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United States Government Accountability Office
Washington, DC 20548

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August 13, 2010

The Honorable Christopher J. Dodd
Chairman
The Honorable Richard C. Shelby
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Barney Frank
Chairman
The Honorable Spencer Bachus
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Department of the Treasury, Office of the Comptroller of the Currency:
Registration of Mortgage Loan Originators*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of the Treasury, Office of the Comptroller of the Currency (OCC), entitled “Registration of Mortgage Loan Originators” (RIN: 1557-AD23). We received the rule on July 29, 2010. It was published in the *Federal Register* as a final rule on July 28, 2010. 75 Fed. Reg. 44,656.

The final rule implements provisions of the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654, codified at 12 U.S.C. §§ 5101-5116. The final rule requires mortgage loan originators employed by national banks to register with the Nationwide Mortgage Licensing System and Registry and maintain their registration. The mortgage loan originators are also required to obtain a unique identifier through the Registry that will remain with that originator, regardless of changes in employment. The final rule requires mortgage loan originators (and national banks) to provide these unique identifiers to consumers in certain circumstances. The final rule requires national banks to adopt and follow written procedures to assure compliance with the registration requirements. The final rule is effective on October 1, 2010.

The final rule is being issued as joint rulemaking with the Board of Governors of the Federal Reserve System (Board); the Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), Farm Credit Administration (FCA); and the National Credit Administration (NCUA) (collectively, the Agencies). Enclosed is our assessment of the Agencies' compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that the Agencies complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Mary H. Gottlieb
Regulatory Specialist, LRA
Department of the Treasury

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMPTROLLER OF THE CURRENCY
ENTITLED
"REGISTRATION OF MORTGAGE LOAN ORIGINATORS"
(RIN: 1557-AD23)

(i) Cost-benefit analysis

OCC performed a cost-benefit analysis of the final rule. OCC determined that, given the constraints imposed on OCC by the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, and based on the estimated mean cost, the final rule was the least cost option available to OCC.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

OCC concluded that this final rule will have a significant economic impact on a substantial number of small entities and prepared a final regulatory flexibility analysis for this rule. OCC estimates that the mean total costs per small bank in the group of small banks where compliance costs are significant are approximately \$25,000 per bank. OCC and the other agencies considered alternatives to reduce the burdens imposed by the final rule on small entities. (The Board, FDIC, OTS, FCA, and NCUA certified that the final rule will not have a significant economic impact on a substantial number of small entities.)

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

OCC and OTS state that they did not conduct an unfunded mandates analysis for this final rule because the requirement to conduct such an analysis does not apply to regulations that incorporate requirements specifically set forth in law.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

On June 9, 2009, the agencies issued a notice of proposed rulemaking. 74 Fed. Reg. 27,386. The Agencies received over 140 different comment letters from financial institutions and holding companies, trade associations, federal government agencies, a training company, and individuals. The Agencies modified the proposed rule in

response to many of these comments, and responded to the comments in this final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

This final rule contains new information collection requirements. The Office of Management and Budget (OMB) approved the information collections submitted by OCC, FDIC, OTS, and NCUA under the Act. FCA and the Board state that their information collections are not required to be submitted to OMB.

Statutory authorization for the rule

This final rule is issued pursuant to the Secure and Fair Enforcement for Mortgage Licensing Act of 2008, title V of the Housing and Economic Recovery Act of 2008, Pub. L. No. 110-289, 122 Stat. 2654.

Executive Order No. 12,866 (Regulatory Planning and Review)

OCC concluded that this final rule is a significant regulatory action and submitted the rule to OMB for review.

Executive Order No. 13,132 (Federalism)

OCC, OTS, and NCUA concluded that the final rule does not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, and therefore, does not have federalism implications.