

**Supporting Statement for the  
Reporting Requirements Associated with Regulation Y  
(Extension of Time to Conform to the Volcker Rule)  
(FR Y-1; OMB No. 7100-0333)**

## **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 Reporting Requirements Associated with Regulation Y (Extension of Time to Conform to the Volcker Rule) (FR Y-1; OMB No. 7100-0333). The Board's Regulation Y provides that a new banking entity or Board-supervised nonbank financial company may request an extension of time to conform its activities to the requirements of section 13 of the Bank Holding Company Act of 1956 (BHC Act),<sup>1</sup> also known as the Volcker Rule.

The Board proposes to revise the FR Y-1 to account for Supervision and Regulation Letter 16-18 (SR Letter 16-18),<sup>2</sup> which discusses the information that should be included in a request to extend the transition period for illiquid funds. The total annual burden for this information collection is estimated to be 3 hours and would not change as a result of the proposed revision. There are no required reporting forms associated with this information collection.

## **Background and Justification**

Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,<sup>3</sup> also known as the Volcker Rule, added a new section 13 to the BHC Act that generally prohibits any banking entity<sup>4</sup> from engaging in proprietary trading or from investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund (together, a covered fund). Section 13 of the BHC Act also provides that nonbank financial companies designated by the Financial Stability Oversight Council (Council) that engage in proprietary trading activities or make investments in covered funds may be made subject by rule to additional capital requirements or quantitative limits.<sup>5</sup>

Newly formed banking entities and existing companies that become a banking entity (collectively, new banking entities) generally must bring their activities and investments into

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<sup>1</sup> 12 U.S.C. 1851.

<sup>2</sup> Procedures for a Banking Entity to Request an Extended Transition Period for Illiquid Funds, SR Letter 16-18 (December 9, 2016), available at <https://www.federalreserve.gov/supervisionreg/srletters/sr1618.pdf>.

<sup>3</sup> Public Law 111-203, 124 Stat. 1376 (2010).

<sup>4</sup> The term "banking entity" is defined in section 13(h)(1) of the BHC Act (12 U.S.C. 1851(h)(1)). The term means any insured depository institution (other than certain limited-purpose trust institutions), any company that controls an insured depository institution, any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. 3106), and any affiliate or subsidiary of any of the foregoing.

<sup>5</sup> 12 U.S.C. 1851(a)(2) and (f)(4).

compliance with the requirements of the Volcker Rule and implementing regulations<sup>6</sup> within two years after the date on which the company becomes a banking entity. Similarly, a nonbank financial company supervised by the Board generally must come into compliance with the Volcker Rule and implementing regulations within two years after the date the company becomes a nonbank financial company supervised by the Board. However, a new banking entity or Board-supervised nonbank financial company may request an extension of time to conform its activities to the Volcker Rule pursuant to sections 225.181(c) or 225.182(c), respectively, of the Board's Regulation Y. These provisions were adopted by the Board in February 2011 to implement the conformance period provisions of the Volcker Rule, which permit the Board to extend, by rule or order, the conformance period for compliance with the Volcker Rule for not more than one year at a time, for up to three years in the aggregate, if, in the judgment of the Board, an extension is consistent with the purposes of the Volcker Rule and would not be detrimental to the public interest.<sup>7</sup> Section 225.181(c) of Regulation Y also permits a banking entity to request an extension of time to conform certain illiquid funds, as defined in the Volcker Rule. A banking entity may receive only one extension of time to conform illiquid funds, and such extension may not exceed five years.<sup>8</sup> Any banking entity, regardless of its primary federal regulator, may request an extension of time to conform its activities to the Volcker Rule or to conform illiquid funds pursuant to section 225.181(c).

## **Description of Information Collection**

### *Conformance Period for Banking Entities Engaged in Prohibited Proprietary Trading or Private Fund Activities - Approval Required to Hold Interests in Excess of Time Limit (Section 225.181(c))*

Section 225.181(c) requires an application for an extension by or with respect to a new banking entity or an extension of the transition period for illiquid funds to (1) be submitted in writing to the Board at least 180 days prior to the expiration of the applicable time period, (2) provide the reasons why the banking entity believes the extension should be granted, and (3) provide a detailed explanation of the banking entity's plan for divesting or conforming the activity or investment(s). A request by a banking entity also must address the relevant factors governing Board determinations set out in sections 225.181(d).

In SR Letter 16-18, the Director of the Board's Division of Supervision and Regulation stated that a request for an extended transition period for illiquid funds, pursuant to Regulation Y, should include the following information:

- A list or simple chart of illiquid funds for which an extension is sought,
- A short description of each fund, including the investment strategy and types of investments made by each fund, which entity within the firm holds the investment, the size of each fund, the total exposure of the banking entity to each fund, the date by which each remaining illiquid fund is expected to mature by its terms or be conformed to

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<sup>6</sup> In December 2013, the Board approved final regulations implementing the provisions of section 13 of the BHC Act, which are codified at 12 CFR Part 248. See Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Fund and Private Equity Funds, 79 FR 55356 (January 31, 2014).

<sup>7</sup> 12 U.S.C. 1851(c)(2).

<sup>8</sup> 12 U.S.C. 1851(c)(3)(B).

section 13 of the BHC Act, and the banking entity's relationship with the fund (for example, general partner, sponsor, investment adviser, investor),

- A description of the banking entity's specific efforts to divest or conform its illiquid funds, including a description of the overall covered funds (both liquid and illiquid) that have been divested or conformed to date, the progress that has been made towards divesting or conforming the investments for which an extension is being sought (for example, the number of funds sold, the number of funds that continue to be held, and the amount of investments remaining in each fund and in aggregate),
- A certification by the General Counsel or Chief Compliance Officer of the entity that sponsors or invests in the illiquid funds that each fund meets the definition of illiquid funds in section 13 of the BHC Act and sections 225.180-.181 of Regulation Y, including that the extension is necessary to fulfill a contractual obligation of the banking entity that was in effect on May 1, 2010, and
- The length of the requested extension of the conformance period and a description of the banking entity's plan for divesting or conforming each illiquid fund prior to the end of the requested extension period.

SR Letter 16-18 further provides that such a request should be submitted in writing to the appropriate Federal Reserve Bank and that the banking entity should provide the name, phone number, and email address of the banking entity's point of contact for the request. Additionally, SR Letter 16-18 provides that, in the case where the banking entity that sponsors or invests in the illiquid fund is supervised primarily by another federal banking agency, the Securities and Exchange Commission, or the Commodity Futures Trading Commission, the top-tier banking entity should also provide a copy of the extension request to the relevant agency for the subsidiary banking entity.

*Conformance Period for Nonbank Financial Companies Supervised by the Federal Reserve Engaged in Proprietary Trading or Private Fund Activities - Approval Required to Hold Interests in Excess of Time Limit (Section 225.182(c))*

Section 225.182(c) requires an application for an extension by a nonbank financial company supervised by the Board<sup>9</sup> to (1) be submitted in writing to the Board at least 180 days prior to the expiration of the applicable time period, (2) provide the reasons why the nonbank financial company supervised by the Board believes the extension should be granted, and (3) provide a detailed explanation of the company's plan for coming into compliance with the requirements of the Volcker Rule. A request by nonbank financial company supervised by the Board also must address the relevant factors governing Board determinations set out in section 225.182(d).

### **Proposed Revisions**

The Board is proposing to revise the FR Y-1 to account for the provisions of SR Letter 16-18 that relate to the contents of a request for an extended transition period for illiquid funds and the procedures for filing such a request.

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<sup>9</sup> There are currently no nonbank financial companies supervised by the Board.

## **Time Schedule for Information Collection**

The reporting requirements described above are event-generated, and must be submitted within the time period established by the regulation as discussed above.

## **Legal Status**

Section 13 of the BHC Act specifically authorizes the Board to issue rules to permit entities covered by the Volcker Rule to seek extensions of time of the conformance period (12 U.S.C. 1851(c)(6)). The Board also has the authority to require reports from bank holding companies (12 U.S.C. 1844(c)), savings and loan holding companies (12 U.S.C. 1467a(b) and (g)), and state member banks (12 U.S.C. 248(a) and 324). The information collections associated with requests for extensions of time to conform to the Volcker Rule are required for covered entities that decide to seek an extension of time to conform their activities to the Volcker Rule or divest their interest in an illiquid hedge fund or private equity fund. These collections of information, therefore, are required to obtain a benefit.

Information required to be submitted in order to obtain an extension of time to conform activities to the Volcker Rule may include:

- The terms of private contractual obligations,
- The liquid or illiquid nature of assets proposed to be divested by the regulated entity,
- The total exposure of the covered entity to the activity or investment, and its materiality to the institution,
- The risks and costs of disposing of, or maintaining, the activity or investment, or
- The impact of divestiture or conformance of the activity or investment on any duty owed by the institution to a client, customer, or counterparty.

This information is the type of confidential commercial and financial information that may be withheld under exemption 4 of the Freedom of Information Act (5 U.S.C. 552(b)(4)). As required information, it may be withheld under exemption 4 only if public disclosure could result in substantial competitive harm to the submitting institution.<sup>10</sup>

## **Consultation Outside the Agency**

There has been no consultation outside the Federal Reserve System.

## **Public Comments**

On April 19, 2019, the Board published an initial notice in the *Federal Register* (84 FR 16490) requesting public comment for 60 days on the extension, with revision, of the FR Y-1. The comment period for this notice expires on June 18, 2019.

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<sup>10</sup> See *National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

## Estimate of Respondent Burden

The total annual burden for FR Y-1 is estimated to be 3 hours and would not change as a result of the proposed revision. The Board estimates that one respondent would take an average of three hours to prepare and submit an application for extension. These reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

<b>FR Y-1</b>	<i>Number of respondents<sup>11</sup></i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current	1	1	3	3

The total cost to the public for this information collection is estimated to be \$173.<sup>12</sup>

## 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 cost to the Federal Reserve System is negligible.

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<sup>11</sup> Of these respondents, none 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](http://www.sba.gov/document/support--table-size-standards).

<sup>12</sup> 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 \$19, 45% Financial Managers at \$71, 15% Lawyers at \$69, and 10% 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, [www.bls.gov/news.release/ocwage.t01.htm](http://www.bls.gov/news.release/ocwage.t01.htm). Occupations are defined using the BLS Occupational Classification System, [www.bls.gov/soc/](http://www.bls.gov/soc/).