

## Farm Credit Administration

## § 609.950

as visual text. An example is a message displayed on a personal computer monitor screen. This does not include audio- and voice-response telephone systems.

(c) *Electronic business (E-business) or electronic commerce (E-commerce)* means buying, selling, producing, or working in an electronic medium.

(d) *Electronic mail (E-mail)* means:

(1) To send or submit information electronically; or

(2) A communication received electronically.

(e) *Electronic signature* means an electronic sound, symbol, or process, attached to or logically associated with a contract or other record and executed or adopted by a person with the intent to sign the record. Electronic signature describes a category of electronic processes that can be substituted for a handwritten signature.

### Subpart C—Standards for Boards and Management

#### § 609.930 Policies and procedures.

The FCA supports E-commerce and wants to facilitate it and other new technologies and innovations to enhance the efficient conduct of business and the delivery of safe and sound credit and closely related services. Through E-commerce, System institutions can enhance customer service, access information, and provide alternate communication systems. At the same time, E-commerce presents challenges and risks that your board must carefully consider in advance. Before engaging in E-commerce, you must weigh its business risks against its benefits. You must also adopt E-commerce policies and procedures to ensure your institution's safety and soundness and compliance with law and regulations. Among other concerns, the policies and procedures must address, when applicable:

(a) Security and integrity of System institution and borrower data;

(b) The privacy of your customers as well as visitors to your Web site;

(c) Notices to customers or visitors to your Web site when they link to an affiliate or third party Web site;

(d) Capability of vendor or application providers;

(e) Business resumption after disruption;

(f) Fraud and money laundering;

(g) Intrusion detection and management;

(h) Liability insurance; and

(i) Prompt reporting of known or suspected criminal violations associated with E-commerce to law enforcement authorities and FCA under part 612, subpart B of this chapter.

[67 FR 16631, Apr. 8, 2002; 69 FR 42853, July 19, 2004]

#### § 609.935 Business planning.

When engaging in E-commerce, the business plan required under part 618 of this chapter, subpart J, must describe the E-commerce initiative, including intended objectives, business risks, security issues, relevant markets, and legal compliance.

#### § 609.940 Internal systems and controls.

When applicable, internal systems and controls must provide reasonable assurances that System institutions will:

(a) Follow and achieve business plan objectives and policies and procedures requirements regarding E-commerce; and

(b) Prevent and detect material deficiencies on a timely basis.

#### § 609.945 Records retention.

Records stored electronically must be accurate, accessible, and reproducible for later reference.

### Subpart D—General Requirements for Electronic Communications

#### § 609.950 Electronic communications.

(a) *Agreement.* In accordance with E-SIGN, System institutions may communicate electronically in business, consumer, or commercial transactions. E-commerce transactions require the agreement of all parties when you do business.

(b) *Communications with consumers.* E-SIGN and Federal Reserve Board Regulations B, M, and Z (12 CFR parts 202, 213, and 226) outline specific disclosure requirements for communications with consumers.

(c) *Communications with parties other than consumers.* The consumer disclosure requirements of E-SIGN and of Federal Reserve Board Regulation B (12 CFR part 202) do not apply to your communications with parties other than consumers. (Federal Reserve Board Regulations M and Z (12 CFR parts 213 and 226) apply to consumers only.) Nonetheless, you must ensure that your communications, including those disclosures required under the Act and the regulations in this part, demonstrate good business practices in the delivery of credit and closely related services and in your obtaining goods and services.

## PART 610—REGISTRATION OF MORTGAGE LOAN ORIGINATORS

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610.101 Authority, purpose, and scope.

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610.103 Registration of mortgage loan originators.

610.104 Policies and procedures.

610.105 Use of unique identifier.

### APPENDIX A TO PART 610—EXAMPLES OF MORTGAGE LOAN ORIGINATOR ACTIVITIES

AUTHORITY: Secs. 1.5, 1.7, 1.9, 1.10, 1.11, 1.13, 2.2, 2.4, 2.12, 5.9, 5.17, 7.2, 7.6, 7.8 of the Farm Credit Act (12 U.S.C. 2013, 2015, 2017, 2018, 2019, 2021, 2073, 2075, 2093, 2243, 2252, 2279a–2, 2279b, 2279c–10); and secs. 1501 *et seq.* of Pub. L. 110–289, 122 Stat. 2654.

SOURCE: 75 FR 44700, July 28, 2010, unless otherwise noted.

#### § 610.101 Authority, purpose, and scope.

(a) *Authority.* This part 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 (S.A.F.E. Act) (Pub. L. 110–289, 122 Stat. 2654, 12 U.S.C. 5101 *et seq.*).

(b) *Purpose.* This part implements the S.A.F.E. Act's Federal registration requirement for mortgage loan originators. The S.A.F.E. Act provides that the objectives of this registration include aggregating and improving the flow of information to and between regulators; providing increased accountability and tracking of mortgage loan originators; enhancing consumer protections; supporting anti-fraud measures; and providing consumers with

easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

(c) *Scope—(1) In general.* This part applies to any Farm Credit System lending institution that actually originates residential mortgage loans pursuant to its authority under sections 1.9(3), 1.11, or 2.4(a) and (b) of the Farm Credit Act of 1971, as amended, and their employees who act as mortgage loan originators.

(2) *De minimis exception.*

(i) This part and the requirements of 12 U.S.C. 5103(a)(1)(A) and (2) of the S.A.F.E. Act do not apply to any employee of a Farm Credit System institution who has never been registered or licensed through the Registry as a mortgage loan originator if during the past 12 months the employee acted as a mortgage loan originator for 5 or fewer residential mortgage loans.

(ii) Prior to engaging in mortgage loan origination activity that exceeds the exception limit in paragraph (c)(2)(i) of this section, a Farm Credit System institution employee must register with the Registry pursuant to this part.

(iii) *Evasion.* Farm Credit System institutions are prohibited from engaging in any act or practice to evade the limits of the *de minimis* exception set forth in paragraph (c)(2)(i) of this section.

#### § 610.102 Definitions.

For purposes of this part, the following definitions apply:

(a) *Annual renewal period* means November 1 through December 31 of each year.

(b)(1) *Mortgage loan originator*<sup>1</sup> means an individual who:

(i) Takes a residential mortgage loan application; and

(ii) Offers or negotiates terms of a residential mortgage loan for compensation or gain.

(2) The term *mortgage loan originator* does not include:

<sup>1</sup> Appendix A of this part provides examples of activities that would, and would not, cause an employee to fall within this definition of mortgage loan originator.