

**Supporting Statement for the
Reporting and Disclosure Requirements of the
Community Reinvestment Act-Related Agreements (Regulation G)
(Reg G; OMB No. 7100-0299)**

Summary

The Board of Governors of the Federal Reserve System (the Board), under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Reporting and Disclosure Requirements of the Community Reinvestment Act-Related Agreements (Regulation G) (Reg G; OMB No. 7100-0299). The Federal Reserve is required to renew these requirements every three years pursuant to the Paperwork Reduction Act (PRA), which classifies reporting, recordkeeping, or disclosure requirements of certain regulations, including Regulation G, as an “information collection.”¹

Regulation G implements provisions of the Gramm-Leach-Bliley Act (GLBA) that require reporting and public disclosure of written agreements between (1) insured depository institutions (IDIs) or their affiliates and (2) nongovernmental entities or persons (NGEPs), that are made in connection with the fulfillment of Community Reinvestment Act of 1977 (CRA) requirements.² The GLBA requires both IDIs and NGEPs to make a copy of any CRA-Related agreement available upon request, and file an annual report with each relevant supervisory agency regarding the use of funds under such agreement for that fiscal year. In addition, an IDI and affiliate must provide to the relevant supervisory agency each calendar quarter a list of all CRA-related agreements entered into during the quarter with a copy of the agreement.

The Federal Reserve accounts for the paperwork burden associated with Regulation G only for Federal Reserve-supervised institutions. Other federal banking agencies account for the paperwork burden imposed on entities for which they have administrative enforcement authority.³ The estimated annual burden for this information collection is 78 hours. This estimate is an average based on (1) the number of IDIs and affiliates that reported covered agreements to the Federal Reserve from 2012 to 2014, and (2) the additional savings and loan holding companies (SLHCs) which formerly reported to the Office of Thrift Supervision (OTS) but are now required to report to the Federal Reserve.⁴ There are no required reporting forms associated with Regulation G.

¹ See 44 U.S.C. § 3501 *et seq.*

² See 12 U.S.C. § 2901 *et seq.*

³ The other “federal banking agencies” are the Office of the Comptroller of the Currency (OMB No.1557-0219) and the Federal Deposit Insurance Corporation (OMB No. 3064-0139).

⁴ Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act) transferred all former Office of Thrift Supervision (OTS) authorities (including rulemaking) related to savings and loan holding companies (SLHCs) to the Federal Reserve on July 21, 2011. Section 207.1(b) of Regulation G generally defines Federal Reserve-regulated financial institutions as: State member banks and their subsidiaries; bank holding companies; savings and loan holding companies; and affiliates of bank holding companies and savings and loan holding institutions, other than banks, savings associations and subsidiaries of banks and savings associations; and NGEPs that enter into covered agreements with any of the aforementioned companies.

Background and Justification

The GLBA amended the Federal Deposit Insurance Act (FDI Act) by adding a new section 48, entitled “CRA Sunshine Requirements.” Section 48 imposes disclosure and reporting requirements on IDIs and their affiliates, and on NGEPs that enter into written agreements that meet certain criteria (covered agreements).⁵ A written agreement is a “covered agreement” if it is (1) made in fulfillment of the CRA and (2) involves funds or other resources of an IDI or affiliate with an aggregate value of more than \$10,000 in a year, or loans with an aggregate principal value of more than \$50,000 in a year. Section 48 excludes from the disclosure and reporting requirements any agreement between an IDI or its affiliate and an NGEP if the NGEP has not contacted the IDI, its affiliate, or a banking agency concerning the CRA performance of the IDI.

The GLBA directed the Federal Reserve, as well as the other federal banking agencies, to issue consistent and comparable regulations to implement the requirements of section 48 of the FDI Act. In 2001, the agencies promulgated substantially identical regulations, which interpret the scope of written agreements that are subject to the statute and implement the disclosure and reporting requirements of section 48.

Description of Information Collection

Regulation G contains the following disclosure and reporting requirements for IDIs and affiliates and NGEPs.

Requirements for Insured Depository Institutions, Affiliates, and Nongovernmental Entities or Persons

Disclosure of covered agreements to the public (12 C.F.R. 207.6(b)(1)).

Each NGEP and each IDI or affiliate that enters into a covered agreement must promptly make a copy of the covered agreement available to any individual or entity upon request.

Annual report required (12 C.F.R. 207.7(b)).

Each NGEP and each IDI or affiliate that is a party to a covered agreement must file an annual report with each relevant supervisory agency concerning the disbursement, receipt, and use of funds or other resources under the covered agreement.

An NGEP must file an annual report for any fiscal year in which the NGEP receives or uses funds or other resources under the agreement. An IDI or affiliate must file an annual report for any fiscal year in which it provides or receives any payments, fees, or loans under the covered agreement or has data to report on loans, investments, and services provided by a party to the covered agreement under the covered agreement. This requirement applies only to covered agreements entered into on or after May 12, 2000.

⁵ See 12 U.S.C. § 1831y.

**Alternative method of fulfilling annual reporting requirement for a NGEF
(12 C.F.R. 207.7(f)(2)(ii)).**

An IDI or affiliate that receives an annual report from an NGEF pursuant to section 207.7(f)(2)(i) must file the report with the relevant supervisory agency or agencies on behalf of the NGEF within 30 days.

Requirements for Insured Depository Institutions and Affiliates Only

Disclosure agreements relating to activities of CRA affiliates (12 C.F.R. 207.4(b)).

An IDI or affiliate that is a party to a covered agreement that concerns any activity of a CRA affiliate⁶ as defined in section 207.4(a) must, before the covered agreement is entered into, notify each NGEF that is a party to the agreement that the agreement concerns a CRA affiliate.

Disclosure of covered agreements by the IDI or affiliate to the relevant supervisory agency (12 C.F.R. 207.6(d)(1)).

Within 60 days of the end of each calendar quarter, each IDI and affiliate must provide each relevant supervisory agency with

- (i) a copy of each covered agreement entered into by the IDI or affiliate during the calendar quarter, and in the event the IDI or affiliate proposes the withholding of any information contained in the agreement in accordance with section 207.6(b)(2), a public version of the agreement with an explanation justifying the exclusions; or
- (ii) a list of all covered agreements entered into by the IDI or affiliate during the calendar quarter. The list must contain the name and address of each IDI or affiliate that is a party to the agreement; the name and address of each NGEF that is a party to the covered agreement; the date the covered agreement was entered into; the estimated total value of all payments, fees, loans, and other considerations to be provided by the IDI or affiliate under the covered agreement; and the date the covered agreement terminates.

Prompt filing of covered agreements contained in list (12 C.F.R. 207.6(d)(2)).

If an IDI or affiliate files a list of the covered agreements entered into by the IDI or affiliate pursuant to section 207.6 (d)(1)(ii), the IDI or affiliate must provide any relevant supervisory agency a complete copy and public version of any covered agreement referenced in the list within seven calendar days of receiving a request from the agency for a copy of the agreement. The obligation to provide the covered agreement to the relevant supervisory agency

⁶ A “CRA affiliate” of an insured depository institution is defined in section 207.11(c) as “any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEF that is a party to the agreement of such designation.”

extends until 36 months after the termination of the agreement. The estimated burden to provide a copy of the covered agreement is included in the estimate of the burden to provide the list of covered agreements to the agencies.

Requirement for Nongovernmental Entities or Persons Only

Reporting by NGEPs of covered agreements to the relevant supervisory agency (12 C.F.R. 207.6(c)(1)).

Each NGEF that is a party to a covered agreement must provide a complete copy of the covered agreement within 30 days of receiving a request from the relevant supervisory agency.

Time Schedule for Information Collection

Information collection requirements under Regulation G are triggered by certain events, and disclosures, notifications or reports must be made within prescribed time periods as discussed above.

Legal Status

The Board's Legal Division determined that the reporting and disclosure requirements of Regulation G are authorized pursuant to section 48 of the FDI Act (12 U.S.C. § 1831y). Regulation G is a mandatory reporting and disclosure requirement. The Board does not generally consider the information obtained under Regulation G to be confidential. However, a respondent may request confidential treatment under section (b)(4) of the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Section (b)(4) provides an exemption for "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. § 552(b)(4)). In order for a respondent to avail itself of this exemption, the respondent would have to show that the release of information would likely cause substantial harm to their competitive position.⁷ In addition, the information obtained under Regulation G may in appropriate circumstances also be withheld pursuant to section (b)(8) of the FOIA, which exempts information contained in "examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions" (5 U.S.C. § 552(b)(8)).

Consultation Outside the Agency

On September 23, 2015, the Federal Reserve published a notice in the *Federal Register* (80 FR 57374) requesting comment for 60 days on the Reg G information collection. The comment period for this notice expired on November 23, 2015. The Federal Reserve did not receive any comments. On December 9, 2015, 2015, the Federal Reserve published a final notice in the *Federal Register* (80 FR 76490).

⁷ *National Parks and Conservation Association v. Morton*, 498 F.2d 765 (D.C. Cir. 1974).

Estimate of Respondent Burden

The total annual burden for the disclosure and reporting requirements associated with Regulation G is estimated to be 78 hours. This estimate is an average based on (1) the number of IDIs or their affiliates that reported covered agreements to the Federal Reserve from 2012 to 2014 and (2) the additional SLHCs which formerly reported to the OTS but are now required to report to the Federal Reserve. The number of NGEF respondents is based upon an assumption that one NGEF is a party to each covered agreement. The estimated annual burden represents less than one percent of the total Federal Reserve System paperwork burden.

Reg G	<i>Number of respondents⁸</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<u><i>Disclosure burden for IDI and affiliates</i></u>				
Covered agreements to public (Section 207.6(b)(1))	2	3	1	6
Agreements relating to activities of CRA affiliates (Section 207.4(b))	2	3	1	6
<u><i>Reporting burden for IDI and affiliates</i></u>				
Copy of agreements to agency (Section 207.6(d)(1)(i))	2	4	1	8
List of agreements to agency (Section 207.6(d)(1)(ii))	2	4	1	8
Annual report (Section 207.7(b))	2	1	4	8
Filing NGEF annual report (Section 207.7(f)(2)(ii))	2	3	1	6
<u><i>Disclosure burden for NGEF</i></u>				
Covered agreements to public (Section 207.6(b)(1))	6	1	1	6
<u><i>Reporting burden for NGEF</i></u>				
Copy of agreements to agency (Section 207.6(c)(1))	6	1	1	6
Annual report (Section 207.7(b))	6	1	4	<u>24</u>
<i>Total</i>				<u>78</u>

The estimated cost to the public for this information collection is \$4,037.⁹

⁸ Of the respondents, none are small entities as defined by the Small Business Administration (i.e., for commercial banking, entities with less than \$550 million in average assets). See www.sba.gov/content/table-small-business-size-standards.

⁹ 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. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.

Sensitive Questions

This collection of information does not contain questions of a sensitive nature, as defined by Office of Management and Budget guidelines.

Estimate of Cost to the Federal Reserve System

Since there are so few filings submitted to the Federal Reserve, the cost to the Federal Reserve System is negligible.