

**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, directly or through a subsidiary, engage in data processing activities if, among other requirements, the company or 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 approval.

The estimated total annual burden for the FR 4021 is 2 hours. There is no formal reporting form for this information collection.

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), databases, advice, and access to such services, facilities and data if the data processed, stored, or furnished are financial, banking or economic and the hardware provided in connection therewith is offered only in conjunction with software designed and marketed for the processing, storage and transmission of financial, banking, or economic data, and where the general purpose hardware does not constitute more than 30 percent of the cost of any packaged offering.³ Additionally, a BHC or nonbank subsidiary engaged in data processing, data storage, and data transmission may conduct other data processing, data storage, and data transmission activities 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

¹ See 12 CFR 225.28(b)(14).

² 12 U.S.C. § 1843(c)(8).

³ 12 CFR 225.28(b)(14)(i).

⁴ 12 CFR 225.28(b)(14)(ii).

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 recognized that there may be situations where a BHC has bona fide operational reasons for conducting its financial and related 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 request is not available from other sources. If this information were not collected, the Board would not be able to consider requests for BHCs to administer the 49 percent revenue limit on a business-line or multiple-entity basis.

Description of Information Collection

The FR 4021 consists of the request that BHCs may file to seek 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 in letter form directed to the Board's General Counsel. 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. The request should be signed by the individual making the application or by the individual's duly authorized agent, should state the facts involved, the action requested, and the requester's interest in the matter, and should indicate the reasons why the request should be granted. To date, the Board has not received such a request from a BHC.

Respondent Panel

The FR 4021 panel comprises BHCs.

Frequency and Time Schedule

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

Public Availability of Data

No data collected by this information collection are published.

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

⁶ Id. at 68497.

⁷ Id.

Legal Status

The Board is authorized to collect the information associated with the notification process from BHCs pursuant to sections 4(c)(8) and 4(k) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. §§ 1843(c)(8) and (k)). The authority to collect such information is implied by these statutory provisions, which authorize BHCs to engage in the data processing activity. The Board also has the authority to require reports from bank holding companies (12 U.S.C. § 1844(c)). The submission of the request associated with the FR 4021 is required to obtain a benefit.

To the extent a BHC submits nonpublic commercial or financial information, which is both customarily and actually treated as private by the BHC, in connection with the FR 4021, the BHC may request confidential treatment for such information pursuant to exemption 4 of the Freedom of Information Act (FOIA) (5 U.S.C. § 552(b)(4)).

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On January 27, 2023, the Board published an initial notice in the *Federal Register* (88 FR 5343) requesting public comment for 60 days on the extension, without revision, of the FR 4021. The comment period for this notice expired on March 28, 2023. The Board did not receive any comments. The Board adopted the extension, without revision, of the FR 4021 as originally proposed. On June 7, 2023, the Board published a final notice in the *Federal Register* (88 FR 37252).

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 request requirement pursuant to the Paperwork Reduction Act, the Board estimates that 1 respondent per year will take 2 hours 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>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Current	1	1	2	2

⁸ Of these respondents, none are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$850 million in total assets). Size standards effective March 17, 2023. See <https://www.sba.gov/document/support-table-size-standards>.

The estimated total annual cost to the public for the FR 4021 is \$133.⁹

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 information collection is negligible.

⁹ Total cost to the responding public is estimated using the following formula: total burden hours, multiplied by the cost of staffing, where the cost of staffing is calculated as a percent of time for each occupational group multiplied by the group's hourly rate and then summed (30% Office & Administrative Support at \$22, 45% Financial Managers at \$80, 15% Lawyers at \$79, and 10% Chief Executives at \$118). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor Statistics (BLS), *Occupational Employment and Wages, May 2022*, published April 25, 2023, <https://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.