

Supporting Statement for the Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y (FR H-4; OMB No. 7100-0250)

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y (FR-H-4; OMB No. 7100-0250). These requirements are specified in Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) as set forth in the Board's Regulations H (12 CFR 208.18) and Y (12 CFR 225.61). These regulations require that, for federally related transactions, regulated institutions obtain real estate appraisals performed by certified or licensed appraisers in conformance with uniform appraisal standards. As of year-end 2002, estimated reporters under the regulation included 949 state member banks and 836 bank holding company subsidiaries that extend mortgage credit. There is no formal reporting form, and the information is not submitted to the Federal Reserve. The burden estimate for these recordkeeping requirements is 53,268 hours.

Background and Justification

Title XI of FIRREA, 12 U.S.C. 3331 *et seq.*, directs the federal financial institutions regulatory agencies¹ to publish appraisal rules for federally related transactions within the jurisdiction of each agency. The purpose of the statute is “. . . to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals utilized in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.”²

Section 1121 of FIRREA, 12 U.S.C. 3350(4), defines a federally related transaction as a real estate-related financial transaction that is regulated by or engaged in by a federal financial institutions regulatory agency and requires the services of an appraiser. In addition, a real estate-related financial transaction is defined as any transaction that involves: (i) the sale, lease, purchase, investment in or exchange of real property, including interests in property, or the financing thereof; (ii) the refinancing of real property or interests in real property; and (iii) the use of real property or interests in real property as security for a loan or investment, including mortgage-backed securities.

¹ The federal financial institutions regulatory agencies consist of: the Federal Reserve, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the Office of Thrift Supervision (OTS), and the National Credit Union Administration (NCUA).

² Section 1101, Title XI of FIRREA.

In July and August of 1990, the agencies published regulations to meet the requirements of Title XI of FIRREA. The regulations identify which transactions require an appraiser, set forth minimum standards for performing appraisals, and distinguish those appraisals requiring the services of a state certified appraiser from those requiring a state licensed appraiser. The regulations further identify categories of real estate-related financial transactions that do not require the services of an appraiser and, accordingly, they are subject to neither Title XI of FIRREA nor those provisions of the agencies' regulations governing appraisals.

In 1991, as part of a burden reduction study mandated by the Federal Deposit Insurance Corporation Act, the agencies determined that the appraisal requirements of Title XI could impose additional costs on both lenders and borrowers. The agencies believe that statutory flexibility should be used and that the agencies should not require Title XI appraisals where they imposed significant costs without promoting, to a significant extent, the safety and soundness of regulated institutions or furthering the purposes of Title XI of FIRREA.

Accordingly, in June 1994, the agencies amended their regulations to clarify and expand the circumstances in which a Title XI appraisal is not required. In addition, the June 1994 amendments eliminated regulatory appraisal standards that were similar to standards in the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Also, the agencies modified their regulations concerning appraiser independence to permit regulated institutions to use appraisals prepared for other financial services institutions.

In November 1998, the Board amended the Regulation Y real estate appraisal requirement for bank holding companies (BHCs) and their nonbank subsidiaries. The amendment permits a BHC, or its nonbank subsidiary that has the authority to underwrite or deal in mortgage-backed securities, to do so without demonstrating that the loans underlying the securities are supported by appraisals that at origination met the Board's appraisal regulation. Therefore, this amendment should have no effect on the recordkeeping estimates.

Description of Information Collection

For federally related transactions, Title XI of FIRREA requires state member banks (SMBs) and BHCs with credit extending subsidiaries to use appraisals prepared in accordance with the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board of the Appraisal Foundation. Generally, these standards include the methods and techniques used to analyze a property as well as the requirements for reporting such analysis and a value conclusion in the appraisal. Appraisal means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion as to the market value of an adequately described property as of a specific date(s), supported by the presentation and analysis of relevant market information.

Time Schedule for Information Collection

Bank examiners test for compliance with the appraisal regulation during examinations of state member banks and inspections of bank holding companies' credit extending subsidiaries. There is no formal reporting form and the information is not submitted to the Federal Reserve.

Legal Status

The Board's Legal Division has determined that the recordkeeping requirements set forth in the Board's Regulations H and Y for appraisal standards are required by law (12 U.S.C. Sections 3331-3351). Since the Federal Reserve does not collect this information, no issue of confidentiality under the Freedom of Information Act arises.

Consultation Outside the Agency

In developing its appraisal regulation, the Federal Reserve consulted with the OCC, FDIC, OTS, and NCUA. As required by Title XI, these agencies adopted substantially similar appraisal regulations for the financial institutions they supervise.

Estimate of Respondent Burden

The Federal Reserve estimates that these recordkeeping requirements affect 1,785 organizations supervised by the Federal Reserve. Each federally related transaction is expected to average 15 minutes for reviewing and recordkeeping. The estimated annual burden per organization varies from 15 minutes to in excess of 100 hours, depending on individual circumstances, with an average of 30 hours. The total burden is estimated to be 53,268 hours, as shown below, which represents less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Annual Frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
SMBs	949	110	0.25	26,098
BHC Subs	836	130	0.25	<u>27,170</u>
<i>total</i>	1,785			<u>53,268</u>

Based on rate of \$20 per hour, the proposed estimated total annual cost to the public is \$1,065,360.

Sensitive Questions

This recordkeeping requirement contains no questions of a sensitive nature, as defined by OMB guidelines.

Estimate of Cost to the Federal Reserve System

The Federal Reserve System does not incur any direct costs as a result of this information collection.