Supporting Statement for the
Recordkeeping Requirements Associated with the
Real Estate Lending Standards Regulation for State Member Banks
(Reg H-5; OMB No. 7100-0261)

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, without revision, the Recordkeeping Requirements Associated with the Real Estate Lending Standards Regulation for State Member Banks (Reg H-5; OMB No. 7100-0261). This information collection is a mandatory recordkeeping requirement contained in the Board's Regulation H (12 CFR 208.51) that implements section 304 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). State member banks must adopt and maintain a written real estate lending policy that is reviewed and approved by the bank's board of directors at least annually. Also, these banks must identify in their loan records loans in excess of the Board's supervisory loan-to-value (LTV) limits. There is no formal reporting form and the information is not submitted to the Board. The total annual burden is estimated to be 20,745 hours.

Background and Justification

Section 304 of FDICIA requires each of the federal banking agencies[1] to adopt uniform regulations prescribing standards for extensions of credit secured by liens on or interest in real estate or made for the purpose of financing the construction of a building or other improvements in real estate, regardless of whether a lien has been taken on the property. In establishing these standards, the agencies considered the risk posed to the deposit insurance fund by such extensions of credit, the need for safe and sound operation of insured depository institutions, and the availability of credit.

Effective March 19, 1993, the agencies adopted uniform real estate lending standards regulations, which the Board adopted as an amendment to Regulation H. Regulation H requires state member banks to adopt and maintain written real estate lending policies consistent with safe and sound banking practices. A bank's lending policies must establish loan portfolio diversification standards; prudent underwriting standards, including loan-to-value (LTV) limits; loan administration procedures; and loan documentation, approval, and reporting requirements. The policies must be appropriate to the size of the institution and the nature and scope of its operations. The lending policies should also reflect consideration of the *Interagency Guidelines for Real Estate Lending Policies* (Guidelines) that the agencies established as an appendix to the regulation.[2] The bank's board of directors must review the real estate lending policies at least annually. The bank's internal LTV limits generally may not exceed the supervisory LTV limits as set forth in the Guidelines. However, the Guidelines permit a bank to originate or purchase loans with LTV ratios in excess of the supervisory limits based on the support provided by other

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[1] The term federal banking agencies means the Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation.
[2] 12 CFR Part 208, Appx. C.

credit factors. Bank records must identify loans that exceed the supervisory LTV limits and aggregate the amount of these loans for board of directors reporting.

Description of Information Collection

Each state member bank must keep records of all loans that exceed the supervisory LTV limits established by the Guidelines. State member banks must also maintain written internal real estate lending policies. These policies may be incorporated into the bank's overall lending policies and must address the requirements in Regulation H and the Guidelines as described above.

Time Schedule for Information Collection

The Federal Reserve System neither collects nor publishes the information required under the collection. Bank examiners verify compliance with the real estate lending standards, regulation, and guidelines during examinations of state member banks.

Legal Status

The Board has determined that section 304 of FDICIA (12 U.S.C. 1828(o)) authorizes the Federal Reserve to require the recordkeeping requirements associated with the Board’s Regulation H (12 CFR 208.51). The obligation of state member banks to comply with the Regulation H recordkeeping requirements is mandatory. Since the information is not collected by the Federal Reserve, no issue of confidentiality under the Freedom of Information Act normally arises. However, information gathered by the Federal Reserve during examinations of state member banks would be deemed exempt from Freedom of Information Act (FOIA) disclosure by exemption 8 of FOIA (5 U.S.C. 552(b)(8)). In addition, exemptions (b)(4) and (b)(6) of FOIA (5 U.S.C. 552(b)(4) and (b)(6)) also may exempt from disclosure certain data (specifically, individual loans identified as in excess of supervisory loan-to-value limits) collected in response to these requirements if gathered by the Federal Reserve, depending on the particular circumstances. These additional exemptions relate to confidential commercial and financial information and personal information, respectively. Applicability of these exemptions would be determined on a case-by-case basis.

Consultation Outside the Agency

On September 27, 2017, the Board published a notice in the *Federal Register* (82 FR 45025) requesting public comment for 60 days on the proposal to extend, without revision, the Reg H-5. The comment period for this notice expires on November 27, 2017.

Estimate of Respondent Burden

As of December 31, 2016, 829 state member banks were required to maintain written real estate lending policies and keep records of loans that exceed supervisory LTV limits. There were no *de novo* state member banks in the past three years that would have been required to create a real estate lending policy statement. However, to avoid potentially underestimating the burden on *de novo* state member banks, the Board has estimated that one respondent per year will be required to create a new policy. In addition to recoding, banks will also spend time on ongoing maintenance of a compliance monitoring system, including reviewing policies and procedures related to implementation. The annual recordkeeping burden for real estate lending standards is estimated to be 20,745 hours. These recordkeeping requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

H-5	*Number of respondents*[3]	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Maintain a Policy Statement	829	1	5	4,145
Policy Statement *(de novo)*	1	1	20	20
Recordkeeping for loans with LTVs that exceed supervisory limits; and maintaining a system of review	829	4	5	16,580
Total				20,745

The annual cost to state member banks is estimated to be $1,138,901[4]

Sensitive Questions

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

[3] Number of respondents is based on information from the *Changes in Number and Charters of Insured Banks Report*, (http://fedweb.frb.gov/fedweb/bsr/surveil/surveil_chrtchg.shtm) prepared by the Surveillance, Financial Trends and Analysis section of the Board's S&R division. For the Aggregate Report, the number of respondents is the number of state member banks as of 4Q2016. There were no de novo state member banks reported for the past three years. Of the 829 SMB respondents required to comply with this information collection, 601 are considered a small entity as defined by the Small Business Administration (i.e., entities with less than $550 million in total assets). http://www.sba.gov/content/table-small-business-size-standards.

[4] 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 rate for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages May2016, 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/.

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve System associated with this recordkeeping requirement is minimal because there are no reporting forms and the information is not submitted to the Federal Reserve.