

**Supporting Statement for
OMB Control Number 1557-NEW
Registration of Mortgage Loan Originators**

A. Justification

1. Circumstances that make the collection necessary:

The OCC, Federal Reserve, FDIC, OTS, NCUA, and the Farm Credit Administration (FCA) have issued a joint notice of proposed rulemaking to implement the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act).¹ The S.A.F.E. Act requires an employee of a bank, savings association, or credit union and their subsidiaries regulated by a Federal banking agency or an employee of an institution regulated by the FCA (Agency-regulated institutions) who engages in the business of a residential mortgage loan originator to register with the Nationwide Mortgage Licensing System and Registry (Registry) and obtain a unique identifier. The notice of proposed rulemaking implements these requirements and specifies that these Agency-regulated institutions must require their employees who act as residential mortgage loan originators to comply with the Act's requirements to register and obtain a unique identifier and must adopt and follow written policies and procedures to assure compliance with these requirements.

2. Use of the information:

The objectives of the Registry, among other things, are to aggregate and improve the flow of information to and between regulators; provide increased accountability and tracking of mortgage loan originators; 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 the publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators.

Under the Act, Agencies must jointly develop and maintain a system for registering mortgage loan originators employed by Agency-regulated institutions with the Registry. In connection with this registration, the Agencies at a minimum must furnish or cause to be furnished to the Registry information concerning the loan originator's identity, including: (1) fingerprints for submission to the Federal Bureau of Investigations (FBI) and any other relevant governmental agency for a State and national criminal background check; and (2) personal history and experience, including authorization for the Registry to obtain information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

The definitions of "Nationwide Mortgage Licensing System and Registry" or "Registry" are based on the definition included in the S.A.F.E. Act. These terms refer to the system developed and maintained by the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators, as operated by the State Regulatory

¹ Title V of the Housing and Economic Recovery Act of 2008, Pub. L. 110-289.

Registry (SRR), a subsidiary of CSBS, for the State licensing and registration of State-licensed mortgage loan originators and the registration of mortgage loan originators pursuant to section 1507 of the S.A.F.E. Act. The NMLSR currently supports the State licensing and registration of State mortgage loan originators. The Agencies are working with the CSBS to modify the NMLSR to support for the registration of Federally-registered mortgage loan originators.

When fully operational, mortgage loan originators and their Agency-regulated employing institutions will be able to access the Registry, seven days a week, to complete initial registrations and to update, amend and renew registrations. CSBS will phase-in system enhancements to provide consumers with access to the Registry in order to obtain information on State-licensed and Federally-registered mortgage loan originators.

3. Consideration of the use of improved information technology:

National banks may adopt any existing technology relevant to producing or delivering the information.

4. Efforts to identify duplication:

There is no duplication. The information is not available from any other source.

5. Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:

This collection of information imposes on banks, regardless of size, only the minimum burden necessary to accomplish the program objectives discussed in Items 1 and 2. The collection does not have a significant impact on a substantial number of small entities. The proposal does, however, provide an exception for originators and national banks who originate a de minimis number (5/25, respectively) of residential loans.

6. Consequences to the Federal program if the collection were conducted less frequently:

The Agencies would be unable to meet the requirements of the statute.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

Not applicable. This collection will be conducted consistent with the guidelines in 5 CFR 1320.6.

8. Efforts to consult with persons outside the agency:

On June 9, 2009, the Agencies published a notice of proposed rulemaking (NPRM) in the Federal Register (74 FR 27386) requesting public comment on the proposed rule and proposed information collection. The Agencies have also been consulting with and obtaining input from CSBS.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

No assurance of confidentiality is made.

11. Justification for questions of a sensitive nature:

Questions of a sensitive nature are required by statute.

12. Burden estimates:

As shown below, the total annual burden of 1,048,544.5 hours comprises recordkeeping, disclosure and reporting burden for National banks, Federal branches and agencies of foreign banks, their operating subsidiaries, and employees who are loan originators.

MLO Reporting Requirements.

Unless the de minimis exception or a different implementation period applies, § 34.103(a) would require an employee of a bank who engages in the business of a mortgage loan originator to register with the National Mortgage License System and Registry (Registry), maintain such registration, and obtain a unique identifier. Under § 34.103(b), a bank must require each such registration to be renewed annually and updated within 30 days of the occurrence of specified events. Section 34.103(d) describes the categories of information that an employee, or the employing bank in the employee's behalf, must submit to the Registry, along with the employee's attestation as to the correctness of the information supplied, and his/her authorization to obtain further information. The OCC estimates that to comply with the MLO reporting requirements, the 117,772 MLO respondents will take on average 2.50 hours annually for a total estimated burden hours for MLO reporting of 294,430 hours.

MLO Disclosure Requirement.

Section 34.105 (b) requires the MLO to provide the Unique Identifier to a consumer upon request. The OCC estimates that to comply with the MLO disclosure requirements, the 117,772 MLO respondents will take on average one hour annually for a total estimated burden of 117,772 hours.

Financial Institution Reporting Requirements.

Section 34.103(e) specifies institution and employee information that a bank must submit to the Registry in connection with the initial registration of one or more mortgage loan originators, and thereafter to update. The OCC estimates that to comply with the bank disclosure requirements, the 1,771 bank respondents will take on average one hour annually for a total estimated burden of 1,771 hours.

Financial Institution Disclosure Requirements.

Section 34.105(a) would require the bank to make the unique identifier of MLO employees available to consumers in a manner and method practicable to the institution. The OCC estimates that to comply with the bank disclosure requirements, the 1,771 bank respondents will spend an average of 50 hours during the first year to set up its systems for a total estimated burden of 88,550 hours. The burden hours during ensuing years will be informed by actual experience, but are anticipated to be substantially fewer in number.

Financial Institution Recordkeeping Requirements.

Section 34.103(d)(1)(xii) would require the collection of MLO employee fingerprints. The OCC estimates that to comply with this bank recordkeeping requirement, the 1,771 bank respondents will take on average 40 hour during the first year to set up applicable systems. The burden hours during ensuing years will be informed by actual experience, but are expected to be substantially fewer in number.

Section 34.104 would require that a bank employing mortgage loan originators to:

- Adopt and follow written policies and procedures, at a minimum addressing certain specified areas, but otherwise appropriate to the nature, size and complexity of their mortgage lending activities. The OCC estimates that to comply with this bank recordkeeping requirement, the 1,771 bank respondents will take on average 100 hours during the first year. The burden hours during ensuing years will be informed by actual experience, but are expected to be substantially fewer in number.
- Establish reasonable procedures and tracking systems for monitoring registration compliance. The OCC estimates that to comply with this bank recordkeeping requirement, the 1,771 bank respondents will take on average 120 hours during the first year. The burden hours during ensuing years will be informed by actual experience, but are expected to be substantially reduced.
- Establish a process for, and maintain records related to, employee criminal history background reports and actions taken with respect thereto. The OCC estimates that to comply with this bank recordkeeping requirement, the 1,771 bank respondents will take on average 40 hour during the first year to set up applicable systems. The burden hours during ensuing years will be informed by actual experience, but are anticipated to be substantially fewer in number.

Number of Bank Respondents: 1,771 (1,464 national banks; 307 operating subsidiaries)

Burden per Bank for Initial Set up: 351 hours (220 hours to implement policies and procedures and establish tracking and compliance systems; 131 hours to establish reporting, filing, and information dissemination systems)

Total Bank Burden for Initial Set up: 621,621

Number of MLO Employees for Initial Set up: 117,772

Burden Per MLO Employee for Initial Set up: 3.50 hours (2.50 hours to provide information to Registry, and 1 hour to provide Unique Identifier to a consumer, upon request and at initial contact)

Total Burden for MLO Employees for Initial Set up: 412,202 hours

Number of MLO Employees for Registration Update: 58,886

Burden Per MLO Employee for Registration Update: 0.25 hours

Total Burden for MLO Employees for Registration Update: 14,721.5 hours

Annual Burden: 1,048,544.5 hours

The OCC estimates the cost of the hour burden to respondents as follows:

MLO Cost: 426,923.5 hours @ \$20/hour = \$8,538,470

Bank Cost:

Support Staff: 40% of 621,621 hours @ \$25/hour = \$6,216,210

Professional Staff: 50% of 621,621 @ \$55/hour = \$17,094,577.50

Senior Management: 5% of 621,621 @ \$100/hour = \$3,108,105

Legal Counsel: 5% of 621,621 @ \$144/hour = \$4,475,671.20

Registration fees:

Registration fees of approximately \$30 per bank = \$7,420,000

Total Cost: \$46,853,033.70

13. Estimates of annualized costs to respondents:

Not applicable.

14. Estimate of annualized costs to the government:

Not applicable.

15. Change in burden:

+ 119,543 respondents + 1,048,544.5 hours

The increase in burden is due to the fact that this is a new collection.

16. Information regarding collections whose results are planned to be published for statistical use:

The OCC has no plans to publish the data for statistical purposes.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

None.

- B. Collections of Information Employing Statistical Methods

Not applicable.