

**Supporting Statement for the
Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB
(FR BB; OMB No. 7100-0197)**

***Community Reinvestment Act Regulations
(Docket No. R-1574) (RIN 7100-AE84)***

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, with revision, the Reporting, Recordkeeping, and Disclosure Requirements Associated with Regulation BB (FR BB; OMB No. 7100-0197). The Community Reinvestment Act (CRA)¹ was enacted in 1977 and is implemented by Regulation BB - Community Reinvestment (12 CFR 228). The CRA directs the Board, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) (collectively, the agencies) to evaluate financial institutions' records of helping to meet the credit needs of their entire communities, including low- and moderate-income areas consistent with the safe and sound operation of the institutions. The CRA is implemented through regulations issued by the agencies with responsibility for CRA rulemaking.

The Board proposes to revise FR BB by (1) requiring financial institutions that collect data under the CRA to collect data for open-end lines of credit in metropolitan statistical areas (MSAs) and non-MSAs where they have no branch or home office and (2) revising 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), effective January 1, 2018. The annual burden for this information collection is estimated to be 61,727 hours and would remain unchanged.

Background and Justification

In 1995, the 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 Regulation BB depend in part on a bank's size, and are discussed below in the description of information collection.

Under Regulation BB, 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

¹ See 12 U.S.C. 2901 et seq.

² See 60 FR 22156 (May 4, 1995).

small.³ The 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 Regulation BB, most recently in January 2017.⁴

Other than the information collections pursuant to the CRA, the Board has no information collection that supplies data regarding the community reinvestment activities of state member banks (SMBs).

Description of Information Collection

The reporting, recordkeeping, and disclosure requirements associated with Regulation BB are summarized below and also listed in Attachment 1. An SMB that qualifies for evaluation under the small bank performance standards but elects evaluation under the lending, investment, and service tests will collect, maintain, and report the data required for large banks.

Reporting Requirements

Sections 228.41 and 228.42(g) - Assessment area delineation

Each SMB must delineate one or more assessment areas within which the Board evaluates the bank's record of helping to meet the credit needs of its community. Large banks must also report the list of assessment areas to the Board by March 1 each year. The assessment area(s) consists generally of one or more MSA or one or more contiguous political subdivisions, such as counties, cities, or towns. The assessment area(s) includes the geographies in which the bank has its main office, branches, and deposit-taking automated teller machines (ATMs), as well as the surrounding geographies in which the bank has originated or purchased a substantial portion of its loans. There are rules designed to prevent redlining (arbitrary exclusion of lower-income or minority neighborhoods) in the drawing of assessment areas.

Section 228.42(b) - Loan information to be reported

Small business and small farm loan data. A large bank is required to report annually by March 1 to the Board in machine-readable form the following data for the preceding calendar year. For each geographical location in which the SMB originated or purchased a small business or small farm loan, the SMB must report the aggregate number and amount of loans

- of \$100,000 or less at origination
- of more than \$100,000 at origination but less than or equal to \$250,000 at origination
- of more than \$250,000 at origination
- made to businesses and farms with gross annual revenues of \$1 million or less (using the revenues that the bank considered in making its credit decision)

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).

Community development loan data. A large bank is also required to report annually by March 1 to the Board in machine-readable form the aggregate number and aggregate amount of community development loans originated or purchased in the preceding calendar year.

Home mortgage loan data. Reporting of mortgage loan data is governed by the Home Mortgage Disclosure Act (HMDA), which is implemented by Regulation C - Home Mortgage Disclosure (12 CFR 1003). However, a large bank that is subject to reporting under Regulation C, is also required under Regulation BB to report annually by March 1 to the Board in machine-readable form the property location for each home mortgage loan application, origination, or purchase outside the MSAs in which the SMB has a home or branch office (or outside any MSA). The paperwork burden for providing property location information for loans inside an MSA is associated with the HMDA Loan/Application Register (FR HMDA-LAR; OMB No. 7100-0247 (Board) and OMB No. 3170-0008 (CFPB)).

Optional Reporting Requirements

Section 228.25(b) - Request for designation as a wholesale or limited purpose bank

The Board evaluates the performance of a wholesale or limited purpose bank under the community development test specified in the regulation. An SMB wishing to be designated as a wholesale or limited purpose bank must file a request, in writing, with the Board, at least three months prior to the proposed effective date of the designation.

Section 228.27 - Strategic plan

An SMB may elect to be assessed under a strategic plan if the SMB has submitted the plan to the Board, the Board has approved the plan, the plan is in effect, and the SMB has been operating under an approved plan for at least one year. The Board's approval of this plan does not affect the SMB's obligation, if any, to comply with the data collecting and reporting requirements under section 228.42.⁵ The plan may have a term of no more than five years; multi-year plans must include annual interim measurable goals. Before submitting a plan to the Board, an SMB must seek suggestions from members of the public in its assessment area(s), formally solicit public comment for at least 30 days, and during the period of formal public comment make copies of the plan available for public review at its offices at no cost, and by mail for a reasonable cost.

A strategic plan must include measurable goals for helping meet the credit needs of each assessment area covered by the plan, addressing the lending, investment, and service tests. A plan must specify goals that constitute satisfactory performance and also may specify goals that constitute outstanding performance. If an institution fails to meet its own goals for satisfactory performance, an SMB may elect in its plan to be evaluated under the alternate test(s) specified in the regulation.

⁵ See 12 CFR 228.27(b).

Section 228.42(d) - Affiliate lending data

An SMB that elects to have the Board consider loans by an affiliate, for purposes of the lending or community development test or an approved strategic plan, must collect, maintain, and report for those loans the data that the SMB would have collected, maintained, and reported had the loans been originated or purchased by the SMB. For home mortgage loans, the bank must also be prepared to identify the home mortgage loans reported by the affiliate under HMDA and Regulation C.

Section 228.42(e) - Data on lending by a consortium or a third party

An SMB may elect to have the Board consider community development loans made by a consortium or third party, for purposes of the lending or community development tests or an approved strategic plan. If so, the SMB must report for those loans the data that the bank would have reported had the loans been originated or purchased by the SMB itself.

Recordkeeping Requirements

Section 228.42(a) - Loan information to be collected and maintained

A large bank is required to collect and maintain in machine-readable form until the completion of its next CRA examination the following data for each small business or small farm loan originated or purchased:

- a unique number or alpha-numeric symbol used to identify the relevant loan file
- the loan amount at origination
- the loan location
- an indicator whether the loan was made to a business or farm with gross annual revenues of \$1 million or less

Optional Recordkeeping Requirements

Section 228.42(c) - Consumer loan data

An SMB has the option to collect and maintain, in machine-readable form, data for consumer loans originated or purchased by the bank for consideration under the lending test. An SMB may maintain data for one or more of the following categories of consumer loans: motor vehicle, credit card, home-equity, other secured, and other unsecured. If the SMB maintains data for loans in a certain category, it must maintain data for all loans originated or purchased within that category. The SMB must maintain data separately for each category and must include for each loan

- a unique number or alpha-numeric symbol used to identify the relevant loan file
- the loan amount at origination or purchase
- the loan location
- the gross annual income of the borrower that the SMB considered in making its credit decision

At its option, an SMB may also provide other information concerning its lending performance, including additional loan-distribution data.

Disclosure Requirements

Section 228.43 - Public file

All SMBs are required to maintain and make available to the public a file containing comments received from the public for the current year and each of the prior two calendar years, and any response to the comments from the bank. The file also must contain a copy of the public section of the SMB's most recent CRA performance evaluation prepared by the Board, a list of the bank's open branches with addresses and geographies, a list of branches opened or closed during the current year and each of the prior two calendar years, a list of the services generally offered by the bank, and a map of each assessment area. The bank may include in the file any other information it chooses.

Large banks must also include in the public file the CRA Disclosure Statement (Section 228.42(h)) prepared by the Board for each of the prior two calendar years and, if applicable, information about consumer loan data. SMBs required to report data under the HMDA must include in the public file a copy of the HMDA Disclosure Statement prepared by the Federal Financial Institutions Examination Council (FFIEC) for each of the prior two calendar years. In addition, SMBs that elect to have mortgage lending of an affiliate of any of those years considered in its CRA evaluation must include in the public file the affiliate's HMDA disclosure statement for those years.

A small bank or intermediate small bank must include in the public file the bank's loan-to-deposit ratio for each quarter of the prior calendar year and, if it elects to be evaluated under the lending, service, and investment tests, the information required under the disclosure rules applicable to large banks.

An SMB that has, in accordance with section 228.27, submitted and been approved by the Board for assessment under a strategic plan must include a copy of the plan in the public file. An SMB that received a rating worse than "Satisfactory" during its most recent examination, must include in the public file a description of its efforts to improve its performance.

Section 228.44 - Public notice by banks

An SMB must provide in the public lobby of its main office and in each branch a prescribed notice informing consumers of their rights to certain information about the SMB's operations and CRA performance as evaluated by the Board.

Proposed Revisions

The agencies adopted a final rule (82 FR 55734) on November 24, 2017, to amend their regulations implementing the CRA. The agencies are modifying the existing definitions of "home mortgage loan" and "consumer loan," related cross references, and the public file content

requirements to conform to recent revisions made by the Consumer Financial Protection Bureau (CFPB) to Regulation C, which implements HMDA. The final rule also removes obsolete references to the Neighborhood Stabilization Program (NSP). The final rule is effective on January 1, 2018.

Under the final rule, financial institutions required to collect data under the CRA would also be required to collect data for open-end lines of credit in MSA and non-MSA areas where they have no branch or home office. The agencies estimate that this change will 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 HMDA information collections.⁶ The agencies have determined that the revised 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) does not warrant a change to the current burden estimates.

Time Schedule for Information Collection and Publication

The reporting, recordkeeping, and disclosure requirements required by Regulation BB are mandatory and depend on bank size and other factors. SMBs that are required to collect assessment area information, small business and small farm data, community development data, and home mortgage loan data must collect and report the data to the Board in machine-readable form annually by March 1 for the prior calendar year.

The Board uses the data to examine and assess SMBs’ CRA records; to prepare the public sections of CRA performance evaluations; and to help evaluate applications for acquisitions and other transactions. The Board prepares annually for each SMB a public disclosure statement that contains, on a state-by-state basis, information on small farm, small business, and community development loans.

Together with the other agencies, the Board prepares annually for each MSA (including an MSA that crosses a state boundary) and for each non-MSA portion of each state, an aggregate disclosure statement of small business and small farm lending by all institutions subject to reporting requirements under each agency’s CRA regulation. These disclosure statements indicate, for each geography, the number and amount of all small business and small farm loans originated or purchased by reporting institutions, except that the Board may adjust the form of the disclosure if necessary to protect the privacy of a borrower or the competitive position of an institution. The FFIEC also makes both statements available on the FFIEC CRA website www.ffiec.gov/cra/. The statements are usually available at the SMBs and on the FFIEC website in late July after the March 1 reporting date.

Any SMB electing to submit a strategic plan to the Board must do so at least three months prior to the proposed effective date of the plan. The Board will act upon a plan within 60 calendar days after the Board receives the complete plan and other required material. If the Board fails to act within this 60 days, the plan shall be deemed approved unless the Board extends the review period for good cause. As indicated above, an SMB may not be evaluated under a

⁶ OMB Control Number 7100-0247 (Board), 3064-0046 (FDIC), and 1557-0159 (OCC).

strategic plan unless it has been operating under an approved plan for at least one year.

Legal Status

The reporting, recordkeeping, and disclosure requirements of Regulation BB are authorized by section 806 of the CRA which permits the Board to issue regulations to carry out the purpose of the CRA (12 U.S.C. 2905), section 11 of the Federal Reserve Act which permits the Board to require such statements and reports of state member banks as it deems necessary (12 U.S.C. 248(a)(1)), and section 9 of the Federal Reserve Act which permits the Board to examine state member banks (12 U.S.C. 325). Most of the reporting, recordkeeping, and disclosure requirements of Regulation BB are mandatory. However, there are several limited parts of the collection that aren't mandatory but that are required to obtain a benefit, specifically, the request for designation as a wholesale or limited purpose bank, the strategic plan, and the recordkeeping and reporting requirements associated with data regarding consumer loans and lending performance, affiliate lending data, and data on lending by a consortium or a third party.

Most of the information collected under Regulation BB is not considered confidential. The only exception is for small business and small farm loan data at the census-tract level, which can be held confidential under exemption 8 of the Freedom of Information Act (FOIA) which protects information contained in or related to examination, operating, or condition reports prepared by or for the use of an agency responsible for the regulation and supervision of financial institutions and exemption 4, which protects confidential commercial information and trade secrets (5 U.S.C. 552 (b)(4) and (b)(8)).⁷

Consultation Outside the Agency

On September 20, 2017, the agencies published a joint notice of proposed rulemaking in the *Federal Register* (82 FR 43910) for public comment. The comment period for this notice expired October 20, 2017. The agencies received no comments on the Paperwork Reduction Act (PRA). On November 24, 2017, the agencies published a final rule in the *Federal Register* (82 FR 55734). The final rule is effective on January 1, 2018.

Estimates of Respondent Burden

The burden estimates for *non-optional reporting requirements* related to loan data, other than community development loan data, include time estimates for geocoding easy- and hard-to-find loan geographies. The number of respondents for the *non-optional reporting requirements* (loan data and assessment area delineation) and optional reporting requirements (third-party and affiliate lending) are based on the number of CRA data respondents regulated by the Board using 2016 data reported March 1, 2017. Optional reporting requirements for requests for strategic plan approvals and designations as a wholesale or limited purpose bank are based on previous experience.⁸ *Optional recordkeeping requirement* burden estimates for consumer loan data and

⁷ For a more detailed explanation regarding the confidentiality of such data, see the Board's response to the Freedom of Information Act Request No. F-2016-00020.

⁸ On average, the Board receives requests for two strategic plan approvals a year and less than one designation as a wholesale or limited purpose bank a year.

other loan data are estimated based on a review of CRA performance evaluations.

The burden for the public file *disclosure requirements* includes estimates for both the large and small bank requirements. The public file requirement also includes an estimate of the time required for small banks, including intermediate small banks, to delineate an assessment area.

The total annual burden for SMBs associated with complying with CRA is estimated to be 61,727 hours for the 817 institutions supervised by the Board and would remain unchanged with the proposed revisions. These reporting, recordkeeping, and disclosure requirements represent less than 1 percent of the total Federal Reserve System annual paperwork burden.

FR BB	<i>Number of respondents⁹</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reporting				
Sections 228.41 and 228.42(g)				
Assessment area delineation	98	1	2	196
Section 228.42(b)				
Loan data:				
Small business and small farm	94	1	8	752
Community development	98	1	13	1,274
HMDA out of MSA	89	1	253	22,517
Optional Reporting				
Section 228.25(b)				
Request for designation as a wholesale or limited purpose bank	1	1	4	4
Section 228.27				
Request for strategic plan approval	2	1	275	550
Section 228.42(d)				
Affiliate lending data	8	1	38	304
Section 228.42(e)				
Data on lending by a consortium or third party	9	1	17	153
Recordkeeping				
Section 228.42(a)				
Small business and small farm loan register	94	1	219	20,586
Optional Recordkeeping				
Section 228.42(c):				
Consumer loan data	21	1	326	6,846
Other loan data	15	1	25	375
Disclosure				
Sections 228.43 and 228.44				
Public file	817	1	10	<u>8,170</u>
<i>Total</i>				61,727

⁹ Of these respondents, the reporting section 228.25(b) respondent and 575 of the 817 disclosure sections 228.43 and 228.44 respondents are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets). www.sba.gov/content/table-small-business-size-standards.

The total cost to the public is estimated to be \$3,459,798.¹⁰

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 Board processes data for the agencies. The agencies' 2017 annual cost was budgeted to be \$1,036,235.

¹⁰ 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 \$18, 45% Financial Managers at \$69, 15% Lawyers at \$68, and 10% Chief Executives at \$94). 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 2017*, published March 30, 2018, www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.

Attachment 1
Summary of annual Reporting, Recordkeeping, and Disclosure Requirements
Associated with Regulation BB

Requirements	Reporting	Recordkeeping	Disclosure
<i>Assessment area (228.41(a), 228.42(g))</i>			
All banks		Delineate assessment area	
Large banks ¹¹	Report this list	Collect list of geographies in assessment area(s)	
<i>Small business and small farm loan data (228.42(b)(1))</i>			
Large banks	Report aggregate number and amount of loans: <ul style="list-style-type: none"> • \$100,000 or less at origination • \$100,000 but less than or equal to \$250,000 at origination • More than \$250,000 at origination • to business or farm with gross annual revenue of \$1 million or less 		
<i>Community development loan data (228.42(b)(2))</i>			
Large banks	Aggregate number and amount of community development loans originated or purchased		
<i>Home mortgage loan data (228.42(b)(3))</i>			
Large banks	If applicable: Location of each loan application, origination or purchase outside MSAs where bank has offices (property location)		

¹¹ For the purpose of this attachment large banks are defined as any bank other than a small bank or intermediate small bank, as defined by Regulation BB, or any small bank or intermediate small bank electing not to employ the reporting exemptions available to small lenders.

Requirements	Reporting	Recordkeeping	Disclosure
<i>Request for designation as a wholesale or limited purpose bank (optional) (228.25(b))</i>			
All banks	Request in writing filed with the Board 3 months in advance of proposed effective date of designation		
<i>Strategic plan (optional) (228.27(a), 228.27(d)(3), 228.27(e), 228.27(f), and 228.27(h))</i>			
All banks	Submitted to and approved by the Board		
<i>Affiliate lending data (optional) (228.42(d))</i>			
All banks	Loan data the bank would have reported had the loans been originated or purchased by the bank	Loan data the bank would have collected and maintained had the loans been originated or purchased by the bank ¹²	
<i>Data on lending by a consortium or a third party (optional) (228.42(e))</i>			
All banks	Loan data the bank would have reported had the loans been originated or purchased by the bank		
<i>Small business and small farm loan register (228.42(a))</i>			
Large banks		Must collect and maintain: <ul style="list-style-type: none"> • unique symbol • loan amount • loan location • indicator whether loan was to business or farm with gross annual revenues of \$1 million or less 	

¹² For home mortgage loans, the bank must be prepared to identify the home mortgage loans reported under Regulation C by the affiliate.

Requirements	Reporting	Recordkeeping	Disclosure
<i>Consumer loan data (optional) (228.42(c)(1))</i>			
All banks		Loans originated or purchased: <ul style="list-style-type: none"> • unique symbol to identify loan file • loan amount • loan location • borrower's gross income considered in making credit decision 	
<i>Other loan data (optional) (228.42(c)(2))</i>			
All banks		Other lending performance information	
<i>Public file (228.41(a), 228.43(a)(1), 228.43(a)(2), 228.43(a)(3), 228.43(a)(4), 228.43(a)(5), 228.43(a)(6), 228.43(a)(7), 228.43(b)(1), 228.43(b)(2), 228.43(b)(3), 228.43(b)(4), 228.43(b)(5), 228.43(c), and 228.43(d))</i>			
All banks			<ul style="list-style-type: none"> • comment letters and responses (current and prior two years) • public section of most recent CRA performance evaluation • list of bank branches • list of branch openings and closings • list of services offered • map of each assessment area <i>if applicable:</i> <ul style="list-style-type: none"> • strategic plan • description of current efforts to improve its CRA performance

Requirements	Reporting	Recordkeeping	Disclosure
Large banks			<ul style="list-style-type: none"> • CRA Disclosure Statements (prior two years) <i>if applicable:</i> • consumer loan data (prior two years) • HMDA Disclosure Statements (prior two years)
Small banks and intermediate small banks			<ul style="list-style-type: none"> • loan-to-deposit ratio; each quarter prior year <i>if applicable:</i> • information required under disclosure rules for large banks
<i>Public notice by banks (228.44)</i>			
All banks			Prescribed notices informing consumers of their rights to certain information