

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

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 disclosure requirements of Subpart H of Regulation H (Consumer Protections in Sales of Insurance). Those disclosure requirements apply to the sale of insurance by or on behalf of a state member bank, or on its premises.¹ The Board is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies disclosure requirements as “information collections.”² On November 12, 2003, a notice of the renewal was published in the *Federal Register* for public comment.³

Background and Justification

The provisions in Regulation H for Consumer Protection in Sales of Insurance were adopted pursuant to section 305 of the Gramm-Leach-Bliley Act of 1999 (GLBA). Section 305 required the federal banking agencies⁴ to issue joint regulations applicable to retail sales practices, solicitations, advertising, and offers of insurance by insured depository institutions.⁵ Section 305 applies to any depository institution⁶ 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. Congress directed the federal banking agencies to prescribe rules to carry out section 305, including specific provisions relating to sales practices; disclosures and advertising; physical separation of banking and nonbanking activities; and discrimination against victims of domestic violence in the sale of insurance. Regulations were published in final form in December 2000, and became effective on October 1, 2001.

¹ There are no required forms associated with these disclosure requirements.

² 44 U.S.C. § 3501 *et seq.*

³ This collection of information under Regulation H is assigned OMB No. 7100-0298 for purposes of the Paperwork Reduction Act.

⁴ The term “federal banking agencies” means: the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS).

⁵ See Public Law No. 106-102, which added section 47 to the Federal Deposit Insurance Act, codified at 12 U.S.C. §1831x.

⁶ For the purpose of Regulation H, “depository institution” means national banks in the case of institutions supervised by the OCC, state member banks in the case of the Federal Reserve, state nonmember banks in the case of the FDIC, and savings associations in the case of the OTS.

As required by Section 305 of the GLBA, the Board's Regulation H contains the following provisions:

- A prohibition against tying an extension of credit to the purchase of an insurance product or annuity from the bank or its affiliate, or tying the extension of credit to an agreement by the consumer not to obtain such products from an unaffiliated entity (12 CFR § 208.83(a));
- A prohibition against engaging in any practice that could mislead a person or cause a person to reach an erroneous belief with respect to:
 - the fact that the insurance product or annuity is not backed by the federal government or the bank, and is not insured by the FDIC;
 - the existence of any investment risk; or
 - the fact that an extension of credit may not be conditioned upon the purchase of an insurance product or annuity from the bank or its affiliate, or an agreement by the consumer not to obtain such products from an unaffiliated entity (12 CFR § 208.83(b));
- Requirements for written and oral disclosures to consumers in connection with the initial sale of an insurance product or annuity. The disclosures inform consumers that the products are not FDIC-insured, that any investment may lose value, and that insurance sales and credit may not be tied (12 CFR § 208.84(a) and (b));
- A prohibition on discrimination against victims of domestic violence or persons providing services to them in the offer or sale of insurance (12 CFR § 208.83(c));
- Requirements to physically segregate, to the extent practical, the area where insurance products and annuities are sold from areas where the bank routinely accepts deposits (12 CFR § 208.85(a));
- A limitation on fees that can be paid to persons routinely accepting deposits for referring customers who seek to purchase an insurance product or annuity (12 CFR § 208.85(b)); and
- A requirement that persons selling insurance in or on behalf of the bank be qualified and licensed under applicable laws (12 CFR § 208.86).

Description of Information Collection

As required by section 305 of the GLBA, the insurance consumer protection rules in Regulation H require depository institutions to prepare and provide certain disclosures to consumers.

12 CFR 208.84(a). Requires covered persons to disclose before the completion of the initial sale of an insurance product or annuity to 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. The disclosure generally must be made orally and in writing to the consumer. In the case of mail solicitations, the regulation dispenses with the oral disclosure.

12 CFR 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. The disclosure generally must be made orally and in writing. In the case of mail solicitations, the regulation dispenses with the oral disclosure.

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.

Time Schedule for Information Collection

This information collection contains two disclosure requirements, as mentioned above. These disclosure requirements are mandatory under section 305 of the GLBA and Regulation H and are triggered by the specific events described above.

Legal Status

The Board's Legal Division has determined that the financial institution disclosure requirements associated with Subpart H of Regulation H (12 C.F.R. 208.81 – 208.86) are authorized by 12 U.S.C. 1831x and are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality normally arises.

Consultation Outside the Agency

The Federal Reserve is consulting with the federal banking agencies about revising the estimate of the paperwork burden.

Estimate of Respondent Burden

The total annual burden for the disclosure requirements associated with the insurance regulation is 46,123 hours, as shown in the table below. The Federal Reserve estimates that each state member bank, on average, will make approximately 548 such

disclosures each year (based on 1 percent of the total number of deposit accounts held by state member banks). Using an estimate of five minutes for each disclosure, a state member bank would spend on average about forty-five hours per year making these disclosures. This burden represents less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated response time</i>	<i>Estimated annual burden hours</i>
Insurance (208.84(a)) and Extension of credit (208.84(b))	1,010	548	5 minutes	46,123

Based on a rate of \$20 per hour, the estimated cost to the public for this information collection is \$922,460.

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

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.