

SUPPORTING STATEMENT
ACCOUNT BASED DISCLOSURES IN CONNECTION WITH
CONSUMER FINANCIAL PROTECTION BUREAU REGULATIONS E AND DD
AND
FEDERAL RESERVE REGULATION CC
(OMB No. 3064-0084)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting a three-year renewal of the information collection (3064-0084) associated with the Consumer Financial Protection Bureau (CFPB) Regulations E and DD and the Federal Reserve (FRB) Regulation CC. Although the CFPB and the FRB issued these regulations, each bank regulator calculates the burden for the institutions it supervises. The current clearance for the collection expires on March 31, 2018. There is no change in the method or substance of the collection. _____

A. JUSTIFICATION

1. Circumstances and Need

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

- Regulation E ("Electronic Fund Transfers," 12 C.F.R. Part 1005);
- Regulation CC ("Availability of Funds," 12 C.F.R. Part 229); and
- Regulation DD ("Truth in Savings," 12 C.F.R. Part 1030).

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 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. § 1005.17 and 12 C.F.R. § 1030.03(a).

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 provided in those periodic statements.

5. Minimizing the Burden on Small Banks

Generally, the relevant statutes require the disclosures to be made notwithstanding the size of the institution.

According to data from the most recent Call Report there are 3,674 FDIC-supervised institutions.¹ 2,950 out of the 3,674 FDIC-supervised institutions have total assets of less than \$550 million and therefore meet the Small Business Administration's definition of a "small entity."

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

There are no special circumstances.

8. Consultation with Persons Outside the FDIC

A notice seeking public comment for a 60-day period was published in the *Federal Register* on December 28, 2017 (82 FR 61567). 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.

¹ Call Report, September 30th, 2017.

12. Estimate of Annual Hourly Burden and Associated Cost

Summary of Annual Burden								Total Cost of Annual Estimated Burden (Internal)
	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Time per Response (hours)	Estimated Frequency	Frequency of Response	Total Annual Estimated Burden	
Reg E - 12 C.F.R. Part 1005								
<i>Initial disclosures</i>								
General (1005.7(b))	Disclosure	Mandatory	3,674	0.025	83	On Occasion	7,624	\$591,130.07
Payroll cards (1005.18(c)(1))	Disclosure	Mandatory	6	0.025	5,000	On Occasion	750	\$58,155.00
<i>Change-in-terms (1005.8(a))</i>	Disclosure	Mandatory	3,674	0.017	113	On Occasion	6,919	\$536,527.69
<i>Transaction disclosures (sections 1005.9(a) and 1005.10)</i>	Disclosure						0	
<i>Periodic statements (section 1005.9(b))</i>	Disclosure						0	
<i>Error resolution rules</i>								
General (1005.8(b) and 1005.11)	Disclosure	Mandatory	3,674	0.500	3	On Occasion	5,511	\$427,322.94
Payroll cards (1005.18)	Disclosure	Mandatory	6	0.500	8	On Occasion	24	\$1,860.96
<i>Overdraft opt-in disclosures (1005.17, FRB r-1343)</i>								
Revise and update initial disclosures (1005.17(c)(2)) for new customers	Disclosure	Mandatory	3,625	16.000	1	On Occasion	58,000	\$4,497,320.00
Prepare and send new opt-in notices to existing customers (1005.17(c)(1))	Disclosure	Mandatory	3,625	16.000	1	On Occasion	58,000	\$4,497,320.00
Consumer response (section 1005.17)	Recordkeeping	Voluntary	3,625	0.083	7,207	On Occasion	2,177,115	\$168,813,464.79
<i>Gift card/gift certificate (section 1005.20, FRB R-1377)</i>								
Exclusion policies & procedures (1005.20(b)(2)) one-time	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240	\$18,609.60
Exclusion policies & procedures (1005.20(b)(2)) ongoing	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48	\$3,721.92
Policy & procedures (1005.20(e)(1)) one-time	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240	\$18,609.60
Policy & procedures (1005.20(e)(1)) ongoing	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48	\$3,721.92
Systems change to implement disclosure update (1005.20(e)(3))	Disclosure	Mandatory	6	40.000	1	On Occasion	240	\$18,609.60
Subtotal Reg E Burden							2,314,759	\$179,486,374.09

	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Time per Response (hours)	Estimated Frequency	Frequency of Response	Total Annual Estimated Burden	Total Cost of Annual Estimated Burden (Internal)
Regulation CC - 12 C.F.R. Part 229								
<i>Specific availability policy disclosure (initial notice, upon request, upon change in policy) (sections 229.16, 229.17 and 229.18(d))</i>	Disclosure	Mandatory	3,674	0.017	140	On Occasion	8,573	\$664,724.57
<i>Case-by-case hold notice (section 229.16(c))</i>	Disclosure	Mandatory	3,674	0.050	717	On Occasion	131,713	\$10,213,018.27
<i>Notice of exceptions to hold policy (section 229.13(g))</i>	Disclosure	Mandatory	3,674	0.050	247	On Occasion	45,374	\$3,518,292.21
<i>Notice posted where consumers make deposits (including at ATMs) (sections 229.18(b) and 229.18(c))</i>	Disclosure	Mandatory	3,674	0.250	1	On Occasion	919	\$71,220.49
<i>Notice of changes in policy (section 229.18(e))</i>	Disclosure	Mandatory	16	20.000	1	On Occasion	320	\$24,812.80
<i>Annual notice of new ATMs (section 229.18(e)) (see Appendix E to Part 229, Commentary, section XII, E., comment no. 3)</i>	Disclosure	Mandatory	3,674	5.000	1	On Occasion	18,370	\$1,424,409.80
<i>Notice of nonpayment - notice to depository bank (section 229.33(a) and (d))</i>	Disclosure	Mandatory	3,674	0.017	2,211	On Occasion	135,387	\$10,497,900.23
<i>Response to consumer's recredit claim (validation, denial, reversal) (section 229.54(e))</i>	Disclosure	Mandatory	3,674	0.250	12	On Occasion	11,022	\$854,645.88
<i>Bank's claim against an indemnifying bank (section 229.55)</i>	Reporting	Mandatory	3,674	0.250	5	On Occasion	4,593	\$580,354.23
<i>Consumer awareness disclosure (section 229.57)</i>	Disclosure	Mandatory	3,674	0.017	170	On Occasion	10,410	\$807,165.55
<i>Reg CC Consumer Burden - Expedited recredit claim notice (section 229.54(a) and (b)(2))</i>	Reporting	Mandatory	3,674	0.250	8	On Occasion	7,348	\$569,763.92
Subtotal Reg CC Burden							374,027	\$29,226,307.94
Regulation DD - 12 C.F.R. Part 1030								
<i>Account disclosures (upon request and new accounts) (section 1030.4)</i>	Disclosure	Mandatory	3,674	0.025	170	On Occasion	15,615	\$1,210,748.33
<i>Subsequent notices (section 1030.5)</i>								
Change in terms	Disclosure	Mandatory	3,674	0.017	380	On Occasion	23,269	\$1,804,252.41
Prematurity (renewal) notices	Disclosure	Mandatory	3,674	0.017	340	On Occasion	20,819	\$1,614,331.11
<i>Disclosures on periodic statements (section 1030.6)</i>	Disclosure	Mandatory	3,674	4.000	12	On Occasion	176,352	\$13,674,334.08
<i>Advertising (section 1030.8)</i>	Disclosure	Mandatory	3,674	0.500	12	On Occasion	22,044	\$1,709,291.76
Subtotal Reg DD Burden							258,099	\$20,012,957.69
TOTAL BURDEN							2,946,884	\$228,725,639.72

Internal Cost Estimate Breakdown

A reasonable estimate of the average hourly compliance cost for institutions is \$77.54 for all but one of the line items.²

For the line item titled “Bank’s claim against an indemnifying bank” under Regulation C, 12 C.F.R. Part 229.55, an appropriate hourly cost estimate is \$126.37.³

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 the method or substance of the collection. The 529,480 reduction in burden hours is the result of economic fluctuation and the reduced number of FDIC-supervised institutions since the last submission in 2014. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

16. Publication

Not applicable.

17. Display of Expiration Date

Not applicable.

18. Exceptions to Certification

None.

² Estimated total hourly compensation of Compliance Officers in the Depository Credit Intermediation sector as of September 2017. The estimate includes the May 2016 90th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and September 2017 (2.93 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the September 2017 Employer Costs for Employee Compensation Data.

³ Estimated total hourly compensation of Lawyers in the Depository Credit Intermediation sector as of September 2017. The estimate includes the May 2016 median hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. This wage rate has been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2016 and September 2017 (2.93 percent) and grossed up by 35.5 percent to account for non-monetary compensation as reported by the September 2017 Employer Costs for Employee Compensation Data.

B. STATISTICAL METHODS

Not applicable.