**Supporting Statement**
**Regulatory Capital Rules**
**3064-0153**

## A. <u>Justification</u>

### <u>1. Circumstances and Need</u>

This statement supports a request to change the title of an existing information collection, from *Basel II Capital Requirements* to *Regulatory Capital Rules*, and to revise the collection to incorporate reporting, recordkeeping, and disclosure requirements in three notices of proposed rulemaking ("NPRs") jointly issued by the Federal Deposit Insurance Corporation, the Federal Reserve Board, and the Office of the Comptroller of the Currency (collectively, "the Agencies"). The three NPRs are as follows: (1) *Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action*; (2) *Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements*; and (3) *Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rules; Market Risk Capital Rule*.

In the NPR titled "Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action," (Basel III), the agencies are proposing to revise their risk-based and leverage capital requirements consistent with agreements reached by the Basel Committee on Banking Supervision (BCBS) in "Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems" (Basel III). The proposed revisions would include implementation of a new common equity tier 1 minimum capital requirement, a higher minimum tier 1 capital requirement, and, for banking organizations subject to the advanced approaches capital rules, a supplementary leverage ratio that incorporates a broader set of exposures in the denominator measure. Additionally, consistent with Basel III, the agencies are proposing to apply limits on a banking organization's capital distributions and certain discretionary bonus payments if the banking organization does not hold a specified amount of common equity tier 1 capital in addition to the amount necessary to meet its minimum risk-based capital requirements. This NPR also would establish more conservative standards for including an instrument in regulatory capital.

In the NPR titled "Regulatory Capital Rules: Standardized Approach for Risk-weighted Assets; Market Discipline and Disclosure Requirements" (Standardized Approach NPR), the agencies are proposing to revise their rules for calculating risk-weighted assets to enhance risk sensitivity and address weaknesses identified over recent years, including by incorporating aspects of the BCBS's Basel II standardized framework in the "International Convergence of Capital Measurement and Capital Standards: A Revised Framework," including subsequent amendments to that standard, and recent BCBS consultative papers. The Standardized Approach NPR also includes alternatives to credit ratings, consistent with section 939A of the Dodd-Frank Act. The revisions include methodologies for determining risk-weighted assets for residential mortgages, securitization exposures, and equity exposures. The Standardized Approach NPR also would introduce disclosure requirements that would apply to top-tier banking organizations domiciled in the United States with $50 billion or more in total assets, including disclosures related to regulatory capital instruments.

In the NPR titled "Regulatory Capital Rules: Advanced Approaches Risk-based Capital Rule; Market Risk Capital Rule," (Advanced Approaches and Market Risk NPR), the agencies are proposing to revise the advanced approaches risk-based capital rules consistent with Basel III and other changes to the BCBS's capital standards. The agencies also propose to revise the advanced approaches risk-based capital rules to be consistent with section 939A and section 171 of the Dodd-Frank Act. Additionally, in the Advanced Approaches and Market Risk NPR, the OCC and FDIC are proposing that the market risk capital rules be applicable to federal and state savings associations and the Board is proposing that the advanced approaches and market risk capital rules apply to top-tier savings and loan holding companies domiciled in the United States, in each case, if stated thresholds for trading activity are met.

## 2. Use of the Information

The agencies use the data collected under the rule to fulfill their statutory obligations to adopt a risk-based capital requirement, determine the qualification of an institution for application of the rule, and assess the adequacy of a qualifying bank's risk-based capital.

## 3. Use of Technology to Reduce Burden

The agencies use information technology to reduce burden on institutions and decrease costs to insured depository institutions and the agencies. Insured depository institutions are required to store data in an electronic format allowing timely retrieval for analysis, reporting and disclosure purposes. Institutions are also encouraged to provide information for public disclosure on their websites.

## 4. Efforts to Identify Duplication

The information collected is institution-specific. The information is used to determine the qualification of a bank for application of the rule, and assess the adequacy of a qualifying bank's risk-based capital. Substantially all of the information collected is not otherwise available.

## 5. Minimizing the Burden on Small Entities

The collection will have a significant impact on a substantial number of small entities. To minimize the burden on these entities, the Basel III NPR includes a transitional framework that would phase in many of the requirements between January 1, 2013, and January 1, 2018. Additionally, the Standardized Approach NPR includes an effective date of January 1, 2015, to assist in minimizing potential burden.

6. Consequence of Less Frequent Collections

The FDIC would not be able to adequately monitor capital levels and ensure safety and soundness in covered institutions if the information were collected less frequently.

7. Special Circumstances

The proposed rule requires banks to maintain data used to estimate risk parameters. For wholesale exposures, default data must be maintained for at least 5 years, loss severity data must be maintained for at least 7 years, and exposure amount data must be maintained for at least 7 years. Retail segment exposure default, loss severity and exposure amount data must be maintained for at least five years.

In addition to the requirements for a minimum number of years that data must be maintained, the default, loss severity, and exposure amount data must include periods of economic downturn conditions, or the bank must adjust its estimates of risk parameters to compensate for the lack of data from such periods.

Maintenance of data for these periods is necessary for banks to conduct adequate statistical analysis to support the associated risk parameters used to calculate the risk-based capital requirement.

8. Consultation with Persons Outside the FDIC

The FDIC coordinated closely with the FRB and the OCC in drafting the three notices of proposed rulemakings. Comment on the rule is being solicited for a period of 90 days to ensure an opportunity for full public participation. All comments received will be considered by the Agencies in drafting the final rule.

9. Payment to Respondents

None.

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

None.

12. Burden Estimates

**Summary of Existing Advanced Approaches Burden Estimates:**

**Frequency of response**: Occasional.
**Number of respondents**: 19.
**Average Response Time**: Recordkeeping (7,691 hours); disclosures (110 hours).
**Total Burden**: 7,801 hours.

Cost per response: $100 per hour.
Estimated annual cost: $780,100.

A chart showing a breakdown of the FDIC's current Advanced Approaches Burden Estimates is as follows:

**Current Advanced Approaches Burden Estimates**

| **BASEL II Advanced Approaches** | *Estimated number of respondents* | *Estimated annual frequency* | *Estimated average time per response* | *Estimated annual burden hours* |
|---|---|---|---|---|
| **Recordkeeping**: | | | | |
| Implementation plan Section _.121(b) | 19 | 1 | 330 hours | 6270 |
| Documentation of operational risk process -- Section _.122(h) | 19 | 1 | 19 hours | 361 |
| Systems maintenance Sections _.122(a) and _123(a) | 19 | 1 | 27.9 hours | 530 |
| Supervisory approvals Sections_.122(d)-(h), _.144 & _.153 | 19 | 1 | 16.82 hours | 320 |
| Control, oversight and verification of systems – Section _.122 and _.123 | 19 | 1 | 11.05 hours | 210 |
| Disclosures Sections _.142 and 171 | 19 | 1 | 5.78 hours | 110 |
| | | | | |

| | | | | |
|---|---|---|---|---|
| *Subtotal -- Recordkeeping* | | | | 7691 |
| *Subtotal --Disclosures* | | | | 110 |
| *Total* | | | | 7801 |

**Summary of Revised Advanced Approaches Burden Estimates:**

**Frequency of response**: Occasional.
**Number of respondents**: 8.
**Average Response Time**: Recordkeeping – 8,326 (3680 one-time burden hours; 4646 ongoing burden hours); disclosures – 3406 (2240 one-time burden hours; 1166 ongoing burden hours).
**Total Burden**: 11,732 hours.

A chart showing a breakdown of the FDIC's Advanced Approaches Burden Estimates as revised by the NPR is as follows:

**Revised Advanced Approaches Burden Estimates**

| **BASEL III Advanced Approaches** | *Estimated number of respondents* | *Estimated annual frequency* | *Estimated average time per response* | *Estimated annual burden hours* |
|---|---|---|---|---|
| **Recordkeeping**: | | | | |
| Implementation plan Section _.121(b) | 8 | 1 | 330 hours | 2640 |
| Documentation of operational risk process -- Section _.122(h) | 8 | 1 | 19 hours | 152 |
| Systems maintenance Sections _.122(a) and _123(a) | 8 | 1 | 27.9 hours | 223 |
| Supervisory approvals Sections_.122(d), (e), (f), (g), (h) | 8 | 1 | 16.82 hours | 135 |
| Control, oversight and verification of systems – Sections _.122 and _.123 | 8 | 1 | 11.05 hours | 88 |
| (**CCR**) Section _.132(d)(2)(iii)(A): *One-time* | 8 | 1 | 80 hours | 640 |
| (**CCR**) Section _.132(d)(2)(iii)(A): *Ongoing* | 8 | 1 | 16 hours | 128 |
| (**CCR**) Section _.132(d)(2)(iv): *One-time* | 8 | 1 | 80 hours | 640 |
| (**CCR**) Section _.132(d)(2)(iv): *Ongoing* | 8 | 1 | 40 hours | 320 |
| (**CCR**) Section _.132(d)(3)(vi): *One-time* | 8 | 1 | 80 hours | 640 |

| | | | | |
|---|---|---|---|---|
| (**CCR**)<br>Section _.132(d)(3)(viii): *One-time* | 8 | 1 | 80 hours | 640 |
| (**CCR**)<br>Section _.132(d)(3)(ix): *One-time* | 8 | 1 | 40 hours | 320 |
| (**CCR**)<br>Section _.132(d)(3)(ix): *Ongoing* | 8 | 1 | 40 hours | 320 |
| (**CCR**)<br>Section _.132(d)(3)(x): *One-time* | 8 | 1 | 20 hours | 160 |
| (**CCR**)<br>Section _.132(d)(3)(xi): *One-time* | 8 | 1 | 40 hours | 320 |
| (**CCR**)<br>Section _.132(d)(3)(xi): *Ongoing* | 8 | 1 | 40 hours | 320 |
| (**OC**)<br>Section _.141(c)(2)(i)-(ii): *One-time* | 8 | 1 | 40 hours | 320 |
| (**OC**)<br>Section _.141(c)(2)(i)-(ii): *Ongoing* | 8 | 4 | 10 hours | 320 |
| *Subtotal – One-time Recordkeeping* | | | | 3680 |
| *Subtotal -- OngoingRecordkeeping* | | | | 4646 |
| *Total Recordkeeping* | | | | 8326 |
| | | | | |
| **Disclosures:** | | | | |
| Sections _.142 and _.171 | 8 | 1 | 5.78 | 46 |
| ***Ongoing***<br>(**CCCB**) Table 11.4<br>(**CR**) Table 11.5<br>(**Securitization**) Table 11.9<br>(**IRR**) Table 11.12 | 8 | 4 | 35 hours | 1120 |
| ***One-time***<br>**(CCCB)** Section 173**,** Table 11.4<br>(**CR**) Section 173, Table 11.5<br>**(Sec.)** Section 173, Table 11.9<br>(**IRR**) Table 11.12 | 8 | 1 | 280 hours | 2240 |
| *Subtotal one-time disclosures* | | | | 2240 |
| *Subtotal ongoing disclosures* | | | | 1166 |
| *Total disclosures* | | | | 3406 |
| | | | | |
| *Total Recordkeeping & Disclosures* | | | | 11,732 |

In addition, the FDIC is revising the collection to include burden associated with the joint NPRs on *Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions* and the *Standardized Approach for Risk-Weighted Assets*. Summaries of the burden for each NPR are provided below:

**Summary of Minimum Regulatory Capital Ratios Burden Estimates:**

**Frequency of response**: Occasional.
**Number of respondents**: 4,571.
**Average Response Time**: Recordkeeping – 16 hours.
**Total Burden**: 73,136 hours.

**Summary of Standardized Approach Burden Estimates:**

**Frequency of response**: Occasional.
**Number of respondents**: 4571.
**Average Response Time**: Recordkeeping – 649,082 (557,662 one-time burden hours; 91,420 ongoing burden hours); disclosures – 3005 (905 one-time burden hours; 2100 ongoing burden hours).
**Total Burden**: 652,087 hours (558,567 one-time burden hours; 93,520 ongoing burden hours.

A chart showing a breakdown of the FDIC's **Standardized Approach Burden Estimates** is as follows:

| **Standardized Approach** | *Estimated number of respondents* | *Estimated annual frequency* | *Estimated average time per response* | *Estimated annual burden hours* |
|---|---|---|---|---|
| **Recordkeeping**: | | | | |
| (**QCCP**) Section _.35(b)(3)(i)(A): *One-time* | 4,571 | 1 | 2 hours | 9,142 |
| (**QCCP**) Section _.35(b)(3)(i)(A): *Ongoing* | 4,571 | 1 | 2 hours | 9,142 |
| (**CT**) Section _.37(c)(4)(i)(E): *One-time* | 4,571 | 1 | 80 hours | 365,680 |
| (**CT**) Section _.37(c)(4)(i)(E): *Ongoing* | 4,571 | 1 | 16 hours | 73,136 |
| (**SE**) Section _.41(c)(2)(i): *One-time* | 4,571 | 1 | 40 hours | 182,840 |
| (**SE**) Section _.41(c)(2)(i): *Ongoing* | 4,571 | 1 | 2 hours | 9,142 |
| **Disclosures:**[1] | | | | |

| | | | | |
|---|---|---|---|---|
| ***One-time***<br>(**S.E.**) Section _.42(e)(2),<br>(**C.R.**) Sections_.62(a),(b),& (c),<br>(**Q&Q**) Sections_.63(a) & (b): | 4 | 1 | 226.25 hours | 905 |
| ***Ongoing***<br>(**S.E.**) Section _.42(e)(2),<br>(**C.R.**) Sections_.62(a),(b),& (c),<br>(**Q&Q**) Sections_.63(a) & (b): | 4 | 4 | 131.25 hours | 2,100 |
| *Total one-time* | | | | 558,567 |
| *Total ongoing* | | | | 93,520 |
| *Total* | | | | 652,087 |

**Summary of Total Revised Burden:**

Minimum Capital Ratios – 73,136 hours
Standardized Approach – 652,087 hours
Advanced Approaches – 11,732 hours

Total burden hours – 736,955 hours

Cost per response: $100/hour
Estimated annual cost: $100/hour x 172,468 ongoing hours = $17,246,800

**Section-by-section analysis of burden**:

Minimum Regulatory Capital Ratios

Section 2 allows the use of a conservative estimate of the amount of a bank's investment in the capital of unconsolidated financial institutions held through the index security with prior approval by the appropriate agency. It also provides for termination and close-out netting across multiple types of transactions or agreements if the bank obtains a written legal opinion verifying the validity and enforceability of the agreement under certain circumstances and maintains sufficient written documentation of this legal review.

Standardized Approach

[1] Banks with total consolidated assets of $50 billion or more that is not an advanced approaches bank

Section 35 requires, for a cleared transaction with a qualified central counterparty (QCCP), that a client bank apply a risk weight of 2 percent, provided that the collateral posted by the bank to the QCCP is subject to certain arrangements and the client bank has conducted a sufficient legal review (and maintains sufficient written documentation of the legal review) to conclude with a well-founded basis that the arrangements, in the event of a legal challenge, would be found to be legal, valid, binding and enforceable under the law of the relevant jurisdictions.

Section 37 requires that a bank have policies and procedures describing how it determines the period of significant financial stress used to calculate its own internal estimates for haircuts and be able to provide empirical support for the period used.

Section 41 allows for synthetic securitizations a bank's recognition, for risk-based capital purposes, of a credit risk mitigant to hedge underlying exposures if certain conditions are met, including the bank's having obtained a well-reasoned opinion from legal counsel that confirms the enforceability of the credit risk mitigant in all relevant jurisdictions. In addition, it requires that a bank support a demonstration of its comprehensive understanding of a securitization exposure by conducting and documenting an analysis of the risk characteristics of each securitization exposure prior to its acquisition, taking into account a number of specified considerations. On an on-going basis (no less frequently than quarterly), a bank must evaluate, review, and update as appropriate the analysis required under this section for each securitization exposure.

Section 42 addresses risk-weighted assets for securitization exposures and requires that a bank publicly disclose that is has provided implicit support to the securitization and the risk-based capital impact to the bank of providing such implicit support.

Section 63 requires certain disclosures for each of the last three years beginning on the effective date of the rule for banks with total consolidated assets of $50 billion or more that are not advanced approaches banks, including qualitative and quantitative disclosures related to capital structure, capital adequacy, capital conservation buffer, general credit risk, counterparty credit risk-related exposures, credit risk mitigation, securitizations, certain equities, and interest rate risk for non-trading activities. In addition, section 63 requires quarterly disclosure of a bank's common equity tier 1 capital, additional tier 1 capital, tier 2 capital, tier 1 and total capital ratios, including the regulatory capital elements and all the regulatory adjustments and deductions needed to calculate the numerator of such ratios; total risk-weighted assets, including the different regulatory adjustments and deductions needed to calculate total risk-weighted assets; regulatory capital ratios during any transition periods, including a description of all the regulatory capital elements and all regulatory adjustments and deductions needed to calculate the numerator and denominator of each capital ratio during any transition period; and a reconciliation of regulatory capital elements as they relate to its balance sheet in any audited consolidated financial statements.

Section 62 specifies a quarterly frequency for the quantitative and qualitative disclosures required by section 63 and, if a significant change occurs, such that the most recent reported amounts are no longer reflective of the bank's capital adequacy and risk profile, section 62 requires the bank to disclose as soon as practicable thereafter, a brief discussion of the change and its likely impact. In addition, section 62 allows for annual disclosure of qualitative information that typically does not change each quarter, provided that any significant changes are disclosed in the interim. Section 62(b) requires that a bank have a formal disclosure policy approved by the board of directors that addresses its approach for determining the disclosures it makes. The policy is required to address the associated internal controls and disclosure controls and procedures. Section 62(c) would require a bank with total consolidated assets of $50 billion or more that is not an advanced approaches bank, if it concludes that specific commercial or financial information required to be disclosed under section 62 would be exempt from disclosure by the agency under the Freedom of Information Act (5 U.S.C. 552), to disclose more general information about the subject matter of the requirement and the reason the specific items of information have not been disclosed.

Advanced Approaches

Sections 121 and 122 require that a covered institution adopt a written implementation plan that addresses how it will comply with the framework's qualification requirements, including incorporation of a comprehensive and sound planning and governance process to oversee the implementation efforts. The institution must also develop processes for assessing capital adequacy in relation to an organization's risk profile. It must have in place internal risk rating and segmentation systems for wholesale and retail risk exposures, including comprehensive risk parameter quantification processes and processes for annual reviews and analyses of reference data to determine its relevance. It must document its process for identifying, measuring, monitoring, controlling, and internally reporting operational risk; verify the accurate and timely reporting of risk-based capital requirements; and monitor, validate, and refine its advanced systems.

Section 123 requires an institution to update its implementation plan after any mergers.

Section 132 addresses counterparty credit risk of repo-style transactions, eligible margin loans, and OTC derivative contracts and allows a bank, with the FDIC's prior written approval, to calculate haircuts ($H_s$ and $H_{fx}$) using its own internal estimates of the volatilities of market prices and foreign exchange rates. To receive FDIC approval to use its own internal estimates, a bank must satisfy the minimum quantitative standards outlined in the section. For risk-weighted assets using the internal models methodology (IMM), a bank uses an internal model to estimate the expected exposure (EE) for a netting set and then calculates exposure-at-default (EAD) based on that EE. A bank must calculate two EEs and two EADs (one stressed and one unstressed) for each netting as outlined in the section. To obtain FDIC approval to calculate the distributions of exposures upon which the EAD calculation is based, the bank must demonstrate to the satisfaction of the FDIC that it has been using for at least one year an internal model that broadly meets the minimum standards, with which the bank must maintain compliance. The bank must have procedures to identify, monitor, and control wrong-way risk throughout the life of an exposure. The procedures must include stress testing and scenario analysis.  When estimating model parameters based on a stress period, the bank must use at least three years of historical data that include a period of stress to the credit default spreads of the bank's counterparties.  The bank must review the data set and update the data as necessary, particularly for any material changes in its counterparties. The bank must demonstrate at least quarterly that the stress period coincides with increased CDS or other credit spreads of the bank's counterparties. The bank must have procedures to evaluate the effectiveness of its stress calibration that include a process for using benchmark portfolios that are vulnerable to the same risk factors as the bank's portfolio.  The FDIC may require the bank to modify its stress calibration to better reflect actual historic losses of the portfolio.  A bank must subject its internal model to an initial validation and annual model review process.  The model review should consider whether the inputs and risk factors, as well as the model outputs, are appropriate.  As part of the model review process, the bank must have a backtesting program for its model that includes a process by which unacceptable model performance will be determined and remedied.  A bank must have policies for the measurement, management and control of collateral and margin amounts.  A bank must have a comprehensive stress testing program that captures all credit exposures to counterparties, and incorporates stress testing of principal market risk factors and creditworthiness of counterparties.

Section 141, which addresses operational criteria for recognizing the transfer of risk, requires an advanced approaches bank to demonstrate its comprehensive understanding of a securitization exposure for each securitization exposure by conducting an analysis of the risk characteristics of a securitization exposure prior to acquiring the exposure and document such analysis within three business days after acquiring the exposure.  On an ongoing basis (no less frequently than quarterly), a bank must evaluate, review, and update as appropriate the analysis required under this section for each securitization exposure.

Various sections of the rule require prior written approval by supervisors, including Sections 144 and 153.  Section 144 describes the internal assessment approach (IAA). Prior written approval is required for use of the IAA.  An institution must review and update each internal credit assessment whenever new material is available, but at least annually.  It must validate its internal credit assessment process on an ongoing basis and at least annually.  Section 153 outlines the internal models approach (IMA).  Prior written approval is required for use of IMA.

Section 171 specifies that each consolidated bank must publicly disclose its total and tier 1 risk-based capital ratios and their components.  Section 142 also requires an institution to publicly disclose that it has provided implicit support to a securitization and the regulatory capital impact to the bank of providing such implicit support.

Section 173 requires a bank that is an advanced approaches bank to make the qualitative and quantitative disclosures described in Tables 11.1 through 11.12.  The bank must make these disclosures publicly available for each of the last three years (that is, twelve quarters) or such shorter period beginning on the effective date of this subpart E.  The disclosures address a number of areas, including capital conservation and countercyclical buffers; credit risk -- general disclosures; securitization; and interest risk for non-trading activities;

13. Capital, Start-Up and Maintenance Costs

Estimated capital and start-up costs are as follows:

| | | |
|---|---|---|
| NPR 1 | \$ 6,581 x 4,571 entities = | \$ 30,081,751 |
| NPR 2 (Standardized Approach) | \$ 120,258 x 4,571 entities = | \$ 549,699,318 |
| NPR 3 (Advanced Approaches) | \$ 1,040,000 x 8 entities = | \$ 18,720,000 |
| Total | | \$ 598,501,069 |

14. Estimated Annual Cost to the Federal Government

The FDIC assumes that annually the 8 qualifying banks will each make 4 requests for approval under various sections of the proposed rule. At 10 hours per approval and at a cost of $80 per hour, the total cost to the FDIC is $25,600.

15. Reason for Change in Burden

The increase in burden of 729,154 hours reflects an adjustment of -4517 hours resulting from a decrease in the number of respondents for the Advanced Approaches requirements and a program change of +733,671 hours arising from new Minimum Regulatory Capital Ratio, Standardized Approach, and Advanced Approaches requirements.

16. Publication

No publication is made of the information.

17. Display of Expiration Dates

Not applicable.

18. Exceptions to Certification

None.

**B. Statistical Methods**

Not applicable.