

**Supporting Statement for the
Survey to Obtain Information on the Relevant Market in Individual Merger Cases
(FR 2060; OMB No. 7100-0232)**

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 Survey to Obtain Information on the Relevant Market in Individual Merger Cases (FR 2060; OMB No. 7100-0232). The Board designed this survey to determine from what sources small businesses and consumers in a particular geographical area obtain financial services. The Board uses this information to define relevant banking markets for specific merger and acquisition applications and to evaluate changes in competition that would result from proposed transactions, including purchase and assumption agreements. The event-generated survey is conducted by telephone and has been used no more than once per year since 1990. The current annual burden for the FR 2060 survey is estimated to be nine hours.

Background and Justification

Under the Bank Holding Company Act of 1956 (12 U.S.C. §§ 1841 *et seq.*), the Bank Merger Act of 1960 (12 U.S.C. § 1828(c)), and the Change in Bank Control Act of 1978 (12 U.S.C. § 1817(j)), the Board is required to evaluate merger and acquisition applications submitted by bank holding companies to determine the effects of proposed transactions on competition. The standards of the antitrust laws, specifically section 7 of the Clayton Antitrust Act, must be applied. If a merger may substantially lessen competition or tend to create a monopoly, the Board shall not approve the merger.

The foundation for an analysis of competition by the Board in such merger applications is the economic concept of the relevant market. Applying this theoretical concept to specific situations requires the determination of the geographic area that includes all direct competitors (this area could be a town, a county, a state, a region of the country, or the entire country) and the relevant product market (which requires identifying the firms within the relevant geographic area that compete with one another).

For some time, there was widespread belief that the geographic markets in commercial banking were local (for example, a single county) and that the product market was composed only of commercial banking. This definition was accepted and applied by the Supreme Court and accepted by the Board.¹ However, as a result of substantial changes in banking and in the financial services industry as a whole in the past two decades, some have questioned the traditional definition of banking markets, even for households and small businesses.

¹ In its *Philadelphia National Bank* decision in 1963 and again in its *Connecticut National Bank* decision in 1974, the Supreme Court concluded and reaffirmed that banking should be treated as a distinct and separate line of commerce and that only firms offering the full array of bank products should be included in the market definition of banking. Furthermore, the Supreme Court determined that banking markets for small businesses and consumers were limited to small geographic areas. Survey research conducted in conjunction with individual bank merger and acquisition cases between 1963 and 1974 supported this view.

Specifically, numerous changes in bank regulation and technology have raised questions regarding the traditional definition of locally limited commercial banking. The most notable of these changes are:

- Thrift institutions are now permitted to offer the majority of banking products, including transaction accounts and commercial loans,
- Non-depository institutions now offer various financial services,
- Securitization and sales of loan products have increased, and
- Electronic technology has increased the potential for remote delivery of some financial services to end users, including small businesses and consumers.

The definition of a relevant geographic banking market is therefore an empirical question. Prior to the implementation of the FR 2060 in 1987, there was no direct means by which to gather empirical evidence to assess the geographic scope of banking markets in specific situations. Although the findings of the Board's Survey of Consumer Finances (FR 3059; OMB No. 7100-0295) generally confirms the validity of the local market approach as a general proposition, these findings will not necessarily apply in specific merger and acquisition cases. In addition, the Board's Survey of Small Business Finances (FR 3044; OMB No. 7100-0262), which formerly provided information of the proximity of small businesses to their financial institutions, was discontinued.² Although the Board occasionally uses small business loan data from the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB (Community Reinvestment Act) (OMB No. 7100-0197) as a source of information for analyzing small business financing, there are cases where the Board needs the small business portion of the FR 2060 survey for supplemental information. Thus, for both consumer and small business finances, the use of local depository institutions in specific cases can be ascertained only by conducting a survey such as the FR 2060.

The empirical evidence compiled since the implementation of the FR 2060 survey has indicated that relevant banking markets for smaller businesses and households are still generally limited to small geographic areas, such as a county or a metropolitan area, and that there is a tendency to purchase a cluster of services from commercial banks. The data obtained from this survey have provided the Board with a more accurate picture of the relevant banking market for selected merger applications. This type of case-specific information on the market definition in merger applications has provided an empirical foundation for staff analysis, Board decisions, and published Board orders prepared by the Board's Legal Division.

Out of the several hundred bank merger and acquisition applications reviewed by the Board each year, as required by law, fewer than a dozen typically are evaluated by the Board as having potentially serious competition problems. In a few of these cases, there is not sufficient data to allow a sound economic analysis as the basis for a decision by the Board and a written Board order by the Legal Division. In these cases, the FR 2060 survey provides useful information for analyzing competition or clarifying the market definition.

² The 2003 survey is the last version available.

Description of Information Collection

The Board would conduct the survey by telephone. Information would be obtained from approximately 50 consumers and approximately 25 small businesses selected at random from local telephone directories. The survey would focus on local consumers and businesses to determine whether, as in the past, they generally rely on local providers of financial services or instead obtain financial services from a broader geographic area such as a state or the entire country. In the survey of small businesses, responses would be obtained from the most knowledgeable available individual, usually the president or treasurer. The proposed sample selection process is described in Attachment 1.

The survey questions would serve as a guideline for Reserve Bank staff and have been developed in consultation with staff from throughout the Board who have considerable experience in defining relevant banking markets in cases where competitive issues arise. The questions are designed to assess the extent to which nonbank and nonlocal financial services are used by or offered to small businesses and consumers. The main objective of the questions would be to determine the importance and influence of nonbank and out-of-area sources of credit and deposit services. In several merger and acquisition cases, past surveys have provided the Board with key information for defining the relevant banking market and assessing competition. The Board has worked with Reserve Banks to tailor the survey questions for certain mergers or acquisitions, as appropriate. An example of one of these tailored surveys is provided as Attachment 2.

The survey data would permit the use of statistical tests to determine the confidence that may be placed in the findings. Because the samples would be drawn from a specific local market, the findings would be valid only for the particular case under consideration, and extrapolation to other markets or to the nation as a whole would not be appropriate.

Time Schedule for Information Collection and Publication

Generally within the first week after a Reserve Bank accepts a merger application, Reserve Bank staff would make a preliminary evaluation of the merger's possible effects on competition. If certain Board delegation criteria are not met, the Board would analyze the likely competitive effects and decide whether it would be advisable to conduct the survey. If a survey was deemed advisable, the appropriate Reserve Bank would conduct the FR 2060 survey. The number of questions in the survey would be kept at a minimum so that the entire process of conducting the survey, tabulating the responses, and summarizing the findings could be finished within the confines of the Board's internal 60-day limit for processing merger and acquisition applications. Once the Board summarizes the responses of small businesses and consumers, the survey results would be analyzed and the relevant findings incorporated into a memorandum to the Board of Governors. The responses would be confidential and therefore would not be published.

Legal Status

The Board's Legal Division has determined that the FR 2060 is authorized pursuant to the Change In Bank Control Act (12 U.S.C. §§ 1817(j)(7)(A) and (B)), the Bank Merger Act (12 U.S.C. § 1828(c)(5)), and section 3(c)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(c)(1)). Each of these sections require the Board to evaluate merger and acquisition applications by banks and bank holding companies to determine the effects of proposed transactions on competition in a particular banking market. In order to make this determination, the Board must determine the relevant market and then determine the level of competition in the market. This survey provides the data necessary to make such determinations when the Board otherwise would not have such information. The FR 2060 is a voluntary survey.

Information obtained from small business and individuals may be kept confidential under the Freedom of Information Act (FOIA). Information obtained from small businesses can be considered confidential under exemption (b)(4) of the FOIA because the release of information obtained from small businesses would (1) impair the Board's ability to obtain this information from entities that could not be compelled to respond and (2) cause substantial harm to the competitive position of the entity from whom the information was obtained (5 U.S.C. § 552(b)(4)). In addition, information obtained from consumers may be kept confidential under exemption (b)(6) of the FOIA because the information the survey collects is the type of information that would constitute a clearly unwarranted invasion of personal privacy (5 U.S.C. § 552(b)(6)).

Consultation Outside the Agency

On April 4, 2016, the Board published a notice in the *Federal Register* (81 FR 19181) requesting public comment for 60 days on the extension, without revision, of the FR 2060. The comment period for this notice expired on June 3, 2016. The Board did not receive any comments. On June 29, 2016, the Board published a final notice in the *Federal Register* (81 FR 42359).

Estimate of Respondent Burden

The current burden for the FR 2060 survey is estimated to be nine hours annually as shown in the following table. Because the survey is event-generated, it is not possible to predict exactly how many surveys would be conducted in a given year. The burden estimate shown in the table below is based on the number of surveys conducted during the past three years. These reporting requirements represent less than 1 percent of total Federal Reserve System paperwork burden.

FR 2060	<i>Number of respondents³</i>	<i>Annual frequency</i>	<i>Estimated average time per response</i>	<i>Estimated annual burden hours</i>
Small Businesses	25	1	10 minutes	4
Consumers	50	1	6 minutes	<u>5</u>
	<i>Total</i>			9

The total annual cost to the public for this information collection is estimated to be \$598.⁴

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 annual cost to the Board of conducting the surveys is negligible.

³ Of these respondents, all 25 of the small businesses are estimated to be 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.

⁴ 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/. The average consumer cost of \$24 is estimated using data from the BLS Economic News Release (USD L-16-0462) www.bls.gov/news.release/cewqtr.nr0.htm.

Attachment 1

FR 2060 Overview of the Sample Selection Process

Sampling Procedures

For the consumer component of the survey, the population of interest consists of all households located in the geographic area that the Reserve Bank defines as the market. The unit of observation is the household. The respondent will be the financial head of the household or other financially knowledgeable adult.

For the business component of the survey, the population of interest consists of all business enterprises that had revenues of less than \$1,000,000 in the past year and that had an establishment in the designated geographic market area. However, there may be rare occasions where information from business enterprises with more than \$1,000,000 in annual revenue would be considered necessary. The unit of observation is the business enterprise. The respondent will be an individual who is responsible for the lending relationships and financial decision-making in the firm. That individual may be the owner, chief executive officer, president, treasurer, or comptroller.

A random sample will be drawn from listings in the local telephone directory using a random number table to select a page and then to select an entry on the page. The residential listings will be used for the consumer survey. The business white pages will be used for the business survey. In the event that business white pages do not exist, the yellow pages will be used.

The number of listings selected should be large enough to yield fifty completed household interviews and twenty-five completed business interviews. The proportion of blank listings (for example, listings with the number not working or that do not belong to a small business or household) and the response rate must be estimated to determine the number of listings to be selected.

A small number of screening questions will be required to determine whether a listing is an element of the population. If the survey yields substantially fewer than the desired number of completed interviews, perhaps because of an underestimate of the number of blank listings, then the first sample may be supplemented by a second random drawing. New listings, however, will not be allowed to substitute for refusals. Not at home will be treated as a refusal but efforts should be made to re-contact.

Sampling Errors

The following tables present sampling errors, for the target sample sizes, across various hypothetical population sizes and across selected percentages of household or business respondents that do something asked in the survey.

Attachment 1

Table 1
Sampling Errors for Survey of Consumers
(Sample Size of 50 Households)

Sampling error (plus or minus, in percentage points) for a population of:

Percentage of households that do something asked in the survey	2,000 households	4,000 households	10,000 households	20,000 households
90	9	9	9	9
70	13	13	13	13
50	14	14	14	14
30	13	13	13	13
10	9	9	9	9

Table 2
Sampling Errors for Survey of Business
(Sample Size of 25 Businesses)

Sampling error (plus or minus, in percentage points) for a population of:

Percentage of businesses that do something asked in the survey	120 businesses	240 businesses	600 businesses	1,200 businesses
90	11	12	12	12
70	17	18	18	19
50	18	19	20	20
30	17	18	18	19
10	11	12	12	12

Attachment 2

Sample of a modified FR 2060 survey form

Name: _____ Phone: _____

City: _____

Hello, I'm calling from the Federal Reserve Bank of _____, which is part of the Federal Reserve System. We're surveying small businesses in your area to find out where they do their banking and what services they use. We're asking a series of questions that takes about 5 minutes to complete, and we'd appreciate your help.

Would you like to participate?

Appropriate person not in. (*Terminate*)

No. (*Terminate*)

Yes. Thank you. (*Continue*)

1. Do you have any loans outstanding?

Yes

No

No Response

2. If yes to question 1, where did you obtain the most recent loan?

Name _____ City _____

3. Do you have any other loans?

Yes

No

No Response

4. If yes to question 3, where did you obtain these loans?

Name _____ City _____

5. Are any of your loans from

Finance companies? Name _____ City _____

Credit unions? Name _____ City _____

Brokerage firms? Name _____ City _____

Attachment 2

6. During the past two years, has your firm been directly solicited for its loan business by any financial institutions?

Name _____ City

7. If you were solicited by a financial institution, did you accept the services or credit offered? If not, why not?

8. In which institution does your firm maintain its primary checking account?

Name _____ City

9. Does your firm have a formal line of credit outstanding?

Yes

No

No Response

10. If yes to question 9, where was the line of credit obtained?

Name _____ City

11. I'm going to read a list of ranges for the annual revenue of firms. I want you to stop me when I read the range that covers your firm's annual revenue.⁵

\$0 - \$250,000 _____

\$250,000 - \$1 Million _____

\$1 Million - \$10 Million _____

\$10 Million and over _____

(Respondent does not meet sampling criteria)

Thank You!

Miscellaneous comments: _____

Interviewer: _____

Date: _____ Time: _____

⁵ This should include the entire firm rather than an office, branch, or franchise of a larger firm.

Attachment 2

CONSUMER SURVEY

_____ County, _____

Name: _____

Telephone Number: _____

City: _____

Date: _____

Time: _____

Interviewer's Initials: _____

Hello, I'm calling from the Federal Reserve Bank of _____, which is part of the Federal Reserve System. We're surveying people in your area to find out where they do their banking and what services they use. We're asking a series of questions that takes about 5 minutes to complete, and we'd appreciate your help.

Would you like to participate?

Appropriate person not in. (*Terminate*)

No. (*Terminate*)

Yes. Thank you. (*Continue*)

Questions	Response	Skip to #
1. Do you have a checking account?	Yes	2
	No	3
	No response	3
2. Where do you maintain this account?	Would not specify	3
Bank: _____ City: _____		
3. Do you have a savings account or CDs?	Yes	4
	No	5
	No response	5
4. Where do you maintain this account?	Would not specify	5
Bank: _____ City: _____		

