

**Supporting Statement for the
Report of Terms of Credit Card Plans
(FR 2572 and FR 2572S; OMB No. 7100-0239)**

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to revise, under emergency clearance, the semiannual Report of Terms of Credit Card Plans (FR 2572; OMB No. 7100-0239). The FR 2572 collects data on credit card pricing and availability from a sample of at least 150 financial institutions that offer credit cards. The information is reported to the Congress and made available to the public in order to promote competition within the industry and to help consumers shop for a credit card.

Section 505 of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act) directs the Federal Reserve Board to conduct a study of the extent to which credit card issuers adjust consumer credit lines or interest rates based on certain factors by May 2010. The Federal Reserve proposes to revise the FR 2572 information collection to include a supplemental survey (FR 2572S) on the number of creditors that have engaged in one or more of the practices identified in Section 505 of the Credit Card Act. Respondents would comprise 25 of the largest bank credit card issuers and a nationally representative random sample of 150 additional card issuers. The supplemental survey would be conducted one time and would be mandatory. The proposed revisions would increase the estimated annual reporting burden for this information collection from 75 to 338 hours. A copy of the draft survey is attached as Appendix A.

Background and Justification

The Report of Terms of Credit Card Plans was implemented in February 1990 as required by Section 5 of the Fair Credit and Charge Card Disclosure Act (FCCCA) of 1988.¹ Each respondent provides information about its credit card plan with the largest outstanding number of cards. The FCCCA requires the Federal Reserve to collect this information semiannually from the largest 25 issuers of credit cards and at least 125 additional institutions, in a manner that ensures both an equitable geographic distribution within the sample and representation of a wide spectrum of institutions. The Federal Reserve is further directed to make the credit card price information for each institution available to the public upon request and to report the information semiannually to the Congress. The credit card plan information is made available at the Federal Reserve

¹ The FCCCA was enacted on November 3, 1988, and amends the Truth in Lending Act (15 U.S.C. 1601 et seq). Amendments to Regulation Z implementing the provisions of the FCCCA were adopted by the Federal Reserve on March 30, 1989, with an effective date of April 3, 1989. Creditors were required to comply with the new disclosure rules by August 31, 1989.

Board's public web site, <http://www.federalreserve.gov/pubs/shop/survey.htm>.² General consumer information about shopping for credit cards is also available at this web site.

Although the House and Senate Conference Report that accompanied the FCCCA did not explain specifically why the credit card reports are required, the legislative history suggests that the reports are intended to facilitate credit card shopping by consumers and thereby enhance competition.³ In this context, the credit card reports are similar to the Shopper's Guide to Credit that the Federal Reserve prepared as required by law for the Annual Percentage Rate Demonstration Project in 1984 and 1985.⁴

The report was discontinued prior to the July 2000 reporting date pursuant to the Federal Reports Elimination and Sunset Act of 1995 (Sunset Act) (PL 104-66). In December 2000, the Congress approved the American Homeownership and Economic Opportunity Act of 2000 (Act) that restored the reporting of this information, along with 40 other collections. Title XI of the Act states that Section 3003(a)(1) of the Sunset Act "shall not apply to any report required to be submitted under any of the following provisions of law: ... Section 8 of the FCCCA (15 U.S.C. 1637 note); ...".

In 2001, the Congress approved legislation that amended Section 136(b)(1) of the Truth in Lending Act (TILA) (15 U.S.C. 1646). This amendment requires the Federal Reserve to collect, on a semiannual basis, from a broad sample of financial institutions that offer credit card services, further credit card price and availability information. As a consequence of this 2001 amendment, the report was reinstated in July 2002.

In May 2009, Congress passed the Credit Card Act. Section 505 of the Credit Card Act directs the Federal Reserve to conduct a study of the extent to which credit card issuers reduce credit lines or raise interest rates on open-end credit accounts issued to consumers based on certain specific factors (such as type of merchant the consumer transacts with or the type or price of items purchased). The study calls for a review of practices that may have been in place over the past three years. The study is to include information on (1) the number of creditors that have considered such factors and (2) the extent to which the practices may have had an adverse effect on minority and low-income consumers. The report to Congress is due one year from enactment or May 22, 2010. The Federal Reserve has no other source for obtaining this information.

Description of Information Collection

²² The information was previously published in the E.5 statistical release "Report on the Terms of Credit Card Plans", but the E.5 was discontinued in 1994 in favor of a brochure format. Today, this credit card plan information is available only at the Federal Reserve Board's public web site.

³³ U.S. Congress, Senate, "Report of the Committee on Banking, Housing, and Urban Affairs, to accompany H.R. 515," December 16, 1987. Statements by Edward M. Gramlich, p.12, and Senators Garn, Hecht, Bono, Karnes, and Shelby, p.14.

⁴⁴ Board of Governors of the Federal Reserve System, "Annual Percentage Rate Demonstration Project," March 1987.

Section 127(c) of the TILA (15 U.S.C. §1637), as amended by the FCCCA, is quite specific with respect to the credit term information that is to be included in the semiannual reports. The following information on pricing and fees must be collected:

- annual percentage rate for purchases (must state if it is a variable rate)
- length of the grace period
- name or description of the balance computation method
- minimum finance charge
- fee for issuance or availability (membership fee)
- fee for late payment
- fee for exceeding credit limit
- transaction fee for purchases
- transaction fee for cash advances

To report credit card availability information, respondents state whether the credit card plan is available to consumers nationally (in all 50 states and the District of Columbia) or limited to consumers within a specific region or state (such as the issuer's home state). Generally, respondents are not required to fill out each line (corresponding to the states); rather, respondents may fill out one line that describes the most common terms, and then circle the states in which those terms apply, or fill out the lines for states in which different terms are offered. In practice, the majority of respondents offer national plans and fill out only one or two lines on the form. The reporting form also collects information on credit card plan enhancements, name and address for consumers to obtain a credit card application, and telephone number for consumer questions.

Reporting Panel

The Federal Reserve identifies the card issuers to which they will send the FR 2572, including the 25 largest issuers, by analyzing data on the volume of outstanding credit card receivables that are reported on the Reports of Condition and Income for commercial banks (Call Reports) (FFIEC 031 and 041; OMB No. 7100-0036) and for thrift institutions (OTS Form 1313; OMB No. 1550-023). Like the 25 largest issuers, the other respondents are chosen by size, but only such that the required diversity of region and type of institution is achieved. The dynamism of the card industry, with trading of card receivables portfolios and entry into and exit from the industry, ensures turnover in the panel.

The Federal Reserve Banks distribute the FR 2572 reporting forms to approximately 200 institutions each period, which has proven sufficient to generate at least 150 responses, as required. The number of solicitations exceeds 150 because some institutions that do not issue cards are chosen on the basis of holding large portfolios of credit card receivables. There is a lag of several months between the as-of date of the Call Report data used to choose the panel and the as-of date of the upcoming FR 2572, and an institution selected for the panel may have ceased issuing cards during that period. In addition, the extra solicitations are needed because the panel may include a number of subsidiaries of the same parent bank, in which case the Federal Reserve consolidates the data of these subsidiaries and counts them as only one response. Also, the Federal

Reserve on occasion adds banks that are offering particularly attractive deals for consumers, regardless of size, as long as the offer is national.

Typically, about 90 percent of the responses come from commercial banks, with the remainder from savings banks, industrial banks, and savings and loans associations. The panel is consistent with the three criteria of the FCCCA: a reasonable number of creditors of each type, a significant geographic dispersion, and at least 150 card issuers, including the 25 largest issuers.

Proposed FR 2572S

The Federal Reserve proposes to revise the FR 2572 to include a supplemental survey to gather information on the number of creditors that have engaged in one or more of the practices identified in Section 505 of the Credit Card Act. The survey would address both current practices and practices that may have been in place over the past three years. Section 505 of the Credit Card Act is quite specific with respect to the information that is to be collected. The Federal Reserve must gather information on the extent to which creditors have reduced credit limits or raised interest rates applicable to credit cards under open end consumer credit plans based on:

- geographic location where a credit transaction with the consumer took place;
- identity of the merchant involved in the transaction;
- credit transactions of the consumer, including the type of credit transaction, the type of items purchased in a transaction, the price of items purchased in a transaction, and other data about the use of the credit card by the consumer; and
- the identity of the mortgage creditor that extended or holds the mortgage loan secured by the primary residence of the consumer.

Questions would be asked on the number of each issuer's cardholders who could have potentially experienced a reduction in their credit lines, account closure, or an increase in the interest rate on their account due to each of the practices cited in section 505.⁶ For the survey, institutions would be asked to only consider active credit card accounts. Active accounts are those that the consumer used to make purchases or take a cash advance at any time during the twelve months preceding the receipt of the survey.⁷ To determine the number of account holders actually experiencing a credit line reduction, account closure, or interest rate increase due to the factors cited in section 505, institutions would be asked to review the reasons provided to cardholders in adverse action notices both during the month before the survey is received and over the previous

⁶ Credit card accounts that are potentially affected by the policies are those where a factor identified in the Congressional legislation could have played a role in a line reduction, account closure, or increase in interest rate. Thus, if a policy was implemented as a factor in an automated model applied to all an issuer's customers, the potential number of cardholders affected would be all of the issuer's cardholders. If the policy was limited to a subset of customers by some screening criteria then the potential number or cardholders would only be a fraction of the total.

⁷ If the only activity on an account is a cash advance arising from a draw on the credit card line to cover an overdraft on a linked checking account that account would be treated as inactive for purposes of this survey.

25 months.⁸ If a cardholder has received multiple adverse action notices over the 25-month period they would be counted as having been affected by the policies if any of the adverse action notices they received identified the factor as a reason for the action.

The survey would not provide information on the extent of any adverse effects of these practices on low-income or minority cardholders. However, the Federal Reserve would use information gathered in the survey to facilitate an assessment of credit record data that can be used to provide such an analysis.

The survey would be conducted by mail and would be addressed to the Chief Executive Officer of each of the selected card issuers. The survey would also be accompanied by a letter from Chairman Bernanke seeking cooperation in this survey. Survey responses would be sent to the Federal Reserve for analysis.

In addition to the survey, the Federal Reserve would gather information from the other banking agencies' supervisors on the extent to which the practices identified in Section 505 of the Credit Card Act have been used by the largest credit card issuers. Their feedback would provide independent validation of the survey responses of the larger card issuers. It is not possible to gather all the required information from the agencies within the time frame set by the Congress as the agencies do not have the detailed data and would need to collect it from their supervised entities as proposed in this survey.

Reporting Panel

The Federal Reserve proposes to conduct a survey of the 25 largest bank credit card issuers (measured by total dollars reported of outstanding credit card balances or in credit-backed securitizations) and a nationally representative random sample of 150 additional credit card issuers. Card issuers would be identified from the Call Reports for commercial banks, from the OTS Form 1313 for savings associations, and from the Form 5300 Call Report for credit unions (OMB No. 3133-0004) as of June 30, 2009, and include any commercial bank, savings institution, or credit union that has credit card outstandings and currently offers credit cards to consumers.

Time Schedule for Information Collection and Publication

Twice a year, the Federal Reserve Banks collect credit card price and availability information from a sample of card issuers on the FR 2572, as of January 31 and July 31. Each respondent must send its data to the appropriate Reserve Bank within 10 business days of the as-of date, and the Reserve Bank must edit and transmit the data to the

⁸ The Equal Credit Opportunity Act (ECOA) requires that creditors provide adverse action notices to customers that identify as many as the four main reasons for an adverse action. These records must be maintained for 25 months. The regulation allows a card issuer to send a notice to the cardholder that does not include the specific reasons for the action. However, in the notice, cardholders are advised they may call the issuer for the specific reasons. The survey would include these types of adverse action notices as well.

Federal Reserve Board within 20 business days of the as-of date. Individual respondent data are then published on the Federal Reserve Board's public web site.

The time frame for the proposed FR 2572S would differ from the FR 2572 due to the time constraints established in Section 505. Since the Section 505 report is due to the Congress on May 22, 2010, it would not be possible to gather the required information with the proper sample on the current schedule for the FR 2572. The FR 2572S would be conducted only one time. The survey would be distributed as soon as possible and respondents would be given 60 days in which to respond.

Legal Status

The Federal Reserve Board's Legal Division has determined that 15 U.S.C. §1646(b) authorizes the Federal Reserve to collect the information contained in the FR 2572 and FR 2572S. The FR 2572 report is voluntary, and the data are not considered confidential. Reporting the FR 2572S data would be mandatory and the identity of survey respondents would be confidential (5 U.S.C § 552(b)(4)).

Consultation Outside the Agency

There has been informal consultation outside the Federal Reserve System. Background information for the study was obtained by the Federal Reserve through telephone interviews with nine of the largest credit card issuers. The conversations focused on practices these institutions use to set credit limits and interest rates on accounts and the possible difficulties they might encounter in responding to the proposed survey. Based on conversations with credit card issuers, the 60-day time frame is sufficient even for those institutions that must initiate special computer programming.

Estimate of Respondent Burden

As shown in the following table, the annual reporting burden for the current FR 2572 and the proposed FR 2572S is estimated to be 338 hours, an increase of 263 hours. This increase in burden hours would be attributed to the implementation of the proposed FR 2572S supplemental survey. The Federal Reserve estimates that the 175 respondents would take on average 1.5 hours to complete the proposed FR 2572S. The total burden represents less than 1 percent of the total Federal Reserve System paperwork burden.

| | <i>Number of respondents</i> | <i>Annual frequency</i> | <i>Estimated average hours per response</i> | <i>Estimated annual burden hours</i> |
|-----------------|------------------------------|-------------------------|---------------------------------------------|--------------------------------------|
| Current | | | | |
| FR 2572 | 150 | 2 | 0.25 | 75 |
| Proposed | | | | |
| FR 2572 | 150 | 2 | 0.25 | 0 |
| FR 2572S | 175 | 1 | 1.50 | <u>263</u> |
| <i>Total</i> | | | | 338 |
| <i>Change</i> | | | | 263 |

The total cost to the public for the FR 2572 and FR 2572S is estimated to be \$20,838.⁹

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 total annual cost to the Federal Reserve System for the support and processing of the FR 2572 and FR 2572S report is estimated to be \$31,700.

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% Administrative or Junior Analyst @ \$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 (BLS), Occupational Employment and Wages 2007, <http://www.bls.gov/news.release/ocwage.nr0.htm> Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>