Supporting Statement for the
Interagency Guidance on Managing Compliance and
Reputation Risks for Reverse Mortgage Products
(FR 4029; OMB No. 7100-0330)

Summary

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Interagency Guidance on Managing Compliance and Reputation Risks for Reverse Mortgage Products (FR 4029; OMB No. 7100-0330). Reverse mortgages are home-secured loans typically offered to elderly consumers. Financial institutions currently provide two types of reverse mortgage products: the lenders' own proprietary reverse mortgage products and reverse mortgages insured by the U.S. Department of Housing and Urban Development's Federal Housing Administration (FHA). Reverse mortgage loans insured by the FHA are made pursuant to the guidelines and rules established by HUD's Home Equity Conversion Mortgage (HECM) program.[1] HECM loans and proprietary reverse mortgages are also subject to consumer financial protection laws and regulations, e.g., the regulations that implement laws such as the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA).

In August 2010, the Federal Financial Institutions Examination Council (FFIEC), on behalf of its member agencies,[2] published a *Federal Register* notice adopting supervisory guidance titled "Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks."[3] The guidance is designed to help financial institutions with risk management and assist financial institutions' efforts to ensure that their reverse mortgage lending practices adequately address consumer compliance and reputation risks.

The reverse mortgage guidance discusses the reporting, recordkeeping, and disclosures required by federal laws and regulations and also discusses consumer disclosures that financial institutions typically provide as a standard business practice. Certain portions of the guidance are "information collections" subject to the PRA's requirements. The estimated total annual burden for the FR 4029 is 160 hours.

Background and Justification

Reverse mortgages enable eligible borrowers to remain in their homes while accessing their home equity in order to meet emergency needs, supplement their incomes, or, in some cases, purchase a new home – without subjecting borrowers to ongoing repayment obligations during the life of the loan. The use of reverse mortgages could expand significantly in coming years as the U.S. population ages and more homeowners become eligible for reverse mortgage products. If prudently underwritten and used appropriately, these products have the potential to become an increasingly important product for addressing certain credit needs of an aging

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[1] See 12 U.S.C. 1715z–20; 24 CFR Part 206.
[2] The Board, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and Office of Thrift Supervision.
[3] See 75 FR 50801 (August 17, 2010).

population.

Reverse mortgages present substantial risks both to financial institutions and to consumers. As with any type of home-secured loan, it is crucial that consumers understand the product terms and the nature of their obligations. In addition to consumer financial protection concerns that raise corresponding financial institution compliance and reputation risks, reverse mortgage products may present other risks, such as credit, interest rate, and liquidity risks, especially for proprietary reverse mortgage products lacking the insurance offered under the federal HECM program.

The 2010 reverse mortgage guidance is designed to help financial institutions ensure that their risk management and consumer financial protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending. The guidance discusses the general features of reverse mortgage products, relevant legal requirements, and consumer financial protection concerns raised by reverse mortgages. The guidance focuses on the need for banks, thrifts, and credit unions to provide clear and balanced information to consumers about the risks and benefits of these products.

Both proprietary products and HECMs are subject to various laws governing mortgage lending including the Federal Trade Commission Act, RESPA, TILA, and fair lending laws. HECMs are also subject to an extensive regulatory regime established by HUD, including provisions for FHA insurance of HECM loans that protect both lenders and reverse mortgage borrowers. The guidance supplements those requirements by advising lenders about additional practices that should be implemented to manage the risks associated with reverse mortgage products.

This information is not available from other sources.

Description of Information Collection

The guidance describes reporting, recordkeeping, and disclosures for both proprietary and HECM reverse mortgages. A number of these disclosures are "usual and customary" business practices for proprietary and HECM reverse mortgages, and these would not meet the PRA's definition of "burden." Other included disclosure requirements are currently mandated by federal consumer financial protection laws and regulations for all reverse mortgage loans and information collections required by HUD's rules for HECM loans.[4] Discussion of these requirements in the guidance is also not considered additional paperwork burden imposed by the guidance.

Proprietary reverse mortgage products, however, are not subject to HUD's rules for HECM loans. To the extent that the interagency guidance encourages lenders to follow HECM requirements for proprietary loans, this would meet the PRA's definition of paperwork burden.

There are additional provisions in the guidance that apply to both proprietary and HECM reverse mortgages that do not meet the "usual and customary" standard, are not covered

[4] See OMB Control No. 2502-0524.

by already approved information collections and, therefore, likewise meet the PRA's definition of paperwork burden.

Proprietary Reverse Mortgages

Financial institutions offering proprietary reverse mortgages are encouraged under the guidance to follow or adopt relevant HECM requirements for mandatory counseling, disclosures, affordable origination fees, restrictions on cross-selling of ancillary products, and reliable appraisals.

Proprietary and HECM Reverse Mortgages

Financial institutions offering either proprietary or HECM reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. They should describe how disbursements can be received and include timely information to supplement disclosures mandated by TILA and other disclosures. Promotional materials and product descriptions should include information about the costs, terms, features, and risks of reverse mortgage products.

Financial institutions should adopt policies and procedures that prohibit directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf. They should adopt clear written policies and establish internal controls specifying that neither the lender nor any broker will require the borrower to purchase any other product from the lender in order to obtain the mortgage. Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage. Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.

Financial institutions making, purchasing, or servicing reverse mortgages through a third party should conduct due diligence and establish criteria for third-party relationships and compensation. They should set requirements for agreements and establish systems to monitor compliance with the agreement and applicable laws and regulations. They should also take corrective action if a third party fails to comply. Third-party relationships should be structured in a way that does not conflict with RESPA.

Respondent Panel

The FR 4029 panel comprises state member banks that originate proprietary reverse mortgages.

Time Schedule for Information Collection and Publication

Financial institutions are encouraged to maintain records for any proprietary or HECM reverse mortgages they offer.[5]

Legal Status

The FR 4029 is authorized pursuant to section 11 of the Federal Reserve Act (12 U.S.C. 248) (state member banks); sections 25 and 25A of the Federal Reserve Act (12 U.S.C. 625) (Edge and agreement corporations); section 5 of the Bank Holding Company Act of 1956 (12 U.S.C. 1844) (bank holding companies) and in conjunction with section 8 of the International Banking Act (12 U.S.C. 3106) (foreign banking organizations), section 7(c) of the International Banking Act of 1978 (12 U.S.C. 3105(c)) (branches and agencies of foreign banks); and section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a) (savings and loan holding companies). This guidance is voluntary.

Because the documentation required by the guidance is maintained by each institution, the Freedom of Information Act (FOIA) would only be implicated if the Federal Reserve's examiners retained a copy of this information as part of an examination or as part of its supervision of a financial institution. However, records obtained as a part of an examination or supervision of a financial institution are exempt from disclosure under FOIA exemption (b)(8) (5 U.S.C. 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of the FOIA which protects commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. 552(b)(4)).

Consultation Outside the Agency

On July 3, 2018, the Board published an initial notice in the *Federal Register* (83 FR 31146) requesting public comment for 60 days on the proposal to extend, without revision, the FR 4029. The comment period for this notice expired on September 4, 2018. The Board did not receive any comments. On September 17, 2018, the Board published a final notice in the *Federal Register* (83 FR 46948).

Estimate of Respondent Burden

As shown in the table below, the annual burden for the FR 4029 is estimated to be 160 hours. These recordkeeping requirements represent less than one percent of the Board's total paperwork burden.

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[5] Financial institutions are encouraged to maintain a copy of these records until the guidance is either superseded or rescinded. If the guidance is rescinded, financial institutions are encouraged to maintain one copy of the records for 10 years after recension.

FR 4029	*Number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Implementation of Policies and Procedures	1	1	40	40
Review and Maintenance of Policies and Procedures[6]	15	1	8	120
Total				160

The total annual cost to the public for the FR 4029 is estimated to be $8,968.[7]

Sensitive Questions

This information collection 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 is negligible.

[6] Of these respondents, five 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.

[7] 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/.