

SUPPORTING STATEMENT  
ACCOUNT BASED DISCLOSURES IN CONNECTION WITH  
FEDERAL RESERVE REGULATIONS E, CC AND DD  
(OMB No. 3064-0084)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting OMB approval to renew its 3064-0084 information collection associated with Regulations E, CC, and DD issued by the Board of Governors of the Federal Reserve System (FRB). The FDIC's collection will expire on August 31, 2008. \_\_\_\_\_

A. JUSTIFICATION

1. Circumstances and Need

The FDIC's OMB approved collection provides for the application of the information collection requirements of three FRB rules to state nonmember banks. The three rules are:

- Regulation E ("Electronic Fund Transfers," 12 C.F.R. Part 205);
- Regulation CC ("Availability of Funds," 12 C.F.R. Part 229); and
- Regulation DD ("Truth in Savings," 12 C.F.R. Part 230).

Regulation E implements the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693. et seq., and is authorized by 15 U.S.C. § 1693b. Regulation CC implements the Expedited Funds Availability Act (12 U.S.C. §§ 4001 et seq., and is authorized by 12 U.S.C. § 4008 and 12 U.S.C. § 5014). Regulation DD implements the Truth in Savings Act (12 U.S.C. §§ 4301 et seq., and is authorized by 12 U.S.C. § 4308(a)). For all three regulations, the FDIC has enforcement responsibility for state nonmember banks (Regulation E, 15 U.S.C. § 1693o; Regulation CC, 12 U.S.C. § 4009; and Regulation DD, 12 U.S.C. § 4309).

2. Use of Information Collected

Generally, the Regulation E disclosures are designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures.

Like Regulation E, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The

disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. Depository institutions must also provide an awareness disclosure regarding substitute checks. The regulation also requires notice to the depository bank and to a customer of nonpayment of a check.

Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. Regulation DD requires 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. It also contains rules about advertising deposit accounts.

Although the FRB regulations require institutions to retain evidence of compliance with the disclosure requirements, the regulations do not specify the types of records that must be retained.

### 3. Use of Technology to Reduce Burden

The information collections in Regulations E, CC and DD are primarily third party disclosures. Institutions may provide electronic disclosures consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. §§ 7001 *et seq.*, 12 C.F.R. § 205.17 and 12 C.F.R. § 230.10.

### 4. Efforts to Identify Duplication

Regulations E, CC and DD require account related disclosures when specified events occur and the disclosures' content do not overlap. If institutions provide periodic statements concerning accounts, Regulation E and CC require certain disclosures, of different content, to be made on them.

### 5. Minimizing the Burden on Small Banks

Generally, the relevant statutes require the disclosures to be made notwithstanding the size of the institution. Although the Electronic Fund Transfer Act does not exempt small institutions, it authorizes the FRB to modify certain requirements to ease compliance burdens for small institutions. The FRB has exempted from the requirements of the act preauthorized transfers to or from accounts at financial institutions with assets of \$100 million or less. A small financial institution that provides EFT services besides preauthorized transfers must comply with the regulation for those other services.

### 6. Consequence of Less Frequent Collections

The disclosures are event based and may not be made less frequently consistent with the underlying regulation.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

A “first” Federal Register notice seeking comment was published on May 29, 2008 (73 Fed. Reg. 30938). No comments were received.

9. Payment or Gift to Respondents

None.

10. Confidentiality

Since no information is collected, no issue of confidentiality arises. The disclosure of information to consumers with regard to the availability of funds is available to the public.

11. Information of a Sensitive Nature

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

12. Estimate of Annual Burden

The current burden for state nonmember banks associated with Regulation E is as follows:

**One-time change to Disclosures at ATMs (section 16c)).** This disclosure was revised to explicitly clarify that ATM operators may disclose in all cases that a fee will be imposed, or in the alternative, disclose that a fee may be imposed on consumers initiating an EFT or a balance inquiry if there are circumstances under which some consumers would not be charged for such services. The FDIC estimates that state nonmember banks will require, on average, one business day (eight hours) to reprogram and update systems to include the new disclosure. Therefore, the one-time burden is estimated as follows: 5,192 respondents x 8 hours = 41,536.

**One-time change to Transaction Disclosures (receipts at electronic terminals; periodic statements (Section 205.9)).** The FRB amended 205.9 to exempt EFTs of \$15 or less from the requirement that financial institutions make a terminal receipt available at the time of the transaction, estimating a one-time reprogramming burden of eight hours for institutions wishing to make use of the exception. The FDIC estimates that, at

most, 100 state nonmember banks will program their ATMs in this manner. The one-time burden, therefore, is estimated as follows: 100 respondents x 8 hours = 800 hours.

<b>Regulation E</b> 12 C.F.R. Part 205	<b>Number of respondents</b>	<b>Annual frequency<sup>1</sup></b>	<b>Response time</b>	<b>Annual burden hours</b>
<u>Initial disclosures</u> (sections 205.7 and 205.8) Initial terms Change in terms	5,192 5,192	83 113	1.5 minutes 1 minute	10,773 9,778
<u>Transaction disclosures</u> (sections 205.9(a) and § 205.10)				0 <sup>2</sup>
<u>Periodic statements</u> (section 205.9(b))				0 <sup>3</sup>
<u>Error resolution rules</u> (sections 205.8(b) and 205.11)	5,192	3	30 minutes	7,788
<u>Payroll card disclosures</u> (section 205.18) Initial Periodic Error resolution	5 5 5	5,000 12 8	1.5 minutes 7 hours 30 minutes	625 420 20
<b>Subtotal</b>				<b>29,404</b>

[**Bank acting as merchant or payee (Sections 205.3(a) and (b)(2)).** At this time, the FDIC does not believe that any state nonmember banks are engaged in electronic check conversion transactions as a merchant or payee and no burden is being estimated for this part of the FRB rule.]

The burden estimate for the Regulation CC part of the collection is as follows.

<b>Regulation CC</b> 12 C.F.R. Part 229 <sup>4</sup>	<b>Number of respondents</b>	<b>Annual frequency</b>	<b>Response time</b>	<b>Annual burden hours</b>
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1 The annual frequency estimates are based on FRB estimates that have been adjusted, where appropriate, to reflect that FDIC regulated institutions have, on average, approximately one-third as many accounts as FRB regulated institutions.

2 Consistent with the FRB analysis, no burden is associated with this requirement because the disclosures are machine generated and no institution employee is involved.

3 Consistent with the FRB analysis, the burden associated with this requirement is accounted for in the estimate of the paperwork burden associated with Regulation DD because EFT periodic statements are typically included with monthly checking and savings account statements.

Specific availability policy disclosure (initial notice, upon request, upon change in policy) sections 229.16, 229.17 and 229.18(d)	5,192	140	1 minute	12,115
Case-by-case hold notice Section 229.16(c)	5,192	717	3 minutes	186,133
Notice of exceptions to hold policy section 229.13(g)	5,192	247	3 minutes	64,121
Notice posted where consumers make deposits (including at ATMs) <sup>5</sup> sections 229.18(b) and 229.18(c)	5,192	1	15 minutes	1,298
Notice of changes in policy section 229.18(e)	20	1	20 hours	400
Annual notice of new ATMs section 229.18(e)	5,192	1	5 hours	25,960
Notice of nonpayment section 229.33(a) and (d) <sup>6</sup> <ul style="list-style-type: none"> <li>• notice to depository bank</li> </ul>	5,192	2,211	1 minute	191,325
Response to consumer's recredit claim (validation, denial, reversal) section 229.54(e)	5,192	12	15 minutes	15,576
Bank's claim against an indemnifying bank section 229.55	5,192	5	15 minutes	6,490
Consumer awareness disclosure section 229.57	5,192	170	1 minute	14,711
<b>Regulation CC consumer burden</b>				

4 The Regulation CC information requirements include previous FRB changes to 12 C.F.R. Part 229 to implement the Check 21 Act.

5 Notice on preprinted deposit slips section 229.18(a). The preprinted deposit slip notice must inform the customer that deposits may not be available for immediate withdrawal. Consistent with the FRB's analysis, the FDIC considers this burden negligible.

6 If the depository bank receives a returned check or notice of nonpayment, regardless of the amount, it must send notice to its customer. Consistent with the FRB's analysis, this requirement is considered not to cause the bank additional burden because, were the requirement not to exist, banks presumably would nonetheless provide a similar notification to customers in the usual and customary course of their business.

Expedited recredit claim notice section 229.54(a) and (b)(2)	5,192	8	15 minutes	10,384
<b>Subtotal</b>				<b>528,513</b>

The burden estimate for the Regulation DD part of the collection is as follows.

<b>Regulation DD</b> 12 C.F.R. Part 230	<b>Number of respondents</b>	<b>Annual frequency</b>	<b>Response time</b>	<b>Annual burden hours</b>
Account disclosures (upon request and new accounts) (section 230.4)	5,192	170	1.5 minutes	22,066
Subsequent notices (section 230.5) <ul style="list-style-type: none"> <li>• Change in terms</li> <li>• Prematurity (renewal) notices</li> </ul>	5,192 5,192	380 340	1 minute 1 minute	32,883 29,421
Disclosures on periodic statements (section 230.6)	5,192	12	3 hours	186,912
Advertising (section 230.8)	5,192	12	30 minutes	31,152
<b>Subtotal</b>				<b>302,434</b>

29,404 (Regulation E – current burden)  
41,536 (Regulation E – one time ATM disclosure burden)  
800 (Regulation E – one time transaction disclosure burden)  
528,513 (Regulation CC)  
302,434 (Regulation DD)  
**902,687 total estimated burden hours**

Estimated annual cost to FDIC supervised institutions (at \$20 hourly cost).

1,434,800 (Regulation E)  
10,570,280 (Regulation CC)  
6,048,680 (Regulation DD)  
\$18,053,760

13. Capital, Start-up, Operating and Maintenance Costs

None.

14. Estimates of Annualized Cost to the Federal Government

Since the FDIC does not collect any information, the cost to the FDIC is negligible.

15. Reason for Change in Burden

The burden changes for Regulation E are the result of a the deduction of -42,400 for the previous one-time electronic check disclosure, a one-time addition of +42,336 hours due to a program change by the FRB, and an adjustment of -591 hours due to a reduction in the number of FDIC-supervised institutions. The burden adjustments of -10,986 hours and -6,261 hours for Regulations CC and DD, respectively, are due to a reduction in the number of FDIC-supervised institutions.

Regarding the annual number of responses, the addition of 5,292 responses due to a discretionary program change and 24,032,820 responses due to an adjustment as shown in the “IC Summary of Burden” is the result of an error in the number of previously approved annual responses. The previous figure indicated that the number of such responses was 5,300, which was actually the number of individual respondents for most of the collections comprising 3064-0084 at the time the collection was last revised in 2005. Additionally the -60,238 burden hour adjustment is also a result of this correction.

16. Publication

There is no publication of the information reported.

17. Display of Expiration Date

Not applicable to these disclosures.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.