

**Supporting Statement for the
Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB
(FR BB; OMB No. 7100-0197)**

Summary

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB (FR BB; OMB No. 7100-0197). The Community Reinvestment Act (CRA)¹ was enacted in 1977 and is implemented by Regulation BB - Community Reinvestment (12 CFR 228). The CRA directs the Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the agencies) to evaluate financial institutions' (banks and savings associations) records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas, consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the agencies. The Board's regulation applies to state member banks (SMBs).

The current estimated total annual burden for the Federal Reserve's Regulation BB is 75,116 hours.

Background and Justification

In 1995, the agencies issued substantially identical regulations under the CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.² The current reporting, recordkeeping, and disclosure requirements under Regulation BB are tailored to bank size in order to minimize burden on smaller banks, as discussed below.

Under Regulation BB, large banks are defined as those with assets of \$1.305 billion or more at the past two consecutive year-ends; all other banks are considered small banks or intermediate small banks.³ The agencies annually adjust for inflation the relevant asset-size thresholds and amend in their CRA regulations accordingly. This adjustment was most recently

¹ See 12 U.S.C. § 2901 *et seq.*

² See 60 FR 22156 (May 4, 1995). On May 20, 2020, the Office of the Comptroller of the Currency published a final rule amending the CRA regulatory framework applicable to its supervised institutions. 85 FR 34734 (June 5, 2020). The final rule has an October 1, 2020 effective date, January 1, 2023 and January 1, 2024 compliance dates, and a January 1, 2024 expiration date (for the agency's existing CRA regulations).

³ Beginning January 1, 2020, banks or savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.305 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least \$326 million as of December 31 of both of the prior two calendar years and less than \$1.305 billion as of December 31 of either of the prior two calendar years are intermediate small banks or intermediate small savings associations. For the Paperwork Reduction Act respondent burden analysis included in this information collection renewal, the Board used the Small Business Administration's (SBA) small entity definition (entities with less than \$600 million in total assets).

completed in December 2019 (effective January 1, 2020).⁴

Other than the information collections pursuant to Regulation BB (and, as referenced below, the Home Mortgage Disclosure Act (HMDA), which is implemented by Regulation C - Home Mortgage Disclosure (12 CFR 1003)), the Board has no information collection that supplies data regarding the community reinvestment activities of SMBs. Accordingly, the Board's ability to fulfill the statutory requirement to evaluate SMBs' CRA activities is dependent upon these information collections.

Description of Information Collection

The reporting, recordkeeping, and disclosure requirements associated with Regulation BB are summarized below and also listed in Attachment 1. An SMB that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests associated with large banks will collect, maintain, and report the data required for large banks.⁵

Reporting Requirements

Section 228.25(b) - Request for designation as a wholesale or a limited purpose bank

The Board evaluates the performance of a wholesale or a limited purpose bank under the community development test specified in the regulation. An SMB wishing to be designated as a wholesale or limited purpose bank must file a request, in writing, with the Board at least three months prior to the proposed effective date of the designation.

Section 228.27 - Strategic plan

An SMB may elect to be assessed under a strategic plan if the SMB has submitted the plan to the Board, the Board has approved the plan, the plan is in effect, and the SMB has been operating under an approved plan for at least one year. The Board's approval of this plan does not affect the SMB's obligation, if any, to comply with the data collecting and reporting requirements under section 228.42.⁶ The plan may have a term of no more than five years; multi-year plans must include annual interim measurable goals. Before submitting a plan to the Board or amending⁷ a plan during its term, an SMB must seek suggestions from members of the public in its assessment area(s), formally solicit public comment for at least 30 days, and during the period of formal public comment make copies of the plan available for public review at its offices at no cost and by mail for a reasonable cost.

A strategic plan must include measurable goals for helping meet the credit needs of each assessment area covered by the plan, addressing the lending, investment, and service tests, as

⁴ See 84 FR 71738 (Dec. 30, 2019).

⁵ 12 CFR 228.42(f).

⁶ See 12 CFR 228.27(b).

⁷ See 12 CFR 228.27(h) (requiring that amendments to existing plans follow the public participation requirements associated with adoption of a new strategic plan).

appropriate. A plan must specify goals that constitute “satisfactory” performance and also may specify goals that constitute “outstanding” performance. If an institution fails to meet its own goals for “satisfactory” performance, an SMB may elect in its plan to be evaluated under the other applicable performance test(s) specified in the regulation.

Section 228.42(b) - Loan information to be reported

Small business and small farm loan data. A large bank is required to report annually by March 1 to the Board in machine-readable form the following data for the preceding calendar year. For each geographical location in which a large bank originated or purchased a small business or small farm loan, it must report the aggregate number and amount of loans:

- of \$100,000 or less at origination
- of more than \$100,000 at origination, but less than or equal to \$250,000 at origination
- of more than \$250,000 at origination
- made to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision)

Community development loan data. A large bank is also required to report annually by March 1 to the Board in machine-readable form the aggregate number and aggregate amount of community development loans originated or purchased in the preceding calendar year.

Home mortgage loan data. A large bank that is subject to reporting of home mortgage loan data under Regulation C is also required under Regulation BB to report annually by March 1 to the Board in machine-readable form certain home mortgage loan data. The paperwork burden for providing this data is associated with other clearances.⁸

Section 228.42(d) - Affiliate lending data

An SMB that elects to have the Board consider loans by an affiliate, for purposes of the lending or the community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the SMB would have collected, maintained, and reported had the loans been originated or purchased by the SMB. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported by the affiliate under HMDA and Regulation C.

Section 228.42(e) - Data on lending by a consortium or a third party

An SMB may elect to have the Board consider community development loans made by a consortium or a third party, for purposes of the lending or the community development tests or an approved strategic plan. If so, the SMB must report for those loans the data that the bank would have reported had the loans been originated or purchased by the SMB.

Section 228.42(g) - Assessment area delineation

⁸ See HMDA Loan/Application Register (FR HMDA-LAR; OMB No. 7100-0247 (Board) and OMB No. 3170-0008 (Consumer Financial Protection Bureau)).

Each SMB must delineate one or more assessment areas within which the Board evaluates its record of helping to meet the credit needs of its community.⁹ Large banks must also report the list of assessment areas to the Board by March 1 each year. Assessment areas consist generally of one or more metropolitan statistical areas (MSAs) or one or more contiguous political subdivisions, such as counties, cities, or towns. Assessment areas include the geographies in which a bank has its main office, branches, and deposit-taking automated teller machines, as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans. There are rules designed to prevent redlining (arbitrary exclusion of lower-income or minority neighborhoods) in the designation of assessment areas.

Recordkeeping Requirements

Section 228.42(a) - Loan information to be collected and maintained

A large bank is required to collect and maintain, in machine-readable form, until the completion of its next CRA examination, the following data for each small business or small farm loan originated or purchased:

- a unique number or alpha-numeric symbol used to identify the relevant loan file
- the loan amount at origination
- the loan location
- an indicator whether the loan was made to a business or a farm with gross annual revenues of \$1 million or less

Section 228.42(c) - Consumer loan data

An SMB has the option to collect and maintain, in machine-readable form, data for consumer loans originated or purchased by the bank for consideration under the lending test. An SMB may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home equity, other secured, and other unsecured. If the SMB maintains data for loans in a certain category, it must maintain data for all loans originated or purchased within that category. The SMB must maintain data separately for each category and must include for each loan:

- a unique number or alpha-numeric symbol used to identify the relevant loan file
- the loan amount at origination or purchase
- the loan location
- the gross annual income of the borrower that the SMB considered in making its credit decision

At its option, an SMB may also provide other information concerning its lending performance, including additional loan distribution data.

⁹ See 12 CFR 228.41.

Disclosure Requirements
Section 228.43 - Public file

All SMBs are required to maintain and make available to the public a file containing comments received from the public for the current year and each of the prior two calendar years and any response to the comments from the bank. The file also must contain a copy of the public section of the SMB's most recent CRA performance evaluation prepared by the Board, a list of the bank's open branches with addresses and geographies, a list of bank branches opened or closed during the current year and each of the prior two calendar years, a list of the services generally offered by the bank, and a map of each assessment area. The bank may include in the file any other information that it chooses.

Large banks must also include in the public file the CRA Disclosure Statement (section 228.42(h)) prepared by the Board for each of the prior two calendar years and, if applicable, information about consumer loan data. SMBs required to report data under HMDA and Regulation C must include in the public file a copy of the HMDA Disclosure Statement prepared by the Consumer Financial Protection Bureau for each of the prior two calendar years. In addition, any SMB that elects to have home mortgage lending of an affiliate in any of those years considered in its CRA evaluation must include in the public file the affiliate's HMDA Disclosure Statement for those years.

A small bank or an intermediate small bank must include in the public file the bank's loan-to-deposit ratio for each quarter of the prior calendar year, and if it elects to be evaluated under the lending, service, and investment tests the information required under the disclosure rules applicable to large banks.

An SMB that has, in accordance with section 228.27, submitted and been approved by the Board for assessment under a strategic plan must include a copy of the plan in the public file.

An SMB that received a rating worse than "satisfactory" during its most recent CRA examination must include in the public file a description of its efforts to improve its performance and update the description quarterly.

Section 228.44 - Public notice by banks

An SMB must provide in the public lobby of its main office and in each branch a prescribed notice informing consumers of their rights to certain information about the bank's operations and CRA performance as evaluated by the Board.

Respondent Panel

The FR BB panel comprises SMBs, but does not apply to special purpose banks that do not perform commercial or retail banking services by granting credit to the public in the ordinary course of business, other than as incident to their specialized operations. These banks include bankers' banks and banks that engage only in one or more of the following activities: providing cash management controlled disbursement services or serving as correspondent banks, trust

companies, or clearing agents. As referenced above, applicable reporting, recordkeeping, and disclosure requirements are tailored to bank size.

Time Schedule for Information Collection and Publication

The reporting, recordkeeping, and disclosure requirements required by Regulation BB are either mandatory or required to obtain a benefit and depend on bank size and other factors. SMBs that are required to collect assessment area information, small business and small farm data, community development data, and home mortgage loan data must collect and report the data for the prior calendar year (as of December 31) to the Board in machine-readable form annually by March 1.

The Board uses the data to examine and assess SMBs' CRA records; to prepare the public sections of CRA performance evaluations; and to help evaluate applications for bank acquisitions and other transactions. The Board prepares annually for each SMB a public disclosure statement that contains, on a state-by-state basis, information on small farm, small business, and community development loans.

Together with the other agencies, the Board prepares annually for each MSA (including an MSA that crosses a state boundary) and for each non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements under the agencies' CRA regulations. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Board may adjust the form of the disclosure if necessary to protect the privacy of a borrower or the competitive position of an institution. The Federal Financial Institutions Examination Council (FFIEC) also makes both statements available on the FFIEC CRA website www.ffiec.gov/cra/. The statements are usually available at each SMB and on the FFIEC website in late July.

Any SMB electing to submit a strategic plan to the Board must do so at least three months prior to the proposed effective date of the plan. The Board will act upon a plan within 60 calendar days after the Board receives the complete plan and other required material. If the Board fails to act within this 60 days, the plan shall be deemed approved unless the Board extends the review period for good cause. As indicated above, an SMB may not be evaluated under a strategic plan unless it has been operating under an approved plan for at least one year.

Public Availability of Data

The data described in this information collection may be found in SMBs' CRA performance evaluations and public files, on the Consumer Financial Protection Bureau's website, and on the FFIEC website.

Legal Status

The FR BB is authorized by section 806 of the CRA, which permits the Board to issue

“[r]egulations to carry out the purposes of [the CRA]”;¹⁰ section 11 of the Federal Reserve Act, which permits the Board to “require such statements and reports as it deems necessary” of state member banks;¹¹ and section 9 of the Federal Reserve Act, which permits the Board to examine state member banks.¹²

Most of the recordkeeping, reporting, and disclosure requirements of Regulation BB are mandatory. However, there are several limited parts of the collection that are required to obtain a benefit: specifically, the request for designation as a wholesale or limited purpose bank, the strategic plan, and the recordkeeping and reporting requirements associated with data regarding consumer loans and lending performance, affiliate lending data, and data on lending by a consortium or a third party.

Most of the information collected under Regulation BB is not considered confidential. However, if a respondent elects to submit a strategic plan pursuant to 12 CFR 228.27, the respondent may submit additional information to the Board relating to the strategic plan on a confidential basis, so long as the goals in the plan are sufficiently specific to enable the public and the Board to judge the merits of the plan. The Board will determine whether the additional information is entitled to confidential treatment on a case-by-case basis.

To the extent a respondent submits information contained in or related to examination, operating, or condition reports prepared by, or on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, the respondent may request confidential treatment pursuant to exemption 8 of the Freedom of Information Act (FOIA).¹³ To the extent a respondent submits nonpublic commercial or financial information which is both customarily and actually treated as private by the respondent, the respondent may request confidential treatment pursuant to exemption 4 of the FOIA.¹⁴

Consultation Outside the Agency

There has been no consultation outside of the Federal Reserve System.

Public Comments

On December 11, 2020, the Board published an initial notice in the *Federal Register* (85 FR 80097) requesting public comment for 60 days on the extension, without revision, of the FR BB. The comment period for this notice expires on February 9, 2021.

Estimates of Respondent Burden

As shown in the table below, the estimated total annual burden for the Federal Reserve’s Regulation BB is 75,116 hours. The burden estimates for *reporting requirements* related to loan

¹⁰ 12 U.S.C. § 2905.

¹¹ 12 U.S.C. § 248(a)(1).

¹² 12 U.S.C. § 325.

¹³ 5 U.S.C. § 552(b)(8).

¹⁴ 5 U.S.C. § 552(b)(4).

data, other than community development loan data, include time estimates for geocoding easy- and hard-to-find loan geographies. The number of respondents for the *non-optional reporting requirements* (loan data and assessment area delineation) and optional reporting requirements (third-party and affiliate lending) are based on the number of CRA data respondents regulated by the Board using 2018 data reported by March 1, 2019. Optional reporting requirements for requests for strategic plan approvals and designations as a wholesale or a limited purpose bank are based on previous experience.¹⁵ *Optional recordkeeping requirement* burden estimates for consumer loan data and other loan data are estimated based on a review of CRA performance evaluations.

The burden for the public file *disclosure requirements* includes estimates for both the large and small bank requirements. The public file requirement burden estimate also includes an estimate of the time required for small banks, including intermediate small banks, to delineate an assessment area.

These reporting, recordkeeping, and disclosure requirements represent less than 1 percent of the total Federal Reserve System annual paperwork burden.

¹⁵ On average, the Board receives requests for two strategic plan approvals a year and less than one request for designation as a wholesale or a limited purpose bank a year.

FR BB	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reporting				
Sections 228.41 and 228.42(g) Assessment area delineation	117	1	2	234
Section 228.42(b) Loan data:				
Small business and small farm	113	1	8	904
Community development	98	1	13	1,274
HMDA out of MSA	117	1	253	29,601
Optional Reporting				
Section 228.25(b) Request for designation as a wholesale or a limited purpose bank	1	1	4	4
Section 228.27 Request for strategic plan approval	2	1	275	550
Section 228.42(d) Affiliate lending data	5	1	38	190
Section 228.42(e) Data on lending by a consortium or a third party	12	1	17	204
Recordkeeping				
Section 228.42(a) Small business and small farm loan register	113	1	219	24,747
Optional Recordkeeping				
Section 228.42(c):				
Consumer loan data	28	1	326	9,128
Other loan data	20	1	25	500
Disclosure				
Sections 228.43 and 228.44 Public file and public notice ¹⁶	778	1	10	<u>7,780</u>
<i>Total</i>				75,116

¹⁶ Of these respondents required to comply with this information collection, 528 respondents are considered small entities as defined by the SBA (again, 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.

The estimated total annual cost to the public for these collections of information is \$4,337,949.¹⁷

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 Board for collecting and processing this information collection is \$677,336.

¹⁷ 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/.

Attachment 1
Summary of Annual Reporting, Recordkeeping, and Disclosure Requirements
Associated with Regulation BB

Requirements	Reporting	Recordkeeping	Disclosure
<i>Assessment area (228.41, 228.42(g))</i>			
Large banks ¹⁸	Report list of geographies in assessment area(s)	Collect list of geographies in assessment area(s)	
<i>Small business and small farm loan data (228.42(b)(1))</i>			
Large banks	Report aggregate number and amount of loans: <ul style="list-style-type: none"> • \$100,000 or less at origination • More than \$100,000, but less than or equal to \$250,000 at origination • More than \$250,000 at origination • to business or farm with gross annual revenue of \$1 million or less 		
<i>Community development loan data (228.42(b)(2))</i>			
Large banks	Aggregate number and amount of community development loans originated or purchased		
<i>Home mortgage loan data (228.42(b)(3))</i>			
Large banks	<i>If applicable:</i> Location of each loan application, origination, or purchase outside of MSAs where bank has offices (property location)		

¹⁸ For the purpose of this attachment, large banks are defined as any bank other than a small bank or an intermediate small bank, as defined by Regulation BB, or any small bank or an intermediate small bank electing not to employ the reporting exemptions available to small banks.

Requirements	Reporting	Recordkeeping	Disclosure
<i>Request for designation as a wholesale or a limited purpose bank (optional) (228.25(b))</i>			
All banks	Request in writing filed with the Board three months in advance of proposed effective date of designation		
<i>Strategic plan (optional) (228.27)</i>			
All banks	Submitted to and approved by the Board		
<i>Affiliate lending data (optional) (228.42(d))</i>			
All banks	Loan data the bank would have reported had the loans been originated or purchased by the bank	Loan data the bank would have collected and maintained had the loans been originated or purchased by the bank ¹⁹	
<i>Data on lending by a consortium or a third party (optional) (228.42(e))</i>			
All banks	Loan data the bank would have reported had the loans been originated or purchased by the bank		
<i>Small business and small farm loan register (228.42(a))</i>			
Large banks		Must collect and maintain: <ul style="list-style-type: none"> • unique number or alpha-numeric symbol • loan amount • loan location • indicator whether loan was to business or farm with gross annual revenues of \$1 million or less 	

¹⁹ For home mortgage loans, the bank must be prepared to identify the home mortgage loans reported by the affiliate under HMDA and Regulation C.

Requirements	Reporting	Recordkeeping	Disclosure
<i>Consumer loan data (optional) (228.42(c)(1))</i>			
All banks		Loans originated or purchased: <ul style="list-style-type: none"> • unique number or alpha-numeric symbol • loan amount • loan location • borrower's gross income considered in making credit decision 	
<i>Other loan data (optional) (228.42(c)(2))</i>			
All banks		Other lending performance information	
<i>Public file (228.43)</i>			
All banks			<ul style="list-style-type: none"> • comment letters and responses (current and prior two years) • public section of most recent CRA performance evaluation • list of bank branches • list of branch openings and closings • list of services offered • map of each assessment area <p><i>if applicable:</i></p> <ul style="list-style-type: none"> • strategic plan • description of current efforts to improve its CRA performance

Requirements	Reporting	Recordkeeping	Disclosure
Large banks			<ul style="list-style-type: none"> • CRA Disclosure Statements (prior two years) <i>if applicable:</i> • consumer loan data (prior two years) • HMDA Disclosure Statements (prior two years)
Small banks and intermediate small banks			<ul style="list-style-type: none"> • loan-to-deposit ratio; each quarter prior year <i>if applicable:</i> • information required under disclosure rules for large banks
<i>Public notice (228.44)</i>			
All banks			Prescribed notices informing consumers of their rights to certain information