

Supporting Statement for the Recordkeeping and Disclosure Provisions Associated with Real Estate Appraisal Standards (FR Y-30; OMB No. 7100-0250)

Summary

The Board of Governors of the Federal Reserve System (Board), under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the Recordkeeping and Disclosure Provisions Associated with Real Estate Appraisal Standards (FR Y-30; OMB No. 7100-0250).¹ Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) (12 U.S.C. 3331 et seq.) requires that, for federally related transactions,² regulated institutions obtain real estate appraisals performed by certified or licensed appraisers in conformance with uniform appraisal standards.³ The Board's regulations implementing Title XI of FIRREA, contained in the Board's Regulation Y, include certain recordkeeping requirements that apply to state member banks (SMBs), bank holding companies (BHC), and nonbank subsidiaries of BHCs that extend mortgage credit (together, institutions). The Board and other supervisory agencies also have issued Interagency Appraisal and Evaluation Guidelines (the Guidelines) that convey supervisory expectations relating to real estate appraisals and evaluations used to support real estate-related financial transactions.⁴ These Guidelines recommend that institutions adopt certain policies and procedures to ensure compliance with Title XI of FIRREA and Regulation Y.

The Board proposes to revise the FR Y-30 to account for the collections of information contained in the Guidelines.

The current estimated total annual burden for the FR Y-30 is 28,183 hours, and would increase to 28,339 hours. The proposed revisions would result in an increase of 156 hours. There

¹ This information collection was previously titled *Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y (FR H-4; OMB No. 7100-0250)*. Under the proposal, this information collection would no longer include references to section 208.51 of the Board's Regulation H (12 CFR 208.51), which is cleared by the Board as part of the FR H-5 clearance (OMB No. 7100 0261). This change would not affect the burden estimate for this collection of information, as prior burden calculations for the FR H-4 have not included any burden associated with section 208.51 of Regulation H. Additionally, as described in this Supporting Statement, the proposal would replace references to section 208.50 of Regulation H with references to subpart G of Regulation Y as the source for certain appraisal standards for state member banks. Therefore, the Board has modified the title and agency tracking number of the FR H-4 information collection to reflect that it will no longer account for provisions of Regulation H.

² A "federally related transaction" means any real estate-related financial transaction which (A) a federal financial institutions regulatory agency or the Resolution Trust Corporation engages in, contracts for, or regulates; and (B) requires the services of an appraiser. 12 U.S.C. § 3350(4). The term "real estate-related financial transaction" means any transaction involving (A) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (B) the refinancing of real property or interests in real property; and (C) the use of real property or interests in property as security for a loan or investment, including mortgage-backed securities. 12 U.S.C. § 3350(5).

³ The federal financial institutions regulatory agencies that have issued these regulations consist of the Board, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA) (together, the agencies).

⁴ SR 10-16, available at <https://www.federalreserve.gov/boarddocs/srletters/2010/sr1016.htm>.

is no formal reporting form for this collection of information (the FR Y-30 designation is for internal purposes only) and the information is not submitted to the Federal Reserve.

Background and Justification

Title XI of FIRREA directs the federal financial institution regulatory agencies to publish appraisal rules for federally related transactions within the jurisdiction of each agency.⁵ The Board has implemented this requirement in Regulation Y, subpart G (12 CFR §§ 225.61-225.67).⁶ Regulation Y (i) identifies which real estate-related financial transactions require the services of an appraiser; (ii) prescribes which categories of federally related transactions shall be appraised by a State certified appraiser and which by a State licensed appraiser; and (iii) prescribes minimum standards for the performance of real estate appraisals in connection with federally related transactions under the jurisdiction of the Board. In addition, as mandated by Title XI, Regulation Y requires that all such appraisals be written and that they conform to the Uniform Standards of Professional Appraisal Practice (USPAP) promulgated by the Appraisal Standards Board of the Appraisal Foundation.

The Guidelines clarify the agencies' real estate appraisal regulations and provide institutions and examiners with supervisory guidance for a prudent appraisal and evaluation program. Specifically, the guidelines address appraisal independence, minimum appraisal standards, and institutions' policies and procedures for conducting and monitoring appraisals, evaluations, and related activities; explain what transactions require appraisals and elaborate on the agencies' expectations for the development and content of an evaluation; and discuss third-party arrangements, compliance programs, and referrals.

Description of Information Collection

Recordkeeping

For federally related transactions, Regulation Y requires institutions to use appraisals prepared in accordance with minimum appraisal standards in the regulation, including the USPAP. Generally, these standards prescribe the requirements for analyzing the value of real property as well as the requirements for reporting such analysis and a value conclusion. Appraisals must be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction and must be subject to appropriate review for compliance with the USPAP.⁷

Under the Guidelines, an institution's board of directors or its designated committee is responsible for adopting and reviewing policies and procedures that establish an effective real

⁵ See 12 U.S.C. § 3339.

⁶ The Board's Regulation H also notes that the standards applicable to appraisals rendered in connection with Federally related transactions entered into by state member banks are set forth in 12 CFR part 225, subpart G. 12 CFR 208.50(b). Previous versions of the FR H-4 information collection have referenced section 208.50 of Regulation H as setting forth the relevant standards for SMBs. In the interest of simplicity and accuracy, this information collection now refers to Regulation Y as the source of the relevant appraisal standards for all respondents.

⁷ 12 CFR 225.64(b)-(c).

estate appraisal and evaluation program. An institution's collateral valuation program should establish criteria to select, evaluate, and monitor the performance of appraisers and persons who perform evaluations. In addition, the Guidelines explain that an institution should establish policies and procedures for determining when to obtain an appraisal. When an evaluation is used instead of an appraisal, the Guidelines provide that the evaluation's content should be documented in the credit file or reproducible. Furthermore, under the guidelines, an institution should establish policies and procedures for determining an appropriate collateral valuation method for a given transaction considering associated risks and should establish criteria for assessing whether an existing appraisal or evaluation continues to reflect the market value of the property. An institution should have internal controls for identifying, monitoring, and managing the risks associated with the appraisal and evaluation program and using a third party arrangements for valuation services.

Records of appraisals or evaluations or other documentation pertaining to the institutions' monitoring or updating of property values should be kept in the credit file for the life of the loan. These records can be either paper or electronic records.

Disclosure

The Guidelines state that an institution should file a complaint with the appropriate state appraiser regulatory officials when it suspects that a state certified or licensed appraiser failed to comply with USPAP or applicable state laws, or engaged in other unethical or unprofessional conduct.

Respondent Panel

The FR Y-30 panel comprises SMBs, BHCs, and nonbank subsidiaries of BHCs.

Proposed Revisions to the FR Y-30

The Board proposes to revise the FR Y-30 to account for the collections of information contained in the Guidelines. Although previous OMB Supporting Statements for the FR H-4, the former agency tracking number for this clearance, referred to the Guidelines, the Board did not formally clear these collections of information or account for their corresponding burden.

Time Schedule for Information Collection

Bank examiners monitor compliance with the appraisal regulation during examinations and inspections of Board-regulated institutions. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Public Availability of Data

No data collected by the Federal Reserve related to this information collection is made available to the public by the Board.

Legal Status

The FR Y-30 is authorized pursuant to Title XI of FIRREA.⁸ The obligation to respond is mandatory. The recordkeeping provisions contained in the Guidelines, which is nonbinding, are voluntary.⁹

Because FR Y-30 records would be maintained at each banking organization, the Freedom of Information Act (“FOIA”) would only be implicated if the Board obtained such records as part of the examination or supervision of a banking organization. In the event the records are obtained by the Board as part of an examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the FOIA, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process.¹⁰ In addition, the information may also be kept confidential under exemption 4 for the FOIA, which protects commercial or financial information obtained from a person that is privileged or confidential.¹¹

Consultation Outside of the Agency

The provisions that are the subject of this information collection were adopted jointly by the Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration. There has been no consultation outside the Federal Reserve System regarding this proposal to extend the FR Y-30, with revision.

Public Comments

On October 14, 2020, the Board published an initial notice in the *Federal Register* (85 FR 65050) requesting public comment for 60 days on the extension, without revision, of the FR Y-30. The comment period for this notice expires on December 14, 2020.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR Y-30 is 28,183 hours, and would increase to 28,339 hours with the proposed revisions. The Board has used a more accurate methodology for calculating the burden of the information collection based on its experience. The Board is using (1) the average number of loans per institution as the frequency and (2) 5 minutes as the estimated time per response for the appraisals or evaluations. These recordkeeping and disclosure requirements represent less than 1 percent of total Federal Reserve System annual paperwork burden.

⁸ 12 U.S.C. § 3339. The Board also has the authority to require reports from bank holding companies (12 U.S.C. § 1844(c)) and state member banks (12 U.S.C. §§ 248(a) and 324).

⁹ See SR 18-5 / CA 18-7: Interagency Statement Clarifying the Role of Supervisory Guidance (Sept. 11, 2018).

¹⁰ 5 U.S.C. § 552(b)(8).

¹¹ 5 U.S.C. § 552(b)(4).

FR Y-30	<i>Estimated number of respondents</i> 12	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current				
Recordkeeping				
SMBs				
Sections 208.50 – 208.51	740	419	5 Minutes	25,837
Nonbank subsidiaries of BHCs				
Sections 225.61 – 225.67	1,126	25	5 Minutes	<u>2,346</u>
<i>Current Total</i>				28,183
Proposed				
Recordkeeping				
SMBs				
Section 225.61-225.67	740	419	5 Minutes	25,837
Nonbank subsidiaries of BHCs				
Sections 225.61-225.67	1,126	25	5 Minutes	2,346
Disclosure				
SMBs				
Disclosure guidance	740	1	5 Minutes	62
Nonbank subsidiaries of BHCs				
Disclosure guidance	1,126	1	5 Minutes	<u>94</u>
<i>Proposed Total</i>				28,339
<i>Change</i>				156

The estimated total annual cost to the public for this collection of information is \$1,636,577.¹³

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

¹² Of these respondents, 607 SMBs and 2 nonbank subsidiaries of BHCs 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.

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 \$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, www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, 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.