



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) is adopting a proposal to extend for three years, without revision, the Recordkeeping and Disclosure Requirements Associated with Regulation O (FR O; OMB No. 7100-0382). FR O received a temporary six-month clearance on November 10, 2020. This action is to extend that clearance for three years.

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.

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 17th Street, NW, Washington, DC 20503, or by fax to (202) 395-6974.

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. These documents also are available on the Federal Reserve 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 above.

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. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information.

Copies of the PRA Submission, supporting statements, and approved collection of information instrument(s) are placed into OMB's public docket files.

Final Approval under OMB Delegated Authority of the Extension for Three Years, Without Revision, of the Following Information Collection:

Report title: Recordkeeping and Disclosure Requirements Associated with Regulation O.

Agency form number: FR O.

OMB control number: 7100-0382.

Frequency: As needed.

Respondents: Member banks.

Estimated number of respondents: Recordkeeping: 1,570; disclosure: 1,570.

Estimated average hours per response: Recordkeeping: 4; disclosure; 2.

Estimated annual burden hours: Recordkeeping: 6,280; disclosure: 3,140.

General description of report: The Board's Regulation O - Loans to Executive Officers, Directors, and Principal Shareholders of Member Banks (12 CFR Part 215) governs any extension of credit made by a member bank to an executive officer, director, or principal shareholder of the member bank, of any company of which the member bank is a subsidiary, and of any other subsidiary of that company. It prohibits such extensions of credit unless they are made on substantially the same terms (including interest rates and collateral) as those prevailing at the time for comparable transactions by the bank with other persons who are not employed by the bank and do not involve more than the normal risk of repayment or present other unfavorable features. Sections 215.8 and 215.9 of Regulation O contain recordkeeping and disclosure requirements on member banks.

Pursuant to section 215.8 of Regulation O, respondents must maintain records necessary for compliance with the requirements of Regulation O. Any recordkeeping method adopted by a respondent shall identify, through an annual survey, all insiders of the respondent and maintain records of all extensions of credit to insiders of the respondent, including the amount and terms

of each such extension of credit. Additionally, any recordkeeping method adopted by a respondent shall maintain records of extensions of credit to insiders of the respondent's affiliates by using either the survey method or borrower inquiry method, as set forth in Regulation O, or a different recordkeeping method if the appropriate federal banking agency determines that the respondent's method is at least as effective as the listed methods.

Pursuant to section 215.9 of Regulation O, upon receipt of a written request from the public, a respondent must make available the names of each of its executive officers and each of its principal shareholders to whom, or to whose related interests, the member bank had outstanding as of the end of the latest previous quarter of the year, an extension of credit that, when aggregated with all other outstanding extensions of credit at such time from the member bank to such person and to all related interests of such person, equaled or exceeded 5 percent of the member bank's capital and unimpaired surplus or \$500,000, whichever amount is less. Respondents are not required to disclose the specific amounts of individual extensions of credit. Additionally, each respondent must maintain records of all requests for the information described above and the disposition of such requests. These records may be disposed of after two years from the date of the request.

Legal authorization and confidentiality: The FR O is authorized by section 7 of the Federal Deposit Insurance Act (section 7)¹ and section 22(6) of the Federal Reserve Act (section 22(h)).² Section 7 authorizes the Board to require state member banks to report and publicly disclose information concerning extensions of credit by the state member bank to its executive officers, principal shareholders, or related interests of those persons. Section 22(h) authorizes the Board to prescribe rules related to extensions of credit to executive officers, directors, and principal shareholders.³

¹ 12 U.S.C. 1817(k).

² 12 U.S.C. 375b. The Board also has the authority to require reports from state member banks (12 U.S.C. 248(a) and 324).

³ Section 306(o) of the Federal Deposit Insurance Corporation Improvement Act of 1991 contains a similar authorization.

The obligation to respond is mandatory. The information disclosed under the disclosure requirements of Regulation O is not confidential. The information that is subject to the recordkeeping requirements of Regulation O would be maintained at each state member bank. For this information, 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.⁴ In addition, in these cases, the information may also be kept confidential under exemption 4 for the FOIA, which protects commercial or financial information obtained from a person that is privileged or confidential.⁵ Finally, this information may be kept confidential under exemption 6, which protects information “the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.”⁶

Current actions: On April 22, 2020, the Board published an interim final rule in the *Federal Register* (85 FR 22348) requesting public comment for 60 days on the extension for three years of the FR O. The Board did not receive any comments relevant to the PRA.

Board of Governors of the Federal Reserve System, March 2, 2021.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

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⁴ 5 U.S.C. 552(b)(8).

⁵ 5 U.S.C. 552(b)(4).

⁶ 5 U.S.C. 552(b)(6).