

**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).¹ The Paperwork Reduction Act (PRA) classifies reporting, recordkeeping, or disclosure requirements of agency guidance as an “information collection.”² The Federal Reserve is required to renew the disclosure requirements of Reg H every three years pursuant to the PRA. The total estimated annual burden for the disclosure requirements associated with the insurance regulation is 13,451 hours.

The insurance consumer protection rules in Regulation H require depository institutions to prepare and provide certain disclosures to consumers. Covered persons are required to make certain disclosures before the completion of the initial sale of an insurance product or annuity to a consumer and at the time a consumer applies for an extension of credit in connection with which and insurance product or annuity is solicited, offered, or sold.

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 agencies³ to issue joint regulations applicable to retail sales practices, solicitations, advertising, and offers of insurance by, on behalf of, or at the offices of insured depository institutions.⁴ Section 305 applies to any depository institution⁵ 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 insurance 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.

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

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

² 44 U.S.C. § 3501 *et seq.*

³ 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).

⁴ See Public Law No. 106-102, which added section 47 to the Federal Deposit Insurance Act, codified at 12 U.S.C. §1831x.

⁵ 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.

- A prohibition against conditioning an extension of credit on the purchase of an insurance product or annuity from the bank or its affiliate, or conditioning an extension of credit on 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 or using any advertisement 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 there is an investment risk associated with the product (if applicable) and that any investment may lose value, and that extensions of credit may not be conditioned upon the purchase of an insurance product or an agreement not to purchase such products from unaffiliated entities (12 CFR § 208.84(a) and (b));
- A prohibition on discrimination against victims of domestic violence or persons providing services to them in connection with 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 from the public, and to identify and delineate those areas where insurance activities occur (12 CFR § 208.85(a));
- A limitation on fees that can be paid to persons who routinely accept deposits for referring customers who seek to purchase an insurance product or annuity to a qualified insurance salesperson (12 CFR § 208.85(b)); and
- A requirement that persons selling insurance in any part of 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 transactions conducted by mail, the regulation does not require oral disclosures.

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 transactions conducted by mail, the regulation does not require oral disclosures.

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.

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

Consultation Outside of the Agency and Discussion of Public Comments

On September 21, 2009, the Federal Reserve published a notice in the *Federal Register* (74 FR 48070) requesting public comment for 60 days on the extension, without revision, of the mandatory disclosure requirements of Subpart H of Regulation H (Consumer Protections in Sales of Insurance). The comment period for this notice expired on November 20, 2009. The Federal Reserve did not receive any comments. On December 8, 2009, the Federal Reserve published a final notice in the *Federal Register* (74 FR 64692).

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 Federal Deposit Insurance Act, 12 U.S.C. 1831x and are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality normally arises.

Estimate of Respondent Burden

The estimated annual burden for the disclosure requirements associated with the insurance regulation is 13,451 hours, as shown in the table below. The Federal Reserve estimates that each state member bank, on average, will make approximately 630 such disclosures each year (based on 1 percent of the total number of deposit accounts held by state member banks). Using an estimate of one and a half minutes for each disclosure, a state member bank would spend on average about 16 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))	854	630	1.5 mins.	13,451

The estimated cost to the public for this information collection is \$829,254.⁶

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.

⁶ 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% Administrative or Junior Analyst @ \$25, 45% Managerial or Technical @ \$55, 15% Senior Management @ \$100, and 10% Legal Counsel @ \$144). Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2007, <http://www.bls.gov/news.release/ocwage.nr0.htm> Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>