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 Regulation A (FR A; OMB No. 7100-0373). The Board has established, by regulation, policies and procedures with respect to emergency lending under section 13(3) of the Federal Reserve Act (FRA), as required by amendments to the FRA from sections 1101 and 1103 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). With the FR A information collection, the Federal Reserve complies with the requirements of the FRA, as amended by section 1101(a)(6) of the Dodd-Frank Act.

The estimated total annual burden for the FR A is 40 hours.

Background and Justification

Effective on July 21, 2010, the Dodd-Frank Act amended section 13(3) of the FRA to limit the statutory authority to extend emergency credit to non-depository institutions. To accomplish this, the Dodd-Frank Act amended section 13(3) to provide that emergency credit may be extended only to participants in a program or facility with broad-based eligibility designed for the purpose of providing liquidity to the financial system. The section 13(3) amendments, among other things, provide that a program or facility that is structured to remove assets from the balance sheet of a single and specific company, or that is established for the purpose of assisting a single and specific company avoid bankruptcy or resolution under a Federal or State insolvency proceeding would not be considered a program or facility with broad-based eligibility. The amendments further provide that a program or facility may not be established without the prior approval of the Secretary of the Treasury, and impose detailed publication and reporting requirements for any extensions of credit under section 13(3). The section 13(3) amendments require the Board to establish policies and procedures that require a Federal Reserve Bank to assign a value to all collateral for an emergency loan, are designed to ensure that the collateral is sufficient to protect taxpayers from losses, and prohibit lending to insolvent borrowers.

The FR A information collection is a result of the Board’s required procedure to prohibit lending to insolvent borrowers.

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1 This information collection is defined as a reporting requirement, as the public's providing information to a federal agency is considered "reporting" burden under the Paperwork Reduction Act.

2 There is no reporting form for this collection of information (the FR A designation is for internal purposes only.)
Description of Information Collection

Section 1101 of the Dodd-Frank Act amended section 13(3) to provide that a Federal Reserve Bank may rely on a written certification from the person or from the chief executive officer or other authorized officer of the entity, at the time the person or entity initially borrows under the program or facility, that the person or entity is not insolvent. The amendments provide that a borrower is considered insolvent if the borrower is in bankruptcy, resolution under Title II of Public Law 111-203 (12 U.S.C. 5381 et seq.) or any other Federal or State insolvency proceeding. No other federal law mandates report of this information. As a result, this information is not available from other sources.

The FR A information collection is such written certification. As a result, the collection will not involve the use of automated or other forms of information technology. It is possible that the written certification might be transmitted through electronic means, such as email or fax, depending on circumstances at the time of completion.

Respondent Panel

The FR A panel comprises persons or entities borrowing under an emergency lending program or facility established pursuant to section 13(3) of the FRA.

Time Schedule for Information Collection

The FR A is an event-driven information collection. The certification must be filed at or before the time the person or entity initially borrows under the program or facility.

Public Availability of Data

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

Legal Status

The FR A is authorized pursuant to section 13(3) of the FRA\(^3\), which allows for the written certification.

A Federal Reserve Bank may not lend to an entity that is insolvent. The obligation to respond, therefore, is required to obtain a benefit.

The information collected under FR A may be kept confidential under exemption 4 for the Freedom of Information Act, which protects commercial or financial information obtained from a person that is privileged or confidential.\(^4\)

\(^3\) 12 U.S.C. § 343(3).
Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On March 2, 2020, the Board published an initial notice in the Federal Register (85 FR 12295) requesting public comment for 60 days on the extension, without revision, of the FR A. The comment period for this notice expires on May 1, 2020.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR A is 40 hours. Because the collection is event-generated, and the Board has not established any lending programs or facilities under section 13(3) for which this information would be collected, it is not possible to predict exactly how many certifications will be filed in a given year. However, for purposes of the Paperwork Reduction Act (PRA), the Board assumes 5 respondents. This is an illustrative example only, as lending programs or facilities under section 13(3) are likely to be established very rarely; reporting is likely to be unnecessary in any given year. For the purposes of the PRA, the Board estimates average hours per response is 8 hours. This reporting requirement represents less than 1 percent of the Board’s total paperwork burden.

<table>
<thead>
<tr>
<th>Estimated number of respondents</th>
<th>Annual frequency</th>
<th>Estimated average hours per response</th>
<th>Estimated annual burden hours</th>
</tr>
</thead>
<tbody>
<tr>
<td>FR A</td>
<td>5</td>
<td>8</td>
<td>40</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5</strong></td>
<td><strong>1</strong></td>
<td><strong>40</strong></td>
</tr>
</tbody>
</table>

The estimated total annual cost to the public for this collection of information is $3,300.8

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5 12 CFR 201.4(d)(4)(iii)(C) specifies that in order for a broad-based emergency lending program or facility to be established, at least five persons or entities must be eligible to participate.

6 Hours per response could vary significantly depending on the size or complexity of the borrower.

7 Of these respondents, none are expected to be 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.

8 Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (50% Lawyers at $69, and 50% 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, 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

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.