

SUPPORTING STATEMENT
ID Theft Red Flags
(3064-0152)

INTRODUCTION

The FDIC is requesting OMB approval for a three-year extension, without change in the method or substance of collection, to continue the information collection captioned above. This collection is imposed on insured nonmember banks as a result of the requirements of the Fair and Accurate Credit Transactions Act of 2003 (FACT Act), Pub. L. 108-159 (2003). The information collection expires on May 31, 2019.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

FACT Act Section 114: Section 114 requires the federal banking agencies to jointly propose guidelines for financial institutions and creditors identifying patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. In addition, each financial institution and creditor is required to establish reasonable policies and procedures, that incorporate the guidelines, to address the risk of identity theft. Credit card and debit card issuers must develop policies and procedures to assess the validity of a request for a change of address under certain circumstances.

The information collections pursuant to section 114 require each financial institution and creditor to create an Identify Theft Prevention Program and report to its board of directors, a committee thereof, or senior management at least annually on compliance with the proposed regulations. In addition, staff must be trained to carry out the program. Each credit and debit card issuer is required to establish policies and procedures to assess the validity of a change of address request. The card issuer must notify the cardholder or use other means to assess the validity of the change of address.

FACT Act Section 315: Section 315 requires the federal banking agencies to issue regulations providing guidance regarding reasonable policies and procedures that a user of consumer reports must employ when such a user receives a notice of address discrepancy from a consumer reporting agencies. For the FDIC, 12 CFR Part 334 provides such guidance. Each user of consumer reports must develop reasonable policies and procedures that it will follow when it receives a notice of address discrepancy from a consumer reporting agency. A user of consumer reports must furnish an address that the user has reasonably confirmed to be accurate to the consumer reporting agency from which it receives a notice of address discrepancy.

2. Use of the information:

The information collection is used to identify patterns, practices, and specific forms of activity that indicate the possible existence of identity theft. The policies and procedures address the risk of identity theft and assess the validity of requests for changes of address under certain circumstances.

3. Consideration of the use of improved information technology:

Respondents may use any technology they wish to reduce the burden associated with this collection.

4. Efforts to identify duplication:

There is no duplication. Each respondent is encouraged to adopt policies and procedures appropriate to their particular circumstances, level of complexity and size.

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

The information collection is not expected to have a significant impact on a substantial number of small entities. Each respondent is encouraged to adopt policies and procedures appropriate to their particular circumstances, level of complexity and size.

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

The FDIC believes that less frequent collection (a less stringent disclosure standard) would result in unacceptable risk of harm to customers of financial institutions.

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

There are no special circumstances. This information collection is conducted in accordance with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

Extensive collaboration among the six sponsoring agencies (Board, FDIC, NCUA, OTS, OCC and FTC) was involved in creating this collection. In addition, the agencies sought public comment on the collection as part of the rulemaking process. With respect to the current renewal of this information collection, on November 23, 2018, FDIC published a Federal Register notice

seeking public comment for a 60-day period (83 FR 59833). No comments were received.

9. Payments or gifts to respondents:

None.

10. Any assurance of confidentiality:

Confidential information will be kept private to the extent allowed by law.

11. Justification for questions of a sensitive nature:

The information collection does not request information of a sensitive nature.

12. Estimate of hour burden including annualized hourly costs:

Summary of Annual Burden							
	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden
FACT Act Sections 114 and 315 – Establish policies and Procedures	Recordkeeping	Mandatory	3,575	1	16 hours	Annually	57,200 hours
FACT Act Section 315 – Provide accurate confirmed address	Third-Party Disclosure	Mandatory	3,575	1	4 hours	On Occasion	14,300 hours
TOTAL HOURLY BURDEN							71, 500 hours

Estimated Cost Burden:

FDIC estimated the total burden cost for the ICR (OMB 3064-0145) using the May 2017 75th percentile hourly wage reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates for the relevant occupations in the depository credit intermediation sector.

Occupations, Depository Credit Intermediation Sector	Hourly Wage	Weights	Weighted Hourly Wage
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Office and Administrative Support Occupations	\$20.41	90%	\$18.37
Financial Managers	\$71.59	8%	\$5.73
Lawyers	\$100 ¹	1%	\$1.00
Top Executives	\$87.95	1%	\$0.88
Weighted Average			\$25.98

The hourly wage rates reported do not include non-monetary compensation. According to the June 2018 Employer Cost of Employee Compensation data, compensation rates for health and other benefits are 35.7 percent of total compensation. Therefore, the agency adjusted the hourly wage rates reported by BLS based on changes in the Consumer Price Index for Urban Consumers (CPI-U) from May 2017 to June 2018 (2.85%) to account for inflation and ensure that the wage information is contemporaneous with the non-monetary compensation statistic. We grossed up the inflation adjusted wages to include non-monetary compensation. After calculating these adjustments, the estimated total hourly compensation rates are as follows:

Occupations, Depository Credit Intermediation Sector	Adjusted Hourly Wage	Weights	Weighted Adjusted Hourly Wage
Office and Administrative Support Occupations	\$32.65	90%	\$29.39
Financial Managers	\$114.51	8%	\$9.16
Lawyers	\$159.95	1%	\$1.60
Top Executives	\$140.68	1%	\$1.41
Weighted Average			\$41.56

Using the total estimated hourly burden and the total hourly compensation estimate, the total estimated cost burden for the ICR (OMB No. 3064-0145) is **\$2,971,540 per year** (71,500 hours/year x \$41.56/hr).

13. Estimate of start-up costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

¹ The BLS does not report hourly wages greater than \$100. Therefore, \$100 should be considered a low-bound estimate for the lawyer wage.

15. Analysis of change in burden:

There is no change in the method or substance of the information collection. The total estimated annual burden hours have increased because of the inclusion of the agency's estimate of third-party disclosure burden associated with the notices required by Section 315 of the FACT Act which were previously not included because the agencies had taken the position that the entities covered by the regulation were already furnishing addresses that they had reasonably confirmed to be accurate to consumer reporting agencies from which they receive a notice of address discrepancy as a usual and customary business practice. The above burden estimate now includes burden for the third-party disclosure requirements associated with Section 315 which resulted in an increase in estimated annual burden of 14,300 hours. This increase was offset, in part, by a reduction in the estimated number of respondents from 4,017 to 3,575 which resulted in a decrease in the estimated annual burden for the recordkeeping requirement associated with Sections 114 and 315 from 64,272 hour to 57,200 hours. The net effect of the burden adjustment due to agency estimate is an increase in estimated annual burden from 64,272 hours to 71,500 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.

B. STATISTICAL METHODS

Not Applicable