



Request for Public Comments **Proposed Pre-Licensure Education Expiration Policy**

July 23, 2014

On behalf of the state regulatory agencies participating in NMLS,¹ the State Regulatory Registry LLC² (SRR) invites public comments on the proposed “Pre-Licensure Education Expiration Policy:”

Proposed Pre-Licensure Education Expiration Policy

“An individual who:

- (1) fails to acquire a valid license or federal registration within three years from the date of initial completion³ of any approved pre-licensure education (PE) course; or
- (2) has obtained a license or federal registration but subsequently did not maintain an active license or federal registration for at least three years,

must complete 20 hours of PE in order to be eligible for state licensure.”

Background

The *Secure and Fair Enforcement for Mortgage Licensing Act of 2008* (SAFE Act)⁴ outlines the minimum requirements for pre-licensure education for state-licensed mortgage loan originators (MLO). [12 USC § 5104.] The SAFE Act does not, however, offer any guidance or mandate requirements with regard to how timely the education must be relative to an individual’s application for an MLO license. The SAFE Act specifically outlines the education requirements for MLOs and grants authority to the NMLS to review and approve all mandated MLO education courses. Given the fact that Congress intended the SAFE Act PE requirements to be national minimum standards accepted in any state, state regulators believe that uniformity is necessary to fulfill this purpose. In order to maintain the validity and acceptability of these courses, SRR is proposing a uniform timeframe for expiration of PE education when an individual meets scenarios 1 or 2 above.

SAFE Act Requirements

Title V of the SAFE Act addresses the minimum requirements for pre-licensure compliance:

“In order to meet the pre-licensing education requirement, a person shall complete at least 20 hours of education, which shall include at least 3 hours of Federal law and regulations; 3 hours of ethics, which shall include instruction on fraud, consumer protection, and fair lending issues;

¹ Information about NMLS can be found at <http://mortgage.nationwidelicencingsystem.org/Pages/default.aspx>

² Information about the State Regulatory Registry LLC can be found at <http://www.csbs.org/srr/Pages/default.aspx>

³ The date of initial completion is the date the PE course is completed.

⁴ The full text of the SAFE Act can be found at <http://mortgage.nationwidelicencingsystem.org/SAFE/NMLS%20Document%20Library/SAFE-Act.pdf>

and 2 hours of training related to lending standards for the nontraditional mortgage product marketplace [12 USC § 5104(c)(1).]”

With regards to the courses needed to satisfy the requirements for pre-licensure compliance outlined above, the SAFE Act provides that:

“Pre-licensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry [12 USC § 5104(c)(2).]”

Mortgage Testing and Education Board and NMLS Policy Committee Recommendations

The Mortgage Testing and Education Board (MTEB)⁵ and the NMLS Policy Committee (NMLSPC)⁶ recommend that a uniform policy be implemented related to expiration of pre-licensure education (PE). As noted earlier, the SAFE mandated PE requirements are meant to be national minimum standards accepted in any state and the rules surrounding eligibility of those requirements should be uniform among the states. Active state-licensed MLOs must complete annual requirements for continuing education (CE) to ensure they are kept current on state and federal mortgage and consumer protection laws. Similarly, federal registrants are required to complete periodic training that applies to an MLO’s loan origination activities. Individuals that fail to acquire a valid license or federal registration within three years from the date of completion or that have not maintained an active license or federal registration are not necessarily keeping themselves current on state and federal mortgage and consumer protection laws and therefore should be required to “redo” the initial course requirements. This policy also provides consistency with current state law and SRR policy on continuing education (CE), which requires MLOs who relinquish a state license to satisfy education requirements for the last year in which they were licensed prior to obtaining another license. Additionally, adoption would limit the number of years SRR would be required to maintain the Late CE catalog that is used to make-up CE (e.g. the 2013 Late CE catalog must address missed CE for 2010, 2011 and 2012).

Proposed PE Course and Compliance Expiration Rules

The following rules are required to implement the proposed pre-licensure education policy outlined above:

PE Course Expiration Rules (for individual courses when PE compliance is not yet achieved)

1. A PE Course Expiration clock begins from the course completion date when the course is banked to the individual’s record in NMLS.
2. When the individual becomes PE Compliant⁷, the PE Course Expiration clock stops.

⁵ In order for SRR to carry out MLO testing and education requirements mandated under the SAFE Act, the SRR Board of Managers created the Mortgage Testing and Education Board (MTEB). The MTEB is comprised of nine state regulators. It has administrative responsibility regarding test security issues which apply to the administration of the SAFE MLO Test. It also serves in an advisory role by providing guidance and recommendations to the SRR Board of Managers and staff about issues affecting the implementation and operations of SAFE Act testing and education requirements. The roster of the MTEB can be found at <http://mortgage.nationwidelicencingsystem.org/courseprovider/Documents/MTEB%20Members.pdf>

⁶ To assist it in making decisions and handling operational matters, the SRR Board of Managers created the NMLS Policy Committee (NMLSPC) which is comprised of 11 state regulators. The NMLS Policy Committee provides SRR a mechanism to make policy decisions for NMLS with regards to its impact on meeting state licensing regulations. Decisions are made after considering input from NMLS Participating State Agencies, licensees and industry. The roster of the NMLSPC can be found at <http://mortgage.nationwidelicencingsystem.org/about/Documents/MLPC%20Committee%20List.pdf>

⁷ An individual becomes PE Compliant by satisfactorily completing 20 hours of NMLS approved education consisting of at least 3 hours of federal law, 3 hours of ethics, 2 hours of non-traditional mortgage lending, and 12 hours of undefined education (electives).

3. When the PE Course Expiration clock reaches three (3) years, the course expires and may not be counted toward PE Compliance in the future.

PE Compliance Expiration Rules (for after when PE compliance has been achieved)

4. A PE Compliance Expiration clock starts on the later of:
 - a) the PE Compliance effective date *or*
 - b) the date the individual no longer holds:
 - i) a renewable state license requiring SAFE compliance *or*
 - ii) an active federal registration.
5. If within three (3) years after the clock starts, the individual submits an application for a renewable state license requiring PE compliance or obtains an active federal registration, the PE Compliance Expiration clock stops and resets to zero.
6. When the PE Compliance Expiration clock reaches three (3) years, PE Compliance expires for the individual.
7. When PE Compliance expires, any PE course taken more than three years before the date of expiration will also expire and cannot be counted toward PE Compliance in the future (remaining courses would expire pursuant to Rule #3 above).

Sample Scenarios

Sample scenarios pertaining to the above rules are included in Addendum A.

Request for Public Comments

On behalf of the state regulatory agencies participating in NMLS, SRR is seeking comments from the public, including state licensees, regulatory agencies, course providers, and state and national trade associations, on the proposed pre-licensure education expiration policy outlined in this document.

Persons submitting comments must include their contact information. Comments received, as well as the submitter's name and company or organization (if applicable), will be posted on the NMLS Resource Center for public view. Comments submitted without contact information will not be considered.

All comments will be reviewed by the Mortgage Testing and Education Board (MTEB) and the NMLS Policy Committee (NMLSPC). A response to comments, including the NMLSPC's decision and an expected implementation date will be issued after the review process concludes.

Persons submitting comments are encouraged to provide these comments electronically via email to: comments@csbs.org

Comments may also be submitted in physical form to:

State Regulatory Registry
Conference of State Bank Supervisors
Attn: Tim Doyle, Senior Vice President
1129 20th St NW, 9th Floor
Washington, DC 20036

Comment submission deadline: August 22, 2014

Addendum A

Sample Scenarios

Red Scenario – Course Expiration

Jane Red took a PE course on January 20, 2010. Jane did not become PE compliant. On January 21, 2013, the course “expires” and the course is no longer valid to be applied toward Pre-licensure education requirements. Jane Red would be required to complete a new PE course(s) if she wanted to pursue getting licensed.

→ Course Completion Record will be updated on January 21, 2013 as follows: i) the course will appear as expired and ii) credit hours for the course will not be applied to PE requirement types or count toward PE Compliance.

Orange Scenario – PE Compliance Expiration

Taylor Orange took PE Course A on November 4, 2013 and achieved PE compliance. Taylor, however, never filed for a license and PE compliance expired on November 5, 2016. Course A is no longer valid to be applied toward Pre-licensure education requirements.

→ Course Completion Record will be updated on November 5, 2016 as follows: i) Course A will appear as expired and ii) credit hours for Course A will not be applied to PE requirement types or count toward PE Compliance.

Yellow Scenario – Expiration Clock Start After Licensure

Brad Yellow became PE compliant on January 24, 2010. Brad submitted a filing to request a license in State A and the license was approved on February 5, 2010. He later surrendered his license in State A. The surrender was accepted by the regulator in State A on March 27, 2012. PE Compliance for Brad expires on March 28, 2015.

→ Course Completion Record will be updated on March 28, 2015 as follows: i) PE Compliance will be retracted; ii) PE courses taken more than three years before March 28, 2015 will appear as expired; and ii) credit hours for the expired courses will not be applied to PE requirement types or count toward PE Compliance.

Blue Scenario – Federal Registrant

Jeremy Blue became PE compliant on April 1, 2012. Instead of filing for a state license, he filed an application for a federal registration which was set to active on April 10, 2012. Jeremy’s PE compliance will not expire on April 2, 2015, three years after PE compliance was achieved, since he holds an active federal registration.

→ No change to Course Completion Record.