



BILLING CODE 6714-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (OMB No. 3064-0195)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of an existing information collection, as required by the Paperwork Reduction Act of 1995. The FDIC published a notice of its intent to renew the information collection described below in the Federal Register and requested comment for 60 days. FDIC received one comment which is fully discussed in the Supplementary Information section below. No other comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of this information collection, and again invites comment on the renewal.

DATES: Comments must be submitted on or before [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- Agency Website: <https://www.FDIC.gov/regulations/laws/federal>.
- Email: comments@fdic.gov. Include the name and number of the collection in the subject line of the message.
- Mail: Manny Cabeza, Counsel, Room MB-3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- Hand Delivery: Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza, Counsel, 202-898-3767, mcabeza@FDIC.gov, MB-3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collection of information:

1. Title: Minimum requirements for appraisal management companies.
OMB Number: 3064-0195.

Form Number: None.

Affected Public: Participating States and Appraisal Management Companies that are subsidiaries owned and controlled by insured depository institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

	Type of Burden	Estimated Number of Respondents	Estimated Number of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden Hours	FDIC, FRB and OCC Share	FHFA Share
IC #1 – AMC Written Notice of Appraiser Removal from Network or Panel (323.10)	Record Keeping	9,881	1	0,08 hours	On Occasion	790	237	79
IC #2 – State Recordkeeping Requirements (323.11(a) & (b))	Record Keeping	5	1	40 hours	On Occasion	200 hours	50	50
IC #3 – AMC Reporting Requirements (State and Federal AMCs)(323.12 & 13(c))	Reporting	200	2	1 hour	On Occasion	400 hours	120	40
IC #4 – State Reporting Requirements to the Appraisal Sub Committee (323.14)	Reporting	55	1	1 hour	On Occasion	55 hours	14	14
Total Estimated Annual Burden						1,445 hours	421 hours	183 hours

General Description of Collection: The FDIC, the Office of the Comptroller of the Currency (OCC), The Board of Governors of the Federal Reserve System (FRB) and the Federal Home Finance Agency (FHFA) (collectively, the Agencies) issued regulations to implement the requirements of section 1473 of the Dodd-Frank Wall Street Reform and Consumer Protection Act to be applied by States in the registration and supervision of appraisal management companies (AMCs). The regulations also implement the requirement in section 1473 of the Dodd-Frank Act for States to report to the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) the information required by the Appraisal Subcommittee (ASC) to administer the new national

registry of appraisal management companies (AMC National Registry or Registry). The FDIC's regulation is found at 12 CFR Part 323 (the Regulation) and contains the following PRA recordkeeping and reporting requirements:

AMC Recordkeeping Requirements (IC #1). Section 323.10 of the Regulation provides that an appraiser in an AMC's network or panel is deemed to remain on the network or panel until: (i) the AMC sends a written notice to the appraiser removing the appraiser with an explanation; or (ii) receives a written notice from the appraiser asking to be removed or a notice of the death or incapacity of the appraiser. The AMC would retain these notices in its files.

State Recordkeeping Requirements (IC #2). States seeking to register AMCs must have an AMC registration and supervision program. Section 323.11(a) of the Regulation requires each participating State to establish and maintain within its appraiser certifying and licensing agency a registration and supervision program with the legal authority and mechanisms to: (i) review and approve or deny an application for initial registration; (ii) periodically review and renew, or deny renewal of, an AMC's registration; (iii) examine an AMC's books and records and require the submission of reports, information, and documents; (iv) verify an AMC's panel members' certifications or licenses; (v) investigate and assess potential violations of laws, regulations, or orders; (vi) discipline, suspend, terminate, or deny registration renewals of, AMCs that violate laws, regulations, or orders; and (vii) report violations of appraisal-related laws, regulations, or orders, and disciplinary and enforcement actions to the ASC.

Section 323.11(b) requires each participating State to impose requirements on AMCs not regulated by a Federal financial institutions regulatory agency nor owned and controlled by an insured depository institution to: (i) register with and be subject to supervision by a State appraiser certifying and licensing agency in each State in which the AMC operates; (ii) use only State-certified or State-licensed appraisers for Federally-regulated transactions in conformity with any Federally-regulated transaction regulations; (iii) establish and comply with processes and controls reasonably designed to ensure that the AMC, in engaging an appraiser, selects an appraiser who is independent of the transaction and who has the requisite education, expertise, and experience necessary to competently complete the appraisal assignment for the particular market and property type; (iv) direct the appraiser to perform the assignment in accordance with the Uniform Standards of Professional Appraisal Practice; and (v) establish and comply with processes and controls reasonably designed to ensure that the AMC conducts its appraisal management services in accordance with section 129E(a)-(i) of the Truth-in-Lending Act.

AMC Reporting Requirements (IC #3). Section 323.13(c) requires that a Federally-regulated AMC report to the State or States in which it operates the information required to be submitted by the State pursuant to the ASC's policies, including: (i) information regarding the determination of the AMC National Registry fee; and (ii) the information listed in section 323.12 of the Regulation. Section 323.12 provides that an AMC may not be registered by a State or included on the AMC National Registry if such company is owned, directly or

indirectly, by any person who has had an appraiser license or certificate refused, denied, cancelled, surrendered in lieu of revocation, or revoked in any State. Each person that owns more than 10 percent of an AMC is required to submit to a background investigation carried out by the State appraiser certifying and licensing agency. While section 323.12 does not authorize States to conduct background investigations of Federally-regulated AMCs, it would allow a State to do so if the Federally-regulated AMC chooses to register voluntarily with the State.

State Reporting Requirements (IC #4). Section 323.14 requires that each State electing to register AMCs for purposes of permitting AMCs to provide appraisal management services relating to covered transactions in the State must submit to the ASC the information concerning such AMCs required to be submitted under the Regulation and any additional information required by the ASC.

Burden Estimate Methodology and Assumptions:

There is no change in the methodology or substance of this information collection. For the information collections described above, the general methodology is to compute the industry wide burden hours for States and appraisal management companies (AMCs) and then assign a share of the burden hours to each of the regulatory agencies for each information collection. The Agencies are revising their burden estimates based on the following assumptions:

IC #1: AMC Written Notice of Appraiser Removal from Network or Panel

The burden for written notices of appraiser removal from a network or panel is estimated to be equal to the number of appraisers who leave the profession per

year multiplied by the estimated percentage of appraisers who work for AMCs, then multiplied by burden hours per notice. The number of appraisers who leave is calculated by adding the number of appraisers who are laid off or resign to the number of appraisers that have had their licenses revoked or surrendered. The total burden hours are then split between the Federal Reserve Board (FRB), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the Federal Housing Finance Agency (FHFA) in a ratio of 3:3:3:1 in accordance with the burden sharing agreement among the Agencies. Finally, the burden hours are calculated by multiplying the estimated number of written notices of appraiser removal (9,881) by the estimated burden per notice (0.08 hours) for a total of 790 burden hours.¹ As previously mentioned, the total burden hours are then split between the FDIC, FRB, OCC, and the FHFA such that the FHFA is responsible for 79 hours and the other three agencies are responsible for 237 hours each.

IC #2: Develop and Maintain a State Licensing Program. The burden on the States for developing and maintaining an AMC licensing program is calculated by multiplying the number of states without a registration and licensing program by the hour burden to develop the system. The total burden hours are then equally divided among the FDIC, FRB, OCC, and FHFA. According to the Appraisal Institute as of July 26, 2017, there are 5 states that have not developed a system to

¹ The “per notice” burden estimate of 0.08 hours is unchanged from the estimate provided for the currently-approved ICR. The subject matter experts at the FDIC do not believe this estimate needs to be updated for this renewal.

register and oversee AMCs.² The 2015 ICR estimate of the hour burden per state without a registration system was 40 hours. The FDIC does not believe this estimate needs to be updated for this renewal. Therefore, the total hour burden is 200 hours: 5 states x 40 hours/state = 200 hours. Finally, the total hour burden is divided among the four agencies such that each agency is responsible for 50 burden hours.³

IC #3: AMC Reporting Requirements (State and Federal AMCs). The burden for AMC reporting requirements is calculated by multiplying the number of AMCs by the frequency of response then by the burden per response. The burden hours are then divided between the FDIC, FRB, OCC, and FHFA at a ratio of 3:3:3:1.⁴ FDIC estimates there are approximately 400 entities that provide appraisal management services as defined by section 323.9(d). Of these 400 entities, FDIC estimates approximately 200 entities meet the definition of an AMC as defined by section 323.9(c).⁵

The frequency of response is estimated as the number of states that do not have an AMC registration program in which the average AMC operates.⁶ According to the Appraisal Institute, Five (5) states do not have AMC registration or oversight programs.⁷ According to the Consumer Financial Protection Bureau (CFPB), the

² Appraisal Institute “Enacted State AMC Laws,” <https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/>.

³ The assumption to divide the burden hours between the agencies is based on a burden-sharing agreement among the FDIC, FRB, OCC, and FHFA. The burden hours are shared in the same ratio as the 2015 ICR.

⁴ Id.

⁵ The FDIC anticipates more definitive information will become available when AMC registration requirements become effective on August 10, 2018.

⁶ The number of states includes all U.S. states, territories, and districts, to include the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands.

⁷ Appraisal Institute “Enacted State AMC Laws,” <https://www.appraisalinstitute.org/advocacy/enacted-state-amc-laws1/> (accessed February 27, 2018).

average AMC operates in 19.56 states.⁸ Therefore, the average AMC operates in approximately 2 states that do not have AMC registration systems: (5 states/55 states) x 19.56 states = 1.778 states ~ 2 states. Therefore the total hour burden for IC #3 is 400 hours: 200 AMCs x 2 states (frequency) x 1 hour = 400 hours. The burden hours are then divided such that the FDIC, FRB, and OCC are each responsible for 120 burden hours and the FHFA is responsible for 40 burden hours.⁹

IC #4: State Reporting Requirements to the Appraisal Subcommittee. The burden hours for State reporting to the ASC are estimated by multiplying the number of states by the hour burden per state.¹⁰ Then the burden hours are divided equally among the FDIC, FRB, OCC, and the FHFA. The total burden hour for state reporting is 50 hours: 55 states x 1 hour/state = 55 hours. This is then equally divided across the 4 agencies for 14 burden hours each, with rounding.¹¹

Comments Received:

The FDIC received one comment letter from an appraisal management company trade association.

In response to the request for comment on whether this collection of information is necessary for the proper performance of the functions of the FDIC, including whether the information has practical utility, the commenter agreed that this

⁸ The CFPB conducted a survey of 9 AMCs in 2013 regarding the provisions in the rule and the related PRA burden.

⁹ See footnote 9.

¹⁰ The number of states includes all U.S. states, territories, and districts, to include the Commonwealth of the Northern Mariana Islands, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands. The burden estimate of one hour per report is unchanged from the estimate provided for the currently-approved ICR. The subject matter experts at the FDIC do not believe this estimate needs to be updated for this renewal.

¹¹ See footnote 9.

collection of information is necessary and has practical utility but “only to the extent that the information collected serves the proper purpose to promote appraiser independence while ensuring a healthy real estate valuation market.”

This suggests that the commenter believes that the “proper purpose” of the collection is limited to the promotion to appraiser independence. In response to this comment, the FDIC notes that the purpose of the AMC rule and the collection is to implement all required elements of the statute, not only provisions that relate to appraiser independence.¹² The Agencies were required to adopt regulations to implement all the statutory requirements and this collection of information is a necessary and useful component of such implementation.

In response to the request for comment on the accuracy of FDIC’s estimate of the information collection burden, the commenter opines that the FDIC’s estimate of the number of entities that meet the definition of an AMC under IC #3: (Reporting Requirements for State and Federal AMCs) is too low. The commenter did not offer an estimate of what the number should be and appears to agree that, as stated in footnote 5, the actual number of affected AMCs will be known once the AMC National Registry is fully operational.

The commenter indicates that its members believe that the estimate of the annual burden to comply is also too low. The commenter recommends that the estimate be increased to twice the current estimate. The commenter notes that each state differs in complexity of their demands for the collection of information and not all are on the same renewal schedule. Some renew annually and some biennially,

¹² See 12 U.S.C. 3353(a) (setting minimum requirements for registration regulation in participating states); *id.* section 3353(d) (setting registration limitations for AMCs); and *id.* section 3353(e) (requiring reporting of information by AMCs to the ASC).

which have varying burdens for preparation and validation. The burden estimates for this collection have historically been prepared on an industry-wide basis and then allotted to each agency. The FDIC prepared the industry-wide estimates for this renewal. We invite commenters to review the analysis, which is included in our supporting statement, and comment during the 30-day comment period.

In response to the request for comment on ways to enhance the quality, utility, and clarity of the information to be collected, the commenter suggested that the ASC should issue additional guidance to states and AMCs concerning the AMC minimum requirements. The goal of such guidance would be to “provide consistency in the implementation of the regulations and information required.”

The commenter also expressed concern that wide variation of AMC requirements from state to state may have material unintended consequences on lending activity in a particular jurisdiction. The commenter’s suggestions do not relate to the information collection. In addition, while Title XI and the AMC rule set minimum standards for the registration and supervision of AMCs by states, Title XI and the AMC rule expressly provide that a state may adopt requirements in addition to those contained in the AMC regulation. 12 U.S.C. 3353(b); 12 CFR 34.210(d). The FDIC will, however, refer these suggestions to the ASC for consideration.

In response to the request for comments on ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology, the commenter recommends that the ASC find opportunities to develop reporting efficiencies in the licensing

system, which could include partnering with the Nationwide Multistate Licensing System (NMLS) or investing in a new process. Furthermore, the commenter believes the ASC should be more aggressive in supporting modernization of the outdated National Appraiser Registry (which AMCs must use to comply with the minimum requirements). FDIC notes that the commenter's suggestions do not relate to the information collection. The FDIC will, however, refer these suggestions to the ASC for consideration.

Request for Comment: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on August 8, 2018.
Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2018-17377 Filed: 8/13/2018 8:45 am; Publication Date: 8/14/2018]