

**Supporting Statement for
Interagency Bank Merger Act Application
(FR 2070; OMB No. 7100-0171)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, with minor revision, the mandatory Interagency Bank Merger Act Application (FR 2070; OMB No. 7100-0171). The Federal Reserve System, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the agencies) each use this application form to collect information for bank merger proposals that require prior approval under the Bank Merger Act. Prior approval is required for every merger transaction involving affiliated or nonaffiliated institutions and must be sought from the regulatory agency of the depository institution that would survive the proposed transaction. A merger transaction may include a merger, consolidation, assumption of deposit liabilities, or certain asset-transfers between or among two or more institutions (for purposes of this memorandum, these types of proposals are referred to as a merger or other restructuring). The Federal Reserve collects this information so that it may meet its statutory obligation to evaluate the competitive, financial, managerial, future prospects, and convenience and needs aspects of each state member bank merger proposal.

The agencies propose to update the General Information and Instructions to reflect passage of the Federal Deposit Insurance Reform Act of 2005, which was enacted on February 8, 2006. Provisions of this legislation directed the merger of the Bank Insurance Fund and the Savings Association Insurance Fund into a new Deposit Insurance Fund. The formation of the single insurance fund eliminated the need for two types of insurance-related applications that had been required for certain bank merger transactions. The proposed revisions relate entirely to the eliminated filing requirements.

For the Federal Reserve, the estimated annual reporting burden for state member banks is 1,794 hours and would remain unchanged.

Background and Justification

The FR 2070 was instituted in 1960 with the enactment of section 18(c) of the Federal Deposit Insurance Act (the FDI Act) which is known as the Bank Merger Act. The FR 2070 was discontinued in 1990 when the Application for Prior Approval for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y-2) was amended for use with a broader range of proposals. The FR Y-2 was modified not only for use with proposals filed pursuant to sections 3(a)(3) and 3(a)(5) of the Bank Holding Company Act (the BHC Act), but also for proposals filed pursuant to section 18(c) of the FDI Act and section 9 of the Federal Reserve Act (the FR Act). At the time, it was felt that there was sufficient commonality with the information requirements of these three types of expansionary proposals to use the same application form. However, subsequent experience indicated that the resulting application form

was more cumbersome and somewhat more confusing than originally anticipated. As a consequence, the FR 2070 was reinstated in 1994.

The FR 2070 was reformatted in 1998 to address directives in the Riegle Community Development and Regulatory Improvement Act of 1994 that the agencies should (to the extent consistent with principles of safety and soundness, statutory law, and policy) work together to make uniform all regulations and guidelines implementing common statutory or supervisory policies. The bank merger application forms of each of the agencies were viewed to be subject to the directive. The new interagency bank merger application form streamlined filing requirements and identified specific information that each of the agencies believed was necessary for reviewing a bank merger proposal. Supplemental pages were added to collect certain additional information that individual agencies believed was critical to the consideration of a bank merger proposal. The supplemental questions and advice were intended to address particular concerns of the individual agencies and facilitate the overall review process.

The Federal Reserve requires data from the FR 2070 for regulatory and supervisory purposes and to allow the Federal Reserve to fulfill its statutory obligations under the Bank Merger Act. The application form obtains the information necessary for the Federal Reserve to evaluate (with respect to a state member bank merger or other restructuring) the competitive effects of the proposal, the financial and managerial resources and future prospects of the existing and proposed banking organizations, and the convenience and needs of the affected communities. The application form also collects information on the basic legal and structural aspects of the proposed transaction and on the extent to which the surviving state member bank intends to retain and continue operating as individual branches the headquarters and branches of the target bank.

The collected information is not available from any other source and is used by the Federal Reserve to determine whether a proposal is financially sound, competitively acceptable, and consistent with the public interest.

Description of the Information Collection

The FR 2070 is submitted by a state member bank seeking to effect a merger or other restructuring. The application form collects information on the competitive, financial, managerial, legal, structural, and convenience and needs aspects of each proposed transaction. The completed application form is submitted to the appropriate Reserve Bank of the state member bank resulting from the proposal.

Proposed Revisions

The General Information and Instructions section of the FR 2070 would be revised to reflect certain statutory changes resulting from the passage of the Federal Deposit Insurance Reform Act of 2005, effective February 8, 2006. Provisions of the legislation directed the FDIC to merge the Bank Insurance Fund and the Savings Association Insurance Fund to form the new Deposit Insurance Fund, which subsequently occurred on March 31, 2006. The formation of the single insurance fund eliminated the need for two types of insurance-related applications that existed to allow certain depository institutions to convert their coverage from one insurance fund

to another. Accordingly, references in the Instructions to the previously required applications have been deleted. Also the legal citations on page 1 of the application form that correspond to the previously required applications have been deleted (previously 12 USC 1815(d)(2), 1815(d)(3)). There are no other proposed changes to this information collection. The agencies need the information from the continuing requirements to ensure that the proposed merger transaction is permissible under law and regulation and consistent with safe and sound banking practices.

Time Schedule for Information Collection

This information collection is event-generated. The FR 2070 is used whenever a state member bank needs to request prior approval to effect a merger or other restructuring. If the proposed transaction meets established criteria for the application to be processed on a delegated basis, the Reserve Bank or Secretary of the Board generally acts on the proposal within thirty calendar days of receipt of the application. If the proposal does not meet the criteria for processing under delegated authority, the application will be acted upon by the Federal Reserve. Such an application will generally be acted on within sixty calendar days of receipt of the application, unless the applicant is notified that the processing period is being extended and informed of the reasons for the extension.

Legal Status

The Board's Legal Division has determined that section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)) authorizes the Board to require this application. The Federal Reserve treats the Interagency Bank Merger Act Application as a public document. However, applicants may request that parts of a submitted application be kept confidential. In such cases, the burden is on the applicant to justify the exemption by demonstrating that disclosure would cause "substantial competitive harm" or result in "an unwarranted invasion of personal privacy" or would otherwise qualify for an exemption under the Freedom of Information Act (5 U.S.C. 552). The confidentiality status of the information submitted will be judged on a case-by-case basis.

Consultation Outside the Agency

The interagency working group that developed the proposed revisions to this application form is comprised of representatives from the OCC, the FDIC, the OTS, and the Federal Reserve. On July 18, 2007, the Federal Reserve published a notice in the *Federal Register* (72 FR 39428) requesting public comment for sixty days on the extension, with revision, of the Interagency Bank Merger Act Application. The comment period for this notice expires on September 17, 2007. The Federal Reserve received no comments. On October 17, 2007, the Federal Reserve published a final notice in the *Federal Register* (72 FR 58851). The OCC, FDIC, and the OTS will publish a separate *Federal Register* notice requesting public comment on these revisions.

Estimate of Respondent Burden

The FR 2070 annual reporting burden estimate is based on the average number and type of applications processed for state member banks in 2006. The Federal Reserve has estimated an average response time of thirty hours for applications filed to effect a merger, consolidation, assumption of deposit liabilities, or other combining transaction between nonaffiliated parties; and eighteen hours for applications filed to effect a corporate reorganization between affiliated parties. With the proposed revisions, the Federal Reserve estimates the average hours per response for the FR 2070 to remain unchanged. The current annual burden is estimated to be 1,794 hours, which is less than 1 percent of total Federal Reserve System burden for all information collections.

	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Nonaffiliate Transactions	52	1	30	1,560
Affiliate Transactions	13	1	18	<u>234</u>
<i>Total</i>				1,794

The total annual cost to the public is estimated to be \$110,601.¹

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

Costs associated with the processing of this application are minimal. The FR 2070 is available on the Federal Reserve's website or otherwise distributed to potential filers upon request. Storage of the reported information is not currently automated. Given the relatively low volume of annual filings, the printing and distribution costs are negligible.

¹ 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% - Clerical @ \$25, 45% - Managerial or Technical @ \$55, 15% - Senior Management @ \$100, and 10% - 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.