Supporting Statement for the
Recordkeeping Provisions Associated with Guidance on Leveraged Lending
(FR 4203; OMB No. 7100-0354)

Summary

The Board of Governors of the Federal Reserve System (Board), under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years without revision the voluntary Recordkeeping Provisions Associated with Guidance on Leveraged Lending (FR 4203; OMB No. 7100-0354). The Paperwork Reduction Act (PRA) classifies these recordkeeping requirements as an information collection and the PRA requires, subsequent to implementation, the Board to renew these requirements every three years.

The interagency guidance outlines high-level principles related to safe and sound leveraged lending activities, including underwriting considerations, assessing and documenting enterprise value, risk management expectations for credits awaiting distribution, stress testing expectations and portfolio management, and risk management expectations. This guidance applies to all financial institutions substantively engaged in leveraged lending activities supervised by the Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (the agencies).

The agencies identified certain aspects of the proposed guidance that constitute a collection of information. In particular, these aspects are the provisions that state a banking organization should (1) have underwriting policies for leveraged lending, including stress testing procedures for leveraged credits, (2) have risk management policies, including stress testing procedures for pipeline exposures, and (3) have policies and procedures for incorporating the results of leveraged credit and pipeline stress tests into the firm's overall stress testing framework.

Although the guidance is applicable to all institutions that originate or participate in leverage lending, due to the large exposures created by these types of loans, these credits are most likely originated primarily by larger institutions. Accordingly, the Board's total annual burden is estimated to be 29,422 hours for the 39 financial institutions that are likely to have paperwork burden arising from the guidance. This estimate considered institutions engaged in shared national credits, which are credit exposures of $20 million or more that, at inception, are shared by two or more supervised institutions or are sold to one or more supervised institutions. The shared national credit exposure for the 39 institutions does not include exposure to commercial real estate, insurance, construction of individuals. There are no required reporting forms associated with the guidance.

Background and Justification

In April 2001, the agencies (and Office of Thrift Supervision) issued guidance[1] regarding sound practices for leveraged finance[2] activities (2001 Guidance). The 2001 Guidance addressed expectations for the content of credit policies, the need for well-defined underwriting standards, the importance of defining an institution's risk appetite for leveraged transactions, and the importance of stress testing exposures and portfolios.

In March 2013, the agencies issued revised guidance on leveraged lending (2013 Guidance) to update and replace the 2001 Guidance in light of the developments and experience gained since the 2001 Guidance was issued, including the experience of institutions in the recent financial crisis.

The 2013 Guidance expands on the principles described in the 2001 Guidance. The 2013 Guidance includes expectations in regards to leveraged lending such that institutions (1) identify and define their leveraged lending risk appetite taking into account the potential effect on earnings, capital, liquidity, and other risks, (2) develop limit frameworks for leveraged lending that include limits for single and aggregate exposures, as well as industry and geographic concentrations, (3) institute procedures for ensuring the risks of leveraged lending activities are appropriately reflected in an institution's allowance for loan and lease losses (ALLL) and capital adequacy analyses, (4) clarify credit and underwriting approval authorities and documentation policies to amend approved transaction structures and terms, (5) implement guidelines for appropriate oversight by senior management and the board of directors, (6) develop expected risk-adjusted returns for leveraged transactions, and (7) institute minimum underwriting standards and effective underwriting practices for loan origination and acquisition. The 2013 Guidance is intended to be consistent with industry practices while building upon interagency guidance on Stress Testing.[3]

Description of Information Collection

As mentioned above, the 2013 Guidance replaced the 2001 Guidance and forms the basis of the agencies' supervisory focus and review of supervised financial institutions, including, as applicable, subsidiaries and affiliates involved in leveraged lending. In implementing the guidance, the agencies consider the size and risk profile of an institution's leveraged portfolio relative to its assets, earnings, liquidity, and capital. Although some sections of this proposal are

---

[1] SR 01-9, "Interagency Guidance on Leveraged Financing," April 17, 2001, OCC Bulletin 2001-8, FDIC Press Release PR-28-2001.

[2] For the purpose of this guidance, references to leveraged finance or leveraged transactions encompass the entire debt structure of a leveraged obligor (including senior loans and letters of credit, mezzanine tranches, senior and subordinated bonds). References to leveraged lending and leveraged loan transactions and credit agreements refer to the senior loan and letter of credit tranches held by both bank and non-bank investors.

[3] See interagency guidance "Supervisory Guidance on Stress Testing for Banking Organizations With More Than $10 Billion in Total Consolidated Assets," final supervisory guidance, 77 FR 29458 (May 17, 2012), at https://federalregister.gov/a/2012-11989, and the joint "Statement to Clarify Supervisory Expectations for Stress Testing by Community Banks," May 14, 2012, by the OCC at www.occ.gov/news-issuances/news-releases/2012/nr-ia-2012-76a.pdf; the Board at www.federalreserve.gov/newsevents/press/bcreg/bcreg20120514b1.pdf; and the FDIC at www.fdic.gov/news/news/press/2012/pr12054a.pdf. See also FDIC Final Rule, Annual Stress Test, 77 FR 62417 (October 15, 2012) (to be codified at 12 C.F.R. part 325, subpart C).

intended to apply to all leveraged lending transactions (e.g., underwriting), the vast majority of community banks should not be affected by this guidance as they have no exposure to leveraged credits. The limited number of community and smaller institutions that are involved in leveraged lending activities may discuss with their primary regulator implementation of cost-effective controls appropriate for the complexity of their exposures and activities.

Time Schedule for Information Collection

The documentation required by the 2013 Guidance is maintained by each institution; therefore, are not collected or published by the Board. These recordkeeping requirements are documented on occasion. Bank examiners would verify compliance with this recordkeeping requirement during examinations.

Legal Status

The Board's Legal Division has determined that all financial institutions supervised by the Board and substantively engaged in leveraged lending activities are subject to the FR 4203:

- Regarding state member banks, the information collection is authorized by section 11(a)(2) of the Federal Reserve Act (12 U.S.C. § 248(a)(2)), which authorizes the Board to require any depository institution to make such reports of its assets and liabilities as the Board may determine to be necessary or desirable to enable the Board to discharge its responsibilities to monitor and control monetary and credit aggregates,
- With respect to bank holding companies, section 5(c) of the Bank Holding Company Act (12 U.S.C. § 1844(c)), authorizes the Board to require a bank holding company and any subsidiary "to keep the Board informed as to its financial condition, [and] systems for monitoring and controlling financial and operating risks ...,"
- With respect to savings and loan holding companies (12 U.S.C. § 1467a(b)(3)), authorizes the Board to "maintain such books and records as may be prescribed by the Board,"
- Regarding branches and agencies of foreign banking organizations, section 7(c)(2) of the International Banking Act of 1978 (12 U.S.C. § 3105(c)(2)), subjects such entities to the requirements of section 11(a) of the Federal Reserve Act (12 U.S.C. § 248(a)) "to the same extent and in the same manner as if the branch or agency were a state member bank," and
- Under section 25 of the Federal Reserve Act (12 U.S.C. § 602), member banks are required to furnish to the Board "information concerning the condition of" Edge Act and agreement corporations in which they invest. More generally with respect to Edge Act and agreement corporations, under section 25A of the Federal Reserve Act (12 U.S.C. § 611a), the Board may "issue rules and regulations" governing such entities "consistent with and in furtherance of the purposes" of that subchapter.

Because the information collection is called for in guidance and not in a statute or regulation, it is considered voluntary. Because the information collected by the guidance is maintained at the institutions, issues of confidentiality would not normally arise. Should the information be obtained by the Board in the course of an examination, it would be exempt

from disclosure under exemption 8 of Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(8)). In addition, some or all of the information may be confidential commercial or financial information protected from disclosure under exemption 4 of FOIA, under the standards set forth in National Parks and Conservation Association v. Morton, 498 F.2d 765 (D.C. Cir. 1974).

Consultation Outside of the Agency

On March 15, 2016, the Board published a notice in the *Federal Register* (81 FR 13791) requesting public comment for 60 days on the extension, without revision, of the FR 4203. The comment period for this notice expired on May 16, 2016. The Board did not receive any comments. On May 27, 2016, the Board published a final notice in the *Federal Register* (81 FR 33673).

Estimate of Respondent Burden

The total annual burden for the FR 4203 is estimated to be 29,422 hours, as shown in the table below. The Board estimates that it would take the 39 Board-supervised institutions on average 754.4 hours to maintain these provisions annually. These recordkeeping requirements represent less than 1 percent of total Federal Reserve System paperwork burden.

FR 4203	*Number of respondents*[4]	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Maintain guidance provisions	39	1	754.4	29,422

The total cost to the public is estimated to be $1,563,779.[5]

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

Since the FR 4203 does not require the Board to collect any information, the cost to the Board is negligible.

[4] Of these respondents, none are small entities as defined by the Small Business Administration (i.e., entities with less than $550 million in total assets) www.sba.gov/contracting/getting-started-contractor/make-sure-you-meet-sba-size-standards/table-small-business-size-standards.

[5] 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 $65, 15% Lawyers at $66, and 10% Chief Executives at $89). 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 2015*, published March 30, 2016 www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.