Supporting Statement for the
Reports of Foreign Banking Organizations
(FR Y-7N, FR Y-7NS, and FR Y-7Q; OMB No. 7100-0125)

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 the Reports of Foreign Banking Organizations (OMB No. 7100-0125), with revisions to the mandatory Capital and Asset Report for Foreign Banking Organizations (FR Y-7Q; OMB No. 7100-0125), effective December 31, 2016, except for three new FR Y-7Q items, which are effective March 31, 2018. This family of reports also contains two other mandatory reports, which are not being revised at this time:

(1) Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations[1] (FR Y-7N; OMB No. 7100-0125), and
(2) Abbreviated Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7NS; OMB No. 7100-0125).

The FR Y-7N and FR Y-7NS collect financial information for non-functionally regulated U.S. nonbank subsidiaries held by foreign banking organizations (FBOs) other than through a U.S. bank holding company (BHC), financial holding company (FHC), or U.S. bank. FBOs file the FR Y-7N quarterly or annually or the FR Y-7NS annually predominantly based on asset size thresholds. The FR Y-7Q collects consolidated regulatory capital information from all FBOs either quarterly or annually. The FR Y-7Q is filed quarterly by FBOs that have effectively elected to become U.S. FHCs and by FBOs that have total consolidated assets of $50 billion or more, regardless of FHC status. All other FBOs file the FR Y-7Q annually.

The Federal Reserve previously proposed to collect fourteen new data items to monitor compliance with enhanced prudential standards for FBOs adopted pursuant to subparts N and O of Enhanced Prudential Standards (Regulation YY). As discussed below, as a result of commenters' general concerns regarding the potential confidentiality of two items required to be reported in the proposal that may be considered non-public supervisory capital buffers by an FBO's home country supervisor, the Federal Reserve now proposes to eliminate these two items from the information collection and only collect twelve new data items. The new data items would be used to determine whether an FBO with total consolidated assets of $50 billion or more meets capital adequacy standards at the consolidated level that are consistent with the Basel Capital Framework, as defined in Regulation YY. The proposed revision would be effective December 31, 2016, and for some items, March 31, 2018. The designation by certain foreign banking organizations of U.S. intermediate holding companies (IHCs) would result in a decrease in the number of FR Y-7N and FR Y-NS respondents by 154, from 269 to 115.[2] As a result of the proposed revisions and change in the number of estimated respondents, the total annual

[1] Excludes nonbanking subsidiaries held through a U.S. bank holding company or U.S. bank subsidiary.

[2] See 81 FR 6265 (February 5, 2016).

burden for this family of reports, which currently is estimated to be 5,227 hours, would decrease to an estimated 3,108 hours.

Background and Justification

The Federal Reserve implemented the FR Y-7 in January 1972 and required only foreign banks that controlled a U.S. subsidiary bank to file. With the enactment of the International Banking Act of 1978 (IBA), the Congress established a framework for federal regulation of foreign banks operating in U.S. financial markets. Section 7 of the IBA authorizes the Federal Reserve to examine U.S. branches, agencies, and subsidiary commercial lending companies of foreign banks and to assess the condition of the multi-state banking operations of foreign banks. Section 8(a) of the IBA states that foreign banks that engage in banking in the United States through a U.S. branch, agency or subsidiary commercial lending company and companies that control such foreign banks are subject to the provisions of the BHC Act, as amended.

In 2002, the Federal Reserve revised the FR Y-7 and implemented the FR Y-7Q, FR Y-7N, and FR Y-7NS. Revisions to the FR Y-7 included moving the risk-based capital reporting requirement to the FR Y-7Q and moving the Nonbank Financial Information Summary (NFIS) report, which included data from U.S. nonbank subsidiaries held directly by a foreign parent (i.e., not through a U.S. BHC or U.S. FHC or U.S. bank), to the FR Y-7N or FR Y-7NS.

In December 2013, the Federal Reserve reduced reporting burden by increasing the asset size thresholds for filing the FR Y-7N and FR Y-7NS annual reports to total assets greater than or equal to $500 million, but less than $1 billion and to total assets of at least $250 million, but less than $500 million, respectively.

In March 2014, the Federal Reserve revised the FR Y-7Q to modify the quarterly filing requirements and to add a data item to the reporting form. The respondent panel was modified to require all FBOs with total consolidated assets of $50 billion or more to begin filing quarterly, effective March 31, 2014, regardless of FHC status. The data item was added to Part 1 to collect the top-tier FBO's total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies.

In December 2014, the Federal Reserve revised the FR Y-7Q to collect a new data item, total U.S. non-branch assets, to determine whether an FBO meets the threshold for formation of an IHC. This item collects the sum of the total combined U.S. assets of a top-tier FBO's top-tier U.S. domiciled affiliates less its branch and agency assets.

The Federal Reserve System uses information collected on this family of reports to assess an FBO's ability to be a continuing source of strength to its U.S. operations and to determine compliance with U.S. laws and regulations. This information is not available from other sources.

Description of the Information Collection

FR Y-7N and FR Y-7NS

The FR Y-7N consists of an income statement and a balance sheet, schedules that collect information on changes in equity capital, changes in the allowance for loan and lease losses, off-balance-sheet data items, loans, and a memoranda section. All FBOs file the FR Y-7N quarterly for their significant nonbank subsidiaries. Subsidiaries are defined as significant if they have total assets of at least $1 billion or off-balance-sheet activities (including commitments to purchase foreign currencies and U.S. dollar exchange, all other futures and forwards contracts, option contracts, and the notional value of interest rate swaps, exchange swaps and other swaps) of at least $5 billion, as of the end of a quarter. FBOs commence quarterly reporting for these subsidiaries at the end of the quarter in which the subsidiaries meet the significance threshold. The FR Y-7N is filed annually as of December 31 for each individual nonbank subsidiary (that does not meet the criteria for filing quarterly) with total assets of at least $500 million, but less than $1 billion.

The FR Y-7NS is an abbreviated reporting form that collects net income, total assets, equity capital, and total off-balance-sheet data items. The FR Y-7NS is filed annually as of December 31 by top-tier FBOs for each individual nonbank subsidiary (that does not meet the filing criteria for filing the detailed report) with total assets of at least $250 million, but less than $500 million.

FR Y-7Q

The FR Y-7Q collects consolidated capital and asset information from all FBOs. Part 1 of the reporting form currently collects the following information: tier 1 capital, total risk-based capital, risk-weighted assets, total consolidated assets, total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies, and total U.S. non-branch assets. In addition, FBOs that file the FR Y-7Q because of the FHC designation also must provide separate capital schedules on Part 2 of the FR Y-7Q quarterly for each lower-tier FBO operating a branch, agency, Edge or agreement corporation, or commercial lending company in the United States.

The FR Y-7Q is filed quarterly by FBOs if the top-tier FBO or any FBO in its tiered structure has effectively elected to be an FHC and by FBOs with total consolidated assets of $50 billion or more, regardless of FHC status. The FR Y-7Q is filed annually if the FBO or any FBO in its tiered structure has not effectively elected to be a FHC and the FBO has total consolidated assets of less than $50 billion.

Proposed Revisions to the FR Y-7Q

On February 18, 2014, the Board approved a final rule, pursuant to section 165 of the Dodd-Frank Act, that requires an FBO with total consolidated assets of $50 billion or more to certify to the Board that it meets capital adequacy standards on a consolidated basis, as established by its home-country supervisor, that are consistent with the regulatory capital framework published by the Basel Committee on Banking Supervision.[3] This requirement was intended to help ensure that the consolidated capital base supporting the activities of U.S. branches and agencies remains strong, and to lessen the degree to which weaknesses at the consolidated foreign parent could undermine the financial strength of its U.S. operations. The following new data items would be used to determine whether an FBO with total consolidated assets of $50 billion or more meets capital adequacy standards at the consolidated level that are consistent with the Basel Capital Framework.

Part 1B (new section for FBOs >$50 billion in total assets)

The proposal would require an FBOs with total consolidated assets of $50 billion or more to complete a new section, Part 1B, effective December 31, 2016, (with three of the proposed items effective March 31, 2018). Proposed Part 1B would contain 12 items related to home country regulatory capital ratios that would be reported on a quarterly basis.[4] The value of each of these items would be calculated on a consolidated basis according to the methodologies established by the FBO's home-country supervisor that are consistent with the Basel Capital Framework, as defined in Regulation YY.[5] If the home-country supervisor has not established capital adequacy standards consistent with the Basel Capital Framework, the value of these items would be calculated on a pro-forma basis as if the FBO were subject to such standards. The proposed line items that would be effective December 31, 2016, include:

(1) Common equity tier 1 capital,
(2) Additional tier 1 capital,
(3) Tier 1 capital (sum of items 1 and 2),
(4) Tier 2 capital,
(5) Total risk-based capital (sum of items 3 and 4),
(6) Capital conservation buffer,
(7) Countercyclical capital buffer,
(8) GSIB buffer, and
(9) Compliance with restrictions on capital distributions and discretionary bonus payments associated with a capital buffer.

The proposed line items that would be effective March 31, 2018, include:

(10) Home country capital measure used in the numerator of the leverage ratio as set forth in the Basel Capital Framework,
(11) Home country exposure measure used in the denominator of the leverage ratio as set forth in the Basel Capital Framework, and

[3] See 12 CFR part 252. Regulation YY provides that home country capital standards that are consistent with the Basel Capital Framework include all minimum risk-based capital ratios, any minimum leverage ratio, and all restrictions based on any applicable capital buffers set forth in "Basel III: A global regulatory framework for more resilient banks and banking systems." Basel III was published in December 2010 and revised in June 2011. The text is available at http://www.bis.org/publ/bcbs189.htm.

[4] The Board had initially proposed to collect two additional line items, the Pillar II buffer and any other applicable capital buffer; however, in response to comments on the proposal, the Board no longer proposes to collect this information.

[5] See 12 CFR part 252.143 and 252.154.

(12) Minimum home country leverage ratio (if different from the leverage ratio in the Basel Capital Framework, as applicable).

Part 1A (renaming existing Part 1 section applicable to all FBOs)

As noted above, Part 1A of the current FR Y-7Q form, which applies to all FBOs, collects tier 1 capital, total risk-based capital, risk-weighted assets, total consolidated assets and total combined assets of U.S. operations, net of intercompany balances and transactions between U.S. domiciled affiliates, branches, and agencies, and total U.S. non-branch assets. While the Federal Reserve does not propose to change existing items reported in Part 1A of the FR Y-7Q, the proposal would modify the instructions to clarify that an FBO would be required to report Tier 1 capital and Total risk-based capital only on Part 1B, if the FBO's home country methodologies are consistent with the Basel Capital Framework.

The instructions would also clarify the reporting frequency of Part 1, in light of the new proposed section. Specifically, FBOs with total consolidated assets of less than $50 billion and that are not FHCs would only file Part 1A on an annual basis. FBOs who have elected to become FHCs and do not have $50 billion or more in total consolidated assets will file Part 1A on a quarterly basis. FBOs with total consolidated assets of $50 billion or more would complete both Part 1A <u>and</u> Part 1B on a quarterly basis.

Frequency

The Federal Reserve recommends no changes to the reporting frequency of the FR Y-7N, FR Y-NS, and FR Y-7Q. The current reporting frequencies provide adequate timely data to meet the analytical and supervisory needs of the Federal Reserve.

Time Schedule for Information Collection and Publication

FBOs are required to file the FR Y-7N (quarterly or annually) and FR Y-7NS reports 60 days after the report date. All FBOs are required to file the FR Y-7Q within 90 days after the report date. Meeting the thresholds for filing quarterly is self-determined by the respondent and ascertained as of the reporting date. No changes to these filing schedules are recommended. The data from these reports that are not given confidential treatment are available to the public, but are not published routinely.

Legal Status

The Board's Legal Division has determined that the FR Y-7N, FR Y-7NS, and FR Y-7Q are authorized by section 5(c) of the Bank Holding Company Act (12 U.S.C. § 1844(c)) and sections 8(c) and 13 of the International Banking Act (12 U.S.C. §§ 3106(c) and 3108). Section 165 of the Dodd-Frank Act (12 U.S.C. § 5365) directs the Board to establish enhanced prudential standards for certain companies, including certain FBOs. The obligation of covered institutions to report this information is mandatory. Information disclosed in these reports is collected as part of the Board's supervisory process and may be accorded confidential treatment under exemption 8 of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(8)), but information that is required to be disclosed publicly is generally not considered confidential. However, individual respondents may request that certain data be protected pursuant to Exemptions 4 and 6 (5 U.S.C. § 552(b)(4) and (6)) of FOIA, where such data relates to trade secrets and financial information, or to personal information, respectively. The applicability of these exemptions would have to be determined on a case-by-case basis.

Consultation Outside the Agency

On April 4, 2016, the Board published a notice in the *Federal Register* (81 FR 19179) requesting public comment for 60 days on the extension, with revision, of the FR Y-7N, FR Y-7NS, and FR Y-7Q. The comment period for this notice expired on June 3, 2016. In general, the commenters supported the proposed changes, but requested clarification on the home country capital adequacy certification requirement and raised concerns regarding the confidentiality and disclosure requirements for the proposed home country capital information. These comments and responses are discussed in detail below.

Detailed Discussion of Public Comments

Certification Requirement

A commenter requested guidance on whether an FBO would be deemed to satisfy the requirement to report and certify compliance with its home country capital adequacy requirements through its FR Y-7Q report. In addition, the commenter asked the Board to confirm the as of date and frequency of the certification.

Regulation YY requires an FBO to report compliance with capital adequacy measures that are consistent with the Basel Capital Framework (as defined in 12 CFR § 252.143(a) and § 252.154(a)) concurrently with filing the FR Y-7Q; however, it does not specify the frequency or the as of date for an FBO's certification of compliance with its home country capital requirements. The Board confirms that an FBO's completion of the FR Y-7Q on a quarterly basis would satisfy both the requirement in Regulation YY to report and the requirement to certify to the Board its compliance with capital adequacy measures that are consistent with the Basel Capital Framework (as defined in 12 CFR § 252.143(a) and § 252.154(a)). If an FBO is unable to report that it is in compliance with such capital adequacy measures, the Board may impose requirements, conditions, and restrictions relating to the U.S. operations of the FBO.[6]

Confidentiality Determinations

Commenters raised concerns regarding the potential confidentiality of two items required to be reported in the proposal that may be considered non-public supervisory capital buffers by an FBO's home country supervisor, the Pillar II buffer and any other applicable capital buffer. In response to these concerns, the Board has reviewed the information it proposed to collect on the FR Y-7Q and has revised the proposal to eliminate these two items from the information collection and only collect 12 new data items, each of which are expected to be disclosed

[6] See 12 CFR part 252.143(c) and 252.154(c).

publicly under the Basel Capital Framework, to monitor compliance with enhanced prudential standards for FBOs in Regulation YY. These 12 new data items would include, among other items, information relating to the capital conservation buffer, countercyclical capital buffer, and global systemically important banking organization capital buffer.

A commenter also requested that the Board expand the confidential treatment for certain of the proposed new items. The proposal stated that the Board would determine confidentiality on the proposed items reported on the FR Y-7Q on a case-by-case basis. However, the proposal noted that some jurisdictions may treat the information collected as confidential on a blanket basis on the grounds that a more selective confidential treatment could signal an FBO's financial strength or weakness and could thereby cause substantial competitive harm. Therefore, the proposal invited comment on whether these items should qualify for confidential treatment in all cases, such that treating this information as confidential on a blanket basis would be appropriate.

In response to the proposal, a commenter suggested the following modifications to the Board's proposed "case-by-case" approach: (1) where a home country supervisor treats an item included in Part 1B as confidential on a blanket basis, the Board likewise should extend blanket confidential treatment of that item to all FBOs supervised by the home country authority; and (2) where a home country supervisor treats an item included in Part 1B as confidential on a case-by-case basis, the Board should automatically treat this item as confidential for any FBO whose home country supervisor has extended such treatment.

As discussed above, in response to commenters' general concerns regarding confidentiality, the Board has revised the FR Y-7Q to collect only information that is expected to be disclosed under the Basel Capital Framework, and therefore will be public and not considered confidential. The Board further notes that information disclosed in these reports would be collected as part of the Board's supervisory process and may be accorded confidential treatment under exemption 8 of FOIA. However, individual respondents may request that certain data be protected pursuant to exemptions 4 and 6 of FOIA, where such data relates to trade secrets and financial information, or to personal information, respectively. The applicability of these exemptions will be determined on a case-by-case basis.

In addition, the proposed modification to the "case-by-case" approach set forth by one commenter would require the Federal Reserve to determine confidentiality for all FBOs supervised by a particular home-country authority on a country-by-country basis. An FBO seeking confidential treatment for any information reported on the FR Y-7Q must file a request pursuant to exemption 4 of FOIA and state in reasonable detail the facts supporting the request and the legal justification for the request. Because the FBO is best suited to describe its home country supervisor's confidential treatment of information, the Federal Reserve relies on information provided by the FBO in making its determination of whether the release of that information would cause the FBO substantial competitive harm. In addition, the Federal Reserve may need additional information to support such a determination, and the home country supervisor's treatment of the information alone may not meet the standard for confidential treatment in exemption 4 of FOIA in all cases. Accordingly, as proposed, the Federal Reserve would grant an FBO's request for confidential status for information reported on the FR Y-7Q, pursuant to exemption 4 of FOIA, only on a case-by-case basis.

Prohibited Items

A commenter also requested that the Board confirm that an FBO would not be required to report any item where applicable home country law prohibits the FBO from disclosing such item to any person, except an appropriate home country supervisor, regardless of whether the other person would agree to keep such information strictly confidential.

The Board is authorized by law to collect information from an FBO regarding its financial condition and, in submitting to the Board's jurisdiction, an FBO is required to provide the Board with adequate assurances that information will be made available to the Board on the operations or activities of the FBO and any of its affiliates that the Board deems necessary to determine and enforce compliance with applicable federal banking statutes, including information on its consolidated regulatory capital information. Therefore, an FBO is required to provide all of the information requested on the FR Y-7Q report. However, there could be infrequent instances that may raise questions about an FBO's ability to report a particular item on the FR Y-7Q if home country law prohibits an FBO from reporting that information to the Board, and, in those limited circumstances, the Board may consider an FBO's request not to report that information on the FR Y-7Q, on a case-by-case basis.

On December 7, 2016, the Board published a final notice in the *Federal Register* (81 FR 88239).

Estimate of Respondent Burden

As shown in the following table, the current annual reporting burden for this family of reports is estimated to be 5,227 hours. The proposed revisions to the FR Y-7Q would result in an increase in burden of 680 hours due to the increase in estimated average hours per response from 1.75 to 3. However, the number of FR Y-7N and FR Y-7NS respondents is estimated to decrease by 154, from 269 to 115, due to the designation by certain foreign banking organizations of IHCs. As a result of these changes, the total annual burden for this family of reports would decrease to an estimated 3,108 hours. These reporting requirements represent less than 1 percent of total Federal Reserve System paperwork burden.

	Number of respondents[7]	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Current				
FR Y-7N (quarterly)	138	4	6.8	3,754
FR Y-7N (annual)	59	1	6.8	401
FR Y-7NS	72	1	1	72
FR Y-7Q (quarterly)	136	4	1.75	952
FR Y-7Q (annual)	32	1	1.5	48
Total				5,227
Proposed				
FR Y-7N (quarterly)	43	4	6.8	1,170
FR Y-7N (annual)	32	1	6.8	218
FR Y-7NS	40	1	1	40
FR Y-7Q (quarterly)	136	4	3	1,632
FR Y-7Q (annual)	32	1	1.5	48
Total				3,108
Change				(2,119)

The total annual cost to the public for this information collection is estimated to be to $277,815 and would decrease to $165,190, which is a net decrease of $112,625.[8]

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 cost to the Federal Reserve System for collecting and processing the FR Y-7N, FR Y-7NS, and FR Y-7Q is estimated to be $183,547 per year.

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[7] Of the respondents, approximately 4 FR Y-7N (quarterly), 6 FR Y-7N (annually), 35 FR Y-7NS, and 0 FR Y-7Q 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.

[8] 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/.