SUPPORTING STATEMENT
Temporary Liquidity Guarantee Program
OMB No. 3064-0166

The Federal Deposit Insurance Corporation (FDIC) is requesting emergency approval from the Office of Management and Budget (OMB) by February 27, 2009, to revise a collection of information recently established in connection with an interim rule implementing the FDIC's Temporary Liquidity Guarantee (TLG) Program. The revision to the information collection reflects provisions in a new interim rule that expand the TLG Program to permit the FDIC to guarantee mandatory convertible debt (MCD). The information collection associated with the program modification will allow the FDIC to evaluate whether to approve the issuances of such debt and ensure that investors, lenders, and creditors receive adequate notice of whether MCD is guaranteed by the FDIC.

A. JUSTIFICATION

1. Circumstances and Need

Section 141 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. No. 102-242 (Dec. 19, 1991), added section 13(c)(4)(G) to the Federal Deposit Insurance Act (FDI Act). 12 USC 1823(c)(4)(G). That section authorizes action by the Federal government in circumstances involving a systemic risk to the nation's financial system. On October 13, 2008, in response to the unprecedented disruption in credit markets and the resultant effects on the abilities of banks to fund themselves and to intermediate credit, the Secretary of the Treasury (after consultation with the President) made a determination of systemic risk following receipt of the written recommendation of the FDIC Board of Directors ("FDIC Board"), along with the written recommendation of the Board of Governors of the Federal Reserve System in accordance with section 13(c)(4)(G). The systemic risk determination allows the FDIC to take certain actions to avoid or mitigate serious adverse effects on economic conditions or financial stability. Pursuant to the systemic determination, the FDIC Board established the TLG Program comprised of (1) a guarantee by the FDIC of all unsecured, unsubordinated debt of insured depository institutions, their bank holding companies, financial holding companies, and thrift holding companies (other than unitary thrift holding companies) issued between October 14, 2008, and June 30, 2009, with guarantees expiring not later than June 30, 2012, and with a system of fees to be paid by these institutions for such guarantees; and (2) a 100 percent guaranty of non-interest bearing transaction accounts held by insured depository institutions until December 31, 2009 (FDIC guarantees). The TLG program is designed to strengthen confidence and encourage liquidity in the banking system in order to ease lending to creditworthy businesses and consumers.

The Deposit Guarantee Component provides temporary unlimited deposit insurance coverage of funds in certain noninterest-bearing transaction accounts at FDIC-insured institutions. The FDIC anticipates that these accounts will include payment-processing accounts, such as payroll accounts, frequently used by depository institution business customers. This coverage became effective on October 14, 2008, and will continue through December 31, 2009, unless an insured institution elects to opt out of the TLG Program.

The Debt Guarantee Component currently guarantees all newly-issued senior unsecured debt issued by eligible entities on or after October 14, 2008, through and including June 30, 2009 (except that for firms that opted out, the guarantee of their debt ended no later than November 12, 2008). Although the eligible debt must be issued on or before June 30, 2009, for debts maturing after that date, the FDIC will provide guarantee coverage for up to three years beyond that date, or until June 30, 2012. The FDIC will guarantee new senior unsecured debt in an amount up to 125 percent of the par or face value of senior unsecured debt outstanding as of September 30, 2008, that is scheduled to mature by June 30, 2009. In the event an eligible entity had no senior unsecured debt prior to September 30, 2008, the FDIC will consider the circumstances of an eligible entity and may determine an alternate threshold calculation.

Although the TLG Program has had some favorable effects on economic conditions and financial stability, the disruption in credit markets continue to exist and the general ability to obtain funding through securitization has created progressively more serious problems, with banks responding to the market turmoil by retaining cash and tightening lending standards. Data indicate that debt markets remain largely closed to financial institutions unless their bonds and notes carry FDIC guarantees. To counteract these market trends, the FDIC has explored modifications to enhance the effectiveness of the TLG Program and currently proposes to expand the Debt Guarantee Component to include senior unsecured debt with features that require mandatory conversion of the debt into common shares of the issuing entity at a specified point in time.

The new collection of information in the interim rule is found in sections 370.3(h)(1)(v) and 370.3(h)(2)(i). Section 370.3(h)(1)(v) requires participating entities that wish to issue FDIC-guaranteed mandatory convertible debt to submit an application requesting FDIC approval. Section 370.3(h)(2)(i) specifies the information that must be provided in the applications and includes, among other things, the proposed date of issuance, the total amount of debt to be issued, and the conversion rate.

It should also be noted that Section 370.5(h)(2), which currently requires each participating entity in the Debt Guarantee Program to disclose notice of the expiration date of the FDIC's guarantee in all written materials provided to lenders or creditors regarding any senior unsecured debt, has been modified to include disclosure of the expiration date of the FDIC's guarantee of mandatory convertible debt. The FDIC anticipates that this program modification will not result in any increase to the disclosure burden since debt guarantee limits will be unchanged.

This request for emergency clearance will be followed up with a request for approval of OMB No. 3064-0166, Temporary Liquidity Guarantee Program, under OMB's normal clearance procedures.

2. Use of Information Collected

The letter applications to issue FDIC-guaranteed mandatory convertible debt will provide information on the details of the request, the entity's financial history and current condition, the applicant's strategic operating plan, the intended use of debt proceeds, and other pertinent information. This information is needed by the FDIC as the basis for evaluating whether to guarantee the type of debt an applicant is seeking to issue and to determine the extent of FDIC exposure from making such guarantees. In addition, the information will identify the extent to which the FDIC should impose conditions, if any, on the approval of an applicant's request to reduce risk of loss. The required disclosures will provide investors, lenders, and creditors with the information necessary to make prudent business decisions with respect to mandatory convertible debt issued by participating entities.

3. Use of Technology to Reduce Burden

The information provided in letter applications is unique to each institution and institutions are free to use whatever technology is available and appropriate to compile the requested information. Likewise, institutions that issue FDIC-guaranteed mandatory convertible debt may use technology to the extent feasible to incorporate the required disclosures into their written materials pertaining to the debt.

4. Efforts to Identify Duplication

The information collection contained in the interim final rule is not duplicated elsewhere. In the absence of the TLG Program, there is no reason for entities to provide the requested information.

5. Minimizing the Burden on Small Entities

The information collected is the minimum necessary to administer the Debt Guarantee Component of the TLG Program. Small entities can choose whether to participate in the program.

6. Consequences of Less Frequent Collection

The frequency of letter applications to issue mandatory convertible debt is determined by the applicants. The requirement for disclosure of the date of expiration of the FDIC's guarantee in all written materials regarding FDIC-guaranteed mandatory convertible debt is the minimum necessary to ensure that investors, lenders, and creditors are properly informed of facts that may influence their decisions to invest in debt instruments or extend credit.

7. Special Circumstances

The instability of financial markets require that the FDIC implement this modification to the Debt Guarantee Component of the TLG Program immediately. The program, therefore, takes effect on February 27, 2009. The interim rule establishing requirements for letter applications in certain circumstances was adopted by the FDIC Board and made publicly available on February 27, 2008. Therefore, institutions may immediately elect to submit applications to issue FDIC-guaranteed collateral-supported debt and mandatory convertible debt. Any related disclosure requirements will take effect immediately upon approval of an application by the FDIC.

8. Consultation with Persons Outside the FDIC

The FDIC has published the interim rule with a request for comments and the FDIC will follow its requests for emergency processing under the Paperwork Reduction Act with a request under normal clearance procedures, during which comments will be solicited for the typical 60-day and 30-day periods. All comments received on paperwork burden, whether during the 15-day, 60-day, or 30-day comment periods will be considered in finalizing the collection.

9. Payment or Gift to Respondents

No gifts will be given to respondents.

10. Confidentiality

Information deemed confidential is exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552).

11. Information of a Sensitive Nature

No information of a sensitive nature is requested.

12. Estimate of Annual Burden

New Information Collection	Number of Respondents	Hours Per Response	Responses Per Year	Total Hours
370.3(h)(1)(v) and **370.3(h)(2)–** Application by a participating entity to issue FDIC-guaranteed mandatory convertible debt	25	1	5	125

370.5(h)(2) – Disclosures of expiration date of FDIC guarantee for FDIC-guaranteed senior unsecured debt	0	0	0	0

(Note: The addition of mandatory convertible debt to the types of senior unsecured debt that can be guaranteed under the TLGP, although it may increase the variety of FDIC-guaranteed debt issued, is not expected to result in any discernible increase in the number of guaranteed debts issued by an institution because there will be no change in an institution's debt limit. Therefore, no change is anticipated to the previous estimate for number of disclosures.)

New Burden	25	125
Existing Burden	65,350	2,201,500
Total Burden	65,375	2,201,625

13. Capital, Start-up, and Operating Costs

There are no capital, start-up or operating costs associated with preparation of written letter applications. Costs associated with modifying written materials regarding FDIC-guaranteed debt issuances to reflect the date of expiration of the FDIC's guarantee for newly TLGP-eligible mandatory convertible debt should be minimal.

14. Estimates of Annualized Cost to the Federal Government

The incremental costs associated with administering the TLG Program are encompassed within the FDIC's personnel and data processing budgets and are not separately identifiable.

15. Reason for Change in Burden

This is a revision to a recently approved collection. The burden increase of 125 hours is due to a program change.

16. Publication

The information collected from written letter applications will not be published by the FDIC.

17. Exceptions to Expiration Date Display

None.

18. Exceptions to Certification

None.