



## **FEDERAL RESERVE SYSTEM**

### **Proposed Agency Information Collection Activities; Comment Request**

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

**ACTION:** Notice, request for comment.

**SUMMARY:** The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, without revision, the Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks.

**DATES:** Comments must be submitted on or before [insert date 60 days after publication in the Federal Register].

**ADDRESSES:** You may submit comments, identified by FR H-5, by any of the following methods:

- Agency Website: <https://www.federalreserve.gov/>. Follow the instructions for submitting comments at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx>.
- E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the OMB number in the subject line of the message.
- FAX: (202) 452-3819 or (202) 452-3102.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20<sup>th</sup> Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available from the Board's website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons or to remove personally identifiable information at the commenter's request. Accordingly, comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room 146, 1709 New York

Avenue, NW, Washington, DC 20006, between 9:00 a.m. and 5:00 p.m. on weekdays. For security reasons, the Board requires that visitors make an appointment to inspect comments. You may do so by calling (202) 452-3684. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

Additionally, commenters may send a copy of their comments to the Office of Management and Budget (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, or by fax to (202) 395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the Paperwork Reduction Act (PRA) OMB submission, including the reporting form and instructions, supporting statement, and other documentation will be placed into OMB’s public docket files, if approved. These documents will also be made available on the Board’s public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx> or may be requested from the agency clearance officer, whose name appears below.

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.

**SUPPLEMENTARY INFORMATION:**

On June 15, 1984, OMB delegated to the Board authority under the PRA to approve and assign OMB control numbers to collections of information 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.

## **Request for Comment on Information Collection Proposal**

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

- a. Whether the proposed collection of information is necessary for the proper performance of the Board's functions, including whether the information has practical utility;
- b. The accuracy of the Board's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;
- c. Ways to enhance the quality, utility, and clarity of the information to be collected;
- d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Board should modify the proposal.

### **Proposal under OMB Delegated Authority to Extend for Three Years, Without Revision, the Following Information Collection:**

*Report title:* Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks.

*Agency form number:* FR H-5.

*OMB control number:* 7100-0261.

*Frequency:* Policy statement, annually; policy statement (de novo), annually; recordkeeping for loans with loan-to-value (LTV's) that exceed supervisory limits and maintaining a system of review, quarterly.

*Respondents:* State member banks.

*Estimated number of respondents:* 754.

*Estimated average hours per response:* Policy statement, 5 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 5 hours.

*Estimated annual burden hours:* Policy statement, 3,770 hours; policy statement (de novo), 20 hours; recordkeeping for loans with LTV's that exceed supervisory limits and maintaining a system of review, 15,080 hours.

*General description of report:* Pursuant to the Board's Regulation H, state member banks (SMBs) must adopt and maintain a written real estate lending policy. Additionally, this information collection includes certain voluntary recordkeeping provisions in the Interagency Guidelines for Real Estate Lending Policies (Guidelines).<sup>1</sup>

*Legal authorization and confidentiality:* The FR H-5 is authorized by section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA),<sup>2</sup> which provides that "each appropriate Federal banking agency shall adopt uniform regulations prescribing standards for extensions of credit that are -- (A) secured by liens on interests in real estate; or (B) made for the purpose of financing the construction of a building or other improvements to real estate."<sup>3</sup> The recordkeeping requirement contained in the Board's Regulation H is mandatory. The

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<sup>1</sup> See 12 CFR Part 208, Appendix C.

<sup>2</sup> 12 U.S.C. 1828(o).

<sup>3</sup> 12 U.S.C. 1828(o)(1). The Board also has the authority to require reports from state member banks (12 U.S.C. 248(a) and 324).

recordkeeping provisions in the Guidelines are voluntary, as the Guidelines are nonbinding guidance.

Because these records would be maintained at each banking organization, the Freedom of Information Act (“FOIA”) would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process.<sup>4</sup> In addition, the information may also be kept confidential under exemption 4 of the FOIA, which protects “commercial or financial information obtained from a person [that is] privileged or confidential.”<sup>5</sup>

Board of Governors of the Federal Reserve System, August 17, 2020.

**Michele Taylor Fennell,**

*Assistant Secretary of the Board.*

Billing Code 6210-01-P

[FR Doc. 2020-18371 Filed: 8/20/2020 8:45 am; Publication Date: 8/21/2020]

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<sup>4</sup> 5 U.S.C. 552(b)(8).

<sup>5</sup> 5 U.S.C. 552(b)(4).