

## **Supporting Statement for the Reporting and Disclosure Requirements of CRA-Related Agreements (Regulation G) (FR G; OMB No. 7100-0299)**

### **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 and Disclosure Requirements of Community Reinvestment Act (CRA)-Related Agreements (Regulation G) (FR G; OMB No. 7100-0299).<sup>1</sup> Regulation G - Disclosure and Reporting of CRA-Related Agreements<sup>2</sup> implements section 711 of the Gramm-Leach-Bliley Act (GLBA),<sup>3</sup> which requires insured depository institutions (IDIs), affiliates of IDIs, and nongovernmental entities or persons (NGEPs) to disclose written agreements entered into in connection with fulfillment of the CRA.<sup>4</sup> The Board accounts for the financial institution paperwork burden associated with Regulation G only for Board-supervised institutions. Other federal banking agencies account for the paperwork burden imposed in connection with entities for which they have administrative enforcement authority.<sup>5</sup>

The estimated total annual burden for the FR G is 25 hours.

### **Background and Justification**

GLBA amended the Federal Deposit Insurance Act (FDI Act) by adding a new section 48, entitled “CRA Sunshine Requirements.” Section 48 imposes disclosure and reporting requirements on IDIs, their affiliates, and NGEPs that enter into written agreements that: (1) are made in fulfillment of the CRA; and (2) involve cash payments, grants, or other considerations from an IDI or affiliate with an aggregate value of more than \$10,000 in a calendar year or loans with an aggregate principal value of more than \$50,000 in a calendar year. Section 48 excludes from the disclosure and reporting requirements any CRA-related agreement between an IDI or its affiliate, on the one hand, and an NGEP, on the other hand, if the NGEP has not contacted the IDI, an IDI affiliate, or a federal banking agency concerning the CRA performance of the IDI.

GLBA directed the Board, as well as the other federal banking agencies, to issue consistent and comparable regulations to implement the requirements of section 48 of the FDI Act. In 2001, the federal banking agencies promulgated substantially identical regulations, which interpret the scope of written agreements that are subject to the statute (covered agreements) and implement the disclosure and reporting requirements of section 48.<sup>6</sup> The Board’s Regulation G implements the provisions of GLBA requiring both IDIs and NGEPs to make a copy of any covered agreement available to the public and the appropriate federal

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<sup>1</sup> There is no formal reporting form for this collection of information (the FR G designation is for internal purposes only.)

<sup>2</sup> 12 CFR part 207.

<sup>3</sup> Codified at 12 U.S.C. 1831y.

<sup>4</sup> 12 U.S.C. 2901 *et seq.*

<sup>5</sup> The other federal banking agencies are the Office of the Comptroller of the Currency (OCC) (OMB No.1557-0219) and the Federal Deposit Insurance Corporation (FDIC) (OMB No. 3064-0139).

<sup>6</sup> 12 CFR 35 (OCC); 12 CFR 207 (Board); 12 CFR 346 (FDIC).

banking agency and to file an annual report with each appropriate agency regarding the use of funds or other resources under such covered agreement for that fiscal year. In addition, each calendar quarter, an IDI and its affiliates must provide to the appropriate federal banking agency copies of all covered agreements entered into during that quarter or a list of the covered agreements. This information is not available from other sources.

## **Description of Information Collection**

Regulation G contains the following reporting and disclosure requirements for IDIs, their affiliates, and NGEPs.

### *Reporting Requirements for IDIs and Affiliates*

#### **Section 207.6(d)(1) - Reporting of covered agreements by an IDI or affiliate to the relevant supervisory agency**

Within 60 days of the end of each calendar quarter, each IDI and affiliate must provide each relevant supervisory agency with:

- (i) A copy of each covered agreement entered into by the IDI or affiliate during the calendar quarter, and in the event the IDI or affiliate proposes the withholding of any confidential or proprietary information contained in the covered agreement in accordance with section 207.6(b)(2) of Regulation G, the IDI or affiliate must also provide a public version of the covered agreement with an explanation justifying the exclusions; or
- (ii) A list of all covered agreements entered into by the IDI or affiliate during the calendar quarter. The list must contain: the name and address of each IDI or affiliate that is a party to the covered agreement; the name and address of each NGEp that is a party to the covered agreement; the date the covered agreement was entered into; the estimated total value of all payments, fees, loans, and other considerations to be provided by the IDI or affiliate under the covered agreement; and the date the covered agreement terminates.<sup>7</sup>

This requirement applies only to covered agreements entered into on or after November 12, 1999.

### *Reporting Requirements for NGEPs*

#### **Section 207.6(c)(1) - Reporting by NGEPs of covered agreements to the relevant supervisory agency**

Each NGEp that is a party to a covered agreement must provide a complete copy of the covered agreement within 30 days of receiving a request from the relevant supervisory agency,

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<sup>7</sup> See also 12 CFR 207.6(d)(2)(i) ("If an insured depository institution or affiliate files a list of the covered agreements entered into by the institution or affiliate pursuant to paragraph (d)(1)(ii) of this section, the institution or affiliate must provide any relevant supervisory agency a complete copy and public version of any covered agreement referenced in the list within 7 calendar days of receiving a request from the agency for a copy of the agreement.").

and in the event the NGEF proposes the withholding of any confidential or proprietary information contained in the covered agreement in accordance with section 207.6(b)(2) the NGEF must also provide a public version of the agreement with an explanation justifying the exclusions. This requirement applies only to covered agreements entered into on or after November 12, 1999.

### **Section 207.7(b) - Annual report required**

Within six months after the end of the applicable fiscal year, each IDI or affiliate and each NGEF that is a party to a covered agreement must file an annual report with each relevant supervisory agency concerning the disbursement, receipt, and uses of funds or other resources under the covered agreement.

An IDI or affiliate must file an annual report for any fiscal year in which it provides or receives any payments, fees, or loans under a covered agreement or has data to report on loans, investments, and services provided by a party to the covered agreement under the covered agreement. An NGEF must file an annual report for any fiscal year in which the NGEF receives or uses funds or other resources under the covered agreement. This requirement applies only to covered agreements entered into on or after May 12, 2000.

### **Section 207.7(f)(2) - Alternative method of fulfilling annual reporting requirement for an NGEF**

An IDI or affiliate that receives an annual report from an NGEF with written instructions to promptly forward the report to each relevant supervisory agency must file the report with each relevant supervisory agency on behalf of the NGEF within 30 days of receipt.

### *Disclosure Requirements for IDIs and Affiliates*

### **Section 207.4(b) - Disclosure of covered agreements relating to activities of CRA affiliates**

An IDI or affiliate that is a party to a covered agreement that concerns any activity of a CRA affiliate<sup>8</sup> as defined in section 207.4(a) must, before the covered agreement is entered into, notify each NGEF that is a party to the covered agreement that the covered agreement concerns a CRA affiliate.

### *Disclosure Requirement for IDIs, Affiliates, and NGEFs*

### **Section 207.6(b)(1) - Disclosure of covered agreements to the public**

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<sup>8</sup> A “CRA affiliate” of an insured depository institution is defined in section 207.11(c) as “any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEF that is a party to the agreement of such designation.”

Each IDI or affiliate and each NGEF that enters into a covered agreement must promptly make a copy of the covered agreement available to any individual or entity upon request.

### **Respondent Panel**

The FR G panel comprises state member banks and their subsidiaries; bank holding companies; savings and loan holding companies; affiliates of bank holding companies and savings and loan holding companies, other than banks, savings associations, and subsidiaries of banks and savings associations; and NGEFs that enter into covered agreements with any of the aforementioned entities.

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

Information collection requirements under Regulation G are triggered by certain events, and reports, notifications, or disclosures must be made within prescribed time periods as discussed above.

### **Public Availability of Data**

There is no data related to this information collection available to the public.

### **Legal Status**

The disclosure and reporting requirements of Regulation G are authorized pursuant to the Board's authority to prescribe regulations to carry out the purposes of section 711 of GLBA.<sup>9</sup> The FR G disclosure and reporting requirements are mandatory.

The disclosure and reporting requirements of section 711 and Regulation G require relevant parties to disclose covered agreements to the public.<sup>10</sup> However, as explained in the preamble to Regulation G, an entity subject to Regulation G may submit separate public and complete versions of its covered agreements to the Board with a request for confidential treatment for the complete version.<sup>11</sup> As stated in the preamble, the Board would release only the public version unless it received a request under the Freedom of Information Act (FOIA) for the entirety of the CRA-related agreement.<sup>12</sup>

Regulation G states that in responding to a request for a covered agreement from an individual or entity under the public disclosure provisions of section 711, an NGEF, insured depository institution, or affiliate may withhold from the public information that the party believes the relevant supervisory agency could withhold from disclosure under the FOIA.<sup>13</sup> Information contained in covered agreements may be exempt from disclosure under exemption 4 of the FOIA, which protects public commercial or financial information, which is both customarily and actually treated as private by the respondent.<sup>14</sup> Information

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<sup>9</sup> 12 U.S.C. § 1831y(h)(1).

<sup>10</sup> The Board noted in the preamble to Regulation G that section 711 would require disclosure of some types of information that an agency might normally withhold from disclosure under the FOIA and that the Board would not keep information confidential under FOIA that a party would be required to disclose under section 711. Disclosure and Reporting of CRA-Related Agreements, 66 FR, 2052, 2066-2067 (Jan. 10, 2001).

<sup>11</sup> Id.

<sup>12</sup> Id.

<sup>13</sup> 12 CFR 207.6(b)(2).

<sup>14</sup> 5 U.S.C. § 552(b)(4).

contained in covered agreements may also be exempt from disclosure under exemption 6 of the FOIA, which protects personnel and medical files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy,<sup>15</sup> and under exemption 8 of the FOIA, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process.<sup>16</sup>

### **Consultation Outside the Agency**

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

### **Public Comments**

On July 26, 2022, the Board published an initial notice in the *Federal Register* (87 FR 44392) requesting public comment for 60 days on the extension, without revision, of the FR G. The comment period for this notice expires on September 26, 2022.

### **Estimate of Respondent Burden**

As shown in the table below, the estimated total annual burden for the FR G is 25 hours. This estimate is an average based on the number of IDIs or their affiliates that reported covered agreements to the Board from 2017 to 2020. The number of NGEF respondents is based upon an assumption that one NGEF is a party to each covered agreement. These reporting and disclosure requirements represent less than 1 percent of the Board’s total paperwork burden.

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<sup>15</sup> 5 U.S.C. § 552(b)(6).

<sup>16</sup> 5 U.S.C. § 552(b)(8).

<b>FR G</b>	<i>Estimated number of respondents</i> 17	<i>Annual Frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>Reporting: IDI and affiliates</b>				
Section 207.6(d)(1)(i)				
Copy of agreements to agency	1	2	1	2
Section 207.6(d)(1)(ii)				
List of agreements to agency	1	2	1	2
Section 207.7(b)				
Annual report	1	1	4	4
Section 207.7(f)(2)				
Filing NGEF annual report	1	1	1	1
<b>Reporting: NGEF</b>				
Section 207.6(c)(1)				
Copy of agreements to agency	2	1	1	2
Section 207.7(b)				
Annual report	2	1	4	8
<b>Disclosure: IDI and affiliates</b>				
Section 207.6(b)(1)				
Covered agreements to public	1	2	1	2
Section 207.4(b)				
Agreements relating to activities of CRA affiliates	1	2	1	2
<b>Disclosure: NGEF</b>				
Section 207.6(b)(1)				
Covered agreements to public	2	1	1	<u>2</u>
<i>Total</i>				25

The estimated total annual cost to the public for these collections of information is \$1,511.<sup>18</sup>

<sup>17</sup> Of these respondents required to comply with this information collection, two NGEF and none of the IDI and affiliates respondents are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets) <https://www.sba.gov/document/support--table-size-standards>.

<sup>18</sup> 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 \$21, 45% Financial Managers at \$74, 15% Lawyers at \$71, and 10% Chief Executives at \$102). 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 2021, published March 31, 2022 <https://www.bls.gov/news.release/ocwage.t01.htm#>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.

**Sensitive Questions**

These information collections 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 reports is negligible.