SUPPORTING STATEMENT

Reporting, Recordkeeping and Disclosure Requirements Associated with Proprietary Trading and Certain Interests in and Relationships with Covered Funds

OMB Control No. 3064-0184

INTRODUCTION

The subject collection of information is currently approved by OMB under control number 3064-0184. OMB approval is scheduled to expire on July 31, 2020. This submission is being made in connection with a final rule being issued by the Board of Governors of the Federal Reserve System (the "Board"), the Office of the Comptroller of the Currency (the "OCC"), the Federal Deposit Insurance Corporation (the "FDIC"), the Securities and Exchange Commission (the "SEC") and the Commodities Futures Trading Commission (the "CFTC"). The final rule maintains the Volcker Rule's prohibitions and restrictions while also: (1) providing banking entities with greater certainty about prohibited and permitted activities and investments; (2) improving supervision; and (3) minimizing the compliance burden for smaller banking entities that engage in limited trading activities. The final rule reduces reporting, recordkeeping, and disclosure requirements on covered entities as described below.

JUSTIFICATION

1. Circumstances that make the collection necessary:

Section 619 of the Dodd-Frank Act added a new section 13 to the Bank Holding Company ("BHC") Act (codified at 12 U.S.C. § 1851) that, subject to certain exemptions, generally prohibits any banking entity from engaging in proprietary trading or from investing in, sponsoring, or having certain relationships with a hedge fund or private equity fund ("covered fund") (the "Volcker Rule"). The BHC Act also provides for certain nonbank financial companies that engage in such activities or have such investments or relationships to be subject to additional capital requirements, quantitative limits, or other restrictions. The agencies are revising to the Volcker Rule to provide banking entities with a greater certainty about what activities are prohibited and to improve supervision and implementation of section 13 of the BHC Act, while reducing the overall complexity and burden associated with the prior rule.

To better tailor the application of the Volcker Rule, the final rule establishes three categories of banking entities based on trading activity and risk profile.

- Banking entities with **"significant"** trading assets and liabilities. These are generally those entities that (together with their affiliates and subsidiaries) have trading assets and liabilities equal to or exceeding $20 billion. These banking entities would be required to comply with the most extensive set of requirements under the proposed rule.

- Banking entities with **<u>"moderate"</u>** trading assets and liabilities. These are entities that (together with their affiliates and subsidiaries) have trading assets and liabilities less than $20 billion but above the threshold described below for entities with "limited" trading assets and liabilities. These banking entities are subject to reduced compliance requirements and a more tailored supervisory approach in light of their smaller and less complex trading activities.

- Banking entities with **<u>"limited"</u>** trading assets and liabilities. These are entities that (together with their affiliates and subsidiaries) have trading assets and liabilities of less than $1 billion. The final rule establishes a presumption of compliance for all such banking entities with "limited" trading assets and liabilities under which these entities have no obligation to demonstrate compliance with subpart B and C of the rule on an ongoing basis unless, upon examination or audit, the relevant supervisory agency determines that such banking entity has engaged in prohibited proprietary trading or covered fund activities. In such instance, the supervisory agency may exercise the authority to rebut the presumption of compliance and require the banking entity to be subject to the compliance requirements applicable to a banking entity with "significant" or "moderate" trading assets and liabilities. The presumption of compliance reduces compliance burden for banks that either do not engage in the types of activities subject to section 13 of the BHC Act or engage in such activities only on a limited scale.

2. <u>Use of the Information:</u>

The new and modified reporting requirements are found in sections 351.4(c)(3)(i), 351.20(d), 351.20(i), and the Appendix. The new and modified recordkeeping requirements are found in sections, 351.3(d)(3), 351.4(c)(3)(i), 351.5(c), 351.20(b), 351.20(c), 351.20 (d), 351.20(e), 351.20(f), and the Appendix. The respondents are for-profit financial institutions, including small businesses. A covered entity must retain required records for a period that is no less than 5 years in a form that allows for the prompt production of such records to the FDIC on request. The information is used to identify and prevent prohibited proprietary trading.

Reporting Requirements

Section 351.4(c)(3)(i) requires a banking entity to make available to the agency upon request records regarding (1) any limit that is exceeded and (2) any temporary or permanent increase to any limit(s), in each case in the form and manner as directed by the primary financial regulatory agency. The agencies estimate that the average time per response would be 15 minutes.

Section 351.20(d) is modified by extending the reporting period for certain banking entities from within 10 days of the end of each calendar month to 30 days of the end of each calendar quarter. The threshold for reporting under section 351.20(d) is modified from $10 billion or more in trading assets and liabilities to $20 billion or more in trading assets and liabilities. The metrics

reporting changes to the Appendix would impact the reporting burden under section 351.20(d). The agencies estimate that the current average hours per response will decrease by 14 hours (decrease 40 hours for initial set-up).

Sections 351.3(b)(4), 351.4(c)(4), 351.20(g)(2), and 351.20(h) would implicate the notice and response procedures pursuant to section 351.20(i) that an agency would follow when rebutting a presumption or exercising a reservation of authority. The agencies estimate that the average hours per response would be 20 hours.

Recordkeeping Requirements

Section 351.3(d)(3) would expand the scope of the recordkeeping to include foreign exchange forward (as that term is defined in section 1a(24) of the Commodity Exchange Act (7 U.S.C. 1a(24)), foreign exchange swap (as that term is defined in section 1a(25) of the Commodity Exchange Act (7 U.S.C. 1a(25)), or cross-currency swap. The agencies estimate that the current average hour per response will not change.

Section 351.4(c)(3)(i) requires a banking entity to maintain records regarding (1) any limit that is exceeded and (2) any temporary or permanent increase to any limit(s), in each case in the form and manner as directed by the primary financial regulatory agency. The agencies estimate that the average time per response would be 15 minutes.

Section 351.5(c) is modified by reducing the requirements for banking entities that do not have significant trading assets and liabilities and eliminating documentation requirements for certain hedging activities. The agencies estimate that the current average hours per response will decrease by 20 hours (decrease 10 hours for initial set-up).

Section 351.20(b) is modified by limiting the requirement only to banking entities with significant trading assets and liabilities. The agencies estimate that the current average hour per response will not change.

Section 351.20(c) is modified by limiting the CEO attestation requirement to a banking entity that has significant trading assets and liabilities. The agencies estimate that the current average hours per response will decrease by 1,100 hours (decrease 3,300 hours for initial set-up).

Section 351.20(d) is modified by extending the time period for reporting for certain banking entities from within 10 days of the end of each calendar month to 30 days of the end of each calendar quarter. The agencies estimate that the current average hours per response will decrease by 3 hours.

Section 351.20(e) is modified by limiting the requirement to banking entities with significant trading assets and liabilities. The agencies estimate that the current average hours per response will not change.

Section 351.20(f)(2) is modified by limiting the requirement to banking entities with moderate

trading assets and liabilities. The agencies estimate that the current average hours per response will not change.

3. Consideration of the use of improved information technology:

Banks may use technology to the extent feasible, desirable or appropriate to make the required reports and to maintain the required records 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 a significant impact on a substantial number of small entities:

Almost all FDIC-supervised small banking entities are exempt from the requirements of section 13 of the BHC Act, pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), and hence the final rule does not affect them. Only one FDIC-supervised small banking entity is not exempt from the requirements of section 13 of the BHC Act under EGRRCPA because it has trading assets and liabilities greater than five percent of total consolidated assets. This bank has trading activity at levels that would place it in the final rule's limited trading assets and liabilities compliance category, and it thus could benefit from the final rule which contains a rebuttable presumption of compliance for such banking entities. The FDIC has identified one of 2,645 small banking entities that are potentially affected by the final rule with generally modest compliance cost reductions. The FDIC believes the final rule will not have a significant economic impact on a substantial number of FDIC-supervised small banking entities.

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

The disclosure requirements are imposed on a per occurrence/transaction basis. Less frequent disclosures would impair the ability of investors to adequately evaluate the investment potential of each transaction. The recordkeeping requirements to develop liquidity management plans and policies and procedures to monitor compliance with regulatory requirements are one-time burdens, although the FDIC expects that banking entities will review their policies and procedures to reflect any changed conditions no less frequently than annually.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320.5(d)(2):

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

The agencies published a notice of proposed rulemaking with a 60-day comment period in the Federal Register on July 17, 2018 (83 FR 33432) seeking comments on the proposed rule. OMB issued a pre-approval for the collection, but the FDIC is resubmitting because the information collection has changed since the proposed rule stage.

The agencies received numerous comments addressing the substance of the proposed rule as well as various Paperwork Reduction Act issues.

Liquidity Management Plan

Several commenters argued that the requirement to maintain a documented liquidity management plan with certain enumerated elements is unnecessarily prescriptive.[1] The agencies believe it is important to retain the requirement to maintain a documented liquidity management plan to provide clarity in the administration of the rule and to protect against potential misuse of the liquidity management exclusion for proprietary trading. The agencies believe that the six required elements of the liquidity management plan help to mitigate commenters' concerns that the proposal would have encouraged banking entities to exclude impermissible trades as liquidity management or increase risk-taking. Under the liquidity management plan required by the final rule, the exclusion does not apply to activities undertaken with the stated purpose or effect of hedging aggregate risks incurred by the banking entity or its affiliates related to asset-liability mismatches or other general market risks to which the entity or affiliates may be exposed. Further, the exclusion does not apply to any trading activities that expose banking entities to substantial risk from fluctuations in market values, unrelated to the management of near-term funding needs, regardless of the stated purpose of the activities.

Compliance Program Related to Exemptions for Underwriting and Market-Making

Feedback from market participants and agency oversight indicated that the compliance program requirements of the existing exemptions for underwriting and market making-related activities might be unduly complex and burdensome for banking entities with smaller and less active trading activities. The agencies proposed a tiered approach to such compliance program requirements, to make these requirements commensurate with the size, scope, and complexity of the relevant banking entity's trading activities and business structure. Under the proposed rule, a banking entity with significant trading assets and liabilities would continue to be required to establish, implement, maintain, and enforce a comprehensive internal compliance program as a condition for relying on the exemptions for underwriting and market making-related activities. However, the agencies proposed to eliminate such compliance program requirements for banking entities that have moderate or limited trading assets and liabilities.

Some commenters did not support the removal of the underwriting or market making-specific compliance program requirements for banking entities with limited and moderate trading assets

[1] See, e.g., ISDA; KeyCorp; IIB; CCMC; SIFMA; and Goldman Sachs.

and liabilities under the proposal. For example, one commenter urged the agencies to require all banking entities to establish, implement, maintain, and enforce such compliance program, independent of any presumption of compliance.[2] This commenter indicated that there are "exceedingly low incremental costs" associated with most elements of the reasonably expected near term demands (RENTD) compliance and controls framework for the exemptions for underwriting and market making-related activities, even for those banking entities with limited or moderate trading assets and liabilities. In the commenter's view, minimal incremental costs support the retention of such requirements, which are further justified by the increased stability of financial institutions and financial markets as a result of the 2013 rule.[3]

Further, that same commenter asserted that the compliance requirements under the 2013 rule permit too much discretion for banking entities to implement policies, procedures, and controls, noting that judgments on the effectiveness of implemented controls depend on the methodologies used by banking entities' testing functions, and argued that the agencies should consider additional capital and activities-based requirements specifically tied to the reported inventory of trading assets, taking into account the total size of those trading assets, the overall capital position of the financial institution, and the average holding period or aging of trading assets, which may indicate that inventories are unrelated to underwriting and market making activities. Similarly, another commenter indicated that a tiered compliance approach would not be appropriate because it considered the proposed categorization of entities in terms of trading assets and liabilities to be flawed.[4]

Other commenters supported the revisions under the proposed rule to apply the market making-related activities' compliance program requirements only to those banking entities with significant trading assets and liabilities. For example, one commenter expressed concern that the market making-related activities' compliance program requirements under the 2013 rule have contributed to decreased market making activities with, and increased costs for, banking entities' commercial end-user counterparties.[5] This commenter indicated that applying the market making-related activities' compliance program requirements only to banking entities with significant trading assets and liabilities would allow banking entities to develop more efficient compliance and liquidity risk management programs, which would ultimately reduce transaction costs for commercial end users.[6] Another commenter expressed the view that the proposed approach of applying the compliance program requirements under the exemptions for underwriting and market making-related activities only to those banking entities with significant trading assets and liabilities was an appropriate means of reducing the regulatory burdens on banks with limited or moderate trading and underwriting exposures.[7] That commenter noted that such approach would continue to allow for the appropriate monitoring of these activities to ensure compliance with the provisions of the 2013 rule.[8]

---

[2] See Better Markets comment.

[3] *Id.*

[4] *See* Data Boiler comment.

[5] *See* Coalition of Derivatives End Users.

[6] *Id.*

[7] *See* CFA.

[8] *Id.*

The agencies believe that the compliance program requirements that apply specifically to the exemptions for underwriting and market making-related activities play an important role in facilitating and monitoring a banking entity's compliance with the requirements of those exemptions. However, the agencies also believe that those requirements can be appropriately tailored to the nature of the underwriting and market making activities conducted by each banking entity. It also is important to recognize that the removal of such compliance program requirements for banking entities that do not have significant trading assets and liabilities would not relieve those banking entities of the obligation to comply with the other requirements of the exemptions for underwriting and market making-related activities, including RENTD requirements, under the final rule.

Accordingly, and after consideration of the comments, the agencies continue to believe that removing the §351.4 compliance program requirements for banking entities that do not have significant trading assets and liabilities as a condition to engaging in permitted underwriting and market making-related activities should provide these banking entities with additional flexibility to tailor their compliance programs in a way that takes into account the risk profile and relevant trading activities of each particular trading desk.

The agencies recognize that banking entities that do not have significant trading assets and liabilities may incur costs to establish, implement, maintain, and enforce the compliance program requirements applicable to permitted underwriting activities under the 2013 rule. As the trading activities of banking entities that do not have significant trading activities comprise approximately six percent of the total U.S. trading activity subject to the Volcker Rule, the agencies believe the costs of the compliance program requirement would be disproportionate to the banking entity's trading activity and the risk posed to U.S. financial stability. Accordingly, eliminating the §351.4 compliance program requirements for permitted underwriting and market making-related activities conducted by banking entities that do not have significant trading assets and liabilities may reduce compliance costs without materially impacting conformance with the objectives set forth in section 13 of the BHC Act. Applying these specific compliance requirements only to banking entities with significant trading assets and liabilities also is consistent with the modifications to the general compliance program requirements for these banking entities under §351.20 of the final rule, as discussed below.

Accordingly,§351.4(a)(2)(iii) of the final rule requires banking entities with significant trading assets and liabilities, as a condition to complying with the underwriting exemption, to establish and implement, maintain, and enforce an internal compliance program required by subpart D that is reasonably designed to ensure the banking entity's compliance with the requirements of the exemption, including reasonably designed written policies and procedures, internal controls, analysis and independent testing identifying and addressing:

a) The products, instruments or exposures each trading desk may purchase, sell, or manage as part of its underwriting activities;

b) Limits for each trading desk, in accordance with §351.4(a)(2)(ii)(A);[9]

---

9 Final rule §351.4(a)(2)(ii)(A) requires that the amount and type of the securities in the trading desk's underwriting

c) Written authorization procedures, including escalation procedures that require review and approval of any trade that would exceed a trading desk's limit(s), demonstrable analysis of the basis for any temporary or permanent increase to a trading desk's limit(s), and independent review of such demonstrable analysis and approval; and

d) Internal controls and ongoing monitoring and analysis of each trading desk's compliance with its limits.

With respect to the exemption for market making-related activities,§351.4(a)(b)(iii) of the final rule will require banking entities with significant trading assets and liabilities to establish and implement, maintain, and enforce an internal compliance program required by subpart D that is reasonably designed to ensure the banking entity's compliance with the requirements of the exemption, including reasonably designed written policies and procedures, internal controls, analysis and independent testing identifying and addressing:

a) The financial instruments each trading desk stands ready to purchase and sell in accordance with §351.4(b)(2)(i);[10]

b) The actions the trading desk will take to demonstrably reduce or otherwise significantly mitigate promptly the risks of its financial exposure consistent with the limits required under §351.4 (b)(2)(iii)(C); the products, instruments, and exposures each trading desk may use for risk management purposes; the techniques and strategies each trading desk may use to manage the risks of its market making-related activities and positions; and the process, strategies, and personnel responsible for ensuring that the actions taken by the trading desk to mitigate these risks are and continue to be effective;

c) Limits for each trading desk, in accordance with §351.4(b)(2)(ii);[11]

d) Written authorization procedures, including escalation procedures that require review and approval of any trade that would exceed a trading desk's limit(s), demonstrable analysis of the basis for any temporary or permanent increase to a trading desk's limit(s), and independent review of such demonstrable analysis and approval; and

e) Internal controls and ongoing monitoring and analysis of each trading desk's compliance with its limits.

The agencies are clarifying in the final rule that the authorization procedures for banking entities with significant trading assets and liabilities of proposed §351.4(a)(2)(iii)(D) and §351.4(b)(2)(iii)(E) are to be in writing pursuant to §351.4(a)(2)(iii)(C) and §351.4(b)(2)(iii)(D).

---

position are designed not to exceed RENTD, taking into account the liquidity, maturity, and depth of the market for the relevant type of security; and (B) that reasonable efforts are made to sell or otherwise reduce the underwriting position within a reasonable period, taking into account the liquidity, maturity, and depth of the market for the relevant type of security.

[10] Final rule §351.4(b)(2)(i) requires that the trading desk that establishes and manages the financial exposure routinely stands ready to purchase and sell one or more types of financial instruments related to its financial exposure and is willing and available to quote, purchase and sell, or otherwise enter into long and short positions in those types of financial instruments for its own account, in commercially reasonable amounts and throughout market cycles on a basis appropriate for the liquidity, maturity, and depth of the market for the relevant types of financial instruments.

[11] Final rule §351.4(b)(2)(ii) requires that the trading desk's market making-related activities are designed not to exceed, on an ongoing basis, RENTD, taking into account the liquidity, maturity, and depth of the market for the relevant type of security.

Requiring that these authorization procedures are written provides a basis for which banking entities and supervisors can review for compliance with the underwriting and market making exemption compliance requirements.

Sections 351.4(a)(2)(iii) (which sets forth the compliance program requirements for the underwriting exemption) and §351.4(b)(2)(iii) (which sets forth the compliance program requirements for the exemptions for market making-related activities) further provide that a banking entity with significant trading assets and liabilities may satisfy the requirements pertaining to limits and written authorization procedures by complying with the requirements pursuant to the presumption of compliance with the statutory RENTD requirement in § 351.4(c).[12] As such, §351.4(c)(1) provides for a rebuttable presumption that a banking entity's purchase or sale of a financial instrument complies with the RENTD requirements in §351.4(a)(2)(ii)(A) and §351.4(b)(2)(ii) if the relevant trading desk establishes, implements, maintains, and enforces internal limits that are designed not to exceed the reasonably expected near term demands of clients, customers, or counterparties, taking into account the liquidity, maturity, and depth of the market for the relevant type of security. In taking this approach, the agencies recognize that requiring a banking entity to establish separate limits in accordance with the statutory RENTD requirement would be unnecessary and may reduce the benefit of relying on internal limits set pursuant to §351.4(c)(1).

Additionally, in the case of a banking entity with significant trading assets and liabilities, the relevant exemption compliance requirements pertaining to written authorization procedures in §351.4(a)(2)(iii)(C) are not required if the criteria in §351.4(c) are satisfied. Without the requirement to establish limits pursuant to §351.4(a)(iii)(B), such a requirement for written authorization procedures would be unnecessary. Further, because §351.4(c)(3)(ii)(*2*) contains written authorization procedures, also requiring written authorization procedures in §351.4(a)(2)(iii)(C) would be duplicative.

These revisions clarify that banking entities with significant trading assets and liabilities that establish limits and written authorization procedures pursuant to the rebuttable presumption of compliance do not have to establish a second set of limits and written authorization procedures pursuant to the compliance program requirements of the underwriting or market making exemptions. Regardless of whether a banking entity with significant trading assets and liabilities relies on the presumption of compliance in §351.4(c), every banking entity with significant trading assets and liabilities is required to maintain limits and written authorization procedures for purposes of complying with the exemption for permitted underwriting or market making-related activities under § 351.4.

The agencies are removing the proposed rule's requirement for a banking entity with significant trading assets and liabilities that, to the extent that any limit identified pursuant to §351.4(b)(2)(iii)(C) of the proposed rule is exceeded, the trading desk takes action to bring the trading desk into compliance with the limits as promptly as possible after the limit is exceeded. Instead, this requirement is being moved to §351.4(c), the rebuttable presumption of compliance for banking

[12] *See* supra section IV.B.2.d (discussing the requirements in the final rule associated with the presumption of compliance with the statutory RENTD requirement).

entities that establish internal limits pursuant to §351.4(c)(1). Such requirements would be redundant for a banking entity with significant trading assets and liabilities that is required, on an ongoing basis, to ensure that its trading desk's market making activities are designed not to exceed RENTD while also establishing limits designed not to exceed RENTD.[13]
In addition, the written authorization procedures[14] require internal compliance processes to handle such limit breaches.

Proposed Amendments to Section 351.5

Correlation Analysis for Section 351.5(b)(1)(iii)

The agencies proposed to remove the specific requirement to conduct a correlation analysis for risk-mitigating hedging activities.[15] In particular, the agencies proposed to remove the words "including correlation analysis" from the requirement that the banking entity seeking to engage in risk-mitigating hedging activities conduct "analysis, including correlation analysis, and independent testing" designed to ensure that hedging activities may reasonably be expected to reduce or mitigate the risks being hedged. Thus, the requirement to conduct an analysis would have remained, but the banking entity would have had flexibility to apply a type of analysis that was appropriate to the facts and circumstances of the hedge and the underlying risks targeted.[16]

The agencies noted that they have become aware of practical difficulties with the correlation analysis requirement, which according to banking entities can add delays, costs, and uncertainty to permitted risk-mitigating hedging.[17] The agencies anticipated that removing the correlation analysis requirement would reduce uncertainties in meeting the analysis requirement without significantly impacting the conditions that risk-mitigating hedging activities must meet in order to qualify for the exemption.[18]

The agencies also noted that section 13 of the BHC Act does not specifically require this correlation analysis.[19] Instead, the statute only provides that a hedging position, technique, or strategy is permitted so long as it is ". . . designed to reduce the specific risks to the banking entity . . . ."[20] The 2013 rule added the correlation analysis requirement as a measure intended to ensure compliance with this exemption.

Hedge Demonstrably Reduces or Otherwise Significantly Mitigates Specific Risks for Sections 351.5(b)(1)(iii), 351.5(b)(2)(ii), and 351.5(b)(2)(iv)(B).

The agencies stated in the proposal that the requirements in §351.5(b)(1)(iii), §351.5(b)(2)(ii), and §351.5(b)(2)(iv)(B), that a risk-mitigating hedging activity demonstrably reduces or

---

13 *See* final rule §351.4(b)(2)(iii)(C).

14 *See* final rule §351.4(b)(2)(iii)(D).

15 See 83 FR at 33465.

16 See 83 FR at 33465.

17 *See id.*

18 *See id.*

19 *See* 83 FR at 33465.

20 12 U.S.C. 1851(d)(1)(C).

otherwise significantly mitigates specific risks, is not directly required by section 13(d)(1)(C) of the BHC Act.[21] The statute instead requires that the hedge *be designed* to reduce or otherwise significantly mitigate specific risks.[22] Thus, the agencies proposed to remove the "demonstrably reduces or otherwise significantly mitigates" specific risk requirement from §351.5(b)(2)(ii) and §351.5(b)(2)(iv)(B). This change would retain the requirement that the hedging activity be designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks, while providing banking entities with the flexibility to apply a type of analysis that was appropriate to the facts and circumstances of the hedge and the underlying risks targeted. The agencies also proposed to remove parallel provisions in §351.5(b)(1)(iii). In particular, the agencies proposed to delete the word "demonstrably" from the requirement that "the positions, techniques and strategies that may be used for hedging may reasonably be expected to demonstrably reduce or otherwise significantly mitigate the specific, identifiable risk(s) being hedged" in §351.5(b)(1)(iii). This change would have meant that the banking entity's analysis and testing would have had to show that the hedging may be expected to reduce or mitigate the risks being hedged, but without the specific requirement that such reduction or mitigation be demonstrable.

The agencies also proposed to delete the requirement in §351.5(b)(1)(iii) that "such correlation analysis demonstrates that the hedging activity demonstrably reduces or otherwise significantly mitigates the specific, identifiable risk(s) being hedged" because this requirement was not necessary if the "correlation analysis" and "demonstrable" requirements were deleted.

The agencies noted that, in practice, it appears that the requirement to show that hedging activity demonstrably reduces or otherwise significantly mitigates a specific, identifiable risk that develops over time can be complex and could potentially reduce bona fide risk-mitigating hedging activity. For example, in some circumstances it would be very difficult, if not impossible, for a banking entity to comply with the continuous requirement to demonstrably reduce or significantly mitigate the identifiable risks, and therefore the firm would not enter into what would otherwise be effective hedges of foreseeable risks.[23]

Reduced Compliance Requirements for Banking Entities that do not have Significant Trading Assets and Liabilities for Sections 351.5(b) and (c).

For banking entities that do not have significant trading assets and liabilities, the agencies proposed to eliminate the requirements for a separate internal compliance program for risk-mitigating hedging under §351.5(b)(1); certain of the specific requirements of §351.5(b)(2); the limits on compensation arrangements for persons performing risk-mitigating activities in §351.5(b)(3); and the documentation requirements for certain hedging activities in §351.5(c).[24] In place of those requirements, the agencies proposed a new §351.5(b)(2) that would require that the risk-mitigating hedging activities be: (i) at the inception of the hedging activity (including any adjustments), designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks, including the risks specifically enumerated in the proposal; and (ii) subject to

[21] *See* 83 FR at 33465.

[22] *See id.*

[23] *See id.*

[24] *See 83 FR at 33466.*

ongoing recalibration, as appropriate, to ensure that the hedge remains designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks.[25] The proposal also included conforming changes to §351.5(b)(1) and §351.5(c) of the 2013 rule to make the requirements of those sections applicable only to banking entities that have significant trading assets and liabilities.[26]

The agencies explained that these requirements are overly burdensome and complex for banking entities that do not have significant trading assets and liabilities, which are generally less likely to engage in the types of trading activities and hedging strategies that would necessitate these additional compliance requirements. Given these considerations, the agencies believed that removing the requirements for banking entities that do not have significant trading assets and liabilities would be unlikely to materially increase risks to the safety and soundness of the banking entity or U.S. financial stability. The agencies also believed that the proposed requirements for banking entities without significant trading assets and liabilities would effectively implement the statutory requirement that the hedging transactions be designed to reduce specific risks the banking entity incurs.[27]

Reduced Documentation Requirements for Banking Entities that have Significant Trading Assets and Liabilities for Section 351.5(c).

For banking entities that have significant trading assets and liabilities, the agencies proposed to retain the enhanced documentation requirements for the hedging transactions identified in §351.5(c)(1) to permit evaluation of the activity.[28] However, the agencies proposed a new paragraph (c)(4) in §351.5 that would eliminate the enhanced documentation requirement for hedging activities that meets certain conditions.[29] Under new paragraph (c)(4) in §351.5, compliance with the enhanced documentation requirement would not apply to purchases and sales of financial instruments for hedging activities that are identified on a written list of financial instruments pre-approved by the banking entity that are commonly used by the trading desk for the specific types of hedging activity for which the financial instrument is being purchased or sold.[30] In addition, at the time of the purchase or sale of the financial instruments, the related hedging activity would need to comply with written, pre-approved hedging limits for the trading desk purchasing or selling the financial instrument, which would be required to be appropriate for the size, types, and risks of the hedging activities commonly undertaken by the trading desk; the financial instruments purchased and sold by the trading desk for hedging activities; and the levels and duration of the risk exposures being hedged.[31]

The agencies explained that certain of the regulatory purposes of these documentation requirements, such as facilitating subsequent evaluation of the hedging activity and prevention of

[25] *Id.*
[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] *Id.*
[30] *Id.*
[31] *Id.*

evasion, are less relevant in circumstances where common hedging strategies are used repetitively. Therefore, the agencies believed that the enhanced documentation requirements were not necessary in such instances and that reducing them would make beneficial risk-mitigating activity more efficient and effective. The agencies intended that the conditions on the pre-approved limits would provide clarity regarding the limits needed to comply with requirements.[32]

Commenters' Views

One commenter argued that the requirements associated with the 2013 rule's risk-mitigating hedging exemption have been overly prescriptive, cumbersome, and unnecessary for sound and efficient risk management.[33] Many commenters supported the agencies' efforts to reduce costs and uncertainty and improve the utility of the risk-mitigating hedging exemption.[34] More specifically, commenters agreed with the recommendations to remove the correlation analysis requirement, remove the requirement that a hedge demonstrably reduce or otherwise significantly mitigate one or more specific risks, and reduce the enhanced documentation requirements.[35]

Although some commenters supported the agencies' effort to reduce the compliance burden in the risk-mitigating hedging exemption, others argued that the agencies did not go far enough. Several commenters argued that the agencies should reduce the enhanced documentation requirements and go further to remove these requirements for all banking entities.[36] Another commenter urged the agencies to eliminate the enhanced documentation requirements altogether in light of the proposed rule's robust compliance framework.[37] In addition, a commenter suggested targeted modifications to the provision, including permitting certain types of hedging in line with internal risk limits, allowing aggregate assessment of hedging, and clarifying how firms can comply with the provision.[38]

In contrast, other commenters did not support the agencies' proposed changes to the compliance obligations associated with the risk-mitigating hedging exemption.[39] One commenter argued that eliminating the correlation analysis requirement would eliminate the primary means used by most banks today to ensure a hedging activity is, in fact, offsetting risk.[40] Moreover, the same commenter argued that eliminating the existing regulatory requirement that banks show a hedge "demonstrably reduces" or "significantly mitigates" the risks targeted by the hedge would be a direct repudiation of the statute, because that type of demonstration is required by the statute.[41]

---

32 *See 83 FR at 33466-67.*

33 *See SIFMA.*

34 *See, e.g., State Street; FSF; ABA; BPI; and SIFMA.*

35 *See, e.g., State Street; FSF; ABA; BPI; and SIFMA.*

36 *See, e.g., SIFMA; JBA; ABA; BPI; FSF; and CREFC.*

37 *See BPI.*

38 *See Credit Suisse I.*

39 *See, e.g., Volcker Alliance; Bean; Data Boiler; CFA; AFR; NAFCU; Merkley; Better Markets; CAP; Systemic Risk Council; and Public Citizen.*

40 *See Bean.*

41 *See Bean.*

Another commenter argued that the various changes proposed by the agencies would lead to uncontrollable speculations.[42]

Final Rule Section 351.5

Correlation Analysis for Section 351.5(b)(1)(i)(c)

The agencies are adopting §351.5(b)(1)(iii) as proposed, but renumbered as §351.5(b)(1)(i)(C). Based on the agencies' implementation experience of the 2013 rule and commenters' feedback on the proposed changes, the agencies are removing the requirement that a correlation analysis be the type of analysis used to assess risk-mitigating hedging activities. The agencies continue to believe, as stated in the proposal, that allowing banking entities to use the type of analysis that is appropriate to the hedging activities in question will avoid the uncertainties discussed in the proposal without substantially impacting the conditions that risk-mitigating hedging activities must meet in order to qualify for the exemption.[43]

Furthermore, section 13 of the BHC Act does not require that the analysis used by the banking entity be a correlation analysis. Instead, the statute only provides that a hedging position, technique, or strategy is permitted so long as it is ". . . designed to reduce the specific risks to the banking entity . . . ."[44] The agencies believe the continuing requirement that the banking entity conduct "analysis and independent testing designed to ensure that the positions, techniques and strategies that may be used for hedging may reasonably be expected to reduce or otherwise significantly mitigate the specific, identifiable risk(s) being hedged" will effectively implement the statute.

The agencies anticipate that the banking entity's flexibility to apply the type of analysis that is appropriate to assess the particular hedging activity at issue will facilitate the appropriate use of risk-mitigating hedging under the exemption. Regarding the comment asserting that correlation analysis is the primary means used by banking entities to test whether a hedging activity is offsetting risk, the agencies note that if this is the case it would be reasonable to expect that the banking entity would use correlation analysis to satisfy the regulatory requirements with respect to that hedging activity. However, if another type of analysis is more appropriate, the banking entity would have the flexibility to use that form of analysis instead.

Hedge Demonstrably Reduces or Otherwise Significantly Mitigates Specific Risks for Sections 351.5(b)(1)(i)(c), 351.5(b)(1)(ii)(B), and 351.5(b)(1)(ii)(D)(2).

The agencies are adopting §351.5(b)(1)(iii), §351.5(b)(2)(ii), and §351.5(b)(2)(iv)(B) as proposed, but renumbered as §351.5(b)(1)(i)(C), §351.5(b)(1)(ii)(B) and §351.5(b)(1)(ii)(D)(2). As stated in the proposal, the requirement that the reduction or mitigation of specific risks resulting from a risk-mitigating hedging activity be demonstrable is not directly required by

42 *See Data Boiler*.

43 *See 83 FR at 33465.*

44 *12 U.S.C. 1851(d)(1)(C).*

section 13(d)(1)(C) of the BHC Act.[45] In practice, it appears that the requirement to show that hedging activity demonstrably reduces or otherwise significantly mitigates a specific, identifiable risk that develops over time can be complex and could potentially reduce bona fide risk-mitigating hedging activity. The agencies continue to believe that in some circumstances, it may be difficult for banking entities to know with sufficient certainty that a potential hedging activity that a banking entity seeks to commence will continuously demonstrably reduce or significantly mitigate an identifiable risk after it is implemented, even if the banking entity is able to enter into a hedge reasonably designed to reduce or significantly mitigate such a risk. As stated in the proposal, unforeseeable changes in market conditions, event risk, sovereign risk, and other factors that cannot be known with certainty in advance of undertaking a hedging transaction could reduce or eliminate the otherwise intended hedging benefits.[46] In these events, the requirement that a hedge "demonstrably reduce" or "significantly mitigate" the identifiable risks could create uncertainty with respect to the hedge's continued eligibility for the exemption. In such cases, a banking entity may determine not to enter into what would otherwise be a reasonably designed hedge of foreseeable risks out of concern that the banking entity may not be able to effectively comply with the requirement that such a hedge demonstrably reduces such risks due to the possibility of unforeseen risks occur. Therefore, the final rule removes the "demonstrably reduces or otherwise significantly mitigates" specific risk requirement from §351.5(b)(1)(i)(C), §351.5(b)(1)(ii)(B) and §351.5(b)(1)(ii)(D)(2).

The agencies do not agree with a commenter's assertion that the requirement that banking entities show that a hedge "demonstrably" reduces or significantly mitigates the risks is a core requirement under section 13 of the BHC Act. Instead, the statute expressly permits hedging activities that are "designed to reduce the specific risks of the banking entity."[47] The final rule maintains the requirement that hedging activity undertaken pursuant to §351.5 be designed to reduce or otherwise mitigate specific, identifiable risks. Hedging activity must also be subject to ongoing recalibration by the banking entity to ensure that the hedging activity satisfies the requirement that the activity is designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks even after changes in market conditions or other factors. In light of these requirements, the agencies do not find it necessary to require that the hedge "demonstrably reduce" risk to the banking entity on an ongoing basis.

Reduced Compliance Requirements for Banking Entities that do not have Significant Trading Assets and Liabilities for Sections 351.5(b)(2) and (c).

The agencies are adopting §§351.5(b)(2) and 351.5(c) as proposed. Consistent with the changes in the final rule relating to the scope of the requirements for banking entities that do not have significant trading assets and liabilities, the agencies are also revising the requirements in §§351.5(b)(2) and 351.5(c) for banking entities that do not have significant trading assets and liabilities. For these firms, the agencies are eliminating the requirements for a separate internal compliance program for risk-mitigating hedging under §351.5(b)(1); certain of the specific requirements of §351.5(b)(2); the limits on compensation arrangements for persons performing

[45] *See 83 FR at 33465.*

[46] *See id.*

[47] *12 U.S.C. 1851(d)(1)(C).*

risk-mitigating activities in §351.5(b)(1)(iii); and the documentation requirements for those activities in §351.5(c). Based on comments received, the agencies have determined that these requirements are overly burdensome and complex for banking entities with moderate trading assets and liabilities, in light of the reduced scale of their trading and hedging activities.

In place of those requirements, new §351.5(b)(2) requires that risk-mitigating hedging activities for those banking entities be: (i) at the inception of the hedging activity (including any adjustments), designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks, including the risks specifically enumerated in the proposal; and (ii) subject to ongoing recalibration, as appropriate, to ensure that the hedge remains designed to reduce or otherwise significantly mitigate one or more specific, identifiable risks. The agencies continue to believe that these tailored requirements for banking entities without significant trading assets and liabilities effectively implement the statutory requirement that the hedging transactions be designed to reduce specific risks the banking entity incurs. The agencies believe that the remaining requirements for a firm with moderate trading assets and liabilities would be effective in ensuring such banking entities engage only in permissible risk-mitigating hedging activities. The agencies also note that reducing these compliance requirements for banking entities that do not have significant trading assets and liabilities is unlikely to materially increase risks to the safety and soundness of the banking entity or U.S. financial stability. Therefore, the agencies are eliminating and modifying these requirements for banking entities that do not have significant trading assets and liabilities. In connection with these changes, the final rule also includes conforming changes to §§351.5(b)(1) and 351.5(c) of the 2013 rule to make the requirements of those sections applicable only to banking entities that have significant trading assets and liabilities.

Reduced Documentation Requirements for Banking Entities that have Significant Trading Assets and Liabilities for Section 351.5(c)

The agencies are adopting §351.5(c) as proposed. The final rule retains the enhanced documentation requirements for banking entities that have significant trading assets and liabilities for hedging transactions identified in §351.5(c)(1) to permit evaluation of the activity. Although this documentation requirement results in more extensive compliance efforts, the agencies continue to believe it serves an important role to prevent evasion of the requirements of section 13 of the BHC Act and the final rule.

The hedging transactions identified in §351.5(c)(1) include hedging activity that is not established by the specific trading desk that creates or is responsible for the underlying positions, contracts, or other holdings the risks of which the hedging activity is designed to reduce; is effected through a financial instrument, exposure, technique, or strategy that is not specifically identified in the trading desk's written policies and procedures as a product, instrument, exposure, technique, or strategy such trading desk may use for hedging; or established to hedge aggregated positions across two or more trading desks. The agencies believe that hedging transactions established at a different trading desk, or which are not identified in the relevant policies, may present or reflect heightened potential for prohibited proprietary trading. In other words, the further removed hedging activities are from the specific positions, contracts, or other

holdings the banking entity intends to hedge, the greater the danger that such activity is not limited to hedging specific risks of individual or aggregated positions, contracts, or other holdings of the banking entity. For this reason, the agencies do not agree with commenters who argued that the enhanced documentation requirements should be removed for all banking entities.

However, based on the agencies' experience during the first several years of implementation of the 2013 rule, it appears that many hedges established by one trading desk for other affiliated desks are often part of common hedging strategies that are used regularly and that do not raise the concerns of those trades prohibited by the rule. In those instances, the documentation requirements of §351.5(c) of the 2013 rule are less necessary for purposes of evaluating the hedging activity and preventing evasion. In weighing the significantly reduced regulatory and supervisory utility of additional documentation of common hedging trades against the complexity of complying with the enhanced documentation requirements, the agencies have determined that the documentation requirements are not necessary in those instances. Reducing the documentation requirement for common hedging activity undertaken in the normal course of business for the benefit of one or more other trading desks would also make beneficial risk-mitigating activity more efficient and potentially improve the timeliness of important risk-mitigating hedging activity, the effectiveness of which can be time sensitive.

Therefore, §351.5(c)(4) of the final rule eliminates the enhanced documentation requirement for hedging activities that meet certain conditions. In excluding a trading desk's common hedging instruments from the enhanced documentation requirements in §351.5(c), the final rule seeks to distinguish between those financial instruments that are commonly used for a trading desk's ordinary hedging activities and those that are not. The final rule requires the banking entity to have in place appropriate limits so that less common or more unusual levels of hedging activity would still be subject to the enhanced documentation requirements. The final rule provides that the enhanced documentation requirement does not apply to purchases and sales of financial instruments for hedging activities that are identified on a written list of financial instruments pre-approved by the banking entity that are commonly used by the trading desk for the specific types of hedging activity for which the financial instrument is being purchased or sold. In addition, at the time of the purchase or sale of the financial instruments, the related hedging activity would need to comply with written, pre-approved hedging limits for the trading desk purchasing or selling the financial instrument. These hedging limits must be appropriate for the size, types, and risks of the hedging activities commonly undertaken by the trading desk; the financial instruments purchased and sold by the trading desk for hedging activities; and the levels and duration of the risk exposures being hedged. These conditions on the pre-approved limits are intended to provide clarity as to the types and characteristics of the limits needed to comply with the final rule. The pre-approved limits should be reasonable and set to correspond to the type of hedging activity commonly undertaken and at levels consistent with the hedging activity undertaken by the trading desk in the normal course.

The agencies considered comments that suggested additional targeted modifications to the risk-mitigating hedging requirements, but believe that the suggested modifications would add additional complexity and administrative burden without significantly changing the efficiency

and effectiveness of the final rule. Additionally, the agencies believe that because the final rule maintains significant requirements for hedging activities to qualify for the exemption, it should not lead to uncontrollable speculation, as one commenter warned.

9. Payments or gifts to respondents:

None.

10. Any assurance of confidentiality:

The information collected will be kept confidential to the extent permitted by law. The information may be afforded confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. §§ 552(b)(4), (b)(6), and (b)(8); and section 1103 of the Right to Financial Privacy Act (12 U.S.C. § 3403).

11. Justification for questions of a sensitive nature:

None of the information required to be reported, disclosed or maintained is of a sensitive nature.

12. Estimate of hour burden including annualized hourly costs:

Estimated Annual Burden

In determining the method for estimating the paperwork burden the Agencies made the assumption that affiliated entities under a holding company would act in concert with one another to take advantage of efficiencies that may exist. The paperwork burden for such entities has been taken by the Board at the holding company level. Therefore, the FDIC burden estimates are only for FDIC-supervised institutions that are not under a holding company. As indicated below, the total estimated burden, for implementation[48] and ongoing compliance for such FDIC-supervised institutions, is 14,518 hours.

The first two tables below reflect the current initial set-up and ongoing burden. The third and fourth tables reflect the current burden, adjusted to remove completed initial set-up burden. The fifth and sixth tables reflect the final burden following implementation of the EGRRCPA final rule issued on July 22, 2019, 84 FR 35008, and the current final rule.

[48] All respondents have now gone through the implementation phase. The estimated number of respondents for implementation burden is estimated at one (1), as a place-holder, in case a new respondent would need to go through the implementation phase.

(CURRENT)	*Number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Initial Set-up				
Reporting Burden				
Section 351.12(e)	1	1	50	50
Section 351.20(d) ($50 billion)	0	12	6	0
Section 351.20(d) ($10-$50 billion)	0	4	6	0
Total Reporting Burden				50
Recordkeeping Burden				
Section 351.3(d)(3)	1	1	3	3
Section 351.4(b)(3)(i)(A)	1	4	2	8
Section 351.5(c)	0	1	50	0
Section 351.11(a)(2)	1	1	10	10
Section 351.20(b)	1	1	795	795
Section 351.20(c)	0	1	3,600	0
Section 351.20(d) ($50 billion)	0	1	440	0
Section 351.20(d) ($10-$50 billion)	0	1	350	0
Section 351.20(e)	1	1	200	200
Section 351.20(f)(1)	1	1	8	8
Section 351.20(f)(2)	1	1	100	100
Total Recordkeeping Burden				1,124
Disclosure Burden				
Section 351.11(a)(8)(i)	1	26	0.1	2.6
Total Disclosure Burden				2.6
Total Initial Set-Up				1,176.6

(CURRENT)	*Number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Ongoing Compliance				
Reporting Burden				
Section 351.12(e)	18	10	20	3,600
Section 351.20(d) ($50 billion)	0	12	2	0

Section 351.20(d) ($10-$50 billion)	0	4	2	0
Total Ongoing Reporting Burden				3,600
Recordkeeping Burden				
Section 351.3(d)(3)	18	1	1	18
Section 351.4(b)(3)(i)(A)	18	4	2	144
Section 351.5(c)	0	1	100	0
Section 351.11(a)(2)	18	1	10	180
Section 351.20(b)	5	1	265	1,325
Section 351.20(c)	0	1	1,200	0
Section 351.20(d) ($50 billion)	0	1	440	0
Section 351.20(d) ($10-$50 billion)	0	1	350	0
Section 351.20(e)	5	1	200	1,000
Section 351.20(f)(1)	819	1	8	6,552
Section 351.20(f)(2)	18	1	40	720
Total Ongoing Recordkeeping Burden				9,939
Disclosure Burden				
Section 351.11(a)(8)(i)	18	26	0.1	46.8
Total Ongoing Disclosure Burden				46.8
Total Ongoing Compliance				13,585.8
Total Current Estimated Annual Burden				14,762.4

(ALIGNMENT)	*Number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Initial Set-up				
Reporting Burden				
Section 351.12(e) FED ONLY	0	1	50	0
Section 351.20(d) ($50 billion)	1	1	165	165
Section 351.20(d) ($10-$50 billion)	1	1	165	165
Total Initial Reporting Burden				330
Recordkeeping Burden				
Section 351.3(e)(3)	1	1	3	3
Section 351.4(b)(3)(i)(A)	1	1	2	2

Section 351.5(c)	1	1	50	50
Section 351.11(a)(2)	1	1	10	10
Section 351.20(b)	1	1	795	795
Section 351.20(c)	1	1	3,600	3,600
Section 351.20(d) ($50 billion)	1	1	16	16
Section 351.20(d) ($10-$50 billion)	1	1	13	13
Section 351.20(e)	1	1	200	200
Section 351.20(f)(1)	1	1	8	8
Section 351.20(f)(2)	1	1	100	100
Total Initial Recordkeeping Burden				4,797
Disclosure Burden				
Section 351.11(a)(8)(i)	1	1	0.1	0.1
Total Initial Disclosure Burden				0.1
Total Initial Set-Up				5,127.1

(ALIGNMENT)	*Number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Ongoing Compliance Reporting Burden				
Section 351.12(e) FED ONLY	0	10	20	0
Section 351.20(d) ($50 billion)	1	12	55	660
Section 351.20(d) ($10-$50 billion)	1	4	55	220
Total Ongoing Reporting Burden				880
Recordkeeping Burden				
Section 351.3(e)(3)	13	1	1	13
Section 351.4(b)(3)(i)(A)	13	4	2	104
Section 351.5(c)	13	1	100	1,300
Section 351.11(a)(2)	13	1	10	130
Section 351.20(b)	6	1	265	1,590
Section 351.20(c)	6	1	1,200	7,200
Section 351.20(d) ($50 billion)	6	1	16	96
Section 351.20(d) ($10-$50 billion)	1	1	13	13
Section 351.20(e)	6	1	200	1,200
Section 351.20(f)(1)	40	1	8	320
Section 351.20(f)(2)	7	1	40	280

Total Ongoing Recordkeeping Burden				12,246
Disclosure Burden				
Section 351.11(a)(8)(i)	13	26	0.1	33.8
Total Ongoing Disclosure Burden				33.8
Total Ongoing Compliance				13,159.8
Total Alignment Estimated Annual Burden				18,286.9
Change due to Alignment				3,524.5

Final Rules – Community Bank and Naming; and 2.0	*Estimated number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Initial Set-up				
Reporting Burden				
Section 351.4(c)(3)(i)	13	1	0.25	3.25
Section 351.12(e) FED ONLY	0	1	50	0
Section 351.20(d) ($20 billion or more)	1	1	125	125
Section 351.20(i)	1	1	20	20
Total Reporting Burden				148.25
Recordkeeping Burden				
Section 351.3(d)(3)	13	1	3	39
Section 351.4(b)(3)(i)(A)	1	1	2	2
Section 351.4(c)(3)(i)	13	1	0.25	3.25
Section 351.5(c)	1	1	80	80
Section 351.11(a)(2)	1	1	10	10
Section 351.20(b)	1	1	795	795
Section 351.20(c)	1	1	300	300
Section 351.20(d) ($20 billion or more)	1	1	10	10
Section 351.20(e)	1	1	200	200
Section 351.20(f)(1)	1	1	8	8
Section 351.20(f)(2)	1	1	100	100
Total Recordkeeping Burden				1,547.25
Disclosure Burden				
Section 351.11(a)(8)(i)	1	1	0.1	.1

Total Disclosure Burden				0.1
Total Initial Set-Up				1,695.6

Final Rules – Community Bank and Naming; and 2.0	*Estimated number of respondents*	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Ongoing Compliance				
Reporting Burden				
Section 351.4(c)(3)(i)	13	20	0.25	65
Section 351.12(e)	0	10	20	0
Section 351.20(d) ($20 billion or more)	1	4	41	164
Section 351.20(i)	1	1	20	20
Total Reporting Burden				249
Recordkeeping Burden				
Section 351.3(d)(3)	13	1	1	13
Section 351.4(b)(3)(i)(A)	13	4	2	104
Section 351.4(c)(3)(i)	13	40	0.25	130
Section 351.5(c)	1	1	80	80
Section 351.11(a)(2)	13	1	10	130
Section 351.20(b)	1	1	265	265
Section 351.20(c)	1	1	100	100
Section 351.20(d) ($20 billion or more)	1	1	10	10
Section 351.20(e)	1	1	200	200
Section 351.20(f)(1)	13	1	8	104
Section 351.20(f)(2)	1	1	40	40
Total Recordkeeping Burden				1,176
Disclosure Burden				
Section 351.11(a)(8)(i)	13	26	0.1	33.8
Total Disclosure Burden				33.8
Total Ongoing Compliance				1,458.8
Total Estimated Annual Burden				3,154.4
Change				(15,132.5)

Annualized Cost of Hourly Burden

Estimated Ongoing Cost to Respondents:[49]

Office & Administrative Support – 30% x 3,154 x $27.89 = $26,389.52
Financial Managers – 45% x 3,154 x $90.46 = $128,389.88
Legal Counsel – 15% x 3,154 x $132.45 = $62,662.10
Chief Executives – 10% x 3,154 x $160.14 = $50,508.16

Total Estimated Ongoing Annual Cost = $267.949.66

13. Estimate of start-up costs to respondents:

    None.

14. Estimate of annualized costs to the government:

    None.

15. Analysis of change in burden:

The agencies aligned their burden presentation for their respective information collections related to this rulemaking and as a result of that alignment, FDIC's original burden estimate increased by 3,524.5 hours from 14,762.4 hours to 18,286.9 hours. The changes made by the final rule reduced the total estimated annual burden to 3,154.4 hours resulting in a net burden reduction of 15,132.5 hours.

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

The results of this collection will not be published for statistical use.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification:

[49]To estimate the annual cost of the burden hours, we used the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support at $26.47; 45% Financial Managers at $97.85; 15% Lawyers at $99.26; and 10% Chief Executives at $135.38). The hourly rate for each occupational group is the mean hourly wage plus benefits and inflation at 34 percent of total compensation, from the Bureau of Labor Statistics (BLS), Occupational Employment and Wages, May 2015, https://www.bls.gov/news.release/ocwage.t01.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/. The FDIC updated the wage estimates to include the cost of benefits and inflation which may not have been included in the estimate used in the prior submission.

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.