

SUPPORTING STATEMENT
PROMPT CORRECTIVE ACTION
(3064-0115)

INTRODUCTION

The FDIC is requesting OMB approval to continue the use of the information collection system captioned above. The current clearance for the collection expires on August 31, 2008. There is no change in the method or substance of the collection. The information collection requirements are contained in FDIC regulations 12 CFR 303 and 325.

The Prompt Corrective Action ("PCA") provisions of section 38 of the Federal Deposit Insurance Act require or permit the FDIC and other federal banking agencies to take certain supervisory actions when FDIC-insured institutions fall within one of five capital categories. They also restrict or prohibit certain activities and require the submission of a capital restoration plan when an insured institution becomes undercapitalized. Various provisions of the statute and the FDIC's implementing regulations require the prior approval of the FDIC before an FDIC-supervised institution can engage in certain activities, or allow the FDIC to make exceptions to restrictions that would otherwise be imposed. This collection of information consists of the applications that are required to obtain the FDIC's prior approval.

A. Justification

1. Circumstances and Need

Specifically, the collection consists of applications: (1) to make a capital distribution from an insured institution that would be undercapitalized after making said distribution; (2) from undercapitalized institutions to engage in any new line of business; (3) from critically undercapitalized institutions to pay interest on subordinated debt; (4) from undercapitalized or significantly undercapitalized institutions to pay any bonus or increased compensation to any senior executive officer; (5) from critically undercapitalized institutions to enter into any material transaction other than in the usual course of business; (6) from critically undercapitalized institutions to extend credit for any highly leveraged transaction; (7) from critically undercapitalized institutions to amend their charters or bylaws under certain circumstances; (8) from critically undercapitalized institutions to make any material change in accounting methods; (9) from critically undercapitalized institutions to engage in any covered transaction as defined in section 23A(b) of the Federal Reserve Act, 12 USC 371c; and (10) from critically undercapitalized institutions to pay excessive compensation or bonuses.

2. Use of Information Collected

This information helps institutions comply with the statutory requirements and allows the FDIC to properly discharge its responsibilities under section 38 of the FDI Act.

3. Use of Technology to Reduce Burden

Institutions can submit PCA-related applications to the FDIC via the FDIC's interactive Website, *FDICconnect*.

4. Efforts to Identify Duplication

There is no duplication. Each application is unique. Similar information is not available from any other source.

5. Minimizing the Burden on Small Businesses

The same requirements apply to all institutions regardless of size.

6. Consequence of Less Frequent Collections

This is an occasional, not a periodic, collection. Institutions must submit applications only when seeking FDIC approvals.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

A Federal Register notice seeking comment was published on May 29, 2008 (73 FR 30938). The comment period ended on July 28, 2008. No comments were received.

9. Payment or Gift to Respondents

None.

10. Confidentiality

The Privacy Act (for personal information) and the Freedom of Information Act (for business information) will govern the confidentiality accorded to the information in this collection.

11. Questions of a Sensitive Nature

No questions of a sensitive nature are included in this collection.

12. Estimates of Annualized Hour Burden and Associated Cost

Number of reports submitted	19
Hours to prepare the report	<u>4</u>
Total annual burden hours	76

Respondent processing cost per hour: \$40
Total respondent cost = \$40 x 76 = \$3,040

13. Capital/Start-up and Operation/Maintenance Cost

None.

14. Cost to Government

The cost to the federal government is \$3,040, based on an estimated 19 applications annually with an average processing time of 4 hours per report at an hourly rate of \$40 per hour.

15. Change in Burden

There has been no change in burden.

16. Publication

There is no publication of the information reported.

17. Display of Expiration Dates

The information collection is contained in FDIC regulations at 12 C.F.R. Parts 303 and 325 and the OMB information collection number (3064-0115) is included in the regulatory text of proposed and final rules related to Prompt Corrective Action. If the FDIC's current review of the regulations results in development of a method for banks to enter the required information on-line or submit the required information electronically via an attachment, the on-line instructions will include clear and conspicuous notice of the OMB information collection number and its expiration date.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.

