

MEMORANDUM

**TO:** Board of Directors  
**FROM:** Russell G. Pittman  
Chief Privacy Officer



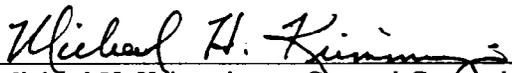
**DATE:** February 18, 2011

**SUBJECT:** Authorization to Publish Privacy Act  
System of Records Notice in the Federal Register

I. Recommendation

This memorandum requests that the Board of Directors authorize the publication of a system of records notice ("SORN") in the *Federal Register* to establish a new system of records for the Nationwide Mortgage Licensing System and Registry. The proposed SORN does not modify the FDIC's authority or supervision over the collection and maintenance of Privacy Act information, or hinder any individual's right, pursuant to the Privacy Act, to access or amend his or her records. Accordingly, unless the FDIC receives comments requesting a superseding notice, the proposed SORN will become effective 45 days after publication in the *Federal Register*.

For further information, please contact: Ned Goldberg, Associate Director/CISO, (703) 516-1323; Steven Lott, Privacy Program Manager, (703) 516-5505; Richard Foley, Counsel (202) 898-3784; John Elmore, Counsel (703) 562-2047.

Concur:   
Michael H. Krimminger, General Counsel 3/1/11

## II. Discussion

The Privacy Act (5 U.S.C. § 552a) requires the FDIC to inform the public of the existence of its systems of records that contain personal information and to manage those records in a way to ensure fairness to individuals in conducting FDIC programs. A system of records under the Privacy Act is “a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.” 5 U.S.C. § 552a(a)(5). To ensure that the public is adequately informed, the FDIC – and other federal agencies - publish SORNs in the *Federal Register*. Below is a description of the proposed SORN that would, upon Board authorization, be published in the *Federal Register*.

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act), 12 U.S.C. § 5101, established the Nationwide Mortgage Licensing System and Registry (NMLSR). Individuals employed with a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a Federal banking agency, or an institution regulated by the Farm Credit Administration (FCA) who act as residential mortgage loan originators (MLOs) are required by the S.A.F.E. Act to register with the NMLSR to obtain unique identifiers, and to maintain their registrations annually. In addition to background information, MLOs are required to submit professional and criminal histories as well as fingerprints. The initial registration period for Federal registrations will run from January 31, 2011, through July 29, 2011.<sup>1</sup>

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<sup>1</sup> 76 FR 6185 (February 3, 2011). After this 180-day period expires, any existing employee or newly hired employee of an institution regulated by one of the Federal banking agencies or the FCA who is subject to the registration requirements will be prohibited from originating residential mortgage loans without first meeting such requirements.

NMLSR is a Web-based system developed by the State Regulatory Registry LLC (SRR), a wholly owned subsidiary of the Conference of State Bank Supervisors (CSBS), and SRR's subcontractor, the Financial Industry Regulatory Authority (FINRA). The system is maintained by FINRA. NMLSR is a modification of the Nationwide Mortgage Licensing System (NMLS), which is owned and operated by SRR and was launched in January of 2008 for state licensing and registration purposes in participating states. The data provided by registering MLOs is stored electronically in a secure, centralized repository available to State mortgage regulators who use it to process license applications and for supervisory purposes. The Federal banking agencies through the Federal Financial Institutions Examination Council (FFIEC) and the FCA worked with SRR to modify NMLS so that it can accept registrations from MLOs employed by depository institutions regulated by the Federal banking agencies.<sup>2</sup> A consumer web portal will be the focus of a future system enhancement and will provide the general public with access to some of the information provided by the MLOs, including names, business telephone numbers and employment histories.

Authorized personnel of the Division of Risk Management Supervision (RMS) and the Division of Depositor and Consumer Protection (DCP) will have access to non-public information contained in the NMLSR. RMS will initially serve as the FDIC's liaison for the system.

A copy of the SORN proposed for publication in the *Federal Register* is attached to this memorandum. Although each of the Federal banking agencies (except the Office

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<sup>2</sup> Federal agencies that regulate institutions who employ MLOs and who may need access to the data for supervisory purposes include: Office of the Comptroller of the Currency, Office of Thrift Supervision, Federal Reserve System, Federal Deposit Insurance Corporation, National Credit Union Administration, and the FCA.