

PRIVACY IMPACT ASSESSMENT

Construction Loan Management (CLM)

October 2015

FDIC External Services

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System Overview

The Federal Deposit Insurance Corporation's (FDIC's) mission is to maintain stability and public confidence in the nation's financial system. As part of fulfilling that mission, the FDIC's Division of Resolution and Receiverships (DRR) arranges for resolution of failed financial institutions (FIs) it insures. When an FDIC-insured FI fails, the resolution of open and ongoing Acquisition Development and Construction (ADC) projects, including but not limited to those with fully funded or partially funded loan commitments, represents a particularly challenging part of the process.

Based on the current volume, risk exposure, and complexity of construction lending encountered at bank closings, the FDIC has a need for a specialized and experienced group of professionals with extensive experience in the practice of construction loan management. Depending on specific situations, an array of services may be required including analysis of loan portfolios, construction risk management, funding management, budget control, construction project management, loan workout and settlement, and property preservation. The purpose of these services is to assist the FDIC with achieving their project management objectives as applied to construction loans and portfolios in the construction and post construction phases. Additionally, FDIC may require the vendors to perform services in support of the development of a resolution strategy designed to maximize recovery on loans or collateral in the various phases of development. For these purposes, the FDIC/DRR has contracted the services of Construction Loan Management (CLM) vendors, currently including Granite Loan Management, Marx Okubo, and Epperson Real Estate Consulting.

Construction loan portfolios may vary in size, type, and location. The quality of the credit and documentation may also vary. Standard or unique loan terms may be fully or partially funded in various phases of construction. The number and type of FIs requiring services of this nature is unknown as it is dependent on resolution activities undertaken by the FDIC/DRR.

The CLM vendors are required to identify and summarize all data available on the lender's construction loan portfolio for the purposes of performing an assessment of each loan and preparing the data (i.e. developing construction loan reports, facilitating the ordering of valuations and construction appraisals, etc.) for the FDIC/DRR.

Personally Identifiable Information (PII) - CLM

CLM collects personally identifiable information (PII) that may include: full name; date of birth; place of birth; Social Security number (SSN); employment status, history or information; mother's maiden name; home address; phone number (personal); email address (personal); financial information; driver's license or state identification number; legal documents, records or notes; military records and/or status; and photographic identifiers.

Purpose & Use of Information - CLM

Information concerning individual loans is assessed by the CLM vendors in order to provide the FDIC/DRR with loan management guidance concerning the disposition of

construction loans of failed FIs. These assessments are utilized by the FDIC/DRR to resolve loans in a manner that is most cost-effective for the fund. As such, it is necessary for vendors to access the personal information available on the lender's construction loan portfolio in order to perform an assessment of each loan. Some or all of the specific services provided may include:

- **Portfolio Analysis**
 - Portfolio due diligence reviews
 - Portfolio risk assessments
 - Quality control services
 - Analysis of construction loan program
- **Asset-Level Risk Assessments**
 - Asset impairment and risk assessments
 - Additional analysis for impaired or high risk assets
 - Facilitation of appraisals and environmental studies
- **Mitigation and Workout Services**
 - Construction project management and inspection services
 - Construction workout services (both loans and owned real estate)
 - Property preservation
 - Valuation and marketing support for construction assets
- **Funds Management**
 - Draw verification and reconciliation
 - Site inspections
 - Administration of funds and lien releases

Sources of Information - CLM

Failed Financial Institutions (FIs): CLM vendors, under oversight by FDIC personnel, conduct interviews with failed bank employees and collect construction loan data from the failed FI's files and computer systems during bank closings. This data, which includes the PII specified above, is securely loaded to encrypted flash drives by authorized CLM vendor personnel. The encrypted flash drives are transported by authorized vendor personnel back to the vendor site, and the information contained within is uploaded to the vendor's folder in the FDIC's secure data sharing system.

FDIC's Secure Data Sharing System: The primary method of data collection and maintenance by CLM vendors occurs via the FDIC's secure data sharing system. During the closing of the failed FI, FDIC/DRR Business Information System (BIS) personnel receive a file containing loan data from the failed FI via secure file transfer. BIS personnel provide the loan data to FDIC/DRR Asset Management Section personnel via an internal FDIC SharePoint site; DRR Asset Management staff then upload the construction loan data specified above to the FDIC's secure data sharing system for use by CLM vendors. CLM vendors access this data via their designated folders within FDIC's secure data sharing system, and store them on encrypted flash drives and secure outsourced datacenters. This data may include some or all of the bank customer/guarantor PII specified above.

FI Borrowers: For certain loans, the CLM vendors may be required to manage borrower relationships in order to minimize loan defaults and develop resolution alternatives and recommendations. This may entail conferring directly with borrowers (typically via telephone or in-person at the FI site) to ensure compliance with covenants, discuss with borrower concepts of extensions, modifications,

restructures and other resolutions, such as foreclosure, and the issues associated with each. As part of these borrower interactions, the vendor may review financial documentation (e.g., financial statements, payment receipts, etc.) provided by the borrower. The borrower may provide this documentation to the CLM vendors via fax, email, or mail. Upon receipt of this documentation, the CLM vendors upload emails directly to encrypted flash drives, their secure outsourced datacenters, or the FDIC's secure data sharing system. Documents received via fax or mail are scanned and uploaded to encrypted flash drives, their secure outsourced datacenters, or the FDIC's secure data sharing system, and the hardcopy documents are immediately shredded.

FDIC Legal Attorneys: As applicable, the CLM vendors may confer with attorneys in FDIC's Legal Division to obtain legal advice regarding borrower workout recommendations or other resolutions strategies for certain loans. These discussions typically take place via telephone, and the CLM vendors document them in their Workout Summary Reports or other applicable reports which are provided to FDIC via the FDIC's secure data sharing system.

Public Records: The CLM vendors may conduct periodic title date down updates and searches of public records for title preservation purposes. These searches generally do not involve PII.

Appraisal, Title & Survey Specialists/Companies: CLM vendors may order appraisals, environmental assessments, broker's opinions, title work, surveys, etc. from qualified third-party firms or FDIC-approved contractors (e.g., FDIC National Valuation Service Contractors, Environmental Due Diligence and Site Assessment Contractors, etc.). These appraisals and reports typically contain no PII or minimal PII, such as asset/borrower name, the associated property address, and FDIC book value. The CLM vendors provide the appraisals and reports to FDIC via the FDIC's secure data sharing system.

Notice & Consent

Individuals do not have the opportunity to "opt out" of providing their data and/or consenting to particular uses of their information. The PII specified above is not collected directly from borrowers and customers of failed FIs; rather, it is derived from failed FI records in FDIC receivership. The FDIC requires this information in order to fulfill its statutory responsibility and mission to promote the efficient, expeditious and orderly liquidation of failed banks and thrift institutions. In support of this objective, and in accord with their FDIC contractual agreements, the CLM vendors require the availability of all PII data to provide an array of construction loan management services as specified in this PIA. Therefore, individuals do not have an opportunity to opt out.

Access to Data - CLM

CLM Vendor Staff; CLM Vendor Subcontractors; and/or CLM Vendor Systems: Authorized CLM vendor personnel and authorized subcontractors, including Program Executives, Construction Loan Management Consultants, and Construction Project Managers, have access to the borrower/customer PII specified above, in order to

perform construction loan management services on behalf of FDIC/DRR, which may include: analysis of loan portfolios, construction risk management, funding management, budget control, construction project management, loan workout and settlement, and property preservation. The vendor personnel primarily access PII data via the FDIC's secure data sharing system or during onsite visits to FIs where data is loaded to encrypted thumb drives. The CLM vendors do not store or retain FDIC data on their own workstations; all work is stored on encrypted thumb drives or their outsourced datacenters which are securely wiped at the conclusion of the period of performance of the task order. Authorized CLM vendor technical personnel securely wipe the encrypted media/equipment when the data is no longer needed.

The CLM vendors utilize secure outsourced datacenters to store FDIC data from off-site bank closings. The data is downloaded from FDIC's secure data sharing system, and transmitted securely over the internet to the datacenters. The outsourced datacenters are utilized to facilitate greater data security and accessibility.

FDIC Personnel and/or FDIC Systems/Applications: FDIC/DRR Asset Management personnel within the Construction Loan Department receive reports and work products from the CLM vendors concerning the disposition of construction loan assets. These reports/work products are securely transmitted to FDIC/DRR via the FDIC's secure data sharing system. The final reports generally contain a broad summary of assets, which may include confidential information, but no PII or minimal PII (e.g., borrower names, loan numbers, property addresses, a summary of the loan payment status, etc.). For certain types of reports (e.g., Workout Services Summary Report), there may be a summary of discussions with borrowers and/or FDIC Legal regarding appropriate resolution strategies. The FDIC/DRR Asset Management Construction Loan Department staff may save/retain copies of the final reports on their secure shared drive.

Data Sharing

Other Systems that Share or Have Access to Data in the System:

System Name	System Description	Type of Information Processed
N/A	N/A	N/A

Data Accuracy - CLM

Data is collected directly from the failed FIs. As such, the FDIC and the CLM vendors rely on the financial institutions to provide accurate data.

The CLM vendors work with FDIC to verify the integrity of the data in conjunction with inputting it into the system or using it to support the project.

As necessary, authorized CLM vendor administrators check the data for completeness by reviewing the information, verifying whether or not certain documents or data is missing, and as feasible, updating this data when required.

Data Security - CLM

The CLM vendors have gone through the security review required by the FDIC's Outsourced Information Service Provider Assessment Methodology to determine and/or verify their having appropriate physical, technical, and administrative security measures to safeguard FDIC-provided PII and other sensitive data.

The FDIC conducts background investigations on key CLM vendor personnel and other applicable personnel prior to their beginning work on the contract.

The CLM vendors are subject to periodic compliance reviews by FDIC. Per the contracts, scheduled and unannounced inspections and assessments of the CLM vendors' facilities, personnel, hardware, software, and their security and privacy practices are conducted by one of the following: the FDIC information technology staff, the FDIC Inspector General, or the U.S. General Accountability Office (GAO). These inspections may be conducted either by phone, electronically, or in-person, on both a pre-award basis and throughout the term of the contract or task order, to ensure and verify compliance with FDIC IT security and privacy requirements.

Within FDIC, the Program Manager/Data Owner, Technical Monitors, Oversight Manager, and Information Security Manager (ISM) are collectively responsible for assuring proper use of the data. In addition, it is every FDIC user's responsibility to abide by FDIC data protection rules which are outlined in the FDIC's Information Security and Privacy Awareness training course which all employees take annually and certify that they will abide by the corporation's Rules of Behavior for data protection.

Additionally, the CLM vendors are responsible for assuring proper use of the data. Policies and procedures have been established to delineate this responsibility, and the CLM vendors have designated the general counsel or president to have overall accountability for ensuring the proper handling of data by vendor personnel who have access to the data. All CLM vendor personnel with access to the data are responsible for protecting privacy and abiding by the terms of their FDIC Confidentiality and Non-Disclosure Agreements, as well as the CLM vendors' respective corporate policies for data protection. Access to certain data may be limited, depending on the nature and type of data.

The CLM vendors must comply with the Incident Response and Incident Monitoring contractual requirement.

System of Records Notice (SORN)

CLM operates under the FDIC Privacy Act SORN 30-64-0013, *Insured Financial Institution Liquidation Records*.

Contact Us

To learn more about the FDIC's Privacy Program, please visit:
<http://www.fdic.gov/about/privacy/>.

If you have a privacy-related question or request, email Privacy@fdic.gov or one of the [FDIC Privacy Program Contacts](#). You may also mail your privacy question or request to the FDIC Privacy Program at the following address: 3501 Fairfax Drive, Arlington, VA 22226.

