

**Supporting Statement for the
Annual Daylight Overdraft Capital Report for
U.S. Branches and Agencies of Foreign Banks
(FR 2225; OMB No. 7100-0216)**

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, with revision, the Annual Daylight Overdraft Capital Report for U.S. Branches and Agencies of Foreign Banks (FR 2225; OMB No. 7100-0216). The FR 2225 is required for foreign banking organizations (FBOs) that wish to and are eligible to establish a non-zero net debit cap for their U.S. branches and agencies under the Federal Reserve Policy on Payment System Risk (PSR policy).

The Board changed the instructions to the FR 2225 to remove references to an FBO's strength of support assessment (SOSA) ranking and its status as a financial holding company (FHC). These changes are related to the revisions to the PSR policy, which the Board implemented on April 1, 2019, and which take effect on October 1, 2020.¹ In addition, the Board revised the Confidentiality section of the instructions to clarify how an FBO should submit a request for confidential treatment, if the FBO believes the data it provides on the FR 2225 is exempt from disclosure under the Freedom of Information Act (FOIA). The Board also changed the language on the FR 2225 to clarify where the confidentiality instructions can be found, and updated the legal statutes listed on the face of the FR 2225.

The current estimated total annual burden for the FR 2225 is 51 hours, and would remain the same with the revisions. The draft reporting form and instructions are available on the Board's public website at <https://www.federalreserve.gov/apps/reportforms/review.aspx>.

Background and Justification

Since 1985, the Board has published and periodically revised a series of policies encouraging the management of risks in payment and securities settlement systems.² In 1992, the Board first issued the "Policy Statement on Payments System Risk," which provided a comprehensive statement of its previously adopted policies regarding payment system risk reduction, including risk management in private large-dollar funds transfer networks, private delivery-against-payment securities settlement systems, offshore dollar clearing and netting systems, and private small-dollar clearing and settlement systems.³ Over time, the Board has updated the PSR policy to reflect the evolution of payment, clearing, and settlement systems that

¹ See 84 FR 12049 (April 1, 2019). See also 85 FR 19077 (April 6, 2020) (announcing the change in the effective date from April 1, 2020, to October 1, 2020).

² See 50 FR 21120 (May 22, 1985); 51 FR 23829 (July 1, 1986); 52 FR 29255 (August 6, 1987); 55 FR 22087 (May 31, 1990).

³ 57 FR 40455 (September 3, 1992).

participate in the financial system; incorporate relevant international risk-management standards developed by central banks and market regulators as the baseline for its expectations; and improve transparency in the systems that are subject to the Board's authority.⁴ Historically, the PSR policy relied on an FBO's SOSA ranking and its status as an FHC to determine an FBO's eligibility and the level of intraday credit that U.S. branches and agencies of the FBO could receive from the Federal Reserve Banks. An FBO's SOSA ranking and FHC status also impacted an FBO's ability to request additional collateralized capacity through the PSR policy's maximum daylight overdraft capacity procedure. In April 2019, the Board announced changes to Part II of the PSR policy, removing references to SOSA rankings and FHC status and adopted an alternative method, the combination of supervisory ratings and the FBO PSR capital category (cap category),⁵ for determining an FBO's eligibility for a positive net debit cap, the size of its net debit cap, and its eligibility to request a streamlined procedure to obtain maximum daylight overdraft capacity.⁶ These changes take effect on October 1, 2020. Accordingly, the instructions to the FR 2255 are being revised to reflect these changes for determining an FBO's eligibility.

Under the PSR policy, all institutions that maintain a Federal Reserve account are assigned or may establish a net debit cap that represents a maximum limit on uncollateralized daylight overdrafts incurred in that account. A daylight overdraft occurs when an institution's Federal Reserve account is in a negative position during the business day. The PSR policy requires all depository institutions incurring daylight overdrafts in their Federal Reserve accounts to establish a maximum daylight overdraft capacity limit, or "net debit cap," on those overdrafts. An institution's net debit cap category and its capital measure determine the size of its net debit cap. In addition, the net debit caps for U.S. branches and agencies of foreign banks are calculated in the same manner as for domestic banks: by multiplying an institution's cap multiple⁷ by its capital measure.⁸ An institution's cap category and associated cap multiple are determined through a self-assessment and a board of directors resolution for self-assessed institutions, through a board of directors resolution for *de minimis* institutions, or by assignment by the Administrative Reserve Bank.

Without the worldwide capital figures reported in the FR 2225, Reserve Banks will not be able to determine an FBO's net debit cap. Moreover, without at least an annual update of the worldwide capital figures, the net debit cap would be stale, especially when compared to

⁴ See e.g., 59 FR 25060 (May 13, 1994); 59 FR 67534, 67538 (December 29, 1994); 63 FR 70774 (December 22, 1998); 69 FR 69926 (December 1, 2004); 72 FR 2518 (January 19, 2007); 73 FR 79109 (December 24, 2008); 84 FR 12049 (April 1, 2019); 85 FR 19077 (April 6, 2020). The Federal Reserve Policy on Payment System Risk (effective on October 1, 2020) is available at https://www.federalreserve.gov/paymentsystems/files/psr_2020_policy.pdf.

⁵ Similar to the Prompt Corrective Action Designation for domestic institutions, an FBO would determine its FBO PSR capital category by comparing its risk-based ratios to corresponding ratios in Regulation H.

⁶ See 84 FR 12049 (April 1, 2019). See also 85 FR 19077 (April 6, 2020) (announcing the change in the effective date from April 1, 2020, to October 1, 2020).

⁷ Under Section II.D.1 of the PSR policy, the cap multiple for the "high" category is 2.25, for the "above average" category is 1.875, for the "average" category is 1.125, for the "de minimis" category is 0.4, for the "exempt-from-filing" category is 0.2 or \$10 million, and for the "zero" category is 0. Note that the net debit cap for the exempt-from-filing category is equal to the lesser of \$10 million or 0.2 multiplied by the capital measure.

⁸ U.S. branches and agencies of foreign banks are entities contained within and controlled by a foreign banking organization. For the definition of "branch" and "agency," refer to 12 U.S.C. § 3101 and 12 CFR Part 211.21.

domestic peers who must submit their capital figures on at least an annual basis. This information is not available from other sources.

Description of Information Collection

The FR 2225 reporting form collects information needed to identify the respondent and its fiscal year-end, and collects four items to determine its year-end capital and assets for purposes of daylight overdraft monitoring. The four items, converted into U.S. dollars collected for the capital and assets determination are worldwide capital for the reporting FBO (item 1), an adjustment to avoid double counting of capital used by any direct or indirect subsidiary of the FBO that also has access to Fedwire and has its own net debit cap (item 2), the FBO's total daylight overdraft capital base for the U.S. branch and agency family (item 3), which is used to calculate the net debit cap, and the reporting FBO's total worldwide assets (item 4). The Reserve Banks use items 1 and 2 as supplemental information to clarify the data reported in item 3. The Federal Reserve use the assets data reported in item 4 for analytical purposes.

The reporting panel is comprised of FBOs with U.S. branches or agencies that wish to or are eligible to have a non-zero net debit cap for their U.S. branches and agencies under the PSR policy. Pursuant to the PSR policy, an FBO requesting a non-zero net debit cap is required to file the FR 2225. The FR 2225 must be submitted annually, following the end of the FBO's fiscal year. An FBO may voluntarily submit the report more frequently to have its overdraft limit revised based on current data. The net debit cap for an FBO's U.S. branches and agencies is calculated on a consolidated basis for the FBO as a whole. Therefore, an FBO with multiple offices in the U.S. submits only one form for the U.S. "family" of offices.

Respondents submit the FR 2225 to their appropriate Reserve Bank. The completed FR 2225 forms are submitted to Reserve Banks via electronic communications using the PDF format. Reserve Banks have established internal procedures to track institutions with FR 2225 data that will become stale and send a letter annually to those FBOs needing to file an updated FR 2225. The letters indicate that the FR 2225 is due 90 days after the FBO's fiscal year-end date.

Respondent Panel

The FR 2225 reporting panel comprises foreign banking organizations with U.S. branches or agencies that wish to and are eligible to establish a non-zero net debit cap for their U.S. branches and agencies under the PSR policy.

Revisions to the FR 2225

The Board revised the instructions to remove references to an FBO's SOSA ranking and its status as an FHC because this information is no longer used for determining an FBO's eligibility for a positive net debit cap, the size of its net debit cap, and its eligibility to request a streamlined procedure to obtain maximum daylight overdraft capacity. In addition, the Board revised the Confidentiality section of the instructions to clarify how an FBO may request its information be treated as confidential, if the FBO believes the information submitted on its

FR 2225 report is exempt from disclosure under the FOIA. The Board also changed the language in the FR 2225 to clarify where the confidentiality instructions can be found, and updated the legal statutes listed on the face of the FR 2225. Currently, the FR 2225 only cites to 12 U.S.C. §§ 248(i), 248-1, and 464, as providing legal authorization for this information collection. The legal statutes cited on the FR 2225 will be updated to also cite to 12 U.S.C. §§ 347d and 3105(a). Although the FR 2225 instructions advise that the FR 2225 is “required” to be reported, the face of the FR 2225 report inadvertently indicated the FR 2225 is submitted on a “voluntary” basis. Accordingly, the reference to the report being submitted on a “voluntary” basis is being removed from the FR 2225 report.

Time Schedule for Information Collection

The FR 2225 is due 90 days after the respondent’s fiscal year-end. The U.S. office of the reporting FBO submits the data directly to the Federal Reserve Bank stated in the reporting instructions. If the reporting FBO has more than one U.S. office, one office is designated as the reporting office and serves as the FBO’s representative on all matters involving compliance with the PSR policy.

Public Availability of Data

Unless a reporting FBO requests confidential treatment, the FR 2225 is a public report and is available through the Board’s Freedom of Information Act Office.

Legal Status

This information collection is authorized pursuant to section 7(a) of the International Banking Act (12 U.S.C. § 3105(a)), which establishes reserve requirements for U.S. branches and agencies of foreign banks, and pursuant to section 13(14) of the Federal Reserve Act (FRA) (12 U.S.C. § 347d), which provides that “each Federal Reserve bank may receive deposits from, discount paper endorsed by, and make advances to any branch or agency of a foreign bank in the same manner and to the same extent that it may exercise such powers with respect to a member bank if such branch or agency is maintaining reserves with such Reserve bank pursuant to section 7 of the International Banking Act of 1978.” In addition, sections 11(i), 16, and 19(f) of the FRA (12 U.S.C. §§ 248(i), 248-1, and 464), continue to provide authority for the collection of the FR 2225. The obligation to respond is required to obtain a benefit (*i.e.*, this information is required in order for an FBO to establish a non-zero net debit cap so that its U.S. branches or agencies may be eligible for intraday credit).

The Board does not consider the information collected on the FR 2225 to be confidential, and the completed version of this report generally is made available to the public upon request. However, in certain instances, specific information collected on an individual FBO’s FR 2225 report may be exempt from disclosure pursuant to exemption 4 of the FOIA, which protects from public disclosure “trade secrets and commercial or financial information obtained from a person and privileged or confidential” (5 U.S.C. § 552(b)(4)). A request for confidential treatment must be submitted by the FBO in writing concurrently with the submission of the FR 2225 report. This written request must identify the specific data for which confidential treatment is sought and

must provide the legal justification for the confidentiality request, as provided in the Board’s Rules Regarding Availability of Information (12 CFR Part 261). The Federal Reserve will review each confidential treatment request on a case-by-case basis to determine if confidential treatment is appropriate. Under the Board’s current rules, the Federal Reserve may subsequently release information for which confidential treatment was requested, if (1) disclosure of such information is required by law (other than 5 U.S.C. § 552), (2) the request for confidential treatment (request) was made by the FBO pursuant to 5 U.S.C. § 552(b)(4) and more than 10 years have passed since the request, or (3) less than 10 years have passed since the request, but the Board believes that the information cannot be withheld from disclosure under 5 U.S.C. § 552(b)(4), and the FBO is provided with written notice of the Board’s views and with an opportunity to object to the Board’s disclosure.

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On June 29, 2020, the Board published an initial notice in the *Federal Register* (85 FR 38896) requesting public comment for 60 days on the extension, with revision, of the FR 2225. The comment period for this notice expired on August 28, 2020. The Board did not receive any comments. The Board adopted the extension, with revision, of the FR 2225 as originally proposed. On November 19, 2020, the Board published a final notice in the *Federal Register* (85 FR 73706).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR 2225 is 51 hours, and would remain the same with the revisions. The number of respondents is based on the Board’s current count of institutions that have a positive net debit cap. These reporting requirements represents less than 1 percent of the Board’s total paperwork burden.

| FR 2225 | <i>Estimated number of respondents⁹</i> | <i>Annual frequency</i> | <i>Estimated average hours per response</i> | <i>Estimated annual burden hours</i> |
|----------------|--|-------------------------|---|--------------------------------------|
| Current | 51 | 1 | 1 | 51 |

The estimated total annual cost to the public for the FR 2225 is \$2,945.¹⁰

⁹ Of these respondents, 4 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>. There are no special accommodations given to mitigate the burden on small institutions.

¹⁰ 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/>.

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 estimated cost to the Federal Reserve System for collecting and processing this report is \$2,400.