

**Supporting Statement for
Real Estate Lending and Appraisals
OMB Control No. 1557-0190**

A. Justification.

This Supporting Statement is being filed in connection with a notice of proposed rulemaking¹ that would codify recordkeeping requirements concerning the use of automated valuation models (AVMs) in valuing real estate collateral securing mortgage loans. These regulations are mandated by the Dodd-Frank Act for the use of AVMs by mortgage originators and secondary market issuers in determining the collateral worth of a mortgage secured by a consumer's principal dwelling. Section 1473(q) of the Dodd-Frank Act amended title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (title XI)² to add a new section 1125 relating to the use of AVMs in valuing real estate collateral securing mortgage loans (section 1125).³ Section 1125 directs the agencies to promulgate regulations to implement quality control standards regarding AVMs.

The OCC, Board, FDIC, and NCUA (the banking agencies) are revising their real estate appraisals and evaluations information collections to account for these new regulations. Additionally, the banking agencies are updating and aligning their information collections with respect to the burden associated with the Interagency Appraisal and Evaluation Guidelines.⁴

1. *Circumstances that make the collection necessary:*

This information collection encompasses a number of OCC regulations and guidance concerning real estate lending and appraisal requirements, including those related to AVMs, Adjustable-Rate Mortgages (ARM), Other Real Estate Owned (OREO), and Federally-related residential manufactured housing loans. A description of each information collection (IC) is provided below.

Twelve CFR 7.1024(d) requires that, after holding any real estate acquired for future bank expansion for one year, a national bank or Federal savings association must state, by resolution or other official action, its plans for the use of the property and make the resolution or other action available for inspection by examiners.

Twelve CFR part 34, subpart B, section 34.22(a) and 12 CFR 160.35(b) require that for ARM loans, the loan documentation must specify an index or combination of indices to which changes in the interest rate will be linked.

¹ The rulemaking, *Quality Control Standards for Automated Valuation Models*, is being issued by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration, the Federal Housing Finance Agency, and the Bureau of Consumer Financial Protection.

² 12 U.S.C. 3331 *et seq.*

³ Pub. L. 111-203, 124 Stat. 1376, 2198 (2010), *codified at* 12 U.S.C. 3354.

⁴ See *Interagency Appraisal and Evaluation Guidelines*, 75 FR 77450.

Twelve CFR 34.44 provides minimum standards for the performance of real estate appraisals, including the requirement that appraisals be in writing and contain sufficient information and analysis to support the national bank's or Federal savings association's (institution) decision to engage in the transaction.

Twelve CFR 34.62 and 12 CFR 160.101, and the related appendices, require each institution to adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate or that are made for the purpose of financing permanent improvements to real estate. The institution's board of directors must approve the real estate lending policies at least annually.

Twelve CFR 34.85 requires institutions to develop prudent real estate collateral evaluation policies to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice. Section 34.85 establishes the appraisal requirements for OREO held by institutions, with reference to the appraisal requirements in 12 CFR 34, subpart C, "Appraisals." Section 34.85 requires institutions to obtain an appraisal or evaluation, as appropriate, to substantiate the market value of each parcel upon transfer to OREO. If the institution has a valid and compliant appraisal or evaluation that was previously obtained in connection with the underlying real estate loan, it does not need to obtain a new appraisal or evaluation to comply with these regulations.

Proposed 12 CFR 34.222 codifies the requirement that supervised mortgage originators and secondary market issuers that engage in credit decisions or covered securitization determinations themselves, or through or in cooperation with a third-party or affiliate, adopt and maintain policies, practices, procedures, and control systems concerning AVMs. The policies, procedures, and control systems should ensure that AVMs used in these transactions adhere to quality control standards designed to (a) ensure a high level of confidence in the estimates produced; (b) protect against the manipulation of data; (c) avoid conflicts of interest; (d) require random sample testing and reviews; and (e) comply with applicable nondiscrimination laws.

The banking agencies have issued Interagency Appraisal and Evaluation Guidelines (the Guidelines), which provide supervisory guidance and best practices relating to real estate appraisals and evaluations used to support real estate-related financial transactions. These Guidelines recommend that institutions adopt policies and procedures to ensure compliance with Title XI of FIRREA and 13 CFR part 34. Specifically, the guidelines address appraisal independence, minimum appraisal standards in the appraisal regulations, and institutions' policies and procedures for conducting and monitoring appraisals, evaluations, and related activities; explain what transactions require appraisals under the appraisal regulations and provide guidance for the development and content of an evaluation; and discuss third-party arrangements, compliance programs, and referrals. Records of appraisals, evaluations, or other documentation pertaining to the institutions' monitoring or updating of property values should be kept in the credit file for the life of the loan. These records can be either paper or electronic records.

Twelve CFR 34.22(b) and 12 CFR 160.35(d)(3) set forth the notice procedures to be used when seeking to use an alternative index.

Twelve CFR 34.86 requires institutions to notify the appropriate supervisory office at least 30 days before making advances under a development or improvement plan for OREO if the total investment in the property will exceed 10 percent of the institution's total equity capital on its most recent report of condition.

Twelve CFR 190.4(h) requires that for Federally-related residential manufactured housing loans, a creditor must send a debtor a notice of default at least 30 days prior to any repossession, foreclosure, or acceleration of payments.

2. *Use of the information:*

These regulations are required by statute and are used by the OCC to ensure the safe and sound operation of financial institutions.

3. *Consideration of the use of improved information technology:*

Institutions may adopt any existing technology relevant to the information, as long as the information is retrievable for use in examinations.

4. *Efforts to identify duplication:*

These are requirements that are unique to each institution. The information is not compiled for any other reason, and no duplicate information exists.

5. *If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.*

The rule applies to all OCC-supervised institutions regardless of asset size. There are no alternatives that would result in further lowering the burden on small institutions while still accomplishing the purpose of the rule.

6. *Consequences to the Federal program if the collection were conducted less frequently:*

The collection of information is the minimum necessary to comply with Federal law. Less frequent collection would make the program unworkable and would not be in the public interest.

7. *Special circumstances necessitating collection inconsistent with 5 CFR part 1320:*

This collection is conducted in a manner consistent with the guidelines in 5 CFR part 1320.

8. *Efforts to consult with persons outside the agency:*

The OCC issued a notice of proposed rulemaking containing the collection for 60 days of comment on June 21, 2023 (88 FR 40638).

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

The information will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature.

12. Burden estimate:

Requirement	Citations	Number of Respondents	Burden Hours Per Respondent	Total Number Of Hours Annually
<i>Recordkeeping:</i> Resolution stating plans for use of property	§ 7.1024(d)	6	5	30
<i>Recordkeeping:</i> ARM loan documentation must specify indices to which changes in the interest rate will be linked	§ 34.22(a) § 160.35(b)	164	6	984
<i>Recordkeeping:</i> Appraisals must be written and contain sufficient information and analysis to support engaging in the transaction	§ 34.44	976	1,465 responses per respondent @ 5 minutes per response	119,072
<i>Recordkeeping:</i> Written policies (reviewed annually) for extensions of credit secured by or used to improve real estate	§ 34.62; appendix A to subpart D to part 34; § 160.101; appendix A to § 160.101	1,413	30	42,390
<i>Recordkeeping:</i> Real estate evaluation policy to monitor OREO	§ 34.85	9	5	45
<i>Recordkeeping:</i> New IC 1 – AVM Rule – Policies and Procedures (Implementation)	Proposed § 34.222	342	13.33 hours (40 hours divided by 3 years)	4,559
<i>Recordkeeping:</i> New IC 2 – AVM Rule – Policies	Proposed § 34.222	342	5	1,710

and Procedures (Ongoing)				
<i>Recordkeeping:</i> New IC 3 – Interagency Appraisal and Evaluation Guidelines – Policies and Procedures	N/A	976	10	9,760
<i>Reporting:</i> Procedure to be followed when seeking to use an alternative index	§ 34.22(b); § 160.35(d) (3)	249	6	1,494
<i>Reporting:</i> Prior notification of making advances under development or improvement plan for OREO	§ 34.86	6	5	30
<i>Disclosure:</i> Default notice to debtor at least 30 days before repossession, foreclosure, or acceleration of payments	§ 190.4(h)	42	2	84
<i>Disclosure:</i> New IC 4 – Interagency Appraisal and Evaluation Guidelines	N/A	976	5	4,880
Total Annual Burden Hours				185,038

Cost of Hour Burden

185,038 x \$119.63 = \$22,136,096

To estimate wages the OCC reviewed May 2021 data for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for credit intermediation and related activities (NAICS 5220A1). To estimate compensation costs associated with the rule, the OCC uses \$119.63 per hour, which is based on the average of the 90th percentile for six occupations adjusted for inflation (6.1 percent as of Q1 2022), plus an additional 32.8 percent for benefits (based on the percent of total compensation allocated to benefits as of Q4 2021 for NAICS 522: credit intermediation and related activities).

13. *Estimates of annualized costs to respondents:*

Not applicable.

14. *Estimate of annualized costs to the government:*

Not applicable.

15. *Changes in Burden:*

The change in burden is due to the use of an updated methodology to calculate the respondent total, the addition of new regulations, and updating and aligning the banking agencies' information collections with respect to the Guidelines.

16. *Information regarding collections whose results are planned to be published for statistical use:*

Not applicable.

17. *Display of expiration date:*

Not applicable.

18. *Exceptions to certification statement:*

None.

B. Collections of Information Employing Statistical Methods

Not applicable.