



# Common Sense Initiative

Mike DeWine, *Governor*  
Jon Husted, *Lt. Governor*

Joseph Baker, *Director*

## Business Impact Analysis

Agency, Board, or Commission Name: Dept. of Commerce, Div. of Financial Institutions

Rule Contact Name and Contact Information:

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Regulation/Package Title (a general description of the rules' substantive content):

Residential Mortgage Rules Five-Year Review 2024

Rule Number(s): 1301:8-7-01 (amend); 1301:8-7-02 (amend); 1301:8-7-03 (amend); 1301:8-7-05 (rescind); 1301:8-7-06 (amend); 1301:8-7-07 (amend); 1301:8-7-12 (amend); 1301:8-7-13 (amend); 1301:8-7-14 (amend); 1301:8-7-15 (rescind); 1301:8-7-15 (new); 1301:8-7-16 (amend); 1301:8-7-18 (amend); 1301:8-7-19 (amend); 1301:8-7-20 (amend); 1301:8-7-21 (amend); 1301:8-7-22 (amend); 1301:8-7-23 (amend); 1301:8-7-26 (amend); 1301:8-7-27 (rescind); 1301:8-7-30 (rescind); 1301:8-7-31 (amend); 1301:8-7-32 (amend)

Date of Submission for CSI Review: May 2, 2024

Public Comment Period End Date: May 17, 2024

Rule Type/Number of Rules:

New/ 1 rules

No Change/ 0 rules (FYR?   )

Amended/ 18 rules (FYR? Yes)

Rescinded/ 4 rules (FYR? Yes)

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The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

## Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a.  Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b.  Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c.  Requires specific expenditures or the report of information as a condition of compliance.
- d.  Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

## Regulatory Intent

2. Please briefly describe the draft regulation in plain language.  
*Please include the key provisions of the regulation as well as any proposed amendments.*

These draft regulations amplify the Ohio Residential Mortgage Lending Act codified at Chapter 1322 of the Revised Code.

**1301:8-7-01 Definitions (amend):** This rule clarifies the definition of certain terms used in the statute and throughout the administrative code. Some changes have been made based on the recent legislation.

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**1301:8-7-02 Registration, letters of exemption, office requirements and restrictions (amend):**

The rule covers registration, letters of exemption for qualified exempt entities, office requirements, and restrictions.

S.B. 264 of the 134<sup>th</sup> General Assembly allows employees of registrants or exempt entities under the purview of R.C. Chapter 1322 to work remotely from locations other than their principal or branch office. This amendment removes provisions that required offices to be physical locations and a provision requiring the conspicuous posting of a certificate of registration at each registered office.

The amendment to this rule is also the result of H.B. 199 of the 132<sup>nd</sup> General Assembly. H.B. 199 removed provisions requiring mortgage bankers to obtain a letter of exemption if they did not wish to be considered mortgage brokers. This amendment removes provisions of the rule relating to that requirement.

**1301:8-7-03 Standards for applications, certificates of registration, letters of exemption, and licenses (amend):** This rule covers standards for applications, certificates of registration, letters of exemption, and licenses. The amendment to this rule removes several requirements as a result of recent legislation. These requirements relate to the granting of a license or letter of exemption, when licensees may and may not originate loans, licenses held in escrow, and fees. The amendment also updates terminology.

**1301:8-7-05 Special account requirements (rescind):** This rule requires registrants under the old Ohio Mortgage Brokers Act (OMBA), which was replaced by the Ohio Residential Mortgage Lending Act (ORMLA) via H.B. 199 of the 132<sup>d</sup> General Assembly, to establish and maintain a non-interest-bearing, depository special account, as required by the OMBA. It requires the account to be reconciled monthly and requires the registrant to keep certain specified records regarding account activity. Lastly, it implements procedures for handling deposits, disbursements, and refunds to and from the account.

This rule is being rescinded in its entirety. The Revised Code provision requiring a special account was repealed by the ORMLA.

**1301:8-7-06 Recordkeeping (amend):** Recordkeeping. The amendment makes several changes to the recordkeeping requirements of registrants and qualified exempt entities. The changes cover the retention period, examination costs, typeface, specific items that must be recorded, and federal law.

**1301:8-7-07 Advertising (amend):** This rule governs advertising by registrants and licensees. The amendment removes regulatory restrictions and makes minor revisions.

**1301:8-7-12 Operations manager (amend):** This rule governs the selection of a mortgage broker's operations manager. The amendment updates the rule to reflect recent legislation, removes several regulatory restrictions, and changes how the experience requirement may be verified by the Division.

**1301:8-7-13 Division examinations and investigations (amend):** This rule governs examinations and investigations by the Division. It covers how and when examinations and investigations may occur and what a registrant or qualified exempt entity must do when being examined or investigated. It requires that the Division be given free access to all offices and records of a registrant or qualified exempt entity. It requires a registrant or qualified exempt entity to be open at specified times for purposes of examination or investigation. Lastly, it requires a registrant or qualified exempt entity to comply with the Division's request for a written response.

A provision requiring a registrant or qualified exempt entity be open at certain times for examinations and investigations was rendered obsolete by S.B. 264 of the 134th General Assembly under which physical locations are no longer required. In addition, two regulatory restrictions are being removed. Lastly, a provision is being added clarifying that the determination of whether a response to the Division's request for information is satisfactory is within the sole discretion of the Superintendent.

**1301:8-7-14 Surety bonds (amend):** This rule requires the surety bond obtained by a registrant or qualified exempt entity surety bond to meet specific requirements such as being on an acceptable form and containing specified information. It requires a registrant or qualified exempt entity to restore it to the appropriate amount if the penal sum is reduced below that amount. It prohibits a licensee from performing clerical or support duties of a loan processor or underwriter unless either the licensee or company maintains a surety bond, and it requires the bond to be on an acceptable form and contain specified information.

The rule is being amended to clarify that the amount of the surety bond required of registrants must be based on the aggregate amount of loans originated both within and outside Ohio; to remove references to a federal definition of "clerical or support duties"; and to update statutory references resulting from recent legislation.

**1301:8-7-15 Disclosures (rescind/new):** This rule governs required disclosures. It requires the disclosures to be made in a timely manner and requires a registrant or licensee under the old Ohio Mortgage Brokers Act (OMBA) to maintain certain records documenting that the disclosure was timely made. It requires disclosures to be provided on an acceptable form and states the types of acceptable forms. Lastly, it requires the affiliated business disclosure form to be provided on an acceptable form, states the types of acceptable forms, and requires it comply with federal law.

The rule is being amended to remove all provisions except the requirement that the affiliated business disclosure comply with federal law.

**1301:8-7-16 Prohibited practices (amend):** This rule contains a list of actions that constitute improper, fraudulent, or dishonest dealings. The rule is being amended to include evading the limits on points and fees for qualified mortgages set forth in 12 C.F.R. 1026.43(e)(3) by partnering with a credit services organization. This provision, however, is simply being moved from Rule 1301:8-7-02 to this rule.

**1301:8-7-18 Continuing education (amend):** This rule allows a licensee or applicant to receive credit for continuing education in a year other than the year in which the course was taken to make up a deficiency. It requires a licensee or applicant to make up any deficiency that occurred on or after January 1, 2010. And it requires the Superintendent to comply with the rule allowing a veteran to extend their continuing education reporting requirement. The rule is being amended to update statutory references, remove the requirement that the Superintendent comply with the veteran rule, but add that the veteran rule applies to the continuing education requirements in R.C. 1322.28.

**1301:8-7-19 Notification requirements (amend):** This rule requires registrants and qualified exempt entities to notify the Superintendent of termination of a licensee, closure of an office, or a change in ownership, location, business name, statutory agent. office location. It also requires a licensee to notify the Superintendent of a legal name change. Lastly, it requires a person to submit a Notification of Guilty Plea, Conviction or Revocation form when notifying the Superintendent of a conviction, plea, or revocation of registration or license.

It is being amended to remove two regulatory restrictions requiring a registrant, qualified exempt entity, or licensee under the old Ohio Mortgage Broker Act (OMBA) to notify the superintendent of certain legal actions against it, and to update a statutory reference.

**1301:8-7-20 Compensation (amend):** This rule requires a registrant or qualified exempt entity to pay compensation to a licensee via check or electronic draft subject to certain conditions. It also restricts a registrant or qualified exempt entity from paying compensation to someone in a manner designed to circumvent certain requirements. Lastly, it requires registrants, qualified exempt entities, and licensees to comply with federal loan originator compensation regulations.

The rule is being amended to remove the regulatory restriction prohibiting a registrant or qualified exempt entity from paying from a special account used for paying and receiving payments from bona fide third parties under the old Ohio Mortgage Broker Act (OMBA).

**1301:8-7-21 Character, general fitness, and financial responsibility (amend):** This rule contains a list of things the Superintendent may consider in determining whether a person has the character, general fitness, and financial responsibility to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the Residential Mortgage Lending Act.

The rule is being amended to remove a redundant regulatory restriction prohibiting the Superintendent from considering a bankruptcy as the sole basis for finding that a person lacks the required financial responsibility. This amendment also removes a redundant provision allowing the Superintendent to consider the facts and circumstances that lead to a bankruptcy.

**1301:8-7-22 Trade names, fictitious names and change of names (amend):** This rule describes the conditions a registrant or qualified exempt entity must comply with if it wishes to use a trade name or fictitious name. It is being amended to replace the term “loan originator” with “mortgage loan originator” in 1301:8-7-22(D)(2) to reflect recent legislation.

**1301:8-7-23 Mortgage broker appraisal misconduct (amend):** This rule describes two specific ways in which the prohibition against improperly influencing a real estate appraiser might be violated. It requires a registrant or licensee to inform a real estate appraiser of the existence of a previous purchase contract for a property at a lower price within the previous 30 days. Lastly, the rule provides that it does not prevent a registrant, its employees, agents or licensees from requesting that the appraiser consider additional information or from communicating information to an appraiser that is required by law or any applicable appraisal standards.

The rule is being amended to reword a provision to clarify that it is not a violation if the sales price of the property is disclosed or a copy of the signed purchase contract is provided to an appraiser.

**1301:8-7-26 Challenge to information maintained in the NMLS (amend):** This rule allows a mortgage loan originator to challenge information entered into the Nationwide Multistate Licensing System (NMLS) by the Superintendent. It describes what exactly may be challenged and how. It requires the Superintendent to review the challenge and correct any errors and notify the challenger in writing of any reasons for a denial of the challenge. Lastly, it provides that the Superintendent's determination is final and not subject to further challenge or appeal.

The rule is being amended to update a statutory reference and terminology resulting from the enactment of the Ohio Residential Mortgage Lending Act (ORMLA).

**1301:8-7-27 Expedited hearing upon automatic suspension (rescind):** This rule requires an order suspending a registrant or licensee under the old OMBA to set a date, not more than thirty days later than the date of the order of suspension, for a hearing on the continuation or termination of such suspension. For good cause shown, the superintendent may continue such hearing on its own motion or the motion of the registrant or licensee.

This rule is being rescinded in its entirety. The prior version of R.C. 1322.10, which allowed suspension of a registrant or licensee under the old OMBA without a hearing, was replaced with R.C. 1322.50 via the ORMLA, which requires a hearing conducted in accordance with Chapter 119. of the Revised Code in order to suspend, revoke, or refuse to issue or renew a certificate of registration or license.

**1301:8-7-30 Temporary loan originator license application (rescind):** Under prior law, an out-of-state loan originator applying for Ohio licensure could apply for a temporary license to engage in loan origination pending the application for full licensure. This rule requires an applicant for this temporary license to pay a nonrefundable application fee of \$150 and all other required fees, including any fees required by the Nationwide Mortgage Licensing System and Registry. It provides that the license is valid for 90 days, which may be extended, and that the applicant must have a certain level of experience.

This rule is being rescinded in its entirety. The Revised Code provision authorizing a temporary license for an out-of-state loan originator seeking an Ohio license was repealed by S.B. 131 of the 134th General Assembly, which requires licensing authorities to issue licenses to out-of-state licensees in certain circumstances.

**1301:8-7-31 Nonprofit organizations exemption (amend):** This rule lists the requirements a nonprofit organization must meet to be exempt from registration under the Ohio Residential Mortgage Lending Act (ORMLA). It requires the nonprofit to submit an application for a letter of exemption and states the application requirements. It requires the nonprofit to keep and maintain records of all residential mortgage loan transactions in the same manner as is required of registrants. It requires a nonprofit to cease originating loans if its application is denied. Lastly, it provides that an employee of an exempt nonprofit is exempt from having to obtain an MLO license only with respect to the nonprofit and to loans with terms favorable to the borrower.

The rule is being amended to do several things:

- It replaces "nonprofit organization" with "bona fide nonprofit organization."
- In division (A), it replaces several specific requirements a nonprofit must meet to be exempt (e.g. promote affordable housing, compensate its employees in a manner that does not incentivize them to act other than in the best interests of the clients, etc.) with the requirements that it be registered with and possess a valid letter of exemption from the Attorney General.
- The amendment also rewords provisions in divisions (B) and (C). It also removes the requirement in division (C) that the applicant be responsible for any fee required by the NMLS.
- It updates dates and terminology in divisions (D) and (H) (renumbered (G)).
- In division (F), it allows, instead of requires, the Superintendent to examine a nonprofit's books and records. It also removes the requirement that examinations be conducted in accordance with the rule governing examinations.

- Lastly, the amendment removes the requirement in (G) that if the Superintendent determines that the nonprofit does not qualify for the exemption, the nonprofit must immediately cease originating loans until it obtains a certificate of registration.

**1301:8-7-32 Loan processors and underwriters (amend):** This rule governs loan processing and underwriting companies under the old Ohio Mortgage Brokers Act (OMBA), which was replaced with the Ohio Residential Mortgage Lending Act (ORMLA). The current version of the rule does the following:

- Prohibits an independent contractor from performing clerical or support duties of a loan processor or underwriter as defined in federal law without a loan originator license issued under the old Ohio Mortgage Brokers Act (OMBA).
- Details the process by which a loan processing or underwriting company may obtain an exemption from registration and specifies the contents of the application.
- Imposes recordkeeping and examination requirements.
- Allows an employee to perform duties from any location provided a licensee of the same company maintains adequate supervision.
- Provides that an employee is exempt from having to obtain a loan originator license only with respect to the clerical or support duties performed for the independent contractor or company.
- Prohibits an independent contractor or a licensee or employee of a company from being employed by or associated with any entity for whom it performs clerical or support duties.
- Requires independent contractors and companies to comply with specific federal laws.

The rule is being amended as follows:

- Revises terminology.
- Removes references to independent contractors.
- Revises the definition of "loan processing or underwriting company."
- Relocates the definition of "employee."
- Removes the regulatory restriction in 1301:8-7-32(A) prohibiting an independent contractor from performing clerical or support duties of a loan processor or underwriter as defined in federal law without a loan originator license issued under the old Ohio Mortgage Brokers Act (OMBA).
- Removes the provision specifying which individuals performing clerical or support duties are not required to obtain a loan originator license.
- Rewords a provision regarding the application process and removes the regulatory restriction requiring the applicant to be responsible for any fee required by the NMLS.
- Replaces the provision requiring the Superintendent to issue a letter of exemption if the Superintendent determines, among other things, that the company "honestly made the attestation required" with a provision requiring the Superintendent to issue the letter if, among other things, the company "fully and honestly completed the application process."
- Rewords a provision requiring a loan processing or underwriting company to maintain records in the same manner as registrants.
- Rewords a provision allowing the Superintendent to examine a company's books and records and removes the regulatory restriction requiring the examination to be conducted in accordance with the rule governing examinations.
- Removes the regulatory restriction requiring a company, if the Superintendent denies its application for exemption, to immediately cease loan processing or underwriting activities and providing that failure to do so is a violation and may be subject to administrative, civil, or criminal actions.

- Removes purpose language and updates dates in a provision requiring companies to comply with specified federal laws.
- Removes definitions.

**3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

**1301:8-7-01**

- Statutory Authority: 1322.02, 1322.57
- Rule Amplifies: R.C. Chapter 1322

**1301:8-7-02**

- Statutory Authority: 1322.02, 1322.57
- Rule Amplifies: 1322.01, 1322.07, 1322.05, 1322.04

**1301:8-7-03**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.07, 1322.05, 1322.29, 1322.21

**1301:8-7-06**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.34, 1322.05

**1301:8-7-07**

- Statutory Authority: 1322.02, 1322.57
- Rule Amplifies: 1322.46

**1301:8-7-12**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.09, 1322.20, 1322.10, 1322.27, 1322.28, 1322.12

**1301:8-7-13**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.34, 1322.50, 1322.35

**1301:8-7-14**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.32

**1301:8-7-15**

- Statutory Authority: 1322.57



- Rule Amplifies: 1322.42

**1301:8-7-16**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.40

**1301:8-7-18**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.28

**1301:8-7-19**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.07, 1322.16, 1322.05, 1322.20, 1322.32, 1322.40

**1301:8-7-20**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.01, 1322.07, 1322.40

**1301:8-7-21**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.09, 1322.20, 1322.10, 1322.21

**1301:8-7-22**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.40, 1322.46

**1301:8-7-23**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.40

**1301:8-7-26**

- Statutory Authority: 1322.57, 1322.36(H)
- Rule Amplifies: 1322.36

**1301:8-7-31**

- Statutory Authority: 1322.57
- Rule Amplifies: 1322.01, 1322.04

**1301:8-7-32**

- Statutory Authority: 1322.02, 1322.57

- Rule Amplifies: 1322.01(AA)(2)(h)

- 4. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

Yes. The residential mortgage lending statutes and rules implement the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act). The SAFE Act requires states to license loan originators, implements minimum standards for such licensure, requires use of the Nationwide Mortgage Licensing System (NMLS), gives states authority to examine and investigate loan originators, and provides for the transition of federally registered loan originators to state-licensed loan originators, and of loan originators licensed in one state to another.

- 5. If the regulation implements a federal requirement, but includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

The ORMLA and the rules implementing it contain details beyond those in the SAFE Act, as the SAFE Act requires states to license MLOs and sets a few minimum standards relating to licensure. Despite the additional details, however, the ORMLA and its rules do not exceed any of the SAFE Act standards.

- 6. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The public purpose of this rule package is to provide clarity to individuals and entities authorized by the Ohio Residential Mortgage Lending Act (ORMLA) to engage in activities related to residential mortgage lending as to the requirements of ORMLA. In addition, the regulations protect consumers in residential mortgage transactions by ensuring that registrants, licensees, and exempt entities have the requisite experience and fitness to engage in residential mortgage transactions.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Division of Financial Institutions will measure the success of these regulations by continuing to receive industry feedback on the licensing and regulation of ORMLA registrants, licensees, and exempt entities and by reviewing consumer complaints submitted to the Division.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

*If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.*

No.

### **Development of the Regulation**

**9. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*If applicable, please include the date and medium by which the stakeholders were initially contacted.*

The proposed rules were sent to all licensed mortgage loan originators, registered mortgage companies, and entities holding letters of exemption for informal review and comment. In addition, the Division keeps an ongoing list of individuals and organizations who in the past have expressed interest in being notified of rulemaking developments. The draft rules were sent to these stakeholders as well for informal review and comment. Comments were due in September 2023.

Comments were sought a second time when the Division submitted a previous version of this Business Impact Analysis on March 29, 2024.

**10. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

By the conclusion of the September 2023 comment period, only one stakeholder comment was received. That comment concerned the wording of 1301:8-7-16(K), which prohibits evading limits on points and fees by conducting business in conjunction with a credit services organization. The commenter was confused regarding the sentence, “Assisting a borrower with improving his or her credit record, history, or rating as well as removing adverse credit information are considered part of the normal activities of a registrant or qualified exempt entity.” However, that provision was merely being relocated from 1301:8-7-02, where it has been in effect for many years. No other initial comments were received regarding that or any other provision. Therefore, the Division did not make any changes based on that comment.

Two more comments were received during the comment period following the March 29, 2024 request for comments. They were both questions regarding two of the changes. The first sought clarification about the requirement in 1301:8-7-07(A)(4). That provision requires each advertisement by a registrant or licensee to state the registrant’s office address. The commenter asked whether the address would “need to be listed on every internet post or [whether] displaying the MLO’s registered address in the About section of their social media account suffice.” This requirement has been in effect for years without issue, so the Division did not make any changes based on that comment.

The other recent comment sought clarification about the rescission of 1301:8-7-30, which governed temporary loan originator licenses. The commenter asked if the rescission means that out-of-state MLOs will no longer be eligible for temporary authority. The answer is that federal law requires states to give temporary authority to out-of-state MLOs. MLOs will still be able to operate under temporary authority; the rescission simply means there is no separate temporary MLO licensing scheme.

**11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

N/A

- 12. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives? *Alternative regulations may include performance-based regulations, which define the required outcome, but do not dictate the process the regulated stakeholders must use to comply.***

These regulations are subject to their five-year rule review. As such, each rule was reviewed and numerous alternatives were considered as part of the process. Ultimately, these regulations clarify and amplify the provisions in Chapter 1322 of the Revised Code and are constrained by the statutory requirements.

- 13. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

The Division is the primary regulator of licensees under the ORMLA and is not aware of any duplicative regulations.

- 14. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

The regulations have been available to stakeholders throughout the rule review process and will continue to be available to them through the Division's website throughout the JCARR process. Once finalized, the regulations will be brought to the attention of stakeholders at every available opportunity. Additionally, Division staff will be trained on the regulations to ensure their consistent application.

### **Adverse Impact to Business**

- 15. Provide a summary of the estimated cost of compliance with the rule(s). Specifically, please do the following:**

- a. Identify the scope of the impacted business community, and**

This rule package applies to individual mortgage loan originators (MLOs) and mortgage companies. As of June 30, 2023, there were 17,319 MLOs and 2,857 mortgage companies.

- b. Quantify and identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance, etc.).**

*The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a representative business. Please include the source for your information/estimated impact.*

**1301:8-7-02:**

- **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.** This rule requires a registrant to register every office where it conducts business. It also requires a qualified exempt entity to obtain a letter of exemption for every office where it conducts business. The Division charges an application and investigation fee of \$700 per office pursuant to R.C. 1322.09(A)(1).

**1301:8-7-03:**

- **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.** This rule clarifies that an applicant is not authorized to act as a registrant, qualified exempt entity, or licensee simply by submitting an application via the NMLS (paragraph (A)) or having a sponsorship submitted (current paragraph (F), renumbered (E)). Instead, "[t]he applicant must first receive an active certificate of registration, letter of exemption or license...." In addition, under (G), renumbered (F), a licensee may not originate loans if their license is in escrow.
- **Imposes a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms.** The rule also states that persons may be subject to unspecified administrative, civil, or criminal actions for violating the rule's various provisions, specifically paragraphs (B), (C), (K)(3) renumbered (H)(3), (L)(2) renumbered (I)(2), and (N)(2) renumbered (K)(2).
- **Requires specific expenditures or the report of information as a condition of compliance.** Lastly, under paragraph (I) of the current rule, the fee for transferring to a different company or activating an escrowed license is subject to a nonrefundable \$15 fee plus applicable NMLS fees. This provision is being removed.

**1301:8-7-06:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires a registrant, licensee, or qualified exempt entity to meet a number of recordkeeping requirements.

It requires a registrant or qualified exempt entity to notify the Superintendent of a change of location of its records no later than five business days after the change.

It specifies that for purposes of the statutory requirement that a registrant or qualified exempt entity pay the estimated costs of examinations conducted outside Ohio, such costs include the Division's travel, lodging, and per diem expenses incurred in travel. This is in addition to the proportionate costs of the salaries of Division employees specified in R.C. 1322.34(E). The rule requires payment in advance, with excess funds being refunded following determination of actual costs.

- **Likely to directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies.** Lastly, as in any business, recordkeeping requirements will increase the operating expenses of a registrant, licensee, or qualified exempt entity. The exact cost will vary from company to company.

**1301:8-7-07:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires advertisements placed by a registrant or licensee to contain the registrant's or licensee's name, certificate or license number, NMLS number, and address. This rule requires a minimal expenditure of employee time in order to comply.

**1301:8-7-12:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires a registrant to submit an application to designate its operations manager, along with satisfactory proof of experience for the person designated to act as operations manager. This rule requires a minimal expenditure of employee time in order to comply.

**1301:8-7-13:**

- **Requires specific expenditures or the report of information as a condition of compliance.** As part or in furtherance of any examination or investigation, if the Superintendent requests a written response or submission of information, this rule requires an applicant, registrant, qualified exempt entity, licensee, or other person to deliver the response or information within the time period specified in the request or within 30 days if no time period is identified. The amendment adds that the determination of whether any response is satisfactory is within the sole discretion of the Superintendent.

**1301:8-7-14:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule specifies additional requirements that the bond required by R.C. 1322.10 must meet.
- **Likely to directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies.** Any revenue reduction or increased expenses caused by the rule's additional requirements should be minimal as the bond amount, which is specified in statute (R.C. 1322.10), is not changing.

**1301:8-7-16:**

- **Imposes a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms.** R.C. 1322.40(C) prohibits a registrant, licensee, person required to be registered or licensed, or an individual disclosed in an application from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings. This rule lists specific examples of conduct that constitutes such dealings. While the rule itself does not impose any penalties, R.C. 1322.50 gives the Superintendent disciplinary authority for violations of the chapter. The statutory penalties include suspension, revocation, or refusal to issue or renew, or a fine of up to \$2,000 each day the violation continues, although that is only in the most egregious situations.

**1301:8-7-18:**

- **Requires specific expenditures or the report of information as a condition of compliance.** Paragraph (B) requires a licensee or applicant to make up any continuing education deficiency that occurred on or after January 1, 2010, regardless of the number of years that have passed since the violation.

**1301:8-7-19:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires registrants and qualified exempt entities to notify the Superintendent of termination of a licensee, closure of an office, or a change in ownership, location, business name, statutory agent, office location. It also requires a licensee to notify the Superintendent of a legal name change. Lastly, it requires a person to submit a Notification of Guilty Plea, Conviction or Revocation form when notifying the Superintendent of a conviction, plea, or revocation of registration or license. This rule requires a minimal expenditure of employee time in order to comply.

**1301:8-7-31:**

- **Requires a license, permit, or any other prior authorization to engage in or operate a line of business.** This rule requires a bona fide nonprofit organization seeking exemption from registration to also possess a valid letter of exemption from the Charitable Law Section of the Ohio Attorney General's Office.
- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires a bona fide nonprofit organization seeking exemption to include in its application certain specified information. This rule requires a minimal expenditure of employee time in order to comply.

**1301:8-7-32:**

- **Requires specific expenditures or the report of information as a condition of compliance.** This rule requires a loan processing or underwriting company seeking a letter of exemption to submit an application containing certain specified information. This rule requires a minimal expenditure of employee time in order to comply.

**16. Are there any proposed changes to the rules that will reduce a regulatory burden imposed on the business community? Please identify. (*Reductions in regulatory burden may include streamlining reporting processes, simplifying rules to improve readability, eliminating requirements, reducing compliance time or fees, or other related factors*).**

The rules below are being amended or rescinded to reduce regulatory requirements by clarifying the requirements, eliminating regulations that are duplicitous with statute and/or rule, and by simplifying the rules to make them more readable and easier to understand:

1301:8-7-01; 1301:8-7-02; 1301:8-7-03; 1301:8-7-05; 1301:8-7-06; 1301:8-7-07; 1301:8-7-12;  
1301:8-7-13; 1301:8-7-14; 1301:8-7-15; 1301:8-7-16; 1301:8-7-18; 1301:8-7-19; 1301:8-7-20;  
1301:8-7-21; 1301:8-7-22; 1301:8-7-23; 1301:8-7-26; 1301:8-7-27; 1301:8-7-30; 1301:8-7-31;  
1301:8-7-32

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

Any adverse impacts to individuals and entities regulated by ORMLA are justified in order to ensure that the Superintendent has all information needed to ensure compliance by the

individuals and entities and to protect borrowers by ensuring that the regulated individuals and entities have the requisite character and fitness to engage in mortgage transactions.

### **Regulatory Flexibility**

**18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No.

**19. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The Division resolves first-time paperwork violations through the examination process or upon discovery by other means and imposes no fines.

**20. What resources are available to assist small businesses with compliance of the regulation?**

Employees of the Division speak with members of mortgage industry trade groups periodically regarding compliance with the ORMLA and other laws and administrative rules affecting registrants, licensees, and exempt entities. The Division also speaks with regulated individuals when they have questions regarding compliance or the proper interpretation of the regulation. The Division's legal counsel, employees, licensing staff, and all examiners are available via telephone, email, and at on-site examinations to answer questions and promote compliance with ORMLA and its rules.