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, with 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 Multistate Licensing System (NMLS),[1] maintain this registration, obtain a unique identifier, and disclose to consumers upon request and through the NMLS 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,[2] and insured state branches of foreign banks); commercial lending companies owned or controlled by foreign banks; and their employees who act as MLOs.

The revisions update the CFPB G burden estimation methodology, including certain hourly burden estimates, in order to more accurately capture associated banking organization recordkeeping and disclosure burden. These revisions are effective immediately.

The current estimated total annual burden for the CFPB G is 87,317 hours, and would decrease to 23,366 hours. The revisions would result in a decrease of 63,951 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 NMLS 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

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[1] https://mortgage.nationwidelicensingsystem.org/Pages/default.aspx.

[2] The terms "federal agency" and "federal branch" have the same meanings as in section 1 of the International Banking Act of 1978 (12 U.S.C. § 3101). See 12 CFR 211.21.

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 entities.[3]

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.[4] On December 19, 2011, the CFPB published an interim final rule establishing a new Regulation G,[5] SAFE Mortgage Licensing Act - Federal Registration of Residential Mortgage Loan Originators.[6] The Board subsequently repealed its regulations implementing the SAFE Act.[7] 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 with the NMLS, maintain their registration, and obtain a unique identifier. 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 1007.103, 1007.104, and 1007.105. Details of the requirements for each section are provided below.

MLOs – 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 NMLS, 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 NMLS transmits notification to the registrant that the registrant is registered. Section

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[3] 75 FR 44656 (July 28, 2010). See also 75 FR 51623 (August 23, 2010) (correcting footnote numbering in preamble to 75 FR 44656).
[4] 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 SMBs 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.
[5] 12 CFR Part 1007.
[6] 76 FR 78483 (December 19, 2011).
[7] 84 FR 21691 (May 15, 2019).

1007.103(c)(2) provides that a renewal or update pursuant to section 1007.103(b) is effective on the date the NMLS 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 NMLS, 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 an 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 NMLS 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 G panel comprises 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); and the employees of these banking organizations who act as residential MLOs.

Frequency and Time Schedule

The CFPB G is retained or disclosed annually. MLOs registered with the NMLS must renew their registration, at least annually, but within 30 days if there are certain changes. There are also episodic disclosures to consumers.

Revisions to the CFPB G

As noted above, the Board adopted revisions to the CFPB G, updating its burden estimation methodology, including certain hourly burden estimates, in order to more accurately capture associated banking organization disclosure and recordkeeping burden. These revisions are effective immediately.

First, the Board accounted for section 1007.103(e) banking organization disclosure of registration information requirements burden separately from section 1007.104 banking organization recordkeeping requirements burden. The Board determined that it is more accurate to reflect the information collection burden associated with section 1007.103(e) requirements as disclosure requirements instead of as recordkeeping requirements, as was done previously.

Next, the Board revised the average annual estimated hourly burden per banking organization (for both banking organizations already subject to these requirements and banking organizations newly subject to these requirements) associated with section 1007.103(e) disclosure of registration information to 3.7 hours.

Additionally, the Board revised the average annual estimated hourly burden per banking organization already subject to section 1007.104 recordkeeping requirements to 7.0 hours and to revise the average annual estimated hourly burden per banking organization newly subject to section 1007.104 recordkeeping requirements to 114.3 hours. This represents a change from the Board's existing methodology, which estimated that the combined section 1007.103(e) and section 1007.104 average annual estimated hourly burden for all banking organizations is 118.0 hours. The revision reflects that the limited number of new banking organization respondents would incur a higher one-time burden to implement the requirements, whereas the majority of banking organization respondents that have already implemented the requirements would incur a much lower ongoing burden.

Finally, the Board determined that it is more accurate to reflect the information collection burden associated with section 1007.105 requirements as disclosure requirements instead of as recordkeeping requirements, as was done previously. The disclosures associated with section 1007.105 – disclosure of unique identifier – are primarily electronic and produce *de minimis* burden. Therefore, the Board will not estimate any associated burden for these disclosures.

Public Availability of Data

Certain information that is derived from NMLS data is made available to the public through the NMLS's Consumer Access^{SM} 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.[8]

Legal Status

The CFPB G is authorized pursuant to the SAFE Act (12 U.S.C. § 5101 et seq.), as amended by the Dodd-Frank Act (12 U.S.C. § 5581), and the CFPB's Regulation G. The Board is authorized under section 1061 of the Dodd-Frank Act to enforce consumer financial protection functions, including the CFPB's Regulation G, with respect to state member banks 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

[8] Consumer Access^{SM} (https://www.nmlsconsumeraccess.org/) contains licensing/registration information on 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.

of 1956 (12 U.S.C. § 5581(c)). The Board is authorized to enforce the CFPB's Regulation G with respect to branches and agencies of foreign banks and commercial lending companies owned or controlled by foreign banks under sections 7 and 13 of the International Banking Act of 1978 (IBA) (12 U.S.C. §§ 3105(c) and 3108(b)), which authorize the Board to examine such entities and enforce the IBA's requirement that such entities conduct their operations in the United States in full compliance with the provisions of any law of the United States which impose requirements that protect the rights of consumers in financial transactions (12 U.S.C. § 3106a(1)). The CFPB G is mandatory.

Most of the information submitted to register with the NMLS under the CFPB G will be publicly available. However, personnel and medical files of individuals who act as MLOs, the disclosure of which would constitute an unwarranted invasion of personal privacy, may be entitled to confidential treatment under exemption 6 of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(6)).

With respect to the information collection requirements imposed on depository institutions, the FOIA would 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. Records obtained in this manner may be protected from disclosure pursuant to exemption 8 of the FOIA (5 U.S.C. § 552(b)(8)).

Consultation Outside the Agency

The Board consulted with the CFPB, FDIC, and OCC with respect to the estimated burden of the CFPB G.

Public Comments

On January 27, 2023, the Board published an initial notice in the *Federal Register* (88 FR 5343) requesting public comment for 60 days on the extension, with revision, of the CFPB G. The comment period for this notice expired on March 28, 2023. The Board did not receive any comments. The Board adopted the extension, with revision, of the CFPB G as originally proposed. On June 7, 2023, the Board published a final notice in the *Federal Register* (88 FR 37250).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the CFPB G is 87,317 hours, and would decrease to 23,366 hours with the revisions. The MLO and banking organization respondent counts were calculated using data from the NMLS. The Board deducted CFPB-supervised institutions so as to avoid double-counting and determined the number of Small Business Administration (SBA)-defined "small entities" with assets of less than $850 million. The Board respondent counts assume that the growth (increase) in new MLOs likewise reflects the overall growth (increase) in loan officers. To calculate that growth rate, the Board used the Bureau of Labor Statistics' projection for the relevant period. Other related MLO assumptions include (1) all MLOs will renew their registration, (2) entities will hire replacement

MLOs for those who leave, and (3) one-half of MLOs will make a single change to their registry record during a year. The CFPB believes, and the Board agrees, that the disclosures associated with section 1007.105 – disclosure of unique identifier – are primarily electronic and produce *de minimis* burden; therefore, the Board does not estimate burden for these disclosures. These recordkeeping and disclosure requirements represent less than 1 percent of the Board's total paperwork burden.

CFPB G	*Estimated number of respondents*[9]	*Estimated annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Current				
Recordkeeping				
Sections 1007.103(e), 1007.104, and 1007.105 Banking organizations	597	1	118.0	70,446
Disclosure				
Section 1007.103(a) MLOs (new) initial set-up and disclosure	167	1	3.5	585
Section 1007.103(b) MLOs (existing) maintenance and disclosure	16,703	1	0.85	14,198
Sections 1007.103(c)(1) and (2) MLOs (existing) updates for changes	8,352	1	0.25	2,088
Current Total				87,317
Proposed				
Recordkeeping				
Section 1007.104 Banking organizations (new)	1	1	114.3	114
Section 1007.104 Banking organizations (existing)	596	1	7.0	4,172
Disclosure				
Section 1007.103(a) MLOs (new) initial set-up and disclosure	167	1	3.5	585
Section 1007.103(b)	16,703	1	0.85	14,198

[9] The respondent panel includes both banking organizations and MLOs. Of these respondents, 1 for banking organizations (new) recordkeeping row, 398 for banking organizations (existing) recordkeeping row, none for MLOs rows, and 399 for banking organizations (existing and new) disclosure of registration information row are considered small entities as defined by the SBA (i.e., entities with less than $850 million in total assets). Size standards effective March 17, 2023. See https://www.sba.gov/document/support-table-size-standards. There are no special accommodations given to mitigate the burden on small institutions.

MLOs (existing) maintenance and disclosure Sections 1007.103(c)(1) and (2)				
MLOs (existing) updates and changes	8,352	1	0.25	2,088
Section 1007.103(e) Banking organizations (existing and new) disclosure of registration information	597	1	3.7	2,209
Proposed Total				23,366
Change				(63,951)

The estimated total annual cost to the public for the CFPB G is $5,784,751, and would decrease to $1,547,998 with the revisions.[10]

Sensitive Questions

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

[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 $22, 45% Financial Managers at $80, 15% Lawyers at $79, and 10% Chief Executives at $118). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor Statistics (BLS), *Occupational Employment and Wages, May 2022*, published April 25, 2023, https://www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Standard Occupational Classification System, https://www.bls.gov/soc/.