

**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 delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with revision, the International Applications and Prior Notifications Under Subpart B of Regulation K (FR K-2; OMB No. 7100-0284). Foreign banks are required to obtain the prior approval of the Board to establish a branch, agency, or representative office; 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. The Board uses the information to determine, in part, whether to approve the application and, subsequently, the information is used to supervise foreign banking organizations with offices 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:

- 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 Board proposes to revise the FR K-2 form and instructions in order to: improve the clarity of the required information; reflect the impact of new laws, regulations, capital requirements and accounting rules; make minor changes for improved style, grammar, and comprehension; and to harmonize the general information, certification, and confidentiality sections with other similar forms. The revisions are intended to make initial filings more reflective of the proposed transaction and thereby reduce the need for subsequent information requests, which delay the Federal Reserve's consideration of a filing and create additional burden for filers.

The current annual burden for the application/notification is estimated to be 490 hours. The estimated average hours per response for the FR K-2 would increase slightly; therefore, the annual burden would also increase slightly. However, as the changes are intended to reduce the need for follow-up questions, the overall burden for the respondent during processing of the application/notification may not change. The proposed revised FR K-2 form is attached.

## **Background and Justification**

The Foreign Bank Supervision Enhancement Act of 1991 (FBSEA) expanded the authority given to the Federal Reserve under the International Banking Act of 1978 (IBA). FBSEA provided the Federal Reserve with new authority to approve the establishment of U.S. offices by foreign banks and to regulate and supervise the U.S. operations of foreign banks. The Federal Reserve modified Regulation K in 1993 to incorporate these statutory changes.<sup>1</sup> Regulation K was revised again in November 2001.

Generally, Regulation K provides that a foreign bank may not establish a U.S. branch or agency 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. However, under the Economic Growth and Regulatory Paperwork Reduction Act of 1996, the Federal Reserve may approve an application to establish a branch or agency subject to certain conditions even if the Federal Reserve is unable to find that the foreign bank is subject to comprehensive consolidated supervision. Specifically, the Board may approve an application by such foreign bank if: (i) the appropriate authorities in the home country of such foreign bank are working to establish arrangements for the consolidated supervision of such bank; and (ii) all other factors are consistent with approval.<sup>2</sup>

Prior to the creation of the FR K-2 in 2002, the application and notice requirements of Subpart B of Regulation K were contained in a March 1992 directive to Reserve Bank staff (SR 92-6).

## **Description of Information Collection**

The applicant foreign bank must describe the types of business to be conducted and the types of services to be offered. Further, the applicant and its ultimate parent(s) must provide adequate assurances that the Federal Reserve will have access to such information as the Federal Reserve deems necessary for it to determine and enforce compliance with applicable U.S. law. The applicant must 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. The applicant foreign bank also must provide 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.

The applicant is required to publish a notice in a newspaper of general circulation in the community where the office is proposed to be located. The newspaper notice must state the name and address of the applicant/notificant and the proposed office, and it must invite the

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<sup>1</sup> 58 Fed. Reg. 6348 (January 28, 1993).

<sup>2</sup> 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 shall take into account whether the home country supervisor is developing a legal regime to address money laundering.

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 the application is filed with the appropriate Reserve Bank.

### **Proposed FR K-2 Revisions**

The Board proposes to implement revisions to the FR K-2 form. The proposed changes are being made in order to: improve the clarity of the required information; reflect the impact of new laws, regulations, capital requirements and accounting rules; make minor changes for improved style, grammar, and comprehension; and to harmonize the general information, certification, and confidentiality sections with other similar forms. In determining which changes to propose, the Board surveyed Reserve Bank staff to solicit recommendations for changes to the form. The recommended changes are outlined below and are grouped into the following categories:

- A. Additional items relating to information that generally was previously requested as supplemental information subsequent to the filing of the initial application/notification because of new laws/regulations;
- B. Clarification of exact requirements of certain items;
- C. Other minor changes for improved style, grammar and comprehension, and to provide accurate citations and addresses; and
- D. Harmonize the general information, certification, and confidentiality sections with other similar forms.

### **Discussion of FR K-2 Revisions**

#### A. Modified Items

The Board has modified two items in the FR K-2. These are items that, for the most part, would be requested as additional information to supplement the questions on the current form. By including in the FR K-2 these standard requests, time and effort will be saved on the part of the applicant/notificant and the Federal Reserve. In addition, such information is part of the financial statements for the majority of applicants and will not cause an increase in burden. The modified items are:

- (1) Information regarding capital ratio calculations is now based on the revised capital guidelines, including the common equity tier 1 and applicable leverage ratio(s) (the tier 1 leverage ratio and, if applicable, the supplementary leverage ratio) for the applicant/notificant and the parent foreign company (Question 14.c of Attachment A, and Question 7.c of Attachment C); and

- (2) Additional information to assess the quality of the applicant's/notificant's assets (Question 14.d.vi of Attachment A, and Question 7.e.vi of Attachment C).

B. Clarification of requirements and preferences:

- (1) Board's preference for electronic submission of the application; and
- (2) Indication of the need to contact Board staff to determine whether to file an Interagency Biographical and Financial Report (IBFR) for applications/notifications.

C. Other changes to the form include those to improve style, grammar and comprehension, and to provide accurate citations and addresses. In addition, the wording of two questions has been revised without any change in the required information (Questions 14.d.v and 18.a of Attachment A, and Question 7.e.v of Attachment C).

D. Harmonization of the general information, certification, and confidentiality sections with other similar forms (e.g., FR Y-3).

### **Time Schedule for Information Collection**

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 banking organization.<sup>3</sup>

### **Legal Status**

The collection of information is mandatory and is collected pursuant to sections 7, 10, and 13 of the International Banking Act (12 §§ U.S.C. 3105, 3107, 3108). Information submitted in the FR K-2 is considered to be public unless the applying or notifying organization requests that portions of the information contained in the FR K-2 be afforded confidential treatment. To do so, applicants must demonstrate how the information for which confidentiality is requested would fall within the scope of one or more of the exemptions contained in the Freedom of Information Act. Any such request would be evaluated on a case-by-case basis.

### **Consultation Outside the Agency**

On March 23, 2018, the Board published a notice in the Federal Register (83 FR 12760) requesting public comment for 60 days on the extension, with revision, of the FR K-2. The comment period for this notice expires on May 22, 2018.

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<sup>3</sup> If the foreign banking organization 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.

## Sensitive Questions

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

## Estimate of Respondent Burden

The current annual reporting burden for Subpart B requirements of Regulation K is estimated to be 490 hours as shown in the following table. The current burden estimate is based on the number of responses received during a typical year. The annual burden for the revised Subpart B requirements of Regulation K is estimated to increase slightly to 504 hours as shown in the table below. The reporting requirement of these applications and notifications represent less than 1 percent of total Federal Reserve System paperwork burden for all reports.

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	<i>Average number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FR K-2				
<i>Current</i>	14	1	35	490
<i>Proposed</i>	14	1	36	504

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The total annual cost to the public for this application is estimated to be \$26,901 and would increase to \$27,670 with the proposed revisions.<sup>4</sup>

## Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System of printing, mailing, and processing the FR K-2 is negligible.

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<sup>4</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 \$18, 45% Financial Managers at \$67, 15% Lawyers at \$67, 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 2016, published March 31, 2017, <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/).