

SUPPORTING STATEMENT
Temporary Liquidity Guarantee Program
OMB No. 3064-0166

The Federal Deposit Insurance Corporation (FDIC) is seeking full clearance of its Temporary Liquidity Guarantee Program (TLGP) information collection approved by the Office of Management and Budget (OMB) under emergency authority. As evidenced by its title, the TLGP was designed and implemented as a temporary measure in response to unprecedented disruption in credit markets. The information collection includes reporting, recordkeeping and disclosure requirements applicable to eligible entities participating in either the Debt Guarantee Component of the program or the Deposit Guarantee Component or both. The information obtained will allow the FDIC to monitor its exposure under the TLG Program and determine assessments for entities participating in the program. The disclosures will ensure that depositors, debt holders, and the general public are on notice as to which entities are participating in the program, the extent to which deposits in noninterest-bearing transaction accounts are FDIC-insured, whether newly-issued, senior, unsecured debt is guaranteed by the FDIC, and the expiration date of any FDIC-guarantees.

A. JUSTIFICATION

1. Circumstances and Need

Section 141 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA), Pub. L. No. 102-242 (Dec. 19, 1991), added section 13(c)(4)(G) to the Federal Deposit Insurance Act (FDI Act). 12 USC 1823(c)(4)(G). That section authorizes action by the Federal government in circumstances involving a systemic risk to the nation's financial system. On October 13, 2008, in response to the unprecedented disruption in credit markets and the resultant effects on the abilities of banks to fund themselves and to intermediate credit, the Secretary of the Treasury (after consultation with the President) made a determination of systemic risk following receipt of the written recommendation of the FDIC Board of Directors ("FDIC Board"), along with the written recommendation of the Board of Governors of the Federal Reserve System in accordance with section 13(c)(4)(G). The systemic risk determination allows the FDIC to take certain actions to avoid or mitigate serious adverse effects on economic conditions or financial stability. Pursuant to the systemic determination, the FDIC Board established the TLGP comprised of (1) a guarantee by the FDIC of all unsecured, unsubordinated debt of insured, depository institutions, their bank holding companies, financial holding companies, and thrift holding companies (other than unitary thrift holding companies) issued between October 14, 2008, and June 30, 2009, with guarantees expiring not later than June 30, 2012, and with a system of fees to be paid by these institutions for such guarantees; and (2) a 100 percent guaranty of non-interest bearing transaction accounts held by insured depository institutions until December 31, 2009 (FDIC guarantees). The TLGP was subsequently amended in February

2009 to permit the FDIC to guarantee mandatory convertible debt, and in March 2009 to (1) provide a limited four-month extension of the Debt Guarantee Component for insured depository institutions and participating entities that had already issued debt under the program prior to April 1, 2009, (2) allow certain other participating entities to request permission to issue FDIC-guaranteed debt after June 30, 2009, and (3) require participating entities to submit a written application to issue senior unsecured non-guaranteed debt after June 30, 2009. The TLGP is designed to strengthen confidence and encourage liquidity in the banking system in order to ease lending to creditworthy businesses and consumers, and to ensure an orderly transition back to normal debt markets.

The Debt Guarantee Component will guarantee all newly-issued, senior, unsecured debt issued by eligible entities on or after October 14, 2008, through and including October 31, 2009 (except that for firms that opted out, the guarantee of their debt ended no later than November 12, 2008). Although the eligible debt must be issued on or before October 31, 2009, for debts maturing after that date, the FDIC will provide guarantee coverage for more than three years beyond that date, or until December 31, 2012. The FDIC guarantee covers new, senior, unsecured debt in an amount up to 125 percent of the par or face value of an entity's senior, unsecured debt outstanding as of September 30, 2008, that is scheduled to mature by June 30, 2009. In the event an eligible entity had no senior, unsecured debt prior to September 30, 2008, the FDIC considers the circumstances of an eligible entity and, in some cases, determined an alternate threshold calculation.

The Deposit Guarantee Component provides temporary, unlimited, deposit insurance coverage of funds in certain noninterest-bearing transaction accounts at FDIC-insured institutions, including payment-processing accounts, such as payroll accounts, frequently used by depository institution business customers. This coverage became effective on October 14, 2008, and continues through December 31, 2009, unless an insured institution elected to opt out of the TLGP.

2. Use of Information Collected

The opt-in and opt-out notices provide information to the FDIC and the public on which entities are participating in the Debt Guarantee Component, the Deposit Guarantee Component, or both. In addition, participating entities must provide notice to customers and lenders or creditors, if their participation in the program is terminated. Entities participating in the Debt Guarantee Component are required to report on the amount of senior, unsecured debt outstanding as of September 30, 2008, which allows the FDIC to determine the amount of an entity's maximum guarantee limit; maintain certain records and notify the FDIC of debt issued under the program, which will ensure that the FDIC remains fully informed of its exposure under the program and has the information necessary to charge assessments for debt guaranteed under the program; and, in the interest of full disclosure, notify counterparties to newly-issued, senior, unsecured debt regarding

whether the debt offered is guaranteed. Each entity participating in the Deposit Guarantee Component is required to report certain information concerning its noninterest-bearing accounts to the FDIC on a quarterly basis, which ensures that the FDIC remains fully informed of its exposure under the program, and has the information necessary to charge assessments for accounts guaranteed under the program. Each participating entity also must prominently display in each of its branches in which deposits are taken notice of its participation in the program, to ease depositor concerns about the safety of their accounts. Pursuant to section 13(c)(4)(G)(ii) of the FDI Act, data on each insured institution's tangible equity capital is needed for purposes of calculating systemic risk emergency special assessments.

The various written letter applications will provide information, as appropriate, on the details of the request, the applicant's strategic operating plan, and the intended use of debt proceeds. This information is needed by the FDIC as the basis for evaluating whether to allow an applicant to opt in or participate in the debt guarantee or transaction account guarantee programs or to establish or increase an applicant's debt guarantee limit. In addition, the information will identify the extent to which the FDIC should impose conditions, if any, on the approval of an applicant's request to reduce risk of loss.

Although insured depository institutions (IDIs) participating in the TLGP and other participating entities that have issued FDIC-guaranteed debt prior to April 1, 2009, will be able to continue participating during the period of the extension, participating entities that are neither IDIs nor entities that have issued FDIC-guaranteed debt prior to April 1, 2009, will have to apply for continued participation during the four-month extension. In addition, any participating entity that wishes to issue senior, unsecured non-guaranteed debt after June 30, 2009, must submit a letter request to the FDIC. The FDIC will review the information submitted to evaluate an entity's plans for retirement of its FDIC-guaranteed debt and, as appropriate, the risk presented to the FDIC.

3. Use of Technology to Reduce Burden

To the maximum extent possible, the FDIC collects information from TLGP participating entities through *FDICconnect*, the FDIC's secure web site for conducting ecommerce. Information on noninterest-bearing transaction accounts of entities participating in the Deposit Guarantee Program and on the tangible equity capital of all insured institutions is collected in Consolidated Reports of Condition and Income (OMB No. 3065-0052) and similar depository institution "reports on condition" that are used to collect data for FDIC deposit insurance assessment purposes. The information collected via written letter applications is unique to each applicant and entities are free to use whatever technology is available and appropriate to provide the requested information. Participating entities may use information technology to the extent feasible and consistent with their existing business practices to maintain required records.

4. Efforts to Identify Duplication

The information collections arising from the TLGP are not duplicated elsewhere. In the absence of the TLGP, there is no reason for entities to provide the requested information.

5. Minimizing the Burden on Small Entities

The information collected is the minimum necessary to implement the TLGP. Small entities can choose whether to participate in the program.

6. Consequences of Less Frequent Collection

Applications to participate in the TLGP extension period and to issue senior unsecured non-guaranteed debt will be one-time applications.

The opt-in, opt-out and termination notices; posting of notices of participation in the transaction account guarantee program in branches; reports on amount of senior unsecured debt outstanding as of September 30, 2008; and applications to request an increase in a debt guarantee limit, an increase in a presumptive debt guarantee limit, opt in (as an affiliate) to the Debt Guarantee Program, participate (as a surviving entity) in the Debt Guarantee Program or Transaction Account Guarantee Program, and to issue senior unsecured non-guaranteed debt after June 30, 2009, are one-time events. Similarly, debt holder claims are filed only in the event of payment default. The requirement for per occurrence submission of data on guaranteed debt issued under the Debt Guarantee Component of the program would negatively impact the FDIC's real-time monitoring of its exposure under the program and its collection of assessments for the debt guarantee if the information was collected less frequently. Similarly, submission of data on noninterest-bearing transaction accounts by entities participating in the Deposit Guarantee Component of the TLGP less frequently than quarterly would also reduce the FDIC's ability to timely monitor its exposure and collect assessments for the guaranteed deposits.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

Prior to issuance of its October 2008 interim final rule implementing the TLGP, the FDIC consulted with U.S. Treasury Department, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision. Moreover, the FDIC sought public comment on the TLGP information collection in its October 2008 Interim Final Rule, its November

2008 Final Rule, its February 2009 and March 2009 Interim Final Rules, which modified the TLGP, and its 60-day notice for full clearance of the TLGP information collection. In each case, comment was requested on whether the collection of information is necessary for the proper performance of the FDIC’s duties, whether the information sought has practical utility, whether the burden estimates are accurate, and whether assumptions used to support its burden calculations are valid. No responsive comments were received. Commenters were also asked to address ways to enhance the quality and clarity of the information collected and to provide suggestions for minimizing the burden of affected parties in providing requested information. Several commenters on the October 2009 Interim Rule suggested that the FDIC provide standard language for the disclosure requirements under the Debt Guarantee Program and the Transaction Account Guarantee Program. The FDIC responded to the comments by prescribing in the November 2008 Final Rule uniform disclosure statements to be used in written materials underlying debt issued on or after December 19, 2008, through June 30, 2009, which was updated in March 2009 to reflect the four-month extension of the program, and on all non-guaranteed, senior, unsecured debt issued by participating entities during that time period. Likewise, the FDIC included in the November 2008 Final Rule safe harbor sample notices for institutions participating in the Transaction Account Guarantee Program and for those that opted not to participate in the program.

9. Payment or Gift to Respondents

No gifts will be given to respondents.

10. Confidentiality

Information deemed confidential is exempt from public disclosure under the Freedom of Information Act (5 U.S.C. 552).

11. Information of a Sensitive Nature

No information of a sensitive nature is requested.

12. Estimate of Annual Burden

	<u>Number of Respondents</u>	<u>Hours Per Response</u>	<u>Responses Per Year</u>	<u>Total Hours</u>
370.3(c)(1) and (2) – Amount of initial senior unsecured debt	275	8	1	2,200

370.3(c)(3) – Subsequent reports on senior unsecured debt	275	8	4	8,800
370.3(h)(1)(i) – Request for increase in debt guarantee limit	275	24	1	6,600
370.3(h)(1)(ii) – Request for increase in presumptive debt guarantee limit of zero	50	16	1	800
370.3(h)(1)(iii) – Request by non-participating surviving entity to opt in to debt guarantee program	5	16	1	80
370.3(h)(1)(iv) – Request by affiliate to participate in debt guarantee or transaction account guarantee program	275	16	1	4,400
370.3(h)(1)(v) and 370.3(h)(2)–5,000 Application by a participating entity to issue FDIC-guaranteed mandatory convertible debt	25	40	5	
370.3(h)(1)(vi) – application by participating entity that is not an IDI or an entity that issued FDIC-guaranteed debt before April 1, 2009, to issue FDIC-guaranteed debt after June 30, 2009.	25	2	1	50
370.5(h)(1)(vii) – application by a participating entity to issue senior unsecured non-guaranteed debt after June 30, 2009.	250	8	1	2,000
370.5(c) and (g) – Opt-out/opt-in notice	14,932	2	1	29,864
370.5(h)(2)-(4) – Written notice of debt guarantee and guarantee expiration date	275	(See note below)		5,200

For the 50 largest depository institutions, they would spend up to 16 hours each providing a written notice of debt guarantee.

50 largest depository institutions x 16 hours = 800 hours

Approximately 225 other institutions will issue guaranteed debt and will spend an equivalent amount of time providing a written notice of debt guarantee.
 225 x 8 = 1,800 hours.

Almost all of the expected issuers have either thrift or financial holding company affiliations, which will spend an equivalent amount of time providing legal notices of debt guarantee or 2,600 hours.

Total = 5,200 hours

370.5(h)(5) – Written notice of transaction account guarantee	8,380	4	1	33,520
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Virtually all depository institutions have participated in this portion of the program and the design, preparation and insertion of notices into account statements has reportedly been somewhat more time consuming than originally anticipated.

370.6(b) – Notice of issuance of guaranteed debt	550	(See note below)		275,000
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Estimate top 50 depository institutions may spend about 3 hours every business day (about 250/yr) providing notices of multiple issuances of guaranteed debt (smaller size does not necessarily reduce burden, although volume of issuance may).

50 depository institutions x 3 hours x 250 business days = 37,500 hours

Remaining 225 participating depository institutions x 3 hours x 250 business days = 168,750 hours

275 bank and thrift holding companies x 1 hour x 250 business days = 68,750

50 + 225 + 275 = 550 total respondents
 37,500 + 168,750 + 68,750 = 275,000 hours

370.11(a)(1)(a) – Notice of termination of participation	300	(See note below)		900
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Of the estimated 14,400 depository institutions, and bank, thrift and financial holding companies expected to participate, it is likely that no more than 2 %, or about 300, will be terminated from this program. These 300 will have to spend 1 hour posting a notice, and 2 hours notifying customers and creditors of this action.
 300 x 1 + 300 x 2 = 900 hours

370.12(b)* – Guaranteed Debt holders' claims for participating entities in default	2,600	3	1	7,800
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*Note: Burden for debt holder claims, previously separated into receivership claims (370.12(b)(1)(A)) for failed insured depository institutions and bankruptcy claims (370.12(b)(2)(A)) for holding companies in bankruptcy are now consolidated into one category, with emphasis on immediate effectiveness of the FDIC guarantee upon payment default.

Total Burden	=====			382,214
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13. Capital, Start-up, and Operating Costs

There are no capital, start-up or operating costs associated with preparation of written letter applications.

14. Estimates of Annualized Cost to the Federal Government

The incremental costs associated with administering the TLG Program are encompassed within the FDIC's personnel and data processing budgets and are not separately identifiable.

15. Reason for Change in Burden

This is a revision to a recently approved information collection. The overall burden decrease of -1,821,461 hours is the result of a program adjustment of -1,822,061 hours due to adjustments to the estimated number of respondents for various categories of collections to reflect actual experience in administering the program and a program change of +600 hours arising from the consolidation of separate provisions for receivership claims and bankruptcy claims, found in former sections 370.12(b)(1)(A) and 370.12(b)(2)(A), into one provision covering the claims for all debt holders against participating entities in default as set forth in the revised section 370.12(b).

16. Publication

The information collected from applications will not be published by the FDIC.

17. Exceptions to Expiration Date Display

None.

18. Exceptions to Certification

None.