

**Supporting Statement for the
Recordkeeping and Disclosure Requirements of
Regulation DD (Truth in Savings) (OMB No. 7100-0271)**

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 recordkeeping and disclosure requirements of Regulation DD, which implements the Truth in Savings Act (TISA).¹ The Federal Reserve is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation DD as “required information collections.”²

TISA and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. The act and regulation mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts.

Depository institutions’ collection of information pursuant to Regulation DD is triggered by specific events and disclosures must be provided to consumers within the time periods established by the law and regulation. There are no reporting forms associated with Regulation DD. To ease the compliance cost (particularly for small entities), model clauses and sample forms are appended to the regulation. Depository institutions are required to “retain evidence of compliance” for twenty-four months, but the regulation does not specify types of records that must be retained.

The Federal Reserve's Regulation DD applies to all depository institutions except credit unions.³ The Federal Reserve accounts for the paperwork burden associated with Regulation DD only for Federal Reserve-supervised institutions.⁴ Other federal agencies account for the paperwork burden imposed on the depository institutions for which they have regulatory enforcement authority. The annual burden is estimated to be 176,177 hours for 1,172 Federal Reserve-supervised institutions that are deemed “respondents” for purposes of the Paperwork Reduction Act.

¹ TISA was enacted in 1991 and is codified at 12 U.S.C. § 4301-13. Regulation DD is located at 12 C.F.R. Part 230.

² 44 U.S.C. § 3501 *et seq.*

³ Credit unions are covered by a substantially similar rule issued by the National Credit Union Administration.

⁴ Federal Reserve-supervised institutions include State member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act. See TISA § 270 and 12 U.S.C. 1813(q) (Federal Deposit Insurance Act).

Background and Justification

TISA was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of TISA and its implementing regulation is to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. The act requires depository institutions to disclose key terms for deposit accounts at account opening, upon request, when changes in terms occur, and in periodic statements.⁵ It also includes rules about advertising for deposit accounts. TISA does not provide exemptions from compliance for small institutions.⁶

In May 2005, the Board amended Regulation DD, in part, to address a specific service offered by depository institutions, commonly referred to as "bounced-check protection" or "courtesy overdraft protection."⁷ The Board also expanded the regulation's scope to address concerns about the marketing of overdraft protection to deposit account customers. Other revisions required additional fee and other disclosures about courtesy overdraft protection services, including in advertisements. The Board also approved amendments of general applicability that require institutions to provide more uniform disclosures about overdraft and returned-item fees.

The Board has also used its rulemaking authority under TISA to provide institutions flexibility to provide disclosures electronically under certain circumstances. In November 2007, the Board published a final rulemaking (72 FR 63477) that amended Regulation DD to address the timing and delivery of electronic disclosures, consistent with the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). This rule provides that that certain disclosures may be provided to a consumer in electronic form without regard to the consumer consent and other provisions of the E-Sign Act; and that, when an advertisement is accessed by the consumer in electronic form, the disclosures must be provided in electronic form on or with the advertisement.

Description of Information Collection

TISA and Regulation DD cover accounts held by individuals primarily for personal, family, or household purposes. The recordkeeping and disclosure requirements associated with Regulation DD are described below.

⁵ Consumer accounts held by unincorporated associations of individuals were covered until October 1994, when the regulation was amended to implement legislation that limited TISA's coverage to accounts held by natural persons. The amendment reduced paperwork requirements and burden on depository institutions.

⁶ In September 1998, the Federal Reserve published revisions to Regulation DD to implement statutory amendments made by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) of 1996, which, among other things, eliminated certain disclosure requirements with respect to automatically renewable time accounts with a term of thirty days or less. 63 FR 52107 (September 29, 1998). See also Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104-208, 110 Stat. 3009. EGRPRA also repealed TISA's civil liability provisions, effective September 30, 2001.

⁷ 70 FR 29582 (May 24, 2005).

Account Disclosures (Section 230.4)

Depository institutions are required to provide account disclosures containing rate and fee information to a consumer upon request. Account disclosures must also be provided prior to opening an account or before services are provided, whichever is earlier. The purpose of the disclosure requirement is to provide account holders and prospective account holders with the type and amount of any fees that may be imposed, including fees for ATM withdrawals, or other electronic fund transfers; the interest rate and the APY that will be paid on an account; and other key terms. Institutions are required to specify—in the account-opening disclosures provided under the Truth in Savings Act—the categories of transactions for which an overdraft fee may be imposed.

Subsequent Notices (Section 230.5)

Change in terms (Section 230.5(a)). Depository institutions are required to provide thirty days' notice of any change that may reduce the APY or adversely affect consumers, such as a change in fees. Certain types of events such as changes in the interest rate and APY for variable rate accounts are exempt from this requirement.

Prematurity (Renewal) notice (Sections 230.5(b) and (c)). Depository institutions are required to provide prematurity notices for certain time accounts. The timing and content requirement of the notice varies depending on the term of a time deposit and whether it renews automatically:

- For automatically renewable time accounts with a term less than or equal to one month, no advance notice is required.
- Advance notices for automatically renewable time accounts with a maturity longer than one month but less than or equal to one year may be sent either thirty days before maturity or, as an alternative, twenty calendar days before the end of a grace period, so long as the grace period is at least five days. The alternative timing rule was adopted to allow flexibility for institutions to maintain any existing practice to send notices ten to fifteen days prior to maturity. The notice may contain the disclosures required when the account is opened or, as an alternative, information on the interest rate and APY for the new account, the maturity date for the existing and new accounts, and any changes in terms.
- For automatically renewable time accounts with terms longer than one year, institutions must provide disclosures required at account-opening. The timing rules for these accounts longer than one year are the same as for accounts with maturities longer than one month but less than or equal to one year.
- For nonrenewable time accounts with a maturity of less than or equal to one year, no notice is required. If the maturity is longer than one year, the notice must provide information on the maturity date, and whether or not interest will be paid after maturity.

Periodic Statement Disclosure (Section 230.6)

Neither the statute nor regulation mandates that depository institutions provide periodic statements. If an institution chooses to provide periodic statements, however, the statements must contain specific information: the total number of days in, or the

beginning and ending dates of, the statement period; the dollar amount of interest earned and APY earned; and fees imposed on the account, itemized by type and dollar amount. In addition, institutions that promote the payment of overdrafts must make additional disclosures on their periodic statements.⁸

Advertising (Section 230.8)

The advertising rules apply to both depository institutions and deposit brokers. The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information that they can use in deciding among various deposit accounts. For example, the advertising rules require that if an advertisement includes certain “trigger terms” (such as a bonus or the APY), the advertisement must also include certain additional disclosures about the terms of the advertised account.

To reduce consumer confusion about the nature of overdraft services and how they differ from traditional lines of credit, institutions that market overdraft services not covered by the Truth in Lending Act must include in their advertisements about the service: the fee for the payment of each overdraft item, the types of transactions covered, the time period consumers have to repay or cover any overdraft, and the circumstances under which the institution would not pay an overdraft.

Time Schedule for Information Collection

Information collection pursuant to Regulation DD is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the law and regulation. There is no reporting form associated with the requirements of Regulation DD; disclosures pertaining to a particular transaction or consumer account are not publicly available. Disclosures of an institution’s account terms that appear in advertisements are available to the public.

Consultation Outside the Agency

On March 6, 2008, the Federal Reserve published a notice in the *Federal Register* (73 FR 1276) requesting public comment for sixty days on the extension, without revision, of the recordkeeping and disclosure requirements of Regulation DD. The comment period for this notice expired on May 5, 2008. The Federal Reserve did not receive any comment letters. On May 15, 2008, the Federal Reserve published a final notice in the *Federal Register* (73 FR 28117).

Sensitive Questions

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

⁸ 70 FR 29582 (May 24, 2005).

Legal Status

The Board's Legal Division has determined that section 269 of the Truth in Savings Act (12 U.S.C. § 4308) authorizes the Federal Reserve to issue regulations to carry out the provisions of the Act. The information collections are mandatory. Since the Federal Reserve does not collect any information, no issue of confidentiality arises.

Estimate of Respondent Burden

The general account disclosures (section 230.4) are in standardized, machine-generated form and do not substantively change from one individual account to another; thus, the cost to the public is small. Subsequent notices (section 230.5) and periodic statements (section 230.6) are machine-generated reports of information that for the most part would be captured by the institution and disclosed to the consumer for business purposes; the marginal cost of complying with these regulations is considered to be small. The cost of complying with the advertising rules (section 230.8) is also considered to be small. No paperwork burden is associated with the requirement in Regulation DD that depository institutions "retain evidence of compliance" for a minimum of two years after the date disclosures are required to be made (section 230.9). The regulation does not specify the kind of records that must be retained for this purpose.

The estimated total annual burden for this information collection is 176,177 hours for Federal Reserve-supervised institutions. This estimated burden arises exclusively from the disclosures required under the regulation and is shown in the table below. This represents less than 4 percent of the Federal Reserve's total paperwork burden.

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Average time per response</i>	<i>Estimated annual burden hours</i>
Account disclosures (230.4)	1,172	500	1.5 mins	14,650
<u>Subsequent Notices (230.5)</u>				
Change in terms (230.5(a))	1,172	1,130	1 minute	22,117
Prematurity (Renewal) notices (230.5(b) and (c))	1,172	1,015	1 minute	19,866
Periodic statement disclosure (230.6)	1,172	12	8 hours	112,512
Advertising (230.8)	1,172	12	30 mins	<u>7,032</u>
<i>Total</i>				176,177

The total cost to the public is estimated to be \$10,861,312 for Federal-Reserve supervised institutions.⁹

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.

Financial Industry Burden Averages

There are approximately 19,300 depository institutions potentially affected by this collection of information that would be respondents for purposes of the PRA. The other federal banking agencies are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement authority. These agencies may, but are not required to, use the Federal Reserve's burden estimates. The total estimated annual burden for all financial institutions subject to Regulation DD, including Federal Reserve-supervised institutions, would be approximately 2,898,548 hours, using the same burden methodology as above. This estimate represents an average across all respondents and reflects variations between institutions based on their size, complexity, and practices.

⁹ 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% - Clerical @ \$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, *Occupational Employment and Wages*, news release.