

SUPPORTING STATEMENT  
ACCOUNT BASED DISCLOSURES IN CONNECTION WITH  
FEDERAL RESERVE REGULATIONS E, CC AND DD  
(OMB No. 3064-0084)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting OMB approval to renew its 3064-0084 information collection associated with Regulations E, CC, and DD issued by the Board of Governors of the Federal Reserve System (FRB). Although the FRB issues these regulations, each bank regulator calculates the burden for the institutions it supervises. The FDIC's collection will expire on December 31, 2014. \_\_\_\_\_

A. JUSTIFICATION

1. Circumstances and Need

The FDIC's OMB approved collection provides for the application of the information collection requirements of three FRB rules to state nonmember banks. The three rules are:

- Regulation E ("Electronic Fund Transfers," 12 C.F.R. Part 205);
- Regulation CC ("Availability of Funds," 12 C.F.R. Part 229); and
- Regulation DD ("Truth in Savings," 12 C.F.R. Part 230).

Regulation E implements the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693 *et seq.*, and is authorized by 15 U.S.C. § 1693b. Regulation CC implements the Expedited Funds Availability Act, 12 U.S.C. §§ 4001 *et seq.*, and is authorized by 12 U.S.C. §§ 4008 and 5014. Regulation DD implements the Truth in Savings Act, 12 U.S.C. §§ 4301 *et seq.*, and is authorized by 12 U.S.C. § 4308(a). For all three regulations, the FDIC has enforcement responsibility for state nonmember banks (Regulation E, 15 U.S.C. § 1693o; Regulation CC, 12 U.S.C. § 4009; and Regulation DD, 12 U.S.C. § 4309).

2. Use of Information Collected

Generally, the Regulation E disclosures are designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures.

Like Regulation E, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The

disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. Depository institutions must also provide an awareness disclosure regarding substitute checks. The regulation also requires notice to the depository bank and to a customer of nonpayment of a check.

Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. Regulation DD requires depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. It also contains rules about advertising deposit accounts.

Although the FRB regulations require institutions to retain evidence of compliance with the disclosure requirements, the regulations do not specify the types of records that must be retained.

### 3. Use of Technology to Reduce Burden

The information collections in Regulations E, CC and DD are primarily third party disclosures. Institutions may provide electronic disclosures consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. §§ 7001 *et seq.*, 12 C.F.R. § 205.17 and 12 C.F.R. § 230.10.

### 4. Efforts to Identify Duplication

Regulations E, CC and DD require account related disclosures when specified events occur and the disclosures' content do not overlap. If institutions provide periodic statements concerning accounts, Regulation E and CC require certain disclosures, of different content, to be made on them.

### 5. Minimizing the Burden on Small Banks

Generally, the relevant statutes require the disclosures to be made notwithstanding the size of the institution. Although the Electronic Fund Transfer Act does not exempt small institutions, it authorizes the FRB to modify certain requirements to ease compliance burdens for small institutions. The FRB has exempted from the requirements of the act preauthorized transfers to or from accounts at financial institutions with assets of \$100 million or less. A small financial institution that provides EFT services besides preauthorized transfers must comply with the regulation for those other services.

### 6. Consequence of Less Frequent Collections

The disclosures are event based and may not be made less frequently consistent with the underlying regulation.

7. Special Circumstances

None.

8. Consultation with Persons Outside the FDIC

A Federal Register notice seeking comment was first published on September 8, 2014 (79 Fed. Reg. 53196). No comments were received.

9. Payment or Gift to Respondents

None.

10. Confidentiality

Since no information is collected, no issue of confidentiality arises. The disclosure of information to consumers with regard to the availability of funds is available to the public.

11. Information of a Sensitive Nature

No questions of a sensitive nature are included in this collection.

12. Estimate of Annual Burden

The burden estimate for the Regulation E part of the collection is as follows:

<b>Regulation E</b> 12 C.F.R. Part 205	<b>Number of respondents</b>	<b>Annual frequency<sup>1</sup></b>	<b>Response time</b>	<b>Annual burden hours</b>
<u>Initial disclosures</u>				
General (205.7(b))	4,632	83	1.5 minutes	9,611
Payroll cards (205.18(c)(1))	5	5,000	1.5 minutes	625
Change-in-terms (205.8(a))	4,632	113	1 minute	8,724
<u>Transaction disclosures</u> (sections 205.9(a) and § 205.10)				0 <sup>2</sup>

1 The annual frequency estimates are based on FRB estimates that have been adjusted, where appropriate, to reflect that FDIC regulated institutions have, on average, approximately one-third as many accounts as FRB regulated institutions.

2 Consistent with the FRB analysis, no burden is associated with this requirement because the disclosures are machine generated and no institution employee is involved.

<u>Periodic statements</u> (section 205.9(b))				0 <sup>3</sup>
<u>Error resolution rules</u> General (205.8(b) and 205.11)	4,632	3	30 minutes	6,948
Payroll cards (205.18)	5	8	30 minutes	20
<u>Overdraft opt-in disclosures</u> (205.17, FRB r-1343)				
Revise and update initial disclosures (§205.17(c)(1)) for new customers	4170	1	16 hours	66,720
Prepare and send new opt-in notices to existing customers (205.17(c)(2))	4170	1	16 hours	66,720
Consumer response	30,050,000	1	5 minutes	2,504,167
<u>Gift card/gift certificate</u> (section 205.20, FRB R-1377)				
Exclusion policies & procedures (205.20(b)(2)) one-time	10	1	40 hours	400
Exclusion policies & procedures (205.20(b)(2)) ongoing	10	1	8 hours	80
Policy & procedures (205.20(e)(1)) one- time	10	1	40 hours	400
Policy & procedures (205.20(e)(1)) ongoing	10	1	8 hours	80
Systems change to implement disclosure update (205.20(e)(3))	10	1	40 hours	400
<b>Subtotal Regulation E</b>				<b>2,664,895</b>

The burden estimate for the Regulation CC part of the collection is as follows:

<b>Regulation CC</b> 12 C.F.R. Part 229 <sup>4</sup>	<b>Number of respondents</b>	<b>Annual frequency</b>	<b>Response time</b>	<b>Annual burden hours</b>
Specific availability policy disclosure (initial notice, upon request, upon change in policy)	4,632	140	1 minute	10,808

3 Consistent with the FRB analysis, the burden associated with this requirement is accounted for in the estimate of the paperwork burden associated with Regulation DD because EFT periodic statements are typically included with monthly checking and savings account statements.

4 The Regulation CC information requirements include previous FRB changes to 12 C.F.R. Part 229 to implement the Check 21 Act.

sections 229.16, 229.17 and 229.18(d)				
Case-by-case hold notice Section 229.16(c)	4,632	717	3 minutes	166,057
Notice of exceptions to hold policy section 229.13(g)	4,632	247	3 minutes	57,205
Notice posted where consumers make deposits (including at ATMs) <sup>5</sup> sections 229.18(b) and 229.18(c)	4,632	1	15 minutes	1,158
Notice of changes in policy section 229.18(e)	20	1	20 hours	400
Annual notice of new ATMs section 229.18(e)	4,632	1	5 hours	23,160
Notice of nonpayment section 229.33(a) and (d) <sup>6</sup> <ul style="list-style-type: none"> <li>• notice to depositary bank</li> </ul>	4,632	2,211	1 minute	170,689
Response to consumer's recredit claim (validation, denial, reversal) section 229.54(e)	4,632	12	15 minutes	13,896
Bank's claim against an indemnifying bank section 229.55	4,632	5	15 minutes	5,790
Consumer awareness disclosure section 229.57	4,632	170	1 minute	13,124
<b>Regulation CC consumer burden</b>				
Expedited recredit claim notice section 229.54(a) and (b)(2)	4,632	8	15 minutes	9,264
<b>Subtotal Regulation CC</b>				<b>471,551</b>

<sup>5</sup> Notice on preprinted deposit slips section 229.18(a). The preprinted deposit slip notice must inform the customer that deposits may not be available for immediate withdrawal. Consistent with the FRB's analysis, the FDIC considers this burden negligible.

<sup>6</sup> If the depositary bank receives a returned check or notice of nonpayment, regardless of the amount, it must send notice to its customer. Consistent with the FRB's analysis, this requirement is considered not to cause the bank additional burden because, were the requirement not to exist, banks presumably would nonetheless provide a similar notification to customers in the usual and customary course of their business.

The burden estimate for the Regulation DD part of the collection is as follows:

<b>Regulation DD</b> 12 C.F.R. Part 230	<b>Number of respondents</b>	<b>Annual frequency</b>	<b>Response time</b>	<b>Annual burden hours</b>
Account disclosures (upon request and new accounts) (section 230.4)	4,632	170	1.5 minutes	19,686
Subsequent notices (section 230.5)				
• Change in terms	4,632	380	1 minute	29,336
• Prematurity (renewal) notices	4,632	340	1 minute	26,248
Disclosures on periodic statements (section 230.6)	4,632	12	4 hours	222,336
Advertising (section 230.8)	4,632	12	30 minutes	27,792
<b>Subtotal Regulation DD</b>				<b>325,398</b>

**Burden Summary**

2,664,895 (Regulation E)  
 471,551 (Regulation CC)  
 325,398 (Regulation DD)  
**3,461,844 total estimated burden hours**

Estimated annual cost to FDIC-supervised institutions (at \$20 hourly cost).

\$3,211,760 (Regulation E)  
 \$9,431,020 (Regulation CC)  
 \$6,507,960 (Regulation DD)  
**\$19,150,740 total annual cost to FDIC-supervised institutions**

13. Capital, Start-up, Operating and Maintenance Costs

None.

14. Estimates of Annualized Cost to the Federal Government

None.

15. Reason for Change in Burden

There is no change in burden.

16. Publication

There is no publication of the information.

17. Display of Expiration Date

Not applicable to these disclosures.

18. Exceptions to Certification

None.

B. STATISTICAL METHODS

Not applicable.