Supporting Statement
Recordkeeping and Disclosure Provisions
Associated with Interagency Guidance on Leveraged Lending
OMB Control No. 3064-NEW

A. Justification

1. Circumstances that make the collection necessary:

On March 22, 2013, The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC) (collectively the "agencies") published in the Federal Register final Interagency Guidance on Leveraged Lending (the Guidance) (78 FR 17766). The agencies are issuing the Guidance to update and replace the April 2001 interagency guidance regarding sound practices for leveraged finance activities (2001 guidance). The 2001 guidance addressed expectations for the content of credit policies, the need for well-defined underwriting standards, the importance of defining an institution's risk appetite for leveraged transactions, and the importance of stress-testing exposures and portfolios.

Since the issuance of the 2001 guidance, the agencies have observed periods of tremendous growth in the volume of leveraged credit and in the participation of unregulated investors. Additionally, debt agreements have frequently included features that provided relatively limited lender protection including, but not limited to, the absence of meaningful maintenance covenants in loan agreements or the inclusion of payment-in-kind (PIK)-toggle features in junior capital instruments, which lessened lenders' recourse in the event of a borrower's subpar performance. The capital structures and repayment prospects for some transactions, whether originated to hold or to distribute, have at times been aggressive. Moreover, management information systems (MIS) at some institutions have proven less than satisfactory in accurately aggregating exposures on a timely basis, with many institutions holding large pipelines of higher-risk commitments at a time when buyer demand for risky assets diminished significantly.

The Guidance updates and replaces the 2001 guidance in light of the developments and experience gained since the time that guidance was issued. The Guidance describes expectations for the sound risk management of leveraged lending activities, including the importance for institutions to develop and maintain:

- Transactions structured to reflect a sound business premise, an appropriate capital structure, and reasonable cash flow and balance sheet leverage. Combined with supportable performance projections, these elements of a safe-and-sound loan structure should clearly support a borrower's capacity to repay and to de-lever to a sustainable level over a reasonable period, whether underwritten to hold or distribute;

- A definition of leveraged lending that facilitates consistent application across all business lines;

- Well-defined underwriting standards that, among other things, define acceptable leverage levels and describe amortization expectations for senior and subordinate debt;
- A credit limit and concentration framework consistent with the institution's risk appetite;
- Sound MIS that enable management to identify, aggregate, and monitor leveraged exposures and comply with policy across all business lines;
- Strong pipeline management policies and procedures that, among other things, provide for real-time information on exposures and limits, and exceptions to the timing of expected distributions and approved hold levels; and,
- Guidelines for conducting periodic portfolio and pipeline stress tests to quantify the potential impact of economic and market conditions on the institution's asset quality, earnings, liquidity, and capital.

The policies and procedures related to the Interagency Guidance on Leveraged Lending are among the many policies and procedures that financial institutions are required to have in order to operate safely and soundly. The Guidance specifically addresses leveraged lending, and sets forth the topics that should be addressed, including: (i) the definition of leveraged lending, (ii) participations purchased, (iii) underwriting standards, (iv) valuation standards, (v) pipeline management, (vi) reporting and analytics, (vii) risk rating, (viii) credit analysis, (ix) problem credit management, (x) deal sponsors, (xi) credit review, (xii) stress-testing, (xiii) conflicts of interest, (xiv) reputational risk, and (xv) compliance.

2. **Use of the information:**

The proposed guidance outlines high-level principles related to safe and sound leveraged lending activities, including underwriting considerations, assessing and documenting enterprise value, risk management expectations for credits awaiting distribution, stress testing expectations and portfolio management, and risk management expectations, all of which will be reviewed during supervisory examinations to assess how well the financial institution is managing its risk. This proposed guidance would apply to all Federal Reserve-supervised, FDIC-supervised, and OCC-supervised financial institutions substantively engaged in leveraged lending activities. The number of community banking organizations with substantial exposure to leveraged lending is very small; therefore the Agencies generally expect that community banking organizations largely would be unaffected by this guidance.

3. **Consideration of the use of improved information technology:**

Financial institutions may use the most efficient means available to collect and store information required by the guidance. Generally, this information is most efficiently collected and stored electronically on a personal computer, existing network, or server.

In many cases, banks already have the capacity to collect and store this information electronically. Banks will not be submitting documentation to the FDIC. Rather, FDIC examiners will review this documentation during examinations to assess a bank's management of its risk. Covered banks may use any information technology that permits review by FDIC examiners and meets the requirements of the rule.

4. **Efforts to identify duplication:**

These are new information collection requirements and are not being duplicative of any other information collections.

5. **Methods used to minimize burden if the collection has a significant impact on substantial number of small entities:**

In the great majority of cases, small financial institutions (those with assets less than $10 billion) will not be affected by the guidance and will not have to collect information. Those very few institutions that may be subject to the guidance need to develop a system to collect this information if they do not have one, but they should be already collecting this information as a matter of prudential bank management. For these institutions, it should be a straightforward information collection process that can be stored electronically.

6. **Consequences to the Federal program if the collection were conducted less frequently:**

If this information collection is not conducted, insured financial institutions could be at increased risk of loss due to insufficient aggregation of loan risk and pipeline management. Such risk of loss could represent risk to the taxpayers if the institution failed for these reasons.

7. **Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:**

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.6.

8. **Efforts to consult with persons outside the agency:**

On March 30, 2012 (77 FR 19417), the FDIC published its notice of information collection for 60 days of comment.

The agencies received two comments in response to the information collection requirements under the PRA. Both comments mentioned how substantially burdensome the guidance will be to implement. The agencies recognize that the amount of time required of any institution to comply with the Guidance may be higher or lower than the estimates, but believe that the numbers stated are reasonable averages.

One comment also noted the absence of a cost-benefit analysis and questioned whether the additional information systems required undermines the utility of the information collection. In response to the general comments about burden, the agencies have made various modifications to the Guidance, including clarifying the application of the Guidance to community banks and other smaller institutions that are involved in leveraged lending. The agencies also highlighted their expectations that MIS and other reporting activities would be tailored to the size and the scope of an institution's leveraged lending activities. In addition, the implementation of any new systems would be part of an institution's overall credit risk management program.

9. Payment to respondents:

There is no payment or gifts to respondents.

10. Any assurance of confidentiality:

To the extent the FDIC collects information during an examination of a banking organization, the information will be kept private to extent provided by law.

11. Justification for questions of a sensitive nature:

No questions of a sensitive nature are asked.

12. Burden estimate:

Estimated number of respondents: 9

Estimated average time per respondent: 986.7 hours to build; 529.3 hours for ongoing use

Estimated total annual burden: 8,880 hours to build; 4,764 hours for ongoing use

The estimated time per respondent is an average that varies by agency because of differences in the composition of the financial institutions under each agency's supervision (for example, size distribution of institutions) and volume of leveraged lending activities.

13. Estimate of annualized costs to respondents:

On average, FDIC staff estimates that each of the 9 respondents will spend 529.3 hours at a cost of $90[1] per hour to collect and prepare information annually, resulting in a cost of

[1] To estimate hourly wages, we used the Office of the Comptroller of the Currency's estimate who used data from May 2011 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation. To estimate compensation costs associated with the rule, they used $90 per hour, which is based on the average of the 90th percentile for seven occupations (i.e., accountants and auditors, compliance officers, financial analysts, lawyers, management occupations, software developers, and statisticians) plus an additional 33 percent to cover inflation and private sector benefits.

$428,733. FDIC staff expects that key drivers of costs of compliance will be the magnitude of the changes in activities and operations of each covered bank.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

This is a new information collection, so there is new burden.

16. Information regarding collections whose results are planned to be published for statistical use:

Not applicable.

17. Display of expiration date:

Not applicable: There is no form associated with this collection on which an expiration date could be displayed.

18. Exceptions to certification statement:

The agency is able to certify compliance with all provisions under Item 19 of OMB Form 83-I.

B. Collections of Information Employing Statistical Methods

Not applicable.