

**SUPPORTING STATEMENT
FOREIGN BANKING AND INVESTMENT
BY INSURED STATE NONMEMBER BANKS
(OMB No. 3064-0125)**

INTRODUCTION

The FDIC is requesting OMB approval of the three-year extension, without change, of its collection of information entitled “Foreign Banking and Investment by Insured State Nonmember Banks” (OMB Control No. 3064-0125) which consists of reporting and recordkeeping requirements contained in 12 CFR Part 347 (International Banking) and 12 CFR Part 303 (Rules of Practice and Procedure). There is no change in the method or substance of the collection which currently expires on June 30, 2020.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Part 347 implements 12 USC 1828(d)(2) and 1828(l), sections of the Federal Deposit Insurance Act which authorize the FDIC to establish conditions for foreign branching by insured state nonmember banks and investment in foreign organizations by nonmember banks. The collections of information are discussed in detail below. They consist of applications related to establishing and closing a foreign branch; applications related to acquiring stock of a foreign organization; and records and reports which a nonmember bank must maintain once it has established a foreign branch or foreign organization.

Section 18(d)(2) of the FDI Act requires a nonmember bank to obtain the FDIC’s consent to establish or operate a branch in a foreign country (foreign branch). Section 18(d)(2) also authorizes the FDIC to impose conditions and issue regulations governing the operation and affairs of foreign branches. FDIC’s regulations at 12 CFR 347.117-119 and 303.182 set forth procedures for a nonmember bank to apply for permission to establish a foreign branch, and to engage through a foreign branch in activities not otherwise approved by section 347.117-118. These rules also require notice upon the closing of a foreign branch under section 347.121. The notices and applications constitute information collections under the Paperwork Reduction Act.

Foreign Investments

Section 18(l) of the FDI Act, 12 U.S.C. 1828(l), requires a nonmember bank to obtain the FDIC’s consent to acquire and hold, directly or indirectly, stock or other evidences of ownership in any foreign bank or other entity. Section 18(l) also states that these entities may not engage in any activities in the United States except as the FDIC’s Board of Directors has determined are incidental to the international or foreign business of these entities. In addition, section 18(l) authorizes the FDIC to impose conditions and issue regulations governing these investments. The notices and applications constitute information collections under the Paperwork Reduction Act.

Supervision and Recordkeeping of Foreign Activities

Losses incurred by a nonmember bank's foreign branches or foreign organizations will cause corresponding losses to the nonmember bank itself. In extreme cases, banks in other countries have collapsed as a result of their failure to properly oversee their foreign operations. The nonmember bank must establish a reporting system sufficient to permit the bank to know the true condition of its foreign operations and exercise prudent oversight and control to protect itself from this risk. FDIC's regulations at 12 CFR 347.116 address these issues by requiring a nonmember bank with a foreign branch, or which holds 20 percent or more of the voting equity interests of a foreign organization, to maintain sufficient records on its activities to ensure the nonmember bank may properly control and oversee its foreign operations. These recordkeeping requirements constitute information collections under the Paperwork Reduction Act.

2. **Use of the information:**

The FDIC will use the information as part of its supervisory process. The information in the notices and applications is used as part of the process by which the FDIC determines whether to permit a nonmember bank to establish or operate a foreign branch and to help the FDIC determine whether to permit a nonmember bank to make a foreign investment. The recordkeeping requirements assist foreign organizations to monitor their condition and control their operations.

3. **Consideration of the use of improved information technology:**

Currently, the low number of respondents for the reporting requirements in this collection does not make conversion to electronic submission cost beneficial. For the recordkeeping requirements, institutions may use whatever technology is most efficient for them as long as they have the information available on-site for review by state and federal examiners.

4. **Efforts to identify duplication:**

The information is not collected elsewhere and cannot be obtained from other sources.

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

FDIC data show that nonmember banks with foreign branches generally have assets over \$600 million (the SBA's threshold for small banks). Consequently, this information collection does not have a significant impact on a substantial number of small entities.

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

For the notices and applications requirements, the information is collected only once occasionally. For the recordkeeping requirements, affected nonmember banks are expected to collect relevant information as frequently as is necessary to keep abreast of the foreign operation's condition. Any less frequent collection would expose the nonmember bank to the risk that undetected problems at the foreign operation would cause loss to the nonmember bank and would hinder the FDIC's ability to assess the safety and soundness of FDIC-supervised institutions and take corrective action as needed.

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

None. The information is collected in a manner consistent with 5 CFR 1320.5(d)(2).

8. **Efforts to consult with persons outside the agency:**

The FDIC published a notice in the *Federal Register* seeking comment for a 60-day period on renewal of this information collection on April 14, 2020 (85 FR 20688). No comments were received.

9. **Payment or gifts to respondents:**

None.

10. **Any assurance of confidentiality:**

Information is kept private to the extent allowed by law. The information is generally available to the public; however, any information deemed to be of a confidential nature would be exempt from public disclosure in accordance with the provisions of the Freedom of Information Act (5 U.S.C. 552).

11. **Justification for questions of a sensitive nature:**

Not applicable. No sensitive information is collected.

12. **Estimate of hour burden including annualized hourly costs:**

The FDIC revised its estimates of the number of respondents to this information collection based on changes in the estimated number of respondents due to economic conditions. The hourly burden per response remains the same.

Information Collection Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response (Hours)	Estimated Annual Burden (Hours)
Notices or applications to establish, move, or close a foreign branch (303.182)	Reporting	Mandatory	1	On Occasion	2	2
Notices or applications for authorization for foreign branch to engage in activities other than those permitted in 347.115 (303.121)	Reporting	Mandatory	1	On Occasion	40	40
Notices or applications by insured state nonmember bank to invest in, or divest its interest in, a foreign organization (303.183)	Reporting	Mandatory	1	On Occasion	2	2
Merger transactions involving foreign organizations (303.185(b) referencing 303.62)	Reporting	Mandatory	1	On Occasion	6	6
Notices or applications to invest in foreign organizations, or to engage in certain activities through foreign organizations (303.183(b) and/or 303.121)	Reporting	Mandatory	2	On Occasion	60	120
Notice of foreign divestiture of foreign organization (303.183(d))	Reporting	Mandatory	2	On Occasion	1	2
Document policies and procedures for supervision of foreign activities of insured state nonmember banks (347.116) (Implementation)	Recordkeeping	Mandatory	10	On Occasion	400	4,000

Total Estimated Annual Burden

4,172 hours

Annualized Cost of Internal Hourly Burden:

To estimate the weighted average hourly cost of compensation, FDIC uses the 75th percentile hourly wages 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, as of December 2019.

The hourly wage rates reported by BLS do not include non-monetary compensation. According to the December 2019 Employer Cost of Employee Compensation data, compensation rates for health and other benefits are 33.8 percent of total compensation. To account for non-monetary compensation, FDIC adjusted the hourly wage rates reported by BLS by that percentage. FDIC also adjusted the hourly wage by 3.11 percent based on changes in the Consumer Price Index for Urban Consumers (CPI-U) from May 2018 to December 2019 to account for inflation and ensure that the wage information is contemporaneous with the non-monetary compensation statistic.

After calculating these adjustments, FDIC then weighted the total hourly compensation across the four occupations (Executives and Managers, Lawyers, Compliance Officer, and Clerical) FDIC estimates are involved in responding to this information collection as follows:

Summary of Hourly Burden Cost Estimate (3064-0176)

Estimated Category of Personnel Responsible for Complying with the PRA Burden	Total Estimated Hourly Compensation	Estimated Weights	Weighted Hourly Wage
Executives & Managers ¹	\$121.88	5%	\$6.09
Lawyers ²	154.50	5%	\$7.73
Compliance Officer ³	\$65.42	85%	\$54.76
Clerical ⁴	\$32.59	5%	\$1.63
Weighted Average			\$70.21

Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates: Depository Credit Intermediation Sector" (May 2018), Employer Cost of Employee Compensation (December 2019), Consumer Price Index (December 2019).

Total Estimated Cost Burden

FDIC estimates the total annual cost burden for this information collection by multiplying the total estimated annual burden of 4,172 hours, by the weighted average hourly compensation estimate of \$70.21 to arrive at an estimated labor cost of \$292,916.12 per year.

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 substance or methodology of this information collection. The change in burden is due solely to a decrease in the number of respondents which decreased from 29 to 18. The hourly burden per response remains the same. As a result, total estimated annual burden for this information collection has decreased by 4,006 hours from 8,178 hours to 4,172 hours.

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

1 Occupation (SOC Code): Management Occupations (110000).
 2 Occupation (SOC Code): Lawyers, Judges, and Related Workers (231000).
 3 Occupation (SOC Code): Compliance Officers (131041).
 4 Occupation (SOC Code): Office and Administrative Support Occupations (430000).

statistical use:

The information collected is for internal FDIC use only and is not published.

17. Display of expiration date:

This information collection involves recordkeeping requirements only. The expiration date of the information collection is readily available at www.reginfo.gov⁵

18. Exceptions to certification:

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

⁵ https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201703-3064-003