

**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 authority delegated by the Office of Management and Budget (OMB), has extended for three years, without revision, the Registration of Mortgage Loan Originators (CFPB G; OMB No. 7100-0328). In accordance with the Secure and Fair Enforcement for Mortgage Licensing Act (SAFE Act), the Consumer Financial Protection Bureau's (CFPB) Regulation G requires residential mortgage loan originators (MLOs) to register with the Nationwide Mortgage Licensing System and Registry (NMLS or Registry),¹ maintain this registration, obtain a unique identifier, 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 MLOs to adopt and follow written policies and procedures to ensure that their employees comply with these requirements and to conduct annual independent compliance tests. The CFPB's regulation applies to a broad range of financial institutions and their employees. Regarding entities supervised by the Board, the CFPB's regulation applies to state member banks (SMBs) with \$10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than \$10 billion; subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); and commercial lending companies owned or controlled by foreign banks; and their employees who act as MLOs.

The estimated total annual burden for the CFPB G is 103,191 hours.

Background and Justification

The SAFE 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 SAFE 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 28, 2010, the Board amended Regulation H - Membership of State Banking Institutions in the Federal Reserve System (12 CFR Part 208) to implement the SAFE Act with respect to its regulated

¹ <https://mortgage.nationwidelicencingsystem.org/Pages/default.aspx>.

entities.²

On July 21, 2011, provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) transferred certain SAFE Act responsibilities to the CFPB, including rulemaking authority for all federal depository institutions and supervisory authority for SAFE Act compliance for entities under the CFPB's jurisdiction.³ On December 19, 2011, the CFPB published an interim final rule establishing a new Regulation G,⁴ SAFE Mortgage Licensing Act - Federal Registration of Residential Mortgage Loan Originators.⁵ The Board subsequently repealed its regulations implementing the SAFE Act.⁶ 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 SAFE Act compliance for SMBs with \$10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than \$10 billion; subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); and commercial lending companies owned or controlled by foreign banks; and their employees who act as MLOs.

This information is not available from other sources.

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 an 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

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

³ The Dodd-Frank Act transferred to the CFPB examination and enforcement responsibility for the SAFE Act for insured depository institutions with over \$10 billion in total consolidated assets and their affiliates (collectively, covered institutions). For state member banks with \$10 billion or less in total consolidated assets that are not affiliated with a covered institution, the Federal Reserve retained its SAFE Act examination and enforcement authority.

⁴ 12 CFR 1007.

⁵ 76 FR 78483 (December 19, 2011).

⁶ 84 FR 21691 (May 15, 2019).

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 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.

Respondent Panel

The Board's CFPB Regulation G panel is comprised of SMBs with \$10 billion or less in total assets that are not affiliates of insured depository institutions with total assets of more than \$10 billion; subsidiaries of such SMBs that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956; branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks); and commercial lending companies owned or controlled by foreign banks (collectively, banking organizations), as well as employees of banking organizations who act as residential mortgage loan originators (MLOs).

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.

Public Availability of Data

Certain information that is derived Registry data is made available to the public through the NMLS's Consumer AccessSM portal, a free service for consumers to confirm that the financial services company or professional with whom they wish to conduct business is federally registered or authorized to conduct business in their state. The portal provides consumers with the unique identifiers and the employment history of, and the publicly adjudicated disciplinary and enforcement actions against, MLOs.⁷

⁷ Consumer AccessSM (<https://www.nmlsconsumeraccess.org/>) contains licensing/registration information on

Legal Status

The CFPB's Regulation G is authorized pursuant to the SAFE Act and the Dodd-Frank Act, which transferred to the CFPB the "consumer financial protection functions," including the SAFE Act, previously vested in certain other Federal agencies.⁸ The Board is authorized to enforce consumer financial protection functions, including the CFPB's Regulation G, with respect to SMBs with \$10 billion or less in total consolidated assets and their respective subsidiaries that are not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956 (see 12 U.S.C. § 1844(c)(5)) under section 1061 of the Dodd Frank Act (12 U.S.C. § 5581(c)). The International Banking Act of 1978 (IBA) requires every branch or agency of a foreign bank and every commercial lending company to conduct its operations in the United States in full compliance with provisions of any law of the United State which impose requirements that protect the rights of consumers in financial transactions, to the extent the branch, agency, or commercial lending company engages in activities that are subject to such laws (12 U.S.C. § 3106(a)(1)). The Board has authority to examine branches and agencies of foreign banks and commercial lending companies owned or controlled by foreign banks and to enforce the provisions of the IBA pursuant to sections 7 and 13 of the IBA (12 U.S.C. §§ 3105(c) and 3108(b)). The CFPB G 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 about individuals who act as MLOs may be 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

There has been no consultation outside the Federal Reserve System.

Public Comments

On January 16, 2020, the Board published an initial notice in the *Federal Register* (85 FR 2742) requesting public comment for 60 days on the extension, without revision, of the CFPB G.

mortgage, consumer finance, debt, and money services companies, branches, and individuals licensed by state regulatory agencies participating in the NMLS. It also contains information regarding federal agency-regulated institutions and their MLOs who are registered with the NMLS.

⁸ 12 U.S.C. § 5101 et seq; 12 U.S.C. § 5581.

The comment period for this notice expired on March 16, 2020. The Board did not receive any comments. On May 11, 2020, the Board published a final notice in the *Federal Register* (85 FR 27744).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the CFPB G is 103,191 hours. These reporting, recordkeeping, and disclosure requirements represent 1.1 percent of the Board’s total paperwork burden.

CFPB G	<i>Estimated number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reporting				
Section 1007.103(a)				
MLOs (new) initial set-up	396	1	2.5	990
Disclosure				
Section 1007.103(a)				
MLOs (new) disclosure	396	1	1.0	396
Recordkeeping				
Section 1007.103(b)				
MLOs (existing) maintenance and disclosure	22,844	1	0.85	19,417
Reporting				
Sections 1007.103(c)(1) and (2)				
MLOs (existing) updates for changes	11,422	1	0.25	2,856
Recordkeeping				
Sections 1007.103(e), 1007.104, and 1007.105				
Banking organizations	674 ⁹	1	118	<u>79,532</u>
	<i>Total</i>			103,191

The estimated total annual cost to the public for the CFPB G is \$5,959,280.¹⁰

Sensitive Questions

These collections of information contain no questions of a sensitive nature, as defined by

⁹ Of these respondents, 465 are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), <https://www.sba.gov/document/support--table-size-standards>.

¹⁰ 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 \$20, 45% Financial Managers at \$71, 15% Lawyers at \$70, 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 2019*, published March 31, 2020, <https://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.

OMB guidelines.

Estimate of Cost to the Federal Reserve System

The estimated cost to the Federal Reserve System for collecting and processing this information collection is negligible.