

Supporting Statement
Registration of Mortgage Loan Originators – SAFE Act
OMB No. 3064-0171

A. Justification

1. Circumstances and Need

This statement supports a request for OMB renewal of collections of information contained in a rulemaking jointly issued by the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the National Credit Union Administration (Agencies) to implement the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act) which was enacted as Title V of the Housing and Economic Recovery Act of 2008, Pub. L. No.110-289. The S.A.F.E. Act requires an employee of a bank, savings association, or credit union and their subsidiaries regulated by one of the Agencies or an employee of an institution regulated by the Farm Credit Administration (collectively, Agency-regulated institutions), who engages in the business of a residential mortgage loan originator (MLO) to register with the Registry and obtain a unique identifier. This proposal implements these requirements. It also provides that these Agency-regulated institutions must require their employees, who act as MLO's to comply with this 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. The FDIC regulation implementing the SAFE Act is codified at 12 CFR Part 365.

2. Description of the Information Collection and Its Use

The information collected is designed to improve the flow of information to and between regulators; provide accountability and tracking of MLO's 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 publicly adjudicated disciplinary and enforcement actions against, MLO's.

3. Use of Technology to Reduce Burden

Federal registration and state licensing and registration must be completed through the Nationwide Mortgage Licensing System and Registry; a web-based system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage regulators jointly through the State Regulatory Registry LLC. The electronic form is stored in a secured, centralized repository.

4. Efforts to Identify Duplication

Substantially all of the information collected is not otherwise available.

5. Minimizing the Burden on Small Entities

As discussed in connection with the Regulatory Flexibility Act (RFA), approximately 3,274 FDIC-supervised banks are small entities (defined for purposes of the RFA to include banks with less than \$175 million in assets). However, the proposed rule would not apply to approximately 2,430 of those small entities because they originate 25 or fewer residential mortgage loans annually and therefore would qualify for the de minimis exception. Only approximately 844 small entities supervised by the FDIC – about 26% of FDIC-supervised small entities – would be subject to the requirements of the proposed rule.

6. Consequence of Less Frequent Collections

Compliance with the S.A.F.E. Act requires timely registration, annual registration renewals and maintaining the accuracy of information supplied.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

The FDIC published a 60-day Federal Register notice on July 24, 2012 (77 FR 43282) seeking public comment on renewal of the information collection. No comments were received.

9. Payment to Respondents

None.

10. Confidentiality

Information deemed confidential is exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552).

11. Information of a Sensitive Nature

None.

12. Burden Estimate

Previous Burden Estimates

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average time per response</i>	<i>Estimated annual burden hours</i>
Reporting:				
MLO Initial & Annual Registration Section 365.103(a)	49,719	1	2.5 hours	124,297.5
MLO Change in Circumstances Update – Section 365.103(b)	24,860	1	0.25 hours	6,215
Institution submission of information to Registry – Section 365.103(e)	5371	1	1 hour	5,371
Sub-total Reporting				135,884
Disclosures:				
Institution disclosure of unique identifier or MLO employees – Section 365.105(a)	5371	1	50 hours	268,550
MLO disclosure of unique identifier upon request – Section 365.105(b)	49,719	1	1 hour	49,719
Sub-total Disclosures				318,269
Recordkeeping:				
MLO employee fingerprints Section 365.103(d)(xii)	5371	1	40 hours	214,840
Written policies and procedures -- Section 356.104	5371	1	100 hours	537,100
Procedures and tracking systems for monitoring registration compliance – Section 356.104	5371	1	120 hours	644,520
Employee criminal history background reports – Section 356.104	5371	1	40 hours	214,840
Sub-total Recordkeeping				1,611,300
Total Estimated Burden				2,065,453

Revised Burden Estimates

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average time per response</i>	<i>Estimated annual burden hours</i>
Reporting:				
MLO Initial & Annual Registration Section 365.103(a)	59,292	1	0.25 hours	14,823
MLO Annual update Section 365.103(b)	29,646	1	0.25 hours	7,412
Institution submission of information to Registry – Section 365.103(e)	4080	1	0.25 hours	1,020
Sub-total Reporting				23,255
Disclosures:				
Institution disclosure of unique identifier or MLO employees – Section 365.105(a)	4080	1	25 hours	102,000
MLO disclosure of unique identifier upon request – Section 365.105(b)	59,292	1	1 hour	59,292
Sub-total Disclosures				161,292
Recordkeeping:				
MLO employee fingerprints Section 365.103(d)(xii)	4080	1	4 hours	16,320
Written policies and procedures -- Section 356.104	4080	1	20 hours	81,600
Procedures and tracking systems for monitoring registration compliance – Section 356.104	4080	1	60 hours	244,800
Employee criminal history background reports – Section 356.104	4080	1	20 hours	81,600
Sub-total Recordkeeping				424,320
Total				608,867

Section-by-section analysis

MLO Reporting Requirements. Unless the de minimis exception or a different implementation period applies, §365.103(a) requires an employee of a bank who engages in the business of a residential mortgage loan originator to register with the Registry, maintain such registration, and obtain a unique identifier. The FDIC estimates that to comply with the MLO reporting requirements the 9,573 new MLO respondents will take on average 2.50 hours annually for initial registration, for a total estimated burden hours for MLO *initial* reporting of 2,393.25 hours. Under §365.103 (b), a bank must require each such registration to be renewed annually and updated within 30 days of the occurrence of specified events. The FDIC estimates that 49,719 existing MLO employees will be required to *renewed* annually, which will take on average .25 hours, for a total estimated burden for registration renewal of 12,429.75 hours. The total estimate of MLO burden hours for initial registration and renewal of registration is, therefore, **14,823** hours. In addition, the FDIC estimates that 29,646 MLO employees will be required to annually *update* their registrations upon the occurrence of specified events, which will take 15 minutes on average, for a total estimate of MLO burden hours of **7,412** hours.

MLO Disclosure Requirement. Section 365.105 (b) requires the MLO to provide the unique identifier to a consumer upon request. The FDIC estimates that to comply with the MLO disclosure requirements, the 59,292 MLO respondents will take on average one hour annually for a total estimated burden of **59,292** hours for MLO disclosure.

Financial Institution Reporting Requirements. Section 365.103(e) specifies institution and employee information that a bank must submit to the Registry in connection with the initial registration of one or more MLO's, and thereafter to update. The FDIC estimates that to comply with the bank disclosure requirements, the 4080 bank respondents will take on average 15 minutes annually for a total estimated burden of **1,010** hours for MLO disclosure.

Financial Institution Disclosure Requirements. Section 365.105 (a) requires the bank to make the unique identifier of MLO employees available to consumers in a manner and method practicable to the institution. The FDIC estimates that to comply with the bank disclosure requirements, the 4080 bank respondents will take on average 25 hours to make the required disclosures for a total estimated burden of **102,000** hours for bank disclosures.

Financial Institution Recordkeeping Requirements.

Section 365.103(d)(xii) requires the collection of MLO employee fingerprints. The FDIC estimates that to comply with this bank recordkeeping requirement, the 4080 bank respondents will take on average 4 hours maintaining fingerprint records for a total estimated burden of **16,320** hours.

Section 365.104 requires that a bank employing MLO's:

- 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 FDIC estimates that annual review and adjustment as necessary of already established policies and procedures by the 4080 bank respondents will take on average 20 hours, for a total estimated annual burden of **81,600** hours.
- Establish reasonable procedures and tracking systems for monitoring registration compliance. The FDIC estimates that annual review and adjustment as necessary of already established procedures and tracking systems to monitor registration compliance by the 4080 bank respondents will take on average 60, for a total estimated burden hours of **244,800** hours.
- Establish a process for, and maintain records related to, employee criminal history background reports and actions taken with respect thereto. The FDIC estimates that to comply with this bank recordkeeping requirement, the 4080 bank respondents will take on average 20 hours per year, for a total estimated annual burden of **81,600** hours.

The FDIC estimates the cost burden to respondent banks as follows:

Bank-Implement Policies and Procedures, Maintain Criminal Report Records and Tracking Systems for Compliance

Support Staff	40% x (527,340) = 210,936@ \$25 =	\$ 5,273,400
Professional Staff	50% x (527,340) = 263,670@\$55 =	\$14,501,850
Senior Management	5% x (527,340) = 26,367@\$100 =	\$ 2,636,700
Legal Counsel	5% x (527,340) = 26,367@\$144 =	\$ <u>3,796,848</u>
		\$ 26,208,798

Mortgage Loan Originator- Registration/Update

81,527@\$20=	\$ <u>1,630,540</u>
Total:	\$27,839,338*

13. Capital, Start-Up and Maintenance Costs

None

14. Estimated Annual Cost to the Federal Government

None

15. Reason for Change in Burden

The change in burden hours of -1,456,586 hours is an adjustment that reflects the elimination of one-time burden hours associated with development of policies and procedures, tracking systems, and initial registration requirements; a decrease in the number of respondent institutions; and an increase in the number of mortgage loan originator respondents.

16. Publication

The public will have access to information in the Registry about a MLO's employment history and publicly adjudicated enforcement actions.

17. Display of Expiration Dates

Not applicable.

18. Exceptions to Certification

None.

B. Statistical Methods

Not applicable.

**Hourly rates for occupational groups are averages using data from the BLS Occupational Classification System, and the average consumer cost of \$20 is estimated from the BLS Economic News Release (Table B-3. Average hourly and weekly earnings of production and non-supervisory workers (1) on private non-farm payrolls by industry sector and selected industry detail).*