

**Supporting Statement for the
Reporting Requirements Associated with Regulation Y
(Request for Determination as to Whether an Activity is Financial in Nature)
(Reg Y-2; OMB No. to be obtained)**

***Definitions of “Predominately Engaged in Financial Activities” and “Significant” Nonbank
Financial Company and Bank Holding Company
(Docket No. R-1405) (RIN 7100-AD64)***

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to implement the Reporting Requirements Associated with Regulation Y (Request for Determination as to Whether an Activity is Financial in Nature) (Reg Y-2; 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 February 11, 2011, the Federal Reserve published a notice of proposed rulemaking (February 2011 proposed rule) in the *Federal Register* for public comment (76 FR 7731). The Federal Reserve proposed to revise the Bank Holding Companies and Change in Bank Control Regulation Y following the passage of section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act). In general, the proposed rule amends Regulation Y by (1) establishing criteria for determining whether a company is predominantly engaged in financial activities and (2) defining the terms significant nonbank financial company and significant bank holding company (BHC) for purposes of Title I of the Dodd-Frank Act. The information collections associated with the proposed rule are located in section 225.301(f) of Regulation Y. Section 225.301(f) permits a nonbank financial company to request a determination from the Board as to whether a particular activity is financial in nature for purposes of this section.

The comment period for the February 2011 proposed rule expired on March 30, 2011; the Federal Reserve received 21 comment letters. Based on comments received, the Federal Reserve believes that clarification is needed regarding the scope of activities that would be considered to be financial activities under that proposal. On April 10, 2012, a second proposed rulemaking was published in the *Federal Register* (77 FR 21494; April 2012 proposed rule) to supplement the February 2011 proposed rule, amending specific portions of the regulation for clarity. The April 2012 proposed rule does not affect the collections of information that are proposed by the February 2011 proposed rule (found in 12 CFR 225.301(f)). The April 2012 proposed rule also proposes no new collections nor makes any revisions to the collections that were proposed under the February 2011 proposed rule.

The total annual burden for this information collection is estimated to be 12 hours for the nonbank financial companies that are deemed respondents for purposes of the PRA. There are no required reporting forms associated with these information collections.

¹ See 44 U.S.C. § 3501 *et seq.*

Background and Justification

The Dodd-Frank Act, enacted on July 21, 2010,² establishes the Financial Stability Oversight Council (Council). Among other authorities and duties, the Council may require that a nonbank financial company become subject to consolidated, prudential supervision by the Board if the Council determines that material financial distress at the company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the company's activities could pose a threat to the financial stability of the United States. Section 113 of the Dodd-Frank Act specifies a number of criteria that the Council must consider in determining whether to designate a nonbank financial company for supervision by the Board. These factors include the size and leverage of the company, as well as the extent and nature of the company's transactions and relationships with other significant nonbank financial companies and significant BHCs. Nonbank financial companies that are designated by the Council under section 113 of the Dodd-Frank Act are referred to as nonbank financial companies supervised by the Board.

The authority of the Council to require that a nonbank financial company become subject to consolidated prudential supervision by the Board is an important component of the legislative and regulatory changes designed to address gaps and weaknesses in the financial regulatory system that became evident during the financial crisis. These gaps allowed certain large, interconnected financial firms whose failure could pose substantial risks to the financial stability of the United States to avoid the type of prudential, consolidated supervision applicable to BHCs.

Title I of the Dodd-Frank Act defines a nonbank financial company to include both a U.S. nonbank financial company and a foreign nonbank financial company. The statute, in turn, defines a U.S. nonbank financial company as a company (other than a BHC and certain other specified types of entities) that is (i) incorporated or organized under the laws of the United States or any State and (ii) predominantly engaged in financial activities. A foreign nonbank financial company is defined as a company (other than a BHC or foreign bank or company that is, or is treated as, a BHC) that is (i) incorporated or organized outside the United States and (ii) predominantly engaged in financial activities. The proposed rule incorporates these definitions.

The Dodd-Frank Act defines financial activities by reference to those activities that have been determined by statute, regulation, or order, to be financial in nature under section 4(k) of the BHC Act (as amended by the Gramm-Leach-Bliley Act) and, thus are permissible for a financial holding company (FHC) to conduct. For purposes of Title I of the Dodd-Frank Act, a company is considered to be predominately engaged in financial activities if either (i) the annual gross revenues derived by the company and all of its subsidiaries from financial activities, as well as from the ownership or control of an insured depository institution, represent 85 percent or more of the consolidated annual gross revenues of the company or (ii) the consolidated assets of the company and all of its subsidiaries related to the financial activities, as well as related to the ownership or control of an insured depository institution, represent 85 percent or more of the consolidated assets of the company.

² Dodd-Frank Act, Public Law 111-203, 124 Stat. 1376 (2010).

Description of Information Collection

The information collection in Section 225.301(f) would only be required for nonbank financial companies that voluntarily request a determination by the Board as to whether a particular activity is financial in nature for purposes of section 4(k) of the BHC Act. This procedure is substantially similar to the procedure outlined in section 225.88 of Regulation Y under which a FHC or other interested entity may request a determination from the Board that an activity is financial in nature or incidental to a financial activity. The Board expects this procedure might be used by those large or interconnected nonbank companies that may potentially be subject to designation by the Council under section 113 and that have questions concerning whether certain of their activities are financial in nature.

A request by a nonbank financial company must be in writing and must address the relevant factors set out in section 225.301(f)(2), which include:

- Identifying and describe the activity for which the determination is sought, specifically describing what the activity involves and how the activity is conducted.
- Explaining in detail why the activity should or should not be considered financial in nature for purposes of this section.
- Providing information supporting the requested determination and any other information required by the Board concerning the activity.

Time Schedule for Information Collection and Publication

This information collection contains reporting requirements sent to the Board on an event-generated basis. The information is not published.

Legal Status

The Board's Legal Division has determined that section 113 of the Dodd-Frank Act (Public Law 111-203, 124 Stat. 1376 (2010)) authorizes the Federal Reserve to require the report to obtain the benefit for determination of whether an activity is financial in nature. A nonbank financial company 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 February 11, 2011, the Federal Reserve published the proposed rule in the *Federal Register* (76 FR 7731) requesting public comment on the proposed information collection. The comment period for this notice expired on March 30, 2011. The Federal Reserve received 21 comment letters. On April 10, 2012, the Federal Reserve published a subsequent proposed rule in the *Federal Register* (77 FR 21494) to amend specific portions of the regulation for clarity. The public comment period for the April 2012 proposed rule expires on May 25, 2012. All comment letters received during the public comment periods for the February 2011 and April 2012 rules will be addressed in the final rule.

Estimate of Respondent Burden

The total annual burden for Reg Y-2 is estimated to be 12 hours. The Federal Reserve estimates that there would be 3 nonbank financial companies that submit these requests each year and that each request would take approximately 4 hours to prepare on average. The Reg Y-2 reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents³</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
Reg Y-2	3	1	4	12

The total cost to the public for this information collection is estimated to be \$521.⁴

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.

³ Of these respondents, it is estimated that none would be 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.

⁴ 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 @ \$50, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$80). The hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2010, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/