory agencies that are not covered by the requirements of the Executive Order, with which the OCC and OTS were required to act jointly, promoted a more stringent regulatory approach, which is embodied in the joint interagency Rule, rather than a performance-based approach. These independent agencies' policy goals reflect their governance and supervisory structures, as well as the natures and risk profiles of the institutions that they supervise. The statutorily mandated joint interagency process for implementing the Act constrained the OCC from taking a less stringent approach.

IX. Conclusion

Because of the constraints described above, the Agencies are precluded from implementing the Act using the less costly performance standard described in this RIA that reduces the burden imposed on banks through automation. Accordingly, given the constraints imposed on OCC by the Act, and based on the estimated mean cost, the joint interagency Rule is the least cost option available to the OCC.

Appendix

Table A-1: Comparison of requirements

Description of requirement ✓ = stated requirement X = implied requirement	Statute	Rule	Performance standard
National bank that employs mortgage loan originators should adopt a risk based compliance program appropriate to the nature, size, complexity and scope of the mortgage lending activities of the bank. At a minimum, a bank's compliance program should include recordkeeping or other procedures to enable a bank to demonstrate compliance with the registration and renewal requirements of the Act	X	X	✓
A national bank that employs mortgage loan originators must adopt and follow written policies and procedures designed to assure compliance with the joint interagency Rule. At a minimum, these policies and procedures must establish procedures or systems for nine specific areas or activities listed in §34.104(a) – (i) of the joint interagency Rule ¹		✓	
Identify which employees of the bank are required to be registered ²	X	✓	✓
Inform employees required to register of what they must do to register or otherwise comply with applicable sections of the statute	X	✓	✓
Bank must require that all employees of the national bank who are mortgage loan originators be informed of the Act, the joint interagency Rule and instructed on how to comply with such requirements and the bank's policies and procedures §34.104 (b)		✓	
A mortgage loan originator who is registered with the Registry must update the registration within 30 days of a change in the name of the registrant §34.103(b)(1)(ii)(A); the registrant ceases to be an employee of the national bank §34.103(b)(1)(ii)(B); or the information required under paragraphs (d)(1)(iii) through (viii) of this section becomes inaccurate, incomplete, or out-of-date §34.103(b)(1)(ii)(C)		✓	
Each employee of a national bank who acts as a loan originator must register and maintain registration annually ³ §1504 Act and §34.103(a)(1) of the OCC's regulation text	✓	✓	✓
Employee must obtain a unique identifier ⁴ §1503(A) and §1504(a)(2) of the Act; §34.102(f)	✓	✓	✓
A national bank that employs one or more individuals who act as a residential mortgage loan originator must require each employee who is a mortgage loan originator to register with the Registry, maintain this registration, and obtain a unique identifier in accordance with the requirements of the joint interagency Rule ⁵ §34.103(a)(2)(i)		✓	
A bank must not permit employee who is not registered to act as originator ⁶ § 34.103(a)(2)(ii)	X	✓	✓
Furnish or cause to be furnished to the NMLSR information concerning the employee's identity including fingerprints for submission to the FBI for a State and national criminal history background check ⁷ §1507(a)(2)(A), §34.103(d)(1)(ix)	✓	✓	✓
Furnish or cause to be furnished to the NMLSR employee's social security number (SSN) §34.103(d)(1)(i)(D)		✓	
Provide loan originators with notice required under the Privacy Act when the federal government requests an individual's SSN ⁸		✓	
Obtain new fingerprints from existing employees ⁹ §34.103(d)(1)(ix)		✓	

Description of requirement ✓ = stated requirement X = implied requirement	Statute	Rule	Performance standard
Adopt and follow written policies and procedures that at a minimum, establish a process for reviewing employee criminal history background reports in connection with § 34.103(d)(1)(ix), taking appropriate action consistent with 12 U.S.C. 1829 with respect to these reports, and maintaining records of these reports and actions taken with respect to applicable employees. ¹⁰ §34.104(h)		✓	
Furnish or cause to be furnished to the NMLSR information concerning the employee's identity including personal history and experience ¹¹ §1507(a)(2)(B) and §34.103(d)(1)(i) – (viii)	✓	✓	✓
Furnish or cause to be furnished to the NMLSR employee's authorization for the NMLSR to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction §1507(a)(2)(B)	✓	✓	✓
An employee registering or renewing his registration, <u>and not the employing national bank or other employees of the national bank, must authorize</u> the Registry and the employing institution to obtain information and <u>attest</u> to the correctness of all information required by paragraph (d) of §34.103 and authorize the Registry to make certain information available to the public. ¹² §34.103(d)(2)		✓	
After employees provide information required by §34.103(d) of the joint interagency Rule to the Registry, a national bank must confirm that it employs the registrant. Within 30 days of the date the registrant ceases to be an employee of the bank, a bank must notify the Registry that it no longer employs the registrant. §34.103(e)(2)(i) and (ii)		✓	
A national bank must provide certain categories of bank-related information to the Registry in connection with the initial registration of one or more mortgage loan originators (to complete the employee's registration). ¹³ §34.103(e)		✓	
Adopt and follow written policies and procedures that at a minimum, establish reasonable procedures for confirming the adequacy and accuracy of employee registrations, including updates and renewals, by comparisons with its own records §34.104 (d)		✓	
Adopt and follow written policies and procedures that establish reasonable procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures §34.104 (e)		✓	
Adopt and follow written policies and procedures that at a minimum provide for appropriate action in the case of any employee who fails to comply with the registration requirements of the S.A.F.E. Act, the joint interagency Rule, or the bank's related policies and procedures, including prohibiting such employees from acting as originators or other appropriate disciplinary actions. §34.104(g)		✓	
Registered mortgage loan originators shall provide his or her unique identifier to a consumer § 34.105(b)		✓	
A national bank shall make the unique identifier(s) of its registered mortgage loan originator(s) available to consumers §34.105(a) ¹⁴		✓	
The Agencies and the NMLSR may charge reasonable fees to cover the costs of maintaining and providing access to information from the NMLSR §1510	✓	X	X

¹ Some, but not all, of the nine specific areas or activities listed in §34.104(a) – (i) are listed individually in Table A-1.

² The joint interagency Rule requires banks to adopt and follow written policies and procedures that at a minimum, establish a process for identifying which employees of the bank are required to be registered mortgage loan originators. See §34.104(a).

³ Under §34.103(b)(1)(i) a mortgage loan originator who is registered with the Registry must renew the registration during the annual renewal period, confirming the responses set forth in §34.103(d)(1)(i) through (viii) remain accurate and complete, and updating this information, as appropriate.

⁴ Section 1503(12) of the Act (and §34.102(f) of the joint interagency Rule) indicates identifier (i) permanently identifies originator, (ii) is assigned by protocols established by the Agencies and the NMLSR and (iii) facilitates electronic tracking of loan originators and public access to employment history and the publicly adjudicated disciplinary and enforcement actions against loan originators. The joint interagency Rule contains additional requirements related to unique identifiers.

⁵ The joint interagency Rule also requires banks to adopt and follow written policies and procedures that at a minimum, provide for independent testing for compliance with the joint interagency Rule to be conducted at least annually by bank personnel or by an outside party, and to establish reasonable procedures and tracking systems for monitoring compliance with registration and renewal requirements and procedures. See §34.104(e) and §34.104(f).

⁶ Section 1504(a) of the Act specifically prohibits an individual who is an employee of an Agency-regulated institution from engaging in the business of a loan originator without registering as a loan originator with the NMLSR, maintaining annually such registration, and obtaining a unique identifier through the NMLSR.

⁷ The requirement to submit fingerprints of the employee to the NMLSR includes the submission of identifying information (e.g., name and other names used, home address, date and place of birth, gender, etc.) as required by the FBI. See §34.103 (d)(1)(ix) for reference to identifying information that must be submitted as part of the registration process (in addition to identifying information for submission to the FBI).

⁸ Under the Privacy Act of 1974 any Federal government agency, which requests an individual to disclose his social security account number must inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it.

⁹ Fingerprint freshness requirement is discussed in the preamble, and in §34.103(d)(1)(ix), which states that fingerprints provided to the Registry that are less than three years old may be used to satisfy the registration requirement.

¹⁰ The performance standard alternative only requires banks to obtain results of an FBI background investigation if or when a bank has not previously obtained one. If a background investigation is required, the bank may obtain one from any FBI authorized channeler.

¹¹ See §34.103(d)(1) for a complete list of the information a national bank must require each employee who is a mortgage loan originator to submit to the Registry.

¹² Employees must authorize the Registry to make information required under paragraph §34.103(d)(1)(i)(A) and (C), and §34.103(d)(1)(ii) – (viii) available to the public.

¹³ The joint interagency Rule also includes requirements for bank employees to attest to the correctness of information about the bank, to their authority to enter information on behalf of the bank, and to file accurate supplementary information on a timely basis. See §34.103(e)(1)(ii). Under §34.103(e)(1)(iii) a national bank must update required bank information within 30 days of the date that it becomes inaccurate. The performance standard alternative would only require banks to submit information about the bank to the extent one of the agencies has not provided the Registry with the required information.

¹⁴ The joint interagency Rule requires banks to establish written policies and procedures to comply with the unique identifier requirements in §34.105. See §34.104(c).

Table A-2: Assumptions and unit costs used to estimate the costs

Description or category	Joint interagency Rule	Statute	Performance alternative
Number of banks with originators	1,418	1,418	1,418
banks with ≤ 99 originators (Groups 1 & 2)	1,280	1,280	1,280
banks with 100 ≤ 1,999 (Group 3)	125	125	125
banks with 2,000 ≤ 9,999 (Group 4)	7	7	7
banks with ≥ 10,000 (Group 5)	6	6	6
Number of loan originators:			
As of 8/1/2010 & inventory maintained	271,000	271,000	271,000
Registered during first 150 days ¹	304,00 - 318,000	318,000	294,000
Originators registered per bank	6 to 54,050	6 to 54,050	5 to 50,025
Assumptions			
Wait time before call answered ² (minutes)	0 to 3	3	nil
Call time per originator (minutes) ³	7.5 to 10	10	nil
Call time system administrator (minutes)	10 per call ⁴	10 per call ⁵	4 per call
Abandoned call rate (NMLS actual)	0 to 8 percent	8 percent	0 percent
Registration effective date	NMLSR sends notice ⁶	NMLSR sends notice	Scheduled ⁷
Bank fees paid to SRR			
Set-up fee (per originator)	\$5 - \$10	\$10	\$10
Set-up fee offset for 100% batch process ⁸	\$0/Not permitted	\$0/Not available	\$10
Set-up fee (per domestic office)	\$0	\$20	\$0
Originator registration and renewal fee	\$20	\$20	\$20
Fingerprints submitted to FBI pre-employment	Yes (not in estimate)	Yes (not in estimate)	Yes (not in estimate)
Fingerprints NMLSR sends to FBI (%) ⁹	100%	100%	15%
Total fingerprint fees (including roll fees) ¹⁰	\$45 to \$966,000	\$100 to \$966,000	\$4 to \$32,200
RSA Security Token (by originator group) ¹¹	\$80 per token ¹²	\$80 per token	n/a
Bank costs (per bank)			
Fixed costs: pre-implementation (soft costs only)	\$15 thousand to \$1.5 million	\$4.5 thousand to \$300 thousand	\$10.5 thousand to \$1.05 million
Technology costs pre-implementation (if originators > 2,000) ¹³	\$1million to \$4 million	\$1million to \$3 million	\$1million to \$4 million
Annual service provider or labor in lieu of technology (first year cost) < 2,000 originators ¹⁴	\$125 - \$97,900	\$160 - \$19,580	\$250 - \$500 ¹⁵
Channeler contract with SRR and FBI	\$250	\$250	n/a
Outsourced internal testing requirement	\$250 per hour ¹⁶	n/a	n/a
Internal testing (compliance or audit)	% of compliance ops	\$0 - \$300,000	n/a ¹⁷
Compliance Operations ¹⁸	\$1,000 to \$1 million	\$700 to \$700,000	\$1,000 to \$700,000
System administrators register & authenticate ¹⁹	\$160 - \$815	\$270 - \$1,360	\$50 - \$270
Checking ID number input for accuracy ²⁰	\$1,000 – \$10,000	\$1,000 – \$10,000	\$0
Open individual background check files	\$35 to \$322,000	\$15 to \$138,000	\$5 to \$48,300
Bank costs (per loan originator)			
Loan originator per hour ²¹	\$54.30	\$54.30	\$54.30
Originator Training (initial registration) ²²	1 to 1.5 hours initial	1 hour initial	1 hour initial
Originators, gather and enter data	4 to 6 hours ²³	7.5 to 8 hours initial	2 to 2.5 hours
Compare NMLSR data to bank records ²⁴	0.5 to 2 hours	n/a	n/a
No bulk download of data or audit trail	\$0 to \$100 ²⁵	\$100 ²⁵	n/a
Data entry of identification number	\$0 to \$5	\$5	\$0
Password re-sets or other access issues	5 to 10 minutes	10 minutes	2 minutes
Originators log-in and attest (minutes) ²⁶	3.75 to 5	5	0
Data entry: originators ≥ 10,000	\$15 ²⁷ (higher cost)	\$15	n/a
Average time to acquire new fingerprints (hours)	2.5/100%	2.5 hours/100%	2.5 hours/15%

¹ We base our estimates on the assumption that the end of the first year (*i.e.*, 2010) is approximately one month before the end of the 180-day implementation period.

² See footnotes 78 and 79, and pages 22 and 23 under the subheading ‘*Contacting the NMLSR call center for assistance.*’ The estimated wait time is equal to NMLS actual average during December 2008 (applied to bank and originator calls under the joint interagency Rule).

³ Some employees may use online tutorials or read system documentation in lieu of contacting the call center to answer questions about the registration and attestation process. Time and labor costs associated with online training is covered by the per originator call center costs for those originators who use online training tools.

⁴ The higher cost estimate under the joint interagency Rule assumes 24 calls @ 10 minutes each (plus 3 minutes of wait time per call) because any time a bank wishes to obtain a report containing information other than an originator’s name and identification number, the bank will have to contact the call center to request a report. The lower cost estimate under the joint interagency Rule assumes a substantial reduction in call center contacts from originators, which should result in little to no wait time when bank system administrators call. *See* footnote 82. The lower cost estimate for the joint interagency Rule reduces the annual per bank call time from 24 calls to 12 calls (120 minutes).

⁵ The cost estimate under the statute alternative assumes 24 calls @ 10 minutes each (plus 3 minutes of wait time per call) because any time a bank wishes to obtain a report containing information other than an originator’s name and identification number, the bank will have to contact the call center to request a report.

⁶ Regulators assume SRR sends notices the same day a bank or loan originator completes the registration process. However, there is no guarantee or performance requirement on the part of SRR/NMLSR. For banks, the lack of a service level agreement increases uncertainty.

⁷ We assume that if batch processing is available, SRR will establish and publish a time schedule showing different transmission deadlines that banks must meet in order to achieve (i) immediate registration, (ii) same day registration, or (iii) next day registration. *See* Federal Reserve Banks Operating Circular No. 4, Appendix B for an example of a batch processing transmission deadline schedule.

⁸ *See* footnote 84. Fee offset is somewhat less than the estimated average cost to NMLSR per loan originator call center contact (*i.e.*, for calls that are answered).

⁹ The amount shown is the percent necessary to comply with regulatory requirements. Section 1507(a)(2) of the Act requires the appropriate Federal regulator, in connection with the registration of any loan originator to, at a minimum, furnish or cause to be furnished to the NMLSR information concerning the employees’ identity, including fingerprints “for submission to the FBI” for a national criminal history background check. The statute does not require the submission of fingerprints to the FBI by SRR to obtain a national criminal history background check. Under the performance alternative we assume the only requirement is for banks to submit fingerprints to SRR and to obtain a national criminal history background check if the bank has not previously obtained one. If a bank has already obtained a national criminal history background check we assume banks submit loan originators’ fingerprints to SRR to comply with the statute, and after SRR acknowledges receipt of the fingerprints and destroys the fingerprint records (including the accompanying sensitive personal information) to minimize risk. The percentage is the estimated percent of originators required to obtain new fingerprints for FBI processing through the NMLSR. Under the performance alternative, the percent shown is the percent of originators for whom banks do not have fingerprints on file. Because of information provided in the notice of proposed rulemaking, we assume that after the third quarter of 2009 banks’ retain all fingerprints obtained from newly hired loan originators.

¹⁰ With the exception of the performance alternative, costs shown are for one hundred percent of originators. Readers should note that the estimated cost for the joint interagency Rule may not account for all costs, burden and complexity likely to be associated with banks completing two FBI background checks especially when banks submit fingerprints through two different channelers. The cost associated with obtaining and processing fingerprints for pre-employment background checks is not included in the total cost under the joint interagency Rule or the alternatives because there is no mandate in the joint interagency Rule or statute. However, we assume and anticipate (as do staff at other agencies) that under the joint interagency Rule, most banks are likely to submit fingerprints to the FBI for a background check two times. The first background check will occur before a prospective employee starts work and fingerprints will go through a channeler other than SRR. Our understanding is that SRR and the NMLSR is not set-up to conduct a background check a bank could use to determine if a person is eligible for employment by a bank. This is because an employer must enter the date an employee started working for the bank to establish a loan originator record and entering a date in the future is not an option. (It is our understanding that a bank and/or a loan originator must establish a record before a bank may arrange for an individual to visit a Livescan location and before an individual may instruct Livescan to send their fingerprints to SRR for processing). We assume SRR will pass the roll fee through without any mark-up above the retail or walk-in rate currently charged by Livescan. Our assumptions regarding the process and requirements for fingerprints submitted to the FBI by SRR are based on the “NMLS Background Check Processing – Request for Public Comments” issued by SRR on September 14, 2009. The process outlined by SRR, in general, requires an “individual to visit a Livescan vendor location for fingerprinting and the fingerprints will be submitted to the FBI to obtain criminal history record information.” The amount of the roll fee used to calculate fingerprint costs (in the cost of the interagency Rule and the statute alternative) is the actual cost listed for Livescan roll fees in California.

¹¹ The collection and storage of additional personal information increases the security level of the system. This in turn increases the system security requirements, which not only imposes monetary costs, but inconvenience on banks and bank employees requiring access to the system and loan originators’ data.

¹² Estimated cost for SRR to acquire and issue tokens provided by OCC’s Information Technology Services (ITS) staff is \$6.6 million. We assume SRR will not directly recover 100% token costs through token fees. We include a fee to banks of \$80 per token

and assume fewer tokens will be issued than OCC's ITS estimated for three reasons. First, because there will be less need for a large number of bank employees to obtain reports if they are of little or no value. Second, based on the OCC's experience issuing tokens to banks (e.g., with TARP banks) SRR will need to re-issue tokens and issuing the second or third token to the same person should cost less than issuing the first token if part of the cost is related to assuring SRR has correctly identified the person or bank obtaining the token. Third, the OCC's NMLSR project manager indicated that using tokens is an open, unsettled issue.

¹³ See footnote 68. First year technology costs under the statute and performance alternatives are \$25 million and \$31 million, respectively. The estimated first year cost under the joint interagency Rule ranges from \$23 to \$31 million.

¹⁴ See footnote 69.

¹⁵ We base service provider prices on those charged for other financial regulatory reporting services (e.g., summary of deposits and call reports).

¹⁶ Hours vary based on the number of originators (or originator size group) for those banks that outsource internal audit or compliance exams (based on information in the OCC's supervisory database, Examiner View).

¹⁷ The integrated systems planned by banks are not likely to increase audit costs because they tend to enhance compliance with business rules in contrast to the manual processes banks are required to use under the joint interagency rule or statute alternative.

¹⁸ Full year of compliance costs during initial registration or implementation period because there will be a larger burden on resources than during a typical year. The lower cost estimate for the joint interagency Rule assumes compliance operations are 75 percent of the amount under the higher cost estimate for Group 4 and Group 5 banks. We did not reduce the amount used for the other size groups which are 1,000 (Groups 1 and 2) and 2,500 (Group 3). Cost includes manual updates to originator records for terminated/former employees' end date (mandate for employer to update employee records within 30 days of a change in employment).

¹⁹ We assume system administrations, both primary and secondary, are required to submit data using a modified MU-2 form and the time associated with this is three hours per administrator under the joint interagency Rule, five hours under the statute alternative, and one hour under the performance alternative. The number of administrators is equal to the bank's group size (e.g., Group 5 banks register five administrators).

²⁰ Cost is only for Group 3, Group 4 or Group 5 banks because we assume little or no cost for banks with less than 100 originators. Banks, especially larger banks, will use the identifier issued by the NMLSR in other systems, and this number (and the loan originator's registration status) may be an important part of the bank's compliance program. The unique identifier is the only unique identification number banks can use for matching because all but the last four digits of social security numbers will be masked. We assume large banks will automate the error checking process but it will still be time consuming. Under the joint interagency Rule, this cost is included in the higher cost estimate, but it is not in the lower cost estimate.

²¹ With the exception of certain data entry costs, most labor costs use the loan originator hourly rate.

²² This mandate, among other things, requires the bank to inform originators of the bank's policies and procedures (in addition to informing originators of how to register).

²³ For Group 1 – 3 banks we are using the same number of hours a large bank that is not investing in technology is using for the bank's own in-house estimate. For Group 4 and Group 5 banks the estimate is lower because we assume originators will not gather and manually enter the required information because banks will pre-fill some data elements.

²⁴ See footnote 77.

²⁵ Banks do not have a reasonable way to detect changes. NMLSR will send banks an e-mail whenever there is a change to a loan originator's record (i.e., an e-mail for every record each time there is a change in the record). Based on the OCC system requirements banks may opt-in or opt-out of receiving these e-mails. Thus, a bank with more than 10,000 originators has limited options to comply with the joint interagency Rule in a reasonable manner. We believe receiving individual e-mails for every change made to an employee record throughout the implementation period, or throughout the year, made by employees of banks with between ten and fifty thousand originators would create an unreasonable burden. We also do not believe e-mails are an acceptable substitute for providing banks with the reporting capabilities necessary to comply with the joint interagency Rule or to comply with the Act.

²⁶ We assume loan originators must log onto the NMLSR at least once under the lower cost estimate for the joint interagency Rule to attest to the accuracy of information and authorize the Registry and the employing institution to obtain information related to sanctions or findings to which the employee is a party, made by any governmental jurisdiction. This assumption is based on language in the joint interagency Rule that limits the data that may be submitted in bulk (for loan originators) to the data required under §34.103(d)(1).

²⁷ See footnote 75. At some banks where originators are greater than or equal to 10,000, originators will be entering some of their personal information into the bank's in-house data repository. These large banks will then hire temporary data entry employees to enter the data previously entered by the loan originator (into the bank's system) into the NMLSR system. After these temporary employees enter data, other bank employees must compare data entered into the NMLSR system with information in the bank's records.

Table A-3: Information collected (initial registration)

Individual identifying information	Without a rule	With a rule
Social security number	✓	✓
Date of birth	✓	✓
Exact name (First name, middle name, last name)	✓	✓
Principal business address/office of employment address Street 1, Street 2, City, State, Country / Province, Postal Code	✓	✓
Gender	✓	✓
State Of Birth	✓	✓
Country Of Birth	✓	✓
Business Phone	✓	✓
Home Phone	✓	✓
Email Address	✓	✓
Any other names used – all name(s) you are using or have used since the age of 18).	✓	✓

Employment and residential history information	Without a rule	With a rule
Other administrative requirements or information		
Current employment	✓	✓
From (MM/YYYY)	✓	✓
Employer company/institution name	✓	✓
Position held (no abbreviations)	✓	✓
Street1, Street 2, City, State, Country / Province, Postal Code	✓	✓
Is the employment financial services-related?	✓	
Financial services employment history (10 years)		✓
Complete employment history: (10 years) Account for all time including full & part-time employments, self-employment, military service, and homemaking. Include periods such as unemployed, full-time student, extended travel, etc. Records must contain a complete 10- year history without gaps.	✓	
From (MM/YYYY)	✓	✓
To (MM/YYYY)	✓	✓
Employer (company name)	✓	✓
Position Held (no abbreviations)	✓	✓
Street1, Street 2, City, State, Country / Province, Postal Code	✓	✓
Is the employment financial services-related?	✓	
Reason for leaving or termination	✓	
Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of: (1) Violating statute(s), regulation(s), rule(s), or industry standards of conduct; or, (2) fraud, dishonesty, theft, or the wrongful taking of property?	✓	
Home address/current residence	✓	✓
From (MM/YYYY)	✓	
To (MM/YYYY)	✓	
Is this your current address?	✓	
Street 1, Street 2, City, State, Country / Province, Postal Code	✓	✓
Residential history (10 years)	✓	
From (MM/YYYY)	✓	
To (MM/YYYY)	✓	
Street1, Street 2, City, State, Country / Province, Postal Code	✓	
From (MM/YYYY)	✓	
To (MM/YYYY)	✓	
Street1, Street 2, City, State, Country / Province, Postal Code	✓	

Employment and residential history information	Without a rule	With a rule
Other administrative requirements or information		
Attestation: review the filing, complete, and/or verify that the information is correct. If a company initiates the filing on an individual's behalf, the individual is required to complete and/or attest to the filing before the company can submit the filing to the NMLSR. Individuals are notified by email that a company has requested attestation.	✓	✓
Additional fingerprint filing information	✓	✓

Other business activities	Without a rule	With a rule
Financial and criminal history		
Other business activities: List any other business the individual is currently engaged in, either as a proprietor, partner, officer, director, employee, trustee, agent or otherwise. Exclude nonfinancial services-related activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.	✓	
Other Business Name	✓	
Street 1, Street 2, City, State, Country / Province, Postal Code	✓	
Start Date	✓	
Other Business Details	✓	
Other Business Name	✓	
Does this business conduct financial services-related activity?	✓	
Street1, Street 2, City, State, Country / Province, Postal Code City	✓	
Nature of business	✓	
Position, Title or Relationship with business	✓	
Start Date	✓	
Hours per month	✓	
Describe your duties	✓	
Financial Information		
Within the past ten years have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition?	✓	
Based upon events that occurred while you exercised control over any organization, within the past 10 years have any filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?	✓	
Has a bonding company ever denied, paid out on, or revoked a bond for you?	✓	
Do you have any unsatisfied judgments or liens against you?	✓	
Criminal History		
Have you ever been:		
(1) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to any felony?	✓	
(2) Charged with any felony?	✓	
(3) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to a misdemeanor involving: financial services or a financial services-related business; any fraud, false statements, or omissions; any theft or wrongful taking of property; bribery; perjury; forgery; counterfeiting; extortion; or a conspiracy to commit any of these offenses	✓	
(4) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to any criminal offense involving dishonesty, breach of trust, or money laundering or agreed to enter into a pretrial diversion or similar program in connection with the prosecution of such offense(s)?		✓
(5) Charged with a misdemeanor specified in (3) above?	✓	
Based upon the activities that occurred while you exercised control over it, has any organization ever been:		
(1) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to any felony?	✓	
(2) Charged with any felony	✓	
(3) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to a misdemeanor specified in D(3)?	✓	

Other business activities	Without a rule	With a rule
Financial and criminal history		
(4) Convicted of or pled guilty or <u>nolo contendere</u> ("no contest") in a domestic, foreign, or military court to any criminal offense involving dishonesty, breach of trust, or money laundering or agreed to enter into a pretrial diversion or similar program in connection with the prosecution of such offense(s)?		✓
(5) Charged with a misdemeanor specified in D(3)?	✓	

Civil and regulatory disclosures	Without a rule	With a rule
Has any domestic or foreign court ever:		
(1) Enjoined you, or taken other action against you, in connection with any financial services-related activity?	✓	✓
(2) Found that you were involved in a violation of any financial services-related statute(s) or regulation(s)?	✓	✓
(3) Dismissed, pursuant to a settlement agreement, a financial services-related civil action brought against you by a State, federal, or foreign financial regulatory authority?	✓	✓
Are you named in any pending financial services-related civil action that could result in a "yes" answer to any part of the question above?	✓	
Has any State or federal regulatory agency or foreign financial regulatory authority ever:		
(1) Found you to have made a false statement or omission or been dishonest, unfair or unethical?	✓	✓
(2) Found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?	✓	✓
(3) Found you to have been a cause of a financial services-related business having its authorization to do business denied, suspended, revoked or restricted?	✓	✓
(4) Entered an order against you in connection with a financial services-related activity?	✓	✓
(5) Denied, suspended or revoked your registration or license to engage in a financial services-related activity, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?	✓	✓
(6) Barred you from association with an entity or its officers regulated by such regulatory authority, or from engaging in a financial services-related business?	✓	✓
(7) Issued a final order based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	✓	✓
(8) Are you now the subject of any regulatory action or proceeding that could result in a "yes" answer to any of the above questions?	✓	
Have you ever had an authorization to act as an attorney, accountant, or State of federal contractor that was revoked or suspended?	✓	✓
Is a revocation or suspension action now pending?	✓	
Have you ever been named as a respondent/defendant in a financial services-related consumer-initiated arbitration or civil litigation which:		
(1) Is still pending; or	✓	
(2) Resulted in an arbitration award or civil judgment against you, regardless of amount, or that required action; or	✓	✓
(3) Was settled for any amount?	✓	✓

Entity information and registration requirements	Without a rule	With a rule
Entity Name	✓	✓
IRS employer identification number	✓	✓
Name under which business primarily is or will be conducted (doing business as)	✓	
RSSD ID (a unique identifying number assigned by the Federal Reserve for all financial institutions)	✓ ¹	✓
Are you a subsidiary?	✓ ¹	✓
Parent [of a subsidiary] RSSD ID	✓ ¹	✓
Primary federal regulator	✓ ¹	✓
Main physical address for entity headquarters	✓	✓
Street1, Street 2, City, State, Country / Province, Postal Code City	✓	✓
Contact information for headquarters	✓	✓
Business phone	✓	✓
Fax	✓	✓
Website address	✓	✓
Email address	✓	✓
Mailing address if different from main address	✓	✓
Post office box number or Street 1, Street 2, City, State, Country / Province, Postal Code City	✓	✓
Other than the main physical address above, does the applicant conduct business through branch offices?	✓	n/a ²
Other than the addresses listed above (in the entity information section) does the entity conduct business with consumers through branch offices or other business locations?	✓	
Designate originators' working location(s) known as registered location(s).	✓	
Attestation	✓	✓
Company registered agent contact name, title, phone, fax, address, email	✓	
Company contact employee information, name, title, phone, fax, address, email Is someone authorized to receive all information, communications, and mailings and responsible for disseminating information within your organization.	✓	✓
Company consumer complaint contact employee information, name, title, phone, fax, address, email	✓	
Company authorized employee information, name, title, phone, fax, address, email Is someone authorized to enter/provide the information required by the NMLSR to register an employee as a loan originator.	✓	✓

¹ Among other things, section 1507(c) of the Act requires the federal banking agencies to utilize existing information to minimize burden. Although bank and regulator identification are not currently required on state licensing forms, equivalent state identifying information is collected. If the federal banking agencies match banks' RSSD numbers with other data banks' submit to the federal banking agencies on a regular basis, collecting RSSD numbers could reduce banks' burden.

² Although there is no requirement to register domestic offices or branches under the joint interagency Rule, the address of each branch or office must be entered into SRR's system (as part of the process of setting up the record for an entity or an individual) for every physical location with registered loan originators. Establishing records at the entity level may be more efficient for some banks.

Table A-4: Joint interagency Rule –higher, lower and mean cost estimates

Estimates	Higher cost	Lower cost	Mean of the costs
Banks' total cost (2010)	\$343 million	\$232 million	\$288 million
Banks: annual expenditures	\$166 million	\$86 million	\$126 million
Banks' 5 year cost discounted at 3 %¹	\$958 million	\$552 million	\$755 million
Cost per bank 1,418 banks (CY2010)	\$22,000 to \$49,000,000	\$21,000 to \$31,000,000	\$22,000 to \$40,000,000
Cost per bank 623 small banks (CY2010)	\$22,000 to \$83,000	\$21,000 to \$63,000	\$22,000 to \$73,000
Originators registered 2010	318,000	318,000	318,000
Cost per originator: minimum maximum	\$900 \$4,100	\$570 \$3,700	\$735 \$3,900
Pre-implementation fixed costs	\$64 million	\$53 million	\$59 million
NMLSR fees 2010	\$14 million	\$10 million	\$12 million
Cost to collect and enter data and percent of total cost (2010)	\$81 million 24%	\$79 million 34%	\$80 million 28%
FBI costs (contracts)	\$2 million	\$2 million	\$2 million
Government cost 2010	\$4 million	\$4 million	\$4 million
Government 5 year cost discounted at 3 %	\$10 million	\$10 million	\$10 million
Total cost 2010	\$347 million	\$236 million	\$292 million
Total cost five years discounted at 3 %	\$968 million	\$562 million	\$765 million

¹ We calculate costs in 2010 dollars, and discount costs for 2011 through 2014 at 3 percent. Total higher cost and lower cost estimates discounted at 7 percent for the joint interagency Rule are \$904 million and \$523 million, respectively.