

## **Supporting Statement for the Whistleblower Intake Guide (FR 30; OMB No. 7100-NEW)**

### **Summary**

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to implement the Whistleblower Intake Guide (FR 30; OMB No. 7100-NEW). The Whistleblower Intake Guide collects information regarding alleged misconduct or retaliation by a Board-supervised institution or an affiliated party of such institution. The information collected through the FR 30 assists in the Board's supervision of financial institutions.

The estimated total annual burden for the FR 30 is 3 hours.

### **Background and Justification**

In September 2022, the Board issued a policy statement to promote the submission of whistleblower claims regarding misconduct, unsafe or unsound practices, or violations of law or regulation occurring at any Board-supervised entity or by a party affiliated with such entity.<sup>1</sup> The Board encourages anyone with such information to make a report.

In accordance with Section 33 of the Federal Deposit Insurance (FDI) Act,<sup>2</sup> an insured depository institution may not discharge or otherwise discriminate against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) provided information to the Board, to another federal banking agency,<sup>3</sup> or to the Department of Justice regarding a possible violation of any law or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority; or a substantial and specific danger to public health or safety by the depository institution or any director, officer, or employee of the institution.

In addition, Section 34 of the FDI Act<sup>4</sup> allows the Board, with the concurrence of the U.S. Attorney General, to pay a reward to a person who provides original information leading to recovery of a criminal fine, restitution, or civil penalty under certain authorities.<sup>5</sup> Rewards cannot be paid to an officer or employee of the United States or of a state or local government who provides information obtained in the performance of official duties, or if a person deliberately causes or participates in the alleged violation of law or regulation, or knowingly or recklessly provides substantially false information to the Board or the Department of Justice.

This information is not available from other sources. The Board's Ombuds Office receives whistleblower claims directly from whistleblowers by telephone, email, mail, and online

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<sup>1</sup> [SR 22-7 / CA 22-7: Policy Statement on Whistleblower Claims \(federalreserve.gov\)](#)

<sup>2</sup> 12 U.S.C. § 1831j.

<sup>3</sup> The term “federal banking agency” here means the Board, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, and the Office of the Comptroller of the Currency (12 USC § 1831j(e)).

<sup>4</sup> 12 U.S.C. § 1831k.

<sup>5</sup> See 12 U.S.C. § 1831k(a)(1).

through the “contact us” page<sup>6</sup> on the Board’s webpage. It also receives and provides referrals of whistleblower claims that are erroneously submitted to an agency that lacks jurisdiction over the claim, as well as referrals where jurisdiction is shared between the Board and another agency. However, some whistleblowers choose to report misconduct involving Board-supervised institutions by contacting other Federal Reserve staff. The Whistleblower Intake Guide, which should be utilized in such instances, provides a unique mechanism for the Federal Reserve to collect information about Board-supervised institutions that may be known by very few individuals. If this information were not collected, the Board may not be able to identify and respond to some instances where a Board-supervised institution or affiliated party engaged in an unsafe or unsound practice, a violation of law or regulation, or a violation of a consent order or written agreement issued by the Federal Reserve. The Board will continue to consult with other agencies as necessary and appropriate based on the subject matter of a given whistleblower claim.

### **Description of Information Collection**

The Whistleblower Intake Guide (FR 30) would be used by Federal Reserve staff who are contacted directly by a whistleblower to collect the name and contact information of the whistleblower (unless they choose to remain anonymous); the institution and/or employees involved in the conduct the whistleblower is seeking to report; details about the alleged misconduct or retaliation,<sup>7</sup> such as dates, location, and basis of knowledge; and whether any other Federal agencies or law enforcement are involved. Once the FR 30 is completed, the Board would open a case file.<sup>8</sup>

#### **Respondent Panel**

The FR 30 panel comprises employees of Board-supervised entities and members of the public.

#### **Frequency**

These information collections are event-generated.

### **Time Schedule for Information Collection**

The FR 30 is submitted on an event-generated basis.

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<sup>6</sup>See The Fed: Contact Us (<https://www.federalreserve.gov/apps/ContactUs/feedback.aspx?refurl=%2Faboutthefed%2Fwhistleblower-reporting.htm>).

<sup>7</sup>Retaliation means discharge or other discrimination against any employee with respect to compensation, terms, conditions, or privileges of employment because the employee (or any person acting pursuant to the request of the employee) submitted a whistleblower complaint.

<sup>8</sup>Any information collected after a case file is opened, such as a report of whistleblower retaliation, interviews, and other evidence-gathering activities, would not be subject to the Paperwork Reduction Act (PRA). See 5 CFR 1320.4(a)(2) and (c), 5 CFR 1320.3(h)(9). Retaliation claims associated with whistleblower complaints that were submitted to the Board are not subject to the PRA. However, retaliation claims associated with whistleblower complaints submitted to the DOJ or another Federal banking agency, if they concern a Board-supervised entity, are subject to the PRA.

## **Public Availability of Data**

No data collected by this information collection are published.

## **Legal Status**

The Board uses the information obtained through the FR 30 to discharge its statutory responsibilities, including those under the Federal Reserve Act,<sup>9</sup> the Bank Holding Company Act,<sup>10</sup> the Home Owners' Loan Act,<sup>11</sup> and the Federal Deposit Insurance Act.<sup>12</sup> The FR 30 is voluntary.

Information disclosed to the Board under the FR 30 is kept confidential by the Board pursuant to exemptions 7(D) and 8 of the Freedom of Information Act (FOIA) because it is information compiled for law enforcement purposes that could reasonably be expected to disclose the identity of a confidential source and because it is information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.<sup>13</sup> Information disclosed to the Board under the FR 30 also may be kept confidential under exemption 4 of the FOIA if it is nonpublic commercial or financial information, which is customarily and actually treated as private by the respondent;<sup>14</sup> or under exemption 6 of the FOIA if the disclosure of information would constitute a clearly unwarranted invasion of personal privacy.<sup>15</sup>

## **Consultation Outside the Agency**

The Board has consulted with other federal agencies regarding its efforts to promote whistleblower claims, including the Consumer Financial Protection Bureau, the Federal Deposit Insurance Corporation, and the National Credit Union Administration.

## **Public Comments**

On September 8, 2023, the Board published an initial notice in the *Federal Register* (88 FR 62084) requesting public comment for 60 days on the implementation of the FR 30. The comment period for this notice expires on November 7, 2023.

## **Estimate of Respondent Burden**

As shown in the table below, the estimated total annual burden for the FR 30 is 3 hours. The estimated number of respondents is based on the average number of employees of Board-supervised entities and members of the public that have reported alleged misconduct or

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<sup>9</sup> 12 U.S.C. § 221 *et seq.*

<sup>10</sup> 12 U.S.C. § 1841 *et seq.*

<sup>11</sup> 12 U.S.C. § 1461 *et seq.*

<sup>12</sup> 12 U.S.C. § 1811 *et seq.*

<sup>13</sup> 5 U.S.C. §§ 552(b)(7)(D) and (b)(8).

<sup>14</sup> 5 U.S.C. § 552(b)(4).

<sup>15</sup> 5 U.S.C. § 552(b)(6).

retaliation over the last three years. The time per response will depend largely on the complexity of the alleged violation and the amount of information the whistleblower possesses in support of the allegations. These reporting provisions represent less than 1% percent of the Board's total paperwork burden.

FR 30	<i>Estimated number of respondents</i> <sup>16</sup>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>Reporting</b>				
FR 30	5	1	0.5	<u>3</u>
<i>Total</i>				<u>3</u>

The estimated total annual cost to the public for this collection of information is \$119.<sup>17</sup>

## Sensitive Questions

These collections of information contain 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 these information collections is negligible.

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<sup>16</sup> Of these respondents required to comply with this information collection, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$850 million in total assets). Size standards effective March 17, 2023. See <https://www.sba.gov/document/support--table-size-standards>.

<sup>17</sup> The total cost to the public was estimated by multiplying the estimated annual burden hours by the mean hourly wage of employees in business and financial operations occupations. This rate of \$39.72 is based on data from the Bureau of Labor Statistics, Occupational Employment and Wages, May 2021, published March 31, 2022 <https://www.bls.gov/news.release/ocwage.t01.htm#>.