

**Supporting Statement for the
Recordkeeping Requirements Associated with Regulation GG
(FR GG¹; OMB No. 7100-0317)**

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 Recordkeeping Requirements Associated with Regulation GG (FR GG; OMB No. 7100-0317). Regulation GG - Prohibition on Funding of Unlawful Internet Gambling (12 CFR Part 233) requires participants in designated payment systems² to establish written policies and procedures related to the Unlawful Internet Gambling Enforcement Act of 2006 (the Act).³ The information collection is contained in section 5 of Regulation GG.⁴ The estimated total annual burden for FR GG is 40,100 hours.

Background and Justification

In general, the Act prohibits any person engaged in the business of betting or wagering (as defined in the Act) from knowingly accepting payments in connection with the participation of another person in unlawful Internet gambling. Such transactions are termed “restricted transactions.” The Act generally defines “unlawful Internet gambling” as placing, receiving, or otherwise knowingly transmitting a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.⁵ The Act states that its provisions should not be construed to alter, limit, or extend any

¹ The internal agency tracking number previously assigned by the Board to this information collection was “FR 4026.” The Board is changing the internal agency tracking number to “FR GG” for the purpose of consistency.

² Section 2 of Regulation GG defines “participant in a designated payment system” as (1) an operator of a designated payment system (i.e., the entity that provides centralized clearing and delivery services between participants and maintains the operational framework for the system), (2) a financial transaction provider (e.g., creditor, credit card issuer, money transmitting business) that is a member of, has contracted for financial transaction services with, or is otherwise participating in a designated payment system, or (3) a third-party processor.

Section 4 of Regulation GG, however, exempts four broad categories of payment system participants: (1) those processing a transaction through an automated clearing house (with exception, as defined in the regulation); (2) those participating in a particular check collection through a check collection system; (3) those participating in a money transmitting business; and (4) those participating in a particular wire transfer through a wire transfer system.

³ See 31 U.S.C. § 5361 et seq.

⁴ Section 802 of the Act requires the Board and the Department of the Treasury to prescribe joint regulations requiring each designated payment system, and all participants in such systems, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions.

⁵ From the general definition, the Act exempts three categories of transactions: (1) intrastate transactions (a bet or wager made exclusively within a single State, whose State law or regulation contains certain safeguards regarding such transactions and expressly authorizes the bet or wager and the method by which the bet or wager is made, and which does not violate any provision of applicable Federal gaming statutes), (2) intratribal transactions (a bet or

federal or state law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.⁶ The Act does not spell out which activities are legal and which are illegal, but rather relies on the underlying substantive federal and state laws.

Description of Information Collection

Section 5 requires all non-exempt participants in the designated payment systems to establish and implement written policies and procedures reasonably designed to identify and block, or otherwise prevent or prohibit, restricted transactions.⁷ In accordance with the Act, section 5 states that a non-exempt participant in a designated payment system shall be considered in compliance with this requirement if (1) it relies on, and complies with, the written policies and procedures of the designated payment system that are reasonably designed to identify and block restricted transactions or otherwise prevent or prohibit the acceptance of the products or services of the designated payment system in connection with restricted transactions and (2) such policies and procedures of the designated payment system comply with the requirements of this section.⁸ Regulation GG provides that, unless notified otherwise by its regulator, a participant may rely on a written statement or notice by the operator of the designated payment system to its participants that the operator has designed or structured the system's policies and procedures for identifying and blocking or otherwise preventing or prohibiting restricted transactions to comply with the requirements of Regulation GG.⁹

The Board is taking into account paperwork burden for an estimated 4,978 depository institutions, card system operators, and money transmitting business operators for the regulation's requirement to establish and maintain the policies and procedures required by section 5 of Regulation GG.

Section 6 sets out non-exclusive examples of policies and procedures the agencies believe are reasonably designed to prevent or prohibit restricted transactions for non-exempt participants in each designated payment system. Under Regulation GG, non-exempt participants in each designated payment system should maintain policies and procedures that (1) address methods for conducting due diligence in establishing a commercial customer relationship designed to ensure that the commercial customer does not originate or receive restricted transactions through the customer relationship and (2) include procedures reasonably designed to prevent or prohibit restricted transactions, including procedures to be followed with respect to a customer if the

wager made exclusively within the Indian lands of a single Indian tribe or between the Indian lands of two or more Indian tribes as authorized by Federal law, if the bet or wager and the method by which the bet or wager is made is expressly authorized by and complies with applicable Tribal ordinance or resolution (and Tribal-State Compact, if applicable) and includes certain safeguards regarding such transaction, and if the bet or wager does not violate applicable Federal gaming statutes), and (3) interstate horseracing transactions (any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. § 3001 et seq.)).

⁶ See 31 U.S.C. § 5361(b).

⁷ 12 CFR 233.5(a)

⁸ 12 CFR 233.5(b). See also 31 U.S.C. § 5363(c).

⁹ 12 CFR 233.5(c).

participant discovers the customer has been engaging in restricted transactions through its customer relationship.¹⁰ Also, the participant may notify all of its commercial customers, through provisions in the account or commercial customer relationship agreement or otherwise, that restricted transactions are prohibited from being processed through the account or relationship.¹¹

Respondent Panel

The FR GG panel comprises depository institutions, card system operators, credit unions, and money transmitting business operators.

Time Schedule for Information Collection

Non-exempt participants are required to maintain the policies and procedures for any particular designated payment system that they participate in.

Public Availability of Data

No recordkeeping data pursuant to this information collection is made available to the public by the Board.

Legal Status

FR GG is authorized by section 802 of the Unlawful Internet Gambling Enforcement Act, which permits the Board to prescribe regulations requiring designated payment systems and participants therein to establish policies and procedures to identify and block or otherwise prevent and prohibit restricted transactions.¹²

The obligation to respond is mandatory.

The policies and procedures required by Regulation GG are not required to be submitted to the Board. To the extent such policies and procedures are obtained by the Board through the examination process, they may be kept confidential under exemption 8 of the Freedom of Information Act, which protects information contained in or related to an examination of a financial institution.¹³

Consultation Outside the Agency

¹⁰ 12 CFR 233.6(b).

¹¹ 12 CFR 233.6(b)(3).

¹² 31 U.S.C. § 5364(a).

¹³ 5 U.S.C. § 552(b)(8).

The Board has consulted with the Department of the Treasury regarding this information collection renewal.

Public Comments

On March 8, 2021, the Board published an initial notice in the *Federal Register* (86 FR 13380) requesting public comment for 60 days on the extension, without revision, of FR GG. The comment period for this notice will expire on May 7, 2021.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for FR GG is 40,100 hours. For the purpose of estimating burden and accounting for it with OMB, the total number of depository institutions listed includes the number of entities regulated by the Board and half of the remaining depository institutions and third-party processors not subject to either agency's regulation or supervision. The Board is also accounting for the burden for half of the card system operators and money transmitting business operators to which the agencies estimate the final rule applies. These recordkeeping requirements represent less than 1 percent of the Board's total paperwork burden.

FR GG	Estimated number of respondents ¹⁴	Annual frequency	Estimated average hours per response	Estimated annual burden hours
Depository institutions	2,331	1	8	18,648
Card system operators	7	1	8	56
Credit unions	2,575	1	8	20,600
Money transmitting business operators	62	1	8	496
De novo institutions	3	1	100	300
<i>Total</i>				40,100

The estimated total annual cost to the public for this information collection is \$2,315,775.¹⁵

¹⁴ Of these respondents, 1,699 depository institutions, 2,302 credit unions, and 50 money transmitting business operators 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>. There are no special accommodations given to mitigate the burden on small institutions.

¹⁵ 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, <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 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 this information collection is negligible.