Supporting Statement
Disclosure of Deposit Status
OMB No. 3064-0168

INTRODUCTION

This statement supports a request for revision of an existing information collection, entitled "SWEEP Accounts: Disclosure of Deposit Status," OMB No. 3064-0168. Specifically, the FDIC requests permission to change the title of the collection to "Disclosure of Deposit Status" to reflect its issuance of a Notice of Proposed Rulemaking that would expand the requirement, currently limited in its application to sweep accounts, to disclose the deposit insurance status of funds held in noninterest-bearing transaction accounts.

This information collection was initially established pursuant to a final rule adopted by the FDIC in which it established its practices for determining deposit and other liability account balances at a failed insured depository institution. 74 FR 5797 (February 2, 2009). The FDIC practices defined in the final rule were a continuation of long-standing FDIC procedures in processing such balances at a failed depository institution. The final rule, applicable to all insured depository institutions, imposed certain disclosure requirements in connection with sweep accounts.

The FDIC is now issuing a Notice of Proposed Rulemaking (NPR) amending its deposit insurance regulations to provide, for a prescribed period of time, full deposit insurance of noninterest-bearing transaction accounts. The NPR, entitled "Deposit Insurance Coverage; Unlimited Coverage for Noninterest-bearing Transaction Accounts," includes requirements for insured depository institutions to make disclosures of deposit insurance coverage, not just for sweep accounts, but for all noninterest-bearing transaction accounts.

A. JUSTIFICATION

1. Circumstances and Need

Section 343 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 111-203 (July 21, 2010), amended the Federal Deposit Insurance Act to provide full deposit insurance coverage (beyond the Standard Maximum Deposit Insurance Amount (SMDIA)), from December 31, 2010, through December 31, 2012, for the net amount held in a noninterest-bearing transaction account by any depositor at an insured depository institution. Full deposit insurance coverage of funds held in qualifying noninterest-bearing transaction accounts is currently provided, through December 31, 2010, for institutions participating in the FDIC's Transaction Account Guaranty Program (TAGP). This protection is in addition to and separate from the insurance of funds in all other types of deposit accounts. Under the TAGP, the definition of noninterest-bearing transaction accounts includes low-interest NOW accounts and Interest on Lawyer Trust Accounts (IOLTAs); however, NOW accounts and IOLTAs are not included within the definition of noninterest-bearing transaction accounts under section 343 of the Dodd-Frank Act. In addition, full coverage of noninterest-bearing transaction accounts under the TAGP is available only for participating institutions that did not opt out of the program, whereas section 343 applies to all insured depository institutions.

As a means of ensuring that depositors are aware of what types of accounts will be covered by the new temporary deposit insurance coverage, the NPR would require each insured depository institution currently participating in the TAGP to provide individual notices to depositors that low-interest NOW accounts and IOLTAs will not be insured under the new temporary insurance category for noninterest-bearing transaction accounts, but will instead be insured under the general insurance rules up to the SMDIA of $250,000. In addition, the NPR would expand upon the pre-existing disclosure requirement for sweep accounts offered by participating TAGP institutions to require that all insured depository institutions notify customers of any action that affects the deposit insurance coverage of their funds held in noninterest-bearing transaction accounts.

Accordingly, the FDIC is seeking revise the title of this information collection to "Disclosure of Depositor Status" to reflect its broader application and to add the two new disclosures discussed above.

2. Use of Information Collected

The disclosures are necessary to ensure that depository institution customers are aware of the extent to which their deposits are insured and to avoid the loss of funds in the event of a failure.

3. Use of Technology to Reduce Burden

Insured depository institutions may use whatever technology they consider feasible and appropriate to make the required disclosures.

4. Efforts to identify duplication

In the absence of the NPR, the disclosures are not otherwise mandated.

5. Minimizing Burden on Small Entities

The NPR would impose a one-time disclosure requirement on all institutions, regardless of size, currently participating in the TAGP program. The NPR would also impose on all insured depository institutions a disclosure requirement for any action that affects the deposit insurance coverage of funds held in noninterest-bearing transaction accounts. However, in an effort to minimize burden on small insured depository institutions subject to the disclosure requirements, the FDIC is providing maximum flexibility by not imposing specific requirements regarding the form of the notice. Rather, the FDIC would expect insured depository institutions to act in a commercially reasonable manner and to comply with applicable state and federal laws and regulations in informing depositors of changes to their account agreements.

6. Consequences of Less Frequent Collections

The disclosure to NOW account and IOLTA depositors of the change in insurance category is a one-time disclosure. The disclosure to customers of any action affecting the deposit insurance coverage of funds in noninterest-bearing transaction accounts is on a per occurrence basis. These disclosures are the minimum necessary to ensure that bank depositors are on notice of changes affecting the insured status of funds held in noninterest-bearing transaction accounts.

7. Special Circumstances

None.

8. Consultation with Persons outside the FDIC

The FDIC sought public comment in response to its NPR and several comments were received relating to the three disclosure requirements set forth in the proposed rule. In response to the proposed requirement that insured depository institutions prominently post in the lobby of its main office, in each domestic branch, and, if applicable, on its web site a "Notice of Changes in Temporary FDIC Insurance Coverage for Transaction Accounts," several commenters suggested changes to the language of the notice. In response, the final rule includes a revised version of the notice that is more concise and user friendly.

Regarding the proposed notice to depositors protected under the TAGP, but not under the Dodd-Frank provision, one commenter requested clarification on whether the notice requirement applies to all depositors who hold NOW accounts in insured depository institutions participating in the TAGP, or only to depositors who may be affected by the change in deposit insurance coverage; another commenter requested clarification that one notice per account, rather one notice per account holder would satisfy the notice requirement and, for multiple accounts, that one notice that lists all accounts would suffice; and several commenters requested that the notice requirement be eliminated, limited to NOW account holders with balances over the SMDIA, or postponed until a date after the December 31, 2010, effective date. In response to the first two suggestions, the FDIC clarified in the final rule that the individual notice requirement applies to depositors with NOW accounts currently protected in full under the TAGP and depositors with IOLTAs; that, with respect to joint accounts, an insured depository institution need only mail all the notice to the address designated on the account; and that the notice mailed to affected depositors could be the same as that required to be posted in the lobbies of main offices and branches. None of these clarifications impacted the FDIC's original burden estimates. In response to suggestions that the notice requirement be eliminated, limited in its application, or postponed, the FDIC, believing it is critical that depositors have a clear understanding of deposit insurance rules in placing or retaining funds at FDIC-insured institutions, declined to implement the suggestions.

Finally, with respect to the proposed notice to sweep account and other depositors whose coverage on noninterest-bearing transaction accounts is affected by an insured depository institution action, one commenter recommended that the FDIC issue additional implementation guidance for section 343 of Dodd-Frank. The FDIC has agreed to consider publishing such guidance if it seems helpful to do so.

9. Payment or Gift to Respondents

No payments are made to respondents.

10. Confidentiality

No assurance of confidentiality is involved in the disclosure requirements.

11. Questions of a sensitive nature

No questions of a sensitive nature are involved.

12. Estimate of Annualized Burden

Clarifications to the disclosure requirements in the final rule had no impact on the FDIC's initial burden estimates. The burden estimates continue to be as follows:

Information Collection	**Number of respondents**	**Annual frequency**	**Response time**	**Annual burden hours**
Existing Burden – sweep account disclosures (section 360.8(e)	1,970	1	43 hours	84,710
New Burden – NOW/IOLTA disclosures (sections 330.16(c)(2)	6,249	1	8 hours	49,992
New Burden – Disclosure of action affecting deposit insurance coverage (section 330.16(c)(3)	7,830	1	8 hours	62,640

Total Burden				**197,342**

13. Capital Start-up and Operation /Maintenance Costs

Implementation costs for insured depository institutions, primarily for reprogramming software with some residual administrative expenses, are estimated to be between $160 and $300 for each new disclosure. Based on these assumptions, the overall new disclosure burden costs are estimated to be between $2.25 million and $4.5 million, with NOW/IOLTA disclosures estimated to cost between $1 million and $2 million and disclosures of actions affecting deposit insurance coverage estimated to cost between $1.25 million and $2.5 million.

14. Annualized cost to the Federal Government

None.

15. Reason for Change in burden

The burden increase of +112,632 hours is the result of a program change, i.e., new disclosure requirements regarding the change in insurance category for NOW accounts and IOLTAs and with respect to any action affecting deposit insurance coverage of funds in noninterest-bearing transaction accounts.

16. Publication

This collection does not involve the publication of information.

17. Display of Expiration Date

Not applicable.

18. Exceptions to certification

No exceptions.

B. STATISTICAL METHODS

Not applicable.