

**Supporting Statement for the
Disclosure Requirements of Regulation Y
Associated with Minimum Requirements for Appraisal Management Companies
(FR HY-5; OMB No. 7100-0370)**

Summary

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), has extended for three years, without revision, the Disclosure Requirements of Regulation Y Associated with Minimum Requirements for Appraisal Management Companies¹ (FR HY-5; OMB No. 7100-0370). In 2015, the Board published a final rule² implementing section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act),³ which relates to the supervision and regulation of appraisal management companies (AMCs). An AMC is an entity that serves as an intermediary for, and provides certain appraisal-related services to, creditors.⁴ The Board's final rule instituted certain disclosure requirements for AMCs and U.S. states, which are located in the Board's Regulation Y- Bank Holding Companies and Change in Bank Control (12 CFR Part 225). The estimated total annual burden for FR HY-5 is 3,513 hours.

Background and Justification

Section 1473 of the Dodd-Frank Act added section 1124 to Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) that required the agencies to establish, by rule, minimum requirements to be applied by states in the registration and supervision of AMCs.⁵ These minimum requirements apply to states that have elected to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs (participating states). Participating states must require AMCs to register with and be

¹ This collection of information was formerly titled "Reporting and Recordkeeping Requirements of Regulation H and Regulation Y Associated with Minimum Requirements for Appraisal Management Companies." The Board has changed the title of the collection of information to reflect that only requirements found in the Board's Regulation Y are covered by this OMB control number and that the collection of information consists of only disclosure requirements. Regulation H cross-references to Regulation Y for state member banks regulated by the Board.

² See 80 FR 32657 (June 9, 2015). This final rule was published jointly by the Board with the Office of the Comptroller of the Currency (OCC), Federal Deposit Insurance Corporation (FDIC), National Credit Union Administration (NCUA), Bureau of Consumer Financial Protection (Bureau), and Federal Housing Finance Agency (FHFA) (collectively, the agencies).

³ Public Law 111-203, 124 Stat. 1376 (2010).

⁴ Specifically, the term AMC means, "in connection with valuing properties collateralizing mortgage loans or mortgages incorporated into a securitization, any external third party authorized either by a creditor of a consumer credit transaction secured by a consumer's principal dwelling or by an underwriter of or other principal in the secondary mortgage markets, that oversees a network or panel of more than 15 certified or licensed appraisers in a state or 25 or more nationally within a given year (A) to recruit, select, and retrain appraisers, (B) to contract with licensed and certified appraisers to perform appraisal assignments, (C) to manage the process of having an appraisal performed, including providing administrative duties such as receiving appraisal orders and appraisal reports, submitting completed appraisal reports to creditors and underwriters, collecting fees from creditors and underwriters for services provided, and reimbursing appraisers for services performed, or (D) to review and verify the work of appraisers." (12 U.S.C. § 3350(11)).

⁵ See 12 U.S.C. § 3353.

subject to supervision by the state’s appraiser certifying and licensing agency. Such requirements must apply to all AMCs, except that AMCs that are a subsidiary of an insured depository institution (a “federally regulated AMC”) are not required to register with a state. States are not required to establish an appraiser certifying and licensing agency with authority to register and supervise AMCs; however, a non-federally regulated AMC may not provide services for a federally related transaction in a state that does not establish such a program.⁶

Section 1473 of the Dodd-Frank Act also amended Title XI to require the Appraisal Subcommittee of the Federal Financial Institutions Examination Council to maintain an AMC National Registry, which includes AMCs that are either registered with and subject to supervision by a state appraiser certifying and licensing agency or are federally regulated AMCs. It also added a requirement that participating states collect annual registry fees from AMCs. Further, section 1473 of the Dodd-Frank Act requires the agencies to promulgate regulations for the reporting of the activities of AMCs to the Appraisal Subcommittee relating to the determination of the AMCs’ annual registry fee.

The requirements associated with section 1124 of Title XI were implemented by the Board, as part of a joint rulemaking with all of the agencies, in 2015.

Description of Information Collection

The Board’s disclosure requirements associated with minimum requirements for AMCs are found in sections 225.192, 225.193, 225.195, and 225.196 of the Board’s Regulation Y. Compliance with the information collections is mandatory for AMCs and voluntary for states. No other federal law mandates these disclosure requirements. This information is not available from any other source.

Disclosure Requirements

Written Notice of Appraiser Removal from Network or Panel. Section 225.192(b) provides that an appraiser in an AMC’s network or panel is deemed to remain a part of the AMC’s appraiser panel until the AMC (1) sends a written notice to the appraiser removing the appraiser with an explanation or (2) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser.

Registration and Supervision Program. Participating states must have an AMC registration and supervision program. Pursuant to section 225.193(a), each participating state must establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to, among other things, review and approve or deny an AMC’s application for initial registration; require AMCs to submit reports, information, and documents; and report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the Appraisal Subcommittee.

Section 225.193(b) requires each participating state to require non-federally regulated

⁶ 12 U.S.C. § 3353(f)(1).

AMCs to register with the state appraiser certifying and licensing agency.

AMC Reporting Requirements. Section 225.195(c) requires a federally regulated AMC to report to the state or states in which it operates the information required to be submitted by the state pursuant to the Appraisal Subcommittee’s policies regarding the determination of the AMC National Registry fee, including information relating to certain ownership limitations in the regulation.

State Reporting Requirements to the ASC. Section 225.196 requires that each participating state submit to the Appraisal Subcommittee the information required to be submitted by Appraisal Subcommittee regulations or guidance concerning AMCs that operate in the state.

Time Schedule for Information Collection

The Board’s disclosure requirements associated with minimum requirements for AMCs are event-generated. There is no mandatory retention period for the information collection.

Legal Status

The FR HY-5 is authorized pursuant to section 1124(a) of the FIRREA, which provides that the agencies “shall jointly, by rule, establish minimum requirements to be applied by a State in the registration of [AMCs]” (12 U.S.C. § 3353(a)). Section 1124(e) of the FIRREA also requires that the agencies “jointly promulgate regulations for the reporting of the activities of [AMCs] to the [Appraisal Subcommittee of the Federal Financial Institutions Examination Council (ASC)] in determining the payment of the annual registry fee” (12 U.S.C. § 3353(e)). In addition, section 1109(a) of the FIRREA requires each participating state with an appraiser certifying and licensing agency must transmit to the ASC “[1] a roster listing individuals who have received a State certification or license . . . [2] reports on the issuance and renewal of licenses and certifications, sanctions, disciplinary actions, license and certification revocations, and license and certification suspensions on a timely basis to the national registry of the [ASC] . . . [3] including investigations initiated and disciplinary actions taken” (12 U.S.C. §§ 3338(a)(1)-(3)). Section 1124 of the FIRREA does not compel a state to establish an AMC registration and supervision program, nor is a penalty imposed on a state that does not establish a regulatory structure for AMCs.⁷ Therefore, the FR HY-5 is voluntary for states. The FR HY-5 is mandatory for AMCs.

Because the Federal Reserve will not collect this information, confidentiality issues would normally not arise. Because the records are retained at banking organizations, the Freedom of Information Act (FOIA) will only be implicated if the Board’s examiners retain a copy of the record as part of an examination or supervision of a banking institution. In that case, the records would be exempt from disclosure under exemption 8 of the FOIA, which protects examination materials from disclosure (5 U.S.C. § 552(b)(8)). Exemption 4 of the FOIA, which protects confidential financial information, and exemption 6 of the FOIA, which protects non-public personal information, may also be applicable (5 U.S.C. §§ 552(b)(4) and (b)(6)).

⁷ See 80 FR 32658 (June 9, 2015).

Consultation Outside the Agency

The Board, OCC, FDIC, and FHFA collaborated in reassessing and confirming their burden estimates and methodologies for this submission and discussed potential improvements and evaluations for future submissions.

Public Comments

On March 6, 2019, the Board published an initial notice in the *Federal Register* (84 FR 8098) requesting public comment for 60 days on the extension, without revision, of the FR HY-5. The comment period for this notice expired on May 6, 2019. The Board did not receive any comments. On June 17, 2019, the Board published a final notice in the *Federal Register* (84 FR 28048).

Estimate of Respondent Burden

For this submission, the Board's estimated number of respondents and burden hours for sections 225.192, 225.193, and 225.195 are based on a percentage of the total estimated number of respondents for the agencies, which all have identical disclosure requirements. The total burden hours and respondents for sections 225.192 and 225.193 (state regulated AMC reporting requirements) are split between the Board, OCC, FDIC, and FHFA in a ratio of 3:3:3:1. The basis for this methodology is explained in full detail in a memo from the Division of Insurance and Research at the FDIC.⁸ The Board has recalculated the remaining sections based on updated respondent information. The estimated total annual burden for the Board's disclosure requirements associated with minimum requirements for AMCs is 3,513 hours. These disclosure requirements represent less than 1 percent of the Board's total paperwork burden.

⁸ *Information Collection Resubmission OMB Control No. 3064-0195 Minimum Requirements for Appraisal Management Companies* by Conrad LaJoie, Regulatory Analysis Section of FDIC (March 14, 2018). This memo will be included as part of the package submitted to OMB.

FR HY-5	<i>Estimated number of respondents⁹</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Disclosure				
Section 225.192 Written notice of appraiser removal from network or panel	2,963	1	0.08	237
Section 225.193(a) Establish and maintain registration and supervision program	51	1	40	2,040
Section 225.193(b) State Regulated AMC reporting requirements	60 ¹⁰	19.56 ¹¹	1	1,174
Section 225.195 Federally Regulated AMC reporting requirements	11 ¹²	1	1	11
Section 225.196 State reporting requirements to the Appraisal Subcommittee	51 ¹³	1	1	<u>51</u>
	<i>Total</i>			3,513

The estimated total annual cost to the public for this information collection is \$202,349.¹⁴

⁹ Of these respondents, none (North American Industry Classification System (NAICS) code 531320) are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$7.5 million in total assets), www.sba.gov/document/support--table-size-standards.

¹⁰ States are not required to report information on AMCs operating in their states until June 2020. Estimates of respondent AMCs will be updated after that date.

¹¹ Represents an estimate of the number of states in which each AMC operates. The Bureau conducted a survey of nine AMCs in 2013 regarding the provision in the rule and the related PRA burden.

¹² Represents the number of active federally regulated AMCs reported under NAICS code 531320 *Offices of Real Estate Appraisers*.

¹³ All 50 states and the District of Columbia are reported as participating states according to the Appraisal Subcommittee

¹⁴ 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 \$19, 45% Financial Managers at \$71, 15% Lawyers at \$69, and 10% Chief Executives at \$96). 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 2018*, published March 29, 2019, 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, although it is possible that a participating state could ask questions of a sensitive nature pursuant to its authority to require an application or report from an AMC, or that a participating state may report sensitive information to the Appraisal Subcommittee pursuant to the requirement that the state report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions.

Estimate of Cost to the Federal Reserve System

The estimated cost to the Federal Reserve System is negligible.