

THE CALIFORNIA CORPORATIONS COMMISSIONER HEREBY ADOPTS
THE FOLLOWING CHANGES IN THE REGULATIONS UNDER THE
CALIFORNIA FINANCE LENDERS LAW
CALIFORNIA RESIDENTIAL MORTGAGE LENDING ACT
AS SET FORTH IN CHAPTER 3, TITLE 10,
CALIFORNIA CODE OF REGULATIONS
EFFECTIVE: MAY 25, 2011

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, ~~as required by NMLS.~~

(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 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.”

(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 ~~the~~qualifying individuals and branch managers specified in ~~item 2 of Schedule A of the form~~Form MU1, entitled “Uniform Mortgage Biographical Statement & Consent 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.”

(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.”

(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 be established through factors such as supervision and control of the sponsored mortgage loan originator, legal and regulatory responsibility for the acts of the mortgage loan originator, and performance 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.

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

Reference: Sections 22000 et seq., Financial Code.

2. Section 1409 is amended to read:

§ 1409. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required.

(a) A finance company shall at all times maintain on file with the Commissioner a current list of officers, directors, and partners in the case of a partnership, and other persons named in the application. Changes in partnerships are limited to the conditions set forth in Section 22151(b) of the Law. In the event of any change, other than transfers between branch offices, in the officers, directors, or partners, or other persons named in the application, a finance company shall file with the Commissioner an amendment to the application containing the same information in relation to such new person(s) as is required in the application, within thirty days from the date of the change.

(b) A mortgage lender, mortgage broker, or mortgage lender and broker shall comply with subsection (a) by submitting changes to the Commissioner through NMLS on Forms MU1, MU2, MU3, and MU4, as applicable.

Note: Authority cited: Sections 22100, 22101, and 22150, Financial Code.

Reference: Sections 22100, 22101, 22108, 22109, 22109.6, 22150 and 22151, Financial Code.

3. Section 1409.1 is adopted to read:

§ 1409.1. Notice of Changes by Mortgage Lender, Mortgage Broker, Mortgage Lender and Broker, and Mortgage Loan Originator.

(a) Each licensed mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator shall, upon any change in the information contained in its license application (other than financial information contained therein) promptly file an amendment to such application setting forth the changed information.

(b) A mortgage lender, mortgage broker, and mortgage lender and broker shall file changed information contained in its Forms MU1, MU2, and MU3, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner.

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information as provided in Section 1422.6 of Subchapter 6 of these rules. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1422.6.3 of Subchapter 6 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

(d) A licensed mortgage lender, mortgage broker, and mortgage lender and broker shall notify the Commissioner of the employment of any new mortgage loan originator in California and of the termination of employment of any mortgage loan originator in California in accordance with Section 1422.6 of Subchapter 6 of these rules.

(e) If a mortgage lender, mortgage broker, or mortgage lender and broker discovers that ~~its~~ a sponsored mortgage loan originator has not filed an amendment to his or her Form MU4 ~~as required by subsection (c)~~, the mortgage lender, mortgage broker, or mortgage lender and broker shall require the mortgage loan originator to file the amendment immediately. If, within five (5) days from the demand, the mortgage loan originator has not made the changes, the mortgage lender, mortgage broker, or mortgage lender and broker shall inform the Commissioner in writing.

Note: Authority cited: Sections 22100 and 22108, Financial Code. Reference: Section 1798.18, Civil Code; and Sections 22106 and 22108, Financial Code.

4. Section 1411 is amended to read:

§ 1411. Criminal Actions: Report to Commissioner.

(a) A finance ~~company~~ lender shall immediately report in writing to the Commissioner any criminal action filed against such company or its directors, officers or management personnel.

(b) A mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator shall file the information in subsection (a) with the NMLS on Form MU1 and MU2, as applicable, in accordance with its procedures for transmission to the Commissioner.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22108, 22109, 22109.1, 22701, 22705 and 22714, Financial Code.

5. Section 1414 is adopted 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.

(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; and

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

(e) The ~~Supervisor~~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.

Note: Authority cited: Sections 22100 and 22109.1, Financial Code. Reference: Section 22013, Financial Code.

6. Section 1422.4 is adopted to read:

§ 1422.4. Electronic Filings.

(a) DESIGNATION: The Commissioner designates the Nationwide Mortgage Licensing System (NMLS) owned and operated by the State Regulatory Registry LLC (SRR), a wholly-owned subsidiary of the Conference of State Bank Supervisors (in cooperation with the American Association of Residential Mortgage Regulators) to receive and store filings, obtain fingerprints, obtain credit reports, and collect related fees from applicants and state-licensed mortgage lenders, mortgage brokers, mortgage lenders and brokers, and mortgage loan originators on behalf of the Commissioner.

(b) USE OF NMLS: All mortgage lender, mortgage broker, mortgage lender and broker, and mortgage loan originator applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in Subchapter 6 of these rules. The following conditions relate to such electronic filings:

(1) Electronic Signature: When a signature or signatures are required by the particular instructions of any filing, including any attestation to be made through NMLS, a duly authorized officer or proper delegate of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate field and submitting the filing to NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual whose name is typed on the filing.

(2) When filed: Solely for purposes of a filing made through NMLS, unless otherwise specified, a document is considered filed with the Commissioner when all fees are received and the filing is transmitted by NMLS to the Commissioner.

(3) An applicant shall provide through NMLS the necessary authorizations so that NMLS may obtain independent credit reports, fingerprinting and criminal background checks.

(4) Any document required to be filed with the Commissioner that is not permitted to be filed with or cannot be transmitted through NMLS shall be filed in paper form directly with the Commissioner.

Note: Authority cited: Sections 22100 and 22150, Financial Code. Reference: Section 1633.7, Civil Code; and Sections 22012, 22014, 22100, 22105.1 and 22105.2, Financial Code.

7. Section 1422.4.1 is adopted to read:

§ 1422.4.1. Share Arrangements with Other Governmental Agencies:
Confidentiality.

(a) For purposes of Section 22105.3 of the Financial Code, the Commissioner is authorized to share any information or material that has been submitted to NMLS to any

governmental agency, including, but not limited to the California Attorney General, the California Department of Justice, the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, including the Federal Housing Administration, the Federal Consumer Financial Protection Bureau, the Federal Bureau of Investigation, state, local, or federal regulatory agencies, state attorneys general, and county district attorney's offices. The information or material that is shared with a governmental agency shall be accomplished without the loss of privilege or the loss of confidentiality protections provided by law.

~~(b) A mortgage lender, broker, mortgage lender and broker, and mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing and made pursuant to Section 250.10 of Article 1 of Subchapter 1 of these rules. If a request for confidential treatment is granted or denied, the person making such request will be notified in writing.~~

Note: Authority cited: Sections 22105.3 and 22150, Financial Code. Reference: Section 1798.24, Civil Code; and Sections 22105.1, 22105.2, 22105.3 and 22105.4, Financial Code.

8. Section 1422.4.5 is adopted to read:

§ 1422.4.5. Request for Confidential Treatment.

A mortgage lender, broker, mortgage lender and broker, and mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing and made pursuant to Section 250.10 of Article 1 of Subchapter 1 of these rules. If a request for confidential treatment is granted or denied, the person making such request will be notified in writing.

Note: Authority cited: Sections 22105.3 and 22150, Financial Code. Reference: Section 1798.24, Civil Code; and Sections 22105.1, 22105.3 and 22105.4, Financial Code.

9. Section 1422.5 is adopted to read:

§ 1422.5. License Application for Mortgage Lenders, Mortgage Brokers, and Mortgage Lenders and Brokers.

The procedures set forth in this section are applicable to a mortgage lender, mortgage broker, and mortgage lender and broker that is required to be licensed under Section 22100 of the Code. Except as otherwise provided in Subchapter 6 of these rules, a mortgage lender, mortgage broker, and mortgage lender and broker are subject to the requirements of this section and are not subject to the requirements of Section 1422 of Subchapter 6 of these rules.

(a) INITIAL APPLICATION: The application for a license as a mortgage lender, broker, or mortgage lender and broker under subdivision (a) of Section 22100 of the Code and any amendment to such application under Section 1409.1 of Subchapter 6 of these rules shall be filed upon Form MU1 (Uniform Mortgage Lender/Mortgage Broker Form) and any exhibits, in accordance with the instructions of NMLS for transmission to the Commissioner. Exhibits that cannot be submitted through NMLS shall be submitted directly to the Commissioner ~~as instructed by NMLS~~. The notices set forth in Section 1422.7 of Subchapter 6 of these rules are part of every application. An applicant shall provide the following information, exhibits and documentation in the manner provided:

(1) An applicant shall identify all fictitious business names on Form MU1.

(A) For each fictitious business name, an applicant shall submit directly to the Commissioner a Fictitious Business Name Statement bearing the seal of the county clerk.

(B) An applicant may not use a fictitious business name until the Commissioner approves the use of the name. An applicant may not permit a mortgage loan originator sponsored by the applicant or a branch office to use any name not approved by the Commissioner.

(C) Every applicant and licensee shall comply with the rules governing the filing of a fictitious business name set forth in Business and Professions Code Section 17900 et seq.

(2) For every additional business location, an applicant shall obtain a branch office license in accordance with Section 1424 of Subchapter 6 of these rules.

(3) An applicant shall provide the names, personal history, and experience of individual applicants, officers, directors, managing members (in the case of a limited liability company), general and managing partners (in the case of a partnership), and control persons (both direct and indirect) of the applicant through NMLS on Form MU1 within the "Directors and Executive Officers" section and on ~~the Uniform Mortgage Biographical Statement & Consent Form (Form MU2).~~

(A) The named individuals shall provide authorization for, and subsequent delivery of, fingerprints to NMLS or the California Department of Justice, or both, as applicable.

(B) An applicant shall pay all fees required for the criminal history background check.

(4) An applicant shall submit through NMLS as an exhibit to Form MU1 financial statements prepared in accordance with generally accepted accounting principles and acceptable to the Commissioner, ~~including~~that includes applicant's fiscal year end date.

(A) The balance sheet shall be dated no more than 90 days before the date that the application is submitted to the Commissioner through NMLS.

(B) The ~~audited~~ financial statements shall document the required minimum tangible net worth in accordance with Section 22104 of the Code. An applicant who employs one or more mortgage loan originators must meet and maintain a minimum net worth of \$250,000 at all times, and all other applicants shall maintain a minimum net worth of at least \$25,000 at all times.

(5) An applicant shall submit directly to the Commissioner a Customer Authorization of Disclosure of Financial Records form (Exhibit E (Rev. 9/07) to the application for license as a finance lender or broker in Section 1422 of Subchapter 6 of these rules), and maintain a copy in the applicant's books and records as provided in Section 22156 of the Code. This authorization is effective as of the date of execution and shall remain effective until five years after the suspension, surrender, or revocation of the mortgage lender or broker license. The authorization may not be revoked.

(6) In addition to the identification of business activities requested on Form MU1, an applicant shall submit a detailed description of the applicant's business activities directly to the Commissioner. If an applicant answers yes to either question (7)(A) or (7)(B) of Form MU1, the applicant must also submit an organizational chart.

(7) An applicant shall submit directly to the Commissioner evidence of surety bond in accordance with Section 1437 of Subchapter 6 of these rules.

(8) If an applicant intends to engage in any activity not specified in Items 4 and 5 of Form MU1, the applicant shall submit this information directly to the Commissioner.

(9) A business entity applicant shall submit the following documents directly to the Commissioner:

(A) A corporate applicant shall submit an original certificate of qualification or good standing from the California Secretary of State executed not more than sixty days before the filing of the application. The certificate must show that the applicant is authorized to transact business in the State of California.

(B) A foreign corporation shall submit an original certificate of qualification or good standing from the Secretary of State of the state of incorporation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(C) A partnership applicant shall submit its partnership agreement.

(D) A limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the California Secretary of State executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in the State of California.

(E) A foreign limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the Secretary of State of the state of formation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(10) Every applicant shall provide a registered agent for service of process in item 2(A) of Form MU1 that is located within the state of California.

(11) An applicant shall provide its website information through NMLS on Form MU1.

(12) The individual attesting to the filing of the Form MU1 must be a duly authorized individual who has submitted a Form MU2, or who has been delegated to

attest to the filing by an individual who has submitted a Form MU2. The attestation provided pursuant to this paragraph shall constitute an agreement to comply with the requirements of the California Finance Lenders Law.

(b) FILING FEE: Pursuant to Section 22103 of the Financial Code, application fees (\$200), investigation fees (\$100) and fingerprint processing fees (\$20 per set to the Department of Corporations, plus Department of Justice and Federal Bureau of Investigation fees, as applicable) related to the fingerprint and criminal background checks, shall be paid through NMLS for transmission to the Commissioner. The payment of fingerprint processing fees shall be filed directly with the Commissioner until such time as the NMLS can accept the fee. Fees are not refundable.

(c) COMPLETION OF FILING and ISSUANCE OF LICENSE: An application for licensure as a mortgage lender, mortgage broker, or mortgage lender and broker is not deemed complete until all required fees, all required submissions, and all background and investigative reports are received by the Commissioner. In accordance with Section 22109(b), the Form MU1 application may be considered withdrawn if the Commissioner does not receive the requested information contained in any written notification of a deficiency within 90 days of the notification.

(d) FILING AN AMENDMENT: In the event of a change to the information in the application, or exhibits thereto, the mortgage lender, mortgage broker, or mortgage lender and broker applicant or licensee shall file an amendment to the Form MU1, MU2, or MU3 through NMLS in accordance with the procedures in Section 1409.1 of Subchapter 6 of these rules. Prior to the issuance of a license, any amendment to an application shall be filed within five (5) days. Any change that cannot be reported through NMLS shall be reported directly to the Commissioner.

Note: Authority cited: Sections 22150, Financial Code. Reference: Sections 17900, 17910, 17913, and 17926, Business and Professions Code; Section 1798.17, Civil Code; Section 7473, Government Code; Sections 22000, 22100, 22101, 22101.5, 22102, 22103, 22104, 22105, 22105.2, 22106, 22107, 22108, 22109.6, 22112, 22153, 22154, 22156, 22157, 22159, and 22170, Financial Code; Section 17520, Family Code; and Section 11077.1, Penal Code.

10. Section 1422.6 is adopted to read:

§ 1422.6. Mortgage Loan Originator Application Procedures.

(a) ESTABLISHING A RELATIONSHIP IN NMLS: A licensed mortgage lender, mortgage broker, or mortgage lender and broker shall sponsor in NMLS each mortgage loan originator employed by it. To sponsor a mortgage loan originator, a mortgage lender, mortgage broker, or mortgage lender and broker applicant or licensee must:

(1) Obtain a unique identifier through NMLS,

(2) Obtain for its records, evidence that each mortgage loan originator meets the qualification requirements of Section 1422.6.1 of Subchapter 6 of these rules, and

(3) Ascertain (by investigation) the character, business reputation and experience of any individual mortgage loan originator, prior to executing any transaction on behalf of the mortgage lender, mortgage broker, or mortgage lender and broker. Evidence of compliance with this paragraph shall be maintained as a part of the records of the licensee as required by Sections 1425 and 1426 of Subchapter 6 of these rules.

(b) Upon the employment of an individual as a mortgage loan originator, a mortgage lender, mortgage broker, or mortgage lender and broker shall ensure that the mortgage loan originator files a Uniform Individual Mortgage License/ Registration & Consent Form (Form MU4) in NMLS for submission to the Commissioner and obtains a

mortgage loan originator license. The notices set forth in Section 1422.7 of Subchapter 6 of these rules are part of every mortgage loan originator application.

(c) A mortgage lender, mortgage broker, or mortgage lender and broker must establish the sponsorship of the mortgage loan originator in NMLS. A mortgage loan originator sponsorship is not approved until the Commissioner approves the sponsorship and issues the mortgage loan originator a license. A sponsorship will not be approved until the sponsoring mortgage lender, mortgage broker, or mortgage lender and broker has obtained a license through NMLS or has transitioned its license onto NMLS in accordance with Section 1422.5 of Subchapter 6 of these rules.

(d) A mortgage loan originator applicant must complete all license requirements, including, but not limited to the payment of all required fees prior to transmitting the application to the Commissioner. The fee for an application as a mortgage loan originator is ~~one~~three hundred dollars (~~\$400~~\$300), which shall be paid through NMLS for transmission to the Commissioner, plus twenty dollars (\$20) for the processing of a criminal history background check. The application fee shall constitute the mortgage loan originator's license fee for the remainder of the year in which a license is issued. The fees in this subsection are in addition to any fees required by NMLS, the Department of Justice, the Federal Bureau of Investigation, or any other party for the processing of criminal history background checks, credit reports, testing, education, or any other licensure requirement under the California Finance Lenders Law.

(e) The Form MU4 application may be considered withdrawn if the Commissioner does not receive the requested information contained in the written notification of a deficiency within 90 days of the notification.

(f) In accordance with subdivision (c) of Section 22100, a mortgage lender, mortgage broker, or mortgage lender and broker shall not permit a mortgage loan

originator whose license or license sponsorship has lapsed, or whose license sponsorship is not in effect, to engage in activities of a mortgage loan originator unless the mortgage loan originator's license has been reinstated pursuant to the procedures set forth in Section 1422.11 of Subchapter 6 of these rules.

(g) A mortgage lender, mortgage broker, or mortgage lender and broker shall require every sponsored mortgage loan originator to file an amendment to his or her Form MU4 through NMLS within twenty (20) days of any change to the information contained in the Form MU4.

(h) A mortgage loan originator may not engage in business under any name other than a name approved by the Commissioner for the use by the sponsor of the mortgage loan originator.

(i) A mortgage lender, mortgage broker, or mortgage lender and broker shall be responsible for the acts, practices, and conduct of its sponsored mortgage loan originator in connection with the making, brokering, servicing, or origination of residential mortgage loans until such time that the sponsorship of the mortgage loan originator is terminated through the NMLS. Termination procedures shall be as follows:

(1) A mortgage lender, mortgage broker, or mortgage lender and broker shall terminate the sponsorship of a mortgage loan originator through the NMLS within fifteen (15) days after the termination of an individual, and shall clearly state the reason(s) for termination.

(2) A mortgage loan originator shall file an amendment to Form MU4 to terminate a relationship with a mortgage lender, broker, or mortgage lender and broker within 15 days of the termination. A mortgage loan originator may not originate loans unless he or she has a valid license and the mortgage loan originator has a sponsorship approved by the Commissioner.

(j) PROCEDURES FOR A SOLE PROPRIETOR MORTGAGE LOAN

ORIGINATOR: A sole proprietor mortgage loan originator must:

(1) File Forms MU1 and MU2 (biographical information) and obtain a license as a mortgage lender, mortgage broker, or mortgage lender and broker, and

(2) File Form MU4 and obtain a license as a mortgage loan originator.

Note: Authority cited: Sections 22105.2 and 22150, Financial Code. Reference: Sections 17900, 17910, 17913, and 17926, Business and Professions Code; 1798.17, Civil Code; Section 7473, Government Code; Sections ~~22000~~, 22014, 22100, ~~22103~~, ~~22104~~, ~~22105.1~~, 22107, 22108, 22109.6 and 22347, Financial Code.

11. Section 1422.6.1 is adopted 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 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.

(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.

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

12. Section 1422.6.2 is adopted to read:

§ 1422.6.2. Evidence of Financial Responsibility.

(a) The Commissioner's finding required by Section 22109.1(c) of the California Finance Lenders Law relates to any matter, personal or professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.

(b) An applicant for a mortgage loan originator license shall authorize NMLS to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the electronic application form, in order to support the Commissioner's finding required by Section 22109.1(c) of the California Finance Lenders Law.

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22109.1, Financial Code.

13. Section 1422.6.3 is adopted 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.

(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.

14. Section 1422.7 is adopted to read:

§ 1422.7. Notices Included with Applications.

The following notices required by state and federal law are hereby provided for those completing an application for a residential mortgage lender, mortgage broker, or residential mortgage lender and broker license in Section 1422.5 of Subchapter 6 of these rules, and an application for a mortgage loan originator license in Section 1422.6 of Subchapter 6 of these rules:

NOTICES REQUIRED UNDER STATE AND FEDERAL LAW
INFORMATION PRACTICES ACT OF 1977
(California Civil Code Section 1798.17)

(a) The Department of Corporations of the State of California is requesting the information specified in the application for licensure of mortgage lenders, mortgage brokers, mortgage lender and brokers and mortgage loan originators.

(b) The Chief Administrative Officer, 1515 K Street, Suite 200 Sacramento, CA 95814, telephone (916) 445-5541, is responsible for the system of records and shall, upon request, inform individuals regarding the location of the Department of Corporations' records and the categories of persons who use the information in the records.

(c) The records are maintained pursuant to the California Finance Lenders Law (Financial Code Section 22000, et seq.).

(d) The submission of all items of information is mandatory unless otherwise noted. Section 17520 of the Family Code requires the Department of Corporations to

collect social security numbers from all applicants. The Privacy Act of 1974 prohibits a state agency from denying an individual any right, benefit or privilege provided by law because of the individual's refusal to disclose the individual's social security account number.

(e) Failure to provide all or any part of the information requested may preclude the Department of Corporations from approving the application.

(f) The principal purposes within the Department of Corporations for which the information is to be used are to determine whether (1) a license, registration, or other authority, as allowed under the law, should be accepted, granted, approved, denied, revoked or limited in any way; (2) business entities or individuals licensed or otherwise regulated by the Department of Corporations are conducting themselves in accordance with applicable laws; and/or (3) laws administered by the Department of Corporations are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state or local law enforcement or regulatory agencies, as authorized by law, is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivision (e) or (f) of Civil Code Section 1798.24 may include transfers to other federal, state, or local law enforcement ~~and~~ regulatory agencies, including NMLS as a channeling agent to, from, or on behalf of those federal, state, and local law enforcement and regulatory agencies, as authorized by law.

(h) Except for Section 22105.3 of the Financial Code, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual that is maintained by the Department of Corporations.

FEDERAL PRIVACY ACT OF 1974 (Public Law 93-579)

In accordance with Section 7 of the Privacy Act of 1974 (found at 5 U.S.C. § 552a note (Disclosure of Social Security Number)), the following is information on whether the disclosure of a social security account number is voluntary or mandatory, by what statutory or other authority such number is solicited, and what uses will be made of it.

(1) Section 17520 of the Family Code requires the Department of Corporations to collect social security numbers from all applicants. The Privacy Act of 1974 prohibits a state agency from denying an individual any right, benefit or privilege provided by law because of the individual's refusal to disclose the individual's social security account number.

(2) A social security account number is solicited pursuant to one or more of the following authorities: Sections 1422.5 and 1422.7 of Title 10, California Code of Regulations; and Section 17520 of the Family Code.

(3) For all persons disclosing a social security account number, the number may be used, in addition to other information provided, to conduct a background investigation of the individual by the Department of Justice's Identification and Information Branch or by other federal, state or local law enforcement agencies, as authorized by law. The social security number may also be used to respond to requests for this number made by child support agencies.

Note: Authority cited Sections 22150, Financial Code. Reference: Sections 1798.17 and 1798.24, Civil Code; Sections 22100, 22101, 22105, 22105.1, 22105.2 and 22105.3, Financial Code; Section 17520, Family Code; Sections 7470, 7473, 7490 and 13140-13144, Government Code; and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

15. Section 1422.7.1 is adopted to read:

§ 1422.7.1. Statement of Citizenship, Alienage, and Immigration Status.

Any individual (e.g. sole proprietor or mortgage loan originator) who is applying for any license under the California Finance Lenders Law shall file the Statement of Citizenship, Alienage, and Immigration Status and any accompanying documentation directly with the Commissioner in accordance with Sections 250.60 and 250.61 of Article 5 of Subchapter 1 of these rules.

Note: Authority cited: Sections 22150 and 50304, Financial Code; and Section 1344, Health and Safety Code. Reference: Sections 22101, 50122 and 50130, Financial Code; Section 1351, Health and Safety Code; and 8 U.S.C. Sections 1621, 1641 and 1642.

16. Section 1422.9 is adopted to read:

§ 1422.9. Effectiveness of Mortgage Lender, Mortgage Broker, Mortgage Lender and Broker, and Mortgage Loan Originator Licenses.

(a) A license as a mortgage lender, mortgage broker, or mortgage lender and broker under Section 22100 of the Code continues in effect until it is revoked or suspended by the Commissioner, or surrendered by the mortgage lender, mortgage broker, or mortgage lender and broker and the surrender has been accepted by the Commissioner pursuant to Section 1422.10 of Subchapter 6 of these rules.

(b) A license as a mortgage loan originator under Section 22100 of the Code shall be renewed on an annual basis in accordance with Section 1422.6.3 of Subchapter 6 of these rules. The license shall be in effect for the calendar year unless revoked, suspended, or surrendered.

Note: Authority cited: Sections 22100 and 22150, Financial Code. Reference: Section 22109.6, Financial Code.

17. Section 1422.10 is adopted to read:

§ 1422.10. Surrender of License as a Mortgage Lender, Mortgage Broker or Mortgage Loan Originator.

(a) An application to surrender a license as a mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator shall be filed on Form(s) MU1, MU3, and MU4 through NMLS in accordance with its procedures for transmission to the Commissioner. Upon approval of the surrender by the Commissioner, a licensee shall amend every branch office application Form MU3 and terminate the sponsorship of all mortgage loan originators.

(b) To surrender a branch office license, a licensee shall file an amendment to Form MU3 in accordance with the instructions on the form for surrendering a branch office license.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22107 and 22108, Financial Code.

18. Section 1422.11 is adopted to read:

§ 1422.11. Reinstatement of License as a Mortgage Loan Originator.

(a) A mortgage loan originator license that has not been renewed between November 1 and December 31 is a lapsed or expired license. A mortgage loan originator with an expired license may not continue doing business as a mortgage loan originator unless his or her license is reinstated.

(b) A mortgage loan originator may reinstate an expired license if all of the following conditions are met:

(1) The mortgage loan originator must submit a request for reinstatement through NMLS before March 1 of the year immediately following the year the license expired.

(2) All continuing education courses and any other minimum requirements for the license renewal for the year in which the license expired must be completed before March 1 of the year immediately following the year the license expired.

(3) The mortgage loan originator must pay the applicable licensing fee (\$300), reinstatement fee (\$100), and any late fees or penalties. As of January 1, 2011, the mortgage loan originator must pay the applicable licensing fee (\$300), reinstatement fee (\$100), and any later fees or penalties.

(4) The mortgage loan originator must continue to meet minimum standards for renewal in Section 22109.4 of the Code.

(c) If a mortgage loan originator whose license has expired cannot meet the requirements for reinstatement specified in this section or submits a reinstatement filing on or after March 1, the mortgage loan originator must apply for a new license and meet the requirements for licensure in effect at that time.

Note: Authority cited: Sections 22150, Financial Code. Reference: Sections 22107, 22108, 22109, 22109.1, 22109.2, 22109.3, 22109.4 and 22109.5, Financial Code.

19. Section 1422.12 is adopted to read:

§ 1422.12. Challenge Process for Information Entered Into NMLS

(a) If an applicant or licensee disputes the accuracy or completeness of any material information entered into and maintained by NMLS, the applicant or licensee

may submit a written request to the Commissioner to the attention of the Special Administrator, California Finance Lenders Law, Department of Corporations, 320 West 4th Street, Suite 750, Los Angeles, CA 90013-2344. For purposes of this section, a “licensee” includes a mortgage loan originator.

(b) The request shall include the applicant or licensee’s name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and shall provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the licensee or applicant.

(c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine if the information entered into NMLS is correctly reflected.

(d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request that the NMLS record be corrected.

(e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.

(f) Within 30 days from the mailing or service of the notification, the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code) for a determination of whether material inaccuracy or incompleteness exists in the record.

(g) If a material inaccuracy or incompleteness is found in any record, within 30 days of notice of the finding the Commissioner shall request that NMLS correct the information.

(h) Judicial review of the decision shall be governed by Section 11523 of the Government Code.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22105.2, Financial Code.

20. Section 1424 is adopted to read:

§ 1424. Branch Office License Instructions for Mortgage Lenders.

(a) A mortgage lender, broker, or mortgage lender and broker licensee that seeks to engage in business at an additional location must submit an application for a branch office license by submitting Form MU3 (Uniform Mortgage Branch Office Form) in accordance with the instructions of NMLS for transmission to the Commissioner at least ten days (10) before engaging in business at the location.

(b) An applicant that intends to conduct business at the branch office under a fictitious business name not already approved by the Commissioner shall submit a copy of the Fictitious Business Name Statement with the “filed stamp” from the county clerk’s office and may not use the name until the Commissioner approves the use of the name.

(c) An applicant shall indicate each branch manager as a branch manager on Form MU3 and submit to NMLS a Form MU2 (Biographical Statement & Consent Uniform Mortgage Lender/Mortgage Broker Form) for each branch manager.

(1) Each branch manager shall provide authorization for, and delivery of, fingerprints and related information to NMLS and the California Department of Justice, as applicable.

(2) Each location must have a branch manager and the same individual may not be a branch manager of multiple locations.

(d) The Commissioner may request that additional information, documentation or detail pertaining to the branch office application be filed directly with the Commissioner.

(e) Application, investigation, and criminal history background check fees shall be paid by the applicant or licensee to NMLS for transmission to the Commissioner. Any applicable fees that cannot be paid through NMLS shall be paid directly to the Commissioner. Fees are not refundable.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22101, 22101.5, 22102, 22103 and ~~22105~~22105.4, Financial Code.

21. Section 1430.5 is amended to read:

§ 1430.5. Annual Report and Mortgage Call Report.

(a) The annual report required under Section 22159 of the Financial Code shall be submitted on forms furnished by the Commissioner.

(b) In addition to the annual report required under Section 22159 of the Financial Code, a mortgage lender, mortgage broker, and mortgage lender and broker shall file the NMLS Mortgage Call Report required to be filed pursuant to subdivisions (c) and (d) of Section 22159 of the Code with NMLS for transmission to the Commissioner.

(c) Every mortgage loan originator shall ensure that all residential mortgage loans that close as a result of his or her loan origination activities are included in the NMLS Mortgage Call Report submitted to NMLS or the Commissioner by his or her sponsoring mortgage lender, broker, or mortgage lender and broker.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22159 and 22160, Financial Code.

22. Section 1431 is amended to read:

§ 1431. Special Report.

A special report required by the Commissioner under Financial Code Section 22159(b) shall be signed by the licensee if an individual, by a general partner if a partnership, or by an authorized officer, if a corporation or other business entity.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22159(b), Financial Code.

23. Section 1433 is amended to read:

§ 1433. Forms.

(a) A licensee shall only use a loan form that the licensee has determined to be in compliance with applicable state and federal law. For purposes of this section, a licensee includes a mortgage loan originator.

(b) All printed matter contained in loan forms used by a licensee shall be in not less than 8-point type, except that printed captions in “boxes” may be 6-point type.

(c) A licensee is prohibited from using a loan form after written notice of objection by the Commissioner to such form has been delivered to the licensee.

(d) In accordance with Section 22347 of the Code, the unique identifier of a mortgage loan originator shall be clearly shown on all residential mortgage loan application forms, ~~solicitations, or advertisements, including business cards or Internet Web sites~~ documents related to a residential mortgage loan, whether in paper, electronic, or any other format. ~~The unique identifier number shall be so labeled and shall not be smaller than 8-point bold font.~~

(e) The unique identifier of a licensed mortgage loan originator shall be clearly shown on any advertising, solicitations, including business cards or Internet Web sites.

whether in paper, electronic, or any other format, which directly identifies the mortgage loan originator.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22150, 22156, 22161, 22163, 22164, 22250, 22347 and 22714, Financial Code.

24. Section 1436 is amended to read:

§ 1436. Nontraditional, Adjustable Rate and Mortgage Loan Products.

(a) Best Practices. Every mortgage lender, mortgage broker, and mortgage lender and broker shall implement best practices to manage loan product risk on a continuous basis. These best practices shall include practices set forth in the Guidance on Nontraditional Mortgage Product Risks published on November 14, 2006 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, which is hereby incorporated by reference, and the Statement on Subprime Mortgage Lending published on July 17, 2007 by the aforementioned entities and the National Association of Consumer Credit Administrators, which is hereby incorporated by reference. Both publications are collectively referred to herein as the "Guidance" and are available on the Department's web site at www.corp.ca.gov. A mortgage loan originator employed by a mortgage lender, mortgage broker, or mortgage lender and broker shall follow the best practices policies and procedures developed by his or her employer. For purposes of this section, "best practices" shall mean lawful processes, policies, and procedures to manage risks associated with use of nontraditional mortgage products and adjustable rate mortgage products as defined and prescribed by the Guidance.

(b) Written Compliance Report. In a separate written document, submitted as an addendum to its annual financial report or report of condition required under Section

22159 of the Financial Code, every mortgage lender, mortgage broker, and mortgage lender and broker shall state whether it made or arranged nontraditional mortgage products and adjustable rate mortgage products, as defined by the Guidance, during the reporting period covered by the annual report. If any such loans were made or arranged, the mortgage lender, mortgage broker, and mortgage lender and broker shall also explain how it has implemented best practices and explain whether and how it has put into effect the following internal controls or procedures during the reporting period: adopted processes, policies and procedures to ensure compliance with the Guidance; designated a compliance officer (including contact information of that officer) to ensure compliance with the Guidance; implemented a consumer complaint process to resolve consumer complaints involving loans covered by the Guidance; and educated employees and agents to help them understand how to apply the best practices. In addition, the mortgage lender, mortgage broker, and mortgage lender and broker shall indicate the number of any consumer complaints it received during the reporting period regarding loans that are subject to the Guidance, including the number of resolved complaints and unresolved complaints and the number of workout arrangements used for resolved complaints. For purposes of this section, "workout arrangement" shall mean a modified or converted loan product with predictable payment requirements to help the financially-stressed borrower. If any nontraditional mortgage loans or adjustable rate mortgage loans subject to the Guidance were made or arranged, the mortgage lender, broker, and mortgage lender and broker shall also submit information regarding those loan products on the form entitled Non-traditional, Adjustable Rate and Mortgage Loan Survey (Rev. 8/07), which is hereby incorporated by reference. This form is available on the Department's website at www.corp.ca.gov.

(c) Books and Records. If the mortgage lender, mortgage broker, and mortgage lender and broker receives any reportable consumer complaints described in subsection (b), the mortgage lender, mortgage broker, and mortgage lender and broker shall maintain for each complaint a copy of the complaint and the mortgage lender, mortgage broker, and mortgage lender and broker's written response or explanation of how the company resolved the complaint including any workout arrangement, shall maintain this documentation as part of its books and records, and shall make the documentation available to the commissioner upon request. In addition, if the mortgage lender, mortgage broker, or mortgage lender and broker reports any internal controls or procedures or nontraditional or adjustable rate loans described in subsection (b), the mortgage lender, mortgage broker, and mortgage lender and broker shall maintain documentation of those controls or procedures as part of its books and records, and any loan documentation required by law, and shall make the documentation available to the commissioner upon request.

(d) Loan Disclosures. Every mortgage lender, mortgage broker, and mortgage lender and broker shall, within three business days after receipt of a completed application for a nontraditional loan or an adjustable rate loan that is subject to the Guidance, or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower statements in writing disclosing, in a clear and conspicuous manner, information comparing payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products offered by the finance company and that are subject to the Guidance. This information shall be provided by one of the following methods:

(1) The form entitled Comparison of Sample Mortgage Features: Typical Mortgage Transaction (8/1/07), which is hereby incorporated by reference. This form and its instructions are available on the Department's website at www.corp.ca.gov; or

(2) The form of the typical mortgage transaction disclosures set forth in the Comparison of Single Mortgage Features of the Form RE 885 of the Department of Real Estate, as required by Title 10, California Code of Regulations, Section 2842, when provided by a real estate broker on behalf of the mortgage lender, mortgage broker, or mortgage lender and broker. This form is available on the Department of Real Estate website at www.dre.ca.gov; or

(3) Any other form used by the mortgage lender, mortgage broker, and mortgage lender and broker to compare payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products that are subject to the Guidance; provided, however, that the form shall, at a minimum, (A) compare monthly payments and loan balances of these loan products offered by the mortgage lender, mortgage broker, or mortgage lender and broker and (B) reflect the borrower's proposed loan amount.

(e) Advertising Prohibitions. For purposes of Section 22161 of the Financial Code, the following are considered false, misleading, or deceptive advertising prohibited by that section for loans that are subject to the Guidance:

(1) Any advertisement of an installment in repayment of an adjustable rate, interest only or payment-option loan without an equally prominent disclosure of the following information about the loan as applicable:

(A) Principal amount

(B) Term of loan

(C) Initial interest rate

(D) Number of months the initial interest rate will be in effect

(E) Fully-indexed interest rate

(F) Maximum interest rate

(G) If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate

(H) Annual percentage rate

(I) How often the interest rate and payments can change

(J) Maximum periodic change in the interest rate and payments (periodic caps)

(K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes

(L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made

(M) If the loan contains a prepayment penalty, a statement to that effect

(N) If the loan contains a balloon payment, a statement to that effect

(2) Any advertisement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.

(f) This section does not apply to a commercial loan. This section applies to loans secured by residential real property located in this State improved by a one-to-four family dwelling.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22150, 22156, 22157, 22159, 22161, 22163, 22164, 22171, 22302, 22502, 22701, 22714, and 22755, Financial Code.

25. Section 1437 is adopted to read:

§ 1437. Surety Bond.

Every finance company shall maintain a surety bond in accordance with Section 22112 of the Financial Code as follows:

(a) A finance company that does not make residential mortgage loans and does not employ one or more mortgage loan originators shall post a surety bond in the amount of \$25,000.

(b) A mortgage lender, mortgage broker, or mortgage lender and broker shall post a surety bond based on the aggregate dollar amount of residential mortgage loans originated by the mortgage lender, mortgage broker, mortgage lender and broker in the preceding year, as follows:

Aggregate Loans	Bond Amount
0 - \$1,000,000	\$25,000
\$1,000,001 - \$50,000,000	\$50,000
\$50,000,001 - \$500,000,000	\$100,000
Over \$500,000,001	\$200,000

(c) The surety bond shall be in the form provided as Exhibit B to the application for a license as a finance lender or broker in Section 1422 of Subchapter 6 of these rules.

(d) A mortgage lender, mortgage broker, or mortgage lender and broker applicant without a prior year operating history shall make a good faith estimate of the aggregate amount of loans anticipated to be originated in the upcoming year to determine the amount of the surety bond.

Note: Authority cited: Section 22150, Financial Code. Reference: Section 22112, Financial Code.

26. Section 1454 is amended to read:

§ 1454. Statement of Loan or Documents Used to Comply with Financial Code:
Form: Contents.

(a) In addition to the specific requirements of Sections 22337, 22338 and 22400(b) of the Financial Code, the statement of loan form shall contain the following and may consist of more than one document:

(1) The name and address of the borrower;

(2) A statement of the actual amount of cash received and retained by the borrower and a statement of any funds (not including any charges within the meaning of Section 22306) paid to third persons pursuant to the written instructions of the borrower;

(3) A statement of any fees, charges, costs, insurance premiums or other sums which have been paid or are to be paid by or on behalf of the borrower at the time the loan is made. On any loan secured in part by real property, in which loan proceeds were disbursed to an escrow holder, delivery of a copy of the closing statement issued by such escrow holder will be sufficient notification for purposes of subsection (3) of this rule;

(4) A statement that the borrower shall have the right to make payment in advance and in any amount on any contract of loan at any time;

(5) A statement in not less than 12-point bold face capital letters.

FOR INFORMATION CONTACT THE DEPARTMENT OF CORPORATIONS, STATE
OF CALIFORNIA.

(6) A statement that the loan is made pursuant to the California Finance Lenders Law, Division 9 (commencing with Section 22000) of the Financial Code.

(b) Subsection (a) shall apply to open end loans only to the extent requiring compliance with items (1), (5), and (6) in open end loan agreements.

(c) Any statement of loan form used by a mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator shall indicate the unique identifier of the mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22150, 22156, 22158, 22306, 22337, 22338 and 22400, Financial Code.

27. Section 1550 is amended to read:

§ 1550. Advertising: Submission for Examination.

Any advertisement proposed to be used by a licensed mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator shall indicate the unique identifier of the mortgage lender, mortgage broker, mortgage lender and broker, or mortgage loan originator.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22014, 22150, 22161, 22163, 22164, 22165, 22347 and 22755, Financial Code.

28. Section 1552 is amended to read:

§ 1552. Maintenance of Advertising Copy.

(a) A licensee shall maintain in its home office, a file of all advertising copy for a period of at least two (2) years after the last date of its use.

(b) All advertising copy shall have noted thereon the name or names of all advertising media used and the dates when such advertising appeared.

(c) In the case of radio or television advertising, unless the full text of such announcements is retained for the aforesaid prescribed time by the broadcasting station or stations and is available to the commissioner, a licensee shall cause a voice transcription of the full text of such announcements to be prepared and retained for two (2) years after the last date of its use.

(d) Any advertising used by a mortgage loan originator shall be maintained by the sponsoring mortgage lender, mortgage broker, or mortgage lender and broker, in the manner set forth in this section.

(e) For purposes of this section, a licensee shall include a mortgage loan originator.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22014 and 22166, Financial Code.

29. Section 1557 is amended to read:

§ 1557. "Blind" Advertising Prohibited.

A licensee shall not use "blind" advertisements. "Blind" advertising is an advertisement used to solicit business that gives only a telephone number, post office or newspaper box number, or name other than that of the licensee. For purposes of this section, a licensee includes a mortgage loan originator.

Note: Authority cited: Section 22150, Financial Code. Reference: Sections 22014, 22150, 22161, 22163, 22164, 22165 and 22755, Financial Code.

30. 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 Corporations.

(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, ~~as required by NMLS.~~

(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.”

(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 ~~the~~ qualifying individuals and branch managers specified in ~~item 2 of Schedule A of the form~~ Form MU1, entitled “Uniform Mortgage Biographical Statement & Consent 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.”

(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.”

(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 be established through factors such as supervision and control of the sponsored mortgage loan originator, legal and regulatory responsibility for the acts of the mortgage loan originator, and performance 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.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50002.5 and 50003, Financial Code.

31. Section 1950.122 is repealed.

32. Section 1950.122 is adopted to read:

§ 1950.122. Electronic Filings.

(a) DESIGNATION: The Commissioner designates the Nationwide Mortgage Licensing System (NMLS) owned and operated by the State Regulatory Registry LLC (SRR), a wholly-owned subsidiary of the Conference of State Bank Supervisors (in cooperation with the American Association of Residential Mortgage Regulators) to receive and store filings, obtain fingerprints, obtain credit reports, and collect related fees from applicants and state-licensed residential mortgage lenders, mortgage servicers, residential mortgage lender and servicers, and mortgage loan originators on behalf of the Commissioner.

(b) USE OF NMLS: All residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, and mortgage loan originator applications, amendments, reports, notices, related filings, renewals, authorizations, and fees required to be filed with the Commissioner shall be filed electronically with and transmitted to NMLS, except as otherwise indicated in Subchapter 11.5 of these rules. The following conditions relate to such electronic filings:

(1) Electronic Signature: When a signature or signatures are required by the particular instructions of any filing, including any attestation to be made through NMLS, a duly authorized officer or proper delegate of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate field and submitting the filing to the Commissioner through NMLS. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individual making the filing.

(2) When filed: Solely for purposes of a filing made through NMLS, unless otherwise specified, a document is considered filed with the Commissioner when all fees are received and the filing is transmitted by NMLS to the Commissioner.

(3) An applicant shall provide through NMLS the necessary authorizations so that NMLS may obtain independent credit reports, fingerprinting and criminal background checks.

(4) Any documents required to be filed with the Commissioner that is not permitted to be filed with or cannot be transmitted through NMLS shall be filed in paper form directly with the Commissioner.

Note: Authority cited: Sections 50150 ~~50002, 50120~~ and 50304, Financial Code.
Reference: Section 1633.7, Civil Code; and Sections 50002, 50002.5, 50003, 50120, 50122, 50130, 50140, and 50146, Financial Code.

33. Section 1950.122.2 is amended to read:

§ 1950.122.2. Notice of Officers, Directors, Partners, “Control” Persons, Managers, Members, Trustees and Employees.

(a) The notice to accompany the filing of an individual's fingerprints required in the following circumstances shall be made on the form set forth in subsection (c) of this rule:

(1) In compliance with the requirements for a license application in Section 1950.122.4 of Subchapter 11.5 of these rules;

(2) In compliance with the requirements for filing an application for change of control (Rule 1950.206);

(3) In compliance with Section 50317(a) of the Code for an officer, director, partner, shareholder controlling 10 percent or more of the ownership interests or trustee of a licensed residential mortgage lender, residential mortgage lender and servicer, or residential mortgage loan servicer whose office, employment, ownership interest or other participation in the licensed business commenced after January 1, 1995; or

(4) In compliance with the requirements of Rule 1950.301 for certain employees.

(5) For purposes of this section, an individual who has submitted fingerprints through NMLS as part of the application for a mortgage loan originator license is not required to submit aan additional set of fingerprints under this rule.

(b) For the purpose of paragraph (4) of subsection (a) of this rule, "employee" means (1) an individual with access to or responsibility for trust funds held by a licensed residential mortgage lender, residential mortgage lender and servicer, mortgage loan originator, or residential mortgage loan servicer, and (2) employed by such licensee after January 1, 1995.

(c) The notice shall be made on the following form:

Fee: \$20.00 + DOJ Noncriminal Applicant Fingerprint Fee

(Fees should include the Department of Corporations' filing fee of [\$20.00] and the fee charged by the Department of Justice [Penal Code Section 11105] for processing Noncriminal Applicant Fingerprints.)

Receipt No. _____

STATE OF CALIFORNIA

DEPARTMENT OF CORPORATIONS

320 West 4th Street, Suite 750

Los Angeles, California 90013-1105

(213) 576-7690

*NOTICE OF OFFICERS, DIRECTORS, PARTNERS, "CONTROL" PERSONS, MANAGERS,
MEMBERS, TRUSTEES AND EMPLOYEES OF A RESIDENTIAL MORTGAGE LENDER,
RESIDENTIAL MORTGAGE LENDER AND SERVICER OR*

RESIDENTIAL MORTGAGE LOAN SERVICER*

Special Instruction: Read
Financial Code Section 50317
before completing this notice.

OFFICIAL USE ONLY
LAST NAME _____
Date submitted CII: _____
Applicant I.D.# _____

PLEASE PRINT OR TYPE

NAME OF COMPANY: _____ **FILE NO.** _____

ADDRESS OF MAIN OFFICE: _____
(Street) (City) (State) (Zip Code)

EMPLOYING BRANCH OFFICE:

NAME OF OFFICER, DIRECTOR, PARTNER, "CONTROL" PERSON [Financial Code Section 50003(e)], MANAGER, MEMBER, TRUSTEE AND EMPLOYEE:

(Last) (First) (Middle)

POSITION HELD OR TO BE HELD: _____

HOME ADDRESS: _____

(Street) (City) (State) (Zip Code)

DATE OF BIRTH: _____ **PLACE OF BIRTH:** _____

HEIGHT: _____ **WEIGHT:** _____ **SEX:** _____ **COLOR OF EYES:** _____

COLOR OF HAIR: _____

* This document shall be treated by the Department of Corporations as being received in confidence pursuant to paragraph (4) of subdivision (d) of Section 6254 of the Government Code.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50121, 50122, 50130, 50140 and 50317, Financial Code.

34. Section 1950.122.2.1 is adopted to read:

§ 1950.122.2.1. Officers, Directors, Partners, and Other Persons: Maintenance of Current List with Commissioner: Information Required.

(a) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall at all times maintain on file with NMLS in accordance with its procedures for transmission to the Commissioner, a current list of officers, directors, and partners in the case of a partnership, and other persons named in the Forms MU1, MU2, MU3, and MU4, as applicable. In the event of any change in the officers, directors, partners, or other persons named in the application, other than transfers between branch offices, a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall file with NMLS in accordance with its procedures for transmission to the Commissioner, an amendment to the application containing the

same information in relation to such new person(s) as is required in the Forms MU1, MU2, MU3, and MU4.

Note: Authority cited: Sections 50140, 50146 and 50304, Financial Code.

Reference: Section 50146, Financial Code.

35. Section 1950.122.4 is adopted to read:

§ 1950.122.4. License Application for Residential Mortgage Lender, Mortgage Servicer, and Residential Mortgage Lender and Servicer.

The procedures set forth in this section are applicable to a person who is required to be licensed pursuant to Section 50002 of the Code as a residential mortgage lender, mortgage servicer, or as a residential mortgage lender and servicer. The application for a license as a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall be filed as follows:

(a) INITIAL APPLICATION: The application for a license as a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer under subdivision (a) of Section 50002 of the Code and any amendment to such application shall be filed upon Form MU1 (Uniform Mortgage Lender/Mortgage Broker Form) and any exhibits, in accordance with the instructions of NMLS for transmission to the Commissioner. Exhibits that cannot be submitted through NMLS shall be submitted directly to the Commissioner. The notices set forth in Section 1950.122.8 of Subchapter 11.5 of these rules are part of every application. An applicant shall provide the following information, exhibits and documentation in the manner provided:

(1) An applicant shall identify all fictitious business names on Form MU1.

(A) For each fictitious business name, an applicant shall submit directly to the Commissioner a Fictitious Business Name Statement bearing the seal of the county clerk.

(B) An applicant may not use a fictitious business name until the Commissioner approves the use of the name. An applicant may not permit a mortgage loan originator sponsored by the applicant or a branch office to use any name not approved by the Commissioner.

(C) Every applicant and licensee shall comply with the rules governing the filing of a fictitious business name set forth in Business and Professions Code Section 17900 et seq.

(2) For every additional business location, an applicant shall submit through NMLS a Uniform Mortgage Branch Office Form (Form MU3) in accordance with Section 1950.122.4.1 of Subchapter 11.5 of these rules.

(3) An applicant shall provide the names, personal history, and experience of individual applicants, officers, directors, managing members (in the case of a limited liability company), general and managing partners (in the case of a partnership), and control persons (both direct and indirect) of the applicant through NMLS on Form MU1 within the "Directors and Executive Officers" section and on ~~the Uniform Mortgage Biographical Statement & Consent Form (Form MU2).~~

(A) The named individuals shall provide authorization for, and subsequent delivery of, fingerprints to NMLS or the California Department of Justice, or both, as applicable.

(B) An applicant shall pay all fees required for the criminal history background check.

(4) An applicant shall submit through NMLS as an exhibit to Form MU1 audited financial statements with an unqualified opinion prepared by an independent certified public accountant in accordance with generally accepted accounting principles and acceptable to the Commissioner. The audited financial statements shall be prepared as of the applicant's most recent fiscal year end, or a more recent date, and must document a minimum tangible net worth of \$250,000.

(5) An applicant shall submit directly to the Commissioner a Customer Authorization ~~effor~~ Disclosure of Financial Records (Form MBL 1950.122B (Rev. 02/01), hereby incorporated by reference), and maintain a copy in the applicant's books and records as provided in Section 50314 of the Code. This authorization is effective as of the date of execution and shall remain effective until five years after the surrender or revocation of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer license. The authorization may not be revoked.

(6) In addition to the identification of business activities requested on Form MU1, an applicant shall submit a detailed description of the applicant's business activities directly to the Commissioner. If an applicant answers yes to either question (7)(A) or (7)(B) of Form MU1, the applicant must also submit an organizational chart.

(7) An applicant shall submit directly to the Commissioner evidence of surety bond in accordance with Section 1950.205.1 of Subchapter 11.5 of these rules.

(8) If an applicant intends to engage in any activities not specified in Items 4 and 5 of Form MU1, the applicant shall submit this information directly to the Commissioner.

(9) Business entities shall submit the following documents directly to the Commissioner:

(A) A corporate applicant shall submit an original certificate of qualification or good standing from the California Secretary of State executed not more than sixty days

before the filing of the application. The certificate must show that the applicant is authorized to transact business in the State of California.

(B) A foreign corporation shall submit an original certificate of qualification or good standing from the Secretary of State of the state of incorporation executed not more than 60 days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(C) A partnership applicant shall submit its partnership agreement.

(D) A limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the California Secretary of State executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in the State of California.

(E) A foreign limited partnership or limited liability company applicant shall submit an original certificate of qualification or good standing from the Secretary of State of the state of formation executed not more than sixty days before the filing of the application, showing that the applicant is authorized to transact business in that state.

(10) An applicant shall submit directly to the Commissioner evidence of federal agency approval for the applicant to engage in business as a lender or servicer of federally related mortgage loans, in accordance with subdivisions (l) and (p) of Section 50003 of the Code.

(11) Every applicant shall provide a registered agent for service of process in item 2(A) of Form MU1 that is located within the state of California.

(12) An applicant shall provide its website information through NMLS on Form MU1.

(13) The individual attesting to the filing of the Form MU1 must be a duly authorized individual who has submitted a Form MU2, or who has been delegated to

attest to the filing by an individual who has submitted a Form MU2. The attestation provided pursuant to this paragraph shall constitute an agreement to comply with the requirements of Section 50124 of the Code.

(b) FILING FEE: Pursuant to Section 50121 of the Financial Code, the application fee (\$900), the investigation fee (\$100) and the fingerprint processing fees (\$20 per set to the Department of Corporations and additional fees for the Department of Justice) related to the fingerprint and criminal background checks, if applicable, shall be paid through NMLS for transmission to the Commissioner. The payment of fingerprint processing fees shall be filed directly with the Commissioner until such time as NMLS can accept the fee. Fees are not refundable.

(c) COMPLETION OF FILING AND ISSUANCE OF LICENSE: An application for licensure as a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer is not deemed complete until all required fees, all required submissions, and all background and investigative reports are received by the Commissioner. The filing of Form MU1 with NMLS does not constitute automatic approval of a license. The residential mortgage lender, mortgage servicer, or residential mortgage lender and mortgage servicer shall not consider the application approved until it is approved by the Commissioner and a license is issued to the applicant. In accordance with Section 50126(b), the Form MU1 application may be considered withdrawn if the Commissioner does not receive the requested information contained in the notification of a deficiency within 90 days of the notification.

(d) FILING AN AMENDMENT: In the event of a change to the information in the application, or exhibits thereto, the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer applicant or licensee shall file an amendment to the Form MU1, MU2 or MU3 through NMLS in accordance with the procedures in

Section 1950.122.9 of Subchapter 11.5 of these rules. Prior to the issuance of a license, any amendment to an application shall be filed within five (5) days. Any change that cannot be reported through NMLS shall be reported directly to the Commissioner.

Note: Authority cited: Sections 50002, 50120 and 50304, Financial Code.

Reference: Sections 17900, 17910, 17913, and 17926, Business and Professions Code; Section 1798.17, Civil Code; Section 7473, Government Code; Sections 50002, 50002.5, 50120(e), 50121, 50122(b)(7), 50124, 50130(b), ~~50130(g)~~, 50200, 50201, 50205, 50206, 50208, 50301(g), 50314 and 50146, Financial Code; Section 17520, Family Code; and Section 11077.1, Penal Code.

36. Section 1950.122.4.1 is adopted to read:

§ 1950.122.4.1. Branch Office Instructions for Residential Mortgage Lenders, Mortgage Servicers, and Residential Mortgage Lenders and Servicers.

(a) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that seeks to engage in business at an additional location must submit an application for a branch office by submitting Form MU3 (Uniform Mortgage Branch Office Form) in accordance with the instructions of NMLS for transmission to the Commissioner at least ten days (10) before engaging in business at the location.

(b) An applicant that intends to conduct business at the branch office under a fictitious business name not already approved by the Commissioner shall submit a copy of the Fictitious Business Name Statement with the “filed stamp” from the county clerk’s office and may not use the name until the Commissioner approves the use of the name.

(c) An applicant shall indicate the branch manager as a branch manager on the Form MU3 and submit to NMLS a Form MU2 (Biographical Statement & Consent Uniform Mortgage Lender/Mortgage Broker Form) for each branch manager.

(d) The Commissioner may request additional information, documentation or detail pertaining to the branch office application be filed directly with the Commissioner.

(e) Application, investigation, and criminal history background check fees shall be paid by the applicant or licensee to NMLS for transmission to the Commissioner. Any applicable fees that cannot be paid through NMLS shall be paid directly to the Commissioner. Fees are not refundable.

Note: Authority cited: Section ~~50304~~50124, Financial Code. Reference: Section 50124, Financial Code.

37. Section 1950.122.5 is adopted to read:

§ 1950.122.5. Mortgage Loan Originator Application Procedures.

(a) ESTABLISHING A RELATIONSHIP IN NMLS: A licensed residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall sponsor in NMLS each mortgage loan originator employed by it. To sponsor a mortgage loan originator, a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer applicant or licensee must:

(1) Obtain a unique identifier through NMLS,

(2) Obtain for its records, evidence that each mortgage loan originator meets the qualification requirements of Section 1950.122.5.1 of Subchapter 11.5 of these rules, and

(3) Ascertain (by investigation) the character, business reputation and experience of any individual mortgage loan originator, prior to executing any transaction on behalf of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer. Evidence of compliance with this paragraph shall be maintained as a part

of the records of the licensee as required by Section 1950.314.4 of Subchapter 11.5 of these rules.

(b) Upon the employment of an individual as a mortgage loan originator, a mortgage lender, mortgage broker, or mortgage lender and broker shall ensure that the mortgage loan originator files a Uniform Individual Mortgage License/ Registration & Consent Form (Form MU4) in NMLS for submission to the Commissioner and obtains a mortgage loan originator license. The notices set forth in Section 1950.122.8 of Subchapter 11.5 of these rules are part of every mortgage loan originator application.

(c) A mortgage loan originator sponsorship is not approved until the Commissioner approves the sponsorship and issues the mortgage loan originator a license. A sponsorship will not be approved until the sponsoring residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer has obtained a license through NMLS or has transitioned its license onto NMLS in accordance with Section 1950.122.4 of Subchapter 11.5 of these rules.

(d) A mortgage loan originator applicant must complete all license requirements, including, but not limited to the payment of all required fees prior to transmitting the application to the Commissioner. The fee for an application as a mortgage loan originator is ~~one~~three hundred dollars (~~\$400~~\$300), which shall be paid through NMLS for transmission to the Commissioner, plus twenty dollars (\$20) for the processing of a criminal history background check. The application fee shall constitute the mortgage loan originator's license fee for the remainder of the year in which a license is issued. The fees in this subsection are in addition to any fees required by NMLS, the Department of Justice, the Federal Bureau of Investigation, or any other party for the processing of criminal history background checks, credit reports, testing, education, or any other licensure requirement under the California Residential Mortgage Lending Act.

As of January 1, 2011, the fee for an application as a mortgage loan originator is three hundred dollars (\$300), which shall be paid through NMLS for transmission to the Commissioner, plus twenty dollars (\$20) for the processing of a criminal history background check.

(e) The Form MU4 application may be considered withdrawn if the Commissioner does not receive the requested information contained in the written notification of a deficiency within 90 days of the notification.

(f) In accordance with Section 50002.5 of the Code, a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall not permit a mortgage loan originator whose license or license sponsorship has lapsed, or whose license sponsorship is not in effect, to engage in activities of a mortgage loan originator unless the mortgage loan originator's license has been reinstated pursuant to the procedures set forth in Section 1950.122.5.4 of Subchapter 11.5 of these rules.

(g) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall require every sponsored mortgage loan originator to file an amendment to his or her Form MU4 through NMLS within twenty (20) days of any change to the information contained in the Form MU4.

(h) A mortgage loan originator may not engage in business under any name other than a name approved by the Commissioner for use by the sponsor of the mortgage loan originator.

(i) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall be responsible for the acts, practices, and conduct of its sponsored mortgage loan originator in connection with the making, brokering, servicing, or origination of residential mortgage loans until such time that the sponsorship of the

mortgage loan originator is terminated through the NMLS. Termination procedures shall be as follows:

(1) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall terminate the sponsorship of a mortgage loan originator through the NMLS within fifteen (15) days after the termination of an individual, and shall clearly state the reason(s) for termination.

(2) A mortgage loan originator shall ~~file an amendment to Form MU4 to terminate~~ a relationship with a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer through the NMLS within 15 days of the termination. A mortgage loan originator may not originate loans under the authority of the California Residential Mortgage Lending Act unless he or she has a valid license and the mortgage loan originator has a sponsorship approved by the Commissioner.

(j) PROCEDURES FOR A SOLE PROPRIETOR MORTGAGE LOAN

ORIGINATOR: A sole proprietor mortgage loan originator must:

(1) File Forms MU1 and MU2 (biographical information) and obtain a license as a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer, and

(2) File Form MU4 and obtain a license as a mortgage loan originator.

Note: Authority cited: Sections 50002, 50120 and 50304, Financial Code.

Reference: Sections 17900, 17910, 17913, and 17926, Business and Professions Code; Section 1798.17, Civil Code; Section 17520, Family Code; Sections 50002, 50002.5, 50120, 50123, 50126(b), 50140, and 50146, Financial Code; and Section 11077.1, Penal Code.

38. Section 1950.122.5.1 is adopted 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 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.

(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.

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

39. Section 1950.122.5.2 is adopted to read:

§ 1950.122.5.2. Evidence of Financial Responsibility.

(a) The Commissioner's finding required by subdivision (c) of Section 50141 of the California Residential Mortgage Lending Act relates to any matter, personal or

professional, that may impact upon an applicant's propensity to operate honestly, fairly, and efficiently when engaging in the role of a mortgage loan originator.

(b) An applicant for a mortgage loan originator license shall authorize NMLS to obtain the applicant's current credit report. The credit report will be used as needed to validate the applicant's responses to the electronic application form, in order to support the Commissioner's finding required by subdivision (c) Section 50141 of the California Residential Mortgage Lending Act.

(c) An applicant may be precluded from obtaining a mortgage loan originator license where his or her personal history includes:

(1) Any liens or judgments for fraud, misrepresentation, dishonest dealing, and/or mishandling of trust funds, or

(2) Other liens, judgments, or financial or professional conditions that indicate a pattern of dishonesty on the part of the applicant.

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

40. Section 1950.122.5.3 is adopted 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.

(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: Sections 50140 and 50304, Financial Code. Reference: Sections 50141, 50144 and 50145, Financial Code.

41. Section 1950.122.5.4 is adopted to read:

§ 1950.122.5.4. Reinstatement of License as a Mortgage Loan Originator.

(a) A mortgage loan originator license that has not been renewed between November 1 and December 31 is a lapsed or expired license. A mortgage loan originator with a lapsed or expired license is not authorized to continue doing business as a mortgage loan originator unless his or her license is reinstated.

(b) A mortgage loan originator may reinstate an expired license if the following conditions are met:

(1) The mortgage loan originator must submit a request for reinstatement through NMLS after December 31 and before March 1 of the year immediately following the year the license expired.

(2) All continuing education courses and any other minimum requirements for the license renewal for the year in which the license expired must be completed before March 1 following the year the license expired.

(3) The mortgage loan originator must pay the applicable license renewal fee (\$300), reinstatement fee (\$100), and any late fees or penalties. As of January 1, 2011, the mortgage loan originator must pay the applicable licensing fee (\$300), reinstatement fee (\$100), and any late fees or penalties.

(4) The mortgage loan originator must continue to meet minimum standards for renewal in Section 50141 of the Code.

(c) If a mortgage loan originator whose license has expired cannot meet the requirements for reinstatement specified in this section or submits a reinstatement filing on or after March 1, the mortgage loan originator must apply for a new license and meet the requirements for licensure in effect at that time.

Note: Authority cited: Sections 50002, ~~50120~~ and 50304, Financial Code.

Reference: Sections ~~50140~~50130, 50141, 50142, 50143, 50144, 50145 and 50146, Financial Code.

42. Section 1950.122.6 is adopted 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.

(b) 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 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.

(c) Every residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that sponsored a mortgage loan originator 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.

(d) Every residential mortgage lender, mortgage servicer, and residential mortgage lender and servicer 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; and

(2) Periodically inspect each business office of the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer to ensure that the written procedures are enforced.

(3) In the event a residential mortgage lender, mortgage servicer, and residential mortgage lender and servicer does not have any branches offices, the ~~Supervisor~~ supervisor shall directly supervise and review the activities of the mortgage loan originators.

(e) The ~~Supervisor~~ supervisor shall be identified on 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.

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

43. Section 1950.122.7 is adopted to read:

Section 1950.122.7. Statement of Citizenship, Alienage, and Immigration Status.

Any individual (e.g. sole proprietor or mortgage loan originator) who is applying for any license under the California Residential Mortgage Lending Act shall file the Statement of Citizenship, Alienage, and Immigration Status and any accompanying documentation directly with the Commissioner in accordance with Sections 250.60 and 250.61 of Article 5 of Subchapter 1 of these rules.

Note: Authority cited: Sections ~~22150 and~~ 50304, Financial Code; ~~and Section 1344, Health and Safety Code~~. Reference: Sections ~~22101, 50122, and 50130, and 50140~~, Financial Code; ~~Section 1351, Health and Safety Code~~; and 8 U.S.C. Sections 1621, 1641 and 1642.

44. Section 1950.122.8 is adopted to read:

§ 1950.122.8. Notices Included with Applications.

The following notices required by state and federal law are hereby provided for those completing an application for a residential mortgage lender, mortgage servicer, or residential mortgage lender and mortgage servicer license in Section 1950.122.4 of Subchapter 11.5 of these rules, and an application for a mortgage loan originator license in Section 1950.122.5 of Subchapter 11.5 of these rules:

NOTICES REQUIRED UNDER STATE AND FEDERAL LAW

INFORMATION PRACTICES ACT OF 1977

(California Civil Code Section 1798.17)

(a) The Department of Corporations of the State of California is requesting the information specified in the application for licensure of residential mortgage lenders, mortgage servicers, residential mortgage lender and mortgage servicers, and mortgage loan originators.

(b) The Chief Administrative Officer, 1515 K Street, Suite 200 Sacramento, CA 95814, telephone (916) 445-5541, is responsible for the system of records and shall, upon request, inform individuals regarding the location of the Department of Corporations' records and the categories of persons who use the information in the records.

(c) The records are maintained pursuant to the California Residential Mortgage Lending Act (Financial Code Section 50000, et seq.).

(d) The submission of all items of information is mandatory unless otherwise noted. Section 17520 of the Family Code requires the Department of Corporations to collect social security numbers from all applicants. The Privacy Act of 1974 prohibits a state agency from denying an individual any right, benefit or privilege provided by law because of the individual's refusal to disclose the individual's social security account number.

(e) Failure to provide all or any part of the information requested may preclude the Department of Corporations from approving the application.

(f) The principal purposes within the Department of Corporations for which the information is to be used are to determine whether (1) a license, registration, or other authority, as allowed under the law, should be accepted, granted, approved, denied,

revoked or limited in any way; (2) business entities or individuals licensed or otherwise regulated by the Department of Corporations are conducting themselves in accordance with applicable laws; and/or (3) laws administered by the Department of Corporations are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state or local law enforcement or regulatory agencies, as authorized by law, is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivision (e) or (f) of Civil Code Section 1798.24 may include transfers to other federal, state, or local law enforcement ~~and~~ regulatory agencies, including NMLS as a channeling agent to, from, or on behalf of those federal, state, and local law enforcement and regulatory agencies, as authorized by law.

(h) Except for Section 50151 of the Financial Code, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual that is maintained by the Department of Corporations.

FEDERAL PRIVACY ACT OF 1974 (Public Law 93-579)

In accordance with Section 7 of the Privacy Act of 1974 (found at 5 U.S.C. § 552a note (Disclosure of Social Security Number)), the following is information on whether the disclosure of a social security account number is voluntary or mandatory, by what statutory or other authority such number is solicited, and what uses will be made of it.

(1) Section 17520 of the Family Code requires the Department of Corporations to collect social security numbers from all applicants. The Privacy Act of 1974 prohibits a state agency from denying an individual any right, benefit or privilege provided by law

because of the individual's refusal to disclose the individual's social security account number.

(2) A social security account number is solicited pursuant to one or more of the following authorities: Sections 1950.122 of Title 10, California Code of Regulations; and Section 17520 of the Family Code.

(3) For all persons disclosing a social security account number, the number may be used, in addition to other information provided, to conduct a background investigation of the individual by the Department of Justice's Identification and Information Branch or by other federal, state or local law enforcement agencies, as authorized by law. The social security number may also be used to respond to requests for this number made by child support agencies.

Note: Authority cited Sections ~~50002, 50120~~ and 50304, Financial Code.

Reference: Section 1798.17, Civil Code; Sections 50002, 50003, 50120, 50121, 50122, 50124, 50130, 50140, 50146 and 50151, Financial Code; Section 17520, Family Code; Sections 7470, 7473, 7490 and 13140-13144, Government Code; and Section 7 of Public Law 93-579 (5 U.S.C. Section 552a note).

45. Section 1950.122.9 is adopted to read:

§ 1950.122.9. Notice of Changes by Residential Mortgage Lender, Mortgage Lender Servicer, Residential Mortgage Lender and Servicer, and Mortgage Loan Originator.

(a) Each licensed residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall, upon any change in the information contained in its application for license (other than financial information

contained therein), promptly file an amendment to such application setting forth the changed information.

(b) A residential mortgage lender, mortgage servicer, and residential mortgage lender and servicer shall file changed information contained in its Forms MU1, MU2, and MU3, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner.

(c) A mortgage loan originator shall file changed information contained in its Form MU4, and any exhibits thereto, through NMLS in accordance with its procedures for transmission to the Commissioner within twenty (20) days of changes to the information. Any change that cannot be submitted through NMLS shall be filed directly with the Commissioner. A mortgage loan originator may not renew his or her license under Section 1950.122.5.3 of Subchapter 11.5 of these rules until all changes to the information contained in his or her Form MU4 are filed with the Commissioner as provided in this section.

(d) A licensed residential mortgage lender, mortgage servicer, and residential mortgage lender and servicer shall notify the Commissioner of the employment of any new mortgage loan originator in California and of the termination of employment of any mortgage loan originator in California in accordance with Section 1950.122.5 of Subchapter 11.5 of these rules.

(e) If a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer discovers that ~~its~~ a sponsored mortgage loan originator has not filed an amendment to his or her Form MU4 ~~as required by subsection (c)~~, the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall require the mortgage loan originator to file the amendment immediately. If, within five

(5) days from the demand, the mortgage loan originator has not made the changes, the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer shall inform the Commissioner in writing.

Note: Authority cited: Sections ~~50002~~, 50120, 50130, 50140, and 50304, Financial Code. Reference: Section 1798.18, Civil Code; and Sections 50124, 50126 and 50146, Financial Code.

46. Section 1950.122.10 is adopted to read:

§ 1950.122.10. Effectiveness of Residential Mortgage Lender, Mortgage Servicer, Residential Mortgage Lender and Servicer, and Mortgage Loan Originator Licenses.

(a) A license as a residential mortgage lender, mortgage servicer or residential mortgage lender and servicer under Section 50002 of the Code continues in effect until it is revoked, terminated, or suspended by the Commissioner, or surrendered by the residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer and the surrender has been accepted by the Commissioner pursuant to Section 50123 of the Code.

(b) A license as a mortgage loan originator under Section 50140 of the Code shall be renewed on an annual basis in accordance with Section 1950.122.5.3 of Subchapter 11.5 of these rules. The license shall be in effect for the calendar year unless revoked, suspended, or surrendered.

Note: Authority cited: Sections 50002 and 50304, Financial Code. Reference: Sections 50002, 50123 and 50140, Financial Code.

47. Section 1950.122.11 is adopted to read:

§ 1950.122.11. Challenge Process for Information Entered Into NMLS.

(a) If an applicant or licensee disputes the accuracy or completeness of any material information entered into and maintained by NMLS, the applicant or licensee may submit a written request to the Commissioner to the attention of the Special Administrator, California Residential Mortgage Lending Act, Department of Corporations, 320 West 4th Street, Suite 750, Los Angeles, CA 90013-2344.

(b) The request shall include the applicant or licensee's name, unique identifier, a statement of the alleged inaccuracy or incompleteness of the information entered into NMLS, and its materiality, and shall provide any proof or corroboration available, including copies of official documents or court orders that support the changes requested by the applicant.

(c) Upon receipt of the request, the Commissioner shall investigate the request, along with any information provided, and determine if the information entered into NMLS is correctly reflected.

(d) If the Commissioner determines that the information is materially incorrect, the Commissioner shall request that the NMLS record be corrected.

(e) If the Commissioner denies the allegations of material inaccuracy or incompleteness in the NMLS record, the Commissioner shall notify the licensee or applicant in writing.

(f) Within 30 days from the mailing or service of the notification, the person may request a hearing under the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code) for a determination of whether material inaccuracy or incompleteness exists in the record.

(g) If a material inaccuracy or incompleteness is found in any record, within 30 days of notice of the finding the Commissioner shall request that NMLS correct the information.

(h) Judicial review of the decision shall be governed by Section 11523 of the Government Code.

Note: Authority cited: Sections 50146 and 50304, Financial Code. Reference: Section 50150, Financial Code.

48. Section 1950.122.12 is adopted to read:

§ 1950.122.12. ~~Shared~~Share Arrangements with Other Governmental Agencies: Confidentiality.

~~(a)~~ For purposes of subdivisions (c) and (d) of Section 50150 and Section 50151 of the Code, the Commissioner is authorized to share any information or material that has been submitted to the NMLS to any governmental agency, including but not limited to, the California Attorney General, the California Department of Justice, the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, including the Federal Housing Administration, the Federal Consumer Financial Protection Bureau, the Federal Bureau of Investigation, state, local, or federal regulatory agencies, state attorneys general, and county district attorney's offices. The information or material that is shared with a governmental agency shall be accomplished without the loss of privilege or the loss of confidentiality protections provided by law.

~~(b) A residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, and mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing and made pursuant to Section 250.10 of Article 1 of Subchapter 1 of these rules. If a~~

~~request for confidential treatment is granted or denied, the person making such request will be notified in writing.~~

Note: Authority cited: Section 50304, Financial Code. Reference: Section 1798.24, Civil Code; and Sections 50150, 50151, and 50152, Financial Code.

49. Section 1950.122.15 is adopted to read:

§ 1950.122.15. Request for Confidential Treatment.

A residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, and mortgage loan originator applicant may request that certain documents, or parts thereof, be treated confidentially. A request for confidentiality shall be in writing and made pursuant to Section 250.10 of Article 1 of Subchapter 1 of these rules. If a request for confidential treatment is granted or denied, the person making such request will be notified in writing.

Note: Authority cited: Section 50304, Financial Code. Reference: Section 1798.24, Civil Code; and Sections 50151 and 50152, Financial Code.

50. Section 1950.123 is amended to read:

§ 1950.123. Surrender of License as a Residential Mortgage Lender, Mortgage Servicer, Residential Mortgage Lender and Servicer, or Mortgage Loan Originator.

(a) An application to surrender a license as a residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall be filed on Form(s) MU1, MU2, MU3, or MU4 through NMLS in accordance with its procedures for transmission to the Commissioner. A licensee shall amend every branch office application Form MU3 and terminate the sponsorship of all mortgage loan originators.

(b) Prior to surrendering its license, a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer must file a plan for approval by the Commissioner. The plan shall contain the licensee's detailed proposal for the orderly closing out of its residential mortgage lending or residential mortgage loan servicing business. At a minimum, the plan shall contain the following:

(1) A detailed description of the plan to process to completion any loan applications pending ~~which~~that were received before the decision to surrender the license was made. In the alternative, the plan may describe the process for cancellation or completion of the loan by another licensee or exempt person.

(2) A detailed description of the plan to transfer the licensee's existing servicing portfolio, including the time frame within which the transfer will be completed.

(3) The time frame required for payout to the lender of all payments received from the borrowers, or the time frame required for transfer of payments received to another servicing licensee or exempt person.

Note: Authority cited: Section 50304, Financial Code. Reference: Section 50123, Financial Code.

51. Section 1950.204.3 is amended to read:

§ 1950.204.3. Prohibited Advertising.

(a) A residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall not advertise that it or any of its officers, employees, or agents are "bonded," "supervised by," "regulated by," "audited by" or "examined by" the State of California or any agency thereof.

(b) A residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, or mortgage loan originator shall refer to its licensure under the Act in any

written or printed communication or any communication by means of recorded telephone messages, telephonic or electronic media, or spoken on radio, television or similar communications media, only by the following statement: "Licensed by the Department of Corporations under the California Residential Mortgage Lending Act."

Note: Authority cited: Section 50304, Financial Code. Reference: Section 50204, Financial Code.

52. Section 1950.204.4 is amended to read:

§ 1950.204.4. "Blind" Advertising Prohibited.

A residential mortgage lender, residential mortgage lender and servicer, mortgage servicer, or mortgage loan originator shall not use "blind" advertisements. "Blind" advertising is an advertisement used to solicit business that gives only a telephone number, post office or newspaper box number, or name other than that of the licensee.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50308 and 50314, Financial Code.

53. Section 1950.205.1 is adopted to read:

§ 1950.205.1. Surety Bond.

Every licensee shall maintain a surety bond in accordance with Section 50205 of the Financial Code as follows:

(a) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that does not employ one or more mortgage loan originators shall post a surety bond in the amount of \$50,000. The amount may be increased by order of

the Commissioner upon a determination by the Commissioner that the licensee is not in compliance with any law, rule, or order.

(b) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer that employs one or more mortgage loan originators shall post a surety bond based on the dollar amount of residential mortgage loans originated or serviced, or both, by that licensee and its mortgage loan originator employees in the preceding year, as follows:

Aggregate Loans	Bond Amount
0 - \$50,000,000	\$ 50,000
\$50,000,001 - \$500,000,000	\$100,000
Over \$500,000,001	\$200,000

(c) A residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer applicant without a prior year operating history shall make a good faith estimate of the aggregate amount of loans anticipated to be originated in the upcoming year to determine the amount of the surety bond.

Note: Authority cited: Section 50304, Financial Code. Reference: Section 50205, Financial Code.

54. Section 1950.209 is adopted to read:

§ 1950.209. Forms.

(a) The unique identifier of a licensed mortgage loan originator shall be clearly shown on all residential mortgage loan application forms, ~~solicitations, or advertisements, including business cards or Internet Web sites, whether in paper, electronic, or any other format.~~ The unique identifier number shall be so labeled and shall not be smaller than 8-point bold font.

(b) The unique identifier of a licensed mortgage loan originator shall be clearly shown on any advertising, solicitations, including business cards or Internet Web sites, whether in paper, electronic, or any other format, which directly identifies the mortgage loan originator.

Note: Authority cited: Sections 50146 and 50304, Financial Code. Reference: Section ~~50209~~50146, Financial Code.

55. Section 1950.301 is amended to read:

§ 1950.301. Fingerprinting of Certain Employees.

(a) If a licensee suffers a loss of trust funds as a result of the actions of an employee, as defined by subsection (b) of Rule 1950.122.2, and that employee is or was an individual prohibited from employment with a licensee under Section 50317(a) of the Code, then the Department, at the discretion of the Commissioner, may undertake to obtain a (1) Statement of Identity and Questionnaire, or similar report, including but not limited to the Form MU2, (2) notice under Rule 1950.122.2, and (3) fingerprints of all other such employees for the purpose of determining whether other prohibited individuals have been so employed by the licensee.

(b) A licensee shall cooperate fully with the Department in complying with the requirement of subsection (a).

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50140 and 50317, Financial Code.

56. Section 1950.307 is adopted to read:

§ 1950.307. Annual Report and Mortgage Call Report.

(a) In addition to the annual report required under Section 50307 of the Code, a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer, shall file the NMLS Mortgage Call Report required to be filed pursuant to Section 50307.2 of the Code with NMLS for transmission to the Commissioner.

(b) Every mortgage loan originator shall ensure that all residential mortgage loans that close as a result of his or her loan origination activities are included in the mortgage call reports submitted to NMLS or the Commissioner by his or her sponsoring residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer.

Note: Authority cited: Sections 50146 and 50304, Financial Code. Reference: Sections 50307 and 50307.2, Financial Code.

57. Section 1950.314.8 is amended to read:

§ 1950.314.8. Nontraditional, Adjustable Rate and Mortgage Loan Products.

(a) Best Practices. Every licensee shall implement best practices to manage loan product risk on a continuous basis. These best practices shall include practices set forth in the Guidance on Nontraditional Mortgage Product Risks published on November 14, 2006 by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators, which is hereby incorporated by reference, and the Statement on Subprime Mortgage Lending published on July 17, 2007 by the aforementioned entities and the National Association of Consumer Credit Administrators, which is hereby incorporated by reference. Both publications are collectively referred to herein as the "Guidance" and are available on the Department's web site at www.corp.ca.gov. A mortgage loan originator employed by a licensee shall follow the best practices policies and procedures developed by his or her employer. For

purposes of this section, "best practices" shall mean lawful processes, policies, and procedures to manage risks associated with use of nontraditional mortgage products and adjustable rate mortgage products as defined and prescribed by the Guidance.

(b) Written Compliance Report. In a separate written document, submitted as an addendum to its annual financial report and report of condition required under Section 50307 of the Financial Code, every licensee shall state whether it made or arranged nontraditional mortgage products and adjustable rate mortgage products, as defined by the Guidance, during the reporting period covered by the annual report. If any such loans were made or arranged, the licensee shall also explain how it has implemented best practices and explain whether and how it has put into effect the following internal controls or procedures during the reporting period: adopted processes, policies and procedures to ensure compliance with the Guidance; designated a compliance officer (including contact information of that officer) to ensure compliance with the Guidance; implemented a consumer complaint process to resolve consumer complaints involving loans covered by the Guidance; and educated employees and agents to help them understand how to apply the best practices. In addition, the licensee shall indicate the number of any consumer complaints it received during the reporting period regarding loans that are subject to the Guidance, including the number of resolved complaints and unresolved complaints and the number of workout arrangements used for resolved complaints. For purposes of this section, "workout arrangement" shall mean a modified or converted loan product with predictable payment requirements to help the financially-stressed borrower. If any nontraditional mortgage loans or adjustable rate mortgage loans subject to the Guidance were made or arranged, the licensee shall also submit information regarding those loan products on the form entitled Non-traditional,

Adjustable Rate and Mortgage Loan Survey (Rev. 8/07), which is hereby incorporated by reference. This form is available on the Department's website at www.corp.ca.gov.

(c) Books and Records. If the licensee receives any reportable consumer complaints described in subsection (b), the licensee shall maintain for each complaint a copy of the complaint and the licensee's written response or explanation of how the company resolved the complaint including any workout arrangement, shall maintain this documentation as part of its books and records, and shall make the documentation available to the commissioner upon request. In addition, if the licensee reports any internal controls or procedures or nontraditional or adjustable rate loans described in subsection (b), the licensee shall maintain documentation of those controls or procedures as part of its books and records, and any loan documentation required by law, and shall make the documentation available to the commissioner upon request.

(d) Loan Disclosures. Every licensee shall, within three business days after receipt of a completed application for a nontraditional loan or an adjustable rate loan that is subject to the Guidance, or before the borrower becomes obligated on the note, whichever is earlier, cause to be delivered to the borrower statements in writing disclosing, in a clear and conspicuous manner, information comparing payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products offered by the finance company and that are subject to the Guidance. This information shall be provided by one of the following methods:

(1) The form entitled Comparison of Sample Mortgage Features: Typical Mortgage Transaction (8/1/07), which is hereby incorporated by reference. This form and its instructions are available on the Department's website at www.corp.ca.gov; or

(2) The form of the typical mortgage transaction disclosures set forth in the Comparison of Single Mortgage Features of the Form RE 885 of the Department of

Real Estate, as required by Title 10, California Code of Regulations, Section 2842, when provided by a real estate broker on behalf of the finance company. This form is available on the Department of Real Estate website at www.dre.ca.gov; or

(3) Any other form used by the licensee to compare payment scenarios and loan balance scenarios among any nontraditional loan and adjustable rate loan products that are subject to the Guidance; provided, however, that the form shall, at a minimum, (A) compare monthly payments and loan balances of these loan products offered by the licensee, and (B) reflect the borrower's proposed loan amount.

(e) Advertising Prohibitions. For purposes of Section 50204 of the Financial Code, the following are considered false, misleading, or deceptive advertising prohibited by that section for loans that are subject to the Guidance:

(1) Any advertisement of an installment in repayment of an adjustable rate, interest only or payment-option loan without an equally prominent disclosure of the following information about the loan as applicable:

- (A) Principal amount
- (B) Term of loan
- (C) Initial interest rate
- (D) Number of months the initial interest rate will be in effect
- (E) Fully-indexed interest rate
- (F) Maximum interest rate
- (G) If different, an explanation of the difference between the payment rate, initial interest rate and fully-indexed rate
- (H) Annual percentage rate
- (I) How often the interest rate and payments can change
- (J) Maximum periodic change in the interest rate and payments (periodic caps)

(K) Number of months and percentage of original loan amount after which minimum payments will not be accepted and the loan re-amortizes

(L) The monthly payment based on the maximum interest rate, and the loan balance after all negative amortization is included, assuming minimum payments are made

(M) If the loan contains a prepayment penalty, a statement to that effect

(N) If the loan contains a balloon payment, a statement to that effect

(2) Any advertisement that the licensee can arrange "low doc/no doc", "no income/no asset", "stated income", "stated asset", "no ratio" or similar loan products without a statement that these products may have a higher interest rate, more points or more fees than other products requiring documentation.

(f) This section applies to loans secured by residential real property located in this State improved by a one-to-four family dwelling.

Note: Authority cited: Section 50304, Financial Code. Reference: Sections 50003, 50124, 50204, 50302, 50304, 50307, 50308, 50314, 50322, and 50333, Financial Code.

58. Section 1950.316 is amended to read:

§ 1950.316. Report of Civil, Criminal or Disciplinary Action.

(a) A residential mortgage lender, residential mortgage lender and servicer, mortgage servicer, or mortgage loan originator shall immediately report to the Commissioner any civil, criminal or disciplinary action set forth in Section 50316 or 50317 of the Code, filed against the residential mortgage lender, mortgage servicer, residential mortgage lender and servicer, mortgage loan originator, or any of its officers, directors, partners, shareholders controlling 10 percent or more of the ownership

interests, trustees or employees (as "employee" is defined in subdivision (h) of Section 50317 of the Code) through the NMLS in accordance with its procedures for transmission to the Commissioner on Forms MU1, MU2, MU3, or MU4. Any action that cannot be reported through NMLS shall be reported directly to the Commissioner.

(b) If a residential mortgage lender, mortgage servicer, or residential mortgage lender and servicer finds that ~~its~~ a sponsored mortgage loan originator has not filed an amendment to his or her Form MU4, the residential mortgage lender, residential mortgage loan servicer, or residential mortgage lender and mortgage servicer shall proceed as required in Section 1950.122.5 of Subchapter 11.5 of these rules.

Note: Authority cited: Sections 50146 and 50304, Financial Code. Reference: Sections 50120, 50130, 50140, 50146, 50316 and 50317, Financial Code.

59. Section 1950.317 is amended to read:

§ 1950.317. Report of Defalcation.

A residential mortgage lender, residential mortgage lender and servicer, mortgage servicer, or mortgage loan originator shall immediately report to the Commissioner any defalcation, embezzlement or theft made, or reasonably believed by the company to have been made, by any of its officers, directors, partners, shareholders controlling 10 percent or more of the ownership interests, trustees or employees (as "employee" is defined in subdivision (h) of Section 50317 of the Code).

Note: Authority cited: Section 50304, Financial Code. Reference: Section 50317, Financial Code.