SUPPORTING STATEMENT

RECORDKEEPING AND CONFIRMATION REQUIREMENTS
FOR SECURITIES TRANSACTIONS
(OMB No. 3064-0028)

INTRODUCTION

The FDIC is requesting approval for an extension of the currently approved information collection captioned above. The information collection requirements are contained in FDIC's regulation 12 CFR 344. The current clearance for the collection expires on August 31, 2012.

The regulation's purpose is to ensure that purchasers of securities in transactions effected by insured state nonmember banks are provided with adequate information concerning the transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to the securities transactions they effect.

A. JUSTIFICATION

1. Circumstances and Need

On June 30, 1977, the Securities and Exchange Commission (SEC) published its final report on bank securities activities pursuant to its mandate under section 11A(e) of the Securities Exchange Act of 1934. The final report included a recommendation to Congress that the federal banking agencies be mandated to issue and enforce specific rules and regulations governing the conduct of banks in effecting transactions in securities for the accounts of others. This recommendation required that such rules and regulations cover all aspects of this activity including personnel competency standards, recordkeeping requirements, and confirmation requirements.

The FDIC developed its regulation 12 CFR 344 to be responsive, in part, to the recommendations of the SEC final report. The regulation's purpose is to ensure that purchasers of securities in transactions effected by an insured state nonmember bank are provided adequate information concerning the transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to these securities transactions

2. Use of Information Collected

An increasing number of banks, both large and small, located in both urban and rural areas, are offering their customers the ability to purchase and sell securities through the bank. This usually takes the form of a "discount brokerage" service which is advertised by the bank and which is conducted through the facilities of a registered broker/dealer.

In addition, banks have for many years offered their customers -- as an accommodation -- the ability to redeem government bonds and purchase and sell securities. These accommodation services have typically been offered to "small" customers and to those in areas where no securities brokers were located. Usually the service was not advertised and the banks often charged no fee of their own.

Trust departments of banks, already involved in investments for beneficiaries of various types of trust accounts, are heavily involved in the purchase and sale of securities.

It is estimated that 4,534 FDIC-supervised banks now offer some type of securities ordering services directly through their commercial side, through trust operations, or through brokerage services.

Because of the past growth of these securities transaction activities, improved and standardized controls and customer information was deemed necessary to ensure that the public received the highest possible quality of service and protection. Accordingly, the FDIC requires insured state nonmember banks to keep certain types of records and provide customers with written confirmations for securities transactions.

3. <u>Use of Technology to Reduce Burden</u>

Banks are free to use whatever methods are the least burdensome to them for maintaining the required records and for sending the appropriate confirmation notices to their customers.

4. <u>Efforts to Identify Duplication</u>

Every effort has been made to avoid duplication. There is no required format for maintaining the required records. If the existing records of the bank contain the required information in an accurate, dutiable form, the information need not be duplicated. The recordkeeping and confirmation requirements contained in 12 CFR 344 do not duplicate requirements from any other source. Insured state nonmember banks which effect securities transactions as broker/dealers registered under the Securities Exchange Act of 1934, or which conduct their securities activities through operating subsidiaries which have registered as broker/dealers, are exempt from all requirements of 12 CFR 344. As mentioned in item 1, these requirements are, in part, the result of recommendations made by the SEC in 1977. Similar requirements are imposed by the OCC and the FRS on the banks they supervise.

5. <u>Minimizing the Burden on Small Banks</u>

The following exemptions are granted by this regulation to small organizations to minimize burdens:

(a) Transactions effected by broker dealers that have entered into "networking arrangements" with banks are exempt from the recordkeeping and reporting requirements of this collection.

(b) Banks need not generate their own customized confirmation forms. If they use another bank or a broker/dealer to place the securities transactions, the bank may opt to merely provide its customer with a copy of the other organization's confirmation form.

(c) Banks which have fewer than 200 securities transactions for customers per year are exempt from the need to establish more elaborate records. As such, they need not prepare or maintain account records for each customer, order tickets, or a record of broker/dealers used by the bank.

(d) Banks which have fewer than 200 securities transactions for customers per year are exempt from the need to have written management policies and operational procedures.

(e) Bank officers and employees need not report any securities transactions if they aggregate less than $10,000 in any calendar quarter. Even when more than $10,000 is involved, the figure is reduced by subtracting U.S. Government and Federal agency securities, as well as mutual fund and money market fund shares in arriving at the $10,000 reportable figure.

6. Consequences of Less Frequent Collections

Normally the bank is required to furnish the customer written notification within five business days from the date of the transaction. Also, when the bank exercises investment discretion it must furnish the customer at least once every three months with an itemized statement that specifies funds and securities in the custody or possession of the bank at the end of the period. These notification requirements are considered to be minimal to keep the customer adequately informed of the completion of each transaction and the status of the customer's account.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

The requirements for recordkeeping and notification for securities transactions were originally published in the FEDERAL REGISTER as a notice of proposed rulemaking (NPRM) on February 23, 1978 (43 FR 7441) and as a revised NPRM on November 1, 1978 (43 FR 51638). Since then, the FDIC has sought comment several times on this collection.

9. Payment or Gift to Respondents

None.

10. Confidentiality

Provisions for confidentiality are not applicable to this collection.

11. Information of a Sensitive Nature

No information of a sensitive nature is collected.

12. Estimate of Annual Burden

Estimated number of respondents: 4534
Average annual burden hours per respondent: 27.91
Average annual burden hours: 126,543

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

None.

14. Estimated Annual Cost to Federal Government

None.

15. Reason for Change in Burden

Previously, there were 4,470 respondents as compared to the current 4,534 respondents. The burden change of +1,786 hours, therefore, reflects an adjustment of +64 in the number of respondents.

16. Publication

No publication is made of this collection of information.

17. Display of Expiration Date

Not applicable.

B. STATISTICAL METHODS

Statistical methods are not employed in this collection of information.