

**Supporting Statement for the
Recordkeeping, Reporting, and Disclosure Requirements
in Connection with Regulation BB (Community Reinvestment Act)
(Reg BB; OMB No. 7100-0197)**

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 mandatory Recordkeeping, Reporting, and Disclosure Requirements In connection with Regulation BB (Community Reinvestment Act (CRA)). The Board is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation BB as “required information collections.”¹

The recordkeeping, reporting, and disclosure requirements under Regulation BB depend in part on a bank’s size. Large banks are defined as those with assets of more than \$1.122 billion for two consecutive year-ends; other banks are considered small.²

- All state member banks (SMBs) must delineate an assessment area(s) and large banks must report the census tracts within this area(s) to the Federal Reserve.
- All SMBs must keep a public CRA file, but the required contents vary for large banks and small banks.
- All SMBs must display a public notice in the lobby of the main office and each branch informing consumers about the availability of certain CRA information.
- Large banks must collect and report data on small business and small farm loans and, in some cases, consumer loans. Small banks may collect and report the data at their option. Reported data are disclosed by the Federal Financial Institutions Examination Council (FFIEC) to the public annually in summary form.
- Reporting of mortgage loan data is governed by the Home Mortgage Disclosure Act (HMDA) Regulation C rather than Regulation BB, except that the Regulation BB adds a requirement that large banks report the property location for rural and not just urban loans.
- Three requirements are optional, even for large banks. First, any bank may collect, maintain, and report data on lending by affiliates or a consortium/third party with which it is involved. Second, a bank that wishes to be evaluated under its own strategic plan must submit that plan to the Federal Reserve and must operate under it for at least one year before being evaluated under it. Third, a bank that wishes to be designated as a wholesale or limited purpose bank must make that request in writing.

¹ 44 U.S.C. § 3501 et seq.

² Small bank means a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.122 billion. Intermediate small bank means a small bank with assets of at least \$280 million as of December 31 of both of the prior two calendar years and less than \$1.122 billion as of December 31 of either of the prior two calendar years.

The Federal Reserve administers Regulation BB for the 803 SMBs under its supervision, as of March 31, 2011. The total annual burden is estimated to be 52,127 hours.

Background and Justification

In 1995, the four banking agencies³ responsible for implementing CRA revised their regulations to reduce unnecessary compliance burden, promote consistency in assessments, and encourage improved performance. The new rules included data collection and reporting requirements for institutions then deemed large, which at that time, comprised of institutions with assets of more than \$250 million, or assets of less than \$250 million that were affiliated with a bank holding company with assets of more than \$1 billion.

In July 2005, the Board, OCC, and FDIC adopted identical final rules raising the asset-size threshold for small banks from less than \$250 million to less than \$1 billion and eliminating consideration of holding company affiliation.⁴ The 2005 rules therefore reduced data collection and reporting burden for banks with assets between \$250 million and \$1 billion, called intermediate small banks. The banking agencies left in place the data collection and reporting requirements of banks with assets of more than \$1 billion to ensure effective evaluation of such banks under the quantitative performance criteria of the CRA regulations. The 2005 rules require the asset-size threshold for small banks and intermediate small banks to be adjusted annually based on the year-to-year change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers, not seasonally adjusted. The banking agencies have amended the definition of a small bank and an intermediate small bank in their CRA regulations each year pursuant to the 2005 amendment, most recently in December 2010.⁵

Beginning January 1, 2011,⁶ banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.122 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least \$280 million as of December 31 of both of the prior two calendar years, and less than \$1.122 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.

The agencies issued two other joint final rules in 2010, which do not provide for new information collection requirements. The first rule implements statutory requirements providing for the agencies, when assessing a financial institution's CRA record, (1) to consider low-cost education loans the financial institution provided to low-income borrowers, and (2) to be allowed to consider capital investment, loan participation, and

³ The four banking agencies are the Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), Office of Thrift Supervision (OTS), and the Federal Deposit Insurance Corporation (FDIC) (the banking agencies).

⁴ 70 FR 44256 (August 2, 2005).

⁵ 75 FR 82217 (December 30, 2010); 74 FR 68662 (December 29, 2009); 73 FR 78153 (December 22, 2008); 72 FR 72571 (December 21, 2007); 71 FR 78335 (December 29, 2006).

⁶ 75 FR 82217 (December 30, 2010).

other ventures undertaken by non-minority-owned and non-women-owned financial institutions in cooperation with minority- and women-owned financial institutions and low-income credit unions.⁷ The second rule revises the agencies' definition of the term "community development" to include loans, investments, and services by financial institutions that support, enable, or facilitate certain projects or activities that meet specified "eligible uses" criteria and are conducted in designated target areas identified in plans approved by the Department of Housing and Urban Development under the Neighborhood Stabilization Program.⁸

Other than the information collections pursuant to the CRA, the Federal Reserve has no information collection that supplies data regarding the community reinvestment activities of SMBs.

Description of Information Collection

The recordkeeping, reporting, and disclosure requirements associated with Regulation BB are summarized in attachment 1 and described below. A SMB that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests will collect, maintain, and report the data required for large banks.

Assessment area delineation

Each SMB must delineate one or more assessment areas within which the Federal Reserve evaluates the bank's record of helping to meet the credit needs of its community. All SMBs must maintain a list of the census tracts in each assessment area. Large banks must also report the list to the Federal Reserve by March 1 each year. The assessment area(s) consists generally of one or more Metropolitan Statistical Areas (MSA) or one or more contiguous political subdivisions, such as counties, cities, or towns. The assessment area(s) includes the tracts in which the bank has its main office, branches, and deposit-taking automated teller machines (ATMs), as well as the surrounding tracts in which the bank has originated or purchased a substantial portion of its loans. There are rules designed to prevent redlining (arbitrary exclusion of lower-income or minority neighborhoods) in the drawing of assessment areas.

Public file

All SMBs are required to maintain and make available to the public a file containing comments received from the public for the current year and each of the prior two calendar years, and any response to the comments from the bank. The file also must contain a copy of the public section of the SMB's most recent CRA performance evaluation prepared by the Federal Reserve, a list of the bank's open branches with

⁷ 75 FR 61035 (October 4, 2010) (effective November 3, 2010); *see also* 12 U.S.C. 2903(b), (d).

⁸ 75 FR 79278 (December 20, 2010) (effective January 19, 2011). As discussed in the supplementary information to the final rule, the "eligible uses" criteria are established by Section 2301(c) of the Housing and Economic Recovery Act (HERA), as amended.

addresses and geographies, a list of branches opened or closed during the current year and each of the prior two calendar years, a list of the services generally offered by the bank, and a map of each assessment area. The bank may include in the file any other information it chooses.

Large banks must also include in the public file the CRA Disclosure Statement prepared by the Federal Reserve for each of the prior two calendar years and, if applicable, information about consumer loan data. All SMBs required to submit HMDA data must include in the public file a copy of the HMDA Disclosure Statement prepared by the FFIEC for each of the prior two calendar years.

A small bank or intermediate small bank must include in the public file the bank's loan-to-deposit ratio for each quarter of the prior calendar year and, if it elects to be evaluated under the lending, service, and investment tests, the information required under the disclosure rules applicable to large banks.

A SMB that has, in accordance with Regulation BB, submitted and been approved by the Federal Reserve for assessment under a strategic plan (see Strategic Plan, below) must include a copy of the plan in the public file. A SMB that received a worse than "Satisfactory" rating, during the most recent examination, must include (in the public file) a description of efforts implemented to improve performance.

Public notice by banks

A SMB must provide in the public lobby of its main office and in each branch a prescribed notice informing consumers of their rights to certain information about the SMB's operations and CRA performance as evaluated by the Federal Reserve.

Small business and small farm loan register

A large bank is required to collect and maintain in machine-readable form until the completion of its next CRA examination the following data for each small business or small farm loan originated or purchased:

- a unique number or alpha-numeric symbol used to identify the relevant loan file;
- the loan amount at origination;
- the loan location; and
- an indicator whether the loan was made to a business or farm with gross annual revenues of \$1 million or less.

Small business and small farm loan data

A large bank is required to report annually by March 1 to the Federal Reserve in machine-readable form the following data for the preceding calendar year. For each geographical location in which the SMB originated or purchased a small business or small farm loan, the SMB must report the aggregate number and amount of loans:

- of \$100,000 or less at origination;
- of more than \$100,000 at origination but less than or equal to \$250,000 at origination;
- of more than \$250,000 at origination; and
- to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision).

Community development loan data

A large bank is required to report annually by March 1 to the Federal Reserve in machine-readable form the aggregate number and aggregate amount of community development loans originated or purchased in the preceding calendar year.

Home mortgage loan data

A large bank that is subject to reporting under Regulation C (12 CFR Part 203), is required to report annually by March 1 to the Federal Reserve in machine-readable form the property location for each home mortgage loan application, origination, or purchase outside the Metropolitan Statistical Areas (MSAs) in which the SMB has a home or branch office (or outside any MSA). The Board of Governors amended Regulation C to conform this rule; the paperwork burden for providing property location information for loans inside an MSA is associated with the HMDA Loan/Application Register (FR HMDA-LAR; OMB No. 7100-0247).

Consumer loan data

A SMB has the option to collect and maintain, in machine-readable form, data for consumer loans originated or purchased by the bank for consideration under the lending test. A SMB may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home-equity, other secured, and other unsecured. If the SMB maintains data for loans in a certain category, it must maintain data for all loans originated or purchased within that category. The SMB must maintain data separately for each category and must include for each loan:

- a unique number or alpha-numeric symbol used to identify the relevant loan file;
- the loan amount at origination or purchase;
- the loan location; and
- the gross annual income of the borrower that the SMB considered in making its credit decision.

Other loan data

At its option, a SMB may provide other information concerning its lending performance, including additional loan-distribution data.

Affiliate lending data

A SMB that elects to have the Federal Reserve consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the SMB would have collected, maintained, and reported had the loans been originated or purchased by the SMB. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

Data on lending by a consortium or a third party

A SMB may elect to have the Federal Reserve consider community development loans made by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan. If so, the SMB must report for those loans the data that the bank would have reported had the loans been originated or purchased by the SMB itself.

Strategic plan

A SMB may elect to be assessed under a strategic plan if the SMB has submitted the plan to the Federal Reserve, the Federal Reserve has approved the plan, the plan is in effect, and the SMB has been operating under an approved plan for at least one year. The Federal Reserve's approval of this plan does not affect the SMB's obligation, if any, to comply with the data collecting and reporting requirements (12 CFR 228.42). The plan may have a term of no more than five years; multi-year plans must include annual interim measurable goals. Before submitting a plan to the Federal Reserve, a SMB must seek suggestions from members of the public in its assessment area(s), formally solicit public comment for at least thirty days, and during the period of formal public comment make copies of the plan available for public review at its offices at no cost, and by mail for a reasonable cost.

A strategic plan must include measurable goals for helping meet the credit needs of each assessment area covered by the plan, addressing the lending, investment and service tests. A plan must specify goals that constitute satisfactory performance and also may specify goals that constitute outstanding performance. If an institution fails to meet its own goals for satisfactory performance, a SMB may elect in its plan to be evaluated under the alternate test(s) specified in the regulation.

Request for designation as a wholesale or limited purpose bank

The Federal Reserve evaluates the performance of a wholesale or limited purpose bank under the community development test specified in the regulation. A SMB wishing to be designated as a wholesale or limited purpose bank must file a request, in writing, with the Federal Reserve, at least three months prior to the proposed effective date of the designation.

Time Schedule for Information Collection and Publication

The recordkeeping, reporting, and disclosure requirements pursuant to Regulation BB are mandatory, depending on bank size and other factors. SMBs that are required to collect assessment area information, small business and small farm data, community development data, and home mortgage loan data must collect and report the data to the Federal Reserve in machine-readable form annually by March 1 for the prior calendar year.

The Federal Reserve uses the data to examine and assess SMBs' CRA records; to prepare the public sections of CRA performance evaluations; and to help evaluate applications for acquisitions and other transactions. The Federal Reserve prepares annually for each SMB a public disclosure statement that contains, on a state-by-state basis, information on small farm, small business, and community development loans.

Together with the other agencies, the Federal Reserve prepares annually for each MSA (including an MSA that crosses a state boundary) and for each non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements under each agency's CRA regulation. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Federal Reserve may adjust the form of the disclosure if necessary to protect the privacy of a borrower or the competitive position of an institution. The Federal Reserve makes the aggregate disclosure statements and the individual SMB statements available to the public at central data depositories and publishes a list of the depositories at which statements are available. The FFIEC also makes both statements available on the FFIEC CRA web site www.ffiec.gov/cra. The statements are usually available at the SMBs, central data depositories, and on the FFIEC web site in late July after the March 1 reporting date.

Any SMB electing to submit a strategic plan to the Federal Reserve must do so at least three months prior to the proposed effective date of the plan. The Federal Reserve will act upon the plan within 60 days. If the Federal Reserve fails to act within this time, the plan shall be deemed approved unless the Federal Reserve extends the review period for good cause. As indicated above, a SMB may not be evaluated under a strategic plan unless it has been operating under an approved plan for at least one year.

Legal Status

The Board's Legal Division has determined that the recordkeeping, reporting, and disclosure requirements associated with Regulation BB are authorized by section 806 of the CRA which permits the board to issue regulations to carry out the purpose of CRA (12 U.S.C. § 2905), Section 11 of the Federal Reserve Act (FRA) which permits the Board to require such statements as reports of SMBs as it deems necessary (12 U.S.C. § 248(a)(1)), and section 9 of the FRA which permits the Board to examine SMBs (12 U.S.C. § 325). The requirements are generally mandatory, depending on bank size and other factors. The data that are reported to the Federal Reserve are not considered confidential.

Sensitive Questions

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

Consultation Outside the Agency

All of the Board's rulemaking activities under Regulation BB are subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. § 551 *et seq.* On July 21 2011, the Federal Reserve published a notice in the *Federal Register* (76 FR 43686) requesting public comment for 60 days on the extension, without revision, of this information collection. The comment period for this notice expires on September 19, 2011.

Estimate of Respondent Burden

The Federal Reserve estimates that the paperwork burden for SMBs associated with complying with CRA is approximately 52,127 hours, for recordkeeping, optional recordkeeping, reporting, optional reporting, and disclosure requirements, as presented in the following table. The Regulation BB paperwork burden represents less than 1 percent of the total Federal Reserve System burden for all information collections.

The number of respondents for all *non-optional recordkeeping requirements* is based on the current number of large SMBs regulated by the Federal Reserve and subject to Regulation BB. The *optional recordkeeping burden* estimates for consumer loan data and other loan data include the assumption that approximately 34 percent and 5 percent, respectively, of all SMBs will keep these data.

The burden estimates for *non-optional reporting requirements* related to loan data, other than community development loan data, include time estimates for geocoding easy- and hard-to-find loan geographies. The number of respondents for the *non-optional reporting requirements* (loan data and assessment area delineation) is based on the current number of large SMBs regulated by the Federal Reserve and subject to

Regulation BB. The number of respondents for all *optional reporting requirements* is based on 2009 data reported March 1, 2010.

The burden for the *public file disclosure requirements* includes estimates for both the large and small bank requirements. The public file requirement also includes an estimate of the time required for small banks, including intermediate small banks, to delineate an assessment area.

Burden Estimate	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<u><i>Recordkeeping Requirement</i></u>				
Small business and small farm loan register	72	1	219	15,768
<u><i>Optional Recordkeeping Requirements</i></u>				
Consumer loan data	24	1	326	7,824
Other loan data	4	1	25	100
<u><i>Reporting Requirements</i></u>				
Assessment area delineation	72	1	2	144
Loan data:				
- Small business and small farm	72	1	8	576
- Community development	72	1	13	936
- HMDA out of MSA	72	1	253	18,216
<u><i>Optional Reporting Requirements</i></u>				
Data on lending by a consortium or third party	6	1	17	102
Affiliate lending data	4	1	38	152
Strategic plan	1	1	275	275
Request for designation as a wholesale or limited purpose bank	1	1	4	4
<u><i>Disclosure Requirement</i></u>				
Public file	803	1	10	<u>8,030</u>
<i>Total</i>				52,127

The total cost to the public is estimated to be \$2,262,312.⁹

⁹ 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 @ \$16, 45% Financial Managers @ \$50, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$80). 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 2010, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.

Estimate of Cost to the Federal Reserve System

Since no information is submitted to Federal Reserve Banks, their costs are negligible. The Board staff processes data for the Federal Reserve, OCC, OTS, and FDIC. The banking agencies' 2011 annual cost was budgeted to be \$946,964.

Attachment I
Summary of annual
Recordkeeping, Reporting, and Disclosure Requirements
in Connection with Regulation BB

Requirements	Recordkeeping	Reporting	Disclosure
--------------	---------------	-----------	------------

<i>Assessment area (.41(a); .42(g))</i>			
All Banks	delineate assessment area		
Large Banks ¹	collect list of geographies in assessment area(s)	report this list	
<i>Public file: (.41(a); .43(a)(1); .43(a)(2); .43(a)(3); .43(a)(4); .43(a)(5); .43(a)(6); .43(a)(7); .43(b)(1); .43(b)(2); .43(b)(3); .43(b)(4); .43(b)(5); .43(c); .43(d))</i>			
All Banks			<ul style="list-style-type: none"> ○ comment letters and responses (current and prior two years) ○ public section of most recent CRA performance evaluation ○ list of bank branches ○ list of branch openings and closings ○ list of services offered ○ map of each assessment area <p><i>if applicable:</i></p> <ul style="list-style-type: none"> ○ strategic plan ○ description of current efforts to improve its CRA performance
Large Banks			<ul style="list-style-type: none"> ○ CRA Disclosure Statements (prior two years) <p><i>if applicable:</i></p> <ul style="list-style-type: none"> ○ consumer loan data (prior two years) ○ HMDA Disclosure Statements (prior two years)
Small Banks and Intermediate Small Banks			<ul style="list-style-type: none"> ○ loan-to-deposit ratio; each quarter prior year <p><i>if applicable:</i></p> <ul style="list-style-type: none"> ○ information required under disclosure rules for large banks
<i>Public notice by banks (.44)</i>			
All Banks			prescribed notices informing consumers of their rights to certain information

¹ For the purpose of this attachment large banks are defined as any bank other than a small bank or intermediate small bank, as defined by Regulation BB, or any small bank or intermediate small bank electing not to employ the reporting exemptions available to small lenders.

Attachment I
Summary of annual
Recordkeeping, Reporting, and Disclosure Requirements
in Connection with Regulation BB

Requirements	Recordkeeping	Reporting	Disclosure
<i>Small business and small farm loan register (.42(a))</i>			
Large Banks	must collect and maintain: <ul style="list-style-type: none"> ○ unique symbol ○ loan amount ○ loan location ○ indicator whether loan was to business or farm with gross annual revenues of \$1 million or < 		
<i>Small business and small farm loan data (.42(b)(1))</i>			
Large Banks		report aggregate number and amount of loans: <ul style="list-style-type: none"> ○ \$100,000 or < at origination ○ > \$100,000 but ≤ to \$250,000 at origination ○ \$250,000 at origination ○ to business or farm with gross annual revenue of \$1 million or < 	
<i>Community Development loan data (.42(b)(2))</i>			
Large Banks		aggregate number and amount of loans originated or purchased	
<i>Home mortgage loan data (.42(b)(3))</i>			
Large Banks		<i>if applicable:</i> location of each loan application, origination or purchase outside MSAs where bank has offices (property location)	

Attachment I
Summary of annual
Recordkeeping, Reporting, and Disclosure Requirements
in Connection with Regulation BB

Requirements	Recordkeeping	Reporting	Disclosure
<i>Consumer loan data (optional) (.42(c)(1))</i>			
All Banks	loans originated or purchased: <ul style="list-style-type: none"> ○ unique symbol to identify loan file ○ loan amount ○ loan location ○ borrower's gross income considered in making credit decision 		
<i>Other loan data (optional) (.42(c)(2))</i>			
All Banks	other lending performance information		
<i>Affiliate lending data (optional) (.42(d))</i>			
All Banks	loan data the bank would have collected and maintained had the loans been originated or purchased by the bank ²	loan data the bank would have reported had the loans been originated or purchased by the bank	
<i>Data on lending by a consortium or a third party (optional) (.42(e))</i>			
All Banks		loan data the bank would have reported had the loans been originated or purchased by the bank	
<i>Strategic plan (optional) (.27(a); .27(d)(3); .27(e); .27(f); .27(h))</i>			
All Banks		submitted to and approved by the Board	
<i>Request for designation as a wholesale or limited purpose bank (optional) (.25(b))</i>			
All Banks		request in writing filed with the Board 3 months in advance of proposed effective date of designation	

² For home mortgage loans, the bank must be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.