

Supporting Statement
Recordkeeping Requirements for Securities Transactions
OMB Control No. 1557-0142

A. Justification.

1. Circumstances that make the collection necessary:

The information collection requirements in 12 CFR parts 12 and 151 are required to ensure that national banks and Federal savings associations comply with securities laws and to improve the protections afforded to persons who purchase and sell securities through these financial institutions. Parts 12 and 151 contain recordkeeping and confirmation requirements applicable to certain securities transactions effected by national banks or Federal savings associations for customers.

The OCC has issued a notice of proposed rulemaking, which would amend § 12.4(b) to allow institutions to direct a broker-dealer to mail confirmations to customers without requiring a duplicate to be sent by the institution. Sections 12.101 and 12.102, which required the disclosure of remuneration for mutual fund transactions and electronic communications, would be removed. Sections 151.60(a) and 151.60(b) would be amended to include the less detailed maintenance and storage procedures found in part 12. Section 151.60(b) would also be amended to allow the use of a third-party service provider for records storage and maintenance. Section 151.80 would be amended to provide that a Federal savings association that has previously determined compensation in a written agreement with the customer would not need to provide a remuneration statement for each securities transaction.

2. Use of the information:

The transaction confirmation information required by these regulations ensures that customers receive a record of each securities transaction and that financial institutions and the OCC have the records necessary to monitor compliance with securities laws and regulations. The OCC uses the required information in the course of its examinations to evaluate, among other things, an institution's compliance with the antifraud provisions of the Federal securities laws.

The information collection requirements contained in 12 CFR parts 12 and 151 are as follows:

- 12 CFR 12.3 requires a national bank effecting securities transactions for customers to maintain records for at least three years. The records required by this section must clearly and accurately reflect the information required and provide an adequate basis for the audit of the information.
- 12 CFR 151.50 requires a Federal savings association effecting securities transactions for customers to maintain records for at least three years. 12 CFR 151.60 provides that the records required by 12 CFR 151.50 must clearly and accurately reflect the information

required and provide an adequate basis for audit of the information. Under the proposal, §§ 151.60(a) and 151.60(b) would be amended to include the less detailed maintenance and storage procedures found in part 12. Section 151.60(b) would also be amended to allow the use of a third-party service provider for records storage and maintenance.

- 12 CFR 12.4 requires a national bank to give or send to the customer a written notification of the transaction or a copy of the registered broker/dealer confirmation relating to the transaction at or before completion of the securities transaction and establishes minimum disclosures needed for a customer's securities transactions. Under the proposed rule, § 12.4(b) would be amended to allow institutions to direct a broker-dealer to mail confirmations to customers without requiring a duplicate to be sent by the institution.
- 12 CFR 151.70, 151.80 and 151.90 establish the minimum disclosures required for a Federal savings association's confirmation of a customer's securities transactions. Under the proposed rule, § 151.80 would be amended to provide that a Federal savings association that has previously determined compensation in a written agreement with the customer would not need to provide a remuneration statement for each securities transaction.
- 12 CFR 151.90 requires a Federal savings association to provide its customers with a written notice of each securities transaction, which it must give or send to the customer at or before the completion of the securities transaction.
- 12 CFR 12.5(a), (b), (c), and (e) describe notification procedures that a national bank may elect to use, as an alternative to complying with § 12.4, to notify customers of transactions in which the bank does not exercise investment discretion, trust transactions, agency transactions, and certain periodic plan transactions.
- 12 CFR 151.100 describes notification procedures that a Federal savings association may use, as an alternative to complying with 12 CFR 151.70, 151.80, or 151.90, if the Federal savings association effects a securities transaction for or with the account of a customer under a periodic plan, sweep account, investment company plan, certain money market funds, a common or collective investment fund, certain accounts for which the Federal savings association exercises investment discretion in an agency capacity, and certain accounts for which it does not exercise investment discretion.
- 12 CFR 12.7(a)(1) through (a)(3) require national banks to maintain and adhere to policies and procedures that assign responsibility for supervision of employees who perform securities trading functions, provide for the fair and equitable allocation of securities and prices to accounts, and provide for crossing of buy and sell orders on a fair and equitable basis.
- 12 CFR 151.140 requires Federal savings associations to adopt written policies and procedures dealing with the functions involved in effecting securities transactions on behalf of customers. These policies and procedures must assign responsibility for the

supervision of employees who perform securities trading functions, provide for the fair and equitable allocation of securities and prices to accounts, and provide for crossing of buy and sell orders on a fair and equitable basis.

- 12 CFR 12.7(a)(4) requires certain national bank officers and employees involved in the securities trading process to report to the bank all personal transactions in securities made by them or on their behalf in which they have a beneficial interest.
- 12 CFR 151.150 requires certain Federal savings association officers and employees to report personal transactions they make or that are made on their behalf in which they have a beneficial interest.
- 12 CFR 12.8 requires a national bank seeking a waiver of one or more of the requirements of §§ 12.2 through 12.7 to file a written request for waiver with the OCC.

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

An institution may use any software or hardware to facilitate compliance with the regulations.

4. *Efforts to identify duplication:*

This recordkeeping requirement is not duplicative of any other requirement imposed on institutions.

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

Not applicable.

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

Less frequent collection would not comply with applicable statutes, would be inadequate for OCC purposes, and could impair the OCC's supervisory program.

7. *Special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR part 1320:*

Not applicable.

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

This information collection was published for 60 days of comment through a notice of proposed rulemaking.

9. Payment or gift to respondents:

None.

10. Any assurance of confidentiality:

The information is kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

Not applicable.

12. Burden estimate:

| Section | Burden Type | Number of Respondents | Average Hours Per Response | Estimated Burden Hours |
|--|---------------|------------------------|----------------------------|------------------------|
| 12 CFR 12.3, 151.50 and 151.60 | Recordkeeping | 399 | .5 hour | 199.5 hours |
| 12 CFR 12.4, 12.5, 151.70, 151.80, 151.90, and 151.100 | Disclosure | 399 | .5 hour | 199.5 hours |
| 12 CFR 12.7 and 151.140 | Recordkeeping | 399 | 2 hour | 798 hours |
| 12 CFR 12.7 and 151.150 | Reporting | 399 | 1.5 hours | 598.5 hours |
| 12 CFR 12.8 | Reporting | 3 | 40 hour | 120 hours |
| Total | | 399 respondents | | 1,916 hours |

Cost of Hour Burden to Respondents:

1,916 hours x \$101 = \$193,516.

To estimate average hourly wages we reviewed data from May 2014 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the rule, we use \$101 per hour, which is based on the average of the 90th percentile for seven occupations adjusted for inflation (2 percent), plus an additional 30 percent to cover private sector benefits. Thirty percent represents the average private sector costs of employee benefits.

13. Estimate of annualized costs to respondents (excluding the cost of hour burden in Items 12 and 14):

None.

14. Estimate of annualized costs to the Federal government:

Not applicable.

15. Change in burden:

Prior Burden: 2,316 hours.

Current Burden: 1,916 hours.

Difference: - 399 hours.

The change in burden is due to the removal of requirements and imposition of less burdensome requirements.

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

Not applicable.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

None.

B. Collections of Information Employing Statistical Methods.

Not applicable.