

Supporting Statement for the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y-12; OMB No. 7100-0300) and the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y-12A; OMB No. 7100-0300)

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend, without revision, the following mandatory reports:

- (1) the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y-12; OMB No. 7100-0300) and
- (2) the Annual Report of Merchant Banking Investments Held for an Extended Period (FR Y-12A; OMB No. 7100-0300).

The FR Y-12 report was implemented as of September 30, 2001, in response to the Gramm-Leach-Bliley Act (GLB Act) of 1999, which broadened the scope of permissible investments in nonfinancial companies. The FR Y-12A was implemented as of December 31, 2006.

The FR Y-12 collects information from certain domestic bank holding companies (BHCs) and savings and loan holding companies (SLHCs) on their equity investments in nonfinancial companies.¹ Respondents report the FR Y-12 either quarterly or semi-annually based on reporting threshold criteria. The FR Y-12A is filed annually by institutions that hold merchant banking investments that are approaching the end of the holding period permissible under Regulation Y. The total current annual reporting burden for this information collection is estimated to be 2,238 hours.

Background and Justification

BHC investments in nonfinancial companies increased significantly during the late 1990s. These investments contributed significantly to earnings and capital at institutions actively involved in this business line. Equity investments also contributed to the volatility of earnings and capital and increased some institutions' risk profiles. The GLB Act permits financial holding companies (FHCs) to make investments in any amount, in any type of nonfinancial company as part of a securities underwriting, merchant banking or investment banking activity. The investments permissible under the GLB Act's merchant banking authority are substantially broader in scope than the investment activities otherwise permissible for BHCs. Thus, these

¹ Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) transferred all former Office of Thrift Supervision authorities (including rulemaking) related to SLHCs to the Federal Reserve effective July 21, 2011. On December 29, 2011, the Federal Reserve published a final notice in the *Federal Register* (76 FR 81933) expanding the FR Y-12 and FR Y-12A reporting panels to include SLHCs in the same manner as BHCs with certain exceptions and modifications.

investments present the potential for additional volatility and risk in banking organizations' portfolios.

On January 31, 2001, the Federal Reserve and U.S. Department of Treasury (the agencies) published in the *Federal Register* a final rulemaking on merchant banking investments made by FHCs (66 FR 8466). In Section 225.175 of this final rulemaking, the agencies stated that reporting forms to fulfill the quarterly and annual reporting requirements would be published separately. The rule also noted that data may be submitted at such times as may be determined by the Federal Reserve. The FR Y-12 data fulfill the quarterly reporting requirements and the FR Y-12A data fulfill the annual reporting requirements.²

The FR Y-12 data serve as an important risk-monitoring device for institutions active in this business line by allowing supervisory staff to monitor an institution's activity between review dates. They also serve as an early warning mechanism to identify institutions whose activities in this area are growing rapidly and therefore warrant special supervisory attention.

After the FR Y-12 reporting process was introduced in 2001, 41 BHCs reported, as of year-end 2001, \$45.7 billion in aggregate equity investments in nonfinancial companies. As of year-end 2011, 28 BHCs reported an aggregate \$62.5 billion, reflecting the effect of bank mergers, 2005 changes in filing criteria, and increased activity. This report will continue to collect vital information for the supervisory process with the inclusion of the former investment banks and unregulated financial companies.

Regulation Y implements a holding period restriction by permitting an FHC to own or control a merchant banking investment for no longer than 10 years. Merchant banking investments made in, or held through, a private equity fund, however, may be held for the duration of the fund, up to a maximum of 15 years. An FHC must obtain the Federal Reserve's approval to own or hold a merchant banking investment beyond these time periods.³ The FR Y-12A data continue to be a useful tool for examiners to monitor institutions that have merchant banking investments that are approaching holding period limitations. As of year-end 2011, 15 FHCs reported \$881 million in investments through the FR Y-12A reporting process.

Finally, with the recent passage of the Dodd-Frank Act, in particular the prohibitions and other provisions of section 619 that are commonly known and referred to as the "Volker Rule",⁴ the effect of this new rule can be better monitored and measured through the FR Y-12 report.

Description of Information Collection

The FR Y-12 collects information on the types of investments made by BHCs, SLHCs and their subsidiaries in nonfinancial companies (excluding investments held in trading accounts).

²The Federal Reserve subsequently determined that the FR Y-12 could be submitted semiannually by FR Y-9SP filers.

³(See 12 C.F.R. §§ 225.172(b)(4); 225.173(c)).

⁴76 FR 8265.

This report is filed quarterly by each top-tier domestic BHC and SLHC that:

- files the Consolidated Financial Statements for Bank Holding Companies (FR Y-9C; OMB No. 7100-0128), and
- has aggregate nonfinancial equity investments that equal or exceed the lesser of \$100 million (on an acquisition cost basis) or 10 percent of the BHC's and SLHC's consolidated tier 1 capital as of the report date, and
- has made an effective election to become a FHC *or* directly or indirectly has an Edge corporation, agreement corporation, or small business investment company (SBIC) subsidiary *or* holds equities under section 4(c)(6) or 4(c)(7) of the BHC Act.

This report is also filed semi-annually by each top-tier domestic BHC and SLHC that:

- files the Company Only Financial Statements for Small Bank Holding Companies (FR Y-9SP; OMB No. 7100-0128), and
- has aggregate nonfinancial equity investments that equal or exceed (on an acquisition cost basis) 10 percent of the BHC's and SLHC's total capital as of the report date, and
- has made an effective election to become a FHC *or* directly or indirectly has an Edge corporation, agreement corporation, or SBICs *or* holds equities under section 4(c)(6) or 4(c)(7) of the BHC Act.

The current FR Y-12 reporting form comprises four schedules: Schedule A - Type of Investments, Schedule B - Type of Security, Schedule C - Type of Entity within the Banking Organization, and Schedule D – Nonfinancial Investment Transactions During Reporting Period. The information collected in each schedule is discussed below.

Schedule A – Type of Investments collects information on the acquisition cost, net unrealized holding gains not recognized as income, carrying value, and publicly quoted value for direct investments made in public entities, nonpublic entities, and all indirect investments. The memoranda items collect information on the number of companies in which investments are made for the entire portfolio, amount of investments made under the merchant banking authority, the pre-tax impact on net income, amount of investments managed for others, and the pre-tax impact of management fee income.

Schedule B – Type of Security collects information on the acquisition cost and carrying value of the type of security held by the reporting institution: common stock, convertible debt and convertible preferred stock, other equity instruments, and total portfolio. The memorandum item collects information on unused equity commitments and warrant activity.

Schedule C – Type of Entity within the Banking Organization identifies the type of company within the BHC and SLHC structure through which the investments reported in Schedules A and B are held (for example, broker/dealer, SBIC, or Edge subsidiary) and collects the information on the acquisition cost, net unrealized holding gains not recognized as income, and carrying value. The memoranda items collect information on the amount of foreign and domestic investments.

Schedule D - Nonfinancial Investment Transactions During the Reporting Period collects information on all private equity merchant banking (PEMB) activity of the BHC and SLHC, on an aggregate basis, for the reporting period. Columns A and B collect acquisition cost and carrying value for all purchases, returns of capital, and net changes in valuation made for all direct public investments. Columns C and D collect acquisition cost and carrying value for all transactions involving all direct nonpublic investments. Columns E and F collect information on the same items for all transactions involving indirect (fund) investments. These data provide valuable insight into the scope of activity on a transaction basis and, when reviewed over time, provide critical trend data useful for industry studies as well as BHC supervisory monitoring. These data also provide critical trend data useful for BHC and SLHC supervisory oversight as well as provide valuable information to facilitate industry studies.

The FR Y-12A reporting form collects:

- The name and location of the corporate entity within the FHC organization that holds the covered investment
- The date the FHC acquired the covered investment
- The name and location of the company held
- The primary activity of the company held (using the North American Industry Classification System (NAICS) activity codes for commonly reported activities wherever possible). FHCs provide a text description of the primary activity of the company held only if it is unable to identify a five- or six-digit NAICS code corresponding to the activity
- The type of interest held by the FHC (for example, common stock, convertible bonds)
- The percentage of ownership held by the FHC (both voting and non-voting)
- The FHC's acquisition cost of the covered investment
- The value at which the covered investment currently is carried on the FHC's books
- A brief narrative explanation of the FHC's plan and schedule for disposition of a covered investment

Reporting Panel

The FR Y-12 reporting panel comprises a subset of top-tier domestic BHCs and SLHCs that file the FR Y-9C or the FR Y-9SP and meet the FR Y-12 reporting threshold criteria. A screening question on both FR Y-9 reports, developed from the FR Y-12 reporting threshold criteria, is used to determine whether the BHC is required to complete the FR Y-12. FHCs generally have to submit an FR Y-12A if they hold merchant banking investments for longer than eight years (or 13 years in the case of an investment held through a qualifying private equity fund). The applicable reporting periods (eight or 13 years) for a merchant banking investment is less than the permissible holding periods (10 or 15 years) for the investment so that the Federal Reserve can monitor investments that are approaching the end of the holding periods generally permitted under Regulation Y.

Frequency

The Federal Reserve recommends that the quarterly (FR Y-9C filers) and semi-annually (FR Y-9SP filers) reporting frequency for the FR Y-12 and the annual reporting frequency for

the FR Y-12A remain unchanged. The current reporting frequencies provide adequate and timely data to meet the analytical and supervisory needs of the Federal Reserve.

Time Schedule for Information Collection

The FR Y-12 data are collected as of the end of each calendar quarter from those BHCs and SLHCs that file the FR Y-9C and as-of the end of June and December from those BHCs and SLHCs that file the FR Y-9SP. The FR Y-12 data are submitted to the appropriate Federal Reserve Bank within 45 calendar days after the as-of date for all FR Y-9C and FR Y-9SP respondents. The FR Y-12A report must be submitted by February 15 of the following calendar year to the appropriate Reserve Bank.

Legal Status

The Federal Reserve Board's Legal Division has determined that the information collected under the FR Y-12 and FR Y-12A is authorized to be collected from BHCs and FHCs pursuant to Section 5(c) of the Bank Holding Company Act and from SLHCs pursuant to section 10 of the Home Owners Loan Act. Overall, the Federal Reserve does not consider the data collected on the FR Y-12 to be confidential. However, a BHC or SLHC may request confidential treatment pursuant to sections (b)(4) of the Freedom of Information Act [5 U.S.C. 552(b)(4)]. The Federal Reserve considers the data collected on the FR Y-12A to be confidential pursuant to sections (b)(4) and (b)(8) of the Freedom of Information Act [5 U.S.C. 552(b)(4) and (b)(8)].

Consultation Outside the Agency and Discussion of Public Comment

On September 21, 2012, the Federal Reserve published a notice in the *Federal Register* (77 FR 58556) requesting public comment for 60 days on the extension, without revision, of the FR Y-12 and FR Y-12A. The comment period for this notice expired on November 20, 2012. The Federal Reserve did not receive any comments. On December 3, 2012, the Federal Reserve published a final notice in the *Federal Register* (77 FR 71592).

Sensitive Questions

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

Estimate of Respondent Burden

The total annual reporting burden for the FR Y-12 and FR Y-12A information collection is estimated to be 2,238 hours. The annual reporting burden for the FR Y-12 is estimated to be 2,112 hours. The annual burden for the FR Y-12A report is estimated to be 126 hours. The total burden for the FR Y-12 and FR Y-12A represents less than 1 percent of total Federal Reserve System annual burden.

	<i>Estimated number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FR Y-9C filers	30	4	16.5	1,980
FR Y-9SP filers	4	2	16.5	132
FR Y-12A	<u>18</u>	1	7	<u>126</u>
<i>Total</i>	52			2,238

The total annual reporting cost to the public for the FR Y-12 and FR Y-12A is estimated to be \$100,374.⁵

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System for collecting and processing these reports is estimated to be \$29,300.

⁵ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support at \$17, 45% Financial Managers at \$52, 15% Legal Counsel at \$55, and 10% Chief Executives at \$81). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2011, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.