

# PRIVACY IMPACT ASSESSMENT

## Owned Real Estate Management & Marketing Services II

**Colliers International, LLC**  
(“Large and Complex” ORE Property)

August 2016

FDIC External Services

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## System Overview

The Federal Deposit Insurance Corporation (FDIC) acts as receiver<sup>1</sup> for failed financial institutions (FIs). In its receivership capacity, one of the FDIC's primary tasks is to manage and dispose of the failed FI's loans and other assets in a manner that maximizes their value. Some of these assets may consist of real property, also known as Owned Real Estate (ORE)<sup>2</sup>, which includes bank-owned premises (real estate used in the operations of the failed institution), as well as other owned real estate (real estate acquired by the failed institution by way of foreclosure or loan settlement). The FDIC Division of Resolutions and Receiverships (DRR) has retained the services of Colliers International, LLC (Colliers) to assist with the acquisition, research and preparation for marketing, management, and final disposition of ORE Assets that the FDIC deems as large and complex real property/ORE acquired by the FDIC in its receivership capacity. As part of the aforementioned services, Colliers performs the following activities, which may involve the collection and maintenance of personally identifiable information (PII) about individuals as described below:

1. **Bank Closing Assistance** – Colliers assists the FDIC in conducting pre-closing planning and portfolio reviews to develop a strategy to handle ORE from FIs that have the potential to fail. Upon failure, FDIC DRR staff and/or Colliers, if requested by FDIC, attend the closing of the FI to inventory and gain control of the ORE and, thereafter, either remain on-site or move the files, management, and marketing of the ORE assets to Colliers' office location at the discretion of the FDIC. The ORE files, which contain property-related PII (e.g., previous owner name and property address), are either picked up by Colliers or packaged and shipped to Colliers in accordance with DRR's secure shipping policies.
2. **Discovered Asset Research** - From time to time, the FDIC as receiver receives inquiries from the private and/or public sector for tax bills on properties that are not carried on FDIC's books. If ownership can be established in the FDIC's name, these assets are typically labeled "Discovered Assets." To address inquiries from investors or taxing jurisdictions, Colliers will research FDIC systems and records, and public records to determine if the property is owned by the FDIC. If the title is vested in the FDIC's name, the property is prepared for marketing. This process of researching Discovered Assets typically does not involve PII, as inquirers are generally entities (as opposed to individuals), and ORE property records list FDIC or the failed institution, not individual borrowers, as the property owner.
3. **Due Diligence, Title and Legal Representation Services** – Colliers assists the FDIC in making properties marketable by obtaining services such as appraisals, broker's price opinions, title work, and environmental assessments of the property. While these appraisals generally contain no PII, the

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<sup>1</sup> A receiver steps into the shoes of a failed financial institution with the goal of liquidating the entity. Federal law grants the FDIC the responsibility to manage the resolution of failed financial institutions. The FDIC as the receiver has similar powers and responsibilities as a bankruptcy trustee. The FDIC can collect all obligations and money due to the failed institution and liquidate its assets and property. The funds generated are used to pay the creditors of the failed institution. Although many of the concepts central to the operation of an FDIC receivership are similar to those of the bankruptcy process, there are critical differences between bankruptcy and the FDIC receivership law.

<sup>2</sup> While residential (including multi-family) and commercial properties (e.g., office, retail, light industrial, etc.) comprise the majority of ORE, it could also include agricultural, developed lots, construction in progress, raw land, or other types of real estate.

- environmental assessments contain the history of the ORE ownership with the name of the previous owner and property address.
4. **Management Services** - Colliers assists the FDIC in inspecting, securing and managing ORE to prevent erosion of value. Colliers also places the ORE under the FDIC's blanket insurance policy and pay and protest property taxes as required. In limited instances, and for certain types of property (e.g., income-producing residential properties), Colliers may perform property management activities that involve PII, such as establishing a current rent roll, collecting rent, and securely maintaining/disposing of any historical tenant records belonging to the previous property management firm. These historical tenant records, along with the current rent rolls and rent payments, have the potential to contain sensitive PII about tenants/occupants, such as full name, home address, home phone number, email address, Social Security Numbers (SSNs), employment information, and credit/financial information, as applicable.
  5. **Leasing** – Colliers manages lease transactions for occupied properties, and in limited instances, FDIC may consider leasing properties to enhance or maintain market value. Colliers recommends to the FDIC when it deems leasing appropriate and, when approved by FDIC, Colliers will market for and negotiate leases. These leases have the potential to contain sensitive PII about tenants/occupants, such as full name, home address, home phone number, email address, SSNs, employment information, and credit/financial information, as applicable.
  6. **Marketing and Disposition Services** - For properties that are marketable, Colliers undertakes or assists with the tasks of marketing, selling, and closing on the properties. Colliers uses real estate brokers to expose properties to the broadest market possible and sell them at the highest return possible.
    - a. To facilitate the marketing of ORE assets, Colliers operates a secure public-facing website ([www.fdic-ore.com](http://www.fdic-ore.com)) where prospective purchasers can register to receive notifications about upcoming FDIC sales events. As part of the registration process, Colliers requires prospective purchasers to provide the following information in order to view property listings: full name, address (city, county, state, and zip code), email address, user name, and password. The collected information may be business or personal in nature, depending on what the individual provides.
  7. **Data Management and Reporting Requirement** – Colliers maintains data, records, and files with respect to assigned assets and submit periodic reports to FDIC. Colliers ensures accessibility via user name and passwords to their ORE asset management system for the FDIC. Colliers operates the secure public-facing website for listings of all assets assigned for marketing.
  8. **Property Expense and Cash Management** – Colliers assists in paying property expenses from its own funds and obtains reimbursements from the FDIC by submitting reimbursement invoices. Colliers receives property income and deposits it to FDIC owned bank accounts. Colliers tracks and reports on all property income, expense, and other transactions.

## Personally Identifiable Information (PII) – Colliers

Colliers collects personally identifiable information (PII) that may include: full name; SSN; employment status, history, or information; home address; phone number(s); email address; financial information; driver's license/state identification number; vehicle identifiers; and legal documents, records, or notes.

## Purpose & Use of Information – Colliers

The PII collected or obtained by Colliers on behalf of the FDIC, as specified above, is used solely to assist the FDIC/DRR with the acquisition, research, preparation for marketing, management, marketing, and sale or final disposition of ORE Assets that the FDIC deems as large and complex real property/ORE acquired by the FDIC in its receivership capacity.

## Sources of Information – Colliers

**Property Occupants/Tenants:** Sensitive PII is collected either by mail, fax, phone, or email from property tenants/occupants, by Colliers or their authorized subcontracted property management firms. This may include full name, home address, phone number, email address, monthly rent amount; past due rent amount, and potentially personal checking account numbers and SSNs<sup>3</sup>.

**Real Estate Brokers:** Colliers uses real estate brokers to expose properties to the broadest market possible and sell them at the highest return possible. Colliers receives assigned ORE property data from the real estate brokers via email. Data elements may include information about prospective purchaser individual or business on the Purchase and Sale Agreement (PSA) and purchaser eligibility certificate: full name, address, non-work and/or work telephone number, and Tax Identification Number (TIN) / SSN. Colliers personnel upload the data as needed to FDIC-Trak. Colliers may also receive hardcopy documents from the real estate brokers via secure courier.

**Prospective and Winning Purchasers:** Prospective purchasers must register on Colliers' secure website to view property listings by providing the following information: full name, mailing address, email address, user name, and password. Registration information submitted online to Colliers is maintained in Colliers' secure systems. The collected information may be business or personal in nature, depending on what the individual provides. The prospective purchaser or marketing lead information is maintained in Colliers' ORE asset management system and used to notify individuals about future sales events.

Prospective purchasers also complete a Purchaser Eligibility Certification (PEC) form, which collects their name, address, telephone number, email address, and SSN/TIN. The prospective purchaser's broker may submit the PSA and the PEC form to Colliers via secure email or overnight mail. Colliers then forwards the PEC forms to the FDIC via secure email or overnight mail.

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<sup>3</sup> In rare instances, tenants may submit personal checks with PII to pay their rent; typically, rent payments are handled via an electronic lockbox.

For live auctions, authorized FDIC/DRR personnel collect the hardcopy PEC forms and enter the information into a spreadsheet in order to submit electronically via secure email to the U.S. Treasury Department Office of Foreign Asset Control (OFAC). PEC forms are not retained and are shredded onsite after the OFAC screening has been performed. The PII collected includes name, address, telephone number, and TIN/SSN.

**Failed Financial Institutions (or Vendors as applicable):** When an FI fails, the FDIC/DRR staffs assume control of the FI's ORE records and related loan files such as appraisals, inspections, and property descriptions on site at closing. Hardcopies and electronic copies (images) of the FI's ORE records are transferred to Colliers using DRR's secure shipping procedures. On occasion, Colliers may be invited onsite to assist the FDIC with a failed FI. In such cases, Colliers can gather ORE files and transfer them securely back to their office location. The ORE files contain limited PII and may include names of former property owners/debtors and the property addresses. Colliers staff manually enters data from the ORE records and/or upload documents into their secure ORE asset management system. When the asset sale is complete, Colliers will box the asset hardcopy files and securely ship them to Iron Mountain for storage as per FDIC's instructions.

NOTE: Historic loan numbers and credit information for debtors are not included in the ORE files.

**Appraisal, Title & Survey Specialists/Companies:** Colliers obtains appraisals, title work, broker's opinions, environmental assessments, surveys, etc., obtained from qualified third-party firms or FDIC-approved contractors (e.g., FDIC national valuation service contractors, environmental due diligence and site assessment contractors, construction site inspection contractors, etc.). These appraisals and surveys may include limited PII, such as asset name (which may be a previous owner's name in certain instances), the associated property address, and FDIC book value. Colliers adds these appraisals and reports to their hardcopy asset management/marketing files and uploads the records to their secure ORE asset management system.

**Taxing Authorities & County Recorder Offices:** Colliers obtains title deeds and tax records from government taxing authorities and county recorder offices, in hardcopy form or as a file download from the agencies' publicly accessible websites. Limited, publicly-available PII in these documents may include the former property owner debtor name, property address, assessed value, and delinquent tax amount, which are added to Colliers' hardcopy asset management/marketing files.

**Property Inspection Reports:** Colliers conducts onsite inspections of properties in preparing the properties for marketing on behalf of the FDIC. Property inspection reports detail the property condition and may include minimal PII, such as the names, addresses/unit numbers, and telephone numbers of any tenants or occupants.

**Property Management Firms:** In the process of marketing properties, Colliers may locate and gather pertinent hardcopy and electronic records (e.g., leasing records, security deposits, rent rolls, etc.) maintained by the property's previous management company. These historical records maintained by property

management firms may include sensitive PII about property tenants/occupants, such as their names, home addresses, phone numbers, monthly rent amounts, and leasing applications with SSNs, employment information, renting history, financial information, credit history, and copies of personal checks and driver's licenses or other forms of identification.

**FDIC Communication, Capability, Challenge, and Control (4C) System:** FDIC obtains the ORE property listings from the FI and sends the list to Colliers via Excel spreadsheet. These properties are active and are assigned to Colliers for marketing and selling; additional information with key property data fields from the FDIC Communication, Capability, Challenge, and Control (4C) application is also downloaded by the FDIC and provided in an Excel spreadsheet to Colliers. Colliers utilizes the information provided to reconcile property data on their systems for marketing. PII may include the former property owner's name and the address of the property they formerly owned, which is now owned by FDIC as receiver. Most of the information contained is non-PII describing the real estate property.

## Notice & Consent

Individuals do not have the opportunity to "opt out" of providing their data and/or consenting to particular uses of their information. Individuals may not opt out, as the FDIC, acting in its receivership capacity is required to manage or dispose of all assets acquired from the closing of financial institutions, as soon as possible after that closing. To achieve this goal, the FDIC has contracted Colliers, to help manage, market, sell, or otherwise dispose of ORE assets acquired from failed institutions. As part of these duties, these firms require access to all information on each ORE asset, including any PII.

## Access to Data – Colliers

**Colliers Staff, Subcontractors, and/or Systems:** Authorized Colliers personnel have access to the PII listed above on a "need to know" basis as part of their ORE maintenance, management, marketing, and sale duties. In addition, Colliers grants authorized subcontractor(s) access to ORE data, including tenant/occupant and prospective purchaser PII, to facilitate real estate management and closing activities on behalf of the FDIC. Colliers authorized subcontractors include:

- Real Estate Brokers- Colliers works with subcontracted real estate brokers who act as intermediaries between Colliers and prospective and winning purchasers. These real estate brokers expose the ORE properties to the broadest market possible and sell them at the highest return possible.
- Property Management Firms - In preparing properties for marketing on behalf of the FDIC/Receiver, Colliers takes measures to secure the property and, if applicable, locate and secure any pertinent hardcopy and electronic records that were maintained by the previous property management firm. In addition, Colliers securely maintains the historical leasing records collected from the property management firm(s) until the sale or disposition of the property.
- Appraisal, Title & Survey Specialists/Companies - To ensure FDIC-acquired properties are marketable, Colliers obtains appraisals, title work, broker's opinions, environmental assessments, surveys, etc. from qualified third-party

firms or FDIC-approved contractors. Colliers adds the appraisals and report to its hardcopy asset management/marketing files and upload them to their secure ORE asset management systems.

Per their contractual agreement with FDIC, Colliers takes full responsibility for the conduct of its staff and subcontractors to ensure the confidentiality, integrity, and availability of the sensitive information collected and maintained by Colliers on behalf of FDIC.

Authorized Colliers personnel upload, enter, manage, and maintain some or all of the PII identified above in their ORE asset management system. The system provides full management and support for the life of a real estate asset from acquisition to sale. The system also provides users with a complete database of asset information combined with fully electronic asset file and document storage capability. The system is integrated with Colliers' external sales and marketing websites to provide flexible and dynamic marketing capabilities. In addition, Colliers maintains bidder registration data, which include sensitive PII such as SSN/TIN.

**FDIC Personnel and/or FDIC Systems/Applications:** Authorized FDIC/DRR employees involved with the resolution process following the failure of an FI have secure, web-based access (with user names and passwords) to the PII collected by Colliers stored on Colliers' ORE asset management systems in order to oversee and facilitate the management, marketing, sale, and final disposition of all types of real property. Authorized FDIC/DRR Contract Management Oversight staff has access to Colliers' system to oversee and review the work performed by Colliers. In addition, authorized FDIC/DRR Asset Marketing staff has access to PEC forms with sensitive PII about purchasers, in order to screen them against the U.S. Treasury Department Office of Foreign Asset Control (OFAC) watch lists of terrorists. Colliers provides the PEC forms to authorized DRR staff in-person at live auctions or via secure email.

**Qualified Bidders/Purchasers:** Qualified bidders and investors access Colliers' secure websites to review FDIC-acquired property listings and related evaluation materials, which may contain personal information about property owners, occupants, and tenants, for purposes of conducting due diligence. Only qualified purchasers who have properly executed the FDIC Confidentiality Agreement are able to view listings or data with personal information.

**Property Occupants/Tenants:** In limited instances, such as for income-producing residential properties, Colliers may perform property management functions that involve PII, such as establishing a current rent roll, handling tenants' service requests and maintaining work logs, collecting rent, and initiating appropriate collection procedures for past due rent. Communications with the property occupants/tenants are done via mail, fax, phone, or email. New leases and lease renewals may be sent out to property occupants/tenants via email or secure courier.

**Government Taxing Authorities & County Recorder Offices:** Colliers sends certain documents, such as tax statements and recorded deeds, which include minimal, publicly-available PII (e.g., property address and name of previous property owner) to state and local tax authorities and county recorder offices, as part of performing real estate closing activities and making or protesting property tax payments on FI properties they manage. For example, Colliers notifies the appropriate taxing authority offices about changes in ownership when properties are

sold. The information provided to the taxing jurisdictions contains the purchaser name and address, as well as a copy of the recorded documents. Deed and tax-related information are either mailed or manually entered on the agencies' websites by Colliers, and final copies of the documents are added to the electronic and hardcopy asset management/marketing files.

## Data Sharing

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

System Name	System Description	Type of Information Processed
FDIC Automated Corporate Tracking System (FACTS) <sup>4</sup>	FACTS is a web-based tracking tool used by the FDIC to log and route inquiries, requests for information and services, etc. Authorized Colliers personnel write "ORE cases" to seek FDIC/DRR approval to take certain actions with respect to failed bank properties/ORE. Authorized Colliers personnel utilize FDIC's Virtual Private Network to log on and access the FDIC.net and upload the cases into the FACTS system.	ORE cases (including budget cases) typically include no PII or minimal, publicly-available PII, such as the name and address of a previous property owner. However, certain ORE cases require supporting documentation with sensitive PII, such as ORE sales cases with PECs containing the name, contact information, and TIN/SSN of the prospective purchaser.
FDIC ORE Tracker <sup>5</sup>	ORE Tracker is an internal FDIC tracking system used by FDIC/DRR personnel to maintain, track, and report on asset-related information for real property/ORE. The system also supports the information collection and reporting of requirements for the sale and oversight management of FDIC ORE assets. Colliers securely submits an electronic ORE reporting data file to a designated FDIC/DRR ORE specialist via secure email, who then provides it to DRR Business Information Systems (BIS) <sup>6</sup> staff. BIS staff uploads the file into ORE Tracker to update ORE asset information.	The file contains: property address and status; synopsis of any litigation or legal issues; and PII such as the purchaser name and whether they are a minority; the name of the legal owner on deed or title; the name of individuals or firms who protested a tax assessment; and the names and contact information (generally work-related) for the FDIC environmental specialist, account officer name, property inspector, property manager, listing real estate agent, asset manager, and FDIC legal counsel.

<sup>4</sup> FACTS is a web-based tracking tool used by the FDIC to log and route inquiries, requests for information and services, etc. For more information, see the FACTS PIA at [www.fdic.gov](http://www.fdic.gov).

<sup>5</sup> ORE Tracker is an internal FDIC tracking system used by FDIC/DRR personnel to maintain, track, and report on asset-related information for real property/ORE: The system also supports the information collection and reporting of requirements for the sale and oversight management of FDIC ORE assets.



System Name	System Description	Type of Information Processed
FDIC Communication, Capability, Challenge and Control (4C) <sup>7</sup>	4C houses all asset data for failed FIs and managed data flow and updates from banks, application service providers, as well as internal and external servicers. On a periodic basis, Colliers securely submits an electronic "4C enrichment report/transaction file" via secure email to a designated FDIC DRR ORE Specialist who updates the asset information on the 4C system. The 4C enrichment file contains the property address and status with minimal PII, such as the names and contact information (typically work-related) for the appraiser, listing broker, and property manager. In addition, authorized Colliers staff have direct access to 4C, including all PII contained therein, in order to research and review ORE asset information for properties they are managing on behalf of the FDIC.	The 4C enrichment file contains the property address and status with minimal PII, such as the names and contact information (typically work-related) for the appraiser, listing broker, and property manager.

## Data Accuracy – Colliers

Data is collected directly from individuals and from the failed FIs. As such, the FDIC and its vendors rely on the individuals and/or FIs to provide accurate data.

As necessary, Colliers' Operations Manager checks 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 – Colliers

Colliers has gone through the security review required by the FDIC's Outsourced Information Service Provider Assessment Methodology to determine and verify their having appropriate physical, technical, and administration security measures to safeguard FDIC-provided PII and other sensitive data.

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

Colliers is subject to periodic compliance reviews by FDIC. Per the contract, scheduled and unannounced inspections and assessments of Colliers' 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.

<sup>6</sup> The DRR Business Information Systems (BIS) unit is responsible for coordinating the development, maintenance and enhancement of all automated business systems, including hardware and software, used by DRR in the accomplishment of its mission, goals, and objectives.

<sup>7</sup> 4C houses all asset data for failed financial institutions and managed data flow and updates from banks, application service providers, as well as internal and external servicers. For more information, refer to the 4C PIA at [www.fdic.gov](http://www.fdic.gov).

Within FDIC, the Colliers Program Manager/Data Owner, Technical Monitors, Oversight Manager, and Information Security Manager 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, Colliers is responsible for assuring proper use of the data. Policies and procedures have been established to delineate this responsibility, and Colliers has designated its Financial Reporting and Data Manager to have overall accountability for ensuring the proper handling of data by Colliers personnel who have access to the data. All Colliers 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 Colliers' corporate policies for data protection. Access to certain data may be limited, depending on the nature and type of data.

Colliers must comply with the Incident Response and Incident Monitoring contractual requirement.

## System of Records Notice (SORN)

Colliers 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](mailto: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.

