

MEMORANDUM

TO: Board of Directors

FROM: Russell G. Pittman  
Chief Privacy Officer



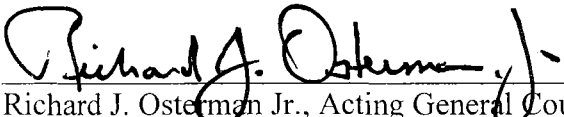
DATE: October 8, 2012

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

I. Recommendation

This memorandum requests that the Board authorize publication of the attached *Federal Register* notice to delete the Nationwide Mortgage Licensing System and Registry (FDIC 30-64-0032) from the FDIC's inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a) as amended. Authority for the operation of this system of records was transferred to the Bureau of Consumer Financial Protection (CFPB) by the Dodd-Frank Wall Street Reform and Consumer Protection Act. The CFPB published a new Privacy Act system of records notice for the Nationwide Mortgage Licensing System and Registry (NMLSR) that became effective on July 23, 2012. The FDIC will continue to have access to the NMLSR as a routine user of the CFPB's system of records.

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; Paul Robin, Section Chief, DCP Supervisory Policy Branch, (202) 898-6818; Gary Jackson, Counsel (703) 562-2677.

Concur:   
Richard J. Osterman Jr., Acting General Counsel

## II. Discussion

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) mandates a nationwide State licensing and registration system for mortgage loan originators, as well as a Federal registration system for mortgage loan originators that has been implemented through the NMLSR since January 31, 2011. The NMLSR is a web-based system owned and maintained by the State Regulatory Registry, a wholly-owned subsidiary of the Conference of State Bank Supervisors. Federal registration information in the NMLSR is accessed by the FDIC and other Federal banking agencies only with respect to employees of the institutions subject to each agency's respective authority. On March 21, 2011, the FDIC published in the *Federal Register* (76 FR 15309) a system of records notice for FDIC's portion of the NMLSR in accordance with the Privacy Act of 1974. Authorized personnel of the Division of Risk Management Supervision (RMS) and the Division of Depositor and Consumer Protection (DCP) have access to non-public information contained in the NMLSR.

The Dodd-Frank Act amended the SAFE Act and transferred responsibility for this system of records from the FDIC and other Federal banking agencies to the CFPB. On June 13, 2012, the CFPB published in the *Federal Register* (77 FR 35359) a system of records notice for the NMLSR explaining the transfer of authority for SAFE Act activities, including the regulations that require mortgage loan originators to register through the NMLSR, the existence and character of records maintained by the system, and the procedures by which such records may be accessed and amended by individuals as allowed under the Privacy Act and the Freedom of Information Act. On July 23, 2012, the CFPB's system of records notice became effective and, as of that date, the FDIC no longer maintains, owns, or controls any portion of the NMLSR.

Starting from July 23, 2012, however, the FDIC will continue to have access to the NMLSR to carry out its oversight responsibilities in accordance with Section 1503 of the SAFE Act.

The Privacy Act 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. Because the FDIC no longer maintains, owns, or controls any portion of the NMLSR, the FDIC should no longer have a system of record notice relating to that system. To ensure full compliance with the Privacy Act, the recommended publication in the *Federal Register* will serve as public notice of the transfer of authority for SAFE Act records to the CFPB and of the deletion of the FDIC Privacy Act system of records notice.

### **III. Effective Date**

The effective date of the recommended notice is July 23, 2012. Publication of the notice is not within the purview of subsection (r) of the Privacy Act which requires the submission of a new or altered system report to the Committee on Oversight and Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget. A deletion of a system is not interpreted as an alteration of a system for this purpose.