

SUPPORTING STATEMENT
APPLICATION FOR CONSENT TO EXERCISE TRUST POWERS
(OMB NO. 3064-0025)

INTRODUCTION

The FDIC is requesting OMB approval to extend the captioned collection of information for a three-year period. Insured state nonmember banks use application form FDIC 6200/09 to obtain FDIC's consent to exercise trust powers. Each application submitted by a bank is evaluated by the FDIC to verify the qualifications of bank management to administer a trust department to ensure that the bank's financial condition will not be jeopardized as a result of trust operations. The current clearance for the collection will expire on August 31, 2010.

A. JUSTIFICATION

1. Circumstances And Need

FDIC regulations at 12 CFR 333.2 prohibit any insured state nonmember bank from changing the general character of its business without the prior written consent of the FDIC. The exercise of trust powers by a bank is usually considered to be a change in the general character of a bank's business if the bank did not exercise those powers previously. The test to determine a change in the character of a bank's business is left to the discretion of the FDIC. Trust powers create a new fiduciary relationship which normally affects the character of a bank's business. Therefore, unless a bank is currently exercising trust powers, it must file a formal application to obtain the FDIC's written consent to exercise trust powers. State banking authorities, not the FDIC, grant trust powers to their banks. The FDIC merely consents to the exercise of such powers. A bank may not necessarily choose or be ready to exercise trust powers although it has been granted such powers by its state authorities.

2. Use of Information Collected

Banks wishing to exercise trust powers file formal application on Form FDIC 6200/09 with the appropriate FDIC regional office. The FDIC evaluates the information in relation to the seven banking factors enumerated in section 6 of the FDI Act (12 USC 1816), the adequacy of the institution's compliance with the Community Reinvestment Act (12 USC 2902), and the minimum requirements for sound banking practices in the operation of a trust department as listed on the Statement of Principles of Trust Department Management, which is part of the Form 6200/09 package.

Form FDIC 6200/09 identifies the trust powers applied for and provides additional information to assist the FDIC in deciding whether to grant consent to

exercise trust powers. The form also indicates that all applicants must adopt, as a bank policy, the Statement of Principles of Trust Department Management.

An applicant which is an 'eligible depository institution,' as defined in Section 303.2(r) of the FDIC's Rules and Regulations (12 CFR 303.2(r)), must provide information on whether it has been granted trust powers by its state banking authority, which are a prerequisite to FDIC's consent to exercise state-granted trust powers. The bank must supply information about the proposed trust officer, as well as the officer's experience, education, and other qualifications in fiduciary matters. Furthermore, if the applicant intends to utilize a third party to manage the investments or account administration of its proposed trust department, information about such servicing arrangements must be provided. Eligible depository institutions will receive expedited processing of their applications.

An applicant which does not qualify as an eligible depository institution must provide the information required for an eligible depository institution, plus information about its proposed trust operation, including information about members of the bank's proposed Trust Committee, the qualifications of trust counsel, projections of the size and profitability of the proposed trust activity, and the applicant's analysis of the financial impact of any proposed net operating losses on the applicant institution must be provided. Applications received from banks which are not eligible depository institutions will receive standard processing.

The purpose of the evaluation by the FDIC is three-fold: (1) to ensure that the new activities to be undertaken by the bank will not unduly jeopardize the financial condition of the bank, (2) to ensure that the proposed new activities are legally permissible, and (3) to determine that bank management has sufficient ability and expertise in the non-banking area they propose to enter. The purposes of (1) and (3) serve to safeguard the banking system and the banking public as depositors and beneficiaries of trust accounts.

Probably the most important prerequisite for the FDIC's consent to the exercise of trust powers is that the applicant bank provide sufficient qualified management and staff to meet satisfactory standards of competency in trust matters. In this regard, applications for consent to exercise full trust powers by banks (usually smaller in size) that are not equipped management-wise to administer trust activities other than very routine matters are closely scrutinized and, where limited powers will suffice, the bank is encouraged to file for specific limited powers. In all cases, in order to approve any application for consent to exercise trust powers, the FDIC must conclude that management available for contemplated trust operations is capable of handling the anticipated trust business.

3. Use of Technology to Reduce Burden

Respondents have the option of submitting their responses electronically via a fillable/filable form on a secure FDIC-sponsored Internet connection known as *FDICConnect*. However, no respondents have yet taken advantage of this method; all filers to date have continued to use paper.

4. Efforts to Identify Duplication

Duplication of some information could exist if a bank applies to its state banking authority for a granting of trust powers and, upon being granted the powers, immediately applies to the FDIC for consent to exercise these powers. To avoid such duplication the FDIC has offered to provide its application form to state banking authorities, at no charge, for joint state-FDIC use. The form is designated as Form FDIC 6200/09A when it is used as a joint state-FDIC application.

The FDIC collects the requested information only from the insured state nonmember banks that it directly supervises. Similar information is collected by the Federal Reserve System from member banks, by the Comptroller of the Currency from national banks, and by the Office of Thrift Supervision from thrifts.

5. Minimizing Burden on Small Banks

The information required on the application form applies to all banks, regardless of size, that wish FDIC consent to exercise trust powers. Small banks in many cases will be applying for limited trust powers rather than full trust powers. The evaluation standards for limited trust powers would be less broad than the standards for full trust powers.

6. Consequences of Less Frequent Collection

This collection is not a periodic reporting system. The form is submitted only on the occasion of a bank applying for consent to exercise trust powers.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

A “first” Federal Register notice seeking comment was published on May 18, 2010 (75 FR 27781). No comments were received. A “second” Federal Register notice is published simultaneously with this submission to OMB, advising the public of the submission and seeking comment.

9. Payment or Gift to Respondents

Not applicable.

10. Confidentiality

Applicant banks are advised on the Form FDIC 6200/09 that the information furnished by the bank in their application is normally subject to public review unless it meets any of the three exemption categories of the Freedom of Information Act (5 USC 552).

11. Information of a Sensitive Nature

This collection contains no information of a sensitive nature.

12. Estimate of Annual Burden

Number of applications from 'eligible depository institutions'	10
Average number of hours to prepare an application	8
10 x 8 =	<u>80</u> hours annual burden

Average hourly cost \$44.33
Thus 10 x 8 x \$44.33 = \$3,546.40 annualized cost

Number of applications from institutions that do not qualify as 'eligible depository institutions'	5
Average number of hours to prepare an application	24
5 x 24 =	<u>120</u> hours annual burden

Average hourly cost \$44.33
Thus 5 x 24 x \$44.33 = \$5,319.60 annualized cost
Total number of applications 15
Total annual hour burden 200

13. Capital, Start-Up, Operating and Maintenance Cost Burden

None.

14. Estimated Annual Cost to Federal Government

Number of applications from 'eligible depository institutions'	10
Average number of hours to process an application	9.55
Average hourly cost	\$60.29
10 x 9.55 x \$60.29 =	\$5757.70 annualized cost

Number of applications from institutions which are not

‘eligible depository institutions’ 5
Average number of hours to process an application 25.85
Average hourly cost \$60.29
 $5 \times 25.85 \times \$60.29 = \$7,792.48$ annualized cost

Total number of applications 15
Average number of hours to process an application 12.58
Average hourly cost \$60.29
 $15 \times 13.17 \times \$60.29 = \$11,910$ annualized cost

15. Reason for Change in Burden

The burden adjustment of -8 hours is the result a decrease from 18 to 15 in the average number of applications per year.

16. Publication

This information contained in this collection is not published.

17. Display of Expiration Date

Not applicable.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Statistical methods are not employed in this collection of information.