

**Supporting Statement for the
Interagency Bank Merger Act Application
(FR 2070; OMB No. 7100-0171)**

Summary

The Board of Governors of the Federal Reserve System (Board), under authority delegated from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Interagency Bank Merger Act Application (FR 2070; OMB No. 7100-0171). The Board, Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) each use this reporting form to collect information on depository institution merger proposals that require prior approval under the Bank Merger Act. The Board collects the information gathered by the FR 2070 so that it may meet its statutory obligations with respect to each merger proposal in which the acquiring, assuming, or resulting bank would be a state member bank (SMB).¹

The estimated total annual burden for the FR 2070 is 1,864 hours. The form and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/default.aspx>.

Background and Justification

The FR 2070 was instituted in 1960 with the enactment of section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), which is known as the Bank Merger Act. Information submitted on the FR 2070 is used by the Board to fulfill its statutory obligation under the Bank Merger Act to evaluate, with respect to each merger proposal in which the acquiring, assuming, or resulting bank would be an SMB, the competitive effects of the proposal, the financial and managerial resources and future prospects of the existing and proposed banking organizations, financial stability, the effectiveness of any insured depository institution involved in the proposed merger transaction in combatting money laundering activities, the effect of the proposal on the convenience and needs of the affected communities, and whether the proposal complies with the Bank Merger Act's provisions regarding interstate merger transactions, if applicable. The application form collects information on the basic legal and structural aspects of the proposed transaction and on the extent to which the surviving SMB intends to retain and continue operating as individual branches the headquarters and branches of the target bank.

As a general matter, the collected information is not readily available from any other source and is used by the Board to determine whether a proposal satisfies the applicable criteria under the Bank Merger Act.

Description of Information Collection

Reporting Requirement

The FR 2070 is an event-generated application that must be submitted to the Board to

¹ See 12 U.S.C. 1828(c).

request approval to effect a bank merger in which the acquiring, assuming, or resulting bank would be an SMB. A merger transaction includes a merger, consolidation, assumption of deposit liabilities, or certain asset transfers between or among two or more institutions. The reporting form collects information on the basic legal and structural aspects of these transactions, as well as pro forma financial information, information regarding the resultant institution's business strategy and ability to meet the convenience and needs of the affected communities, and information regarding the effects of the proposed transaction on financial stability and competition.

Disclosure Requirement

Additionally, an SMB submitting an application under the Bank Merger Act is required to publish a notice in a newspaper of general circulation in the community(ies) in which the head office of each of the banks to be a party to the merger, consolidation, or acquisition of assets or assumption of liabilities is located.² The notice must be published on at least three occasions at appropriate intervals. The last publication of the notice shall appear at least 30 days after the first publication. The notice must state the name and address of each party to the proposal, and it must invite the public to submit written comments to the appropriate Federal Reserve Bank. Within seven days of publication of notice for the first time, the applicant shall submit its application to the appropriate Federal Reserve Bank for acceptance, along with a copy of the notice.

Respondent Panel

The FR 2070 respondent panel comprises state member banks regulated by the Federal Reserve.

Time Schedule for Information Collection

The application is event-generated. An SMB may not consummate a merger transaction in which it would be the acquiring, assuming, or resulting bank without first submitting the FR 2070 and receiving the prior approval of the Board.

Public Availability of Data

The Board publishes certain information gathered by the FR 2070 regarding the parties to and structure of associated transactions in its H.2 release, and the Board or the Federal Reserve Banks may release information regarding those transactions in a Board order or Reserve Bank approval letter. Additionally, the Board may release non-confidential information included in a FR 2070 notice upon request pursuant to the Freedom of Information Act.

Legal Status

The FR 2070 is authorized by section 18(c) of the Federal Deposit Insurance Act, which requires, in relevant part, that a state member bank, when it is the acquiring, assuming, or

² 12 CFR 262.3(b)(3).

resulting bank, obtain prior approval from the Board before merging or consolidating with another insured depository institution, or assuming liability to pay any deposits made in any other depository institution.³

The obligation to respond is required to obtain a benefit. Individual respondents may request that information submitted to the Board through the FR 2070 be kept confidential. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on a case-by-case basis. To the extent a respondent submits nonpublic commercial or financial information in connection with the FR 2070, which is both customarily and actually treated as private by the respondent, the respondent may request confidential treatment pursuant to exemption 4 of the Freedom of Information Act (FOIA).⁴ To the extent a respondent submits personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of privacy, the respondent may request confidential treatment pursuant to exemption 6 of the FOIA.⁵ To the extent a respondent submits information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a financial supervisory agency, the respondent may request confidential treatment pursuant to exemption 8 of the FOIA.⁶ The entity should separately designate any such information as “confidential commercial information” or “confidential financial information, as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the FOIA.

Consultation Outside the Agency

An interagency working group responsible for reviewing this collection, comprised of representatives from the agencies, collaborated on confirming that no substantive changes were needed to this form for this clearance cycle.

Public Comments

On December 23, 2020, the Board published an initial notice in the *Federal Register* (85 FR 83955) requesting public comment for 60 days on the extension, without revision, of the FR 2070. The comment period for this notice expires on February 22, 2021.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR 2070 is 1,864 hours. The Board estimates that the proposed average response time would be a combined 31 hours for applications filed to effect a merger, consolidation, assumption of deposit liabilities, or other combining transaction between nonaffiliated parties, and a combined 19 hours for applications filed to effect a corporate reorganization between affiliated parties. The estimated number of annual respondents is based on the number of applications filed from 2017 to 2019.

³ 12 U.S.C. § 1828(c). The Board also has the authority to require reports from state member banks (12 U.S.C. §§ 248(a) and 324).

⁴ 5 U.S.C. § 552(b)(4).

⁵ 5 U.S.C. § 552(b)(6).

⁶ 5 U.S.C. § 552(b)(8).

These collections of information represent less than one percent of the Board’s total paperwork burden.

FR 2070	<i>Number of respondents⁷</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reporting				
Nonaffiliate Transactions	54	1	30	1,620
Affiliate Transactions	10	1	18	180
Disclosure				
Nonaffiliate Transactions	54	1	1	54
Affiliate Transactions	10	1	1	<u>10</u>
<i>Total</i>				1,864

The estimated total annual cost to the public for this collection of information is \$107,646.⁸

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The estimated cost to the Federal Reserve System for collecting and processing this information collection is negligible.

⁷ Of these respondents required to comply with this information collection, 18 respondents are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.

⁸ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$20, 45% Financial Managers at \$71, 15% Lawyers at \$70, and 10% Chief Executives at \$93). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages May 2019, published March 31, 2020, www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.