

PRIVACY IMPACT ASSESSMENT

Structured Transaction/Limited Liability Corporation Compliance Monitoring Contractors (LLC-CMC)

May 2013

FDIC External Service

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System Overview

When a financial institution fails and the FDIC is appointed as receiver, one of the FDIC's primary tasks is to dispense of the failed institution's loans and assets in a manner that maximizes their value. To do this, the FDIC uses a variety of resolution strategies, one of which is the "structured transaction" method. A structured transaction is a joint venture or partnership with private sector investors designed to facilitate the distribution of assets from failed institutions. Structured transactions allow the FDIC to retain an interest in the assets, while transferring day-to-day management responsibility to expert private sector entities ("Managing Members") that are selected by the FDIC in a competitive bid process. Managing Members (MMs) are required to manage, service, and resolve the assets held in the joint venture in compliance with established transaction agreements and industry standards. All structured transactions used by FDIC to date have used joint venture (JV) limited liability companies (LLCs), although other types of entities may be used in the future.

Within FDIC, the Division of Resolutions and Receiverships (DRR) Risk Sharing Asset Management (RSAM) group is responsible for managing FDIC's "Risk Share" programs, including the Shared Loss (SLA) program and Structured Transactions (LLC) program. Managing Members participating in the FDIC's LLC program are required to report detailed information about these assets and loans on a regular basis in order to facilitate the FDIC's oversight of the transaction and asset performance. To help monitor MM compliance with the LLC program, FDIC DRR contracts with third-party "Compliance Monitoring Contractor" (CMC) firms which currently include: KPMG LLP; Signet Partners (Signet); Deva and Associates; Warbird (Huron Consulting Services, LLC); the Corvus Group (Corvus); Watkins Consulting Group; Financial Industry Technical Services (FITS); and Clayton Holdings, Inc. (Clayton). These CMC firms ("LLC-CMCs") provide risk-based compliance monitoring¹ of the multiple structured transactions (LLCs) into which the FDIC has entered; this includes conducting off-site and on-site compliance reviews of Managing Members and their servicers to ensure that MMs are in full compliance with the terms and conditions of their LLC agreements² as well as preparing reports regarding the findings of the compliance reviews. Managing Members are also required to adhere to detailed reporting requirements to facilitate the FDIC's oversight of the transaction and asset/loan performance.

As part of their compliance reviews, LLC-CMCs create and maintain hardcopy and electronic monitoring files and work papers that may contain copies of MM/failed institution records with sensitive personally identifiable information (PII) about customers, borrowers, and guarantors of failed banks. LLC-CMCs are required to securely handle and maintain all PII and sensitive business information associated with their compliance reviews in accordance with the privacy and information security standards set forth by the FDIC. The FDIC performs periodic on-site reviews of LLC-CMC firms to ensure they are appropriately handling, retaining, and safeguarding their monitoring files and work papers in line with FDIC data privacy and records retention requirements.

¹ LLC-CMCs establish specific objectives for addressing compliance risk by analyzing risk factors such as a) Financial and Operational Risk and b) Reputational Risk as these pertain to the relationship between the FDIC and the MM.

² LLC agreements establish the specific terms for the structured sales transactions, interaction with winning bidder (Private Owner/Managing Member), and fees and payments to the parties of the Agreements.

Personally Identifiable Information (PII) in LLC-CMCs

LLC-CMCs collect and maintain personal information pertaining to borrowers and customers of the failed financial institution, as well as guarantors of the failed banks. The PII collected includes: full name, date of birth (DOB), place of birth, Social Security Number (SSN), employment status and history, mother's maiden name, home address, phone numbers (non-work), personal email addresses, financial information, driver's license information, vehicle identifiers, legal documents (i.e., divorce decree, criminal records), military status and records, as well as photographic identifiers.

Purpose & Use of Information in LLC-CMCs

LLC-CMCs use the PII specified above in order to assist FDIC with reviewing Managing Member compliance with FDIC's LLC Risk Share program, with focus on assessing the MM's internal control environment and adequacy of cash management, financial reporting, and overall asset management practices to identify financial, operational, or reputational risk. Specifically, the scope of LLC-CMC reviews includes, but is not limited to:

- Reviewing MM financial reports and supporting data to facilitate the FDIC's oversight of the structured transactions/LLC Agreements and the asset/loan performance;
- Ensuring proper reporting and administration of covered risk share assets;
- Ensuring MM compliance with consideration of charge-offs, foreclosure, loan restructuring, and short-sale alternatives that resulted in highest recovery;
- Testing a sampling of loans for specific servicing standards;
- Reviewing internal audit reports, external independent public accountant reports, and other regulators' reports to identify potential areas of high risk associated with business and systems processes, lapses in internal controls, and weaknesses in asset recovery, workout or disposition strategies, and;
- Ensuring that adequate accounting, reporting, and record-keeping systems are in place.

Sources of Information in LLC-CMCs

CMC-LLCs collect PII from internal FDIC systems and applications as well as external non-FDIC systems and applications. CMC-LLCs receive information from the Corporation via the FDIC Virtual Data Room (VDR), which is a secure website facility and technology used by and for DRR to create workspaces for failing or failed institution projects. Confidential documents and information can be rapidly exchanged with specific groups of authorized internal and external users. Data in the VDR can be uploaded by Managing Members (MMs) and FDIC RSAM/LLC staff and Task Order Oversight Managers (TOOMs) and accessed by the LLC-CMCs.

As part of FDIC's Structured Transactions (LLC) program, MMs are required to submit reports with detailed, asset-level data about the assets/loans they purchase from FDIC in order to facilitate the FDIC's oversight of the transaction and asset/loan performance. MMs upload their required reports to FDIC VDR; these reports may contain sensitive financial and personally identifiable information (PII) about customers, borrowers, and guarantors of failed financial institutions, such as names, home addresses, loan numbers and payment history, net worth, total monthly income and liabilities, bankruptcy or foreclosure dates, collateral type/description, and FICO/credit scores, if applicable. As required, MMs also upload the following information to the VDR: advance review materials, business plans, audit reports, financial statements, cases with supporting documentation for claims (i.e., appraisals, summary of conversations with borrowers, loan documents, etc.), correspondence and loan records from other government agencies that guaranteed loans in the LLC portfolios (i.e., U.S. Small Business Administration, Federal Housing Administration, Veterans Affairs), Congressional inquiry information related to loans/assets managed by the MMs, responses to CMC Visitation Reports, and other documents requested by the LLC-CMCs as part of their reviews.

Authorized FDIC RSAM/LLC staff and TOOMs upload advance materials and other documentation to the secure VDR for retrieval by authorized LLC-CMC staff. These materials are intended to facilitate CMC compliance reviews and may include any of the documents uploaded by MMs as specified above.

Authorized LLC-CMC staff accesses the FDIC VDR and downloads the aforementioned data to their secure CMC systems and/or hardcopy files to facilitate their compliance review activities.

Another way that LLC-CMCs derive PII is through their on-site compliance visitations at Managing Member (MM) and MM Servicer locations. As part of on-site reviews, LLC-CMCs travel to the MM or MM Servicer site to interview MM staff and review hardcopy and electronic files pertaining to the MM's management of its LLC asset portfolio, including, but not limited to: MM financial statements, audit reports, JV/LLC agreements and other legal agreements, appraisals, the failed institution (FI) general ledger, FI loan systems, hardcopy FI asset/loan files, borrower correspondence files, charge-off memoranda, correspondence and loan records from other government agencies that guaranteed loans (if applicable), and Congressional inquiry information related to loans/assets managed by the MMs, etc. LLC-CMCs securely scan/copy this documentation, using LLC-CMC equipment (in accord with contractual requirements), and add/upload it to their secure monitoring files and work papers, which may be in electronic and hardcopy format.

Notice & Consent

Individuals do not have the opportunity to "opt out" of providing their data or consenting to particular uses of their information. Personal information is not collected directly from individuals. PII is obtained from MM legacy files or failed institution records and loan files; the PII is necessary to support the conduct of CMC compliance reviews of structured transactions/LLCs on behalf of the FDIC.

Access to Data in LLC-CMCs

Authorized FDIC employees and contractors have access to the data provided to the LLC-CMCs via the secure FDIC VDR. Authorized LLC-CMC staff accesses borrower/customer/guarantor PII as part of their compliance review activities.

After the LLC-CMC conducts a compliance review of an MM, the LLC-CMC prepares a compliance monitoring report along with other supporting documentation and work papers to a designated workspace in the VDR. The report and supporting work papers are accessible via the VDR to authorized FDIC DRR Oversight Managers, Task Order Oversight Managers (TOOMs), RSAM/LLC Specialists, and Technical Monitors (TMs) who have responsibility for overseeing and reviewing the work of the LLC-CMCs. Authorized FDIC/DRR Receivership Assistance Contract (RAC) contractors who support the aforementioned FDIC/DRR RSAM/LLC employees may have access on an "as-needed" basis to LLC-CMC reports and work papers containing PII for purposes of helping administer, manage, and review this data. In addition, the FDIC/DRR RSAM/LLC team utilizes a Closing Services Contractor to compile and review financial data for MMs. The Closing Services Contractor is granted contributor access to all LLC-related information in the FDIC VDR and, in this capacity, may review and access the aforementioned reports and supporting documentation uploaded to the VDR by the LLC-CMCs.

LLC-CMCs have access to or provide PII data to the secure FDIC VDR. LLC-CMC staff upload their respective compliance reports and work papers/supporting documentation (which may contain PII) to the VDR for review by authorized FDIC staff and contractors.

Data Sharing

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

System Name	System Description	Type of Information Processed
Virtual Data Room Secure Website Services (VDR)	LLC-CMC staff upload their respective compliance reports and work papers/supporting documentation to designated workspaces on the VDR for review by authorized FDIC staff and contractors.	Full name, home address, loan account numbers and balances, SSN, bankruptcy or foreclosure dates, collateral type/description, and FICO/credit scores
Resolution Data Aggregator (RDA)	RDA is used for data collations, aggregation, storage and data management and reporting services for Loss Share, Limited Liability Corporation/Joint Venture (LLC/JV) securitization transactions and other related programs at the FDIC's instructions.	

Data Accuracy in LLC-CMCs

Data is collected directly from Managing Members or their Servicers who receive the information from the failed financial institutions. As such, the FDIC and its vendors rely on the MMs and their Servicers to provide accurate data. The LLC-CMCs work

with FDIC to verify the integrity of the data before, during, and after inputting it into the system or using it to support the project. As necessary, an authorized user for each respective LLC-CMC firm checks the data provided by the MM for completeness by reviewing the information, verifying whether or not certain documents or data are missing, and as feasible, requesting updated information from the MM when required.

Data Security for LLC-CMCs

LLC-CMCs create and maintain hardcopy and electronic monitoring files and work papers that may contain copies of MM and failed institution records with sensitive personally identifiable information (PII) about customers, borrowers, and guarantors of failed financial institutions. LLC-CMCs are required to securely handle and maintain all PII and sensitive business information associated with their compliance reviews in accordance with the privacy and information security standards outlined in their contracts and Confidentiality Agreements with FDIC. The FDIC performs periodic on-site reviews of LLC-CMC firms to ensure they are appropriately handling, retaining, and safeguarding their monitoring files and work papers in line with FDIC data privacy and records retention requirements.

In addition, FDIC background checks and security clearances are required for all LLC-CMC personnel prior to granting them access to the PII and sensitive information maintained by the FDIC. Each LLC-CMC staff member's access to the secure FDIC VDR is subject to approval by the FDIC Oversight Manager (OM). The OM confirms that LLC-CMC personnel have obtained security clearances through FDIC's Division of Administration (DOA) Security and Emergency Preparedness Section (SEPS) prior to granting access to the VDR.

System of Records Notice (SORN)

LLC-CMCs operate 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.

