

**Supporting Statement for the
Reporting Requirements Associated with Regulation XX (Concentration Limit)
(Reg XX; OMB No. to be obtained) and
Financial Company Report of Consolidated Liabilities (; OMB No. to be obtained)**

*Concentration Limits on Large Financial Companies
(Docket No. R-1489) (RIN 7100 AE18)*

Summary

The Board of Governors of the Federal Reserve System (Federal Reserve), under delegated authority from the Office of Management and Budget (OMB), proposes to implement the mandatory Reporting Requirements Associated with Regulation XX (Concentration Limits) (Reg XX; OMB No. to be obtained) and Financial Company Report of Consolidated Liabilities (FR XX-1; OMB No. to be obtained). The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an “information collection.”¹

The Federal Reserve has adopted a final rule that would implement section 14 of the Bank Holding Company Act of 1956 (BHC Act), which was added by section 622 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Section 14 establishes a financial sector concentration limit that generally prohibits a financial company from merging or consolidating with, or acquiring, another company if the resulting company’s liabilities upon consummation would exceed 10 percent of the aggregate liabilities of all financial companies. Regulation XX establishes reporting requirements for financial companies that do not otherwise report consolidated financial information to the Federal Reserve or other appropriate Federal banking agency and creates a new reporting form, the Financial Company (as defined) Report of Consolidated Liabilities (FR XX-1). On May 15, 2014, the Federal Reserve published a notice of proposed rulemaking in the *Federal Register* for public comment (79 FR 27801). The comment period for the proposed rule expired on July 8, 2014. On November 14, 2014, the Federal Reserve published a notice of final rulemaking in the *Federal Register* (79 FR 68095). The final rule is effective on January 1, 2015.

The reporting requirements are found in sections 251.4(b), 251.4(c), and 251.6 of Regulation XX. The Federal Reserve estimates the total annual burden for this information collection to be 100 hours (200 hours for initial reporting) for the 40 institutions that it deems respondents for purposes of the PRA.

Background and Justification

Section 622 of the Dodd-Frank Act amends the BHC Act to add a new section 14. Section 622 establishes a financial sector concentration limit that prevents an insured depository institution; a bank holding company; a foreign bank or company that is treated as a bank holding company for purposes of the BHC Act; a savings and loan holding company; any other company that controls an insured depository institution; or a nonbank financial company designated by the Financial Stability Oversight Council (Council) for supervision by the Federal Reserve from

¹ See 44 U.S.C. § 3501 *et seq.*

merging and consolidating with, acquiring all or substantially all of the assets of, or otherwise acquiring control of another company if the resulting company's consolidated liabilities would exceed 10 percent of the aggregate consolidated liabilities of all financial companies. The concentration limit supplements the nationwide deposit cap in Federal banking law by imposing an additional limit on liabilities of financial companies.

Section 622 of the Dodd-Frank Act provides that the concentration limit is "subject to" any recommendations made by the Council that the Council determines would more effectively implement section 622, and the Federal Reserve is required to issue final regulations implementing section 622 that "reflect any recommendations made by the Council." On January 18, 2011, the Council recommended that the Federal Reserve's regulations should:

- measure liabilities of financial companies not subject to consolidated risk-based capital rules by using U.S. generally accepted accounting principles or other applicable accounting standards,
- use a two-year average in calculating aggregate financial sector liabilities and that the Federal Reserve publish annually by July 1 the current aggregate financial sector liabilities, and
- extend the "failing bank exception" to the acquisition of any type of insured depository institution in default or in danger of default, rather than only banks in default or danger of default.

To implement section 622 of the Dodd-Frank Act and the Council's recommendations, Reg XX establishes reporting requirements for financial companies that do not otherwise report consolidated financial information to the Federal Reserve or other appropriate Federal banking agency and creates a new report, the Financial Company (as defined) Report of Consolidated Liabilities (FR XX-1).

Section 622 of the Dodd-Frank Act further directs the Council to complete a study of the extent to which the statutory concentration limit would affect financial stability, moral hazard in the financial system, the efficiency and competitiveness of U.S. financial firms and financial markets, and the cost and availability of credit and other financial services to households and businesses in the U.S. In the Council study, the Council expressed the view that the concentration limit would have a positive impact on U.S. financial stability by reducing the systemic risks created by increased financial sector concentration arising from covered acquisitions involving the largest U.S. financial companies. It concluded that the concentration limit was likely to have little or no effect on moral hazard. With respect to the impact of the concentration limit on competitiveness, the Council expected the effect to be positive generally, but expressed concern that the limit introduces the potential for disparate treatment of covered acquisitions between the largest U.S. and foreign firms, depending on which firm is the acquirer or the target. The Council found that the concentration limit is unlikely to have a significant effect on the cost and availability of credit and other financial services.

Description of Information Collection

The reporting requirements associated with Reg XX are found in sections 251.4(b) and (c) and would be filed by insured depository institutions, bank holding companies, foreign banking organizations, savings and loan holding company, companies that control insured

depository institutions, and nonbank financial companies supervised by the Board. The reporting requirements associated with FR XX-1 are found in section 251.6 and would be filed by U.S. and foreign financial companies that do not otherwise report consolidated financial information to the Federal Reserve or other appropriate Federal banking agency. Compliance with the information collections is mandatory. No other Federal law mandates these reporting requirements.

Reg XX

Section 251.4(b) requires a financial company to request that the Federal Reserve provide prior written consent before the financial company consummates a transaction. The request for prior written consent must contain a description of the covered acquisition, the projected increase in the company's liabilities resulting from the acquisition, the projected aggregate increase in the company's liabilities from acquisitions during the twelve months preceding the projected date of the acquisition (if the request is made pursuant to section 251.4(a)(3)), and any additional information requested by the Federal Reserve.

Section 251.4(c) provides that the Federal Reserve grants prior written consent for a covered acquisition that would result in an increase in the liabilities of the financial company that does not exceed \$100 million, when aggregated with all other covered acquisitions by the financial company made pursuant to section 251.4(c) during the twelve months preceding the date of the acquisition. A financial company that relies on prior written consent pursuant to section 251.4(c) must provide a notice to the Federal Reserve within 10 days after consummating the covered acquisition that describes the covered acquisition, the increase in the company's liabilities resulting from the acquisition, and the aggregate increase in the company's liabilities from covered acquisitions during the twelve months preceding the date of the acquisition.

FR XX-1

Section 251.6 requires financial companies that control an insured depository institution that do not report consolidated financial information to the Federal Reserve or other appropriate Federal banking agency to report information on their total liabilities. These institutions include savings and loan holding companies where the top-tier holding company is an insurance company that only prepares financial statements in accordance with Statutory Accounting Principles, holding companies of industrial loan companies, limited-purpose credit card banks, and limited-purpose trust banks. Because this information is necessary to implement section 622 of the Dodd-Frank Act, Regulation XX creates a new reporting form, FR XX-1, on which a financial company that does not otherwise report consolidated financial information to the Federal Reserve or other appropriate Federal banking agency would be required to report information on their total consolidated liabilities.

Time Schedule for Information Collection

The reporting requirements for Reg XX in sections 251.4(b) and (c) are event-generated. A financial company that relies on prior written consent pursuant to section 251.4(c) must provide a notice to the Federal Reserve within 10 days after consummating the covered acquisition.

Since the Federal Reserve is required to report a final calculation based on data collected as of the end of each calendar year, the new FR XX-1 reporting form would be completed by respondent financial companies annually beginning with the report as of December 31, 2014. The Federal Reserve will collect the first report by March 31, 2015.

Legal Status

The Board's Legal Division has determined that this information collection is mandatory by section 14 of the Bank Holding Company Act (12 U.S.C. §§ 1852(d)) and Regulation XX (12 C.F.R. § 251). The data generally are not considered confidential, but may be regarded as confidential under the Freedom of Information Act (5 U.S.C. §§ 552(b)(4)).

Consultation Outside the Agency and Discussion of Public Comment

On May 15, 2014, the Federal Reserve published a notice of proposed rulemaking in the *Federal Register* for public comment (79 FR 27801). The comment period for the proposed rule expired on July 8, 2014. Of the comments received on the proposed rule, four specifically referenced the PRA. In response to these comments, the Federal Reserve modified the final rule as follows (1) provided that financial sector liabilities will be calculated as of December 31, 2014, for purposes of the period beginning July 1, 2015, and ending June 30, 2016, and the two-year average will be adopted for each year thereafter; (2) removed the prior notice requirement for acquisitions by financial companies with total consolidated liabilities equal to or greater than 8 percent of aggregate financial sector liabilities; and (3) provided prior consent for a covered acquisition that would result in an increase in the liabilities of the financial company that does not exceed \$100 million, when aggregated with all other covered acquisitions by the financial company during the twelve months preceding the consummation of the transaction and set forth a process and standard of review for de minimis transactions. These changes, as well as the Federal Reserve's other responses to the comments received, are discussed in detail in the final rule. On November 14, 2014, the Federal Reserve published a notice of final rulemaking in the *Federal Register* (79 FR 68095). The final rule is effective on January 1, 2015.

Estimate of Respondent Burden

The Federal Reserve's total annual burden for Reg XX is estimated to be 20 hours and for the FR XX-1 is estimated to be 280 hours (200 hours for initial set-up and 80 hours for ongoing compliance). The Reg XX and FR XX-1 reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents²</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reg XX				
Reporting Burden				
Section 251.4(b)	1	1	10	10
Section 251.4(c)	1	1	10	10
FR XX-1				
Reporting Burden				
Section 251.6 (initial set-up)	40	1	5	200
Section 251.6 (ongoing)	40	1	2	80
<i>Total</i>				300

The total cost to the public for this information collection is estimated to be \$15,270.³

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 cost to the Federal Reserve System is negligible.

² Of these respondents, 20 are estimated small entities as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets) www.sba.gov/content/table-small-business-size-standards.

³ 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 \$61, 15% Lawyers at \$63, and 10% Chief Executives at \$86). Hourly rate for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2013, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.