

## **Supporting Statement Large-Bank Deposit Insurance Programs**

### INTRODUCTION

The Federal Deposit Insurance Corporation requests OMB approval to extend for three years the above-captioned collection of information. The clearance for the collection expires on August 31, 2011.

Upon the failure of an FDIC-insured depository institution, the FDIC must determine the total insured amount for each depositor. 12 U.S.C. 1821(f). To make this determination, the FDIC must ascertain the balances of all deposit accounts owned by the same depositor in the same ownership capacity at a failed institution as of the day of failure. The FDIC established a final rule (12 CFR 360.9) to modernize the process of determining the insurance status of each depositor in the event of such a failure. The final rule appears at 73 FR 2364 (July 17, 2008).

The final rule requires the largest insured depository institutions to adopt mechanisms that would, in the event of the institution's failure (1) provide the FDIC with standard deposit account and other customer information, and (2) allow the placement and release of holds on liability accounts, including deposits. The final rule applies only to insured depository institutions having at least \$2 billion in domestic deposits and either: more than 250,000 deposit accounts; or total assets over \$20 billion, regardless of the number of deposit accounts.

#### A. JUSTIFICATION

##### 1. Circumstances and Need

###### *Circumstances.*

Section 360.9 requires the largest insured depository institutions to adopt mechanisms that, in the event of the institution's failure: (1) provide the FDIC with standard deposit account and customer information; and (2) allow the FDIC to place and release holds on liability accounts, including deposits. Section 360.9 would apply only to insured depository institutions having at least \$2 billion in domestic deposits and either: (1) more than 250,000 deposit accounts; or (2) total assets over \$20 billion, regardless of the number of deposit accounts (referred to hereinafter as "Covered Institutions").

###### *Need for a Rule.*

When handling a depository institution failure the FDIC is required to structure the least costly of all possible resolution transactions, except in the event of systemic risk. In addition, the FDIC is required to pay insured deposits "as soon as possible" after an institution fails. The FDIC places a high priority on providing access to insured deposits promptly and, in the past, has

usually been able to allow most depositors access to their deposits on the business day following closing. Doing so enables the FDIC to: (1) maintain public confidence in the banking industry and the FDIC; (2) provide the best possible service to insured depositors by minimizing uncertainty about their status and avoiding costly disruptions that may limit their ability to meet financial obligations; (3) mitigate the spillover effects of a failure, such as risks to the payments system, problems stemming from depositor illiquidity and a substantial reduction in credit availability; and (4) retain, where feasible, the franchise value of the failed institution.

The largest insured depository institutions are growing increasingly complex. Section 360.9 is intended to allow the deposit operations of a failed institution to be continued on the day following failure. It helps facilitate an insurance determination and dramatically improve upon access to depositor funds if one of these institutions were to fail. It also permits the FDIC to meet its legal mandates regarding the resolution of failed insured institutions, provide liquidity to depositors promptly, enhance market discipline, ensure equitable treatment of depositors at different institutions and reduce the FDIC's costs by preserving the franchise value of a failed institution.

#### *Limitations of current processes prior to the final rule.*

Making deposit insurance determinations is inherently complex because a single depositor may have more than one account and may hold accounts in different ownership capacities, each of which may be separately insured. To make insurance determinations, the FDIC must aggregate all accounts owned by a depositor in a single ownership capacity. This process often requires reviewing detailed account agreements and other documents. The larger the number of deposit accounts at an institution, the more complex and difficult the insurance determination becomes. Complexity also depends upon the volume of transactions, the amount of uninsured funds, the number of separate computer systems or "platforms" on which deposit accounts are maintained and the speed at which the institution's deposit operations must be resumed following failure. In most instances, larger institutions are considerably more complex, have more deposit accounts, are more geographically dispersed and have more diverse systems and data-integration issues than small institutions. The FDIC's current procedures to determine deposit insurance coverage may result in unacceptable delays if used for an FDIC insured institution with a large volume of deposit accounts.

#### *Delayed Implementation.*

The initial group of Covered Institutions had 18 months from the regulation's effective date to fully implement the requirements. New Covered Institutions also have an 18-month implementation requirement. Under the final rule, on a case-by-case basis and in consultation with the Covered Institution's primary federal regulator, the FDIC could accelerate the implementation timeframe for Covered Institutions that are "troubled". That is, a Covered Institution that either: (1) has a composite rating of 3, 4 or 5 under the Uniform Financial Institutions Rating System (commonly referred to as CAMELS) or (2) is undercapitalized as

defined for purposes of the prompt corrective action rules. In determining the accelerated implementation timeframe for such institutions, the FDIC would be required to consider such factors as the: (1) complexity of the institution's deposit systems and operations; (2) extent of asset quality difficulties; (3) volatility of funding sources; (4) expected near-term changes in capital levels; and (5) other relevant factors appropriate for the FDIC to consider in its roles as insurer and possible receiver of the institution.

A Covered Institution can request an extension of the 18-month deadline for implementing the requirements of the final rule.

## 2. Use of Information Collected

*Provisional holds:* Under the final rule, Covered Institutions are required to have in place an automated process for implementing provisional holds concurrent with or immediately following the daily deposit account processing on the day of failure. After completion of the failed institution's final daily processing, the Successor Institution would place provisional holds on selected deposit accounts. Provisional holds, once posted, would allow depositors access to the remaining balance in their accounts the day following failure, yet guard against the possibility of an uninsured depositor or unsecured general creditor receiving more than allowed under deposit insurance rules or the depositor preference statute. The FDIC would use a standard set of depositor and customer data to make deposit insurance determinations. These determinations would be provided to the Successor Institution shortly after failure.

*The generation of deposit account and customer data in a standard structure:* A Covered Institution is required to have in place practices and procedures to provide the FDIC with required depositor and customer data in a standard format following the close of any day's business. Covered Institutions are not required to collect or generate new depositor or customer information. Instead, the standard data files are created through a mapping of pre-existing data elements and internal institution codes into standard data formats. The standard data files would be used in the period immediately before and after a Covered Institution's failure to calculate the amount of deposit insurance coverage and to identify the least costly of all possible resolution transactions.

*Testing requirements:* The FDIC will also conduct an initial test at each Covered Institution sometime after the initial implementation period ends. Once the initial test is completed successfully, the FDIC anticipates that it would conduct additional tests infrequently at institutions that do not make major changes to their deposit systems—perhaps only once every three-to-five years.

## 3. Use of Technology to Reduce Burden

Insured depository institutions provide deposit account information via electronic file.

4. Efforts to identify duplication

The information sought in this collection is not duplicated elsewhere.

5. Minimizing Burden on Small Entities

The final rule applies to the largest banks only. It does not impose any burden on small entities.

6. Consequences of Less Frequent Collections

Section 360.9 requires the largest insured depository institutions to adopt mechanisms that would, in the event of the institution's failure, provide the FDIC with standard deposit account and customer information and allow the FDIC to place and release holds on liability accounts, including deposits. Thus, Covered Institutions are required to have the mechanisms in place and will be subject to periodic testing, but the collection would be accessed only when a large bank is close to failing.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

*Previous ANPRs.*

In 2005, the FDIC published an advance notice of proposed rulemaking (the 2005 ANPR), which requested comment on three options for enhancing the speed at which depositors at larger, more complex insured institutions would receive access to their funds in the event of failure. 70 FR 73652 (Dec. 13, 2005).

After reviewing and analyzing the 2005 ANPR comment letters, the FDIC published a second advance notice of proposed rulemaking (the 2006 ANPR) focusing on less costly and burdensome alternatives. 71 FR 74857 (Dec. 13, 2006).

*The 2008 NPR*

In response to the 2006 ANPR comment letters, the FDIC further reduced the potential costs and burdens in the 2008 NPR by dropping the requirement that the largest, most complex Covered Institutions provide a unique identifier for each depositor. Addendum 2 to the proposed rule, 73 FR at 2381, discusses the comments received in response to the 2005 and 2006 ANPR comments. In the 2008 NPR, the FDIC strove to limit costs and burdens as much as possible

while still maintaining the proposed capability for resolving failed institutions at the least cost and providing depositors prompt access to funds.

*Discussion meetings.*

Between 2004 and 2007, the FDIC met with six would-be Covered Institutions and four software vendors/servicers for Covered Institutions. These meetings took place at various stages in the development process. The FDIC found these meetings to be extremely helpful to its understanding of industry systems, practices and cost issues. In the 2008 NPR, the FDIC requested additional meetings with interested parties and advised that FDIC staff was willing to travel to facilitate a meeting or structure a teleconference. As a result, the FDIC met with an association representing financial professionals in 2008 and conducted a telephone conference with an association representing major commercial banks in 2008. Summaries of all such meetings have been filed with the comment letters and are publicly available.

*The 2008 Final Rule -- FDIC Response to Public Comments on the ICR*

Several commenters provided estimates for implementation. In general, the implementation cost estimates provided by commenters were consistent with the assumptions used in the proposed rule. The largest, most complex depository institution estimated implementation costs to be \$8 million to \$10 million, within the range of the estimate for this institution used in the calculations for the proposed rule.

The requirements of the final rule effectively are identical to the proposed rule. Further, there was considerable consistency between the cost comments provided from the proposed rule and the assumptions used by the FDIC to estimate the costs of the proposed rule. Therefore, the FDIC did not find it necessary to revise its estimates regarding implementation or on-going costs.

In each ANPR and the 2008 NPR, the FDIC requested comment on other alternatives allowing it to meet its objectives in a less costly or burdensome manner. No alternative strategies were proposed.

In addition to the revisions made through the 2006 ANPR and the 2008 NPR discussed above in response to public comments, the FDIC also revised the final rule to permit application to the FDIC for an exemption from the requirements of the final rule if an institution has a high concentration of deposits incidental to credit card operations, thus expanding possible exemptions. In addition, the final rule provides for a uniform provisional hold strategy for foreign deposits, thus clarifying and simplifying the potential treatment of foreign deposits.

The preamble to the final rule notes that, even if the likelihood of a failure among Covered Institutions is perceived to be low, it is not zero. Recent events have placed stress on the

banking industry as a whole. The FDIC believes it must have in place a credible plan for resolving the failure of an institution of any size at the least possible cost.

The ability to provide depositors prompt access to funds and determine the insurance status of depositors in a failed institution in a timely manner is a critical element for ensuring a least costly resolution and maintaining public confidence.

The preamble to the final rule emphasizes that the Federal Deposit Insurance Corporation Improvement Act of 1991 (“FDICIA”), is one of the most important pieces of legislation controlling the FDIC’s failure resolution process. Its least-cost requirement effectively requires uninsured depositors to be exposed to losses. Also, FDICIA’s legislative history and the nature of the systemic risk exception provide a clear message that uninsured depositors of large institutions are to be treated on par with uninsured depositors of other institutions. The requirements imposed through the final rule provide essential support for the FDIC to meet these statutory mandates -- particularly given the current size and complexity of some insured depository institutions.

#### *Ongoing Request for Comment*

The final rule stated the FDIC has an ongoing interest in public comments on its collections of information and invites continuing input from the public.

#### 9. Payment or Gift to Respondents

No payments are made to respondents.

#### 10. Confidentiality

No individual bank or customer information will be made available outside the FDIC. In addition, to protect financial privacy, the FDIC’s testing process would not require that Covered Institutions transmit **any** sensitive customer data outside of the institution’s premises. Therefore, all testing involving any sensitive customer data would be conducted on the institution’s premises.

#### 11. Questions of a sensitive nature

No questions of a sensitive nature are involved.

#### 12. Estimate of Annualized Burden and Associated Costs

#### *Activities Encompassed by this Record Collection*

This record collection encompasses the following activities:

- A. Covered Institutions must provide the FDIC with completed Annual Testing Questionnaire. The questionnaire contains questions regarding changes to deposit systems, technology service providers, acquisitions and mergers, new deposit products and new sweep investment vehicle products that was not tested before.
- B. Covered Institutions must provide the FDIC with the name(s) of the persons responsible for producing the standard data download and administering provisional holds, both while the functionality is being constructed and on an on-going basis.
- C. Covered Institutions must develop written practices and procedures for providing the FDIC with required deposit account and customer data in a standard format upon the close of any day's business. The data is to be created through a mapping of pre-existing data elements into standard data formats in separate files.
- D. Covered Institutions must provide data to the FDIC pursuant to onsite testing and verification procedures.
- E. Covered Institutions must acquire and/or modify and maintain information system(s) in order to respond to the information requirements.

Items A, B, C, and D represent on-going burdens and costs and are discussed below. Item E represents implementation burdens and costs and are discussed in paragraph 14 below entitled, "Capital Start-up and Operation / Maintenance Costs."

Comments from the 2005 and 2006 ANPRs and 2008 NPR provided industry feedback concerning anticipated on-going and implementation costs and burden. Further, as described in paragraph 8 above, the FDIC met with several Covered Institutions and deposit software vendors, which assisted in formulating the cost estimates and burden. Finally, based upon input from the industry, the FDIC considered the lowest-estimated costs and the highest-estimated costs for each one of the Covered Institutions when calculating costs and burdens.

*Overall Estimated Number of Respondents and Affected Public*

*OMB Number:* 3064-0162.

*Frequency of Response:* On Occasion.

*Affected Public:* Insured depository institutions having at least \$2 billion in domestic deposits and either at least: (i) 250,000 deposit accounts; or (ii) \$20 million in total assets.

*Estimated Number of Respondents:* 159

*On-Going Burden Hours and Costs:*

*Estimated time per Response:* 157 hours to 255.5 hours. These hours are calculated as follows: \$4 million low-end, over-all industry estimated costs for on-going burden ÷ \$160 per hour salary ÷ 159 respondents = 157 hours; and \$6.5 million high-end, over-all industry estimated costs for on-going burden ÷ \$160 per hour salary ÷ 159 respondents = 255.5 hours.

*Estimated Total Annual Burden:* 25,000 hours to 40,625 hours. These hours are calculated as follows: 157 hours x 159 respondents = 25,000 hours at a minimum; and 255.5 hours x 159 respondents = 40,624.5 hours at a maximum.

On-going costs for testing, maintenance and other periodic items is estimated to range between \$6,000 and \$13,000 for those Covered Institutions using software or servicing provided by a vendor. For super-regional organizations on-going costs are estimated to be between \$150,000 and \$250,000. The largest, most complex Covered Institution was estimated to have on-going costs as high as \$500,000 per year. Overall, on-going industry cost estimates ranged from \$4 million to \$6.5 million. Placed in context, this is 0.8 to 1.4 percent of a one basis point assessment against the deposits of Covered Institutions. This analysis assumes an hourly cost of \$160 for Covered Institutions.

### 13. Capital Start-up and Operation /Maintenance Costs

#### *Implementation Burden Hours.*

*Estimated Time per Individual Response:* 80 hours to 75,000 hours per respondent. With regard to the one-time burden of adopting mechanisms required to facilitate provisional holds and standard data sets, the FDIC estimates a range from 80 hours for the smallest Covered Institution with the least expensive system, to 75,000 hours for the largest Covered Institution with the most expensive system. As discussed elsewhere, there is a broad range in the complexity and size among Covered Institutions, with the smallest having \$2.5 billion in total assets and the largest having over \$1.3 trillion in total assets. The FDIC estimated the range of hours for institution as follows: \$13,000 overall implementation cost for the smallest, least expensive program using vendor-provided software ÷ \$160 per hour salary = 80 hours; and \$12,000,000 overall implementation for the most complex, expensive program using proprietary software ÷ \$160 per hour salary = 75,000 hours. The FDIC considered this range of hours in estimating the average response time shown below.

*Estimated Time per Average Response:* 1,965 hours to 3,931 hours. The FDIC calculated the average, start-up cost of acquiring software/hardware for the industry as a whole (i.e., all Covered Institutions) based upon the cost estimates provided by Covered Institutions, vendors and servicers with a low end of \$50,000,000 and a high-end of \$100,000,000. The calculations are as follows: \$50,000,000 ÷ \$160 per hour salary ÷ 159 Covered Institutions = 1,965 hours; and \$100,000,000 ÷ \$160 per hour salary ÷ 159 Covered Institutions = 3,931 hours.

*Estimated Total Annual Burden:* 312,500 hours to 625,000 hours.

(1,965 hours x 159 respondents = 312,435 hours at a minimum)

(3,931 hours x 159 respondents = 625,029 hours at a maximum)

*Estimated Total Annual Burden-Annualized:* 104,200 hours to 208,350 hours.

The FDIC averaged over the three-year collection period the burden of start-up costs associated



with the cost of acquiring software/hardware for the industry as a whole (i.e., all Covered Institutions). The calculations are as follows:  $312,500 \text{ hours} \div 3 = 104,167 \text{ hours}$ ; and  $625,000 \text{ hours} \div 3 = 208,333 \text{ hours}$ .

### *Implementation Costs.*

Implementation costs will vary widely among the Covered Institutions. There are considerable differences in the complexity and scope of the deposit operations across Covered Institutions. Some Covered Institutions only slightly exceed the 250,000 deposit account threshold while several institutions have over 20 million deposit accounts. In addition, some Covered Institutions—most notably the largest—have proprietary deposits systems likely requiring an in-house, custom solution for the proposed requirements while most—generally the small-to-mid-sized ones—purchase deposit software from a vendor or use a servicer for deposit processing. Deposit software vendors and servicers are expected to incorporate the proposed requirements into their products or services to be available for their clients. In these cases, implementation costs will be greatly reduced. This analysis assumes 100 of the 159 Covered Institutions, or 63 percent, would have reduced implementation costs due to the use of software or services from a vendor.

For Covered Institutions with proprietary deposit systems implementation costs will vary considerably. The costs for the least complex of these institutions are estimated to range between \$250,000 and \$350,000. For super-regional organizations implementation costs are estimated to be between \$2 million and \$4 million. The costs for the largest, most complex Covered Institutions are estimated to be several times that of the super-regional organizations.

For Covered Institutions using software or servicing provided by a vendor implementation costs were estimated to be \$13,000 to \$20,000 per institution. These costs primarily are due to installation of software received from the vendor.

Using this methodology, overall industry implementation costs are estimated to range between \$50 million and \$100 million. The best estimate of implementation costs is the mid-point of this range, or \$75 million. In reviewing implementation costs as part of the comments received from previous ANPRs and the NPR, the FDIC viewed them relative to a one basis point assessment against deposits. In this context the estimated implementation costs range between 11 and 21 percent of a one basis point assessment against deposits of Covered Institutions. The mid-point cost estimate would be 16 percent.

#### 14. Annualized cost to the Federal Government

None.

#### 15. Reason for Change in burden

N/A

16. Publication

There will be no publication.

17. Display of expiration date

Not applicable.

18. Exceptions to certification

No exceptions.

B. STATISTICAL METHODS

Not applicable.