

SUPPORTING STATEMENT
Qualifications for Failed Bank Acquisitions
(OMB Control No. 3064-0169)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting a three-year renewal of the information collection titled, “Qualifications for Failed Bank Acquisitions” (3064-0169). The Policy Statement behind it provides guidance to private capital investors interested in acquiring failed insured depository institutions regarding the terms and conditions for such investments or acquisitions. This information collection expires on October 31, 2019. The information collected allows the FDIC to evaluate, among other things, whether such investors (and their related interests) could negatively impact the Deposit Insurance Fund, increase resolution costs, or operate in a manner that conflict with safety and soundness principles and compliance requirements. There is no change in the method or substance of the collection.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Section 36 of the Federal Deposit Insurance Act (FDI Act) and the FDIC’s implementing regulations (Part 363) are generally intended to facilitate early identification of problems in financial management at insured depository institutions with total assets above certain thresholds through annual independent audits, assessments of the effectiveness of internal control over financial reporting and compliance with designated laws and regulations, the establishment of independent audit committees, and related reporting requirements. The asset-size threshold for internal control assessments and certain audit committee membership requirements is \$1 billion and the threshold for the other requirements is \$500 million. Given changes in the industry; certain sound audit, reporting, and audit committee practices incorporated in the Sarbanes-Oxley Act of 2002 (SOX); and the FDIC’s experience in administering Part 363 of its regulations, the FDIC last amended Part 363 in June 2009 to further the objectives of Section 36 by incorporating these sound practices into Part 363 and to provide clearer and more complete guidance to institutions and independent public accountants concerning compliance with the requirements of Section 36 and Part 363.

2. Use of the information:

Information sought from Investors and others described in the Policy Statement assists the FDIC in evaluating resolution alternatives and in providing prudent oversight of insured depository institutions to ensure that they do not pose unreasonable risks to the Deposit Insurance Fund when originally chartered or during their early, critical years of operation.

The FDIC's information request requires Investors to provide regular reports that identify all known affiliates of the Investor and known "portfolio companies" in which the Investor or its affiliates owns more than 10% of the total voting equity; to maintain their books and records (or a duplicate thereof) in the United States if such Investors wish to be eligible to own a direct or indirect interest in an insured depository institution; and to submit to the FDIC information about themselves and all entities in their ownership chain, including such information as the size of the capital fund or funds, its diversification, the return profile, the marketing documents, the management team, the business model and such other information as the FDIC determines to be necessary to ensure compliance by Investors with the Policy Statement.

The FDIC believes that this information can be provided by Investors without significantly deterring private capital investments in the deposit and other liabilities and assets associated with troubled insured depository institutions. By identifying the information sought in its published Policy Statement, the FDIC intends to make an interested Investor aware of the information required by the FDIC and, and in so doing, make the Investor's investment decision a more informed one.

3. Consideration of the use of improved information technology:

Submission of periodic investor affiliate reports to insured depository institutions may be facilitated by whatever technology is mutually agreeable to investors and institutions. Similarly, business books and records (or duplicates thereof) to be maintained in the U.S. by investors that own an interest in an insured depository institution and that employ ownership structures utilizing entities that are domiciled in bank secrecy jurisdictions may be maintained in the form and format typically utilized by such entities. Finally, in making disclosures regarding the size of capital funds, diversification, return profile, marketing documents, the management team, and business models, investors subject to the policy statement may use technology to the extent feasible and appropriate to meet the disclosure requirements.

4. Efforts to identify duplication:

The information collection contained in the Policy Statement is related to, but not duplicated by, other previously approved collections of information. It cannot be readily acquired from other sources. In order to provide clarity to affected information providers, the FDIC uses this information collection to specify the information required to be submitted by Investors subject to the Policy Statement.

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

The information collected is the minimum necessary to ensure that the acquisitions of failed institutions by private capital investors do not raise safety and soundness issues, present a risk to the Deposit Insurance Fund, or increase resolution costs. Small entities can choose whether to participate in the program.

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

Absent the information sought by the FDIC, Investors with opaque organizational structures and their related business interests may adversely affect the Deposit Insurance Fund or resolution costs by compromising existing capital sources, utilizing unproven management, and engaging in risky business ventures. The business and management interests of Investors and related parties often are subject to frequent change. The FDIC believes that such fluctuations call for a more frequent reporting cycle to guard against loss to the Deposit Insurance Fund throughout the investment period. Such factors may become more significant if the Investor or a related company is domiciled in a jurisdiction where the FDIC or other federal regulator may be unable to obtain ready access to needed records. Requiring such records (or a duplicate of them) to be maintained in the United States, as mandated by the Policy Statement, is expected to mitigate these concerns.

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

The Policy Statement requires Investor(s) to provide “regular reports” to the acquired insured depository institution identifying all affiliates of such Investor(s) and known portfolio companies in which the investors or their affiliates have invested. For purposes of the Policy Statement, the term “affiliate” is defined as “any company in which the Investor owns, directly or indirectly, at least 10 percent of the equity of such company and has maintained such ownership *for at least 30 days.*” (emphasis added)

In including this 30-day requirement in the definition of “affiliate” in the Policy Statement, the FDIC signals its understanding of the common industry practice for an Investor to frequently alter its investment mix. If the FDIC required less frequent reporting, the Deposit Insurance Fund could be adversely affected and the Investor could have disposed of its interest in the offending investment before the FDIC became aware of potential risk to the Deposit Insurance Fund. The FDIC believes that a monthly reporting cycle for this information could offer significant protection against loss to the Deposit Insurance Fund.

8. Efforts to consult with persons outside the agency:

On July 12, 2019, the FDIC published a Federal Register notice proposing to extend the Qualifications for Failed Bank Acquisitions existing information collection (84 FR 33259). No comments were received. On September 19, 2019, the FDIC published its final 30-day notice informing the public that the agency is submitting the renewal of this information collection to OMB. On September 23, 2019 FDIC received an email comment from an individual that does not address PRA issues.

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:

No information of a sensitive nature is requested.

12. Estimate of hour burden including annualized hourly costs:

Estimated Annual Burden

Information Collection (IC) Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Number of Responses	Estimated Time per Response (Hours)	Frequency of Response	Total Estimated Annual Burden (Hours)
Section D – Investor reports on affiliates	Reporting	Mandatory	3	12	2	On Occasion	72
Section E - Maintenance of business books and records	Recordkeeping	Mandatory	3	4	2	On Occasion	24
Section I - Disclosures regarding investors and entities in ownership chain	Reporting	Mandatory	3	4	4	On Occasion	48
Total Estimated Annual Burden Hours							144

Annualized Cost of Internal Hourly Burden:

The estimated labor cost is calculated as follows:

Personnel Category	Hourly 75 th Percentile Wage	Percent Weighted	Dollar Value Weighted
Executives & Managers *	\$122.31	5%	\$6.12
Professionals and Managers **	\$156.07	10%	\$15.61
Skilled and Technical Workers †	\$63.36	80%	\$50.69
Clerical ‡	\$31.89	5%	\$1.59
Weighted Average Wage		100%	\$74.00

Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates: Depository Credit Intermediation Sector" (May 2017), Employer Cost of Employee Compensation (December 2018), Consumer Price Index (December 2018).

* Occupation (SOC Code): Top Executives (111000)

** Occupation (SOC Code): Lawyers, Judges, and Related Workers (231000)

† Occupation (SOC Code): Compliance Officers (131041),

‡ Occupation (SOC Code): Office and Administrative Support Occupations (430000)

The dollar value of the 144 hours of total estimated annual burden is \$10,656 (144 hours x \$74.00).

13. Estimate of start-up costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Analysis of change in burden:

There is no change in the method or substance of the collection. The annual burden for this information collection is estimated to be 144 hours. This represents a decrease of 280 hours from the current burden estimate of 424 hours. This decrease is due to a decreased in the estimated number of respondents.

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

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

17. Display of expiration date:

Not applicable.

18. Exceptions to Certification

None.

B. Collection of Information Employing Statistical Methods

Not Applicable.