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, without revision, the Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance (FR K; OMB No. 7100-0310). Section 208.63 of the Board’s Membership of State Banking Institutions in the Federal Reserve System – Regulation H (12 CFR 208) requires state member banks to establish and maintain in writing procedures reasonably designed to ensure and monitor compliance with the provisions of the Bank Secrecy Act (BSA)\(^2\) and the implementing regulations. Sections 211.5(m)(1) and 211.24(j)(1) of the Board’s International Banking Operations – Regulation K (12 CFR 211) impose those same requirements on Edge and agreement corporations and, except for a federal branch or a federal agency or a state branch that is insured by the Federal Deposit Insurance Corporation, the U.S. branches, agencies, and representative offices of foreign banks supervised by the Board. The current annual burden for this collection of information is estimated to be 3,844 hours.

Background and Justification

The BSA and its implementing regulations require financial institutions to keep records and make reports “where they have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings, or in the conduct of intelligence or counterintelligence activities, including analysis, to protect against international terrorism.”\(^3\) In 1986, the Anti-Drug Abuse Act amended the Federal Deposit Insurance Act\(^4\) to require the federal banking agencies to (1) prescribe regulations requiring the institutions they regulate to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA and (2) to review such procedures during the course of their examinations.

In 1987, the federal banking agencies amended their respective regulations to require that the insured depository institutions they regulate establish and maintain procedures to assure and monitor compliance with the requirements of the BSA and the implementing regulations promulgated thereunder by the Secretary of the Treasury.\(^5\) These amendments incorporated the minimum components of a BSA compliance program, as determined by the federal banking agencies, and as generally set forth in the BSA.\(^6\)

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1 The internal Agency Tracking Number previously assigned by the Board to this information collection was “Reg K.” The Board is changing the internal Agency Tracking Number to “FR K” for the purpose of consistency.
2 See 31 U.S.C. 5311 et seq.
4 See 12 U.S.C. 1818(s).
5 The 1987 notice was issued by the Board, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, Federal Home Loan Bank Board, and National Credit Union Administration.
The Board’s 1987 amendments, codified at section 208.63 of Regulation H, apply to state member banks. In 2006, Regulation K was revised to add corresponding provisions for Edge and agreement corporations, and, except for a federal branch or a federal agency or a state branch that is insured by the Federal Deposit Insurance Corporation, the U.S. branches, agencies, and representative offices of foreign banks supervised by the Board.\(^7\)

**Description of Information Collection**

The BSA compliance program requirements of Regulation K and Regulation H require respondent institutions to establish a written BSA compliance program that includes the following components: (1) a system of internal controls to assure ongoing compliance, (2) independent testing of compliance by the institution’s personnel or by an outside party, (3) the designation of an individual or individuals responsible for coordinating and monitoring day-to-day compliance, and (4) training for appropriate personnel.\(^8\) The compliance program must be approved by the board of directors of the state member bank, Edge corporation, or agreement corporation and must be noted in the institution’s minutes. In the case of a branch, agency, or representative office of a foreign bank, the compliance program may be approved by the foreign bank’s board of directors and noted in the minutes or approved by a delegee acting under the express authority of the foreign bank’s board of directors.

**Time Schedule for Information Collection**

This information collection consists of recordkeeping requirements, as mentioned above. The creation of a BSA compliance program is a mandatory one-time requirement. Subsequent changes to the program would be on occasion.

**Legal Status**

The FR K is authorized pursuant to the Federal Deposit Insurance Act (12 U.S.C. 1818(s)), which requires the federal banking agencies, including the Board, to (1) prescribe regulations requiring the institutions they regulate to establish and maintain procedures reasonably designed to assure and monitor compliance with the BSA and (2) to review such procedures during the course of their examinations.\(^9\) The FR K is mandatory.

Because the Federal Reserve will not collect this information, confidentiality issues would normally not arise. Because the records will be retained at banking organizations, the Freedom of Information Act (FOIA) will only be implicated if the Board’s examiners retain a copy of the record as part of an examination or supervision of a banking institution. In that case, the records would be exempt from disclosure under exemption 8 to FOIA, which protects

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\(^7\) See 71 FR 13934 (March 20, 2006).

\(^8\) See 12 CFR 208.63(c); these specific requirements are incorporated by reference in 12 CFR 211.5(m)(1) and 211.24(j)(1).

\(^9\) The Board’s authority in 12 U.S.C. 1818(s) to prescribe regulations includes the entities required to comply with section 208.63 of the Board’s Regulation H (12 CFR 208.63) and sections 211.5(m)(1) and 211.24(j)(1) of the Board’s Regulation K (12 CFR 211.5(m)(1) and 12 CFR 211.24(j)(1)).
examination materials from disclosure (5 U.S.C. 552(b)(8)). Exemption 4 to FOIA, which protects confidential financial information, may also be applicable (5 U.S.C. 552(b)(4)).

**Consultation Outside the Agency**

On February 5, 2019, the Board published an initial notice in the Federal Register (84 FR 1731) requesting public comment for 60 days on the extension without revision, of the Recordkeeping Requirements of Regulation H and Regulation K Associated with the Procedures for Monitoring Bank Secrecy Act Compliance (FR K). The comment period for this notice expires on April 8, 2019.

**Estimate of Respondent Burden**

The estimated annual burden for the recordkeeping requirements of section 208.63 of Regulation H and sections 211.5(m)(1) and 211.24(j)(1) of Regulation K is 3,844 hours, as shown in the table below. The Board estimates that it takes each respondent 16 hours to create its BSA compliance program and 4 hours to maintain procedures to assure and monitor compliance with the BSA. Since the measures taken to comply with Regulations H and K are consistent with sound risk management and banking practices, the Board believes that little additional burden is associated with the requirements for establishing and maintaining a compliance program. These recordkeeping requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

<table>
<thead>
<tr>
<th>FR K</th>
<th>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>Establish compliance program</td>
<td>1^11</td>
<td>1</td>
<td>16</td>
<td>16</td>
</tr>
<tr>
<td>Maintenance of compliance program</td>
<td>957^12</td>
<td>1</td>
<td>4</td>
<td>3,828</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td></td>
<td></td>
<td>3,844</td>
</tr>
</tbody>
</table>

The estimated cost to the public for this information collection is $215,456.13.

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10 Of these respondents, 548 are considered small entities as defined by the Small Business Administration (i.e., entities with less than $550 million in total assets) www.sba.gov/document/support--table-size-standards.

11 This number represents the average number of state member banks, Edge and agreement corporations, and U.S. branches, agencies, and representative offices of foreign banks supervised by the Board that were established each year from 2015 through 2017.

12 This number represents the actual number of state member banks, Edge and agreement corporations, U.S. branches, agencies, and representative offices of foreign banks supervised by the Board that are open and active as of December 31, 2017.

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 $18, 45% Financial Managers at $69, 15% Lawyers at $68, and 10% Chief Executives at $94). 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 2017, published March 30, 2018, www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using
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

Since the Federal Reserve does not collect any information in connection with the FR K, the cost to the Federal Reserve System is negligible.

the BLS Occupational Classification System, www.bls.gov/soc/.