

Idaho Financial Responsibility/Fitness FAQs

The questions and answers provided here are for informational purposes only and should not be construed to address any specific situation or to constitute legal advice. This information pertains only to Idaho mortgage loan originator licensees, license applicants, and mortgage company “control persons.” Information from, and requirements of, other states may be different. Please refer to the Department’s [Financial Responsibility/Fitness Policy Statement 2011-01](#) (the Policy) for details on the documentation (or alternative information when documentation is not available) that must be provided to the Department for review.

It is not the Department’s goal to deny licensure or ban participation in the mortgage industry. However, due to personal financial circumstances it is possible that not all individuals will qualify for a mortgage loan originator license under the requirements of the SAFE Act. However, individuals who do not currently qualify may qualify for licensure in the future when corrective measures are in place demonstrating financial responsibility and fitness and a history of responsible management of business and personal financial affairs. It is important to remember that according to the Policy, decisions will be made based on an individual’s overall credit history with emphasis on the most recent three (3) years, the responses and documentation provided by an applicant or a licensee, and the individual’s licensing and enforcement history with the Department.

1. **Q:** What is Idaho’s financial responsibility/fitness policy?

A: The Idaho Department of Finance adopted Policy Statement 2011-01 to describe the evaluation process used to determine if an applicant or licensee meets financial responsibility and fitness requirements. The Policy describes what information the Department will review as well as what the Department will require from a licensee or license applicant to address any items of concern.

2. **Q:** Who does the Policy affect?

A: The Policy directly affects (i) Idaho mortgage loan originator licensees; (ii) Idaho mortgage loan originator license applicants; and (iii) independent contractor mortgage loan processors and underwriters who are required to submit a Form MU4 filing in the Nationwide Mortgage Licensing System (NMLS). The Policy will also affect any person required to submit a Form MU2 to the NMLS as a control person once the functionality becomes available, which is expected in the summer of 2011.

3. **Q:** Why does my credit record and history matter to the Department?

A: The Department has been charged with the responsibility to enforce specific licensing requirements of the federal SAFE Act, the minimum requirements of which have been incorporated into Idaho law. Some of those requirements involve determining the financial fitness and responsibility of mortgage loan originators by an assessment of how the individual manages his or her financial affairs. This information is primarily collected and reported through personal credit report histories. Additionally, it is the Department’s view that the same standards applied to mortgage loan originators should

also be applied to control personnel who are responsible for the training, education, and policies and procedures of a mortgage broker or lender.

4. Q: How will the Department decide if my credit meets or doesn't meet the requirements to have a license?

A: Each individual's credit report will be reviewed, with specific attention given to those with lower-end credit scores and those with specifically "flagged" items such as judgments, liens, foreclosures, delinquent accounts over 90 days, and accounts with multiple delinquencies. If there are items of concern, the individual will be notified that additional information is needed by the Department to complete the full review process. Once that information is received and reviewed, a decision will be made whether a license can be issued to the applicant or whether an existing licensee is qualified by law to maintain such license. Each individual with "flagged" items will be provided with an opportunity to provide the Department with a complete picture of his or her credit history – beyond what the Department may receive from a credit reporting agency. For example, an individual with "flagged" items on his or her credit report will need to supplement that information with written explanations of the circumstances surrounding noted areas of concern. This could also include providing documentation to dispute credit report information.

5. Q: Is there a minimum credit score that will cause me to be denied?

A: No. Idaho has not adopted a minimum credit score requirement that would cause denial or removal of a license.

6. Q: How will I know if the Department thinks I have a credit problem?

A: Individuals will be notified by certified mail and a deficiency notice will be placed on the individual's NMLS record under the license item type of credit report clarification *when the certified mail is sent*. The certified letter will be sent to the individual's residential address. Privacy issues and restrictions contained within NMLS's contract with TransUnion limit the type of information that can be placed on the individual's NMLS record as well as how the information is communicated.

7. Q: My employer takes care of all my licensing issues. Why won't the Department talk with my employer about what is needed on my credit if I say it is ok?

A: Privacy issues and restrictions contained within NMLS's contract with TransUnion limit the type of information that can be placed on the NMLS record as well as how the information is communicated and to whom. Communication with anyone other than the individual who is the subject of the credit report is prohibited.

8. Q: Why won't the Department give me a copy of my credit report?

A: NMLS's contract with TransUnion prohibits state agencies from providing copies of the credit report to anyone outside of the agency. If an individual wants to see a copy of the report that was provided to a particular state agency, he or she may request a copy directly from TransUnion at: TransUnion, 2 Baldwin Place, P.O. Box 1000, Chester, PA 19022 ((800) 888-4213 – www.transunion.com/consumersupport)

9. Q: How often will credit reports be pulled?

A: Credit reports will be pulled at the time of initial license application and at each license renewal. This is because the license renewal section of the Idaho SAFE Act requires that individual mortgage loan originators (MLOs) must continue to meet the financial responsibility/fitness requirements that are imposed at time of application or transition. Credit reports obtained at license renewal will be reviewed for any significant negative changes and to verify that actions to address negative information, such as participating in payment plans, are being completed as agreed.

10. Q: How do the credit report pulls affect my credit score?

A: The credit report pulls from the NMLS are considered “soft” pulls and do not affect an individual’s credit score.

11. Q: What will I need to provide to the Department?

A: It will depend on the type of information reported in the credit report. The Policy contains a comprehensive list of documents the Department may require. Generally, an explanation of the circumstances that caused the negative information to be reported will be required as well as a description of the steps the individual has taken to rectify the situation. This may include negotiating a payment plan and making regular agreed-upon payments; paying off an overdue account, collection, lien or judgment; successfully disputing information on the report or getting incorrect information removed; or bringing a delinquent account current. For each representation made by an individual regarding a negative credit item, supporting documents will be required. This also applies to accounts included in bankruptcy filings, satisfied judgments, and released liens. Please refer to the Policy for more information on required documentation. If the Policy does not address your specific question, direct your inquiries to the person listed as the contact on correspondence sent to you from the Department.

12. Q: Will filing for bankruptcy cause me to lose my license?

A: The Department will not make a determination of financial responsibility/fitness based solely on the fact that an individual has been a debtor in bankruptcy or has been the control person of an organization that filed a bankruptcy petition.

13. Q: We have several outstanding collections for unpaid medical bills. How will this affect my license?

A: The Department will not make a determination of financial responsibility/fitness based on delinquent accounts that are solely due to medical expenses.

14. Q: My spouse is unemployed and my income has been reduced due to the collapse of the housing market and the economy. We have been late on our credit cards, and not all of them are current. Will I lose my loan originator license because of this?

A: Several factors, such as the severity of the delinquencies, the number of accounts involved, how recent the occurrences of delinquency are, and what remedies the individual has pursued will be evaluated to determine whether an individual’s license will

be impacted. Be prepared to document any representations made to the Department regarding derogatory information. General statements about a difficult economy will not be satisfactory.

15. Q: I have an outstanding tax lien. Will this be a problem?

A: If a tax lien is the only derogatory account appearing on a credit report and an individual can document that a payment arrangement has been made and there is a history of timely payments under that agreement, such information will weigh in favor of the individual. Be prepared to provide documentation of the payment agreement as well as proof of payments and current status.

16. Q: I left my last apartment but my roommate stayed. He didn't pay the final utility bills when he left and the utility accounts were in my name. I was sued, and civil judgments were entered against me. The judgments are still unpaid. Do I have to do something with them?

A: If the judgment account is in the name of an individual, and the judgment creditor has not released that person from responsibility to pay on the judgment, then the Department may require that the account is either satisfied or that the individual has entered into a repayment plan. Be prepared to provide documentation of payment agreements as well as proof of payments and current status.

17. Q: I have a delinquent student loan and my husband owes back child support. All of our other credit is current. How will this affect my license?

A: Individuals will need to provide a written explanation as to the circumstances that caused them to be delinquent on a student loan. They will need to address what they have done to rectify the delinquency, such as entering into a repayment plan with the creditor or negotiating a settlement. Be prepared to document any representations made in a response to the Department regarding derogatory information. If a spouse is NOT an MLO, delinquent child support should not have any effect, assuming nothing is reflected on a credit report. If a spouse IS an MLO, then the same requirements for a delinquent student loan would apply to his or her child support situation.

18. Q: Will I lose my license because we had a foreclosure last year?

A: Idaho does not have an automatic bar to licensure just because a foreclosure occurred within the last three (3) years. The Department will review the circumstances causing a foreclosure, what steps were taken to avoid a foreclosure, the individual's overall credit history, and what has happened since the foreclosure. Be prepared to document any representations made in a response to the Department regarding derogatory credit information.

19. Q: I had a car repossessed and I haven't been notified by the finance company that I owe anything. What do I do?

A: This depends on what appears on an individual's credit report. If an account reflects any amount past due or a balance remaining or owing at the time of repossession, the individual will need to account for that in his or her explanation and remedies. That may involve contacting the creditor for more information. If the account only reflects the

repossession, but no amounts past due, delinquent or charged off, an explanation of the circumstances leading to the repossession and the steps taken by the individual may be sufficient.

20. Q: I couldn't pay my credit card and the balance on the account was charged off. There was no collection. What do I need to provide?

A: Individuals will need to document the current status of the charged off amount. A creditor may have charged off an account as an internal loss but may have sold it to another creditor or debt buyer, or may be investigating other options to collect. The Department will review an explanation of circumstances that caused the charge off, to include any remedies an individual has taken or is in the process of taking to remedy the charge off, as well as the current status of the account.

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21. Q: Why can't the Department see that my charged off Wells Fargo credit card balance was bought by Citibank and I paid it off last year? It's the same account.

A: The credit reports that the Department receives do not contain any identifying account information, such as account numbers. The Department also does not receive specific information about account transfers or by whom an account has been purchased. Additionally, the Department cannot identify duplicate account postings. Therefore, in order for the Department to identify and track this type of information, it must rely on the subject of the report to provide that documentation.

22. Q: The delinquent accounts the Department wants information on were listed in my bankruptcy. How am I supposed to get more information on them?

A: To demonstrate that an account was included in a bankruptcy, an individual should provide a copy of the schedule of debts, as well as confirmation that the account was discharged in the bankruptcy, or included in a restructuring.

23. Q: When the market was better I bought several rental properties. When the economy went bad I couldn't keep renters and I couldn't afford to keep the rentals on my reduced income so I let the lender take them. How will this affect me?

A: Multiple foreclosures, especially within the past three (3) years, will most likely be problematic. However, the Department will consider explanations of circumstances, remedies taken or attempted, as well as the individual's overall credit history to determine if there were extenuating circumstances. The Department will also consider an individual's credit history, both prior to and after any foreclosures.

24. Q: If my credit isn't good enough and I already have a license, what will happen? Will my license be revoked?

A: Recognizing that credit histories can be improved with effort, and that a revocation of an individual license is a permanent bar to future licensure, the Department will make every effort not to revoke a license during this process. This is why the Department has included an extended initial time period for licensees and applicants to comply with the Policy. The Department ***strongly*** encourages individuals to get their explanations and documentation into the Department for its review ***as soon as possible***. If satisfactory information is **NOT** received by October 31, 2011, license applications

will be denied and existing licensees will not be allowed to renew their licenses for calendar year 2012. Individuals may also voluntarily surrender a license at any time. Credit reports will be pulled as part of the renewal process to verify that no significant negative changes have occurred since the initial pull or at the time of license application.

25. Q: I have been originating loans for years. Can I lose my license now because of my credit history?

A: Yes. It is possible that an individual's license may be revoked or not renewed depending upon his or her credit history and the management of his or her financial affairs. Laws have been enacted to address Congress's mandates for mortgage industry regulation under the SAFE Act. No one is "grandfathered" under that Act.

26. Q: What will happen if I don't provide any information to the Department or miss the deadlines noted in the Policy?

A: If an applicant fails to provide required documentation, his or her application will be administratively denied or deemed withdrawn and all previously paid fees will be forfeited. If an existing licensee fails to provide required documentation, his or her license will either be administratively revoked or the license will not be renewed for calendar year 2012. If an individual is an MU2/control person of a licensee, then an action may ensue by the Department against the mortgage broker/lender licensee.

27. Q: What are the deadlines?

A: For issues solely related to financial responsibility/fitness the final deadline for receipt of **satisfactory and complete** information is October 31, 2011. Keep in mind that if an individual waits until October 2011 to provide his or her explanations and documentation, and those are not sufficient or complete, he or she may jeopardize the status of an existing license and the ability to renew it for calendar year 2012. The Department will strive to review all information received by it in a timely manner. Once a review is complete and the Department determines the licensee has demonstrated financial responsibility, the license status will be changed from "Approved-Conditional" to "Approved."