

SUPPORTING STATEMENT

Internal Revenue Service

Obligations principally secured by an interest in real property -
Tests for determining whether an obligation is principally secured
OMB# 1545-2110

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

This collection covers final regulations under section 1.860G-2 that expand the list of permitted loan modifications to include certain modifications that are often made to commercial mortgages.

Section 1.860G-2(a)(1) of the regulations provides that an obligation is principally secured by an interest in real property if the fair market value of the real property that secures the obligation equals at least 80 percent of the adjusted issue price of the obligation. The regulations require the 80 percent test to be satisfied either at the time the obligation was originated or at the time the sponsor contributes the obligation to the REMIC.

Because certain types of modifications could affect the value of the collateral securing the mortgage loan, the final regulations require the 80-percent test to be satisfied at the time the mortgage loan is modified with respect to changes in collateral, guarantees, and credit enhancement of an obligation or with respect to changes to the recourse nature of an obligation.

The collection of information in this regulation is in section 1.860G-2(b) (7). To establish that the 80-percent test is met at the time of modification, the servicer must obtain an appraisal or some other form of commercially reasonable valuation (the appraisal requirement). This information is required to show that modifications to mortgages permitted will not cause the modified mortgage to cease to be a qualified mortgage.

2. USE OF DATA

The Internal Revenue Service can use this information provided by the appraisal requirement to monitor proper compliance with the requirement in section 1.860G-2(a) (1) of the regulations that a mortgage loan held by a REMIC satisfy the 80-percent test and thereof, be principally secured by an interest in real property.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

REMICs affected by the appraisal requirement will not be required to file the appraisal with the Internal Revenue Service, though may be required to furnish this information to the Service if audited. Thus, there was no consideration given to using information technology to reduce burden.

4. EFFORTS TO IDENTIFY DUPLICATION

We have attempted to eliminate duplication within the agency wherever possible and we are not aware of any other information already available that could be used to determine the fair market value of an interest in real property for purposes of the proposed regulations.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

This collection of information will not have a significant impact on a substantial number of small businesses or other small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL PROGRAMS OR POLICY ACTIVITIES

Consequences of less frequent collection on federal programs or policy activities, could result in insufficient information provided by the appraisal requirement to monitor proper compliance with the requirement in section 1.860G-2(a)(1) of the regulations, that at a mortgage loan held by a REMIC satisfy the 80-percent test and be principally secured by an interest in real property.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with Guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

This notice of proposed rulemaking was published in the Federal Register on November 9, 2007 (72 FR 63523), to provide the public a 60-day period in which to review and provide public comments relating to any aspect of the proposed regulation. A public hearing was requested and was held on April 4, 2008 (73 FR 12041). The final regulation was published on September 16, 2009, 73 FR 47439 as (TD 9463).

Periodic meetings are held between IRS personnel and representatives of the American Bar Association, the National Society of Public Accountants, the American Institute of Certified Public Accountants, and other professional groups to discuss tax law and tax forms. During these meetings, there is an opportunity for those attending to make comments regarding modifications of commercial mortgage loans held by a real estate mortgage investment conduit.

In response to the **Federal Register** notice dated December 4, 2018 (83 FR 62673), we

received no comments during the comment period regarding these regulations.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift has been provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Respondents will not be required to file the collection of information with the Internal Revenue Service, though may be requested to provide the information on audit. If requested on audit, the information is confidential as required by 26 USC 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

No personally identifiable information (PII) is collected.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

Estimated total annual reporting burden: 3000 hours
Estimated average annual burden hours per respondent: 8
Estimated annual frequency of responses: 1
Estimated number of respondents: 375 REMICs

The average commercial loan pool is 200 loans per pool and, there were 75,000 outstanding commercial loans held by REMICs. IRS determined that there were approximately 375 REMICs (75,000/200) that could be affected by the regulation.

IRS further estimated that an appraisal of an interest in real property would take 8 hours and that each of the 375 estimated REMICs would have at least one loan modified each year such that the appraisal requirement would need to be satisfied in order to prevent the loan from becoming disqualified. Finally, IRS estimated the total annual reporting burden to be 3000 hours (375 REMICs x 8 hours/appraisal).

The burden estimate is as follows:

OMB Collection	Authority	Form	Annual Responses	Hours per Response	Total Burden
IRS 1545-2110	CFR 1.860G-2	N/A	375	8	3,000
	IRS TOTAL		375		3,000

The following regulations impose no additional burden. Please continue to assign OMB

number 1545-2110 to these regulations.

1.860G-2

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

To ensure more accuracy and consistency across its information collections, IRS is currently in the process of revising the methodology it uses to estimate burden and costs. Once this methodology is complete, IRS will update this information collection to reflect a more precise estimate of burden and costs.

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

There is no estimated annualized cost to the federal government.

15. REASONS FOR CHANGE IN BURDEN

There are no changes to the total burden, however the estimated annual responses will increase by 175.

In previous submissions, the number of loans (200) was erroneously reported as the number of respondents (375).

The increase in 175 respondents corrects the information collection to the intended number of respondents (375).

We are submitting this request for renewal purposes only.

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the regulation sunsets as of the expiration date. Taxpayers are not likely to be aware that the Service intends to request renewal of OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a

collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.