



**RESPONSE TO COMMENTS RECEIVED DURING THE SRR COMMENT PERIOD ON THE
PROPOSED PRE-LICENSURE EDUCATION EXPIRATION POLICY
JULY 23, 2014 TO AUGUST 22, 2014
Posted July 21, 2015**

Background

On July 23, 2014 the State Regulatory Registry LLC (SRR)¹ invited public comment on the [Proposed Pre-Licensure Education Expiration Policy](#). All submitted comments are available on the [NMLS Resource Center](#). After review of the comments by the Mortgage Testing and Education Board (MTEB)², the NMLS Policy Committee (NMLSPC)³ and discussions with the NMLS Industry Development Working Group⁴, the following summary of the comments received with SRR's responses regarding the approval of implementing the Pre-licensure Education Expiration Policy in NMLS was compiled.

Purpose of Implementing the Pre-licensure Education Expiration Policy in NMLS

The *Secure and Fair Enforcement for Mortgage Licensing Act of 2008* (SAFE Act) outlines the minimum requirements for pre-licensure (PE) education for state-licensed mortgage loan originators (MLO). [12 USC § 5104.] The SAFE Act does not, however, offer any guidance with regard to how timely the education must be relative to an individual's application for an MLO license or when the individual leaves the industry for a period of time. The SAFE Act specifically outlines the education requirements for MLOs and grants authority to the "Nationwide Mortgage Licensing System and Registry" to review and approve all MLO education courses. Given the fact that Congress intended the SAFE Act PE requirements to be national standards, the NMLS Policy

¹ State Regulatory Registry LLC (SRR) is a nonprofit subsidiary of the Conference of State Bank Supervisors (CSBS) that operates NMLS on behalf of state financial services regulatory agencies.

² 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>

³ 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>

⁴ The Industry Development Working Group (IDWG) consists of individuals from state-licensed non-depository financial services companies, financial institutions, and financial services-related industry trade groups to provide licensee input into the technical and functional development of NMLS to ensure that, to the greatest extent possible, the system provides industry users an efficient and effective mechanism for applying for and maintaining their state financial services licenses.

Committee believe that a uniform expiration timeframe helps makes those national standards workable.

In order to ensure that course material is up to date and relevant at the time of application, SRR proposed a timeframe for expiration of PE when an individual: (1) fails to acquire a valid license or federal registration within three years from the date of initial completion⁵ of any approved pre-licensure education (PE) course; or (2) obtained a license or federal registration but subsequently did not maintain an active license or federal registration for at least three years. After the expiration, the completed courses would not be eligible to be used by the MLO in meeting the PE requirements for a new license application and the MLO would have to retake PE in place of the expired coursework.

In addition, Title V of the SAFE Act addresses the minimum requirements for pre-licensure compliance in that “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; and 2 hours of training related to lending standards for the nontraditional mortgage product marketplace [12 USC § 5104(c)(1).]” With regard 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).]”

The MTEB and the NMLSPC recommended that 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 who fail to acquire a valid license or federal registration within three years from the date of completion or who 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 limits 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).

PE Course and Compliance Expiration Rules

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

⁵ The date of initial completion is the date the PE course is completed.

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 Compliant⁶, the PE Course Expiration clock stops.
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 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).

Responses to Comments

At the end of the public comment period, SRR had received submissions from 11 commenters with respect to implementing the Pre-Licensure Education Expiration Policy in NMLS. Commenters included mortgage industry representatives and two NMLS-approved education course providers. The comments were reviewed by the MTEB and the NMLSPC. SRR also held discussions with the NMLS Industry Development Working Group.

The following is a summary of the major topics raised in the comments, SRR's response to those comments, and the approval of the Pre-Licensure Education Expiration Policy, with a targeted implementation in 2017.

I. Three Year Timeframe to PE Expiration

Of the [Comments Received](#), two opposed the adoption of the entire policy, three respondents considered the three year timeframe for PE expiration too short, while six commented that the proposed timeframe was appropriate or too long. One person simply stated that the courses were too costly and should be provided for free.

SRR Response

⁶ 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).

SRR, through the direction of state mortgage regulatory agencies, has determined the proposed Pre-Licensure Education Expiration Policy is appropriate and helps to achieve and maintain the goals of the SAFE Act. State and federal mortgage laws have changed significantly between 2009 and 2015. The PE Expiration Policy addresses the consumer protection intent of the SAFE Act to ensure that mortgage licensees are current on state and federal mortgage and consumer protection laws. Those that fail to acquire a valid license or federal registration within three years from the date of completion of a PE course or that have not maintained an active license or federal registration, may not be current on state and federal mortgage and consumer protection laws, and will be required to “redo” the initial education requirements dictated under the SAFE Act. Through numerous discussions, state regulators concurred that a three year time period struck the right balance, particularly given the fast changing regulatory framework of state and federal laws that govern the mortgage industry. Furthermore, 20 hours of PE contains roughly the same number of education hours an MLO would have been required to complete had they remained licensed during those three years (8hrs of CE is required annually).

When considering the appropriate timeframe for PE expiration, the NMLS Policy Committee also took into account current state law and NMLS policy on 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. The PE Expiration Policy allows for a limit in the number of years the Late CE catalog (used to make-up CE) must encompass.

II. Applicability

One commenter asked whether the requirement to re-take the 20 hours of PE would apply when an MLO who holds one or more current state licenses applies for an additional state license.

SRR Response

The new requirement would not apply in this case or in the situation where an MLO held an active federal registration and then applied for a state license. The PE policy recognizes that, in addition to be currently working in the industry, state-licensed MLOs are required to take Continuing Education on an annual basis which ensures that their knowledge of relevant state and federal laws is being kept up to date. As described above, the requirement to re-take the PE applies only when an individual has no active license or registration for a period of 3 years or has never applied for a license within 3 years of initial completion of PE.

It was determined to be important by SRR to keep the PE Expiration Policy uniform across state agencies and in its approach and impact on federal registrants. Given that a large number of MLO's are licensed with multiple agencies, uniformity is important to ensure industry understands and can meet compliance requirements. If state agencies established different PE expiration dates, MLOs could possibly be subject to retaking PE multiple times which would result in additional hours of education being required. Additionally, since Model State Law (MSL) does not require CE to be taken in the same year as PE, the taking of PE to satisfy the licensing requirement of one state would potentially have an impact on the CE requirement of another state, or create scenarios where an MLO is required to take both PE and CE in the same year.