



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

August 7, 2014

TO THE INDIVIDUAL OR INSTITUTION ADDRESSED:

Re: Emergency Adoption of Revised Part 420 of the Superintendent's Regulations and Supervisory Procedure MB 107 and repeal of Supervisory Procedure MB 108 (Mortgage Loan Originators)

The Superintendent of Financial Services has adopted the attached revised Part 420 of the Superintendent's Regulations and Supervisory Procedure MB 107 and has repealed Supervisory Procedure MB 108, all on an emergency basis. The emergency regulations are effective immediately. Emergency regulations on the same subject were previously adopted on a number of occasions, starting in December, 2009. The most recent emergency adoption was effective May 11, 2014. The new emergency regulations are identical to those adopted on May 11th.

The revised regulations implement revised Article 12-E of the Banking Law, which became effective on July 11, 2009. Revised Article 12-E is modeled on the provisions of Title V of the federal Housing and Economic Recovery Act of 2008, also known as the "SAFE Act", which was intended to impose a nationwide standard for mortgage loan originator ("MLO") regulation. Hence, the licensing and regulation of MLOs in New York now closely tracks the federal standard.

If New York did not adopt the new federal standards for MLO regulation or failed to implement its requirements, the SAFE Act would require that HUD assume the licensing of MLOs in New York State.

The previous Part 420 of the Superintendent's Regulations, implementing the prior version of Article 12-E, was adopted on an emergency basis in December of 2008. Since the new version of Article 12-E is already effective, it is necessary to revise Part 420 and adopt the revised version on an emergency basis. A draft of this regulation was published on the Department's website on August 27, 2009, and the comments received have been incorporated into the revised regulation as appropriate.

New Part 420 differs from the prior version in a number of respects. The following is a summary of the major changes from the previous regulation:

1. The definition of a mortgage loan originator is broadened to include any individual who takes a mortgage application or offers or negotiates the terms of the mortgage loan with a consumer.
2. Individuals who originate loans on manufactured homes will be subject to the regulation for the first time.
3. If licensing of individuals who work for mortgage loan servicers and who engage in loan modification activities is required by the U.S. Department of Housing and Urban Development, such individuals may be subject to the licensing requirements of the new law and to revised Part 420.
4. Individuals who have applied for “authorization” under the prior version of Article 12-E and Part 420 have a simplified process for becoming licensed and may continue to originate loans until they are licensed under the revised regulation or their applications are denied.
5. Individuals with a felony conviction within the last seven years or a felony conviction for fraud at any time are now prohibited from being licensed as MLOs in New York State.
6. Individuals must satisfy new pre-license education and testing requirements. There also are new bonding requirements and continuing education requirements.
7. A license automatically terminates if the licensee does not pay his or her annual license renewal fee or take the requisite amount of continuing education credits. The authority of the Superintendent to suspend an individual for good cause also has been clarified.

When Part 420 was originally adopted on an emergency basis, the Superintendent also adopted Supervisory Procedures MB 107 and MB 108. Supervisory Procedure MB 107 deals with applications to become an MLO. It has been updated in line with the revisions to Article 12-E and Part 420.

Supervisory Procedure MB 108, relating to the approval of education providers and courses, was originally adopted because the prior version of Article 12-E required the Superintendent to approve both courses and providers. This activity has been transferred to the National Mortgage Licensing System and Registry (“NMLS”) under new Article 12-E. Accordingly, Supervisory Procedure MB 108 is being rescinded.

A proposal to adopt permanent regulations in substantially similar form has been issued for public comment. The comment period has ended and it is expected that action on the final regulations will be taken in the near future.

The Notice of Emergency Adoption is expected to be published in the August 27, 2014 issue of the State Register.

Comments should be sent to Christine M. Tomczak, Assistant Counsel, Department of Financial Services, One State Street, New York, NY 10004, by email at [BnkRegComments@dfs.ny.gov](mailto:BankRegComments@dfs.ny.gov).

Very truly yours,

Hadas A. Jacobi

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