

**Supporting Statement for the
Registration of Mortgage Loan Originators
(CFPB Regulation G; 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 extend for three years, without revision, the Registration of Mortgage Loan Originators (CFPB Regulation G; OMB No. 7100-0328). The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an information collection.¹ The PRA requires the Federal Reserve to renew authority for information collections every three years.

On July 28, 2010, the Federal Reserve amended Regulation H to implement the Secure and Fair Enforcement for Mortgage Licensing Act (the S.A.F.E. Act) with respect to its regulated entities, enacted July 30, 2008.² On July 21, 2011, provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred certain S.A.F.E. Act responsibilities to the Consumer Financial Protection Bureau (CFPB), including rulemaking authority for all federal depository institutions and supervisory authority for S.A.F.E. Act compliance for entities under the CFPB's jurisdiction. On December 19, 2011, the CFPB published an interim final rule establishing a new Regulation G,³ S.A.F.E. ACT Mortgage Licensing Act — Federal Registration of Residential Mortgage Loan Originators.⁴ The CFPB's rule did not impose any new substantive obligations on regulated persons or entities. The Federal Reserve retains supervisory authority for S.A.F.E. Act compliance for most Federal Reserve-supervised entities with consolidated assets of \$10 billion or less.

The CFPB's Regulation G requires employees of state member banks, certain subsidiaries of state member banks, branches and agencies of foreign banks that are regulated by the Federal Reserve, 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 (the Registry), obtain a unique identifier, maintain this registration, and disclose to consumers upon request and through the Registry their unique identifier, and the MLO's employment history and publicly adjudicated disciplinary and enforcement actions. The CFPB's regulation 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 109,972 hours.

¹ 44 U.S.C. § 3501 *et seq*

² 75 FR 44656 (July 28, 2010). See also the revised *Federal Register* preamble at 75 FR 51623 (August 23, 2010).

³ 12 CFR 1007.

⁴ 76 FR 78483.

Background and Justification

The S.A.F.E. Act required the Federal Reserve Board, Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), Office of Thrift Supervision (OTS), National Credit Union Administration (NCUA), and the Farm Credit Administration (FCA) (collectively, the agencies) to jointly implement rules and develop and maintain a federal registration system for those MLOs employed by agency-regulated institutions. As noted above, the Dodd-Frank Act subsequently transferred rulemaking authority and the requirement to maintain a federal registration system to the CFPB. 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.

Description of Information Collection

The CFPB's Regulation G requires MLO employees of federally regulated depository institutions to register, obtain a unique identifier, and maintain their registration. The regulation also requires Federal Reserve-supervised entities to ensure compliance by their MLO employees and establish written policies and procedures. These requirements are described in 12 CFR sections 1007.103(a),(b),(d) & (e), 1007.104, and 1007.105. Details of the requirements for each section are provided below.

Sections 1007.103(a), (b), (c)(2) and (d) (Registration of mortgage loan originators) and Section 1007.105 (Use of unique identifier): Generally, sections 1007.103(a) and (b) 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 an unique identifier. Section 1007.103(c)(2) provides that a renewal or update pursuant to section 1007.103 (b) is effective on the date the Registry transmits notification to the registrant that the registration has been renewed or updated. Section 1007.103(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 1007.105 requires 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 - Section 1007.103(e) (Registration of mortgage loan originators); Section 1007.104 (Policies and procedures); and Section 1007.105 (Use of unique identifier): Section 1007.103(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 1007.104 requires that an agency-regulated 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 1007.105 requires 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

All of the CFPB's rulemaking activities under its Regulation G are subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. 551 et seq. On April 18, 2014 the Federal Reserve published a notice in the *Federal Register* (79 FR 21926) requesting public comment for 60 days on this proposal. The comment period for this notice expired on June 17, 2014. The Federal Reserve did not receive any comments. A final notice was published in the *Federal Register* on July 18, 2014 (79 FR 42010).

Legal Status

The Board's Legal Division has determined that Section 1507 of the S.A.F.E. Act, (12 U.S.C. § 5106), requires that the CFPB develop and maintain a system for registering individual MLOs of covered financial institutions supervised directly by the CFPB or regulated by a federal banking agency with the Nationwide Mortgage Licensing System and Registry. Section 1504 of the S.A.F.E. Act, (12 U.S.C. § 5103), requires that an individual desiring to engage in the business of a loan originator maintain an annual federal registration (or be licensed by an equivalent state regulatory scheme) and appear on the Registry with a unique identifier. Section 1007.103 of Regulation G implements this registration scheme on behalf of the Bureau, and Section 1007.105 of Regulation G requires that covered financial institutions provide the unique identifiers of MLOs to consumers. (12 C.F.R. §§ 1007.103, -.105). This 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 in order to register

with the Nationwide Mortgage Licensing System and Registry will be publicly available. However, certain identifying data on individuals who act as MLOs are 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 are that depository institutions retain their own records and make certain disclosures to customers, the FOIA would only be implicated if the Federal Reserve examiners obtained a copy of these records as part of the examination or supervision process of a financial institution. However, records obtained in this manner are exempt from disclosure under FOIA exemption (b)(8), regarding examination-related materials. (5 U.S.C. § 552(b)(8)).

Estimate of Respondent Burden

The total annual burden for this information collection is estimated to be 109,972 hours, as shown in the table below. The Federal Reserve estimates that there are 19,124 MLOs for Federal Reserve-regulated entities and on average would take 0.85 hours to maintain their registrations annually. In addition, the Federal Reserve estimates that growth in the number of MLOs employed by these entities may increase by approximately 268 and would take, on average, 3.5 hours to register initially and disclose their unique identifier to consumers. The Federal Reserve also estimates that 9,562, half of existing MLOs, would need to update their registration each year and would take, on average, 15 minutes to provide these updates. Finally, the Federal Reserve estimates that 766 regulated institutions would take on average 118 hours to maintain policies and procedures, monitor tracking and compliance systems, and maintain reporting, filing, and information dissemination systems. This burden represents less than 1 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>
Section - .103(a)				
MLOs (<i>new</i>)				
Initial set up and disclosure	268	1	3.50	938
Section - .103(b)				
MLOs (<i>existing</i>)				
Maintenance and disclosure	19,124	1	.85	16,255
Section - .103(c)(2)				
MLOs (<i>existing</i>)				
Updates for changes	9,562	1	.25	2,391
Sections: .103(e), .104, .105				
Depository Institutions, and subsidiaries				
	766 ⁵	1	118	<u>90,388</u>
<i>Total</i>				109,972

The current annual cost to the public of this information collection is estimated to be \$4,965,236.⁶

Estimate of Cost to the Federal Reserve System

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

⁵ Of these respondents, 580 are small entities as defined by the Small Business Administration (i.e., entities with less than \$500 million in total assets)
www.sba.gov/contractingopportunities/officials/size/table/index.html.

⁶ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (40% Office & Administrative Support at \$18, 50% Financial Managers at \$61, 5% Lawyers at \$63, and 5% Chief Executives at \$86). Hourly rate for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2013, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/