

**Supporting Statement for the  
Registration of Mortgage Loan Originators  
(Reg H-8; OMB No. 7100-0328)**

**Summary**

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to implement the Registration of Mortgage Loan Originators (Reg H-8; OMB No. 7100-0328). The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an “information collection.”<sup>1</sup>

On July 28, 2010, the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), the Farm Credit Administration (FCA) and the National Credit Union Administration (NCUA) (the agencies) issued the joint final rule titled Registration of Mortgage Loan Originators (75 FR 44656). The Board’s rule amends Regulation H to implement the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act or the Act) with respect to its regulated entities, enacted July 30, 2008. Along with the rule, the agencies proposed the information collection referred to above.

The Federal Reserve’s final rule requires employees of state member banks, certain subsidiaries of state member banks, branches and agencies of foreign banks that are regulated by the Board, and commercial lending companies of foreign banks who act as residential mortgage loan originators (MLOs) to register with the Nationwide Mortgage Licensing System and Registry, obtain a unique identifier, maintain this registration, and disclose to consumers the unique identifier. The rule also requires the institutions employing these MLOs to adopt and follow written policies and procedures to ensure their employees comply with these requirements and to disclose the unique identifiers of their MLOs. The Federal Reserve’s total annual burden for this information collection is estimated to be 933,957 hours.

**Background and Justification**

The S.A.F.E. Act mandates a nationwide licensing or registration system for MLOs. The Act requires the agencies to develop and maintain a federal registration system for those MLOs employed by agency-regulated institutions. The Act provides that the objectives of the registry are to aggregate and improve the flow of information to and between regulators, provide increased accountability and tracking of MLOs, enhance consumer protections, reduce fraud in the residential mortgage loan origination process, and provide consumers with easily accessible information at no charge regarding the employment history of, and publicly adjudicated disciplinary and enforcement actions against MLOs. There are no other information collections that require these reporting, recordkeeping, and disclosure requirements for agency-regulated institutions.

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<sup>1</sup> 44 U.S.C. § 3501 *et seq.*

## **Description of Information Collection**

The rule requires MLOs to register, obtain a unique identifier, and maintain their registration. The rule also requires depository institutions regulated by the agencies to ensure compliance of MLOs employed by their institution, including establishing written policies and procedures. These requirements are described in Sections 103 (a),(b),(d),(e), 104, and 105 of the final rule. Details of the requirements for each section are provided below.

**Mortgage Loan Originators (Sections 103(a), (b), (d) and 105).** Unless the de minimis exception or a different implementation period applies, Section 103(a) and (b) would require an employee of a depository institution who engages in the business of a MLO to register with the Registry, maintain such registration, and obtain a unique identifier. Section 103(d) describes the categories of information that an employee, or the employing depository institution on the employee's behalf, must submit to the Registry, with the employee's attestation as to the correctness of the information supplied, and his or her authorization to obtain further information. Section 105 would require a registered MLO to provide his or her unique identifier to a consumer upon request, before acting as a MLO, and through the originator's initial written communication with a consumer, if any.

**Depository Institutions (Sections 103(e), 104, and 105).** Section 103(e) specifies institution and employee information that a depository institution would submit to the Registry in connection with the initial registration of one or more MLOs and thereafter to update. Section 104 would require that an agency-regulation institution employing MLOs adopt and follow written policies and procedures, at a minimum addressing certain specified areas, but otherwise appropriate to the nature, size, complexity, and scope of their mortgage lending activities. Section 105 would require a depository institution to make the unique identifier(s) of its registered MLOs available to consumers in a manner and method practicable to the institution.

## **Time Schedule for Information Collection**

This information collection contains reporting, recordkeeping, and disclosure requirements, as described above. The registry must be updated at least annually, but on occasion within 30 days if there are certain changes. The disclosures to consumers are on occasion.

## **Sensitive Questions**

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

## **Consultation Outside the Agency and Discussion of Public Comments**

On June 9, 2009, the agencies published a notice in the *Federal Register* (74 FR 27386) requesting public comment for 60 days on the implementation of this information collection. The comment period for this notice expired on August 10, 2009. The agencies received approximately 140 comment letters. The comments addressed the need for the registration requirement, the scope of employees covered by the registration requirement, the *de minimis* exception from the registration requirement, the timeframe for the initial registration, the need for fingerprints, certain privacy and security concerns, and a request for batch processing of registrations. The agencies modified the rule to take into account many of these comments. However, none of the changes to the rule were significant enough to affect the burden estimates for the information collection. On July 28, 2010, the agencies published the final rule (75 FR 44656).

## **Legal Status**

The Board's Legal Division has determined that the Housing and Economic Recovery Act of 2008 (12 U.S.C. 5101 – 5116) authorize the Board to require the information collection. The information collection is mandatory.

The unique identifier of MLOs must be made public and is not considered confidential. In addition, most of the information that MLOs submit to register with the National Mortgage Licensing System and Registry will be publicly available. However, certain identifying data on individuals who act as MLOs is entitled to confidential treatment under (b)(6) of the Freedom of Information Act (FOIA), which protects from disclosure information that would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. 552(b)(6)).

With respect to the information collection requirements imposed on depository institutions, because the requirements require that depository institutions retain their own records and make certain disclosures to customers, FOIA would only be implicated if the Federal Reserve's examiners obtained a copy of these records as part of an examination or supervision of a bank are exempt from disclosure under FOIA exemption (b)(8), for examination material (5 U.S.C. 552(b)(8)).

## **Estimate of Respondent Burden**

The total estimated annual burden for this information collection is 933,957 hours, as shown in the table below. The Federal Reserve estimates that there are 27,000 MLOs for Federal Reserve-regulated entities and that it will take each MLO 3.5 hours to register initially and disclose their unique identifier to consumers. The Federal Reserve also estimates that half of those MLOs will need to update their registration each year and it will take 15 minutes to provide these updates. Finally, the Federal Reserve estimates that 2,382 regulated institutions would take 351 hours to implement policies and procedures, establish tracking and compliance systems, and establish reporting, filing, and information dissemination systems. Most of the burden will only occur during the first year of implementation. This burden represents 9 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated hours per response</i>	<i>Estimated annual burden hours</i>
MLOs – initial set up and disclosure	27,000	1	3.50	94,500
MLOs – updates for changes	13,500	1	.25	3,375
Depository Institutions	2,382 <sup>2</sup>	1	351	<u>836,082</u>
<i>Total</i>				933,957

The current annual cost to the public of this information collection is estimated to be \$48,192,181.<sup>3</sup>

### **Estimate of Cost to the Federal Reserve System**

Federal Reserve System supervision staff would review the information as part of their normal work assignments and there would be no additional staffing costs.

<sup>2</sup> Of these respondents, 500 are small entities as defined by the Small Business Administration (i.e., entities with less than \$175 million in total assets)  
[www.sba.gov/contractingopportunities/officials/size/table/index.html](http://www.sba.gov/contractingopportunities/officials/size/table/index.html).

<sup>3</sup> Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (10% Office and Administrative Support @ \$16, 50% Financial Managers @ \$48, 20% Chief Executives @ \$76, and 20% Legal Counsel @ \$54). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2008, [www.bls.gov/news.release/ocwage.nr0.htm](http://www.bls.gov/news.release/ocwage.nr0.htm). Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>.