

**Supporting Statement for the  
Registration of Mortgage Loan Originators  
(CFPB G; OMB No. 7100-0328)**

**Summary**

The Board of Governors of the Federal Reserve System (Board), 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 G; 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> The PRA requires the Board to renew authority for information collections every three years.

In accordance with the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), the Consumer Financial Protection Bureau's (CFPB) Regulation G (S.A.F.E. Mortgage Licensing Act - Federal Registration of Residential Mortgage Loan Originators) requires 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 conduct annual independent compliance tests to assure compliance. The CFPB's rule applies to a broad range of financial institutions and their employees, including Board-supervised institutions/employees, such as state member banks and their non-functionally-regulated subsidiaries, state uninsured branches and agencies of foreign banks, and commercial lending companies owned or controlled by foreign banks. The estimated total annual burden for Board-regulated entities and their MLOs in connection with this information collection is estimated to be 109,159 hours.

**Background and Justification**

The S.A.F.E. Act, enacted on July 30, 2008, required the Board, Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), former Office of Thrift Supervision (OTS), National Credit Union Administration (NCUA), and Farm Credit Administration (FCA) to jointly implement rules and develop and maintain a federal registration system for those MLOs employed by agency-regulated institutions. The S.A.F.E. 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. On July

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

28, 2010, the Board amended Regulation H to implement the S.A.F.E. Act with respect to its regulated entities.<sup>2</sup>

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 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.<sup>3</sup> On December 19, 2011, the CFPB published an interim final rule establishing a new Regulation G,<sup>4</sup> S.A.F.E. Mortgage Licensing Act - Federal Registration of Residential Mortgage Loan Originators.<sup>5</sup> The CFPB's rule did not impose any new substantive obligations on regulated persons or entities beyond the obligations that had been in the rules of the Board and the other agencies. The Board retains supervisory authority for S.A.F.E. Act compliance for most Board-supervised entities with consolidated assets of \$10 billion or less.

## **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 Board-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, 1007.104, and 1007.105. Details of the requirements for each section are provided below.

**Sections 1007.103(a), (b), (c)(1), (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 that engages in the business of a MLO to register with the Registry, maintain such registration, and obtain a unique identifier. Section 1007.103(c)(1) provides that registration pursuant to section 1007.103(a)(1) is effective on the date the Registry transmits notification to the registrant that the registrant is registered. 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.

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<sup>2</sup> See 75 FR 44656 (July 28, 2010). See also 75 FR 51623 (August 23, 2010) (correcting footnote numbering in preamble to 75 FR 44656).

<sup>3</sup> The Dodd-Frank Act transferred to the CFPB examination and enforcement responsibility for the S.A.F.E. Act for insured depository institutions with over \$10 billion in total consolidated assets and their affiliates (collectively, covered institutions). For state member banks with less than \$10 billion in total consolidated assets that are not affiliated with a covered institution, the Board retained its S.A.F.E. Act examination and enforcement authority.

<sup>4</sup> See 12 CFR 1007.

<sup>5</sup> See 76 FR 78483 (December 19, 2011).

**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 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 its 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 for 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 within 30 days if there are certain changes. There are also episodic disclosures to consumers.

### **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 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 the CFPB's Regulation G implements this registration scheme; section 1007.104 requires the adoption of appropriate policies and procedures by covered financial institutions; and section 1007.105 requires that covered financial institutions provide the unique identifiers of MLOs to consumers (12 CFR 1007.103 - .105). Under Section 1061 of the Dodd-Frank Act (12 U.S.C. 5581(c)), "a transferor agency [such as the Board] that is a prudential regulator shall have ... "authority to require reports from ... conduct examinations for ... and enforce compliance with Federal consumer financial laws" with respect to the Board-supervised entities enumerated above. Therefore, the Board is authorized to collect this information with respect to the institutions we supervise for this purpose. This information collection is mandatory.

As noted above, 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 about 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 require that depository institutions retain their own records

and make certain disclosures to customers, the FOIA would only be implicated if the Board's 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)).

### **Consultation Outside the Agency**

On January 10, 2017, the Board published a notice in the *Federal Register* (82 FR 2995) requesting public comment for 60 days on the proposal to extend without revision, the CFPB G. The comment period for this notice expired on March 13, 2017. The Board did not receive any comments. On April 11, 2017, the Board published a final notice in the *Federal Register* (82 FR 17426).

### **Estimate of Respondent Burden**

The total annual burden for this information collection is estimated to be 109,159 hours. The Board estimates that growth in the number of MLOs employed by these entities may increase by approximately 173 and would take, on average, 3.5 hours to register initially and disclose their unique identifier to consumers. In addition, the Board estimates that there are 21,656 MLOs for Board-regulated entities, which would on average take 0.85 hours to maintain their registrations each year. The Board also estimates that 10,828, or half of existing MLOs, would need to update their registration each year and would take, on average, 0.25 hours to provide these updates. Finally, the Board estimates that 741 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. These reporting, recordkeeping, and disclosure requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

<b>CFBP G</b>	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>MLO employees</b>				
Initial registration	173	1	2.5	433
Initial disclosure	173	1	1	173
Maintenance	21,656	1	0.85	18,408
Updates	10,828	1	0.25	2,707
<b>Depository institutions</b>				
Policy and procedures	741 <sup>6</sup>	1	118	<u>87,438</u>
<i>Total</i>				109,159

The current annual cost to the public of this information collection is estimated to be \$5,992,829.<sup>7</sup>

### **Sensitive Questions**

This collection of information contains no questions of a sensitive nature, as defined by Office of Management and Budget guidelines.

### **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 costs.

<sup>6</sup> Of these respondents, 489 are estimated to be small entities as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets) [www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards](http://www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards).

<sup>7</sup> Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$18, 45% Financial Managers at \$67, 15% Lawyers at \$67, and 10% Chief Executives at \$93). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2016*, published March 31, 2017, [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, [www.bls.gov/soc/](http://www.bls.gov/soc/).