

**Supporting Statement for the
Interagency Guidance on Managing Compliance and
Reputation Risks for Reverse Mortgage Products
(FR 4029; OMB No. 7100-0330)**

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 Interagency Guidance on Managing Compliance and Reputation Risks for Reverse Mortgage Products (FR 4029; OMB No. 7100-0330). Reverse mortgages are home-secured loans typically offered to elderly consumers. Financial institutions currently provide two types of reverse mortgage products: the lenders' own proprietary reverse mortgage products and reverse mortgages insured by the Federal Housing Administration (FHA) within the U.S. Department of Housing and Urban Development (HUD). Reverse mortgage loans insured by the FHA are made pursuant to the guidelines and rules established by HUD's Home Equity Conversion Mortgage (HECM) program.¹ HECM loans and proprietary reverse mortgages are also subject to consumer financial protection laws and regulations (e.g., the regulations that implement laws such as the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA)).

The estimated total annual burden for the FR 4029 is 72 hours.

Background and Justification

In August 2010, the Federal Financial Institutions Examination Council (FFIEC), on behalf of its member agencies,² published a *Federal Register* notice adopting supervisory guidance titled "Reverse Mortgage Products: Guidance for Managing Compliance and Reputation Risks."³ The guidance is designed to assist financial institutions with risk management and efforts to ensure that their reverse mortgage lending practices adequately address consumer compliance and reputation risks.

The reverse mortgage guidance discusses the disclosures and recordkeeping required by federal laws and regulations and also discusses consumer disclosures that financial institutions typically provide as a standard business practice. Certain portions of the guidance are information collections subject to the Paperwork Reduction Act's (PRA) requirements.

Reverse mortgages enable eligible borrowers to remain in their homes while accessing their home equity in order to meet emergency needs, supplement their incomes, or, in some cases, purchase a new home – without subjecting borrowers to ongoing repayment obligations during the life of the loan. If prudently underwritten and used appropriately, these products

¹ See 12 U.S.C. § 1715z-20; 24 CFR Part 206.

² The Board, Federal Deposit Insurance Corporation, National Credit Union Administration, Office of the Comptroller of the Currency, and former Office of Thrift Supervision.

³ See 75 FR 50801 (August 17, 2010).

have the potential to become an increasingly important product for addressing certain credit needs of an aging population.

Reverse mortgages can present substantial risks both to financial institutions and to consumers. As with any type of home-secured loan, it is crucial that consumers understand the product terms and the nature of their obligations. In addition to consumer financial protection concerns that raise corresponding financial institution compliance and reputation risks, reverse mortgage products may present other risks, such as credit, interest rate, and liquidity risks, especially for proprietary reverse mortgage products lacking the insurance offered under the federal HECM program.

The 2010 reverse mortgage guidance is designed to help financial institutions ensure that their risk management and consumer financial protection practices adequately address the compliance and reputation risks raised by reverse mortgage lending. The guidance discusses the general features of reverse mortgage products, relevant legal requirements, and consumer financial protection concerns raised by reverse mortgages. The guidance focuses on the need for banks, thrifts, and credit unions to provide clear and balanced information to consumers about the risks and benefits of these products.

Both proprietary products and HECMs are subject to various laws governing mortgage lending including the Federal Trade Commission Act, RESPA, TILA, and fair lending laws. HECMs are also subject to an extensive regulatory regime established by HUD, including provisions for FHA insurance of HECM loans that protect both lenders and reverse mortgage borrowers. The guidance supplements those requirements by advising lenders about additional practices that should be implemented to manage the risks associated with reverse mortgage products. This information is not available from other sources.

Description of Information Collection

The guidance describes disclosures and recordkeeping for both proprietary and HECM reverse mortgages. A number of these disclosures are “usual and customary” business practices for proprietary and HECM reverse mortgages, and these would not meet the definition of “burden” under the PRA and its implementing regulations.⁴ Other included disclosure requirements are currently mandated by federal consumer financial protection laws and regulations for all reverse mortgage loans and information collections required by HUD’s rules for HECM loans.⁵ Discussion of these requirements in the guidance is also not considered additional paperwork burden imposed by the guidance.

⁴ The *Federal Register* notice adopting the guidance explains that “a number of the guidance provisions are currently standard business practice for proprietary and HECM reverse mortgages and, therefore, under the ‘usual and customary’ standard, PRA clearance is not warranted.” 75 FR 50805. See 5 CFR 1320.3(b)(2) (excluding from the PRA’s definition of “burden” the “time, effort, and financial resources necessary to comply with a collection of information” that is “usual and customary” for those subject to the collection “in the normal course of their activities”).

⁵ See OMB Control No. 2502-0524.

Proprietary reverse mortgage products, however, are not subject to HUD's rules for HECM loans. To the extent that the interagency guidance encourages lenders to follow HECM requirements for proprietary loans, this would meet the PRA's definition of paperwork burden. There are additional provisions in the guidance that apply to both proprietary and HECM reverse mortgages that do not meet the "usual and customary" standard, are not covered by already approved information collections and, therefore, likewise meet the PRA's definition of paperwork burden.⁶

Proprietary Reverse Mortgages

Financial institutions offering proprietary reverse mortgages are encouraged under the guidance to follow or adopt relevant HECM requirements for mandatory counseling, disclosures, affordable origination fees, restrictions on cross-selling of ancillary products, and reliable appraisals.

Proprietary and HECM Reverse Mortgages

Financial institutions offering either proprietary or HECM reverse mortgages are encouraged to develop clear and balanced product descriptions and make them available to consumers shopping for a mortgage. They should describe how disbursements can be received and include timely information to supplement TILA and other mandated disclosures. Promotional materials and product descriptions should include information about the costs, terms, features, and risks of reverse mortgage products.

Financial institutions should adopt policies and procedures that prohibit directing a consumer to a particular counseling agency or contacting a counselor on the consumer's behalf. They should adopt clear written policies and establish internal controls specifying that neither the lender nor any broker will require the borrower to purchase any other product from the lender in order to obtain the mortgage. Policies should be clear so that originators do not have an inappropriate incentive to sell other products that appear linked to the granting of a mortgage. Legal and compliance reviews should include oversight of compensation programs so that lending personnel are not improperly encouraged to direct consumers to particular products.

Financial institutions making, purchasing, or servicing reverse mortgages through a third party should conduct due diligence and establish criteria for third-party relationships and compensation. They should set requirements for agreements and establish systems to monitor compliance with the agreement and applicable laws and regulations. They should also take corrective action if a third party fails to comply. Third-party relationships should be structured in a way that does not conflict with RESPA.

The Board understands that respondents use information technology to comply with certain of these provisions, including with respect to: providing consumers with disclosures, promotional materials, and product descriptions; and adoption of policies and procedures and

⁶ See 75 FR 50806 (noting that "there are provisions in the guidance that apply to both proprietary and HECM reverse mortgages that do not meet the 'usual and customary' standard [and] are not covered by already approved information collections").

internal controls, including regarding recordkeeping, cross-selling of ancillary products, and third-party oversight.

Respondent Panel

The FR 4029 panel comprises state member banks, Edge and agreement corporations, bank holding companies, savings and loan holding companies, foreign banking organizations, and branches and agencies of foreign banks. The below burden estimate information reflects state member banks that originate proprietary reverse mortgages and HECM reverse mortgages (Board staff are not aware of any information indicating that Federal Reserve-supervised financial institutions other than state member banks currently originate proprietary reverse mortgages or HECM reverse mortgages).

Frequency and Time Schedule

Financial institutions are encouraged to maintain records for any proprietary or HECM reverse mortgages that they offer.⁷

Public Availability of Data

Certain data related to this information collection are available to the public in the form of lenders' marketing and other promotional materials, product descriptions, and disclosures.

Legal Status

The information collection is authorized pursuant to section 11 of the Federal Reserve Act (state member banks) (12 U.S.C. § 248); sections 25 and 25A of the Federal Reserve Act (Edge and agreement corporations) (12 U.S.C. §§ 602 and 625); section 5 of the Bank Holding Company Act of 1956 (bank holding companies and, in conjunction with section 8 of the International Banking Act of 1978, foreign banking organizations) (12 U.S.C. § 1844) (12 U.S.C. § 3106); section 7(c) of the International Banking Act of 1978 (branches and agencies of foreign banks) (12 U.S.C. § 3105(c)); and section 10 of the Home Owners' Loan Act (savings and loan holding companies) (12 U.S.C. § 1467a). This guidance is voluntary.

Because the documentation sought and encouraged by the guidance is maintained by each institution, the Freedom of Information Act (FOIA) would only be implicated if the Board's examiners retained a copy of this information as part of an examination or as part of its supervision of a financial institution. However, records obtained as a part of an examination or supervision of a financial institution are exempt from disclosure under exemption 8 of FOIA (5 U.S.C. § 552(b)(8)). In addition, the information may also be kept confidential under exemption 4 of FOIA, which protects trade secrets and commercial or financial information obtained from a person that is privileged or confidential (5 U.S.C. § 552(b)(4)).

⁷ Financial institutions are encouraged to maintain a copy of these records until the guidance is either superseded or rescinded. If the guidance is rescinded, financial institutions are encouraged to maintain one copy of the records for 10 years after rescission.

Consultation Outside the Agency

There has been no consultation outside the Federal Reserve System.

Public Comments

On March 29, 2024, the Board published an initial notice in the *Federal Register* (89 FR 22148) requesting public comment for 60 days on the extension, without revision, of the FR 4029. The comment period for this notice expired on May 28, 2024. The Board did not receive any comments. The Board adopted the extension, without revision, of the FR 4029 as originally proposed. On September 30, 2024, the Board published a final notice in the *Federal Register* (89 FR 79591).

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR 4029 is 72 hours. National Information Center (NIC) data was used to determine the relevant subset of impacted state member banks. Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100-0036) were used to determine which institutions offered proprietary and HECM reverse mortgages. These recordkeeping provisions represent less than 1 percent of the Board's total paperwork burden.

FR 4029	<i>Estimated number of respondents⁸</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Implementation of policies and procedures	1	1	40	40
Review and maintenance of policies and procedures	4	1	8	<u>32</u>
<i>Total</i>				72

The estimated total annual cost to the public for the FR 4029 is \$5,029.⁹

⁸ Of these respondents, one is considered a small entity 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>. There are no special accommodations given to mitigate the burden on small institutions.

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 \$23, 45% Financial Managers at \$84, 15% Lawyers at \$85, and 10% Chief Executives at \$124). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor Statistics (BLS), *Occupational Employment and Wages, May 2023*, published April 3, 2024, <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 information collection 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.