

**Supporting Statement for the
Reporting Requirements Associated with Regulation Y
(Extension of Time to Conform to the Volcker Rule) (Reg Y-1; OMB No. to be obtained)**

***Conformance Period for Entities Engaged in Prohibited Proprietary Trading or
Private Equity Fund or Hedge Fund Activities
(Docket No. R-1397) (RIN 7100-AD58)***

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), will implement the Reporting Requirements Associated with Regulation Y (Extension of Time to Conform to the Volcker Rule) (Reg Y-1; OMB No. to be obtained). The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of a regulation as an “information collection.”¹

On November 26, 2010, the Federal Reserve published a notice of proposed rulemaking in the *Federal Register* for public comment (75 FR 72741). The Federal Reserve proposed to revise the Bank Holding Companies and Change in Bank Control Regulation Y following the passage of section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), commonly referred to as the Volcker Rule. In general, the Volcker Rule amends Regulation Y by prohibiting banking entities from engaging in proprietary trading or from investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund. The Volcker Rule also amends Regulation Y by requiring nonbank financial companies, supervised by the Board, that engage in such activities or have such investments to be subject to additional capital requirements, quantitative limits, or other restrictions.

The information collections associated with the Volcker Rule are located in sections 225.181(c) and 225.182(c) of Regulation Y. Sections 225.181(c) and 225.182(c) permit a banking entity and nonbank financial company respectively, to request an extension of time to conform its activities to the Volcker Rule. The comment period expired on January 10, 2011. The Federal Reserve received 12 comments; two of these comments specifically addressed the proposed paperwork burden estimates. On February 14, 2011, the Federal Reserve published a notice of final rulemaking in the *Federal Register* which clarified certain aspects of the proposed rule in response to public comments (76 FR 8265). The final rule is effective on April 1, 2011.

The total annual burden for this information collection is estimated to be 21,600 hours for the 720 institutions that are deemed respondents for purposes of the PRA. There are no required reporting forms associated with these information collections.

Background and Justification

The Dodd-Frank Act was enacted on July 21, 2010.² Section 619 of the Dodd-Frank Act adds a new section 13 to the Bank Holding Company Act of 1956 (BHC Act) (to be codified at

¹ See 44 U.S.C. § 3501 *et seq.*

² Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, 124 Stat. 1376 (2010).

12 U.S.C. § 1851) that generally prohibits banking entities³ from engaging in proprietary trading or from investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund.⁴ The new section 13 of the BHC Act also provides that nonbank financial companies supervised by the Federal Reserve that engage in such activities or have such investments shall be subject to additional capital requirements, quantitative limits, or other restrictions.⁵ These prohibitions and other provisions of section 619 are commonly known as the Volcker Rule.

The Federal Reserve and several other agencies have responsibilities with respect to the Volcker Rule. As required by the Dodd-Frank Act, the FSOC recently issued a study of the Volcker Rule, which included several recommendations regarding the implementation of its prohibitions and restrictions.⁶ As a general matter, authority for developing and adopting regulations to implement the prohibitions and restrictions of the Volcker Rule is divided between the Federal Reserve, the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the SEC and the CFTC in the manner provided in section 13(b)(2) of the BHC Act.⁷ The Federal Reserve and these other agencies are directed to adopt implementing rules not later than 9 months after completion of the FSOC's study.⁸ The restrictions and prohibitions of the Volcker Rule become effective 12 months after issuance of final rules by the agencies, or July 21, 2012, whichever is earlier.

The Federal Reserve, however, is solely charged with adopting rules to implement the provisions of the Volcker Rule that provide a banking entity or a nonbank financial company supervised by the Federal Reserve a period of time after the effective date of the Volcker Rule to bring the activities, investments, and relationships of the banking entity or company that were commenced, acquired, or entered into before the Volcker Rule's effective date into compliance with the Volcker Rule and the agencies' implementing regulations.⁹ This period is intended to give markets and firms an opportunity to adjust to the Volcker Rule.¹⁰

³ The term "banking entity" is defined in section 13(h)(1) of the BHC Act, as amended by section 619 of the Dodd-Frank Act. See 12 U.S.C. § 1851(h)(1). The term means any insured depository institution (other than certain limited-purpose trust institutions), any company that controls an insured depository institution, any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978 (12 U.S.C. § 3106), and any affiliate or subsidiary of any of the foregoing.

⁴ The Volcker Rule defines the terms "hedge fund" and "private equity fund" as an issuer that would be an investment company, as defined under the Investment Company Act of 1940 (15 U.S.C. § 80a-1 et seq.), but for section 3(c)(1) or 3(c)(7) of that Act, or any such similar funds as the appropriate Federal banking agencies, the Securities and Exchange Commission (SEC), and the Commodity Futures Trading Commission (CFTC) may, by rule, determine should be treated as a hedge fund or private equity fund. See 12 U.S.C. § 1851(h)(2).

⁵ See 12 U.S.C. § 1851(a)(2) and (f)(4). A "nonbank financial company supervised by the Federal Reserve" is a nonbank financial company or other company that has been designated by the Financial Stability Oversight Council (FSOC) under section 113 of the Dodd-Frank Act as requiring supervision and regulation by the Federal Reserve on a consolidated basis because of the danger such company may pose to the financial stability of the United States.

⁶ See FSOC, Study & Recommendations on Prohibitions on Proprietary Trading & Certain Relationships with Hedge Funds & Private Equity Funds (January 18, 2011), available at www.treasury.gov/initiatives/Documents/Volcker_sec_619_study_final_1_18_11_rg.pdf.

⁷ See 12 U.S.C. § 1851(b)(2). The Secretary of the Treasury, as Chairperson of the FSOC, is responsible for coordinating the agencies' rulemakings under the Volcker Rule. See *id.* at Sec. 1851(b)(2)(B)(ii).

⁸ See *id.* at Sec. 1851(b)(2)(A).

⁹ See *id.* at Sec. 1851(c)(6).

¹⁰ See 156 Cong. Rec. S5898 (daily ed. July 15, 2010) (Statement of Senator Merkley).

Description of Information Collection

These information collections in Sections 225.181(c) and 225.182(c) would only be required for banking entities and nonbank financial companies supervised by the Federal Reserve that voluntarily decide to seek an extension of time to conform their activities to the Volcker Rule or divest their interest in an illiquid hedge fund or private equity fund. The Dodd-Frank Act generally requires banking entities and nonbank financial companies supervised by the Federal Reserve to conform their activities and investments to the restrictions in the Volcker Rule within 2 years of the effective date of the Volcker Rule's restrictions. The final rule implements this conformance period and, as permitted by the Dodd-Frank Act, permits a banking entity or nonbank financial company supervised by the Federal Reserve to request an extension of time to conform its activities to the Volcker Rule. A request by a banking entity or nonbank financial company supervised by the Federal Reserve also must address the relevant factors set out in section 225.181(d).

Conformance Period for Banking Entities Engaged in Prohibited Proprietary Trading or Private Fund Activities - Approval Required to Hold Interests in Excess of Time Limit (Section 225.181(c))

Section 225.181(c) requires an application for an extension by a banking entity to be (1) submitted in writing to the Federal Reserve at least 180 days prior to the expiration of the applicable time period, (2) provide the reasons why the banking entity believes the extension should be granted, and (3) provide a detailed explanation of the banking entity's plan for divesting or conforming the activity or investment(s).

Conformance Period for Nonbank Financial Companies Supervised by the Federal Reserve Engaged in Proprietary Trading or Private Fund Activities - Approval Required to Hold Interests in Excess of Time Limit. (Section 225.182(c))

Section 225.182(c) requires an application for an extension by a nonbank financial company supervised by the Federal Reserve to be (1) submitted in writing to the Federal Reserve at least 180 days prior to the expiration of the applicable time period, (2) provide the reasons why the nonbank financial company supervised by the Federal Reserve believes the extension should be granted, and (3) provide a detailed explanation of the company's plan for coming into compliance with the requirements of the Volcker Rule.

Time Schedule for Information Collection

This information collection contains reporting requirements provided on an event-generated basis, which must be provided to the Federal Reserve within the time period established by the regulation as discussed above.

Legal Status

The Board's Legal Division has determined that section 13 of the Bank Holding Company Act (*to be codified at* 12 U.S.C. § 1851(c)(6)) authorizes the Federal Reserve to

require the report to obtain the benefit for extension of time to conform to the Volker Rule. A banking entity or nonbank financial company supervised by the Federal Reserve may request confidential treatment of information submitted as part of an extension request in accordance with the Freedom of Information Act (5 U.S.C. § 552(b)(4)).

Consultation Outside the Agency and Discussion of Public Comment

On November 26, 2010, the Federal Reserve published the proposed rule in the *Federal Register* (75 FR 72741) requesting public comment on the proposed information collection. The comment period for this notice expired on January 10, 2011. The Federal Reserve received two comments from banking entities that specifically addressed the paperwork burden estimates. Both commenters asserted that the Federal Reserve underestimated the burden and that it would take substantially longer than one hour to prepare a request for an extension and relevant supporting information. One commenter specifically noted that a banking entity could potentially be required to submit up to four extension requests with respect to a single illiquid fund (three requests for extension of the general conformance period and one request for the extended transition period provided for illiquid funds). In light of the comments received, the Federal Reserve increased the estimated average hours per response to 3 hours and estimated annual frequency to 10 requests for an extension per year. On February 14, 2011, the Federal Reserve published the final rule in the *Federal Register* (76 FR 8265) and is effective on April 1, 2011.

Estimate of Respondent Burden

The total annual burden for Reg Y-1 is estimated to be 21,600 hours. The Federal Reserve estimates that there were approximately 7,200 banking entities as of December 31, 2009. Of that number, the Federal Reserve estimates that approximately 720 banking entities would request an extension of the conformance period. The number of nonbank financial companies supervised by the Federal Reserve will be determined by the FSOC in accordance with the procedures established under the Dodd-Frank Act.¹¹ The Reg Y-1 reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents¹²</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reg Y-1	720	10	3	21,600

The total cost to the public for this information collection is estimated to be \$921,240.¹³

¹¹ See 76 FR 4555 (January 26, 2011).

¹² Of these respondents, 182 are small entities as defined by the Small Business Administration (i.e., entities with less than \$175 million in total assets) www.sba.gov/contractingopportunities/officials/size/table/index.html.

¹³ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$49, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$77). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), *Occupational Employment*

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 cost to the Federal Reserve System is negligible.