

**Supporting Statement for the
Disclosure Requirements of Subpart H of Regulation H
(Consumer Protection in Sales of Insurance)
(FR H-7; OMB No. 7100-0298)**

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 Disclosure Requirements of Subpart H of Regulation H (Consumer Protection in Sales of Insurance) (FR H-7; OMB No. 7100-298). The disclosure requirements, which are codified at 12 CFR 208.81 et seq., apply to the sale of insurance by a state member bank or by any other person at an office of the bank or on behalf of the bank (collectively, Covered Persons).

The Board revised the FR H-7 to account for one disclosure requirement in Regulation H, Subpart H, that has not been previously cleared by the Board under the Paperwork Reduction Act (PRA).

The current estimated total annual burden for FR H-7 is 5,371 hours, and would increase to 5,513 hours with the revisions.

Background and Justification

Subpart H of Regulation H - Membership of State Banking Institutions in the Federal Reserve System (12 CFR Part 208) was adopted by the Board in 2000¹ pursuant to section 305 of the Gramm-Leach-Bliley Act of 1999 (GLBA), which required the federal banking agencies² to issue joint regulations governing retail sales practices, solicitations, advertising, and offers of insurance by, on behalf of, or at the offices of depository institutions.³ Section 305 applies to any depository institution and any person selling, soliciting, advertising, or offering insurance products or annuities to a consumer at an office of a depository institution or on behalf of the institution. As required by section 305 of the GLBA, the insurance consumer protection rules in Regulation H implement section 305 of the GLBA and require Covered Persons to prepare and provide certain disclosures in advertisements of insurance products, to consumers before the completion of the initial purchase of an insurance product, and at the time a consumer applies for an extension of credit in connection with the solicitation, offer, or sale of an insurance product or annuity. This information is not available from other sources.

¹ See 65 FR 75822 (December 4, 2000).

² The federal banking agencies are the Board, Office of the Comptroller of the Currency (OCC), and Federal Deposit Insurance Corporation (FDIC).

³ See Public Law No. 106-102, which added section 47 to the Federal Deposit Insurance Act, codified at 12 U.S.C. § 1831x. Section 305 applies to all depository institutions, including national banks, state banks, any Federal branch and insured branch, and savings associations. The OCC and FDIC have separate regulations applicable to depository institutions subject to their supervision.

Description of Information Collection

The insurance consumer protection rules in Regulation H require depository institutions to prepare and provide certain disclosures to consumers.

Section 208.84(a). Requires Covered Persons to disclose before the completion of the initial purchase of an insurance product or annuity by a consumer that (1) the insurance product or annuity is not a deposit or other obligation of, or guaranteed by, the bank or an affiliate of the bank, (2) the insurance product or annuity is not insured by the FDIC or any other agency of the United States, the bank, or (if applicable) an affiliate of the bank, and (3) in the case of an insurance product or annuity that involves an investment risk, there is investment risk associated with the product, including the possible loss of value.

Section 208.84(b). Requires Covered Persons to disclose at the time a consumer applies for an extension of credit in connection with which an insurance product or annuity is solicited, offered, or sold, that the bank may not condition an extension of credit on either (1) the consumer's purchase of an insurance product or annuity from the bank or any of its affiliates or (2) the consumer's agreement not to obtain, or a prohibition on the consumer from obtaining, an insurance product or annuity from an unaffiliated entity.

Both of the above disclosures generally must be made orally and in writing, and must be readily understandable and meaningful, as defined by the regulation. In the case of transactions conducted by mail, the regulation does not require oral disclosures, and written disclosures may be provided by mail within three business days after a transaction conducted by telephone. Electronic disclosures are permitted, consistent with the requirements of 12 CFR 208.84(c)(4). Institutions are also required to obtain a written acknowledgment by the consumer that the consumer received the disclosures or, in certain circumstances, to obtain an oral acknowledgment.

Respondent Panel

The FR H-7 panel comprises state member banks or any other person at an office of a bank or on behalf of a bank (collectively, Covered Persons).

Revisions to the FR H-7

The Board revised the FR H-7 to account for one disclosure requirement in Regulation H, Subpart H, that has not been previously cleared by the Board under the PRA. The Board did not create any forms associated with the FR H-7 to address this requirement.

Section 208.84(d). Requires the disclosures contained in section 208.84(a) to be included in advertisements and promotional material for insurance products or annuities unless the advertisements and promotional materials are of a general nature describing or listing the services or products offered by the bank.

Time Schedule for Information Collection

This information collection contains three disclosure requirements, which are triggered by the events described above. In connection with the in-person sale of an insurance product or annuity, both the oral and written disclosures must be made immediately. In the case of transactions conducted by telephone, oral disclosures must be made at the time of the sale, and written disclosures must be provided by mail within three business days of the sale of the insurance product or annuity, beginning on the first business day after the sale, excluding Sundays and legal public holidays.

Public Availability of Data

There is no data related to this information collection that is made available to the public by the Board.

Legal Status

The Disclosure Requirements of Subpart H of Regulation H are authorized by section 305 of the GLBA, which requires that the Board issue regulations, including disclosure requirements, applicable to retail sales practices, solicitations, advertising, or offers of insurance by depository institutions (12 U.S.C. § 1831x).⁴ The disclosures required under Subpart H of Regulation H are mandatory.

Because the FR H-7 disclosures are provided by state member banks to customers, confidentiality issues should generally not arise. In the event the records are obtained by the Board as part of the examination or supervision of a financial institution, this information may be considered confidential pursuant to exemption 8 of the Freedom of Information Act, which protects information contained in “examination, operating, or condition reports” obtained in the bank supervisory process (5 U.S.C. § 552(b)(8)).

Consultation Outside the Agency

The Board consulted with the other federal banking agencies with similar regulations pursuant to section 305 of the GLBA.

Public Comments

On October 5, 2021, the Board published an initial notice in the *Federal Register* (86 FR 54978) requesting public comment for 60 days on the extension, with revision, of the FR H-7. The comment period for this notice expired on December 6, 2021. The Board did not receive any comments. The Board adopted the extension, with revision, of the FR H-7 as originally proposed. On January 25, 2022, the Board published a final notice in the *Federal Register* (87 FR 3809).

⁴ The Board also has the authority to require reports from state member banks (12 U.S.C. §§ 248(a) and 324).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for FR H-7 is 5,371 hours, and would increase to 5,513 hours with the revisions. The Board estimates that the total number of respondents is equal to the number of state member banks who reported positive insurance fees on income reports in the prior calendar year. The Board estimates that each such state member bank, on average, will make approximately 630 disclosures under sections 208.84(a) and (b) each year. Using an estimate of one and a half minutes for each of these disclosures, the estimated annual burden for insurance and extension of credit burden disclosures is 5,371 hours. Related to advertisements, the Board estimates that each respondent that engages in such activity will advertise the products or annuities once per year and that ensuring the proper disclosure as described in section 208.84(d) takes 25 minutes. The estimated annual burden for advertisements disclosures is 142 hours. These disclosure requirements represent less than 1 percent of the Board’s total paperwork burden.

| FR H-7 | <i>Estimated number of respondents⁵</i> | <i>Annual frequency</i> | <i>Estimated average time per response</i> | <i>Estimated annual burden hours</i> |
|----------------------------------|--|-------------------------|--|--------------------------------------|
| Current | | | | |
| Sections 208.84(a) and 208.84(b) | 341 | 630 | 1.5 minutes | 5,371 |
| Proposed | | | | |
| Sections 208.84(a) and 208.84(b) | 341 | 630 | 1.5 minutes | 5,371 |
| Section 208.84(d) | 341 | 1 | 25 minutes | <u>142</u> |
| <i>Proposed Total</i> | | | | 5,513 |
| <i>Change</i> | | | | 142 |

The estimated total annual cost to the public for the FR H-7 is \$324,677, and would increase to \$333,261 with the revisions.⁶

Sensitive Questions

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

⁵ Of these respondents, 270 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.

⁶ 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 \$21, 45% Financial Managers at \$74, 15% Lawyers at \$71, and 10% Chief Executives at \$102). 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 2021*, published March 31, 2022, <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

Because the Federal Reserve does not collect any information, there is no estimated cost to the Federal Reserve System.