

Supporting Statement
OMB Control Number 1557-0102
International Regulation --12 CFR Part 28

A. Justification

1. *Circumstances that make the collection necessary:*

The International Banking Act of 1978, 12 U.S.C. 3101 *et seq.* (IBA), requires that the OCC collect information necessary to supervise the consolidated U.S. operations of foreign banks and certain national bank operations. The notice and reporting provisions of Subpart A (12 CFR 28.1 – 28.5) are needed by the OCC to ascertain that bank activities comply with the IBA and the Foreign Bank Supervision Enhancement Act of 1991, (Pub. L. 102-242, title II, 105 Stat. 2286) (FBSEA) and to help maintain the safety and soundness of national bank operations in the United States and abroad.

The information in Subpart B (12 CFR 28.10 – 28.26) is required under the IBA. The IBA requires collection of specific information relating to licensing applications of Federal branches and agencies of foreign banks in the United States. The IBA similarly mandates the recordkeeping requirements for capital equivalency deposits, voluntary liquidations, and asset pledge and asset maintenance requirements. Further, the statute emphasizes the need for regular, comprehensive information on the consolidated operations of foreign banks operating in the United States, as necessary to maintaining the health of the U. S. banking industry. The Subpart B reporting requirements are consistent with this identified statutory need for information.

The International Lending Supervision Act of 1983, (Pub. L. 98-181, title IX, 97 Stat. 1153, 12 U.S.C. 3906) (ILSA), mandates the reporting and disclosure requirements for international assets as well as the recordkeeping requirements for accounting for fees on international loans in Subpart C (12 CFR 28.50 – 28.54).

2. *Use of the information:*

The OCC uses the information in part 28 to evaluate national banks with international operations and Federal branches and agencies for supervisory, prudential, and legal purposes. The OCC uses the information to establish that the national bank or Federal branch or agency is capable of conducting certain business activities in a safe and sound manner and in accordance with applicable law. The OCC also uses the information to analyze national bank and Federal branch or agency exposure to overseas lending.

Additionally, the OCC uses the information in part 28 for statistical and examination purposes. This information provides the basis for special examinations and for the issuance of appropriate instructions to national banks, Federal branches and agencies, and examiners.

This submission includes no change to the regulation. It is solely a request to extend the expiration date.

3. Consideration of the use of information technology:

Most of the information required by part 28 is submitted on an "as occurs" basis. Therefore, since the submissions are short, unique, and not redundant, the use of improved information technology has little benefit. However, national banks or Federal branches or agencies may use any information technology they have available that enables easy, independent review. Further, Federal branches and agencies may keep the information in their language of choice, but must provide an English translation if specifically requested by OCC examiners.

4. Efforts to identify duplication:

Since most of the information required by part 28 is submitted on an "as occurs" basis, there is no duplication. However, to meet the OCC's supervisory information needs, the regulation requires that Federal branches and agencies provide to the OCC copies of certain reports that are filed with other Federal banking regulators. These reports generally contain information necessary for the OCC to properly supervise Federal branches and agencies but which is not available from other sources.

5. Methods used to minimize burden if the collection has a significant impact on a substantial number of small entities:

The collections of information in part 28 do not have a significant impact on a substantial number of small entities.

6. Consequences to the Federal program if the collection were conducted less frequently:

Part 28 imposes the minimum burden necessary for the OCC to operate an effective, meaningful program to ensure compliance with applicable statutes and regulations and to ensure bank safety and soundness.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

This information collection is conducted in accordance with the OMB guidelines in 5 CFR 1320.

8. Efforts to consult with persons outside the agency:

The OCC published a notice in the *Federal Register* for 60 days of comment on April 3, 2009. 74 FR 15322.¹ No comments were received.

9. Payment to respondents:

None.

¹ See also correction of comment due date at 74 FR 17552 (April 15, 2009).

10. Any assurance of confidentiality:

Foreign certification information is considered confidential. Responses to questions in the application that are considered confidential are marked confidential, separated from the public information, and retained in a confidential file for OCC review only.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature.

12. Burden estimate:

The burden is estimated as follows:

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/Recordkeepers	Average Hours Per Response/Record	Estimated Burden Hours
12 CFR 28.3 Reporting	<p><i>Filing Requirements for Foreign Operations of a National Bank – Notice Requirement</i></p> <p>A national bank shall notify the OCC when it:</p> <ul style="list-style-type: none"> • Files an application, notice, or report with the FRB to establish or open a foreign branch, or acquire or divest of an interest in, or close, an Edge corporation, Agreement corporation, foreign bank, or other foreign organization. • Opens a foreign branch, and no application or notice is required by the FRB for such transaction. <p>In practice, the OCC has also required an application pursuant to § 28.3(c) from a national bank to join a foreign exchange, clearinghouse, or similar type of organization.</p> <p>In lieu of a notice, the OCC may accept a copy of an application, notice, or report submitted to another Federal agency that covers the proposed action and contains substantially the same information required by the OCC. A national bank shall furnish the OCC with any additional information the OCC may require in connection with the national bank’s foreign operations.</p>	36 respondents 72 responses	1 hour	72 hours

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/ Recordkeepers	Average Hours Per Response/ Record	Estimated Burden Hours
12 CFR 28.12(a) Reporting	<p>Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual)</p> <p>Approval of a Federal branch or agency – Approval and Licensing Requirements A foreign bank shall submit an application to, and obtain prior approval from the OCC before it establishes a Federal branch or agency, or exercises fiduciary powers at a Federal branch.</p>	N/A	N/A	N/A
12 CFR 28.12(e)(2) Reporting	<p>Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual)</p> <p>Approval of a Federal branch or agency – Written Notice for Additional Intrastate Branches or Agencies A foreign bank shall provide written notice to the OCC 30 days in advance of the establishment of an intrastate branch or agency.</p>	N/A	N/A	N/A
12 CFR 28.12(h) Reporting	<p>Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual)</p> <p>After-the-fact Notice for Eligible Foreign Banks A foreign bank proposing to establish a Federal branch or agency through the acquisition of, or merger or consolidation with, a foreign bank that has an existing bank subsidiary, branch, or agency, may proceed with the transaction and provide after-the-fact notice within 14 days of the transaction to the OCC if (1) the resulting bank is an “eligible foreign bank” within the meaning of § 28.12(f) and (2) no Federal branch established by the transaction accepts deposits insured by the FDIC.</p>	N/A	N/A	N/A
12 CFR 28.12(i) Reporting	<p>Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual)</p> <p>Approval of a Federal Branch or Agency – Contraction of Operations A foreign bank shall provide written notice to the OCC within 10 days after converting a Federal branch into a limited Federal branch or a Federal agency.</p>	N/A	N/A	N/A
12 CFR 28.14(c) Recordkeeping	<p>Limitations Based upon Capital of a Foreign Bank – Aggregation A foreign bank shall aggregate business transacted by all Federal branches and agencies with the business transacted by all state branches</p>	45 record-keepers 45 records	5	225 hours

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/ Recordkeepers	Average Hours Per Response/ Record	Estimated Burden Hours
	and agencies controlled by the foreign bank in determining its compliance with limitations based upon the capital of the foreign bank. A foreign bank shall designate one Federal branch or agency office in the United States to maintain consolidated information so that the OCC can monitor compliance.			
12 CFR 28.15(d), (d) (2), and (f) Recordkeeping	<p>Capital Equivalency Deposits Deposit arrangements:</p> <ul style="list-style-type: none"> • A foreign bank should require its depository bank to segregate its capital equivalency deposits on the depository bank’s books and records. • The instruments making up the capital equivalency deposit that are placed in safekeeping at a depository bank to satisfy a foreign bank’s capital equivalency deposit requirement must be maintained pursuant to an agreement prescribed by the OCC that shall be a written agreement entered into with the OCC. • Each Federal branch or agency shall maintain a capital equivalency account and keep records of the amount of liabilities requiring capital equivalency coverage in a manner and form prescribed by the OCC. 	50 record-keepers 50 records	30	1,500 hours
12 CFR 28.15(d)(1) Reporting	Capital equivalency deposits – Deposit arrangements – A foreign bank’s capital equivalency deposits may not be reduced in value below the minimum required for that branch or agency without the prior approval of the OCC, but in no event below the statutory minimum.	37 respondents 37 responses	.5	18.5 hours

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/ Recordkeepers	Average Hours Per Response/ Record	Estimated Burden Hours
12 CFR 28.16(c) Reporting	<p><i>Deposit-taking by an Uninsured Federal branch – Application for an Exemption</i> A foreign bank may apply to the OCC for an exemption to permit an uninsured Federal branch to accept or maintain deposit accounts that are not listed in paragraph (b) of this section. The request should describe:</p> <ul style="list-style-type: none"> • The types, sources, and estimated amount of such deposits and explain why the OCC should grant an exemption; • How the exemption maintains and furthers the policies described in paragraph (a) of this section. 	1 respondent 1 responses	1	1 hour
12 CFR 28.16(d) Recordkeeping	<p><i>Deposit taking by an uninsured Federal branch – Aggregation of deposits</i> A foreign bank that has more than one Federal branch in the same state may aggregate deposits in all of its Federal branches in that state, but exclude deposits of other branches, agencies or wholly owned subsidiaries of the bank. The Federal branch shall compute the average amount by using the sum of deposits as of the close of business of the last 30 calendar days ending with and including the last day of the calendar quarter, divided by 30. The Federal branch shall maintain records of the calculation until its next examination by the OCC.</p>	45 record-keepers 45 records	7	315 hours
12 CFR 28.17 Reporting	<p><i>Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual)</i></p> <p><i>Notice of Change in Activity or Operations</i> A Federal branch or agency shall notify the OCC if it changes its corporate title; changes its mailing address; converts to a state branch, state agency, or representative office; or the parent foreign bank changes the designation of its home state.</p>	N/A	N/A	N/A
12 CFR 28.18(c)(1) Recordkeeping	<p><i>Recordkeeping and reporting – Maintenance of accounts, books, and records</i> Each Federal branch or agency shall maintain a set of accounts and records reflecting its transactions that are separate</p>	50 record-keepers 50 records	28.5	1,425 hours

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/ Recordkeepers	Average Hours Per Response/ Record	Estimated Burden Hours
	from those of the foreign bank and any other branch or agency. The Federal branch or agency shall keep a set of accounts and records in English sufficient to permit the OCC to examine the condition of the Federal branch or agency and its compliance with applicable laws and regulations.			
12 CFR 28.20(a)(1) Reporting	Maintenance of assets – General rule The OCC may require a foreign bank to hold certain assets in the state in which its Federal branch or agency is located.	7 respondents 7 responses	15	105 hours
12 CFR 28.22 (b) Disclosure	Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual) Voluntary Liquidation Notice to customers and creditors – A foreign bank shall publish notice of the impending closure of each Federal branch or agency for a period of two months in every issue of a local newspaper where the Federal branch or agency is located. If only weekly publication is available, the notice must be published for nine consecutive weeks.	N/A	N/A	N/A
12 CFR 28.22(e) Reporting	Reports of Examination The Federal branch or agency shall send the OCC certification that all of its Reports of Examination have been destroyed or return its Reports of Examination to the OCC.			
12 CFR 28.25(a) Reporting	Covered under OMB Control No. 1557-0014 (Comptroller’s Licensing Manual) Change in Control – After-the-Fact Notice In cases where no other filing is required, a foreign bank that operates a Federal branch or agency shall inform the OCC in writing of the direct or indirect acquisition of control of the foreign bank by any person or entity, or group of persons or entities acting in concert, within 14 calendar days after the foreign bank becomes aware of a change in control.	N/A	N/A	N/A

Cite and Burden Type	Information Collection Requirements in 12 CFR Part 28	Number of Respondents/Recordkeepers	Average Hours Per Response/Record	Estimated Burden Hours
12 CFR 28.52 Recordkeeping	<p>Covered under OMB Control No. 1557-0081 <i>(MA)-Reports of Condition and Income (Interagency Call Report), FFIEC 031, FFIEC 041</i></p> <p>Allocated Transfer Risk Reserve A banking institution shall establish an allocated transfer risk reserve for specified international assets when required by the OCC in accordance with the requirements of the section.</p>	N/A	N/A	N/A
12 CFR 28.54 Reporting	<p>Covered under OMB Control No. 1557-0100 <i>Country Exposure Report and Country Exposure Information Report (FFIEC 009, FFIEC 009a)</i></p> <p>Reporting and Disclosure of International Assets A banking institution shall submit to the OCC, at least quarterly, information regarding the amounts and composition of its holdings of international assets. A banking institution shall submit to the OCC information regarding concentrations in its holdings of international assets that are material in relation to total assets and to capital of the institution.</p>	N/A	N/A	N/A
Total		79 Respondents/Recordkeepers		3,661.5 Hours

Recordkeeping Burden: 79 recordkeepers; 190 records; 3,465 hours
Reporting Burden: 79 respondents; 117 responses; 196.5 hours
Total: 79 recordkeepers/respondents; 307 responses/records; 3,661.5 hours

Cost of Hour Burden to Respondents:

The OCC estimates the cost of the hour burden to respondents (by wage rate categories) as follows:

Clerical (\$20/hour):	07% @ 3,661.5 hours @ \$20 =	\$ 5,126.10
Managerial/technical (\$40/hour):	40% @ 3,661.5 hours @ \$40 =	\$ 58,584.00
Senior Management (\$80/hour):	53% @ 3,661.5 hours @ \$80 =	<u>\$155,247.60</u>
Total:		\$218,957.70

13. *Estimates of annualized costs to respondents:*

Not applicable.

14. *Estimates of annualized cost to the Federal Government:*

Not applicable.

15. *Changes in burden:*

There is no change in the burden.

16. *Information regarding collections whose results are planned to be published for statistical use:*

Not applicable.

17. *Display of expiration date:*

Not applicable.

18. *Exceptions to certification statement:*

Not applicable.

B. Collections of Information Employing Statistical Methods

Not applicable.