

INVITATION FOR COMMENTS
PROPOSED CHANGES UNDER THE
CALIFORNIA FINANCE LENDERS LAW
CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT
(Additions shown by underline and deletions shown by strikethrough.)

1. Section 1404 is amended to read:

§ 1404. Definitions.

The following terms used in Subchapter 6 of these rules shall have (unless the context otherwise indicates) the following meanings:

(a) “Call report” or “NMLS Mortgage Call Report” means a report of condition on the company and its operations including financial statements and production activity volumes.

(b) “Company” includes all domestic and foreign private corporations, limited liability companies, joint ventures, associations, syndicates, joint stock companies, partnerships of every kind, unincorporated organizations, government or political subdivisions of a government, trustees and individuals.

(c) “Department” means the Department of ~~Corporations~~ Business Oversight of the State of California.

(d) “Finance company” means a company subject to the California Finance Lenders Law and also has the same meaning as “licensee” as defined in Financial Code Section 22007.

(e) “Law” or “Code” means the California Finance Lenders Law.

(f) “Mortgage lender” or “mortgage broker” or “mortgage lender and broker” means a finance company, finance lender, or broker who makes, brokers, or services residential mortgage loans and who is required to be licensed pursuant to Section 22100 of the Code.

(g) “Form MU1” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a mortgage lender, mortgage servicer, or mortgage broker business, entitled “~~Uniform Mortgage Lender/Mortgage Broker Form~~ NMLS Company Form.”

(h) “Form MU2” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a person that directly or indirectly exercises control over a mortgage lender, mortgage servicer, or mortgage broker business, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled “~~Uniform Mortgage Biographical Statement & Consent Form~~ NMLS Individual Form.”

(i) “Form MU3” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for the branch office of a mortgage lender, mortgage servicer, or mortgage broker, entitled “~~Uniform Mortgage Branch Office Form~~ NMLS Branch Form.”

(j) “Form MU4” means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for an individual mortgage loan originator license or registration, entitled “~~Uniform Individual Mortgage License/Registration & Consent Form~~ NMLS Individual Form.”

(k) “NMLS” means the Nationwide Mortgage Licensing System and Registry.

(l) “Sponsoring” or “to sponsor” means to maintain an employment relationship between a mortgage loan originator and a mortgage lender, mortgage broker, or mortgage lender and broker where the mortgage loan origination activities of the mortgage loan originator are subject to the supervision and oversight of the mortgage lender, mortgage broker, or mortgage lender and broker. A licensed mortgage lender, mortgage broker, or mortgage lender and broker is the “sponsor” of a mortgage loan

originator employed by, and subject to the supervision and oversight of, the mortgage lender, mortgage broker, or mortgage lender and broker. For purposes of Subchapter 6 of these rules, an employment relationship ~~may~~ shall be established through the issuance to a mortgage loan originator of a Form W-2 by the sponsor. In addition, the sponsor must exercise factors such as supervision and control of the sponsored mortgage loan originator, accept legal and regulatory responsibility for the acts of the mortgage loan originator, and ensure the mortgage loan originator performance performs under the name, authority and policies of the sponsor, ~~and is not necessarily contingent on whether a mortgage loan originator is issued a Form W-2 by the sponsor.~~

(m) "Supervisory system" means a system to oversee the activities of each mortgage loan originator under the sponsorship of a mortgage lender, mortgage broker, or mortgage lender and broker that is reasonably designed to achieve compliance with applicable loan origination and lending laws and regulations, and with applicable Consumer Financial Protection Bureau (CFPB) Rules. It shall provide that final responsibility for proper supervision shall rest with the licensed mortgage lender, mortgage broker, or mortgage lender and broker. A mortgage lender's, mortgage broker's, or mortgage lender and broker's supervisory system shall provide, at a minimum, compliance with the duties delineated in Section 1414.

(n) A "branch office" is any location where one or more licensed mortgage loan originator(s) sponsored by the mortgage lender, mortgage broker, or mortgage lender and broker regularly conducts the business of effecting any transactions in, inducing or attempting to induce the origination of loans, or is held out as such, excluding:

(1) Any location that is a licensed mortgage loan originator's primary residence; provided that:

A) Only one mortgage loan originator, or multiple mortgage loan originators who reside at that location and are members of the same immediate family, conduct business at the location;

B) The location is not held out to the public as an office and the mortgage loan originator does not meet with customers at the location;

C) Neither customer funds nor loan finalizations are handled at that location;

D) The mortgage loan originator is assigned to a designated branch office, and such designated branch office is reflected on all business cards, stationery, advertisements and other communications to the public by such mortgage loan originator;

E) The mortgage loan originator's advertising, correspondence and communications with the public are subject to the mortgage lender's, mortgage broker's, or mortgage lender and broker's supervision in accordance with Section 1414;

F) Electronic communications (e.g., e-mail) are made through the mortgage lender's, mortgage broker's, or mortgage lender and broker's electronic system;

G) All loans are processed through the designated branch office or an electronic system established by the mortgage lender, mortgage broker, or mortgage lender and broker that is reviewable at the main or branch office;

H) Written supervisory procedures pertaining to supervision of loan origination and lending activities conducted at the residence are maintained by the mortgage lender, mortgage broker, or mortgage lender and broker; and

I) A list of the residence locations is maintained by the mortgage lender, mortgage broker, or mortgage lender and broker;

(2) Any location of convenience, where mortgage loan originators occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

or

(3) A temporary location established in response to the implementation of a business continuity plan.

Notwithstanding the exclusions in subsection (n), any location that is responsible for supervising the activities of mortgage loan originators sponsored by the mortgage lender, mortgage broker, or mortgage lender and broker at one or more non-branch location of the mortgage lender, mortgage broker, or mortgage lender and broker must be a licensed office.

Note: Authority cited: Sections ~~22012, 22100~~ and 22150, Financial Code.

Reference: Sections ~~2200 et seq.,~~ 22012, 22102, and 22109.1, Financial Code.

2. Section 1414 is amended to read:

§ 1414. Supervision of Mortgage Loan Originators.

(a) Every mortgage lender, mortgage broker, and mortgage lender and broker shall exercise diligent supervision over the mortgage loan origination and lending activities of every mortgage loan originator that it sponsors through a supervisory system. The supervisory system shall provide, at a minimum, for the following:

(1) The establishment and maintenance of written procedures. Every mortgage lender, mortgage broker, or mortgage lender and broker shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, that set forth the procedures adopted by the mortgage lender, mortgage broker, and mortgage lender and broker to comply with the duties imposed by this section.

(2) The designation of a supervisor with the authority to carry out the supervisory responsibilities of the mortgage lender, mortgage broker, or mortgage lender and mortgage broker for each type of business in which it engages for which licensure as a mortgage lender, mortgage broker, or mortgage lender and broker is required. Every mortgage lender, mortgage broker, and mortgage lender and broker shall designate a supervisor, an individual who shall:

(A) Supervise and periodically review, no less than annually, the activities of the branch managers designated pursuant to subsection 3 of this section;

(B) Periodically inspect, no less than annually, each business office of the mortgage lender, mortgage broker, or mortgage lender and broker to ensure that the written procedures are enforced; and

(C) In the event a mortgage lender, mortgage broker, or mortgage lender and broker does not have any branch offices, the supervisor shall directly supervise and review the activities of the mortgage loan originators.

(D) The supervisor shall be identified in Form MU1 as a qualifying individual and shall submit a Form MU2. For purposes of this section, a qualifying individual is a person in charge and responsible for the actions of the mortgage lender, mortgage broker, and mortgage lender and broker.

(3) The assignment of each licensed mortgage loan originator to a branch manager(s) who shall be responsible for supervising that person's activities. Every mortgage loan originator employed by a mortgage lender, mortgage broker, or mortgage lender and broker shall be subject to the supervision of a branch manager designated by such mortgage lender, mortgage broker, or mortgage lender and broker. Every branch manager shall be identified on Form MU3 and shall submit a Form MU2 to NMLS.

(4) Reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities. For this Section, "qualified" means a manager of a branch office or qualifying individual must be licensed as a California licensed mortgage loan originator.

~~(b) Every mortgage loan originator employed by a mortgage lender, mortgage broker, or mortgage lender and broker shall be subject to the supervision of a branch manager designated by such mortgage lender, mortgage broker, or mortgage lender and broker. Every branch manager shall be identified on Form MU3 and shall submit a Form MU2 to NMLS.~~

~~(c) Every mortgage lender, mortgage broker, and mortgage lender and broker shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office that set forth the procedures adopted by the mortgage lender, mortgage broker, and mortgage lender and broker to comply with the duties imposed by this section.~~

~~(d) Every mortgage lender, mortgage broker, and mortgage lender and broker shall designate a Supervisor, an individual who shall:~~

~~(1) Supervise and periodically review the activities of the branch managers designated pursuant to subsection (b) of this section;~~

~~(2) Periodically inspect each business office of the mortgage lender, mortgage broker, or mortgage lender and broker to ensure that the written procedures are enforced;~~

~~(3) In the event a mortgage lender, mortgage broker, or mortgage lender and broker does not have any branch offices, the Supervisor shall directly supervise and review the activities of the mortgage loan originators.~~

~~(e) The supervisor shall be identified in Form MU1 as a qualifying individual and shall submit a Form MU2. For purposes of this section, a qualifying individual is a person in charge and responsible for the actions of the mortgage lender, mortgage broker, and mortgage lender and broker.~~

5. If a mortgage loan originator does not physically work in a main or branch office full-time he or she must complete and sign a statement subjecting himself or herself to supervision of by his or her sponsoring company and submit the statement to the Department. The consent to supervision shall be made in accordance with the following form.

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT

MORTGAGE LOAN ORIGINATOR

CONSENT TO SUPERVISION

Please submit a written statement or an e-mail from your company e-mail address to demonstrate how you are in compliance with Financial Code Section 22109.1(a)(6). A written statement should be attached to the New Application Checklist or Amendment Checklist and submitted to the Department. An e-mail should be sent to dboXXX@dbo.ca.gov. The statement shall include the following representations:

• I will only represent the business location [principal or branch] of [name of sponsor], which is on file with the Commissioner and by which I will be employed and subject to the supervision, as my place of employment.

• I will only engage in business under the name of [name of sponsor];

• I will only provide the public with letterhead, phone numbers, electronic e-mail addresses or other forms of communication that are in the name of, under the control of, and provided by [name of sponsor].

• I will only engage in activities and transactions related to the making of loans subject to the supervision and oversight of [name of sponsor]; and

• I will not have a place of business where I regularly meet with borrowers, other than [name of sponsor]'s main or branch office.

6. If a sponsoring company allows one or mortgage loan originators to physically work outside of its main or branch office full-time or part-time the company must complete and sign a statement committing to supervise the mortgage loan originator(s) and submit it to the Department. The consent to supervise the mortgage loan originator(s) shall be made in accordance with the following form.

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT

SPONSORING COMPANY

CONSENT TO SUPERVISE

Please submit a written statement or an e-mail from your company e-mail address to demonstrate how you satisfy the supervisory requirement in Financial Code Section 22109.1(a)(6). The written statement or e-mail must be from an individual named in the Direct Owners/Executive Officers section of the MU1 or from a Qualifying Individual as designated in the MU1 for the state of California. A written statement should be attached to the New Application Checklist or Amendment Checklist and submitted to the Department. An e-mail should be sent to [dboXXX@dbo.ca.gov]. The statement shall include the following representations:

• The company has written supervisory procedures for the oversight of MLO activities;

• The supervisors have regular contact with MLOs;

• The company has requirements for the manner in which the MLO presents himself or herself to the public, for example, through company e-mail and letterhead; and

• The company maintains the records of each MLO's transactions.

(b) Inspections: Each mortgage lender, mortgage broker or mortgage lender and broker shall do the following:

(1) Ensure reviews are reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable state and federal loan origination and lending laws and regulations, and with applicable Consumer Financial Protection Bureau rules;

(2) Require the maintenance of documentation for inspection, including but not limited to, written and electronic loan documents;

(3) Require that an office inspection and review by a mortgage lender, mortgage broker, or mortgage lender and broker be reduced to a written report and kept on file by the mortgage lender, mortgage broker, or mortgage lender and broker for a minimum of three years; and

(4) Ensure that an office inspection by a mortgage lender, mortgage broker, or mortgage lender and broker is not conducted by the branch office manager or any person within that office who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such person(s).

(c) Review of transactions, advertising and correspondence.

(1) Each mortgage lender, mortgage broker, or mortgage lender and broker shall establish procedures for the review and acknowledgement by a supervisor, in writing, on an internal record, of all transactions and for the review by a supervisor of incoming and outgoing written and electronic correspondence of its licensed mortgage loan originators with the public relating to the loan origination and other lending business of such mortgage lender, mortgage broker, or mortgage lender and broker. Such procedures should be in writing and be designed to reasonably supervise each licensed mortgage loan originator. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Department of Business Oversight upon request.

(2) Each mortgage lender, mortgage broker, or mortgage lender and broker shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its loan origination and lending

business, including procedures to review incoming, written correspondence directed to licensed mortgage loan originators and related to the mortgage lender's, mortgage broker's, or mortgage lender and broker's loan origination and lending business to properly identify and handle customer complaints and to ensure that customer funds and loan documents are handled in accordance with the mortgage lender's, mortgage broker's, or mortgage lender and broker's procedures.

Note: Authority cited: Sections ~~22100 and 22109.1~~ 22150, Financial Code.

Reference: Sections ~~22013,~~ 22102, 22109.1, 22156, and 22157, Financial Code.

3. Section 1422.6.1 is amended to read:

§ 1422.6.1. Qualifications of Mortgage Loan Originator Applicants.

Every applicant for a mortgage loan originator license shall meet the requirements of this section.

(a) QUALIFIED WRITTEN TEST: Every applicant for a mortgage loan originator license shall pass a qualified written test developed or otherwise deemed acceptable by the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry ~~within one year prior to the date of filing the application for, or the issuance of, a mortgage loan originator license.~~ The qualified written test shall consist of ~~a national component and a California component.~~ ~~An applicant shall abide by the rules, policies and procedures of the Nationwide Mortgage Licensing System and Registry in the administration of the test;~~

(1) the national component and the California state component;

(2) the national component and the uniform state test; or

(3) the national component with uniform state content.

An applicant shall abide by the rules, policies and procedures of the Nationwide Mortgage Licensing System and Registry in the administration of the test.

(b) EDUCATION: Every applicant for a residential mortgage loan originator license shall complete at least 20 hours of NMLS approved education including:

(1) Three hours of instruction on federal law and regulations,

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues, ~~and~~

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace, and

(4) Two hours of training related to relevant California law and regulations, as prescribed by the Commissioner.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22109.1, 22109.2 and 22109.3, Financial Code.

4. Section 1422.6.3 is amended to read:

§ 1422.6.3. Continuing Education and Renewal Procedures for Mortgage Loan Originators.

(a) A mortgage loan originator license shall be renewed on an annual basis between November 1 and December 31. A license not renewed during the specified time period shall be deemed a lapsed or expired license. A mortgage loan originator with a lapsed or expired license may not engage in business as a mortgage loan originator until the mortgage loan originator's license is reinstated pursuant to Section 1422.11 of Subchapter 6 of these rules.

(b) To renew a license under subsection (a) of this rule, a licensed mortgage loan originator shall pay a renewal fee (\$300), comply with all submission requests by the

Commissioner, and complete at least eight hours of NMLS approved continuing education on or before December 31st of every year, which shall include the following:

(1) Three hours of instruction on federal law and regulations,

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues, and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace, and

(4) One hour of training related to relevant California law and regulations, as prescribed by the Commissioner.

~~(c) As of January 1, 2011, to renew a license under subsection (a) of this rule, a licensed mortgage loan originator shall pay a renewal fee (\$300), and comply with (b).~~

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22107, 22109.4, 22109.5 and 22172, Financial Code.

5. Section 1950.003 is amended to read:

§ 1950.003. Definitions.

The following terms used in Subchapter 11.5 of these rules shall have the following meanings (unless the context otherwise indicates):

(a) "Code" means the California Financial Code.

(b) "Department" means the Department of Business Oversight.

(c) "Call report" or "NMLS Mortgage Call Report" means a report of condition on a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer and its operations including financial statements and production activity volumes.

(d) "Form MU1" means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a mortgage lender, mortgage servicer, or mortgage broker business, entitled "~~Uniform Mortgage Lender/Mortgage Broker Form~~Corporations-NMLS Company Form."

(e) "Form MU2" means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for a person that directly or indirectly exercises control over a mortgage lender, mortgage servicer, or mortgage broker business, or a branch thereof, including qualifying individuals and branch managers specified in Form MU1, entitled "~~Uniform Mortgage Biographical Statement & Consent Form~~NMLS Individual Form."

(f) "Form MU3" means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for the branch office of a mortgage lender, mortgage servicer, or mortgage broker, entitled "~~Uniform Mortgage Branch Office Form~~NMLS Branch Form."

(g) "Form MU4" means the uniform licensing form developed by the Nationwide Mortgage Licensing System and Registry for an individual mortgage loan originator license or registration, entitled "~~Uniform Individual Mortgage License/Registration & Consent Form~~NMLS Individual Form."

(h) "NMLS" means the Nationwide Mortgage Licensing System and Registry.

(i) "Sponsoring" or "to sponsor" means to maintain an employment relationship between a mortgage loan originator and a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer where the mortgage loan origination activities of the mortgage loan originator are subject to the supervision and oversight of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. A licensed residential mortgage lender, mortgage servicer, or

residential mortgage lender and servicer is the “sponsor” of a mortgage loan originator employed by, and subject to the supervision and oversight of, the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. For purposes of Subchapter 11.5 of these rules, an employment relationship ~~may~~ shall be established through the issuance to a mortgage loan originator of a Form W-2 by the sponsor. ~~factors such as~~ In addition, the sponsor must exercise supervision and control of the sponsored mortgage loan originator, accept legal and regulatory responsibility for the acts of the mortgage loan originator, and ensure the mortgage loan originator ~~performance~~ performs under the name, authority and policies of the sponsor, ~~and is not necessarily contingent whether a mortgage loan originator is issued a Form W-2 by the sponsor.~~

(j) “Supervisory system” means a system to oversee the activities of each mortgage loan originator under the sponsorship of a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that is reasonably designed to achieve compliance with applicable loan origination and lending laws and regulations, and with applicable Consumer Financial Protection Bureau (CFPB) Rules. It shall provide that final responsibility for proper supervision shall rest with the licensed residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. A residential mortgage lender’s, mortgage servicer’s, or residential mortgage lender and servicer’s supervisory system shall provide, at a minimum, compliance with the duties delineated in Section 1950.122.6.

(k) A “branch office” is any location in the state of California or from which activities are conducted under the authority of a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer license. A “branch office” includes any location where one or more licensed mortgage loan originator(s) sponsored by the

residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer regularly conducts the business of effecting any transactions in, inducing or attempting to induce the origination of loans, or is held out as such, excluding:

(1) Any location that is a licensed mortgage loan originator's primary residence;
provided that:

(A) Only one mortgage loan originator, or multiple mortgage loan originators who reside at that location and are members of the same immediate family, conduct business at the location;

(B) The location is not held out to the public as an office and the mortgage loan originator does not meet with customers at the location;

(C) Neither customer funds nor loan finalizations are handled at that location;

(D) The mortgage loan originator is assigned to a designated main or branch office, and such designated main or branch office is reflected on all business cards, stationery, advertisements and other communications to the public by such mortgage loan originator;

(E) The mortgage loan originator's advertising, correspondence and communications with the public are subject to the residential mortgage lender's, mortgage servicer's, or residential mortgage lender and servicer's supervision in accordance with Section 1950.122.6;

(F) Electronic communications (e.g., e-mail) are made through the residential mortgage lender's, mortgage servicer's, or residential mortgage lender and servicer's electronic system;

(G) All loans are processed through the designated main or branch office or an electronic system established by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that is reviewable at the main or branch office;

(H) Written supervisory procedures pertaining to supervision of loan origination and lending activities conducted at the residence are maintained by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer; and

(I) A list of the residence locations is maintained by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer;

(2) Any location of convenience, where mortgage loan originators occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office;

or

(3) A temporary location established in response to the implementation of a business continuity plan.

Notwithstanding the exclusions in subsection (k), any location that is responsible for supervising the activities of mortgage loan originators sponsored by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer at one or more non-branch locations of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer must be a licensed office.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections ~~50002.5~~ and 50003, 50124, 50141, and 50306, Financial Code.

6. Section 1950.122.5.1 is amended to read:

§ 1950.122.5.1. Qualifications of Mortgage Loan Originator Applicants.

Every applicant for a mortgage loan originator license shall meet the requirements of this section.

(a) QUALIFIED WRITTEN TEST: Every applicant for a mortgage loan originator license shall pass a qualified written test developed or otherwise deemed acceptable by

the Nationwide Mortgage Licensing System and Registry and administered by a test provider approved by the Nationwide Mortgage Licensing System and Registry ~~within one year prior to the date of filing the application for, or the issuance of, a mortgage loan originator license.~~ The qualified written test shall consist of ~~a national component and a California component.~~ ~~An applicant shall abide by the rules, policies and procedures of the Nationwide Mortgage Licensing System and Registry in the administration of the test.:~~

(1) the national component and the California state component;

(2) the national component and the uniform state test; or

(3) the national component with uniform state content.

An applicant shall abide by the rules, policies and procedures of the Nationwide Mortgage Licensing System and Registry in the administration of the test.

(b) EDUCATION: Every applicant for a residential mortgage loan originator license shall complete at least 20 hours of NMLS approved education including:

(1) Three hours of instruction on federal law and regulations,

(2) Three hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues, ~~and~~

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace, and

(4) Two hours of training related to relevant California law and regulations, as prescribed by the Commissioner.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50142 and 50143, Financial Code.

7. Section 1950.122.5.3 is amended to read:

§ 1950.122.5.3. Continuing Education and Renewal Procedures for Mortgage Loan Originators.

(a) A mortgage loan originator license shall be renewed on an annual basis between November 1 and December 31. A license not renewed during the specified time period shall be deemed a lapsed or expired license. A mortgage loan originator with a lapsed or expired license may not engage in business as a mortgage loan originator until the mortgage loan originator's license is reinstated pursuant to Section 1950.122.5.4 of Subchapter 11.5 of these rules.

(b) To renew a license under subsection (a) of this rule, a licensed mortgage loan originator shall pay a renewal fee (\$300), comply with all submission requests by the Commissioner, and complete at least eight hours of NMLS approved continuing education on or before December 31st of every year, which shall include the following:

(1) Three hours of instruction on federal law and regulations,

(2) Two hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues, and

(3) Two hours of training related to lending standards for the nontraditional mortgage product marketplace, and

(4) One hour of training related to relevant California law and regulations, as prescribed by the Commissioner.

~~(c) As of January 1, 2011, to renew a license under subsection (a) of this rule, a licensed mortgage loan originator shall pay a renewal fee (\$300), and comply with (b).~~

Note: Authority cited: Section 50140 and 50304, Financial Code. Reference: Sections 50141, 50144 and 50145, Financial Code.

8. Section 1950.122.6 is amended to read:

§ 1950.122.6. Supervision of Mortgage Loan Originators.

(a) Every residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall exercise diligent supervision over the mortgage loan origination, lending and servicing activities of every mortgage loan originator that it sponsors through a supervisory system. The supervisory system shall provide, at a minimum, for the following:

(1) The establishment and maintenance of written procedures. Every residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office, that set forth the procedures adopted by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer to comply with the duties imposed by this section.

(2) The designation of a supervisor with the authority to carry out the supervisory responsibilities of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer for each type of business in which it engages for which licensure as a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer is required. Every residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall designate a supervisor, an individual who shall:

(A) Supervise and periodically review, no less than annually, the activities of the branch managers designated pursuant to subsection 3 of this section;

(B) Periodically inspect, no less than annually, each business office of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer to ensure that the written procedures are enforced; and

(C) In the event a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer does not have any branch offices, the supervisor shall directly supervise and review the activities of the mortgage loan originators.

(D) The supervisor shall be identified in Form MU1 as a qualifying individual and shall submit a Form MU2. For purposes of this section, a qualifying individual is a person in charge and responsible for the actions of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer.

(3) The assignment of each licensed mortgage loan originator to a branch manager(s) or qualifying individual who shall be responsible for supervising that person's activities. Every mortgage loan originator employed by a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall be subject to the supervision of a branch manager or qualifying individual designated by such residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. Every branch manager shall be identified on Form MU3 and shall submit a Form MU2 to NMLS.

(4) Reasonable efforts to determine that all supervisory personnel are qualified by virtue of experience or training to carry out their assigned responsibilities. For this Section, "qualified" means a manager of a branch office or qualifying individual must be a California licensed mortgage loan originator.

~~(b) Every mortgage loan originator employed by a mortgage lender, mortgage broker, or mortgage lender and broker shall be subject to the supervision of a branch manager designated by such mortgage lender, mortgage broker, or mortgage lender and broker. Every branch manager shall be identified on Form MU3 and shall submit a Form MU2 to NMLS.~~

~~(c) Every mortgage lender, mortgage broker, and mortgage lender and broker shall establish, maintain and enforce written procedures, a copy of which shall be kept in each business office that set forth the procedures adopted by the mortgage lender, mortgage broker, and mortgage lender and broker to comply with the duties imposed by this section.~~

~~(d) Every mortgage lender, mortgage broker, and mortgage lender and broker shall designate a Supervisor, an individual who shall:~~

~~(1) Supervise and periodically review the activities of the branch managers designated pursuant to subsection (b) of this section;~~

~~(2) Periodically inspect each business office of the mortgage lender, mortgage broker, or mortgage lender and broker to ensure that the written procedures are enforced;~~

~~(3) In the event a mortgage lender, mortgage broker, or mortgage lender and broker does not have any branch offices, the Supervisor shall directly supervise and review the activities of the mortgage loan originators.~~

~~(e) The supervisor shall be identified in Form MU1 as a qualifying individual and shall submit a Form MU2. For purposes of this section, a qualifying individual is a person in charge and responsible for the actions of the mortgage lender, mortgage broker, and mortgage lender and broker.~~

(5) If a mortgage loan originator does not physically work in a main or branch office full-time he or she must complete and sign a statement agreeing to the supervision of by his or her sponsoring company and submit it the statement to the Department. The consent to supervision shall be made in accordance with the following form.

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT

MORTGAGE LOAN ORIGINATOR

CONSENT TO SUPERVISION

Please submit a written statement or an e-mail from your company e-mail address to demonstrate how you are in compliance with Financial Code Section 50141(a)(6). A written statement should be attached to the New Application Checklist or Amendment Checklist and submitted to the Department. An e-mail should be sent to [dboXXX@dbo.ca.gov]. The statement shall include the following representations:

• I will only represent the business location [principal or branch] of [name of sponsor], which is on file with the Commissioner and by which I will be employed and subject to the supervision, as my place of employment.

• I will only engage in business under the name of [name of sponsor];

• I will only provide the public with letterhead, phone numbers, electronic e-mail addresses or other forms of communication that are in the name of, under the control of, and provided by [name of sponsor];

• I will only engage in activities and transactions related to the making of loans subject to the supervision and oversight of [name of sponsor]; and

• I will not have a place of business where I regularly meet with borrowers, other than [name of sponsor]'s main or branch office.

6. If a sponsoring company allows one or more mortgage loan originator(s) to physically work outside of its main or branch office full-time or part-time the company must complete and sign a statement agreeing to supervise the mortgage loan originator(s) and submit it to the Department. The consent to supervise the mortgage loan originator(s) shall be made in accordance with the following form.

STATE OF CALIFORNIA

DEPARTMENT OF BUSINESS OVERSIGHT

SPONSORING COMPANY

CONSENT TO SUPERVISE

Please submit a written statement or an e-mail from your company e-mail address to demonstrate how you satisfy the supervisory requirement in Financial Code Section 50141(a)(6). The written statement or e-mail must be from an individual named in the Direct Owners/Executive Officers section of the MU1 or from a Qualifying Individual as designated in the MU1 for the State of California. A written statement should be attached to the New Application Checklist or Amendment Checklist and submitted to the Department. An e-mail should be sent to dboXXX@dbo.ca.gov. The statement shall include the following representations:

• The company has written supervisory procedures for the oversight of MLO activities;

- The supervisors have regular contact with MLOs;

- The company has requirements for the manner in which the MLO presents himself or herself to the public, for example, through company e-mail and letterhead; and

- The company maintains the records of each MLO's transactions.

(b) Inspections: Each residential mortgage lender, residential mortgage servicer or residential mortgage lender and servicer shall do the following:

(1) Ensure reviews are reasonably designed to assist in detecting and preventing violations of, and achieving compliance with, applicable state and federal loan origination and lending laws and regulations, and with applicable Consumer Financial Protection Bureau rules;

(2) Require the maintenance of documentation for inspection, including but not limited to written and electronic loan documents.

(3) An office inspection and review by a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer must be reduced to a written report and kept on file by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer for a minimum of three years.

4. An office inspection by a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer may not be conducted by the branch office manager or any person within that office who has supervisory responsibilities or by any individual who is directly or indirectly supervised by such person(s).

(c) Review of transactions, advertising and correspondence.

(1) Each residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall establish procedures for the review and acknowledgement by a supervisor, in writing, on an internal record, of all transactions and for the review by a supervisor of incoming and outgoing written and electronic correspondence of its licensed mortgage loan originators with the public relating to the loan origination and other lending and servicing business of such residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. Such procedures should be in writing and be designed to reasonably supervise each licensed mortgage loan originator. Evidence that these supervisory procedures have been implemented and carried out must be maintained and made available to the Department of Business Oversight upon request.

(2) Each residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall develop written procedures that are appropriate to its business, size, structure, and customers for the review of incoming and outgoing written (i.e., non-electronic) and electronic correspondence with the public relating to its loan origination, lending and servicing business, including procedures to review incoming written correspondence directed to licensed mortgage loan originators and related to the mortgage lender's, mortgage servicer's, or mortgage lender and servicer's loan origination, lending and servicing business to properly identify and handle customer complaints and to ensure that customer funds and loan documents are handled in accordance with the mortgage lender's, mortgage servicer's, or mortgage lender and servicer's procedures.

Note: Authority cited: Sections ~~50002~~ and 50304, Financial Code. Reference: Sections ~~50002.5~~, 50003, 50124, ~~50128~~ and 50141, Financial Code.