Supporting Statement for the
Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y
(FR H-4; OMB No. 7100-0250)

Real Estate Appraisals
(Docket No. R-1568) (RIN 7100 AE81)

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 Recordkeeping Requirements Associated with the Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y (FR H-4; OMB No. 7100-0250). These recordkeeping requirements are specified in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) as set forth in the Board's Regulation H, subpart E (12 CFR 208.50-208.51) and Regulation Y, subpart G (12 CFR 225.61-225.67). These regulations require that, for federally related transactions, regulated institutions obtain real estate appraisals performed by certified or licensed appraisers in conformance with uniform appraisal standards. There is no formal reporting form and the information is not submitted to the Federal Reserve.

On April 9, 2018, the Board, Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) published a final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The final rule increases the threshold level at or below which appraisals are not required for commercial real estate transactions from $250,000 to $500,000. The threshold change in the final rule will result in lenders being able to use evaluations instead of appraisals for certain transactions. The revisions are effective April 9, 2018. The estimated total annual burden for the FR H-4 is 31,422 hours.

Background and Justification

Title XI of FIRREA (12 U.S.C. 3331 et seq.) directs the federal financial institutions regulatory agencies[1] to publish appraisal rules for federally related transactions within the jurisdiction of each agency. The purpose of the statute is "to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision."[2]

Section 1121 of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that is regulated by or engaged in by a federal financial

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[1] The federal financial institutions regulatory agencies consist of the Board, OCC, FDIC, and National Credit Union Administration (NCUA).
[2] See section 1101, Title XI of FIRREA.

institutions regulatory agency and requires the services of an appraiser. In addition, a real estate-related financial transaction is defined as any transaction that involves (1) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof, (2) the refinancing of real property or interests in real property, and (3) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

In 1990, the agencies published regulations to meet the requirements of Title XI of FIRREA. The regulations identify which transactions require an appraiser, set forth minimum standards for performing appraisals, and distinguish those appraisals requiring the services of a state-certified appraiser from those requiring a state-licensed appraiser. The regulations further identify categories of real estate-related financial transactions that do not require the services of an appraiser and, accordingly, are subject to neither Title XI of FIRREA nor those provisions of the agencies' regulations governing appraisals.

In 1991, as part of a burden reduction study mandated by the FDIC Act, the agencies determined that the appraisal requirements of Title XI could impose additional costs on both lenders and borrowers. The agencies decided that there were certain real estate-related transactions for which Title XI appraisals imposed significant costs without promoting, to a significant extent, the safety and soundness of regulated institutions or furthering the purposes of Title XI of FIRREA. Therefore, in June 1994, the agencies amended their regulations to clarify and expand the circumstances under which certain real estate-related transactions would not require Title XI appraisals. Also, in October 1994, the agencies issued the *Interagency Appraisal and Evaluation Guidelines* (interagency guidelines) to provide further clarification to the regulations and to set forth prudent appraisal and evaluation policies and practices. In November 1998, the Board amended the Regulation Y real estate appraisal requirement for bank holding companies (BHCs) and their nonbank subsidiaries. The amendment permits a BHC, or its nonbank subsidiary that has the authority to underwrite or deal in mortgage-backed securities, to do so without demonstrating that the loans underlying the securities are supported by appraisals that at origination met the Board's appraisal regulation.

The Board and the other agencies have issued additional guidance and clarification to their appraisal regulations. On December 10, 2010, after notice and comment, the agencies issued the revised *Interagency Appraisal and Evaluation Guidelines*.[3] These guidelines incorporate several appraisal-related guidance documents[4] that the agencies have issued over the past several years and provide clarification to the agencies' expectations for a regulated institution's compliance with the appraisal regulation.

Description of Information Collection

For federally related transactions, Title XI of FIRREA requires state member banks

[3] See 75 FR 77450 (December 10, 2010).

[4] While several previously issued guidance documents were rescinded with the issuance of the revised guidelines, several appraisal-related guidance documents were retained, including SR letter 05-05, "FAQs on Interagency Statement on Independent Appraisal and Evaluation Function;" and SR letter 05-14, "Interagency FAQs on Residential Tract Development Lending."

(SMBs) and BHCs with credit-extending nonbank subsidiaries to use appraisals prepared in accordance with minimum appraisal standards in the regulation, including the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards prescribe the requirements for analyzing the value of real property as well as the requirements for reporting such analysis and a value conclusion. An appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

SMBs and BHCs with credit-extending nonbank subsidiaries are expected to maintain records that demonstrate that appraisals used in their real estate-related lending activities comply with these regulatory requirements. While there is no obligation for a regulated institution to file appraisals with the Board, institutions must have policies and procedures governing their appraisal function to ensure compliance with the appraisal regulation. As part of an onsite examination of an institution, examiners may collect information and data on a particular appraisal or an institution's appraisal policies and practices to assess the condition of the institution and its compliance with the appraisal regulation.

Proposed Revisions

On April 9, 2018, the agencies published a final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The final rule increases the threshold level at or below which appraisals are not required for commercial real estate transactions from $250,000 to $500,000. The final rule defines commercial real estate transaction as a real estate-related financial transaction that is not secured by a single 1-to-4 family residential property. It excludes all transactions secured by a single 1-to-4 family residential property, and thus construction loans secured by a single 1-to-4 family residential property are excluded. For commercial real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices.

The threshold change will result in lenders being able to use evaluations instead of appraisals for certain transactions. It is estimated that the time required to document the review of an appraisal or an evaluation is the same. While the revisions will not change the amount of time that institutions spend complying with the Title XI appraisal regulation, the agencies are using a more accurate methodology for calculating the burden of the information collection based on the experience of the agencies. The agencies are (1) using the average number of loans per institution as the frequency and (2) using 5 minutes as the estimated time per response for the appraisals or evaluations.

Time Schedule for Information Collection

Bank examiners test for compliance with the appraisal regulation during examinations of SMBs banks and inspections of BHCs' credit-extending nonbank subsidiaries. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Legal Status

The FR H-4 is authorized pursuant to FIRREA (12 U.S.C. 3339). The adoption of written policies and use of an appraisal statement for federally related transactions is mandatory. Since the recordkeeping requirements do not require any information to be submitted to the Federal Reserve, issues of confidentiality do not normally arise. However, if the Federal Reserve were to collect a copy of the appraisal report during an examination, the documents could be exempt from disclosure under Freedom of Information Act (FOIA) (5 U.S.C 552(b)(4) and (b)(8)).

Consultation Outside of the Agency

On July 31, 2017, the agencies published a joint notice of proposed rulemaking in the *Federal Register* (82 FR 35478) for public comment. The comment period for this notice expired on September 29, 2017. The agencies received no comments on the Paperwork Reduction Act (PRA). On April 9, 2018, the agencies published a final rule in the *Federal Register* (83 FR 15019). The final rule is effective April 9, 2018.

Estimate of Respondent Burden

The total annual burden for the FR H-4 is estimated to be 31,442 hours. The agencies are using a more accurate methodology for calculating the burden of the information collection based on the experience of the agencies. The agencies are using (1) the average number of loans per institution as the frequency and (2) 5 minutes as the estimated time per response for the appraisals or evaluations. These recordkeeping requirements represent less than 1 percent of total Federal Reserve System annual paperwork burden.

FR H-4	*Number of respondents*[5]	*Annual frequency*	*Estimated average time per response*	*Estimated annual burden hours*
SMBs Sections 208.50 – 208.51	828	419	5 minutes	28,911
Nonbank subsidiaries of BHCs Sections 225.61 – 225.67	1,215	25	5 minutes	2,531
Total				31,442

The total cost to the public is estimated to be $1,762,324.[6]

[5] Of these respondents, 601 SMBs and 35 nonbank subsidiaries of BHCs 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/document/support--table-size-standards.

[6] 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/.

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 Federal Reserve System does not incur any direct costs as a result of this information collection.