

**Supporting Statement for the
Recordkeeping Requirements Associated with Regulation GG
(FR GG; OMB No. 7100-0317)**

Summary

The Board of Governors of the Federal Reserve System (Board), under authority delegated by the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the Recordkeeping Requirements Associated with Regulation GG (FR GG; OMB No. 7100-0317).¹ Regulation GG - Prohibition on Funding of Unlawful Internet Gambling (12 CFR Part 233) requires participants in designated payment systems² to establish written policies and procedures related to the Unlawful Internet Gambling Enforcement Act of 2006 (the Act).³ The information collection requirements are contained in section 5 of Regulation GG.⁴

The estimated total annual burden for the FR GG is 46,410 hours.

Background and Justification

In general, the Act prohibits any person engaged in the business of betting or wagering (as defined in the Act) from knowingly accepting payments in connection with the participation of another person in unlawful Internet gambling. Such transactions are termed “restricted transactions.” The Act generally defines “unlawful Internet gambling” as placing, receiving, or otherwise knowingly transmitting a bet or wager by any means which involves the use, at least in part, of the Internet where such bet or wager is unlawful under any applicable federal or state law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made.⁵

¹ There is no formal reporting form for this collection of information (the FR GG designation is for internal purposes only).

² Section 2 of Regulation GG defines “participant in a designated payment system” as (1) an operator of a designated payment system (i.e., the entity that provides centralized clearing and delivery services between participants and maintains the operational framework for the system), (2) a financial transaction provider (e.g., creditor, credit card issuer, money transmitting business) that is a member of, has contracted for financial transaction services with, or is otherwise participating in a designated payment system, or (3) a third-party processor. Section 4 of Regulation GG, however, exempts four broad categories of payment system participants: (1) those processing a transaction through an automated clearing house (with exception, as defined in the regulation), (2) those participating in a particular check collection through a check collection system, (3) those participating in a money transmitting business, and (4) those participating in a particular wire transfer through a wire transfer system.

³ See 31 U.S.C. § 5361 et seq.

⁴ Section 802 of the Act requires the Board and the Department of the Treasury to prescribe joint regulations requiring each designated payment system, and all participants in such systems, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions.

⁵ From the general definition, the Act exempts three categories of transactions: (1) intrastate transactions (a bet or wager made exclusively within a single state, whose state law or regulation contains certain safeguards regarding such transactions and expressly authorizes the bet or wager and the method by which the bet or wager is made, and which does not violate any provision of applicable federal gaming statutes), (2) intratribal transactions (a bet or wager made exclusively within the Indian lands of a single Indian tribe or between the Indian lands of two or more Indian tribes as authorized by federal law, if the bet or wager and the method by which the bet or wager is made is expressly authorized by and complies with applicable Tribal ordinance or resolution (and Tribal-State Compact, if

The Act states that its provisions should not be construed to alter, limit, or extend any federal or state law or Tribal-State compact prohibiting, permitting, or regulating gambling within the United States.⁶ The Act does not spell out which activities are legal and which are illegal, but rather relies on the underlying substantive federal and state laws. The FR GG policies and procedures recordkeeping requirements are necessary because Congress found that Internet gambling is primarily funded through personal use of payment system instruments, credit cards, and wire transfers.

Description of Information Collection

Section 5 of Regulation GG requires all non-exempt participants in the designated payment systems to establish and implement written policies and procedures reasonably designed to identify and block, or otherwise prevent or prohibit, restricted transactions.⁷ In accordance with the Act, section 5 states that a non-exempt participant in a designated payment system shall be considered in compliance with this requirement if (1) it relies on, and complies with, the written policies and procedures of the designated payment system that are reasonably designed to identify and block restricted transactions or otherwise prevent or prohibit the acceptance of the products or services of the designated payment system or participant in connection with restricted transactions and (2) such policies and procedures of the designated payment system comply with the requirements of this section.⁸ Regulation GG provides that, unless notified otherwise by its regulator, a participant may rely on a written statement or notice by the operator of the designated payment system to its participants that the operator has designed or structured the system's policies and procedures for identifying and blocking or otherwise preventing or prohibiting restricted transactions to comply with the requirements of Regulation GG.⁹

The Board is taking into account depository institutions, card system operators, and money transmitting business operators for the regulation's requirement to establish and maintain the policies and procedures required by section 5 of Regulation GG.

Section 6 sets out non-exclusive examples of policies and procedures the agencies believe are reasonably designed to prevent or prohibit restricted transactions for non-exempt participants in each designated payment system. Under Regulation GG, non-exempt participants in each designated payment system should maintain policies and procedures that (1) address methods for conducting due diligence in establishing a commercial customer relationship designed to ensure that the commercial customer does not originate or receive restricted transactions through the customer relationship and (2) include procedures reasonably designed to prevent or prohibit restricted transactions, including procedures to be followed with respect to a customer if the participant discovers the customer has been engaging in restricted transactions through its

applicable) and includes certain safeguards regarding such transaction, and if the bet or wager does not violate applicable federal gaming statutes), and (3) interstate horseracing transactions (any activity that is allowed under the Interstate Horseracing Act of 1978 (15 U.S.C. § 3001 et seq.)).

⁶ See 31 U.S.C. § 5361(b).

⁷ 12 CFR 233.5(a).

⁸ 12 CFR 233.5(b). See also 31 U.S.C. § 5363(c).

⁹ 12 CFR 233.5(c).

customer relationship.¹⁰ Also, the participant may notify all of its commercial customers, through provisions in the account or commercial customer relationship agreement or otherwise, that restricted transactions are prohibited from being processed through the account or relationship.¹¹

The Board understands that respondents may use information technology to comply with these provisions, including maintaining written policies and procedures, e.g., storing records digitally.

Respondent Panel

The FR GG panel comprises depository institutions, card system operators, credit unions, and money transmitting business operators.

Frequency and Time Schedule

Regulation GG does not include a specific time period for record retention; however, non-exempt participants would be required to maintain the policies and procedures for a particular designated payment system as long as they participate in that system.

Public Availability of Data

No recordkeeping data related to this information collection is made available to the public by the Board.

Legal Status

The Board is authorized pursuant to Section 802 of the Unlawful Internet Gambling Enforcement Act¹² to prescribe regulations requiring designated payment systems and participants therein to establish of policies and procedures to identify and block or otherwise prevent or prohibit restricted transactions. The Board uses the information obtained from the FR GG to help ensure compliance with Section 802 of the Unlawful Internet Gambling Enforcement Act.

The FR GG is mandatory.

The policies and procedures are not required to be submitted to the Board, so normally no confidentiality issues would be implicated. To the extent such policies and procedures are obtained by the Board through the examination process, they can be kept confidential under FOIA exemption 8,¹³ because it is matter contained in or related to

¹⁰ 12 CFR 233.6(b).

¹¹ 12 CFR 233.6(b)(3).

¹² 31 U.S.C. § 5364(a).

¹³ 5 U.S.C. § 552(b)(8).

examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

Consultation Outside the Agency

The Board has consulted with the Department of the Treasury regarding this information collection renewal.

Public Comments

On March 7, 2024, the Board published an initial notice in the *Federal Register* (89 FR 16570) requesting public comment for 60 days on the extension, without revision, of the FR GG. The comment period for this notice expires on May 6, 2024.

Estimate of Respondent Burden

As shown in the table below, the estimated total annual burden for the FR GG is 46,410 hours. For the purpose of estimating burden, the total number of depository institutions listed includes the number of entities regulated by the Board as of December 31, 2022, and half of the remaining depository institutions and third-party processors not subject to either agency’s regulation or supervision. The Board is also accounting for the burden for half of the card system operators and money transmitting business operators to which the agencies estimate the final rule applies, as of December 31, 2022. The burden estimate was produced using the standard Board burden calculation methodology. These recordkeeping requirements represent less than 1 percent of the Board’s total paperwork burden.

FR GG	<i>Estimated number of respondents</i> <small>14</small>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Depository institutions	2,178	1	10	21,780
Card system operators	7	1	10	70
Credit unions	2,373	1	10	23,730
Money transmitting business operators	74	1	10	740
De novo institutions	3	1	30	<u>90</u>
<i>Total</i>				46,410

¹⁴ Of these respondents to this information collection, 1,649 depository institutions, 2,128 credit unions, and 61 money transmitting business operators 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>. There are no special accommodations given to mitigate the burden on small institutions.

The estimated total annual cost to the public for this collection of information is \$3,074,663.¹⁵

Sensitive Questions

These collections of information contain 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 this information collection is negligible.

¹⁵ Total cost to the public was 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/>.