

**Supporting Statement for the
Notification of Nonfinancial Data Processing Activities
(FR 4021; OMB No. 7100-0306)**

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 Notification of Nonfinancial Data Processing Activities (FR 4021; OMB No. 7100-0306), which relates to the permissible data processing, storage, and transmission activities (collectively, data processing activities) of bank holding companies (BHC) under the Board's Regulation Y. In 2003, the Federal Reserve amended Regulation Y to raise, from 30 percent to 49 percent, the revenue limit on the amount of nonfinancial data processing activities that a BHC may conduct in connection with its financial data processing activities.¹ As part of this amendment, the Federal Reserve also announced a notification process by which a BHC may request the Board's approval to administer this 49-percent revenue limit on nonfinancial data processing activities on a business-line or multiple-company basis, rather than on a company-by-company basis. Such requests are designated as the FR 4021.

It is estimated that two respondents per year will submit notifications associated with this type of data process activity. The total annual burden for FR 4021 is estimated to be four hours. A request may be filed in letter form; there is no reporting form for this information collection.

Background and Justification

The BHC Act (12 U.S.C. §§ 1841 et seq.), as amended by the Gramm-Leach-Bliley Act (GLB Act), permits all BHCs to engage in any nonbanking activity that the Federal Reserve had determined, by order or regulation prior to November 12, 1999, to be "so closely related to banking as to be a proper incident thereto"² under section 4(c)(8) of the BHC Act. BHCs must conduct these activities subject to the terms and conditions contained in the Federal Reserve's regulation or order authorizing the activity, unless the Federal Reserve modifies those terms or conditions.

Prior to enactment of the GLB Act, the Federal Reserve had determined, by regulation, that a BHC may conduct financial data processing activities as an activity that is "closely related to banking." In addition, the Federal Reserve had determined that, as an incident to these activities, a BHC could conduct nonfinancial data processing activities so long as the revenues derived from such nonfinancial data processing activities did not constitute more than 30 percent of the revenues derived by the BHC from its financial data processing activities.

¹ See 68 *Federal Register* 68, 493 (Dec. 9, 2003) and 12 CFR 225.28(b)(14). As a general matter, nonfinancial data processing activities refer to data processing activities involving data that is not financial, banking or economic in nature.

² See Final Rulemaking, 68 FR 68493

In 2003, the Federal Reserve adopted a final rule that raised, from 30 percent to 49 percent, the amount of revenue a BHC engaged in financial data processing activities may derive from nonfinancial data processing activities. The Federal Reserve adopted this change because it would allow BHCs to make more efficient use of their data processing expertise and equipment while ensuring that a majority of the business of each processing subsidiary would be financial data processing. As part of this final rulemaking, the Federal Reserve Board also announced that it had delegated authority to the Board's General Counsel to grant requests by BHCs to administer the new 49-percent revenue limit on a business-line or multiple-entity basis (rather than on a company-by-company basis as would otherwise be required under the rule).

Description of Information Collection

BHCs submit the FR 4021 notification to request permission to administer the 49-percent revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis. These notifications, which may be submitted in letter form, should describe the structure of the requesting BHC's data processing operations, the methodology the BHC proposes to use to administer the 49-percent revenue test and the reasons why the BHC believes that the proposed methodology is appropriate. The General Counsel or the Federal Reserve Board, where appropriate, will consider any request in light of all the facts and circumstances, including the inter-relationships between the data processing activities conducted by the BHC's separate subsidiaries, the holding company's business or operational reasons for conducting its data processing activities in different subsidiaries, and the level of the BHC's ownership interest in the individual subsidiaries.

Time Schedule for Information Collection

This information collection contains one notice requirement, which a BHC must file with the Federal Reserve Board's General Counsel before the BHC seeks to administer the 49-percent revenue limit on a business-line or multiple-entity basis. This notice requirement is mandatory, but only if the BHC seeks the additional flexibility to administer the 49-percent test in this manner, and is triggered by a specific event.

Legal Status

The Board's Legal Division has determined that 12 U.S.C. 1843(c)(8), (j) and (k) authorize the Federal Reserve to collect this information. A bank may request confidential treatment of the information contained in the notice pursuant to exemption 4 of the Freedom of Information Act (5 U.S.C. §552(b)(4)) and the Federal Reserve's Rules Regarding the Availability of Information (12 CFR Part 261).³

³ See Final Rulemaking, 68 FR 68493.

Consultation Outside the Agency

On March 9, 2007, the Federal Reserve published a notice in the *Federal Register* (72 FR 10762) requesting public comment for sixty days on the extension, without revision, of the Notification of Nonfinancial Data Processing Activities. The comment period for this notice expired on May 8, 2007. The Federal Reserve received no substantive comments. On May 17, 2007, the Federal Reserve published a final notice in the *Federal Register* (72 FR 27813).

Estimate of Respondent Burden

The annual respondent burden is estimated to be four hours, as shown in the table below. For information collection purposes, it is estimated that there will be two respondents per year that will take two hours to complete and submit a request to the Federal Reserve. The estimated total annual reporting burden for this notice represents less than 1 percent of total Federal Reserve System burden.

	<i>Estimated number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated total annual burden hours</i>
FR 4021	2	1	2	4

The estimated current annual cost to the public of collecting this information is \$306.⁴

Sensitive Questions

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

Estimate of Cost to the Federal Reserve System

The Federal Reserve System's costs for processing this information are minimal.

⁴ Total cost to the public was estimated using the following formula. Percent of staff time, multiplied by annual burden hours, multiplied by hourly rate: 25% - Clerical @ \$25, 35% - Managerial or Technical @ \$55, 15% - Senior Management @ \$100, and 25% - Legal Counsel @ \$144. Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics, *Occupational Employment and Wages*, news release.