

SUPPORTING STATEMENT

FOREIGN BRANCHING AND INVESTMENT BY INSURED STATE NONMEMBER BANKS (3064-0125)

INTRODUCTION

The FDIC is requesting OMB approval to continue using the currently approved collection of information, which expires February 28, 2011, contained in 12 CFR Part 347 (International Banking) and 12 CFR Part 303 (Rules of Practice and Procedure). Part 347 implements 12 USC 1828(d)(2) and 1828(l), sections of the Federal Deposit Insurance Act which authorize the FDIC to establish conditions for foreign branching by insured state nonmember banks and investment in foreign organizations by nonmember banks. The collections of information are discussed in detail below. They consist of applications related to establishing and closing a foreign branch; applications related to acquiring stock of a foreign organization; and records and reports which a nonmember bank must maintain once it has established a foreign branch or foreign organization.

A. JUSTIFICATION

1. Circumstance and Need

Foreign Branches

Section 18(d)(2) of the FDI Act requires a nonmember bank to obtain the FDIC's consent to establish or operate a branch in a foreign country (foreign branch). Section 18(d)(2) also authorizes the FDIC to impose conditions and issue regulations governing the operation and affairs of foreign branches. FDIC's regulations at 12 CFR 347.117-119 and 303.182 set forth procedures for a nonmember bank to apply for permission to establish a foreign branch, and to engage through a foreign branch in activities not otherwise approved by section 347.117-118. These rules also require notice upon the closing of a foreign branch under section 347.121. The notices and applications constitute information collections under the Paperwork Reduction Act.

Foreign Investments

Section 18(l) of the FDI Act, 12 U.S.C. 1828(l), requires a nonmember bank to obtain the FDIC's consent to acquire and hold, directly or indirectly, stock or other evidences of ownership in any foreign bank or other entity. Section 18(l) also states that these entities may not engage in any activities in the United States except as the FDIC's Board of Directors has determined are incidental to the international or foreign business of these entities. In addition, section 18(l) authorizes the FDIC to impose conditions and issue regulations governing these investments. The notices and applications constitute information collections under the Paperwork Reduction Act.

Supervision and Recordkeeping of Foreign Activities

Losses incurred by a nonmember bank's foreign branches or foreign organizations will cause corresponding losses to the nonmember bank itself. In extreme cases, banks in other countries have collapsed as a result of their failure to properly oversee their foreign operations. The nonmember bank must establish a reporting system sufficient to permit the bank to know the true condition of its foreign operations and exercise prudent oversight and control to protect itself from this risk. FDIC's regulations at 12 CFR 347.116 address these issues by requiring a nonmember bank with a foreign branch, or which holds 20 percent or more of the voting equity interests of a foreign organization, to maintain sufficient records on its activities to ensure the nonmember bank may properly control and oversee its foreign operations. These recordkeeping requirements constitute information collections under the Paperwork Reduction Act.

2. Use of Information Collected

The information in the notices and applications is used as part of the process by which the FDIC determines whether to permit a nonmember bank to establish or operate a foreign branch and to help the FDIC determine whether to permit a nonmember bank to make a foreign investment. The recordkeeping requirements assist foreign organizations to monitor their condition and control their operations.

3. Use of Technology to Reduce Burden

As collections of information under the Paperwork Reduction Act require renewal, they are viewed to determine if converting to electronic submission is cost beneficial. Currently, the low number of respondents for the reporting requirements in this collection does not make conversion to electronic submission cost beneficial. For the recordkeeping requirements, institutions may use whatever technology is most efficient for them as long as they have the information available on-site for review by state and federal examiners. Affected nonmember banks often choose a technology-based approach when it is consistent with their information management and accounting systems.

4. Efforts to Identify Duplication

The information is not collected elsewhere and cannot be obtained from other sources.

5. Minimizing the Burden on Small Institutions

FDIC data show that nonmember banks with foreign branches generally have assets over \$175 million (the SBA's threshold for small banks). Consequently, the collections have little or no impact on small entities.

6. Consequences of Less Frequent Collections

For the reporting requirements, the information is collected only once. For the recordkeeping requirements, affected nonmember banks are expected to collect relevant information as frequently as is necessary to keep abreast of the foreign operation's condition. Any less frequent collection would expose the nonmember bank to the risk that undetected problems at the foreign operation would cause loss to the nonmember bank.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

A "first" Federal Register notice seeking public comment was published on December 6, 2010 (75 FR 75674). No comments were received

9. Payments or Gifts to Respondents

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. Estimate of Hour Burden and Annual Costs

Foreign Branches

Potential respondents: The requirements apply to any nonmember bank that wishes to establish a foreign branch.

a) Notice of foreign branch establishment or foreign branch closure (303.182(a) and (d))

Total annual responses: 1
Average hours per response: 2

b) Prior notice (45 days) of foreign branch establishment (303.182(b))

Total annual responses: 1
Average hours per response: 6

c) Application to establish a foreign branch or to engage in certain activities through a foreign branch (303.182(b))

Total annual responses: 1
Average hours per response: 40

Subtotal, annual burden hours for foreign branches: 48

Foreign Investments

Potential respondents: Any nonmember bank wishing to acquire stock or other evidences of ownership of a foreign organization.

a) Notice of foreign investment (303.183(a)).

Total annual responses: 1
Average hours per response: 2

b) Prior notice (45 days) of investment in foreign organizations (303.183(b)).

Total annual responses: 1
Average hours per response: 6

c) Application to invest in foreign organizations, or to engage in certain activities through foreign organizations (303.183(b)).

Total annual responses: 4
Average hours per response: 60

d) Notice of foreign divestiture (303.183(d))

Total annual responses: 2
Average hours per response: 1

Subtotal, annual burden hours for foreign investments: 250

Supervision and Recordkeeping of Foreign Activities

Potential respondents: nonmember banks with foreign branches, ownership of 20 percent or more of the voting equity interests of a foreign organization, or control of a foreign organization.

Requested information: nonmember banks with foreign branches, or that hold 20 percent or more of a foreign organization's voting equity interests, or control a foreign organization, must maintain certain records, controls, and reports on the foreign operation's business activities.

Total annual responses: 40
Average hours per response: 400
Subtotal, annual burden hours for recordkeeping: 16,000

Total annual burden hours for this collection: 16,298.

13. Capital, Start-up, and Maintenance Costs

None.

14. Annual Cost to the Federal Government

None.

15. Reason for Change in Burden

The change in burden of -4000 hours from 20,298 to 16,298 is the result of a reduction in the number of non-member banks with foreign branches and foreign investments.

16. Publication

None.

17. Display of the Expiration Date

No special exceptions requested.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.