

**Supporting Statement**  
**Incentive Based Compensation Arrangements**  
**OMB Control No. 3064-NEW**

**A. Justification.**

***1. Circumstances that make the collection necessary:***

This submission is being made in connection with a notice of proposed rulemaking published in the *Federal Register* by the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), the Federal Housing Finance Agency (FHFA), the National Credit Union Administration (NCUA) and the U.S. Securities and Exchange Commission (SEC) hereinafter referred to as the “Agencies.” Section 956(e) of the Dodd-Frank Act<sup>1</sup> requires that the Agencies prohibit incentive-based payment arrangements at a covered financial institution that encourage inappropriate risks by a financial institution by providing excessive compensation or that could lead to material financial loss. Under the Dodd-Frank Act, a covered financial institution also must disclose to its appropriate Federal regulator the structure of its incentive-based compensation arrangements sufficient to determine whether the structure provides “excessive compensation, fees, or benefits” or “could lead to material financial loss” to the institution. The Dodd-Frank Act does not require a covered financial institution to disclose compensation of individuals as part of this requirement.

***2. Use of the information:***

Proposed 12 CFR 372.4(f) would require all covered institutions to create annually and maintain for a period of at least 7 years records that document the structure of all its incentive-based compensation arrangements and demonstrate compliance with this part. A covered institution must disclose the records to the FDIC upon request. At a minimum, the records must include copies of all incentive-based compensation plans, a record of who is subject to each plan, and a description of how the incentive-based compensation program is compatible with effective risk management and controls.

Section 372.5 would require a Level 1 or Level 2<sup>2</sup> covered institution to create annually and maintain for a period of at least 7 years records that document: (1) the covered institution’s

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<sup>1</sup> Pub. L. 111-203, 124 Stat. 1376 (2010).

<sup>2</sup> A Level 1 covered institution would be a covered institution with average total consolidated assets greater than or equal to \$250 billion or is a subsidiary of a depository institution holding company that is a Level 1 covered institution. A Level 2 covered institution would be a covered institution with average total consolidated assets greater than or equal to \$50 billion that is not a Level 1 covered institution or is a subsidiary of a depository institution holding company that is a Level 2 covered institution.

senior executive officers and significant risk-takers, listed by legal entity, job function, organizational hierarchy, and line of business; (2) the incentive-based compensation arrangements for senior executive officers and significant risk-takers, including information on percentage of incentive-based compensation deferred and form of award; (3) any forfeiture and downward adjustment or clawback reviews and decisions for senior executive officers and significant risk-takers; and (4) any material changes to the covered institution's incentive-based compensation arrangements and policies. A Level 1 or Level 2 covered institution must create and maintain records in a manner that allows for an independent audit of incentive-based compensation arrangements, policies, and procedures, including those required under §42.11. A Level 1 or Level 2 covered institution must provide the records described above to the FDIC in such form and with such frequency as requested by the FDIC.

Section 372.11 would require a Level 1 or Level 2 covered institution to develop and implement policies and procedures for its incentive-based compensation program that, at a minimum: (1) are consistent with the prohibitions and requirements of this part; (2) specify the substantive and procedural criteria for the application of forfeiture and clawback, including the process for determining the amount of incentive-based compensation to be clawed back; (3) require that the covered institution maintain documentation of final forfeiture, downward adjustment, and clawback decisions; (4) Specify the substantive and procedural criteria for the acceleration of payments of deferred incentive-based compensation to a covered person, consistent with Section 372.7(a)(1)(iii)(B) and Section 372.7(a)(2)(iii)(B)); (5) identify and describe the role of any employees, committees, or groups authorized to make incentive-based compensation decisions, including when discretion is authorized; (6) describe how discretion is expected to be exercised to appropriately balance risk and reward; (7) require that the covered institution maintain documentation of the establishment, implementation, modification, and monitoring of incentive-based compensation arrangements, sufficient to support the covered institution's decisions; (8) describe how incentive-based compensation arrangements will be monitored; (9) specify the substantive and procedural requirements of the independent compliance program consistent with Section 372.9(a)(2); and (10) ensure appropriate roles for risk management, risk oversight, and other control function personnel in the covered institution's processes for designing incentive-based compensation arrangements and determining awards, deferral amounts, deferral periods, forfeiture, downward adjustment, clawback, and vesting; and assessing the effectiveness of incentive-based compensation arrangements in restraining inappropriate risk-taking.

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

Financial institutions may use any information technology that permits review by FDIC examiners.

### ***4. Efforts to identify duplication:***

The information required is unique. It is not duplicated elsewhere.

### ***5. Methods used to minimize burden if the collection has an impact on a substantial number of***

**small entities:**

Not applicable.

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

Conducting the collection less frequently would make it more difficult for examiners to evaluate an institution's compliance with the rule.

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

None.

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

The collection of information was published in connection with a notice of proposed rulemaking in the *Federal Register* (81 FR 37670, June 10, 2016). The comment period on the notice of proposed rulemaking closes on July 22, 2016.

**9. Payment to respondents:**

None.

**10. Any assurance of confidentiality:**

The information will be kept private to the extent permitted by law.

**11. Justification for questions of a sensitive nature:**

There are no questions of a sensitive nature.

**12. Burden estimate:**

	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
<b>Initial Setup</b>				
Section 372.4(f) (All levels)	353	1	40	14,120
Sections 372.5 and 372.11 (Levels 1 & 2)	13	1	40	520
<i>Total Initial Setup</i>				14,640
<b>Ongoing</b>				
Section 372.4(f) (All levels)	353	1	20	7,060

Sections 372.5 and 372.11 (Levels 1 & 2)	13	1	20	260
	<i>Total Ongoing</i>			7,320
	<i>Total</i>			21,960

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**Cost of Hour Burden**

**21,960 x \$101 = \$2,217,960**

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 cost of hour burden in Item #12):**

None.

**14. Estimate of annualized costs to the government:**

None.

**15. Changes in burden:**

The increase in burden of 21,960 hours is due to the fact that this is a new collection.

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

No publication for statistical use is contemplated.

**17. Display of expiration date:**

Not applicable.

**18. Exceptions to certification statement:**

Not applicable.

**B. Collections of Information Employing Statistical Methods.**

Not applicable.