

Office of the Comptroller of the Currency
Supporting Statement
Community Reinvestment Act Regulation – 12 CFR 25 & 195
OMB Control No. 1557-0160

A. Justification

The OCC submits this ICR pursuant to a notice of proposed rulemaking (proposal) issued by the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (agencies). Under the proposal, effective January 1, 2018, financial institutions required to collect data under the Community Reinvestment Act (CRA) would also be required to collect data for open-end lines of credit in Metropolitan Statistical Area (MSA) and non-MSA areas where they have no branch or home office. The agencies estimate that this proposed change would not result in an increase in burden under the currently approved CRA information collections because the burden associated with the above-described requirement is accounted for under the Home Mortgage Disclosure Act (HMDA) information collections.¹

The agencies have determined that the proposed rule revises the definition of “home mortgage loan” to include home equity lines of credit and to exclude home improvement loans that are not secured by a dwelling (*i.e.*, home improvement loans that are unsecured or that are secured by some other type of collateral); however, the agencies do not believe this revised definition warrants a change to the current burden estimates.

In 1995, the federal banking agencies issued substantially identical regulations under CRA to reduce unnecessary compliance burden, promote consistency in CRA assessments, and encourage improved performance.² As a result, the current reporting, recordkeeping, and disclosure requirements under the CRA regulations depend in part on a bank’s size.

Under the CRA regulations, large banks are defined as those with assets of \$1.226 billion or more for the past two consecutive year-ends; all other banks are considered small or intermediate.³ The banking agencies amend the definition of a small bank and an intermediate small bank in their CRA regulations each year when the asset thresholds are adjusted for inflation pursuant to the CRA regulations, most recently in January 2017.⁴

Other than the information collections pursuant to the CRA, the agencies have no information collection that supplies data regarding the community reinvestment activities.

¹ OMB Control Number 1557-0159.

² See 60 FR 22156 (May 4, 1995).

³ Beginning January 18, 2017, banks and savings associations that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.226 billion are small banks or small savings associations. Small banks or small savings associations with assets of at least \$307 million as of December 31 of both of the prior two calendar years, and less than \$1.226 billion as of December 31 of either of the prior two calendar years, are intermediate small banks or intermediate small savings associations.

⁴ See 82 FR 5354 (January 18, 2017).

1. Circumstances that make the collection necessary:

The CRA requires the agencies to assess the record of banks and savings associations in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations; and to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.⁵ Further, the CRA statute requires the agencies to issue regulations to carry out its purposes.⁶

Each agency must prepare written CRA evaluations of the institutions they supervise. The public portion of each written evaluation must present the agency's conclusions with respect to the CRA performance standards identified in its regulations; include the facts and data supporting those conclusions; and contain the institution's CRA rating and the basis for that rating. The conclusions with respect to each performance standard (together with supporting facts and data) must be presented separately for each metropolitan area in which the institution maintains one or more domestic branches. If the institution has interstate branches, the appropriate agency must prepare separate written evaluations for each state in which the institution has a branch. This state-specific evaluation must present information separately for each metropolitan area where the institution has a branch and for the non-metropolitan area of the state, if the institution has a branch in the non-metropolitan area. If the institution has a branch in a multistate metropolitan area, the agency must prepare a separate written evaluation of the institution's record of performance in that multistate metropolitan area.⁷

The data collection requirements in the CRA regulations are necessary for the agencies to examine, assess, and assign a rating to an institution's CRA performance and to prepare the public section of the CRA performance evaluation. The CRA regulations emphasize performance over paperwork and eliminate unnecessary documentation of policies, procedures, and CRA contacts. By stating clearly what they use to assess CRA performance, the agencies have eliminated regulatory incentives for an institution to maintain voluminous records solely for the purpose of demonstrating CRA compliance to a regulator. In addition, where feasible, the agencies have tailored the data collection requirements so that institutions could rely on data that were already available (for example, HMDA data). Finally, the regulations provide evaluation criteria that vary appropriately with the size and business strategy of the institution.

2. Use of the information:

The agencies use the data collected under the CRA regulations to fulfill their statutory obligations, including the assessment of each institution's record of helping to meet the credit needs of local communities. The agencies use the data to support their conclusions regarding an institution's record of performance, in assigning a CRA rating, and in preparing the public evaluations that the statute requires. Additionally, judgments based on these data are used in evaluating an institution's applications for mergers, branches, and other corporate activities. The public uses this information to assess the institution's CRA performance and to participate meaningfully in the application process.

⁵ 12 U.S.C. 2903.

⁶ 12 U.S.C. 2905.

⁷ 12 U.S.C. 2906.

The CRA requires the agencies to assess the record of regulated financial institutions (institutions) in helping to meet the credit needs of their entire communities, including low- and moderate-income neighborhoods, consistent with safe and sound operations. The CRA further requires the agencies to take this record into account in evaluating applications for mergers, branches, and certain other corporate activities.⁸ The CRA statute requires the agencies to issue regulations to carry out its purposes.⁹

Each agency must provide written CRA performance evaluations (CRA PE) of the institutions they supervise. The CRA PEs are disclosed to the public. The public portion of each written CRA PE must present the agency's conclusions with respect to the CRA performance standards identified in its regulations; including the facts and data supporting those conclusions; and contain the institution's CRA rating and the basis for that rating.

The reporting, recordkeeping, and disclosure requirements in the CRA regulations are necessary, as they provide the agencies with the information they need to examine, assess, and assign ratings reflecting institutions' CRA performance and to prepare the public section of the CRA PE.

The OCC's CRA regulation, 12 CFR 25, applies to national banks, including federal branches, as those are defined in 12 CFR 28, with federally insured deposits, except as provided in 12 CFR 25.11, (collectively, banks). Similarly, the OCC's CRA regulation, 12 CFR 195, applies to savings associations, except as provided in 12 CFR 195.11.

Twelve CFR 25.25(b) and 195.25(b) provide that requests for designation as a wholesale or limited purpose bank or savings association must be made in writing with the OCC at least three months prior to the proposed effective date of the designation.

Twelve CFR 25.27 and 195.27 provide for optional submission of strategic plans to the OCC for approval. If the requirements of 12 CFR 25.27(a) or 195.27(a), respectively, are met, institutions records of helping to meet the credit needs of their assessment areas will be assessed under their approved strategic plans.

Twelve CFR 25.42(a) and 195.42(a) require that large banks and savings associations¹⁰ shall collect and maintain certain small business/small farm loan data in a machine-readable form and report it annually pursuant to 12 CFR 25.42(b)(1) and 195.42(b)(1).

Twelve CFR 25.42(b)(2) and 195.42(b)(2) require that large banks and savings associations report annually in machine readable form the aggregate number and aggregate amount of community development loans originated or purchased.

Twelve CFR 25.42(b)(3) and 195.42(b)(3) require that large banks and savings associations, if subject to reporting under 12 CFR 1003 (Home Mortgage Disclosure (Regulation

⁸ 12 U.S.C. 2903.

⁹ [?] 12 U.S.C. 2905.

¹⁰ Large banks and large savings associations are banks and savings associations that are not small banks or small savings associations defined in 12 CFR 25.12(u) or 195.12(u), respectively.

C)), must report the location of each home mortgage loan application, origination, or purchase outside the metropolitan statistical area(s) in which the bank or savings association has a home/branch office, and the location of each home mortgage loan application, origination, or purchase outside any metropolitan statistical area, in accordance with the requirements of Regulation C.

Twelve CFR 25.42(c)(1) and 195.42(c)(1) provide that all banks and savings associations may collect and maintain in machine readable form certain data for consumer loans originated or purchased by a bank or savings association for consideration under the lending test. Under 12 CFR 25.42(c)(2) and 195.42(c)(2), all banks and saving associations may include other information concerning their lending performance, including additional loan distribution data.

Twelve CFR 25.42(d) and 195.42(d) provide that banks and savings associations that elect to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain, and report the data that the bank or savings association would have collected, maintained, and reported pursuant to 12 CFR 25.42(a)-(c) or 195.42(a)-(c), respectively, had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association must also be prepared to identify the home mortgage loans reported under HMDA by the affiliate.

Twelve 12 CFR 25.42(e) and 195.42(e) provide that banks and savings associations that elect to have the OCC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, must report for those loans the data that the bank or savings association would have reported under 12 CFR 25.42(b)(2) or 195.42(b)(2), respectively, had the loans been originated or purchased by the bank or savings association.

Twelve CFR 25.42(g) and 195.42(g) require that banks and savings associations, except those that were a small bank or small savings association¹¹ during the prior calendar year, collect and report to the OCC a list for each assessment area showing the geographies within the area.

Twelve CFR 25.43 and 195.43 generally require that all banks and savings associations maintain a public file that contains: all written comments and responses; a copy of the public section of the bank's or savings association's most recent CRA performance evaluation; a list of the bank's or savings association's branches; a list of the branches opened or closed; a list of services offered; and a map of each assessment area delineated by the bank or savings association under 12 CFR 25.41 or 195.41, respectively. Certain banks and savings associations must include: a copy of their approved strategic plan and a description of the current efforts to improve their performance in helping to meet the credit needs of its entire community. Certain large banks and savings associations must include in their public files (for prior two years): consumer loan data; CRA Disclosure Statements; and Home Mortgage Disclosure Act (HMDA) Disclosure Statements. Under the proposal, banks and savings associations would no longer be required to retain the HMDA Disclosure Statement in their public files. In lieu of this requirement, their public files would contain a notice stating that the public may obtain a copy of the HMDA Disclosure Statement from the CFPB's website. Small banks and savings

¹¹ See 12 CFR 25.12(u) and 195.12(u), respectively.

associations must include their loan-to-deposit ratio for each quarter of the prior calendar year and, at their option, additional data on its loan-to-deposit ratio.

3. Consideration of the use of improved information technology:

The agencies use information technology to reduce compliance burden on institutions and decrease costs to both the institutions and the agencies.

To help alleviate the burden and expense of geocoding loans (the linking of geographic information and loan data), the Federal Financial Institutions Examination Council (FFIEC) provides a geocoding utility free-of-charge on its Web site (<http://www.ffiec.gov>). This program enables an institution to enter the address of a given property and obtain quickly the information needed to geocode the property. This Web site also provides demographic data about each property and has been used extensively by financial institutions and the public.

The agencies also developed software that helps institutions comply with the requirements to maintain CRA loan data in a machine-readable form. The agencies provide this software annually and at no charge to institutions. The agency-provided software includes encrypted Internet transmission capability (for year-end reporting) and on-line help guides that provide information about data-reporting requirements. The agencies also provide an automated assistance line and a fully automated fax-retrieval system that delivers a wide array of materials, usually within 30 minutes of the request. Additionally, an institution may use any other information technology available that meets the agencies' specifications.

Furthermore, the agencies provide access to reports that institutions and examiners can use to analyze CRA performance throughout the calendar year. For instance, aggregate CRA and HMDA data are posted on the FFIEC Web site (<http://www.ffiec.gov/cra>). The agencies also distribute annual data reports in CD-ROM format to all institutions. By using information technology, the agencies are able to facilitate compliance with the regulations and reduce an institution's compliance costs.

4. Efforts to identify duplication:

The information collected under the agencies' CRA regulations pertains to institution-specific activities and lines of business in particular geographic areas. The information supports institution-specific requests for approval of strategic plans and certain applications. For these reasons, almost all of the information collected pursuant to the CRA regulations is not otherwise available. As described in Item 1 of this Supporting Statement, where the agencies already collect information useful for CRA purposes, they have relied on the existing collection, rather than requiring that the information be provided in a different format.

5. Methods used to minimize burden if the collection has an impact on small entities:

Small institutions are subject to modest burden under the CRA regulations. Most of the reporting and recordkeeping requirements in the regulations do not apply to small institutions. A

small institution must comply only with the requirement to maintain a public file and make disclosures of that file upon request.

The current CRA regulations ease regulatory burden on small institutions by adjusting the small institution asset-size threshold amount based on the annual percentage change in the Consumer Price Index.

Small institutions are evaluated under different performance standards than large institutions. The agencies generally assign CRA ratings to institutions that are not small based on the institution's performance under the lending, investment, and service tests; the community development test; or an approved strategic plan. The smallest institutions, those with assets below \$300 million, are evaluated under separate performance standards that focus on the lending and lending-related activities of those institutions based on information that examiners prepare. The agencies will assess investment and service performance of those institutions at the institution's option. This streamlined examination treatment greatly reduces burden on small institutions. Also, the CRA regulations provide a simplified lending test and a flexible community development test for small institutions.

6. Consequences to the Federal program if the collection was conducted less frequently:

The regulations require an annual report of the prior calendar year's data from large institutions by March 1st. Reporting less frequently would decrease the utility of the data for both the public and the agencies. The agencies believe that a comparison, at least annually, of an institution's performance with that of their peer institutions is a critical component in the CRA evaluation process. The agencies expect, however, that institutions will add data to their in-house files at regular intervals throughout the year, making entries as usual and customary.

7. Special circumstances necessitating the collection to be conducted in a manner inconsistent with 5 CFR part 1320:

The information collection requirements in the agencies' CRA regulations are consistent with 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

The agencies issued a notice of proposed rulemaking containing the collection on September __, 2017, 82 FR _____.

9. Payment to respondents:

Not applicable. There is no payment to respondents.

10. Assurance of confidentiality:

A primary purpose for collection of CRA data is disclosure to the public. Therefore, no assurance of confidentiality is made.

11. Justification for questions of a sensitive nature:

Not applicable. No personally identifiable information is collected.

12. Burden estimate:

Cite and Burden Type	Requirements in 12 CFR 25	No. of Respondents	Avg. hours per Response	Estimated Burden Hours
12 CFR 25.25(b) 12 CFR 195.25(b) Optional reporting	<u>Request for designation as a wholesale or limited purpose bank or savings association</u> – Banks or savings associations requesting this designation shall file a request in writing with the OCC at least three months prior to the proposed effective date of the designation	12	4	48
12 CFR 25.27 12 CFR 195.27 Optional reporting	<u>Strategic plan</u> – Applies to banks and savings associations electing to submit strategic plans to the OCC for approval.	5	275	1,375
12 CFR 25.42(a) 12 CFR 195.42(a) Recordkeeping	<u>Small business/small farm loan register</u> – Large banks and savings associations shall collect and maintain in machine-readable form the following data: <ul style="list-style-type: none"> • Unique or alpha-numeric symbol • Loan amount • Loan location • Indicator whether the loan was to a business or farm w/gross annual revenues of \$1 million or less 	142	219	31,098
12 CFR 25.42(b)(1) 12 CFR 195.42(b)(1) Reporting	<u>Small business/small farm loan data</u> – Large banks and savings associations shall report annually in machine readable form the aggregate number and amount of loans: <ul style="list-style-type: none"> • With an amount at origination of \$100,000 or less • With amount at origination of more than \$100,000 but less than or equal to \$250,000 • With an amount at origination of more than \$250,000 • To businesses and farms with gross annual revenues of \$1 million or less 	142	8	1,136
12 CFR 25.42(b)(2) 12 CFR 195.42(b)(2) Reporting	<u>Community development loan data</u> – Large banks and savings associations shall report annually in machine readable form the aggregate number and aggregate amount of community development loans originated or purchased.	142	13	1,846
12 CFR 25.42(b)(3) 12 CFR 195.42(b)(3) Reporting, if applicable	<u>Home mortgage loans</u> – Large banks and savings associations , if subject to reporting under part 203 (Home Mortgage Disclosure (HMDA)), shall report the location of each	142	253	35,926

Cite and Burden Type	Requirements in 12 CFR 25	No. of Respondents	Avg. hours per Response	Estimated Burden Hours
	home mortgage loan application, origination, or purchase outside the MSA in which the bank or savings association has a home/branch office.			
12 CFR 25.42(c) 12 CFR 195.42(c) Optional recordkeeping	<u>Optional consumer loan data</u> – All banks and savings associations may collect and maintain in machine readable form data for consumer loans originated or purchased by a bank or savings association for consideration under the lending test, as follows: <ul style="list-style-type: none"> • Unique number or alpha-numeric symbol • Loan amount at origination or purchase • Loan location • Gross annual income of the borrower that the bank or savings association considered in making its credit decision 	85	326	27,710
12 CFR 25.42(c)(2) 12 CFR 195.42(c)(2) Optional recordkeeping	<u>Other loan data</u> – At its option, all banks and saving associations may include other information concerning its lending performance, including additional loan distribution data.	25	25	625
12 CFR 25.42(d) 12 CFR 195.42(d) Optional reporting	<u>Data on affiliate lending</u> – Banks and savings associations that elect to have the OCC consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, shall collect, maintain and report the data that the bank or savings association would have collected, maintained, and reported pursuant to §25.42(a), (b), and (c) had the loans been originated or purchased by the bank or savings association. For home mortgage loans, the bank or savings association shall also be prepared to identify the home mortgage loans reported under HMDA.	9	38	342
12.CFR 25.42(e) 12.CFR 195.42(e) Optional reporting	<u>Data on lending by a consortium or a third party</u> – Banks and savings associations that elect to have the OCC consider community development loans by a consortium or a third party, for purposes of the lending or community development tests or an approved strategic plan, shall report for those loans the data that the bank or savings association would have reported under §25.42(b)(2) had the loans been originated or purchased by the bank or savings association.	31	17	527
12 CFR 25.42(g) 12 CFR 195.42(g) Reporting	<u>Assessment area data</u> – Large banks and savings associations shall collect and report to the OCC a list for each assessment area showing the geographies within the area ¹² .	189	2	378
12 CFR 25.41(a),	<u>Content and availability of public file</u> – All			

Cite and Burden Type	Requirements in 12 CFR 25	No. of Respondents	Avg. hours per Response	Estimated Burden Hours
<p>25.43(a), (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (c), (d)</p> <p>12 CFR 195.41(a), 195.43(a), (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(6), (a)(7), (b)(1), (b)(2), (b)(3), (b)(4), (b)(5), (c), (d)</p> <p>Disclosure</p>	<p>banks and savings associations shall maintain a public file that contains the following information:</p> <ul style="list-style-type: none"> • All written comments and responses • A copy of the public section of the bank’s or savings association’s most recent CRA performance evaluation • A list of the bank’s or savings association’s branches • A list of the branches opened or closed • A list of services offered • A map of each assessment area <p>All banks and savings associations, if applicable, shall include in its public file:</p> <ul style="list-style-type: none"> • Strategic plans • Description of the current efforts to improve its performance in helping to meet the credit needs of its entire community <p>Additional information by large banks and savings associations, if applicable, shall include in its public file (for prior two years):</p> <ul style="list-style-type: none"> • Consumer loan data. • CRA Disclosure Statements • HMDA Disclosure Statements <p>Additional information by small banks and savings associations:</p> <ul style="list-style-type: none"> • Loan-to-deposit ratio for each quarter of the prior calendar year, and at its option, additional data on its loan-to-deposit ratio • Information required under §25.43(b)(1) and § 195.43(b)(1) 	<p>1,092 small 142 large 1,234 total</p>	<p>10</p>	<p>10,0920 1,420 Total 12,340</p>
<p>Total Parts 25 and 195</p>				<p>Total Burden: 113,351</p>

Cost of Hour Burden:

113,351 x \$ 114 = \$ 12,922,014

To estimate average hourly wages we reviewed data from May 2016 (released in March 2017) for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$114 per hour, which is based on the average of the 90th percentile for

¹² The assessment area delineation requirement (.41(a)) for small institutions is allocated in the public file requirement since the smaller institutions are not required to submit their delineation to the agencies, but must merely place it in their public file.

seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee benefits.

13. Estimate of the total annualized cost to respondents:

N/A.

14. Estimate of annualized cost to the federal government:

N/A.

15. Changes in burden:

There is no change in burden.

16. Information regarding collections whose results are planned to be published for statistical purposes:

Not applicable.

17. Display of expiration date:

Not applicable. The information collections are contained in regulations.

18. Exceptions to certification statement:

Not applicable.

B. Collections of information employing statistical methods

Not applicable.