

**Supporting Statement for the
International Applications and Prior Notifications under Subpart B of Regulation K
(FR K-2; OMB No. 7100-0284)**

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 International Applications and Prior Notifications under Subpart B of Regulation K (FR K-2; OMB No. 7100-0284). Under the International Banking Act of 1978 (IBA), foreign banks are required to obtain the prior approval of the Board to establish a branch, agency, or representative office in the United States; to establish or acquire ownership or control of a commercial lending company in the United States; or to change the status of an agency or limited branch to a branch in the United States. The Board uses the information from the FR K-2 in connection with these applications and to supervise foreign banks with offices¹ in the United States.

The FR K-2 reporting form consists of a cover sheet and the following five attachments for the application and notification requirements embodied in Subpart B of Regulation K - International Banking Operations:

- Attachment A Information Requested in Connection with Applications by Foreign Banks to Establish Branches, Agencies, or Commercial Lending Companies in the United States (section 211.24(a)(1) of Regulation K)
- Attachment B Information Requested in Connection with Applications by Foreign Banks to Establish Representative Offices in the United States (section 211.24(a)(1) of Regulation K)
- Attachment C Information Requested in Connection with Notifications by Foreign Banks to Establish Branches, Agencies, or Commercial Lending Companies in the United States (section 211.24(a)(2)(i)(A) of Regulation K)
- Attachment D Information Requested in Connection with Notifications by Foreign Banks to Establish Representative Offices in the United States (section 211.24(a)(2)(i)(B)(1) – (3) of Regulation K)
- Attachment E Commitments Required in Connection with Applications and Notifications by Foreign Banks to Establish Branches, Agencies, Commercial Lending Companies, or Representative Offices in the United States.

The estimated total annual burden for the FR K-2 is 468 hours. The form and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/default.aspx>.

Background and Justification

Subpart B of Regulation K governs the U.S. activities of foreign banking organizations. It implements the IBA and provisions of the BHC Act and sets forth rules under which foreign

¹ The term “office” means any branch, agency, or representative office, or a commercial lending company subsidiary.

banks establish and operate U.S. offices and certain foreign banking organizations have U.S. commercial and industrial holdings. Generally, the IBA and Regulation K provide that a foreign bank may not establish a branch, agency, or representative office in the United States or acquire ownership or control of a commercial lending company in the United States unless the Board finds that the foreign bank is subject to comprehensive supervision on a consolidated basis by the bank's home country supervisor and engages directly in the business of banking outside of the United States. Even if these conditions are not met, the Board may, however, approve an application by a foreign bank to establish a U.S. branch or agency if (1) the appropriate authorities in the home country of such foreign bank are working to establish arrangements for the consolidated supervision of such bank and (2) all other factors are consistent with approval.²

The various attachments to the FR K-2 instructions specify the information a foreign bank must include when submitting an application or prior notice under subpart B of Regulation K. The information required in the instructions pertains only to the specific activity proposed. The information reported on the FR K-2 is not available from any other source.

Description of Information Collection

The applicant foreign bank must describe the proposed office or commercial lending company subsidiary, including the types of business to be conducted and the types of services to be offered. The applicant must also describe the home country bank regulatory and supervisory framework and any secrecy laws or other impediments that would restrict the ability of the applicant and its ultimate parent(s) to provide information to the Federal Reserve as needed. In addition, the applicant must describe any relevant home-country laws or regulations or measures adopted by the applicant to deter money laundering, terrorist financing, or other illicit activities. Finally, the applicant must provide information about its operations, structure, and ownership, including a complete organization chart, financial information, and information regarding certain of the bank's senior officers, major shareholders, and proposed management of the U.S. office.

Applicants are also required to publish a notice in a newspaper of general circulation in the community where the office is proposed to be located.³ The newspaper notice must state the name and address of the applicant/notificant and the proposed office, and it must invite the public to submit written comments to the appropriate Reserve Bank. The newspaper notice must be published no more than fifteen calendar days before and no later than seven calendar days after the date that an application is filed with the appropriate Reserve Bank.

A foreign bank and its ultimate parent(s) submitting an application to establish branches, agencies, and commercial lending companies in the United States (Attachment A) or a notification to establish representative offices in the United States (Attachment D) must also provide commitments to (i) generally make available to the Board such information on the operations of the bank and any of its affiliates that the Board deems necessary to enforce applicable law and (ii) consent to jurisdiction in the United States in any manner arising under

² In deciding whether to approve an application under this lesser standard, the Federal Reserve also considers whether the foreign bank has adopted and implemented procedures to combat money laundering, and whether the home country supervisor is developing a legal regime to address money laundering.

³ 12 CFR 211.24(b)(2).

U.S. banking law (Attachment E). Information already provided in applications filed with state or federal bank regulatory authorities or otherwise previously provided to the Federal Reserve may be used to meet the information requirements of the FR K-2.

Respondent Panel

The FR K-2 panel comprises foreign banks, which are required to obtain the prior approval of the Board to establish a branch, agency, or representative office in the United States; to establish or acquire ownership or control of a commercial lending company in the United States; or to change the status of any existing office in the United States.

Time Schedule for Information Collection

These applications and notifications are event-generated. The applying or notifying organization submits the FR K-2 information collection in accordance with the application and notification requirements embodied in Subpart B of Regulation K to the Federal Reserve Bank with supervisory responsibility for that foreign bank.⁴ Applicants are strongly encouraged to submit their applications electronically through the Federal Reserve System's web-based application, E-Apps (www.federalreserve.gov/bankinforeg/eapps.htm).⁵

Public Availability of Data

With regard to the FR K-2, the Board publishes certain information regarding the parties to and structure of the associated transaction in its H.2 release. The Board does not routinely publicly release information collected through the FR K-2. The Board may release non-confidential information included in the FR K-2 upon request, pursuant to the Freedom of Information Act.

Legal Status

The FR K-2 is authorized pursuant to section sections 7, 10, and 13 of the International Banking Act.⁶ The applications and notifications comprising FR K-2 are required to obtain a benefit.

The Board does not routinely publicly release information collected through the FR K-2. To the extent a respondent submits nonpublic commercial or financial information in connection with the FR K-2, which is both customarily and actually treated as private by the respondent, the respondent may request confidential treatment pursuant to exemption 4 of the Freedom of Information Act (FOIA).⁷ To the extent a respondent submits personal, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of privacy, the respondent may request confidential treatment pursuant to exemption 6 of the FOIA.⁸ If a respondent requests confidential treatment, the Board will determine whether the information is entitled to

⁴ If the foreign bank does not currently operate in the United States, the application is submitted to the Federal Reserve Bank in whose district the proposed office will be located.

⁵ The FR K-2 application may alternatively be submitted in paper form.

⁶ 12 U.S.C. §§ 3105, 3107, and 3108.

⁷ 5 U.S.C. § 552(b)(4)

⁸ 5 U.S.C. § 552(b)(6)

confidential treatment on a case-by-case basis. The entity should separately designate any such information as “confidential commercial information” or “confidential financial information” and the Board will treat such designated information as confidential to the extent permitted by law, including the FOIA. To the extent a respondent submits information related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a financial supervisory agency, the information may be treated as confidential pursuant to exemption 8 of the FOIA.⁹

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On March 8, 2021, the Board published an initial notice in the *Federal Register* (86 FR 13383) requesting public comment for 60 days on the extension, without revision, of the FR K-2. The comment period for this notice expires on May 7, 2021.

Estimate of Respondent Burden

As shown in the following table, the estimated total annual burden for the FR K-2 is 468 hours. The reporting burden is based on the number of responses received during a typical year. The disclosure burden reflects the amount of time required to fulfill the newspaper publication requirement. These reporting and disclosure requirements represent less than 1 percent of the Board’s total paperwork burden.

FR K-2	Number of respondents ¹⁰	Annual frequency	Estimated average hours per response	Estimated annual burden hours
Reporting	13	1	35	455
Disclosure	13	1	1	<u>13</u>
<i>Total</i>				468

The estimated total annual cost to the public for this collection of information is \$27,027.¹¹

⁹ 5 U.S.C. § 552(b)(8).

¹⁰ Of the respondents, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), www.sba.gov/document/support-table-size-standards.

¹¹ 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/

Sensitive Questions

These collections of information contain 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 of collecting and processing the FR K-2 is negligible.