

**BUREAU OF CONSUMER FINANCIAL PROTECTION
PAPERWORK REDUCTION ACT SUBMISSION
INFORMATION COLLECTION REQUEST**

SUPPORTING STATEMENT PART A

**REGULATION I: DISCLOSURE REQUIREMENTS FOR DEPOSITORY
INSTITUTIONS LACKING FEDERAL DEPOSIT INSURANCE (12 CFR 1009)**

(OMB CONTROL NUMBER: 3170-0062)

OMB TERMS OF CLEARANCE: Not applicable. The Office of Management and Budget (OMB) provided no terms of clearance when it last approved the information collections contained in 12 CFR 1009 and assigned OMB control number 3170-0062. See OMB Notice of action dated August 2, 2016.

ABSTRACT: This Rule applies to all depository institutions lacking Federal deposit insurance. It requires the disclosure of certain insurance-related information in periodic statements, account records, locations where deposits are normally received, and advertising. This part also requires such depository institutions to obtain a written acknowledgment from depositors regarding the institution's lack of Federal deposit insurance.

JUSTIFICATION

Circumstances Necessitating the Data Collection:

Section 43(b)-(f) of the Federal Deposit Insurance Act (FDIA) of 1950 (Pub.L. 81-797), requires that depository institutions lacking Federal deposit insurance make certain insurance-related disclosures in periodic statements, account records, locations where deposits are normally received, and advertising. The FDIA also requires such depository institutions to obtain a written acknowledgment from depositors regarding the institution's lack of Federal deposit insurance. Prior to July 21, 2011, the FDIA required that the Federal Trade Commission (Commission), by regulation or order, prescribe the manner and content of these disclosures. The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Public Law 111-203, amended a number of consumer financial protection laws, including the FDIA. In addition to various substantive amendments, the Dodd-Frank Act transferred rulemaking authority for implementing the disclosure requirements for depository institutions lacking Federal deposit insurance, as described above, to the Bureau, effective July 21, 2011. These requirements are implemented by the Bureau's Regulation I, codified at 12 CFR 1009.

Section 1009.3 requires any depository institution (defined as any bank or savings association, as defined by 12 U.S.C. section 1813, or any credit union organized and operated according to the laws of any state, the District of Columbia, the several territories and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico, which laws provide for the organization of credit unions similar in principle and objectives to Federal credit unions) that lacks Federal deposit insurance to disclose that the institution is not Federally insured, and that if the institution fails, the Federal government does not guarantee that depositors will get back their money, in all periodic statements of account, on each signature card, and on each passbook, certificate of deposit, or share certificate.

Section 1009.4 requires any depository institution that lacks Federal deposit insurance to disclose its lack of insurance to customers in the following locations:

(1) At each station or window where deposits are normally received, its principal place of business and all its branches where it accepts deposits or opens accounts (excluding automated teller machines or point of sale terminals), and on its main internet page; and

(2) In all advertisements.

In addition, section 1009.5 requires the institution to obtain from all depositors (except as described below) a signed document acknowledging:

(1) The institution is not federally insured; and

(2) If the institution fails, the Federal Government does not guarantee that the depositor will get back the depositor's money.

For new depositors obtained as a result of a conversion or merger and for depositors who were depositors before October 13, 2006, section 1009.5 provides that the institution may either:

(1) Obtain a signed document as described above; or

(2) Send to the depositor a conspicuous card stating that the institution is not federally insured and if the institution fails the Federal Government does not guarantee that the depositor will get back the depositor's money, including a line for the signature of the depositor, and including accompanying materials requesting that the depositor sign the card and return the signed card to the institution.

2. Use of the Information:

The information required to be disclosed by this regulation is used by consumers to make informed decisions about where to deposit their money and the risks they may incur by

depositing money with institutions lacking Federal deposit insurance. The signed acknowledgement requirement further serves to ensure that consumers are aware of the risks they may incur by depositing money with institutions lacking Federal deposit insurance and are able to make informed decisions about where to deposit their money, and in addition allows institutions to show they have made the required disclosures to consumers and that consumers are on notice regarding the lack of Federal deposit insurance.

3. Use of Information Technology:

The regulation requires that the covered institution make the required disclosures on its main internet page as well as in all advertising in whatever format. Certain of the required disclosures may be provided in electronic form, subject to compliance with the consumer consent and other applicable provisions of the Electronic Signatures in Global and National Commerce Act (E-SIGN Act). Pub.L. 106–229.

4. Efforts to Identify Duplication:

This requirement is unique to the requirements of Regulation I. Therefore, the request does not duplicate an existing collection of information contained in any regulatory or statutory requirement administered by the Bureau.

5. Efforts to Minimize Burdens on Small Entities:

This requirement imposes the minimum burden necessary to implement Regulation I, and the Bureau believes the requirements impose only a minor burden, if any, on all covered institutions, including small entities.

6. Consequences of Less Frequent Collection and Obstacles to Burden Reduction

The Bureau does not collect any information from the covered entities, and to the extent the rule requires the covered entities to collect a signed acknowledgement from their customers, the rule requires the information be collected only once from each new or existing customer of the institution.

7. Circumstances Requiring Special Information Collection

There are no special circumstances. The collection of information is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

8. Consultation Outside the Agency

In accordance with 5 CFR 1320.8(d)(1), the Bureau published a notice in the *Federal Register* allowing the public 60 days to comment on this collection of information, and received no

comments. Further, and in accordance with 5 CFR 1320.5(a)(1)(iv), the Bureau also published a notice in the *Federal Register* allowing the public 30 days to comment on the submission of this information collection request to OMB.

9. Payments or Gifts to Respondents

Not applicable. The information collection does not provide for making payments or gifts to respondents.

10. Assurances of Confidentiality

Because this collection of information does not involve the collection of information from or about individuals, the Privacy Act of 1974, as amended, 5 U.S.C. section 552a, is not implicated. Therefore, no privacy impact assessment has been conducted nor has the Bureau published a Systems of Records Notice relative to this collection of information.

11. Justification for Sensitive Questions

Not applicable. The collection of information does not impact individuals and does not collect information that would be considered private.

12. Estimated Burden of Information Collection

The vast majority of depository institutions are insured by the Federal Deposit Insurance Corporation (FDIC) or the National Credit Union Share Insurance Fund (NCUSIF). We estimate that there are 167 depository institutions potentially subject to Regulation I, and thus required to provide the above noted disclosures in their advertising and obtain written acknowledgement of the institution's lack of federal insurance for their accounts. The Bureau also estimates that approximately one depository institution will convert from federal insurance to non-federal insurance per year, and will incur one-time costs to provide disclosures on their premises, account statements, and other documents specified above. This depository institution will also incur a one-time cost to attempt to receive written acknowledgement from its current accountholders.

The Bureau generally shares burden with other federal regulators who have enforcement authority over the same entities. Very few entities are required to comply with the disclosure requirements of Regulation I. Thus, for convenience, the Bureau allocates to itself all burden associated with Regulation I.¹ This burden is as follows:

¹ See 12 CFR 1009.7 (“Compliance with the requirements of this part shall be enforced under the Consumer Financial Protection Act of 2010, Public Law 111-203, title X, 124 Stat. 1955, by the Bureau of Consumer Financial Protection, subject to subtitle B of the Consumer Financial Protection Act of 2010, and under the Federal Trade Commission Act, 15 U.S.C. 41 et seq, by the Federal Trade Commission.”). In a recent report on private deposit insurance, the GAO noted, “CFPB and the Federal Trade Commission (FTC) are the federal entities responsible for

Information Collection Requirement	No. of Respondents	Annual Frequency	Annual Responses	Average Response Time (hrs.)	Annual Burden Hours	Hourly Rate ²	Annual Labor Costs ³
Costs of Operating							
Advertising Disclosures	167 ⁴	0.3 ⁵	50	1.00	50	\$34.86	\$1,700
Obtaining & Maintaining a signed acknowledgement	167	300 ⁶	50,100	0.04	2,000	\$34.86	\$70,000
Consumer reviewing and signing acknowledgement	167	300	50,100	0.04	2,000	n/a	n/a
Costs of Federal to Non-Federal Conversion							
Posting of Disclosures on the Premises	12	1	12	8.00	96	\$34.86	\$3,300
Formatting Account Statement and other Document Disclosures	12	1	12	8.00	96	\$34.86	\$3,300
Mailing Attempt to Obtain Member Acknowledgement	12	1	12	8.00	96	\$34.86	\$3,300
Consumer reviewing and signing acknowledgement	1	6779 ⁷	6,779	0.04	271	n/a	n/a
Total	167		107,066		4,609		\$81,600

13. Estimated Total Annual Cost Burden to Respondents or Recordkeepers

There should be minimal annualized costs to keep the required acknowledgement forms on file and insert the necessary language into all advertisements. Covered entities will incur a small material cost to obtain the written disclosures. Depository institutions who convert from federal insurance to non-federal insurance will incur costs to mail disclosures with return postage for acknowledgements. It is the Bureau's understanding that the only private insurer of depository institutions provides disclosure signage for its customers. Therefore, there will be minimal costs to depository institutions who convert to private insurance to develop and display disclosures on their premises. If an institution instead converts to another form of insurance, such as state

enforcing these requirements" (*Private Deposit Insurance: Credit Unions Largely Complied with Disclosure Rules, but Rules Should Be Clarified*, GAO-17-259, page 6, available at <https://www.gao.gov/products/GAO-17-259>).

² Bureau of Labor Statistics May 2018 Occupational Employment and Wage Estimates

http://www.bls.gov/oes/current/oes_nat.htm#13-0000 mean hourly wage for Compliance Officers (13-1041)

³ Labor costs are rounded to the nearest hundred dollars (if less than \$10,000) and nearest thousand dollars (if greater than \$10,000).

⁴ The number of respondents is calculated at end of year 2018 using bank and credit union call report data.

⁵ Represents the average annual number of advertising campaigns at non-federally insured depository institutions.

⁶ Represents the average annual member growth of non-federally insured depository institutions.

⁷ Represents the average number of accountholders at depository institutions that have converted from federal to private insurance over the last three years.

insurance, that institution would incur minimal costs to display disclosures on its premises. Accordingly, the Bureau estimates the burden as follows:

Description of Costs	No. of Respondents	Annual Frequency	Annual Responses	Unit Cost	Annual Burden
Costs of Operating					
Material Cost of Written Disclosure	167	300	50,100	\$0.01	\$501
Costs of Federal to Non-Federal Conversion					
Material and Postage Cost of Acknowledgement Mailing	12	1	12	\$3,390	\$40,680
Total	167		50,112		\$41,181

14. Estimated Cost to the Federal Government

The Bureau does not incur any new or unique costs as a result of this information collection.

15. Program Changes or Adjustments

	Total Respondents	Annual Responses	Burden Hours	Cost Burden (O & M)
Total Annual Burden Requested	167	107,066	4.609	41,181
Current OMB Inventory	136	87,430	3,652	4,212
Difference (+/-)	31	19,636	957	36,969
Program Change				
Discretionary				
New Statute				
Violation				
Adjustment	31	19,636	957	36,969

An overall increase in the number of respondents, due jointly to new uninsured institutions joining the market as well as institutions converting from federal to non-federal insurance, accounts for the adjustments seen above. No programmatic changes occurred with this information collection.

16. Plans for Tabulation, Statistical Analysis, and Publication

Not applicable. The information will not be published.

17. Display of Expiration Date

There are currently no forms or other instruments associated with this information collection on which to display the OMB-assigned expiration date. The OMB number and expiration date will

be displayed on the Federal government's electronic PRA docket at www.reginfo.gov.

18. Exceptions to the Certification Requirement

The Bureau certifies that this collection of information is consistent with the requirements of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3) and is not seeking an exemption to these certification requirements.

PART B – COLLECTIONS OF INFORMATION USING STATISTICAL METHODS

Not applicable. The information collections contained in 12 CFR 1009 do not involve the use of statistical methods.

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