

**Supporting Statement for the
Reporting Requirements Associated with Section 208.22 of Regulation H
(Notifications Related to Community Development and Public Welfare Investments by
State Member Banks)
(FR H-6; OMB No. 7100-0278)**

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 Requirements Associated with Section 208.22 of Regulation H (Notifications Related to Community Development and Public Welfare Investments by State Member Banks) (FR H-6; OMB No. 7100-0278).¹ Regulation H - Membership of State Banking Institutions in the Federal Reserve System requires state member banks (SMBs) to comply with the following Regulation H notification requirements in connection with their community development or public welfare investment activity:²

- If the investment does not require prior Board approval, a written notice must be sent to the appropriate Federal Reserve Bank.³
- If the investment does require prior Board approval, a request for approval must be sent to the appropriate Federal Reserve Bank.⁴

The estimated total annual burden for the FR H-6 is 919 hours.

Background and Justification

On December 7, 1994, the Board added to Regulation H a new section entitled Community Development and Public Welfare Investments to implement a provision of the Depository Institutions Disaster Relief Act of 1992. The statutory provision authorizes SMBs to make investments designed primarily to promote the public welfare to the extent permissible under state law and subject to regulation by the Board. Regulation H permits SMBs to make certain public welfare investments without prior approval and to make other public welfare investments with specific Board approval.

An SMB may make a public welfare investment without prior approval if the following conditions are met:

- the investment is in a corporation, limited partnership, or other entity, and meets the criteria to be a public welfare investment 12 CFR 208.22(b)(1)(i)-(iv);

¹ No formal reporting form is required for these notification requirements, although the Board supplies a model form that banks may use to notify the appropriate Federal Reserve Bank of investments that do not require prior approval. The model form is available on the Board's public website at <https://www.federalreserve.gov/apps/reportingforms>.

² 12 CFR Part 208.

³ 12 CFR 208.22(b), 12 CFR 208.22(c).

⁴ 12 CFR 208.22(d).

- the investment is permitted by state law;
- the investment will not expose the SMB to liability beyond the amount of the investment;
- the aggregate of all such investments of the SMB does not exceed the sum of five percent of its capital stock and surplus;
- the SMB is at least adequately capitalized, has received a composite CAMELS of “1” or “2” as of its most recent examination, and has received an overall rating of “1” or “2” as of its most recent consumer compliance examination; and
- the SMB is not subject to any written agreement, cease-and-desist order, capital directive, prompt corrective action directive, or memorandum of understanding issued by the Board or a Reserve Bank.⁵

If these conditions are not met, an SMB must receive Board approval before making an investment. In no event may aggregate public welfare investments exceed 15 percent of the SMB’s capital stock and surplus.⁶

The information regarding public welfare investments that Regulation H requires SMB’s to submit is used for supervisory compliance and helps the Federal Reserve’s Community Affairs Office (CAO) to support the Federal Reserve System’s economic growth objectives by promoting community development and fair and impartial access to credit. The CAO of each Reserve Bank uses this information to develop specific projects and services to meet its regional market’s needs for information relating to community development activities. This information is not available from other sources.

Description of Information Collection

The public welfare investment provisions of Regulation H contain two types of notification requirements: (1) the public welfare investment notice and (2) the request for prior approval.⁷

For public welfare investments not requiring prior approval, the SMB must notify its Federal Reserve Bank within 30 calendar days of the investment, including the amount of the investment and the identity of the entity in which the investment is made. The notice may be submitted on bank letterhead or on the optional FR H-6 model form.⁸ Although not explicitly required under Regulation H, the model form also requests that SMBs provide a description of the investment, including details regarding how the investment meets the definition of public welfare or community development. This information is used by Reserve Bank staff to evaluate the permissibility of the investment. Reserve Bank staff sometimes contact the investing bank to obtain such information when it is not provided in the notice.

⁵ 12 CFR 208.22(b).

⁶ 12 U.S.C. § 338a.

⁷ 12 CFR 208.22.

⁸ The FR H-6 model form can be found at

<https://www.federalreserve.gov/apps/reportingforms/Download/DownloadAttachment?guid=1eea7d7d-c5eb-4811-9552-e57f398e0af7>.

When a public welfare investment requires prior Board approval, the SMB must submit a request for approval to the appropriate Federal Reserve Bank by way of a letter or other submission on bank letterhead. The request should include, at a minimum:

- the amount of the proposed investment,
- a description of the entity in which the investment is to be made,
- an explanation of how the investment meets the statutory definition of a public welfare investment,
- a description of the SMB's potential liability under the proposed investment,
- the amount of the SMB's aggregate outstanding public welfare investments,
- the amount of the SMB's capital stock and surplus, and
- the reason(s) why the investment is ineligible to be made without prior approval.

Respondent Panel

The FR H-6 panel comprises SMBs.

Frequency

The FR H-6 is event-generated.

Time Schedule for Information Collection

The two notifications (public welfare investment notice and request for approval) are event generated. An SMB must file a notice with the appropriate Reserve Bank within 30 calendar days of making an investment that does not require prior approval. For investments requiring prior approval, the Board must act on the request within 60 calendar days of receipt or notify the requesting SMB that a longer period of time will be required.

Public Availability of Data

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

Legal Status

The FR H-6 is authorized by section 9(23) of the Federal Reserve Act, which authorizes the Board to prescribe regulations with regard to state member banks making investments designed primarily to promote the public welfare.⁹

The obligation to respond is mandatory with respect to the notice required under 12 CFR 208.22(c) and required to obtain a benefit with respect to the request for prior approval under 12 CFR 208.22(d).

⁹ 12 U.S.C. § 338a. The Board also has the authority to require reports from state member banks. 12 U.S.C. §§ 248(a) and 324.

Individual respondents may request that information submitted to the Board through the FR H-6 be kept confidential. If a respondent requests confidential treatment, the Board will determine whether the information is entitled to confidential treatment on a case-by-case basis. Information collected through the FR H-6 may be kept confidential under exemption 4 of the Freedom of Information Act (FOIA), which applies to commercial or financial information that is both customarily and actually treated as private.¹⁰ Additionally, to the extent the FR H-6 contains information used in examination reports, it may be withheld from disclosure under FOIA exemption 8, which applies to information “related to examination, operating, or condition reports.”¹¹

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On August 18, 2023, the Board published an initial notice in the *Federal Register* (88 FR 56628) requesting public comment for 60 days on the extension, without revision, of the FR H-6. The comment period for this notice expires on October 17, 2023.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR H-6 is 919 hours. The estimated number of respondents listed is based on the number of notices and requests received by the Federal Reserve in 2022. The count of public welfare notices includes a tally of all post notice filings including filings submitted without using FR H-6 received. The burden estimate was produced using the standard Board burden calculation methodology. These reporting requirements represent less than 1 percent of the Board’s total paperwork burden.

FR H-6	<i>Estimated number of respondents</i> 12	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current				
Public welfare investment notice	120	1	2.2	264
Request for prior approval	131	1	5	<u>655</u>
				919
<i>Current Total</i>				

¹⁰ 5 U.S.C. § 552(b)(4).

¹¹ 5 U.S.C. § 552(b)(8).

¹² 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), <https://www.sba.gov/document/support-table-size-standards>.

The estimated total annual cost to the public for this information collection is \$60,884.¹³

Sensitive Questions

This collection of information contains 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.

¹³ 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 \$22, 45% Financial Managers at \$80, 15% Lawyers at \$79, and 10% Chief Executives at \$118). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor Statistics (BLS), Occupational Employment and Wages, May 2022, published April 25, 2023 <https://www.bls.gov/news.release/ocwage.t01.htm#>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.