

SUPPORTING STATEMENT
OMB# 1545-2110
REG-127770-07 (finalized as TD 9463)

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This document contains final regulations under section 1.860G-2 that expand the list of permitted loan modifications to include certain modifications that are often made to commercial mortgages. Changes to the regulations are necessary to better accommodate evolving practices in the commercial-mortgage industry. These changes will affect lenders, borrowers, services, and sponsors of securitizations of mortgages in REMICs.

Section 1.860G-2(a)(1) of the regulations provides that an obligation is principally secured by an interest in real property if the fair market value of the real property that secures the obligation equals at least 80 percent of the adjusted issue price of the obligation. The regulations require the 80-percent test to be satisfied either at the time the obligation was originated or at the time the sponsor contributes the obligation to the REMIC. After the startup day, the regulations do not require ongoing satisfaction of the 80-percent test.

Because certain types of modifications permitted by the final regulations could affect the value of the collateral securing the mortgage loan, the final regulations require the 80-percent test to be satisfied at the time the mortgage loan is modified with respect to changes in collateral, guarantees, and credit enhancement of an obligation or with respect to changes to the recourse nature of an obligation.

The collection of information in this regulation is in section 1.860G-2(b) (7). To establish that the 80-percent test is met at the time of modification, the servicer must obtain an appraisal or some other form of commercially reasonable valuation (the appraisal requirement). This information is required in order to show that modifications to mortgages permitted by the final regulation will not cause the modified mortgage to cease to be a qualified mortgage.

2. USE OF DATA

The Internal Revenue Service can use this information provided by the appraisal requirement to monitor proper compliance with the requirement in section 1.860G-2(a)(1) of the regulations that a mortgage loan held by a REMIC satisfy the 80-percent test and thereof, be principally secured by an interest in real property.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

REMICs affected by the appraisal requirement will not be required to file the appraisal with the Internal Revenue Service, though may be required to furnish this information to the Service if audited. Thus, there was no consideration given to using information technology to reduce burden.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible and we are not aware of any other information already available that could be used to determine the fair market value of an interest in real property for purposes of the proposed regulations.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

This collection of information will not have a significant impact on a substantial number of small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION OF FEDERAL PROGRAM OR POLICY ACTIVITIES

Consequences of less frequent collection on federal programs or policy activities, could result in insufficient information provided by the appraisal requirement to monitor proper compliance with the requirement in section 1.860G-2(a)(1) of the regulations, that at a mortgage loan held by a REMIC satisfy the 80-percent test and be principally secured by an interest in real property.

7. SPECIAL CIRCUMSTANCES REQUIRING DATE COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d) (2)

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

This notice of proposed rulemaking was published in the *Federal Register* on November 9, 2007 (72 FR 63523), to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was requested and was held on April 4, 2008 (73 FR 12041). The final regulation was published on September 16, 2009, 73 FR 47439 as (TD 9463).

In response to the *Federal Register* notice dated November 17, 2015 (80 FR 71919), we received no comments during the comment period regarding this final regulation.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Respondents will not be required to file the collection of information with the Internal Revenue Service, though may be requested to provide the information on audit. If requested on audit, the information is confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Estimated total annual reporting burden: 3000 hours
Estimated average annual burden hours per respondent: 8
Estimated annual frequency of responses: 1
The average commercial loan pool is 200 loans per pool and, in 2006, there were 75,000 outstanding commercial loans held by REMICs. We determined that there were approximately 375 REMICs (75,000/200) that could be affected by the appraisal requirement in section 1.860G-2(b)(7). We further estimated that an appraisal of an interest in real property would take 8 hours and that each

of the 375 estimated REMICs would have at least one loan modified each year such that the appraisal requirement would need to be satisfied in order to prevent the loan from becoming disqualified. Finally, we estimated the total annual reporting burden to be 3000 hours (375 REMICs x 8 hours/appraisal).

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

There are no capital/start-up or ongoing operation/maintenance cost associated with this information collection.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There is no change in the total burden previously approved. We are making this submission to renew the OMB approval.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

We believe that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulations sunset as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.