

**Supporting Statement for the
Recordkeeping and Disclosure Requirements Associated with Regulation Y for
Minimum Requirements for Appraisal Management Companies
(FR HY-5; OMB No. 7100-0370)**

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 and Disclosure Requirements Associated with Regulation Y for Minimum Requirements for Appraisal Management Companies (FR HY-5; OMB No. 7100-0370). In 2015, the Board and certain other agencies published a final rule¹ implementing part of section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),² which relates to the supervision and regulation of appraisal management companies (AMCs). An AMC is an entity that serves as an intermediary for, and provides certain appraisal-related services to, creditors.³ The Board's final rule instituted certain recordkeeping and disclosure requirements for AMCs and U.S. states, which are located in the Board's Regulation Y - Bank Holding Companies and Change in Bank Control (12 CFR Part 225).

The estimated total annual burden for the FR HY-5 is 2,508 hours.

Background and Justification

Section 1473 of the Dodd-Frank Act added section 1124 to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The new section required the agencies to establish, by rule, minimum requirements to be applied by states in the registration and supervision of AMCs.⁴ These minimum requirements apply to states that have elected to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating states). Participating states must require AMCs to register with and be subject to supervision by the state's appraiser certifying and licensing agency. Such requirements must apply to all AMCs, except that AMCs that are a subsidiary of an insured depository institution (a federally regulated AMC) are not required to register with a state. States

¹ See 80 FR 32657 (June 9, 2015). This final rule was published jointly by the Board with the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Bureau of Consumer Financial Protection (Bureau), and Federal Housing Finance Agency (FHFA) (collectively, the agencies).

² Public Law 111-203, 124 Stat. 1376 (2010).

³ Specifically, the term AMC means, "in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a state or 25 or more nationally within a given year (A) to recruit, select, and retrain appraisers, (B) to contract with licensed and certified appraisers to perform appraisal assignments, (C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed, or (D) to review and verify the work of appraisers." 12 U.S.C. § 3350(11).

⁴ See 12 U.S.C. § 3353.

are not required to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs; however, a non-federally regulated AMC may not provide services for a federally related transaction in a state that does not establish such a program.⁵

Section 1473 of the Dodd-Frank Act also amended Title XI to require the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) to maintain an AMC National Registry, which includes AMCs that are either registered with and subject to supervision by a state appraiser certifying and licensing agency or are federally regulated AMCs. It also added a requirement that participating states collect annual registry fees from AMCs. Further, section 1473 of the Dodd-Frank Act requires the agencies to promulgate regulations for the reporting of the activities of AMCs to the ASC relating to the determination of the AMCs' annual registry fee.

The requirements associated with section 1124 of Title XI were implemented by the Board, as part of a joint rulemaking with all of the agencies, in 2015. This information is not available from other sources.

Description of Information Collection

The Board's recordkeeping and disclosure requirements associated with the minimum requirements for AMCs are found in sections 225.192, 225.193, 225.195, and 225.196 of the Board's Regulation Y, Subpart M. Compliance with the information collections is mandatory for AMCs and voluntary for states.

Recordkeeping Requirements

Registration and Supervision Program. Participating states must have an AMC registration and supervision program. Pursuant to section 225.193(a), each participating state must establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to, among other things, review and approve or deny an AMC's application for initial registration; require AMCs to submit reports, information, and documents; and report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.

Disclosure Requirements

Written Notice of Appraiser Removal from Network or Panel. Section 225.192(b) provides that an appraiser in an AMC's network or panel is deemed to remain a part of the AMC's appraiser panel until the AMC (1) sends a written notice to the appraiser removing the appraiser with an explanation or (2) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.

State Regulated AMC Reporting Requirements. Section 225.193(b) requires each participating state to require non-federally regulated AMCs to register with the state appraiser certifying and licensing agency.

⁵ 12 U.S.C. § 3353(f)(1).

Federally Regulated AMC Reporting Requirements. Section 225.195(c) requires a federally regulated AMC to report to the state or states in which it operates the information required to be submitted by the state pursuant to the ASC’s policies regarding the determination of the AMC National Registry fee, including information relating to certain ownership limitations in the regulation.

State Reporting Requirements to the ASC. Section 225.196 requires that each participating state submit to the ASC the information required to be submitted by the ASC regulations or guidance concerning AMCs that operate in the state.

Respondent Panel

The FR HY-5 panel comprises federally regulated and state regulated AMCs and U.S. states, except that AMCs that oversee 15 or fewer appraisers in a state or less than 25 appraisers in two or more states are exempt from these recordkeeping and disclosure requirements.

Time Schedule for Information Collection

The Board’s recordkeeping and disclosure requirements associated with minimum requirements for AMCs are event-generated.

Public Availability of Data

The AMC National Registry is available to the public on the ASC website (<https://www.asc.gov/Home.aspx>). No information is collected by or made publicly available by the Board as part of this information collection.

Legal Status

The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) authorizes the FR HY-5. Agencies must “jointly, by rule, establish minimum requirements to be applied by a State in the registration of [AMCs].”⁶ The Agencies further must “jointly promulgate regulations for the reporting of the activities of [AMCs] to the [ASC] in determining the payment of the annual registry fee.”⁷ Each participating state with an appraiser certifying and licensing agency must also transmit to the ASC “[1] a roster listing individuals who have received a State certification or license ... [2] reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, and license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the [ASC] ... [3] including investigations initiated and disciplinary actions taken.”⁸

The HY-5 reporting and recordkeeping requirements are required to obtain a benefit for states because AMCs, unless they are owned and controlled by a federally regulated depository

⁶ 12 U.S.C. § 3353(a).

⁷ 12 U.S.C. § 3353(e).

⁸ 12 U.S.C. § 3338(a).

institution, are barred from providing appraisal management services for federally related transactions in a state that has not adopted the minimum AMC requirements.⁹ The FR HY-5 recordkeeping and disclosure requirements are mandatory for an AMC that is: (1) an appraisal management company that is a subsidiary owned and controlled by a financial institution and regulated by a federal financial institution regulatory agency,¹⁰ or (2) is registered with a state that has a state appraiser certifying and licensing agency.

The Federal Reserve does not collect information subject to the HY-5 recordkeeping and reporting requirements. If information subject to the HY-5 requirements is obtained as part of an examination or supervision of a financial institution, it may be considered confidential under exemption 8 of the Freedom of Information Act (FOIA).¹¹ Information subject to the HY-5 Requirements may also be kept confidential under the FOIA exemption 4 if it is confidential commercial or financial information that is both customarily and actually treated as private.¹²

Consultation Outside the Agency

The Board, OCC, FDIC, and FHFA collaborated in reassessing and confirming their burden estimates and methodologies for this submission and discussed potential improvements and evaluations for future submissions.

Public Comments

On December 3, 2021, the Board published an initial notice in the *Federal Register* (86 FR 68664) requesting public comment for 60 days on the extension, without revision, of the FR HY-5. The comment period for this notice expires on February 1, 2022.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR HY-5 is 2,508 hours. The Board's estimated number of respondents and burden hours for sections 225.192(b), 225.193(a), 225.193(b), and 225.195(c) are based on a percentage of the total estimated number of respondents for the agencies, which all have identical requirements.¹³ These recordkeeping and disclosure requirements represent less than 1 percent of the Board's total paperwork burden.

⁹ 12 U.S.C. § 3353.

¹⁰ 12 U.S.C. § 3353(c).

¹¹ 5 U.S.C. § 552(b)(8).

¹² 5 U.S.C. § 552(b)(4).

¹³ The total burden hours and respondents for sections 225.192, 225.193, and 225.195 are split between the Board, OCC, FDIC, and FHFA in a ratio of 3:3:3:1. The basis for this methodology is explained in full detail in a memo from the Division of Insurance and Research at the FDIC, which the Board will submit to OMB as part of the clearance package for this collection of information. The Board accounts for disclosure burden associated with section 225.196 and the other agencies do not. The Board plans to coordinate with the ASC to confirm that the burden associated with section 225.196 is accounted for by the ASC's own information collection (Reporting Information for the AMC Registry; OMB No. 3139-0009).

FR HY-5	<i>Estimated number of respondents</i> 14	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Recordkeeping				
Section 225.193(a)				
Registration and supervision program	1	1	40	40
Disclosure				
Section 225.192(b)				
Written notice of appraiser removal from network or panel	1,239	1	0.08	99
Section 225.193(b)				
State regulated AMC reporting requirements	1,146	2	1	2,292
Section 225.195(c)				
Federally regulated AMC reporting requirements	13	2	1	26
Section 225.196				
State reporting requirements to the ASC	51 ¹⁵	1	1	<u>51</u>
<i>Total</i>				2,508

The estimated total annual cost to the public for the FR HY-5 is \$148,348.¹⁶

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines, although it is possible that a participating state could ask questions of a sensitive nature pursuant to its authority to require an application or report from an AMC, or that a participating state may report sensitive information to the ASC pursuant to the requirement that the state report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions.

¹⁴ Using North American Industry Classification System (NAICS) code 531320, of these respondents, 964 of section 225.192(b), none of section 225.193(a), 891 of section 225.193(b), 9 of Section 225.195(c), and none of section 225.196 are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$8 million in total assets), <https://www.sba.gov/document/support--table-size-standards>.

¹⁵ All 50 states and the District of Columbia are reported as participating states according to the ASC.

¹⁶ 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 \$73, 15% Lawyers at \$72, and 10% Chief Executives at \$95). 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 2020*, published March 31, 2021, <https://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.

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.