

Supporting Statement for the Disclosure and Reporting 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 Disclosure and Reporting Requirements of the Community Reinvestment Act (CRA)-Related Agreements (Regulation G) (FR G¹; OMB No. 7100-0299). The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an “information collection.”² For purposes of the PRA, the Board accounts for the paperwork burden associated with Regulation G only for Board-supervised institutions. Other federal banking agencies account for the paperwork burden imposed on entities for which they have administrative enforcement authority.³

The estimated total annual burden for the FR G is 78 hours. This estimate is an average based on the number of insured depository institution (IDIs) and affiliates, as well as the additional savings and loan holding companies (SLHCs), that reported agreements required by Regulation G to the Board from 2015 to 2017. There are no required reporting forms associated with Regulation G.

Background and Justification

The Gramm-Leach-Bliley Act (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 nongovernmental entity or persons (NGEP) that enter into written agreements that (1) are made in fulfillment of the CRA and (2) involve funds or other resources of an IDI or affiliate with an aggregate value of more than \$10,000 in a year, or loans with an aggregate principal value of more than \$50,000 in a 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, its affiliate, or a Federal banking agency concerning the CRA performance of the IDI.

The 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 agencies promulgated substantially identical regulations, which interpret the scope of written agreements that are subject to the statute and implement the disclosure and reporting requirements of section 48.⁴ The Board’s Regulation G implements

¹ The internal Agency Tracking Number previously assigned by the Board to this information collection was “Reg G.” The Board is changing the internal agency tracking number for the purpose of consistency.

² 44 U.S.C. 3501 *et seq.*

³ The other “federal banking agencies” are the Office of the Comptroller of the Currency (OMB No. 1557-0219) and the Federal Deposit Insurance Corporation (OMB No. 3064-0139).

⁴ 12 CFR part 35 (OCC); 12 CFR part 207 (Board); 12 CFR part 346 (FDIC).

the provisions of the GLBA requiring both IDIs and NGEs to make a copy of any covered agreement available to the public and the appropriate Federal banking agency, and to file an annual report with each appropriate Federal banking agency regarding the use of funds under such agreement for that fiscal year. In addition, each calendar quarter, an IDI and its affiliates must provide to the appropriate Federal banking agency a list of all covered agreements entered into during that quarter or a copy of the covered agreements.

This information is not available from other sources.

Description of Information Collection

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

Reporting Requirements for Insured Depository Institutions and Affiliates Only

Section 207.6(d)(1) – Reporting of covered agreements by the 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 information contained in the agreement in accordance with section 207.6(b)(2) of Regulation G, the IDI or affiliate must also provide a public version of the 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 agreement; the name and address of each NGE 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.⁵

Reporting Requirement for NGEs

Section 207.6(c)(1) – Reporting by NGEs of covered agreements to the relevant supervisory agency

Each NGE that is a party to a covered agreement must provide a complete copy of the

⁵ See 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.”).

covered agreement within 30 days of receiving a request from the relevant supervisory agency, and in the event the NGEF proposes the withholding of any information contained in the 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.

Section 207.7(b) – Annual report required

Each NGEF and each IDI or affiliate that is a party to a covered agreement must file an annual report with each relevant supervisory agency concerning the disbursement, receipt, and use of funds or other resources 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 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 the covered agreement or has data to report on loans, investments, and services provided by a party to the covered agreement under the covered agreement. This requirement applies only to covered agreements entered into on or after May 12, 2000.

Section 207.7(f)(2)(ii) – Alternative method of fulfilling annual reporting requirement for a NGEF

An IDI or affiliate that receives an annual report from an NGEF pursuant to section 207.7(f)(2)(i) must file the report with the relevant supervisory agency or agencies on behalf of the NGEF within 30 days.

Disclosure Requirement for Insured Depository Institutions and Affiliates Only

Section 207.4(b) – Disclosure 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 affiliate⁶ as defined in section 207.4(a) must, before the covered agreement is entered into, notify each NGEF that is a party to the agreement that the agreement concerns a CRA affiliate.

Disclosure Requirement for Insured Depository Institutions, Affiliates, and Nongovernmental Entities or Persons

Section 207.6(b)(1) – Disclosure of covered agreements to the public

Each NGEF and each IDI or affiliate that enters into a covered agreement must

⁶ 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.”

promptly make a copy of the covered agreement available to any individual or entity upon request.

Respondent Panel

State member banks and their subsidiaries; bank holding companies; savings and loan holding companies; and affiliates of bank holding companies and savings and loan holding institutions, other than banks, savings associations and subsidiaries of banks and savings associations; and nongovernmental entities or persons (NGEP) that enter into covered agreements with any of the aforementioned companies.

Time Schedule for Information Collection

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

Legal Status

The disclosure and reporting requirements of Regulation G are authorized pursuant to the authority of the Board to prescribe regulations to carry out the purposes of section 711 of GLBA.⁷ The obligation to comply with the disclosure and reporting requirements of Regulation G is mandatory. Because the disclosure and reporting requirements of section 711 and Regulation G require relevant parties to disclose covered agreements to the public, an entity subject to Regulation G would likely be unable to prevent the Board from releasing a covered agreement to the public.⁸ However, in the preamble to Regulation G, the Board stated that an entity subject to Regulation G may submit a public version of its covered agreements to the Board with a request for confidential treatment. The Board also stated that it would release this version to the public unless it received a request under the Freedom of Information Act (FOIA) for the entirety of the CRA-related agreement. Information in the reports may be protected by exemptions (b)(4) and (8) of the FOIA. Records would be exempt under exemption (b)(4) if the records contained “trade secrets and commercial or financial information obtained from a person and privileged or confidential” and the disclosure of the information would cause substantial harm to the competitive position of the respondents.⁹ Records would be exempt under exemption (b)(8) if the records contained “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.”¹⁰

⁷ 12 U.S.C. § 1831y(h)(1).

⁸ 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 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 Fed. Reg. 2052, 2066-2067 (Jan. 10, 2001).

⁹ 5 U.S.C. § 552(b)(4).

¹⁰ 5 U.S.C. § 552(b)(8).

Consultation Outside the Agency

There has been no consultation outside the agency.

Public Comments

On July 9, 2019, the Board published an initial notice in the *Federal Register* (84 FR 32743) requesting public comment for 60 days on the extension, without revision, of the FR G. The comment period for this notice expires on September 9, 2019.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR G is 78 hours. This estimate is an average based on the number of IDIs or their affiliates that reported covered agreements to the Board from 2015 to 2017. The number of NGEF respondents is based upon an assumption that one NGEF is a party to each covered agreement. This information collection represents less than one percent of the Board's total paperwork burden.

FR G	<i>Number of respondents</i> ¹¹	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reporting: IDI and affiliates				
Section 207.6(d)(1)(i)				
Copy of agreements to agency	2	4	1	8
Section 207.6(d)(1)(ii)				
List of agreements to agency	2	4	1	8
Section 207.7(b)				
Annual Report	2	1	4	8
Section 207.7(f)(2)(ii)				
Filing NGEF annual report	2	3	1	6
Reporting: NGEF				
Section 207.6(c)(1)				
Copy of agreements to agency	6	1	1	6
Section 207.7(b)				
Annual Report	6	1	4	24
Disclosure: IDI and affiliates				
Section 207.6(b)(1)				
Covered agreements to public	2	3	1	6
Section 207.4(b)				
Agreements relating to activities of CRA affiliates	2	3	1	6

¹¹ Of these respondents, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets). www.sba.gov/content/table-small-business-size-standards.

Disclosure: NGEF

Section 207.6(b)(1)

Covered agreements to public	6	1	1	<u>6</u>
<i>Total</i>				78

The estimated total annual cost to the public for these collections of information is \$4,493.¹²

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 is negligible.

¹² 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 \$19, 45% Financial Managers at \$71, 15% Lawyers at \$69, and 10% Chief Executives at \$96). 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 2018, published March 29, 2019 <http://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>.