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## FEDERAL RESERVE SYSTEM

### Agency Information Collection Activities: Announcement of Board Approval under Delegated Authority and Submission to OMB

**AGENCY:** Board of Governors of the Federal Reserve System

**SUMMARY:** Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer – Nuha Elmaghrabi – Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452-3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263-4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

OMB Desk Officer – Shagufta Ahmed – Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17<sup>th</sup> Street, NW, Washington, DC 20503.

### **Final approval under OMB delegated authority of the extension for three years, with revision, of the following report:**

*Report title:* Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation E (Electronic Fund Transfer Act).

*Agency form number:* Reg E.

*OMB control number:* 7100-0200.

*Frequency:* Event-generated.

*Reporters:* State member banks, their subsidiaries, subsidiaries of bank holding companies, U.S. branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601-604a; 611-631).

*Estimated annual reporting hours:* Initial disclosures, 6,363 hours; Change-in-terms, 5,769 hours; Periodic statements, 15,960 hours; Error resolution, 15,270 hours; Gift card exclusion policies and procedures, 8,144 hours; Gift card policy and procedures, 8,144 hours; Remittance transfer disclosures (one-time), 122,160 hours; Remittance transfer disclosures (ongoing), 97,728 hours; Error notice from sender (consumers)(ongoing), 61,083 hours; Time limits and extent of investigation (ongoing), 54,972 hours; Transmitter error resolution standards and recordkeeping requirements (one-time), 40,720 hours; Transmitter error resolution standards and recordkeeping requirements (ongoing), 8,144 hours; Acts of agents (one-time), 40,720 hours; Acts of agents (ongoing), 8,144 hours.

*Estimated average hours per response:* Initial disclosures, 1.5 minutes; Change-in-terms, 1 minute; Periodic statements, 7 hours; Error resolution, 30 minutes; Gift card exclusion policies and procedures, 8 hours; Gift card policy and procedures, 8 hours; Remittance transfer disclosures (one-time), 120 hours; Remittance transfer disclosures (ongoing), 8 hours; Error notice from sender (consumers)(ongoing), 5 minutes; Time limits and extent of investigation (ongoing), 4.5 hours; Transmitter error resolution standards and recordkeeping requirements (one-time), 40 hours; Transmitter error resolution standards and recordkeeping requirements (ongoing), 8 hours; Acts of agents (one-time), 40 hours; Acts of agents (ongoing), 8 hours.

*Number of respondents:* Initial disclosures, 1,018 respondents; Change-in-terms, 1,018 respondents; Periodic statements, 190 respondents; Error resolution, 1,018 respondents; Gift card exclusion policies and procedures, 1,018 respondents; Gift card policy and procedures, 1,018 respondents; Remittance transfer disclosures (one-time), 1,018 respondents; Remittance transfer disclosures (ongoing), 1,018 respondents; Error notice from sender (consumers)(ongoing), 733,000 respondents; Time limits and extent of investigation (ongoing), 1,018 respondents; Transmitter error resolution standards and recordkeeping requirements (one-time), 1,018 respondents; Transmitter error resolution standards and recordkeeping requirements (ongoing), 1,018 respondents; Acts of agents (one-time), 1,018 respondents; Acts of agents (ongoing), 1,018 respondents.

*General description of report:* This information collection is mandatory (15 U.S.C. 1693b(a)). The Federal Reserve does not collect any information under the CFPB's Regulation E, so no issue of confidentiality arises. However, in the event the Federal Reserve were to obtain this any of the recordkeeping or disclosure documentation during the course of an examination, the information may be protected from disclosure under exemptions 4, 6, or 8 of the Freedom of Information Act (5 U.S.C. 552(b)(4), (6), and (8)).

*Abstract:* The EFTA ensures adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services debiting or crediting a consumer's account. The disclosures required by the EFTA are triggered by certain specified events. The disclosures inform consumers about the terms of the electronic fund transfer service, activity on the account, potential liability for unauthorized transfers, and the process for resolving errors. To ease institutions' burden and cost of complying with the disclosure requirements of Regulation E (particularly for small entities), Regulation E includes model forms and disclosure clauses.

Regulation E applies to all financial institutions. In addition, certain provisions in Regulation E apply to entities that are not financial institutions, including those that act as service providers or automated teller machine (ATM) operators, merchants and other payees that engage in electronic check conversion (ECK) transactions, the electronic collection of returned item fees, or preauthorized transfers, issuers and sellers of gift cards and gift certificates, and remittance transfer providers.

*Current Actions:* On June 10, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 32953) requesting public comment for 60 days on the extension, with revision, of the Recordkeeping and Disclosure Requirements Associated with the Consumer Financial Protection Bureau's (CFPB) Regulation E (Electronic Fund Transfer Act). The comment period for this notice expired on August 10, 2015. The Federal Reserve did not receive any comments. The revisions will be implemented as proposed.

**Final approval under OMB delegated authority of the extension for three years, without revision, of the following reports:**

1. *Report title:* Notice Requirements in Connection with Regulation W (12 CFR part 223 Transactions Between Member Banks and Their Affiliates).

*Agency form number:* Reg W.

*OMB control number:* 7100-0304.

*Frequency:* Event-generated.

*Reporters:* Insured depository institutions and uninsured member banks.

*Estimated annual reporting hours:* 24 hours.

*Estimated average hours per response:* Loan participation renewal notice, 2 hours; Acquisition notice, 6 hours; Internal corporate reorganization transactions notice, 6 hours; and section 23A additional exemption notice, 10 hours.

*Number of respondents:* Loan participation renewal notice, 1; Acquisition notice, 1; Internal corporate reorganization transactions notice, 1; and section 23A additional exemption notice, 1.

*General description of report:* This information collection is required to evidence compliance with sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 371c-1). Confidential and proprietary information collected for the purposes of the Loan Participation Renewal notice (12 CFR 223.15(b)(4)) may be protected under the authority of section (b)(4) of FOIA (5 U.S.C. 552(b)(4)). That section of FOIA exempts commercial or financial information deemed competitively sensitive from disclosure. Respondents who desire that the information on this notice be kept confidential in accordance with section (b)(4) can request confidential

treatment under the Board's rules at 12 CFR 261.15. In addition, information that is obtained as part of an examination of a financial institution is exempt from disclosure under exemption (b)(8) of FOIA (5 U.S.C. 552(b)(8)).

*Abstract:* On December 12, 2002, the Federal Reserve published a **Federal Register** notice<sup>1</sup> adopting Regulation W (Reg W) to implement sections 23A and 23B. Reg W was effective April 1, 2003. The Board issued Reg W for several reasons. First, the regulatory framework established by the Gramm-Leach-Bliley Act<sup>2</sup> emphasized the importance of sections 23A and 23B as a means to protect depository institutions from losses in transactions with affiliates. Second, adoption of a comprehensive rule simplified the interpretation and application of sections 23A and 23B, ensured that the statute is consistently interpreted and applied, and minimized burden on banking organizations to the extent consistent with the statute's goals. Third, issuing a comprehensive rule allowed the public an opportunity to comment on Federal Reserve interpretations of sections 23A and 23B.

The information collection requirements associated with Regulation W comprise four notices: (1) the Loan Participation Renewal notice (12 CFR 223.15(b)(4)), which is a condition to an exemption for renewals of loan participations involving problem loans; (2) the Acquisition notice (12 CFR 223.31(d)(4)), which is a condition to an exemption for a depository institution's acquisition of an affiliate that becomes an operating subsidiary of the institution after the acquisition; (3) the Internal Corporate Reorganization Transactions notice (12 CFR 223.41(d)(2)), which is a condition to an exemption for internal corporate reorganization transactions; and (4) the Section 23A Additional Exemption notice (12 CFR 223.43(b)), which provides procedures for requesting additional exemptions from the requirements of section 23A. These notifications are event-generated and must be provided to the appropriate federal banking agency and, if applicable, the Federal Reserve Board within the time periods established by the law and regulation.

*Current Actions:* On May 27, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 30248) requesting public comment for 60 days on the extension, without revision, of the Notice Requirements in Connection with Regulation W (12 CFR part 223 Transactions Between Member Banks and Their Affiliates). The comment period for this notice expired on July 27, 2015. The Federal Reserve did not receive any comments. The information collection will be extended as proposed.

2. *Report title:* Prohibition on Funding of Unlawful Internet Gambling.

*Agency form number:* Reg GG.

*OMB Control Number:* 7100-0317.

*Frequency:* Annual.

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<sup>1</sup> (67 FR 76603).

<sup>2</sup> Public Law 106-102, 113 Stat. 1338 (1999).

*Reporters:* Depository institutions, card system operators, and money transmitting business operators that participate in designated payment systems.

*Estimated annual reporting hours:* 52,808.

*Estimated average hours per response:* Ongoing – 8 hours; One-time – 100 hours.

*Number of respondents:* Depository institutions – 3,039; credit unions – 3,170; card system operators – 7; money transmitting business operators – 10; and new or de novo institutions – 3.

*General description of report:* Reg GG is a mandatory record retention requirement that is authorized under 31 U.S.C. 5364 (a). The required policies and procedures are not submitted to the Board so normally no confidentiality issues would be implicated. To the extent the policies and procedures were obtained by the Board through the examination process, they could be afforded confidential treatment (5 U.S.C. 552(b)(8)).

*Abstract:* On November 18, 2008, the Board and the Department of the Treasury published a joint notice of final rulemaking in the **Federal Register** (73 FR 69382) adopting a rule on a prohibition on the funding of unlawful Internet gambling pursuant to the Act. Identical sets of the final joint rule with identically numbered sections were adopted by the Board and the Treasury within their respective titles of the Code of Federal Regulations (12 CFR part 233 for the Board and 31 CFR part 132 for the Treasury). The compliance date for the joint rule was June 1, 2010 (74 FR 62687). The collection of information is set out in sections 5 and 6 of the joint rule.<sup>3</sup> Section 5 of the joint rule, as required by the Act, requires all non-exempt participants in designated payment systems to establish and implement written policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit transactions in connection with unlawful Internet gambling.<sup>4</sup> Section 6 of the joint rule provides non-exclusive examples of policies and procedures deemed by the two agencies to be reasonably designed to identify and block or otherwise prevent or prohibit transactions restricted by the Act.

*Current Actions:* On June 9, 2015 the Board and the Department of the Treasury published a joint notice in the **Federal Register** (80 FR 32559) requesting public comment for 60 days on the extension, without revision, of the Prohibition on Funding of Unlawful Internet Gambling information collection. The comment period for this notice expired on August 10, 2015. The Board did not receive any comments and therefore will proceed with extending the information collection as proposed.

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<sup>3</sup> Section 802 of the Act requires the Agencies to prescribe joint regulations requiring each designated payment system, and all participants in such systems, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions. 31 U.S.C. 5364(a). Section 802 also requires the Agencies to include in the joint rule non-exclusive examples of reasonably designed policies and procedures. 31 U.S.C. 5364(b).

<sup>4</sup> 12 CFR 233.5 and 233.6; and 31 CFR 132.5 and 132.6.

3. *Report title:* Basel II Interagency Pillar 2 Supervisory Guidance.

*Agency form number:* FR 4199.

*OMB control number:* 7100-0320.

*Frequency:* Annual.

*Reporters:* State member banks, bank holding companies (BHCs).

*Estimated annual reporting hours:* 5,460.

*Estimated average hours per response:* 420.

*Number of respondents:* 13.

*General description of report:* The Board’s Legal Division has determined that the FR 4199 is authorized by section 9(6) of the Federal Reserve Act and section 5 of the Bank Holding Company Act. Section 9(6) of the Federal Reserve Act requires state member banks to “comply with the reserve and capital requirements of this chapter” and to make reports of condition “in such form” and “contain[ing] such information” as the Board may require (12 U.S.C. 324). Section 5 of the Bank Holding Company Act authorizes the Board to “issue regulations and orders relating to the capital requirement for bank holding companies” and requires BHCs to “keep the Board informed as to [their] financial condition, systems for monitoring and controlling financial and operating risks...” (12 U.S.C. 1844 (b) and (c)). Because the recordkeeping requirements are contained within guidance (and not a statute or regulation), they are voluntary. Because the FR 4199 recordkeeping requirements require that banks and BHCs retain their own records, the Freedom of Information Act (FOIA) would only be implicated if the Federal Reserve’s examiners retained a copy of the records as part of an examination or supervision of a bank or BHC. However, records obtained as a part of an examination or supervision of a bank or BHC are exempt from disclosure under FOIA exemption (b)(8), for examination material (5 U.S.C. 552(b)(8)). In addition, the records may also be exempt under (b)(4), which exempts from disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential,” and under (b)(6) for non-public personal information regarding owners, shareholders, directors, officers or employees if the disclosure would “constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(4) and (b)(6)).

*Abstract:* The advanced approaches framework requires certain banks and BHCs to use an internal ratings-based approach to calculate regulatory credit risk capital requirements and advance measurement approaches to calculate regulatory operational risk capital requirements, and to meet the higher of the minimum requirements under the general risk-based capital rules and the minimum requirements under the advanced approaches framework.

A bank is required to comply with the advanced approaches framework if it meets either of two independent threshold criteria: (1) consolidated total assets of \$250 billion or more, as reported on the most recent year-end regulatory reports; or (2) consolidated total on-balance sheet foreign exposure of \$10 billion or more at the most recent year-end.

A BHC is required to comply with the advanced approaches framework if the BHC has (1) consolidated total assets (excluding assets held by an insurance underwriting subsidiary) of \$250 billion or more, as reported on the most recent year-end regulatory reports; (2) consolidated total on-balance sheet foreign exposure of \$10 billion or more at the most recent year-end; or (3) a subsidiary depository institution (DI) that meets the criteria to be subject to the advanced approaches rule, or elects to adopt the advanced approaches. As of September 30, 2014, 13 BHCs meet the above criteria and are therefore subject to the advanced approaches rule.<sup>5</sup>

Also, some banks or BHCs may voluntarily decide to adopt the advanced approaches framework. Both mandatory and voluntary respondents are required to meet certain qualification requirements before they can use the advanced approaches framework for risk-based capital purposes.

The Pillar 2 Guidance sets the expectation that respondents maintain certain documentation as described in paragraphs 37, 41, 43, and 46 of this portion of the guidance. Details of the expectations for each section are provided below.

#### *Setting and Assessing Capital Adequacy Goals that Relate to Risk*

**Paragraph 37.** In analyzing capital adequacy, a banking organization should evaluate the capacity of its capital to absorb losses. Because various definitions of capital are used within the banking industry, each banking organization should state clearly the definition of capital used in any aspect of its internal capital adequacy assessment process (ICAAP).<sup>6</sup> Since components of capital are not necessarily alike and have varying capacities to absorb losses, a banking organization should be able to demonstrate the relationship between its internal capital definition and its assessment of capital adequacy. If a banking organization's definition of capital differs from the regulatory definition, the banking organization should reconcile such differences and provide an analysis to support the inclusion of any capital instruments that are not recognized under the regulatory definition. Although common equity is generally the predominant component of a banking organization's capital structure, a banking organization may be able to support the inclusion of other capital instruments in its internal definition of capital if it can demonstrate a similar capacity to absorb losses. The banking organization should document any changes in its internal definition of capital, and the reason for those changes.

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<sup>5</sup> Regulation YY permits a bank holding company that is a subsidiary of a foreign banking organization to elect not to comply with the advanced approaches rule prior to formation of an IHC with the prior approval of the Board. 12 C.F.R. 252.153(e)(2)(C).

<sup>6</sup> A bank holding company with total consolidated assets of \$50 billion or more is required to develop and maintain a capital plan, which must set forth a capital adequacy process. 76 FR 74631 (December 1, 2011). ICAAP would constitute an internal capital adequacy process for purposes of the final rule, and bank holding companies that have a satisfactory ICAAP generally would be considered to have a satisfactory internal capital adequacy process for purposes of the final rule.

## *Ensuring Integrity of Internal Capital Adequacy Assessments*

**Paragraph 41.** A banking organization should maintain thorough documentation of its ICAAP to ensure transparency. At a minimum, this should include a description of the banking organization's overall capital-management process, including the committees and individuals responsible for the ICAAP; the frequency and distribution of ICAAP-related reporting; and the procedures for the periodic evaluation of the appropriateness and adequacy of the ICAAP. In addition, where applicable, ICAAP documentation should demonstrate the banking organization's sound use of quantitative methods (including model selection and limitations) and data-selection techniques, as well as appropriate maintenance, controls, and validation. A banking organization should document and explain the role of third-party and vendor products, services and information - including methodologies, model inputs, systems, data, and ratings - and the extent to which they are used within the ICAAP. A banking organization should have a process to regularly evaluate the performance of third-party and vendor products, services and information. As part of the ICAAP documentation, a banking organization should document the assumptions, methods, data, information, and judgment used in its quantitative and qualitative approaches.

**Paragraph 43.** The board of directors and senior management have certain responsibilities in developing, implementing, and overseeing the ICAAP. The board should approve the ICAAP and its components. The board or its appropriately delegated agent should review the ICAAP and its components on a regular basis, and approve any revisions. That review should encompass the effectiveness of the ICAAP, the appropriateness of risk tolerance levels and capital planning, and the strength of control infrastructures. Senior management should continually ensure that the ICAAP is functioning effectively and as intended, under a formal review policy that is explicit and well documented. Additionally, a banking organization's internal audit function should play a key role in reviewing the controls and governance surrounding the ICAAP on an ongoing basis.

**Paragraph 46.** As part of the ICAAP, the board or its delegated agent, as well as appropriate senior management, should periodically review the resulting assessment of overall capital adequacy. This review, which should occur at least annually, should include an analysis of how measures of internal capital adequacy compare with other capital measures (such as regulatory, accounting-based or market-determined). Upon completion of this review, the board or its delegated agent should determine that, consistent with safety and soundness, the banking organization's capital takes into account all material risks and is appropriate for its risk profile. However, in the event a capital deficiency is uncovered (that is, if capital is not consistent with the banking organization's risk profile or risk tolerance) management should consult and adhere to formal procedures to correct the capital deficiency.

*Current Actions:* On May 28, 2015, the Federal Reserve published a notice in the **Federal Register** (80 FR 30459) requesting public comment for 60 days on the extension, without revision, of the FR 4199. The comment period for this notice expired on July 27, 2015. The Federal Reserve did not receive any comments and therefore will proceed with extending the information collection as proposed.

Board of Governors of the Federal Reserve System, August 25, 2015.

Robert deV. Frierson,  
Secretary of the Board.

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