

**Supporting Statement for the  
Notice Requirements in Connection with Regulation W  
(Transactions Between Member Banks and Their Affiliates)  
(Reg W; OMB No. 7100-0304)**

**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, without revision,<sup>1</sup> the Notice Requirements in Connection with Regulation W (Transactions Between Member Banks and Their Affiliates) (Reg W; OMB No. 7100-0304), which implements sections 23A and 23B of the Federal Reserve Act. The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an information collection.<sup>2</sup> The PRA requires the Federal Reserve to renew authority for information collections every three years.

This information collection pursuant to Regulation W is triggered by specific events, and there are no required reporting forms associated with the transactions captured in this information collection. The potential respondents are all insured depository institutions and uninsured member banks, but only those institutions that take advantage of the exemptions need to file any documentation. The quarterly Bank Holding Company Report of Insured Depository Institutions' Section 23A Transactions with Affiliates (FR Y-8; OMB No. 7100-0126), which collects information on transactions between an insured depository institution and its affiliates that are subject to section 23A of the Federal Reserve Act, is not included in this information collection and is being renewed separately. The total estimated annual burden for the estimated four respondents is 24 hours.

**Background and Justification**

Sections 23A and 23B of the Federal Reserve Act are statutory provisions designed to protect against a depository institution suffering losses in transactions with affiliates.<sup>3</sup> They also limit the ability of an insured depository institution to transfer to its affiliates the subsidy arising from the institution's access to the federal safety net. Sections 23A and 23B apply, by their terms, to banks that are members of the Federal Reserve System (member banks). Other federal law subjects insured nonmember banks and insured thrifts to sections 23A and 23B in the same manner and to the same extent as if they were member banks.

On December 12, 2002, the Federal Reserve published a *Federal Register* notice<sup>4</sup> adopting Regulation W to implement sections 23A and 23B. The regulation was effective April 1, 2003. The Board issued Regulation W for several reasons. First, the regulatory

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<sup>1</sup> Although Regulation W will be revised in the near future to incorporate amendments required by section 608 of the Dodd-Frank Act, the extension of the information collection for three years is necessary to ensure that institutions comply with the notice requirements in the current Regulation W.

<sup>2</sup> See 44 U.S.C. § 3501 *et seq.*

<sup>3</sup> See 12 U.S.C. §§ 371c and 371c-1.

<sup>4</sup> See 67 *Federal Register* 76603.

framework established by the Gramm-Leach-Bliley Act<sup>5</sup> emphasizes the importance of sections 23A and 23B as a means to protect depository institutions from losses in transactions with affiliates. Second, adoption of a comprehensive rule simplified the interpretation and application of sections 23A and 23B, ensured that the statute is consistently interpreted and applied, and minimized the burden on banking organizations to the extent consistent with the statute's goals. Third, issuing a comprehensive rule allowed the public an opportunity to comment on Federal Reserve interpretations of sections 23A and 23B.

## **Description of Information Collection**

The information collection requirements in Regulation W are found in 12 C.F.R. 223.15(b)(4), 223.31(d)(4), 223.41(d)(2), and 223.43(b). This information is required to evidence compliance with sections 23A and 23B of the Federal Reserve Act (12 U.S.C. §§ 371c(f) and 371c-1(e)) or to request an exemption from the Board. The notice requirements associated with Regulation W are described below.

**Loan Participation Renewal notice (12 C.F.R. 223.15(b)(4)) is a condition to an exemption for renewals of loan participations involving problem loans.** The participating depository institution must provide its appropriate federal banking agency with written notice of the renewal of, or the extension of additional credit in connection with, a low-quality asset not later than 20 days after consummation.

**Acquisition notice (12 C.F.R. 223.31(d)(4)) is a condition to an exemption for a depository institution's acquisition of an affiliate that becomes an operating subsidiary of the institution after the acquisition.** The institution must provide the appropriate federal banking agency and the Federal Reserve Board with written notice of its intention to acquire the company at or before the time that the company becomes an affiliate of the institution. The notice also must describe the primary business activities of the company.

**Internal-corporate-reorganization Transactions notice (12 C.F.R. 223.41(d)(2)) is a condition to an exemption for internal corporate reorganization transactions.** The depository institution must provide the appropriate federal banking agency and the Federal Reserve Board with written notice of the transaction before consummation. The notice must describe the primary business activities of the affiliate and indicate the proposed date of the asset purchase.

**Section 23A Additional Exemption notice (12 C.F.R. 223.43(b)) provides procedures for requesting additional exemptions from the requirements of section 23A and Regulation W.** The insured depository institution must submit a written request to the general counsel of the Federal Reserve Board. The request must describe in detail the transaction or relationship for which the institution seeks an exemption, explain why the Board should exempt the transaction or relationship, and explain how the exemption would be in the public interest and consistent with the purposes of section 23A.

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<sup>5</sup> See Pub. L. No. 106-102, 113 Stat. 1338 (1999).

## **Time Schedule for Information Collection**

These notifications are event-generated and must be provided to the appropriate federal banking agency and, if applicable, the Federal Reserve Board within the time periods established by the law and regulation as discussed above.

## **Legal Status**

The Board's Legal Division has determined that sections 23A and 23B of the Federal Reserve Act authorize the Board to issue regulations to carry out the provisions of that Act. (12 U.S.C. §§ 371c and 3c-1). Respondents are required to file the one or more of the Regulation W notices in order to obtain the benefits noted above. The Board's Legal Division also determined that confidential and proprietary information collected for the purposes of the Loan Participation Renewal notice (12 C.F.R. 223.15(b)(4)) may be protected under the authority of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(4)). Section (b)(4) of FOIA exempts information deemed competitively sensitive from disclosure. However, respondents who desire that the information on these notices be kept confidential in accordance with section (b)(4) can request confidential treatment under the Board's rules regarding confidential treatment of information at 12 C.F.R. 261.15. In addition, information that is obtained as part of an examination or supervision of a bank is exempt from disclosure under section (b)(8) of FOIA as examination material. (5 U.S.C. § 552(b)(8)).

## **Consultation Outside the Agency**

On May 27, 2015, the Federal Reserve published a notice in the *Federal Register* (80 FR 30248) requesting public comment for 60 days on Reg W. The comment period for this notice expired on July 27, 2015. The Federal Reserve did not receive any comments. On August 28, 2015, the Federal Reserve published a final notice in the *Federal Register* (80 FR 52279). The information collection will be extended for three years, without revision, as proposed.

## **Estimate of Respondent Burden**

The estimated total annual burden for the notice requirements of this information collection is 24 hours, as shown in the table below. The number of respondents is estimated based on the annual number of notices submitted the Federal Reserve Board during 2012, 2013, and 2014. The notice requirements in Reg W represent less than 1 percent of the total Federal Reserve System paperwork burden.

<b>Reg W</b>	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
12 C.F.R. 223.15(b)(4)	1	1	2	2
12 C.F.R. 223.31(d)(4)	1	1	6	6
12 C.F.R. 223.41(d)(2)	1	1	6	6
12 C.F.R. 223.43(b)	1	1	10	<u>10</u>
<i>Total</i>				24

The total cost to the public is estimated to be \$1,242.<sup>6</sup>

### **Sensitive Questions**

This information collection 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 to process these notifications is negligible.

<sup>6</sup> 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 \$17, 45% Financial Managers at \$63, 15% Lawyers at \$64, and 10% Chief Executives at \$87). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2014*, published March 25, 2015, [www.bls.gov/news.release/ocwage.t01.htm](http://www.bls.gov/news.release/ocwage.t01.htm). Occupations are defined using the BLS Occupational Classification System, [www.bls.gov/soc/](http://www.bls.gov/soc/).