

SUPPORTING STATEMENT  
“Recordkeeping for Timely Deposit Insurance Determination”  
(OMB Control No. 3064-0202)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is submitting for Office of Management and Budget (OMB) review a revision of its information collection entitled “Recordkeeping for Timely Deposit Insurance Determination” stemming from a notice of proposed rulemaking to revise the FDIC’s rule entitled Recordkeeping for Timely Deposit Insurance Determination<sup>1</sup> (the “NPR” or the “proposed rule”). The proposed rule is intended to reduce recordkeeping and reporting burden by modifying information technology system and recordkeeping requirements in 12 CFR Part 370, which applies to insured depository institutions with two million or more deposit accounts (“covered institutions”).

Under Part 370, covered institutions are required to develop recordkeeping and information technology systems to facilitate the FDIC’s determination of deposit insurance coverage for depositors in the event of the covered institution’s failure. Covered institutions can obtain relief from certain of the final rule’s requirements under specific circumstances set forth in Part 370. Beginning three years after the final rule’s effective date, covered institutions will need to certify annually that they satisfy the recordkeeping and information technology requirements. Along with that certification, they will need to provide a summary report detailing the extent to which the covered institution’s information technology system can calculate deposit insurance coverage available in connection with each deposit account.

The FDIC is issuing a new NPR proposing to amend Part 370. Under the proposed rule, Part 370 would be amended to: provide for elective extension of the compliance date; revise the treatment of deposits created by credit balances on debt accounts; modify the requirements relating to accounts with transactional features; change the procedures regarding exceptions; and clarify matters relating to certification requirements. The proposed amendments would also make certain technical changes to Part 370 and correct typographical errors.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Under the FDI Act, the FDIC is responsible for paying deposit insurance “as soon as possible” following the failure of an insured depository institution (“IDI”).<sup>2</sup> It must also implement the resolution of a failed IDI at the least cost to the Deposit Insurance Fund.<sup>3</sup> To pay deposit insurance, the FDIC uses a failed IDI’s records to aggregate the amounts

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<sup>1</sup> 12 C.F.R. part 370 (“Part 370”).

<sup>2</sup> 12 U.S.C. 1821(f)(1).

<sup>3</sup> 12 U.S.C. 1823(c)(4).

of all deposits that are maintained by a depositor in the same right and capacity and then applies the standard maximum deposit insurance amount (“SMDIA”) of \$250,000.<sup>4</sup> As authorized by law, the FDIC generally relies on the failed institution’s deposit account records to identify deposit owners and the right and capacity in which deposits are maintained.<sup>5</sup> The FDIC has a right and a duty under section 7(a)(9) of the FDI Act to “take such action as may be necessary to ensure that each IDI maintains, and the [FDIC] receives on a regular basis from such institution, information on the total amount of all insured deposits, preferred deposits and uninsured deposits at the institution.”<sup>6</sup>

Deposits have become more concentrated in large IDIs. From 2008 through 2014, the largest number of deposit accounts held at a single IDI increased 42 per cent, and the number of deposit accounts at the ten IDIs having the most deposit accounts increased 25 percent. The increased concentration of deposits is partly a function of the IDIs’ internal growth, but it is also attributable to acquisitions during this time period. As a result of this concentration, many IDIs are even more complex than before, resulting in greater potential for significant internal IT systems disparities as well as data accuracy and completeness problems. Larger institutions are generally more complex, have more deposit accounts, greater geographic dispersion, more diverse systems, and more data quality issues. Because the perception that FDIC could be delayed in making deposit insurance determinations in the event of the failure of an IDI could lead to bank runs or other systemic problems, the FDIC implemented improved strategies to ensure prompt deposit insurance determinations upon the failure of an IDI with a large number of deposit accounts. Part 370 requires covered institutions to enhance their deposit account data and upgrade their IT systems to allow the FDIC to perform the deposit insurance determination on all or a significant subset of those covered institutions’ deposit accounts without the significant delay that could be occasioned by transferring data to an FDIC IT system.

*Current Action:*

The proposed rule would, among other things: provide an optional one-year extension of the Part 370 compliance date upon notification to the FDIC; provide clarifications regarding certification of compliance under § 370.10, and the effect of a change in law or a merger on compliance; provide for voluntary compliance with Part 370; revise the actions that must be taken under § 370.5(a) with respect to deposit accounts with transactional features that are insured on a pass-through basis; amend the recordkeeping requirements set forth in § 370.4 for certain types of deposit relationships; clarify the process for exceptions requested pursuant to § 370.8(b), provide for published notice of the FDIC’s responses, and provide that certain similar exceptions may be deemed granted; and make corrections and technical and conforming changes.

2. Use of the Information:

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4 12 U.S.C. 1821(a)(1)(C), 12 U.S.C. 1821(a)(1)(E).

5 12 U.S.C. 1822(c); 12 CFR 330.5.

6 12 U.S.C. 1817(a)(9).

The recordkeeping requirements imposed by part 370 are intended to allow the FDIC to determine the amount of deposit insurance available to each depositor for each of its deposit accounts in the event of a covered institution's failure. Much of this information is already collected by all IDIs under existing statutory or regulatory requirements. Part 370 imposed a new information collection requirement to the extent that covered institutions must maintain in their deposit account records the information that is needed by the FDIC to make a deposit insurance determination, and to the extent that covered institutions would need to keep their deposit account records in a format that is accessible by the FDIC, using a covered institution's IT system, in the event of a covered institution's failure.

Under Part 370, the FDIC will also collect from each covered institution, on an annual basis, a certification that the covered institution is in compliance with the rule's requirements as well as a summary deposit insurance coverage report that demonstrates the extent to which the covered institutions IT system can be used to calculate deposit insurance coverage for the institution's deposit accounts. The FDIC will collect requests for relief from covered institutions, which will include information that substantiates the covered institution's inability to comply with the final rule's requirements.

The FDIC expects that the proposed rule would reduce the burden associated with these recordkeeping and reporting requirements.

3. Consideration of the use of improved information technology:

The proposed rule is premised upon covered institutions' use of technology to make the required reports and to maintain the required records.

4. Efforts to identify duplication:

The information that the FDIC collects from covered institutions to verify compliance with part 370's requirements, or that substantiates a covered institution's request for relief, is not available by other means. The reporting and recordkeeping requirements in Part 370 are unique and are not unnecessarily duplicative.

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

The proposed rule is not expected to have a significant impact on a substantial number of small entities.

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

Less frequent collection of such information could result in a lesser degree of compliance with Part 370's requirements and would not be as helpful to the FDIC's preparation to make a prompt deposit insurance determination in the event of a covered institution's

failure. If this information were collected less frequently, then the FDIC would have a lower level of confidence that a covered institution maintains accurate and complete deposit records and has an IT system that would facilitate the FDIC's timely deposit insurance determination process upon the covered institution's failure. The public's perception that FDIC could be delayed in making deposit insurance determinations in the event of the failure of an IDI could lead to bank runs or other systemic problems.

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:

A notice of proposed rulemaking was published in the Federal Register on April 11, 2019 (84 FR 14814) which includes a request or comments on the Paperwork Reduction Act implications of the proposed rule. Any comments received will be addressed when the final rule is adopted and, if related to PRA, will be reflected and submitted to OMB in a revised Supporting Statement.

9. Payments or gifts to respondents:

None.

10. Any assurance of confidentiality:

Information will be kept private to the extent allowed by law.

11. Justification for questions of a sensitive nature:

Part 370 generally requires covered institutions to ensure that their deposit account records contain sufficient information to identify owners of deposits, unless they are permitted otherwise in accordance with the FDIC's deposit insurance rules in 12 CFR part 330. Such information would include personal and sensitive information such as the owner's social security number, among other things. To pay deposit insurance, the FDIC uses a failed IDI's records to aggregate the amounts of all deposits that are maintained by a depositor in the same right and capacity and then applies the standard maximum deposit insurance amount ("SMDIA") of \$250,000. All sensitive information included in the information collection is required to enable the FDIC to make a timely deposit insurance determination in the event of the failure of an IDI.

12. Estimate of hour burden including annualized hourly costs:

The estimated annual burden for implementing the collection of information under Part 370 is approximately 4, 904,597 hours. The estimated ongoing annual burden for the

respondents is approximately 18,396 hours per year. The estimated total annual burden for the information collection is 4,922,993 hours.

The proposed rule is estimated to reduce recordkeeping and reporting requirements by 417,991 hours or \$20.9 million dollars. The proposed rule would reduce compliance burdens for covered institutions associated with recordkeeping and reporting in the following ways:

- Removing the certification requirement covered institution's must make with respect to deposit accounts with transactional features that would be eligible for pass-through deposit insurance coverage;
- Enabling covered institutions to maintain deposit account records for certain trust accounts in accordance with the alternative recordkeeping requirements set forth in § 370.4(b)(2) rather than the general recordkeeping requirements set forth in § 370.4(a);
- Offering a different recordkeeping/reporting method for deposits created as a result of credit balances on accounts for debt owed to a covered institution;
- Enabling covered institutions to file joint requests for exception pursuant to § 370.8(b); and
- Deeming certain exception requests previously granted by the FDIC pursuant to § 370.8(b) to be deemed granted, on the same conditions, for other covered institutions that would present substantially similar facts and the same circumstances to justify a request for exception.

An analysis of deposit account information at covered institutions suggested that the proposed rule could affect an estimated one to 20 percent of accounts on average, for covered institutions.<sup>7</sup> The realized effect would vary depending upon the types of accounts that a covered institution offers. The more deposit accounts covered institution has, the greater the reduction in recordkeeping requirements these proposed amendments would provide. To conservatively estimate the expected benefits of the proposed rule, the FDIC assumed that the reduced recordkeeping and requirements would affect between one and 20 percent of all deposit accounts at covered institutions.

For the purposes of the Paperwork Reduction Act, the FDIC estimates that approximately 10 percent of non-retirement accounts consist of the type of accounts for which the FDIC has granted relief. The number of accounts affects only one of eight components of the burden model for the final rule for Part 370 adopted in 2016 (the "2016 Final Rule"): Legacy Data Clean-up. This component consists of two portions: 1) automated clean-up, and 2) manual clean-up. The number of accounts affects only the manual portion

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<sup>7</sup> The FDIC analyzed the dollar volume of retirement, mortgage servicing, and trust accounts as reported on the December 31, 2018 Call Reports for covered institutions .

associated with correcting bank records, and thus the proposed rule affects only that estimate.

Using this adjusted burden as a baseline for the burden reduction of the proposed rule, we estimate that the proposed rule reduces the implementation burden by 417,991 hours. This includes 418,056 of burden reduction but adds 65 hours of additional burden for requests for extensions and exemptions under the proposed rule. The proposed rule does not change the annual ongoing burden.

For the purpose of the 2016 Final Rule, the FDIC estimated that manual data clean-up would involve a 60 percent ratio of internal to external labor, and that this labor would cost \$65 per hour and \$85 per hour, respectively. The FDIC assumed that 5 percent of deposit accounts had erroneous account information and that manual labor would correct 10 accounts per hour of effort. The FDIC also assumed that for every hour of manual labor used by covered institutions, depositors would also exert one hour toward correcting account information at a national average wage rate of \$27 per hour. From this, the FDIC estimated a total implementation cost of manual data clean-up of \$207.4 million.

As with the burden hours, the FDIC adjusted the original burden model to account for updated data and included IDIs that were actually covered by the rule as a new baseline. After this adjustment, the FDIC estimates that the cost of manual data clean-up fell to \$188.1 million, a decrease of \$20.9 million because of the proposed rule.

### *Methodology*

In estimating the costs of Part 370, the FDIC engaged the services of an independent consulting firm. Working with the FDIC, the consultant used its extensive knowledge and experience with IT systems at financial institutions to develop a model to provide cost estimates for the following activities:

- Implementing the deposit insurance calculation
- Legacy data clean-up
- Data extraction
- Data aggregation
- Data standardization
- Data quality control and compliance
- Data reporting
- Ongoing operations

Cost estimates for these activities were derived from a projection of the types of workers needed for each task, an estimate of the amount of labor hours required, an estimate of the industry average labor cost (including benefits) for each worker needed, and an estimate of worker productivity. The analysis assumed that manual data clean-up would be needed for 5 percent of deposit accounts, 10 accounts per hour would be resolved, and internal labor would be used for 60 percent of the clean-up. This analysis also projected higher costs for institutions based on the following factors:

- Higher number of deposit accounts
- Higher number of distinct core servicing platforms
- Higher number of depository legal entities or separate organizational units
- Broader geographic dispersal of accounts and customers
- Use of sweep accounts
- Greater degree of complexity in business lines, accounts, and operations.

Approximately half of Part 370’s estimated total costs are attributable to legacy data clean-up. These legacy data clean-up cost estimates are sensitive to both the number of deposit accounts and the number of deposit IT systems. More than 90 percent of the legacy data clean-up costs are associated with manually collecting account information from customers and entering it into the covered institution’s IT systems. Data aggregation, which is sensitive to the number of deposit IT systems, makes up about 13 percent of the rule’s estimated costs.

The 2016 Final Rule estimated total costs of \$478 million, with \$386 million of those costs to 38 covered financial institutions and the remainder borne by the FDIC and account holders.<sup>8</sup> For this proposed rule, the FDIC updated the list of covered institutions to 36 as of the effective date of the 2016 Final Rule and the types of accounts covered. The FDIC also updated the data in the model to December 31, 2018.

**Implementation Burden:**<sup>9</sup>

	<i>Number of respondents<sup>10</sup></i>	<i>Estimated annual frequency</i>	<i>Estimated average hours</i>	<i>Estimated total annual</i>

<sup>8</sup> See 81 FR 87734 (December 5, 2016) for further discussion of the cost estimation model.

<sup>9</sup> Implementation costs and hours are spread over a three-year period.

			<i>per response</i> <sup>11</sup>	<i>burden hours</i>
<b>2016 Final Rule</b>				
Lowest Complexity Institutions	12	1	31,054	372,648
Middle Complexity Institutions	13	1	46,342	602,446
Highest Complexity Institutions	13	1	325,494	4,231,422
<i>2016 Final Rule Total</i>	38		137,014	5,206,516
<b>Updated Data and Coverage</b> <sup>12</sup>				
Lowest Complexity Institutions	12	1	30,304	363,648
Middle Complexity Institutions	12	1	58,113	697,356
Highest Complexity Institutions	12	1	355,132	4,261,584
<i>Updated Data and Coverage Total</i>	36	1	147,850	5,322,588
<i>Change from Updated Data</i>	-2			116,072
<b>Proposed Rule less Exceptions</b>				
Lowest Complexity Institutions	12	1	28,304	339,648
Middle Complexity Institutions	12	1	53,643	643,716
Highest Complexity Institutions	12	1	326,764	3,921,168
<i>Proposed Rule Total less Exceptions</i>	36	1	136,237	4,904,532
<b>Exceptions or Release</b> <sup>13</sup>				
<i>Requests for Release of Requirements</i>	1	1	5	5
<i>Requests for Exception</i>	1	1	60	60
				<b>4,904,597</b>
<b><i>Change from Proposed Rule</i></b>				<b>(417,991)</b>

**Ongoing Burden:**

	<i>Number of respondents</i>	<i>Estimated annual frequency</i>	<i>Estimated average hours</i>	<i>Estimated total annual</i>
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<sup>10</sup> None of the respondents required to comply with the rule are small entities as defined by the Small Business Administration (i.e., entities with less than \$550 million in total assets).

<sup>11</sup> Weighted average rounded to the nearest hour. For PRA purposes, covered institutions are presented in roughly equal-sized low, medium and high complexity tranches ranked by their PRA implementation hours.

<sup>12</sup> This section incorporates changes to the baseline estimate of rule burden based on changes in the number of covered institutions as well as changes to the data inputs for the burden model. The 2016 Final Rule estimated 38 banks would be covered. As of April 1, 2017, the effective date of the rule, only 32 banks were covered by the rule. Four additional banks became covered by the rule in later quarters for a total of 36 covered banks. This section uses bank-level data from December 31, 2018, updating the original burden estimate based on December 31, 2016 data.

<sup>13</sup> The proposed rule allows for banks to request exemptions from rule requirements or extensions of time to comply. The FDIC cannot estimate how many banks will request such exemptions or extensions but estimates that any such requests would be made during the implementation phase.



			<i>per response</i>	<i>burden hours</i>
<b>2016 Final Rule</b>				
Lowest Complexity Institutions	12	1	493.1	5,917
Middle Complexity Institutions	13	1	516.7	6,718
Highest Complexity Institutions	13	1	566.6	7,365
<i>Proposed Rule Total</i>	38		526	20,000
<b>Updated Data and Coverage</b>				
Lowest Complexity Institutions	12	1	487	5,844
Middle Complexity Institutions	12	1	488	5,856
Highest Complexity Institutions	12	1	558	6,696
<i>Updated Data and Coverage Total</i>	36		511	18,396
<i>Change</i>	-2			(1,604)
<b>Proposed Rule</b>				
Lowest Complexity Institutions	12	1	487	5,844
Middle Complexity Institutions	12	1	488	5,856
Highest Complexity Institutions	12	1	558	6,696
<i>Updated Data and Coverage Total</i>	36		511	18,396
<b>Change from Proposed Rule</b>	<b>0</b>			<b>0</b>

The implementation costs for all covered institutions are estimated to total \$362.4 million and require approximately 4.9 million labor hours. This represents a decline of \$20.9 million and 417,980 labor hours for covered institutions due to the proposed rule. The implementation costs cover (1) making the deposit insurance calculation, (2) legacy data cleanup, (3) data extraction, (4) data aggregation, (5) data standardization, (6) data quality control and compliance, and (7) data reporting.

In terms of initial implementation, the estimated PRA burden for individual covered institutions after enacting the proposed rule will require between 9,056 and 275,112 burden hours, and these burden hours are monetized to range from \$757,851 to \$31.0 million. This represents a decline for covered institutions of 675 and 29,007 burden hours and \$33,787 to \$532,873 million, respectively.

The estimated ongoing burden on individual covered institutions for reporting, testing, maintenance, and other periodic items is estimated to range between 481 and 666 labor hours, and these ongoing burden hours are monetized to be \$72,146 and \$99,865 annually. The ongoing cost burdens remain the same.

#### **ESTIMATED MONETIZED COSTS BY COMPONENT**

<i>2016 Final Rule</i>	<i>Updated Data and Coverage</i>	<i>Proposed Rule</i>	<i>Change in Cost from</i>
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Components	Component Cost**	Component Cost**	Component Cost**	Proposed Rule
Legacy Data Cleanup	\$226,482,333	\$227,449,750	\$206,547,385	(\$20,902,365)
Data Aggregation	64,015,373	62,707,618	62,707,618	0
Data Standardization	36,573,894	35,811,558	35,811,558	0
Data Extraction	25,397,761	25,073,291	25,073,291	0
Quality Control & Compliance	18,403,006	18,024,478	18,024,478	0
Insurance Calculation	9,500,400	8,584,000	8,548,000	0
Reporting	5,971,800	5,661,000	5,661,000	0
Implementation Costs	\$367,936,888	\$383,311,695	\$362,409,330	(\$20,902,365)
Ongoing Operations	2,999,963	2,758,899	2,758,899	0
TOTAL COST	\$389,344,530	\$386,070,594	\$365,168,229	0
Change from Updating Data		(\$3,273,936)		
Change from Proposed Rule			(\$20,902,365)	

The estimated annual burden for the “Recordkeeping for Timely Deposit Insurance Determination” information collection (OMB Control Number 3064-0202) if the proposed rule is adopted would be as follows:

Implementation Burden:<sup>14</sup>

*Estimated number of respondents:* 36 covered institutions and their depositors.

*Estimated time per response:*<sup>15</sup> 136,237 hours (average).

Low complexity: 11,946–41,406 hours.

Medium complexity: 41,947–74,980 hours.

<sup>14</sup> Implementation costs and hours are spread over a three-year period.

<sup>15</sup> For PRA purposes, covered institutions are presented in roughly equal-sized low, medium and high complexity tranches ranked by their PRA implementation hours.

High complexity: 75,404–762,185 hours.

*Estimated total implementation burden: 4,904,597 hours.*

Ongoing Burden:

*Estimated number of respondents: 36 covered institutions and their depositors.*

*Estimated time per response: 511 hours (average) per year.*

Low complexity: 433–530 hours.

Medium complexity: 434–530 hours.

High complexity: 435–661 hours.

*Estimated total ongoing annual burden: 18,396 hours per year.*

13. Estimate of start-up costs to respondents:

None. FDIC estimates that the existing computer systems and equipment currently used by respondent institutions will be sufficient to make the calculations and maintain the records required by the proposed rule.

14. Estimate of annualized costs to the government:

None.

15. Analysis of change in burden:

The estimated total annual burden for the information collection under the proposed rule is 4,922,993 hours. This represents a reduction in estimated total annual burden of 303,527 hours. The reduction in burden is due in part to reduced recordkeeping and reporting burden and in part to a reduction in the estimated number of respondents from 38 to 36 institutions.

An analysis of deposit account information at covered institutions suggested that the proposed rule could affect an estimated one to 20 percent of accounts on average, for covered institutions.<sup>16</sup> The realized effect would vary depending upon the types of accounts that a covered institution offers. The more deposit accounts a covered institution has, the greater the reduction in recordkeeping requirements these proposed amendments would provide. To conservatively estimate the expected benefits of the proposed rule, the FDIC assumed that the reduced recordkeeping and requirements would affect between one and 20 percent of all deposit accounts at covered institutions.

For the purposes of the Paperwork Reduction Act, the FDIC estimates that approximately 10 percent of non-retirement accounts consist of the type of accounts for which the FDIC

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<sup>16</sup> The FDIC analyzed the dollar volume of retirement, mortgage servicing, and trust accounts as reported on the December 31, 2018 Call Reports for covered institutions .

proposes to grant relief. The number of accounts affects only one of eight components of the burden model for the final rule for Part 370 adopted in 2016 (the “2016 Final Rule”): Legacy Data Clean-up. This component consists of two portions: 1) automated clean-up, and 2) manual clean-up. The number of accounts affects only the manual portion associated with correcting bank records, and thus the proposed rule affects only that estimate.

Using this adjusted burden as a baseline for the burden reduction of the proposed rule, we estimate that the proposed rule reduces the implementation burden by 417,980 hours. This includes 418,056 of burden reduction but adds 65 hours of additional burden for requests for extensions and exemptions under the proposed rule. The proposed rule does not change the annual ongoing burden.

Finally, the 2016 Final Rule estimated 38 banks would be covered. As of April 1, 2017, the effective date of the rule, only 32 banks were covered by the rule. Four additional banks became covered by the rule in later quarters for a total of 36 covered banks. FDIC’s burden estimate uses bank-level data from December 31, 2018, updating the original burden estimate based on December 31, 2016 data.

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:

The OMB Control Number and expiration date for this collection of information is displayed in the Noticed of Proposed Rulemaking published in the *Federal Register*.

B. Collection of Information Employing Statistical Methods

Not applicable.