

**Supporting Statement for the
Application for a Foreign Organization to Acquire a U.S. Bank or Bank Holding Company
(FR Y-3F; OMB No. 7100-0119)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend, with revision, the Application for a Foreign Organization to Acquire a Bank Holding Company (FR Y-3F; OMB No. 7100-0119). Under the Bank Holding Company Act (BHCA), submission of this application is required for any company organized under the laws of a foreign country seeking to acquire a U.S. subsidiary bank or bank holding company. Applicants must provide financial and managerial information, discuss the competitive effects of the proposed transaction, and discuss how the proposed transaction would enhance the convenience and needs of the community to be served. The Federal Reserve uses the information, in part, to fulfill its supervisory responsibilities with respect to foreign banking organizations in the United States.

The Federal Reserve proposes to replace the existing confidentiality paragraph in the General Information and Instructions. In addition, respondents would be required to make a certification regarding information contained in the application. Finally, the Federal Reserve proposes to request an e-mail address on the cover page of FR Y-3F. There are certain additional proposed changes that 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 an application and create additional burden for applicants.

The Federal Reserve has acted on eight applications from foreign organizations in the past three years. The current annual burden is estimated to be 580 hours. Given the technical nature of the proposed revisions, there would be no change to the current annual burden associated with this information collection. A copy of the proposed application and instructions is attached.

Background and Justification

The FR Y-1F was first used in 1982. Prior to the creation of the FR Y-1F, foreign applicants filed the FR Y-1, together with a special supplement.¹ In 2005, the FR Y-1F was retitled, renumbered to the FR Y-3F, and modified to achieve consistency with the FR Y-3, the Application for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (7100-0121), the application form used by domestic holding companies.

The information collected in the application form is necessary for the Federal Reserve to fulfill its responsibilities under the BHCA and the Foreign Bank Supervision Enhancement Act. The application is the only source of comprehensive and systematic data on the proposed transaction, the present and pro forma financial condition of the applicant and its proposed

¹ The FR Y-1 (OMB No. 7100-0119), was designed for domestic applicants; the supplement adapted the FR Y-1 for submissions by foreign applicants. In 1994, the FR Y-1 was combined with the FR Y-2 (OMB No. 7100-0171) to create the FR Y-3 (OMB No. 7100-0121). The FR Y-1 and FR Y-2 were discontinued.

subsidiary(ies), the likely competitive effects of the proposal, and its likely effects on the convenience and needs of the public. Thus, the Federal Reserve uses the data to determine if proposals are financially sound, competitively acceptable, and consistent with the public interest. In addition, among other things, the form collects information on foreign bank applicants to determine if the comprehensive consolidated supervision standard is met. Such information is also used after consummation in the supervision program for foreign banking organizations.

Description of Information Collection

The FR Y-3F is filed by any company, organized under the laws of a foreign country, seeking initial entry through the acquisition of a bank or bank holding company in the United States. Applicants provide financial and managerial information and discuss the competitive effects of the proposed transaction and how the proposed transaction would enhance the convenience and needs of the community to be served. The application must contain the most recent information available so that the Federal Reserve can analyze compliance with relevant statutory factors.² While the application collects the minimum amount of information needed, the instructions explicitly state that the formal questions in the application are not intended to limit the applicant's presentation.

Proposed Revisions

Cover Page and Instructions for Preparation of Application

The Federal Reserve proposes that applicants be required to make a certification, consistent with other recently approved applications,³ regarding the correctness of the information contained herein and information pertaining to individuals contained in the application. The certification would describe the nature of the information being submitted (for example, personal information regarding an individual or individuals) and how the submitted information may be treated under the Freedom of Information Act (FOIA) (for example, consent of the applicant and the individual(s) would be presumed in the absence of a timely submitted request for confidential treatment). The Federal Reserve believes that receiving the certification at the time of submission would facilitate the disclosure of relevant information to the public and reduce the processing delays that result from uncertainties about what information is eligible for disclosure under FOIA.

2 Under the BHCA, the Board may not approve transactions that would result in monopoly or have other anticompetitive effects, unless such effects are "clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served." The BHCA further directs the Board to consider the financial and managerial resources and future earnings prospects of the banks involved in the proposed transaction.

3 The International Applications and Prior Notifications under Subparts A and C of Regulation K (FR K-1; OMB No. 7100-0107) and the Bank Holding Company application and notification forms (OMB No. 7100-0121); the Application for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y-3), the Notification for Prior Approval to Become a Bank Holding Company or for a Bank Holding Company to Acquire an Additional Bank or Bank Holding Company (FR Y-3N), and the Notification for Prior Approval to Engage Directly or Indirectly in Certain Nonbanking Activities (FR Y-4).

The Federal Reserve no longer accepts complete draft applications for prior review. As a result, the Federal Reserve proposes to delete the reference to draft and final applications from the Cover Page and revise the instructions for draft filings to state that an applicant may request the Federal Reserve review draft materials before the submission of a formal filing. In addition, the Federal Reserve proposes to request the e-mail address of the contact person on the Cover Page. Currently, an applicant provides name, title, address and telephone number of person(s) to whom inquiries may be directed.

Confidentiality

The Federal Reserve proposes to replace the existing confidentiality section. The proposed confidentiality section would state that an applicant may invoke more than two types of FOIA exemptions in an effort to prevent applications data from being disclosed to the public. The current reporting form states that an applicant may only assert exemptions 4 and 6 against disclosure.⁴

Preliminary Charter Approval

Whereas an application filed under either the Federal Reserve Act or the BHCA could previously only be filed with the Federal Reserve after the relevant chartering authority had granted preliminary charter approval, such applications may now be filed sooner if the preliminary charter approval is expected shortly. The Federal Reserve proposes to rename the Preliminary Charter Approval section to the Newly-Chartered Bank section and revise the instructions to reflect recent processing changes in connection with applications related to the establishment of new banks. The instructions would state that, before the review processes for the charter and deposit insurance of the proposed new operating bank commence, an applicant should consult with the appropriate Reserve Bank (to determine the appropriate time when the related Federal Reserve application should be filed and to discuss the information requirements for the specific proposal).

Requested Information

Section I, Proposed Transaction. The definition of principal within footnote 1 of question 1.2 is a legal concept that is often misunderstood. As a result, the Federal Reserve proposes to expand the definition to state that an individual for this purpose may be one person or a group of persons (for example, the members of a group acting in concert). The Federal Reserve has determined that the noncompete agreement information requested in question 1.5 is no longer necessary to analyze the competitive aspects of a proposed transaction. Therefore, the Federal Reserve proposes to delete question 1.5 and re-number question 1.6 to 1.5. Current question 1.6 would be revised to allow an applicant to provide a copy of a purchase, operating, or other agreement associated with the proposed transaction as an alternative to providing the various pieces of information otherwise requested. The Federal Reserve believes that with

⁴ Exemption 4 relates to trade secrets and commercial or financial information received from a person which is privileged or confidential. Exemption 6 relates to personal information affecting an individual's privacy.

certain proposals an applicant would find it less burdensome to provide a copy of the relevant agreements rather than provide the material otherwise requested in the question. A description of the due diligence review conducted for a proposed acquisition is routinely requested in acquisition proposals and receipt of this information in the original filing would expedite review of the proposal. Therefore, the Federal Reserve proposes to add new question 1.6 (after the renumbered 1.5) requesting this type of information.

Section III, Financial and Managerial Information. Pro forma tier 1 and total risk-based capital ratios for the applicant and any parent foreign bank are routinely requested in acquisition proposals and receipt of this information in the original filing would expedite review of the proposal. Therefore, the Federal Reserve proposes to add new question 3 under Item 6 requesting this information. Subsequent questions would be re-numbered accordingly.

Section VI, Competition and Convenience and Needs. For clarity purposes, the Federal Reserve proposes to rename this section Competition and add a new Section VII, Convenience and Needs, before Item 12. Current Section VII (Other Matters) would be renumbered as Section VIII.

Time Schedule for Information Collection

The applicant is required to publish a notice in a newspaper of general circulation in the community where the head office of the bank to be acquired is located. The notice must state the name and address of the applicant and its proposed subsidiary, and it must invite the public to submit written comments to the appropriate Federal Reserve Bank. The newspaper notice must be published no more than 15 calendar days before and no later than 7 calendar days after the date that the application is filed with the appropriate Reserve Bank. The application will be acted on within 60 days, unless the Board notifies the applicant that the processing period is being extended and indicates the reasons for the extension.

Legal Status

The Board's Legal Division has determined that this application is authorized by sections 3(a), 3(c), and 5(a) through 5(c) of the Bank Holding Company Act (12 U.S.C. §§1842(a) and (c) and 1844(a) through (c)). Completion of the application is required to obtain or retain a benefit for any foreign organization seeking to establish or acquire a U.S. bank or bank holding company. The information provided in the application is not confidential unless the applicant specifically requests confidentiality and the Federal Reserve approves the request. The instructions convey the confidentiality requirements to applicants.

Consultation Outside the Agency

On July 1, 2008, the Federal Reserve published a notice in the *Federal Register* (73 FR 37455) requesting public comment for 60 days on the extension, with revision, of the applications and notifications. The comment period for this notice expired on September 2, 2008. The Federal Reserve did not receive any comments. On September 17, 2008, the Federal Reserve published a final notice in the *Federal Register* (73 FR 53872). The revisions will be implemented as proposed.

Estimate of Respondent Burden

The total annual burden for these reports is estimated to be 580 hours, as shown in the following table, and represents less than 1 percent of total Federal Reserve burden for all reports. The current burden estimates are based on the average number of responses received during the past three years. The estimated average hours per response for initial entry is 90 hours and the estimated average hours per response for foreign organizations that have already received approval to establish a branch or agency or to acquire a U.S. bank is 70 hours.

	<i>Average number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Initial application	1	1	90	90
Subsequent application	7	1	70	490
Total				580

The total annual cost to the public for this application is estimated to be \$35,757.⁵

Sensitive Questions

This application contains no sensitive questions, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The cost to the Federal Reserve of printing, mailing, and processing the FR Y-3F is negligible. The application form is available electronically from the Board's Internet site (<http://www.federalreserve.gov/reportforms/default.cfm>).

⁵ 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.