

Supporting Statement
Amendment of 12 CFR Part 371 – Recordkeeping Requirements for Qualified Financial Contracts

OMB Control No. 3064-0163 [REVISED]

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*. The FDIC is issuing this proposed rule under its authorities under Section 1821(e)(8)(H) of the Federal Deposit Insurance Act (FDI Act).¹ The proposed rule would amend and restate in its entirety 12 CFR Part 371 (“Part 371”), which was adopted in December 2008 and sets forth recordkeeping requirements relating to qualified financial contracts (“QFCs”) of insured depository institutions (“IDIs”) that are in “troubled condition”, as defined in Part 371.

On October 31, 2016, the Department of the Treasury published its QFC recordkeeping regulations codified at 31 CFR Part 148 (the ‘Part 148 Regulations’). These regulations impose comprehensive QFC recordkeeping requirements on large U.S. financial company groups where at least one member has a significant QFC portfolio. The Part 148 Regulations do not require QFC recordkeeping for IDIs and certain IDI subsidiaries. The proposed rule would align the recordkeeping requirements of Part 371 for large IDIs (IDIs with \$50 billion or more in total consolidated assets) and IDIs that are members of corporate groups that are subject to Part 148 (collectively, “Full Scope Entities”) with the requirements of Part 148. It would also make formatting changes to the recordkeeping requirements and delete and add certain recordkeeping requirements for other IDIs (“Limited Scope Entities”). These changes will improve the FDIC’s ability, if it is appointed receiver of an IDI, to expeditiously analyze and make decisions regarding the IDI’s QFC portfolio.

2. Use of the information:

Part 371 is a recordkeeping regulation. The records that are required to be maintained are not required to be reported to the FDIC unless specific request for the records is made by the FDIC. If the records are requested from an IDI, they would be used to help the FDIC, when it is appointed receiver, determine whether to transfer the QFCs during the one-business-day stay period applicable to QFCs of an IDI for which a receiver is appointed.

3. Consideration of the use of improved information technology:

The proposed rule prescribes a specific format for the maintenance of these records that is compatible with currently available information technology.

¹ 12 U.S.C. 1821(e)(8)(H).

4. Efforts to identify duplication:

The information required is unique. It is not duplicated by other information collected by the FDIC.

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

The collection applies only to IDIs in a troubled condition. The new recordkeeping required for small entities (other than the limited number of small entities that are members of corporate groups subject to the Part 148 Regulations) are quite limited and, because most small entities are not parties to QFCs, will not apply to most small entities.

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

The collection is event-generated, that is, it results from an IDI becoming in a troubled condition and becoming subject to Part 371. Conducting the collection less frequently would be at odds with the goals of the regulation of requiring maintenance of current records as to QFCs.

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

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR Part 1320.

8. Efforts to consult with persons outside the agency:

In developing this proposal, as required by statute, the FDIC consulted with the Federal Reserve Board and the OCC. The FDIC published the proposed rule in the *Federal Register* (81 FR 95496, December 28, 2016). The comment period on the notice of proposed rulemaking in connection with the Paperwork Reduction Act of 1995 closes on February 27, 2017.

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:

Not applicable.

12. Burden estimate:

Existing Burden: The burden, as previously approved in 2015, was as follows:

Title	Type of Burden	Estimated Number of Respondents	Estimated Number of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden
Appendix A, Tables A & B	Reporting	190	12	2 hours	Monthly	4,560 hours
Appendix A (Part B)	Recordkeeping	190	4	10 hours	Quarterly	7,600 hours
Application for Extension of Time	Reporting	20	1	.5 hour	On Occasion	10 hours
TOTAL BURDEN						12,170 hours

Additional Burden: The additional burden in connection with this proposed rule is as follows:

Title	Type of Burden	Estimated Number of Respondents	Estimated Number of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden
Full Scope Entities: Recordkeeping related to QFCs to which they are a party when they are in troubled condition	Recordkeeping	2	1	3,000 hours	On Occasion	6,000 hours
Limited Scope Entities: Recordkeeping related to QFCs to which they are a party when they are in troubled condition	Recordkeeping	65	1	5 hours	On Occasion	325 hours
TOTAL BURDEN						6,325 hours

The total burden including the previously approved burden is **18,495 hours**.

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 6,325 hours is due to the fact there are additional data elements required to be maintained by this 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.