

[6714-01-P]

**FEDERAL DEPOSIT INSURANCE CORPORATION**

Privacy Act of 1974, as Amended; System of Records; Nationwide Mortgage Licensing System and Registry

**AGENCY:** Federal Deposit Insurance Corporation

**ACTION:** Notice of New Privacy Act System of Records

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**SUMMARY:** The Federal Deposit Insurance Corporation (FDIC) proposes to add one new system of records to its existing inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a). This new system of records is entitled Nationwide Mortgage Licensing System and Registry and will be used to register residential mortgage loan originators employed by federally regulated depository institutions as required by the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act), 12 U.S.C. 5101. We hereby publish this notice for comment on the proposed system of records.

**DATES:** Comments on the proposed system of records must be received on or before [insert date 30 days after publication of this notice in the *Federal Register*]. The proposed systems of records will become effective 45 days following publication in the *Federal Register*, unless a superseding notice to the contrary is published before that date.

**ADDRESSES:** You may submit written comments by any of the following methods:

- **Agency web site:** Located at [www.fdic.gov/regulations/laws/federal/propose.html](http://www.fdic.gov/regulations/laws/federal/propose.html). Follow instructions for submitting comments on this Web site.
- **Email:** Send to [comments@fdic.gov](mailto:comments@fdic.gov). Include "Notice of New System of Records" in the subject line.
- **Mail:** Send to Hugo A. Zia, Supervisory Counsel, FOIA/Privacy Act Group, Attention: Comments, New Privacy Act System of Records, 550 17<sup>th</sup> Street, NW., Washington, DC 20429.

All submissions should refer to "Notice of New Privacy Act System of Records." By prior appointment, comments may also be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E-1005, Arlington, Virginia 22226, between 9:00 a.m. and 4:00 p.m. (EST), Monday to Friday.

**FOR FURTHER INFORMATION CONTACT:** Hugo A. Zia, Supervisory Counsel, FOIA/Privacy Act Group, FDIC, 550 17<sup>th</sup> Street, NW, Washington, DC 20429, (703) 562-2671.

**SUPPLEMENTARY INFORMATION:** In accordance with the Privacy Act of 1974, as amended, the FDIC has conducted a review of its Privacy Act systems of records and has determined that it needs to add one new system of records to cover personal information submitted by residential mortgage loan originators and maintained in the Nationwide Mortgage Licensing System and Registry (NMLSR) pursuant to the S.A.F.E. Act. The new system of records is designated as FDIC-30-64-0032 (Nationwide Mortgage Licensing System and Registry).

The S.A.F.E. Act requires an employee of a bank, savings association, credit union or Farm Credit System institution and certain of their subsidiaries that are regulated by a Federal banking agency or the Farm Credit Administration who acts as a residential mortgage loan originator to register with the NMLSR, obtain a unique identifier, and maintain this registration. The NMLSR collects and stores information concerning a residential mortgage loan originator's identity including personal history and experience and may include information related to any administrative, civil, or criminal findings by any governmental jurisdiction. The information will be collected by entering information online into the NMLSR web site. Once collected, the information will be maintained in the NMLSR electronic system in a secured environment.

The NMLSR is a Web-based system owned and operated by the State Regulatory Registry LLC (SRR). SRR is a limited-liability company established by Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators as a subsidiary of CSBS to develop and operate nationwide systems for State regulators in the financial services industry. SRR has contracted with the Financial Industry Regulatory Authority (FINRA) to build and maintain the NMLSR system. FINRA operates similar systems in the securities industry. More information about this system is available at <http://mortgage.nationwidelicencingsystem.org/>.

**FDIC-30-64-0032**

**SYSTEM NAME:** Nationwide Mortgage Licensing System and Registry.

**SECURITY CLASSIFICATION:** Unclassified but sensitive.

**SYSTEM LOCATION:**

Financial Industry Regulatory Authority, 9509 Key West Avenue, Rockville, MD 20850 (Background Check System data).

HP Enterprise Services Charlotte SMC, 9014 Research Drive, Charlotte, NC 28262 (Production Center)

HP Enterprise Services Plano SMC, 6901 Windcrest Drive, Plano, TX 75024 (Dual Use Test and Disaster Recovery Facility).

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:** Residential mortgage loan originators (MLOs) 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.

**CATEGORIES OF RECORDS IN THE SYSTEM:** Contains information documenting identity, including name and former names, Social Security number, gender, date of birth, and place of birth; home and business contact information; the date on which the MLO becomes an employee with the institution; criminal history, including the results of a background check; financial services-related employment history; civil, arbitration, regulatory, and disciplinary actions arising out of the MLO's financial services; and licensure revocations and suspensions.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:** Section 1507 of the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act (12 U.S.C. 5106)).

**PURPOSE(S):** The system is utilized to register MLOs employed by state and federally regulated depository institutions in a national registry, as required by the S.A.F.E. Act. The information is maintained to support regulatory supervision while providing the general public with access to certain information concerning MLOs including names and employment histories.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:** In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

- (1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto;
- (2) To a court, magistrate, or other administrative body in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;
- (3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;
- (4) To appropriate Federal, State, local authorities, and other entities when (a) it is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably

- necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm; and
- (5) To appropriate Federal agencies and other public authorities for use in records management inspections;
  - (6) To other Federal, State or foreign financial institutions supervisory or regulatory authorities;
  - (7) To depository institutions or their subsidiaries for use in registering employees as mortgage loan originators or renewing employee registrations;
  - (8) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;
  - (9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;
  - (10) To the appropriate governmental or self-regulatory organizations when relevant to the organization's regulatory or supervisory responsibilities or if the information is relevant to a known or suspected violation of a law or licensing standard within that organization's jurisdiction;
  - (11) To third parties when the information relates to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in Nationwide Mortgage Licensing System and Registry for access by the public in accordance with section 1507 of the S.A.F.E. Act.

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**Storage:** Records are stored in electronic media.

**Retrievability:** Records are retrieved by an individual MLO's name or unique identification number and by the financial institution's name.

**Safeguards:** Records are stored in a locked environment. Access to the system is limited to users who satisfy a comprehensive background check. The extent to which users have access is based on pre-determined roles. All data exchanges take place over an encrypted network.

**Retention and Disposal:** There is presently no records control schedule covering the disposition and retention of FDIC records maintained in NMLSR. FDIC staff will work with the National Archives and Records Administration to establish disposition and retention authority for FDIC records maintained in NMLSR. No data or other FDIC records of the system will be destroyed prior to obtaining such disposition and retention authority.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, Division of Risk Management Supervision, FDIC, 550 17th Street, NW,  
Washington, DC 20429

State Regulatory Registry LLC, 1155 Connecticut Avenue, N.W., Fifth Floor,  
Washington, D.C. 20036

**NOTIFICATION PROCEDURES:** Records created by a MLO in the Nationwide Mortgage Licensing System and Registry may be accessed or amended directly by the MLO. If assistance is required to access or amend such a record contact the NMLS Call Center at (240) 386-4444 or State Regulatory Registry LLC, 1155 Connecticut Avenue, N.W., Fifth Floor, Washington, D.C. 20036. Any other individual wishing to determine if he or she is named in this system of records or who is seeking access or amendment to records maintained in this system of records must submit a request in writing to Privacy@FDIC.Gov or to the Legal Division, FOIA/Privacy Act Group, FDIC, 550 17th Street, NW, Washington, DC 20429, in accordance with FDIC regulations at 12 C.F.R. Part 310. The request to the FDIC should contain: (1) a statement that it is made pursuant to the Privacy Act of 1974, (2) the name of the system of records expected to contain the records requested or a concise description of such system of records, (3) necessary information to verify the identity of the requester, including the requester's name and residence address, (4) a notarized statement attesting to the requester's identity, and (5) any other information that may assist in the rapid identification of the records for which access or amendment is being requested.

**RECORD ACCESS PROCEDURES:** Same as "Notification Procedures" above.

**CONTESTING RECORD PROCEDURES:** Same as "Notification Procedures" above except that the envelope mailed to the FDIC should be clearly marked "Privacy Act Amendment Request." A request to the FDIC for amendment of a record should contain the information set forth in "Notification Procedures" above. In addition, the request should also: (1) specify the portion of the record requested to be amended, and (2) describe the nature of and reasons for each requested amendment in accordance with FDIC regulations at 12 C.F.R. Part 310.

**RECORD SOURCE CATEGORIES:** Information maintained in this system is obtained from MLOs who submit information to the registry and the results of FBI background checks.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:** None.

By order of the Board of Directors.

Dated at Washington, DC, this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

Robert E. Feldman,  
Executive Secretary

## **Report of New System of Records**

Federal Deposit Insurance Corporation

March 15, 2011

The Federal Deposit Insurance Corporation (FDIC) has undertaken a comprehensive review of its existing systems of records which are subject to the Privacy Act of 1974, as amended (5 U.S.C. § 552a).

At this time, the FDIC proposes to add one new system of records (Nationwide Mortgage Licensing System and Registry). This Report complies with the requirements of the Privacy Act and the implementing policies and procedures set forth in OMB Circular A-130, "Management of Federal Information Resources," Appendix I – (4)(c).

### **1. Purpose.**

The FDIC proposes to add one new system of records notice to cover information maintained by a new registration system that will collect, process, and store personal information. The new system of records is identified as the Nationwide Mortgage Licensing System and Registry (FDIC-30-64-0032).

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 by covered entities 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. Information to be collected by and stored in the NMLSR includes the name of the registering MLO, former name(s), Social Security number, gender, date of birth, and place of birth; home and business contact information; date the individual became an employee of the depository institution; financial services-related employment and history for the past 10 years; criminal history involving certain felonies and misdemeanors; history of financial services-related civil actions, arbitrations and regulatory and disciplinary actions or orders, and financial services-related professional license revocations or suspensions. NMLSR is a Web-based system developed by the State Regulatory Registry LLC and maintained by the Financial Industry Regulatory Authority. FDIC personnel will have access to information in the system. The information will be collected by entering information online into the NMLSR web site. Once collected, the information will be maintained in the NMLSR electronic system in a secured environment.

### **2. Authority**

The new system of records is established pursuant to Section 1507 of the S.A.F.E. Act (12 U.S.C. 5106).

**3. Effect on Privacy.**

This new system of records will have minimal impact upon the privacy of individuals. The collection and maintenance of this information will have no impact on any individual's rights to access or to amend their records pursuant to the Privacy Act.

**4. Security.**

As described in the attached notice, the information collected in the system will be securely maintained and accessible only by authorized personnel.

**5. Routine Use Compatibility with (a)(7) of the Privacy Act.**

Routine uses for disclosure of information included in the new system of records have been refined to enhance transparency and public awareness. The routine uses have been determined to be compatible with the purposes for which the information is collected. They are also typical of approved routine uses of other agencies for similar types of records.

**6. Paperwork Reduction Act.**

The new system of records does not involve any new collections of information from the public subject to the Paperwork Reduction Act.

**7. Supporting Documentation.**

Attached is a copy of the new system of records notice consistent with the provisions of 5 U.S.C. § 552a(e)(4).

Further information may be obtained by contacting Hugo A. Zia, Supervisory Counsel, FOIA/Privacy Act Group, FDIC, 550 17th Street, NW, Washington, DC 20429, (703) 562-2671.