

SUPPORTING STATEMENT

FOREIGN BANKS

(3064-0114)

INTRODUCTION

The FDIC is requesting OMB approval for a renewal of the captioned collection of information. Under sections 18(d) and 18(l) of the Federal Deposit Insurance Act, the FDIC prescribes the regulations in Part 347 relating to foreign branches of insured state nonmember banks, the acquisition and holding of stock of foreign organizations, and loans or extensions of credit to or for the account of such foreign organizations.

The collections of information contained in 3064-0114 are discussed in detail below, and consist of applications to move an insured state-licensed branch of a foreign bank; applications to operate as such noninsured state-licensed branch of a foreign bank; applications from an insured state-licensed branch of a foreign bank to conduct activities which are not permissible for a federally-licensed branch; internal recordkeeping by such branches; and reporting and recordkeeping requirements relating to such a branch's pledge of assets to the FDIC.

A. JUSTIFICATION

Application for consent to move an insured branch of a foreign bank.

The FDIC's regulations at 12 CFR 303.184 provide an administrative procedure for insured branches of foreign banks to apply to the FDIC for permission to move. The application constitutes an information collection under the PRA.

Application for consent to operate as a noninsured branch

The International Banking Act at 12 U.S.C. 3104(b) prohibits a noninsured state-licensed branch of a foreign bank from receiving deposits of less than \$100,000 unless the FDIC determines by regulation or order that the branch is not engaged in domestic retail deposit activities requiring deposit insurance. FDIC rules at 12 CFR 303.186 set forth a procedure for a noninsured state-licensed branch of a foreign bank to apply for exceptions to the prohibition. The application constitutes an information collection under the PRA.

Approval to Conduct Activities Not Permissible for Federal Branches

The International Banking Act at 12 U.S.C. 3105(h) provides that such a branch may not engage in any activity which is not permissible for a federal branch of a foreign bank unless (i) the Board of Governors of the Federal Reserve System has determined that the activity is consistent with safe and sound banking practice, and (ii) the FDIC has determined that the activity would pose no significant risk to the deposit insurance fund. FDIC rules at 12 CFR 303.187 set out procedures to apply for permission to engage in, or continue to engage in, an activity which is not permissible for a federal branch of a foreign bank. The sections also provide for the submission of a plan to discontinue those activities determined to pose significant risk to the

deposit insurance fund. The application and the plan constitute information collections under the PRA.

Recordkeeping By Insured Branches of Foreign Banks

In connection with granting insurance to such a branch, the FDI Act at 12 U.S.C. 1815(b) requires the FDIC to consider the probable adequacy and reliability of information to be supplied by the bank to the FDIC to enable the FDIC to carry out its functions. Since such a branch meets the definition of an “insured depository institution” and the FDIC is designated as its appropriate federal banking agency, the branch is subject to examination and supervision by the FDIC. Accordingly, the FDIC’s rules at 12 CFR 347.205 require such a branch to maintain a set of accounts and records in English, and to maintain its records as a separate entity with assets and liabilities separate from the foreign bank’s head office, other branches, etc. These record-keeping requirements constitute information collections under the PRA.

Pledge of Assets by Insured Branches of Foreign Banks

The FDI Act at 12 U.S.C. 1815(c) requires such branches to pledge assets to the FDIC, to protect the Bank Insurance Fund from the risk of insuring an entity whose assets are largely outside the United States. In its rules at 12 CFR 347.209(e)(4), the FDIC specifies procedures under which pledged assets are placed in the hands of a third party depository, and at 347.209(e) (6) requires the branch and the depository to make certain reports to the FDIC to verify that the pledge requirements are being carried out. The reports, and documentation for the pledges, constitute collections of information under the PRA.

1. Circumstance and Need

A uniform standardized process is required to permit state-licensed branches of foreign banks to comply with, and seek exceptions to, various legal requirements and prohibitions relating to branches of foreign banks that operate in the U.S.

2. Use of Information Collected

The information in the application is used by the FDIC to determine compliance with various provisions of the International Banking Act, the FDI Act, and the FDIC’s regulations implementing those laws.

3. Use of Technology to Reduce Burden

No special technology is required to for these collections; banks may use any technology they find appropriate.

4. Efforts to Identify Duplication

The information cannot be obtained from other sources.

5. Minimizing the Burden on Small Institutions

The requirement has been designed to impose the minimal burden consistent with the FDIC's supervisory obligations. The FDIC permits smaller institutions to utilize less formalized systems, if consistent with their activities.

6. Consequences of Less Frequent Collection

Application for consent to operate, approval to conduct activities, and recordkeeping: the information is collected only once.

Pledge of assets: Quarterly reporting of securities and liabilities is required; less frequent reporting would not permit the FDIC to exercise its insurance function prudentially, because the value of the securities pledged and the amount of the branch's liabilities fluctuate constantly. If no substitution of securities has occurred during the quarter, the branch need not submit a report identifying the securities pledged. Concurrent reporting of documents conveyed by the insured branch to the depository in connection with pledging new assets is prudent because the form of such documentation determines the enforceability and validity of the pledge.

7. Special Circumstances

None.

8. Request for Comments: Consultation with Persons Outside the FDIC

A "first" Federal Register notice seeking comment was published on December 28, 2009 (74 FR 68622). No comments were received.

9. Payments and Gifts

None.

10. Confidentiality

The information is generally available to the public; however, any information deemed to be of a confidential nature would be exempt from public disclosure in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552).

11. Information of a Sensitive Nature

None.

12. Estimated Hour Burden

| title | times/ year | respondents per year | hours per response | total burden hours |
|--------------------|----------------|-------------------------|-----------------------|--------------------------|
| moving a branch | 1 | 1 | 8 | 8 |
| consent to operate | 1 | 1 | 8 | 8 |
| conduct activities | 1 | 1 | 8 | 8 |
| recordkeeping | 1 | 10 | 120 | 1,200 |
| pledge of assets | | | | |
| documents | 4 | 10 | 0.25 | 10 |
| reports | 4 | 10 | 2 | 80 |
| Total Burden | | | | 1,314 |

13. Capital, Start-up, and Operation/Maintenance/Service Costs

None.

14. Annualized Cost to the Federal Government

| title | responses per year | hours per response | total Federal hours | dollars per hour | total cost |
|--------------------------|-----------------------|-----------------------|---------------------------|------------------------|---------------|
| moving a branch | 1 | 1 | 1 | 50 | \$50 |
| consent to operate | 1 | 80 | 80 | 50 | \$4,000 |
| conduct activities | 1 | 16 | 16 | 50 | \$800 |
| recordkeeping | 10 | 120 | 1440 | 0 | \$0 |
| pledge of assets | | | | | |
| documents | 40 | 0.25 | 10 | 50 | \$500 |
| reports | 40 | 2 | 80 | 50 | \$4,000 |
| Total Cost to Government | | | | | \$9,350 |

15. Reason for Change in Burden

The burden change of -258 hours is the result of two fewer respondents.

16. Publication

None.

17. Display of Expiration Date

Not applicable.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.