

76 FR 7204, 02/09/2011

Handbook Mailing HM-11-1

[6705-01-P]

FARM CREDIT ADMINISTRATION

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: Farm Credit Administration.

ACTION: Notice of establishment of a new system of records maintained on individuals; request for comment.

SUMMARY: Individuals employed by 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 are required by the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act) to register in the Nationwide Mortgage Licensing System and Registry (NMLSR), to obtain unique identifiers, and to maintain their registrations.

NMLSR is a Web-based system developed and maintained by a non-Federal third party, as discussed below, to satisfy the requirements of the S.A.F.E. Act. NMLSR will allow a number of Federal agencies, including the FCA, to retrieve the registration information by identifying particulars. However, the FCA and the other Federal agencies referenced above will be able to retrieve the registration information by identifying particulars only with respect to employees of the institutions each agency regulates.

To ensure full compliance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, the FCA is providing notice of the existence and character of records maintained by the NMLSR.

While employees of the financial institutions that the FCA regulates can submit registration information as of January 31, 2011, the FCA has blocked its own retrieval access to the registration information. Thus, there will not be a Privacy Act system of records until this notice becomes effective.

DATES: You may send written comments on or before March 15, 2011. The FCA filed a System Report with Congress and the Office of Management and Budget on February 3, 2011. This notice will become effective without further publication on March 15, 2011, unless modified by a subsequent notice to incorporate comments received from the public.

ADDRESSES: We offer a variety of methods for you to submit your comments. For accuracy and efficiency reasons, commenters are encouraged to submit comments by e-mail or through the FCA's Web site. As facsimiles (fax) are difficult for us to process and achieve compliance with section 508 of the Rehabilitation Act, we are no longer accepting comments submitted by fax. Regardless of the method you use, please do not submit your comment multiple times via different methods. You may submit comments by any of the following methods:

- E-mail: Send us an e-mail at reg-comm@fca.gov.
- FCA Web site: <http://www.fca.gov>. Select “Public Commenters,” then “Public Comments,” and follow the directions for “Submitting a Comment.”
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Jeffrey Pienta, Attorney-Advisor, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

You may review copies of comments we receive at our office in McLean, Virginia, or from our Web site at <http://www.fca.gov>. Once you are in the Web site, select “Public Commenters,” then “Public Comments,” and follow the directions for “Reading Submitted Public Comments.” We will show your comments as submitted but, for technical reasons, we may omit items such as logos and special characters. Identifying information that you provide, such as phone numbers and addresses, will be publicly available. However, we will attempt to remove e-mail addresses to help reduce Internet spam.

FOR FURTHER INFORMATION CONTACT:

Jeffrey Pienta, Office of General Counsel, Farm Credit Administration, McLean, Virginia, 22102-5090, (703) 883-4431, TTY (703) 883-4020.

SUPPLEMENTARY INFORMATION: This publication satisfies any requirement of the Privacy Act of 1974 that agencies publish a system of records notice in the Federal Register when there is an establishment of a new system of records. The notice reflects designated points of contact for inquiring about the system, accessing the records, and requesting amendments to the records.

To ensure compliance with 5 U.S.C. 552a(r) of the Privacy Act, as amended, the FCA has sent notice of this proposed system of records to the Office of Management and Budget, the Committee on Oversight and Government Reform of the House of Representatives, and the Committee on Homeland Security and Governmental Affairs of the Senate. The notice is published in its entirety below.

FCA

SYSTEM NAME:

Nationwide Mortgage Licensing System and Registry.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

Financial Institution 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 (Duel 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 (FCA).

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 OF 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 (and those regulated by the FCA) 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.

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 FCA as a routine use as follows:

1. To the appropriate federal, state, local, foreign, or self-regulatory organization or agency responsible for investigating, prosecuting, enforcing, implementing, issuing or carrying out a statute, rule, regulation, order, policy or license if the information may be relevant to a potential violation of civil or criminal law, rule, regulation, order, policy or license;
2. To a federal agency in the executive, legislative, or judicial branch of government, or to a Federal Reserve Bank, in connection with the hiring, retaining, or assigning of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of jobs, the letting of a contract, the issuance of a license, grant, or other benefits by the receiving entity, or the lawful statutory, administrative, or investigative purpose of the receiving entity to the extent that the information is relevant and necessary to the receiving entity's decision on the matter.
3. To the Department of Justice, a court, an adjudicative body or administrative tribunal, a party in litigation, or a witness if the FCA determines, in its sole discretion, that the information is relevant and necessary to the matter;
4. To a congressional office in response to an inquiry from the congressional office made at the request of the individual to whom the record pertains;
5. To contractors, agents, or others performing work on a contract, service, cooperative agreement, or activity for the FCA and who have a need to access the information in the performance of their duties or activities for the FCA;
6. 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;
7. To depository institutions or their subsidiaries or institutions regulated by the FCA for use in

registering employees as MLOs or renewing employee registrations; and

8. To third parties when the information relates to the employment history of, and publically adjudicated disciplinary and enforcement actions against, 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 FCA records maintained in NMLRS. FCA staff will work with the National Archives and Records Administration over the course of the next year to establish disposition and retention authority for FCA records maintained in NMLRS. No data or other FCA records of the system will be destroyed prior to obtaining such disposition and retention authority.

SYSTEM MANAGER AND ADDRESS:

Director, Office of Management Services, 1501 Farm Credit Drive, McLean VA 22102-5090.

NOTIFICATION PROCEDURES:

An individual desiring to learn of the existence of, or to gain access to, his or her record in this system of records shall submit a request in writing to the Privacy Act Officer, Office of General Counsel, Farm Credit Administration, McLean, VA 22102-5090. The request 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 record requested or a concise description of such system of records, (3) necessary information to verify the identity of the requester, and (4) any other information that may assist in the rapid identification of the record for which access is being requested.

RECORD ACCESS PROCEDURES:

Same as "Notification procedures" above.

CONTESTING RECORD PROCEDURES:

Same as "Notification procedures" above except that the envelope should be clearly marked "Privacy Act Amendment Request." The request for amendment of a record should: (1) Identify the system of records containing the record for which amendment is requested, (2) specify the portion of that record requested to be amended, and (3) describe the nature of and reasons for each requested amendment.

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.

Dated: February 3, 2011

**Dale L. Aultman,
Secretary,
Farm Credit Administration Board.**