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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: The Board of Governors of the Federal Reserve System (Board or Federal Reserve) is adopting a proposal to revise, with extension for three years, the Annual Report of Holding Companies (FR Y-6), the Annual Report of Foreign Banking Organizations (FR Y-7), and the Report of Changes in Organizational Structure (FR Y-10). The revisions to the mandatory FR Y-6 and FR Y-7 information collections are effective with fiscal year-ends beginning December 31, 2016. The revisions to the mandatory FR Y-10 information collection are effective October 14, 2016.

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

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 17th Street, NW., Washington, DC 20503.

SUPPLEMENTARY INFORMATION:

Final approval under OMB delegated authority of the revision, with extension for three years, of the following information collection:

Report titles: Annual Report of Holding Companies; Annual Report of Foreign Banking Organizations; Report of Changes in Organizational Structure; Supplement to the Report of Changes in Organizational Structure.

Agency form numbers: FR Y-6, FR Y-7, and FR Y-10 (extension, with revision); FR Y-10E (extension, without revision).

OMB control number: 7100-0297.

Frequency: FR Y-6: Annual; FR Y-7: Annual; FR Y-10: Event-generated; FR Y-10E: Event-generated.

Effective dates: FR Y-6 and FR Y-7: beginning with fiscal year-ends December 31, 2016; FR Y-10: October 14, 2016.

Respondent type: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies, and intermediate holding companies (IHCs) (collectively, holding companies (HCs)), foreign banking organizations (FBOs), state member banks unaffiliated with a BHC, Edge Act and agreement corporations, and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only).

Estimated annual reporting hours: FR Y-6 initial: 130 hours; FR Y-6 ongoing: 26,549 hours; FR Y-7: 972 hours; FR Y-10 initial: 530 hours; FR Y-10 ongoing: 39,735 hours; FR Y-10E: 2,649 hours.

Estimated average hours per response: FR Y-6 initial: 10 hours; FR Y-6 ongoing: 5.5 hours; FR Y-7: 4 hours; FR Y-10 initial: 1 hour; FR Y-10 ongoing: 2.5 hours; FR Y-10E: 0.5 hour.

Number of respondents: FR Y-6 initial: 13; FR Y-6 ongoing: 4,827; FR Y-7: 243; FR Y-10 initial: 530; FR Y-10 ongoing: 5,298; FR Y-10E: 5,298.

Legal authorization and confidentiality: These information collections are mandatory as follows:

FR Y-6: Section 5(c)(1)(A) of the Bank Holding Company Act (BHC Act) (12 U.S.C. 1844(c)(1)(A)); sections 8(a) and 13(a) of the International Banking Act (IBA) (12 U.S.C. 3106(a) and 3108(a)); sections 11(a)(1), 25, and 25A of the Federal Reserve Act (FRA) (12 U.S.C. 248(a)(1), 602, and 611a); and sections 113, 165, 312, 618, and 809 of the Dodd-Frank Act (DFA) (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

FR Y-7: Sections 8(a) and 13(a) of the IBA (12 U.S.C. 3106(a) and 3108(a)); sections 113, 165, 312, 618, and 809 of the DFA (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)).

FR Y-10 and FR Y-10E: Sections 4(k) and 5(c)(1)(A) of the BHC Act (12 U.S.C. 1843(k) and 1844(c)(1)(A)); section 8(a) of the IBA (12 U.S.C. 3106(a)); sections 11(a)(1), 25(7), and 25A of the FRA (12 U.S.C. 248(a)(1), 321, 601, 602, 611a, 615, and 625); sections 113, 165, 312, 618, and 809 of the DFA (12 U.S.C. 5361, 5365, 5412, 1850a(c)(1), and 5468(b)(1)); and section 10(c)(2)(H) of the Home Owners' Loan Act (12 U.S.C. 1467a(c)(2)(H)).

The data collected in the FR Y-6, FR Y-7, FR Y-10, and FR Y-10E are not considered confidential. With regard to information that a banking organization may deem confidential, the institution may request confidential treatment of such information under one or more of the exemptions in the Freedom of Information Act (FOIA) (5 U.S.C. 552). The most likely case for confidential treatment will be based on FOIA exemption 4, which permits an agency to exempt from disclosure "trade secrets and commercial or financial information obtained from a person

and privileged and confidential” (5 U.S.C. 552(b)(4)). To the extent an institution can establish the potential for substantial competitive harm, such information would be protected from disclosure under the standards set forth in National Parks & Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974). Exemption 6 of FOIA might also apply with regard to the respondents’ submission of non-public personal information of owners, shareholders, directors, officers and employees of respondents. Exemption 6 covers “personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy” (5 U.S.C. 552(b)(6)). All requests for confidential treatment would need to be reviewed on a case-by-case basis and in response to a specific request for disclosure.

The Federal Reserve proposes that the disclosure of the responses to the certification questions may interfere with home-country regulators’ administration, execution, and disclosure of their stress-test regime and its results, and may cause substantial competitive harm to the FBO providing the information, and thus this information may be protected from disclosure under FOIA exemption 4.

Abstract: The FR Y-6 is an annual information collection submitted by top-tier HCs and non-qualifying FBOs. It collects financial data, an organization chart, verification of domestic branch data, and information about shareholders. The Federal Reserve uses the data to monitor HC operations and determine HC compliance with the provisions of the BHC Act, Regulation Y (12 C.F.R. 225), the Home Owners’ Loan Act (HOLA) and Regulation LL (12 C.F.R. 238).

The FR Y-7 is an annual information collection submitted by qualifying FBOs to update their financial and organizational information with the Federal Reserve. The FR Y-7 collects financial, organizational, shareholder, and managerial information. The Federal Reserve uses the information to assess an FBO’s ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations.

The FR Y-10 is an event-generated information collection submitted by FBOs; top-tier HCs; securities holding companies as authorized under Section 618 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the Dodd-Frank Act) (12 U.S.C. 1850a(c)(1)); state member banks unaffiliated with a bank holding company (BHC); Edge and agreement corporations that are not controlled by a member bank, a domestic BHC, or an FBO; and nationally chartered banks that are not controlled by a BHC (with regard to their foreign investments only), to capture changes in their regulated investments and activities. The Federal Reserve uses the data to monitor structure information on subsidiaries and regulated investments of these entities engaged in banking and nonbanking activities. The FR Y-10E is a free-form supplement that may be used to collect additional structural information deemed to be critical and needed in an expedited manner.

Current Actions: On April 25, 2016, the Federal Reserve published a notice in the *Federal Register*¹ requesting public comment for 60 days on the proposal to revise, with extension, the FR Y-6, FR Y-7, FR Y-10, and FR Y-10E. Under the proposal, the revisions were to: (1) modify the FR Y-6, FR Y-7, and FR Y-10 confidential treatment questions on reporting forms and

¹ 81 FR 24101 (April 25, 2016).

instructions to align with the recently approved confidentiality check-box proposal,² (2) modify the FR Y-7 and FR Y-10 to incorporate U.S. IHCs formed under the final rule for enhanced prudential standards for FBOs (Regulation YY),³ (3) clarifying the differences in reporting of additional companies by BHCs and Savings and Loan Holding Companies (SLHCs), adding a formula to calculate ownership percentage, and clarifying the signature requirements for employee stock ownership plans (ESOPs) and limited liability companies (LLCs), and (4) modify the FR Y-10 by removing the instructions for implementation of SLHCs from the General Instructions, removing the legal authority paragraph in the General Instructions, clarifying the instructions regarding the interest in sole partnership and sole member LLCs, separating the LAC for SLHCs into two codes, adding several new Glossary entries, and incorporating clarifying instructions that a nonbank subsidiary under a savings association does not meet the definition of a financial subsidiary. The comment period for this notice expired on June 24, 2016. The Federal Reserve received one comment letter from an industry association, which was outside the scope of the proposed changes. In addition, the Federal Reserve is extending the implementation date for the FR Y-10 to October 14, 2016.

Detailed Discussion of Public Comments

The following is a detailed discussion of the comments and responses.

The commenter requested an electronic filing option for the FR Y-6 Organizational Chart. After review and consideration, the Federal Reserve will provide the option of submitting the FR Y-6 report as a PDF file in an e-mail attachment to reduce burden. The instructions will be updated to reflect this change.

The commenter stated the method for validating Legal Entity Identifiers (LEIs) is inaccurate particularly for LEIs issued prior to 2012. While the validation method is accurate based on the current standards for issuing an LEI, the Federal Reserve believes it can be removed since the one-time collection for existing LEIs has been completed. Upon consideration of the comment, the Federal Reserve will remove the LEI validation from the FR Y-10 online application.

Although the proposal did not include amendments to item 10 or the definition of an LLC on the FR Y-10, the commenter requested guidance on how to report foreign entities for that line item in the FR Y-10 and suggested that a mapping document be provided, which would list foreign entities with their corresponding U.S. legal structure. Alternatively, the commenter made a number of suggestions regarding how LLCs, in particular, are reported on the form, and one suggestion was to modify the definition of LLC to clarify when a foreign entity should be reported as an LLC. After review and consideration, the Federal Reserve decided not to make these changes. Given the vast number of diverse organizational structures, the Federal Reserve believes that it is up to each respondent to apply judgement in determining whether a particular entity type fits within the legal entity structures listed in the form, including whether a foreign

² 80 FR 52282 (August 28, 2015).

³ The draft FR Y-6 reporting form and instructions associated with this proposal also include the language to collect information for U.S. IHCs of FBOs as discussed in the IHC proposal. See 81 FR 6265 (February 5, 2016) and 81 FR 35016 (June 1, 2016).

entity should be reported as an LLC. If a respondent determines that a business organization does not fit within any of the legal entity structures listed in the form, including the definition of LLC, it may report the legal entity as “Other” and provide a description of its unique characteristics.

The commenter requested clarification on how to report ownership interests in LLCs when the organization’s governing documents are silent regarding the designation of a managing member and where an entity is designated as a manager (i.e., actively manages the day-to-day operation of the LLC), but has no ownership interest in the LLC. In addition, the commenter suggested that a flowchart be provided in the instructions to indicate how to report these interests. After review and consideration, the Federal Reserve decided not to make these changes. Since each respondent’s relationship with the LLC will vary and the determination of whether to report its ownership interest as a managing or non-managing member may depend upon a combination of factors, including applicable state laws, the respondent should consult with its legal staff to take into account these unique facts and circumstances and report its interest in the manner it deems most appropriate.

The commenter requested an established and consistent process for withdrawing an erroneous FR Y-10 report that should not have been filed. The Federal Reserve support incorporating procedures for this process and will consider adding them as part of a future proposal.

Finally, the commenter requested several other technical enhancements to the FR Y-10 online application: (1) establish a process for withdrawing an FR Y-10 report that should not have been filed, (2) add straight-through processing of the FR Y-10 either directly from internal systems or through a data load process, (3) add a notification that informs the reporter after an event has been processed, (4) add foreign branch entities, (5) remove restriction in the FR Y-10 online application to allow reporters that own interest in the same entity to report their holdings differently, and (6) update the RSSD search function. The Federal Reserve need additional time to investigate whether these enhancements are feasible and may consider them as a part of a future proposal as costs and resources permit.

Board of Governors of the Federal Reserve System, October 13, 2016.

Robert deV. Frierson
Secretary of the Board.

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