

**Supporting Statement for the
Notification of Nonfinancial Data Processing Activities
(FR 4021; OMB No. 7100-0306)**

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 Notification of Nonfinancial Data Processing Activities (FR 4021; OMB No. 7100-0306). Generally, a bank holding company (BHC) may, through a subsidiary, engage in data processing activities if the subsidiary earns not more than 49 percent of its data processing revenue from nonfinancial data processing activities.¹ However, the Board has stated that a BHC may file with the Board a request for permission to administer this 49 percent revenue limit on a business-line or multiple-entity basis, rather than on a company-by-company basis. The FR 4021 information collection consists of this filing for prior notice.

The estimated total annual burden for the FR 4021 is 2 hours. There is no formal reporting form for this information collection (the FR 4021 designation is for internal purposes only).

Background and Justification

The Bank Holding Company Act of 1956 (BHC Act), as amended by the Gramm-Leach-Bliley Act (GLB Act), permits BHCs to engage in any nonbanking activity that the Board had determined by order or regulation prior to November 12, 1999, to be “so closely related to banking as to be a proper incident thereto” under section 4(c)(8) of the BHC Act.² One such activity is data processing. Specifically, pursuant to the Board’s Regulation Y - Bank Holding Companies and Change in Bank Control (12 CFR Part 225), BHCs may provide data processing and data transmission services, facilities (including data processing and data transmission hardware, software, documentation, or operating personnel), data bases, advice and access to such services, facilities and data to any customer if the data processed or furnished are financial, banking or economic in nature.³ Additionally, a BHC or nonbank subsidiary engaged in processing financial data may provide data processing services for nonfinancial data so long as the annual revenues derived by the company or subsidiary from its nonfinancial data processing activities does not exceed 49 percent of the total annual revenue derived by the company or subsidiary from providing data processing services.⁴

The 49 percent revenue limit for nonfinancial data processing was established by final rule in 2003.⁵ In the preamble to this rulemaking, the Board, recognizing that there may be situations where a BHC has bona fide operational reasons for conducting its financial and related

¹ See 12 CFR 225.28(b)(14).

² 12 U.S.C. § 1843(c)(8).

³ 12 CFR 225.28(b)(14).

⁴ 12 CFR 225.28(b)(14)(ii).

⁵ 68 FR 68493 (December 9, 2003). Previously, the limit had been 30 percent.

nonfinancial data processing activities through separately incorporated subsidiaries. The preamble also stated that BHCs may request permission to administer the 49 percent revenue limit on a business-line or multiple-entity basis, rather than on a company-by-company basis.⁶ In acting on such a request, the Board would consider any such request in light of all the facts and circumstances, including the inter-relationships between the data processing activities conducted by the BHC's separate subsidiaries, the BHC's business or operational reasons for conducting its data processing activities in different subsidiaries, and the level of the BHC's ownership interest in the individual subsidiaries.⁷ This information provided in the notice is not available from other sources.

Description of Information Collection

The FR 4021 consists of the notice that BHCs may file to request permission to administer the Regulation Y revenue limit on nonfinancial data processing activities on a business-line or multiple-entity basis. A BHC may submit such a request to the Board's General Counsel in letter form. The request should describe the structure of the requesting BHC's data processing operations, the methodology the BHC proposes to use to administer the 49 percent revenue limit, and the reasons why the BHC believes that the proposed methodology is appropriate. To date, the Board has never received such a request from a BHC.

Respondent Panel

The FR 4021 panel comprises BHCs.

Time Schedule for Information Collection

The FR 4021 is an event driven information collection. BHCs must request and obtain permission from the General Counsel before administering the 49 percent revenue limit on a business-line or multiple-entity basis.

Public Availability of Data

No data collected by the Board pursuant to this information collection is made available to the public.

Legal Status

The Board is authorized to collect the information associated with the notification process from BHCs pursuant to the BHC Act (12 U.S.C. § 1843(c)(8) and (k)). The submission of the notification (request) associated with the FR 4021 is required to obtain a benefit.

To the extent a BHC submits nonpublic commercial or financial information in connection with the FR 4021, which is both customarily and actually treated as private by the

⁶ Id. at 68497.

⁷ Id.

BHC, the BHC may request confidential treatment pursuant to exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(4)). The entity should separately designate such information as “confidential commercial information” or “confidential financial information, as appropriate, and the Board will treat such designated information as confidential to the extent permitted by law, including the FOIA (5 U.S.C. § 552).

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On February 4, 2020, the Board published an initial notice in the *Federal Register* (85 FR 6181) requesting public comment for 60 days on the extension, without revision, of the FR 4021. The comment period for this notice expired on April 6, 2020. The Board did not receive any comments. On August 21, 2020, the Board published a final notice in the *Federal Register* (85 FR 51714).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR 4021 is 2 hours. For the purpose of maintaining and clearing the notice requirement pursuant to the Paperwork Reduction Act, the Board estimates that 1 respondent per year will take 2 hours each to submit a request. These reporting requirements represent less than 1 percent of the Board’s total paperwork burden.

FR 4021	<i>Estimated number of respondents⁸</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current	1	1	2	2

The estimated total annual cost to the public for this information collection is \$116.⁹

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

⁸ Of these respondents, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), <https://www.sba.gov/document/support-table-size-standards>.

⁹ 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 \$20, 45% Financial Managers at \$71, 15% Lawyers at \$70, and 10% Chief Executives at \$93). 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 2019*, published March 31, 2020, <https://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.

Estimate of Cost to the Federal Reserve System

The estimated cost to the Federal Reserve System for collecting and processing this information collection is negligible.