

Financial Stability Oversight Council

Designation of Financial Market Utilities Under Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act

OMB Control No. 1505-0239

1. Circumstances necessitating the collection of information

Section 804 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the DFA) (Pub. L. 111-203, 124 Stat. 1376) provides the Financial Stability Oversight Council (Council) the authority to designate a financial market utility (FMU) as systemically important if the Council determines that the failure of or a disruption to the functioning of the FMU could create, or increase, the risk of significant liquidity or credit problems spreading among financial institutions or markets and thereby threaten the stability of the U.S. financial system. A designated FMU is subject to risk management standards prescribed by the Board of Governors of the Federal Reserve System, the Commodity Futures Trading Commission, or the Securities and Exchange Commission under section 805 of the DFA.¹ The rules adopted by the Council in July 2011 (codified at 12 CFR part 1320) describe the criteria that will inform, and the processes and procedures established under the DFA for, the Council's designation of FMUs under the DFA.

2. Use of the data

The information collected in § 1320.20 from FMUs will be used generally by the Council to determine whether to designate or rescind the designation of an FMU under Title VIII of the DFA. Under § 1320.20(a), the Council may require any FMU to submit such information to the Council, as the Council may require, for the sole purpose of assessing whether the FMU is systemically important. Before requiring an FMU to submit information pursuant to § 1320.20, the Council is required to coordinate with the supervisory agency for the FMU to determine if the information is available from, or may be obtained by, the supervisory agency in the form, format, or detail required by the Council.² In the past, the Council has obtained the necessary information with respect to the FMUs from the supervisory agencies. In July 2012, the Council designated eight FMUs as systemically important under Title VIII of the DFA. Should such information not be able to be obtained in the form, format, or detail required by the Council from such supervisory agencies, the Council may need to use its authority under § 1320.20(a) to require an FMU to submit such information.

The collection of information in § 1320.11 provides an opportunity for an FMU to submit written materials to the Council before the Council decides whether to propose (1) the

¹ Some FMUs may welcome designation by the Council because of two specific benefits tied to such designation. First, a designated FMU may be able to open a Federal Reserve account under DFA § 806(a). Second, a designated FMU may be able to access the Federal Reserve Banks' discount window under DFA § 806(b).

² 12 CFR 1320.20(b)(3).

designation of the FMU as systemically important or (2) rescinding the designation of the FMU as systemically important. Similarly, the collection of information in § 1320.12 provides an opportunity for an FMU to request a hearing or submit written materials to the Council to contest the Council's proposed determination to either designate the FMU as systemically important or rescind the designation of the FMU. No FMU has previously requested a hearing or submitted written materials pursuant to § 1320.12.

The collection of information in § 1320.14 provides an opportunity for an FMU to request a hearing or submit written materials to the Council to contest the Council's "emergency exception," i.e., a waiver or modification of any notice, hearing, or other requirements in §§ 1320.11 and 1320.12. No FMU has previously requested a hearing pursuant to § 1320.14, and the Council has not previously waived or modified the requirements of §§ 1320.11 or 1320.12.

3. Use of information technology

When appropriate, the Council may request that information be submitted electronically via email or a secure file transfer portal.

4. Efforts to identify duplication

The information is not collected or reported in any other information collection.

5. Impact on small entities

It is unlikely that small entities will be affected by the information collections.

6. Consequences of less frequent collection and obstacles to burden reduction

If the information is not collected, the Council will not be able to adequately meet its responsibilities under the DFA.

7. Circumstances requiring special information collection

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. Solicitation of comments on information collection

A notice and request for comments that describes the information collection under OMB Control No. 1505-0239 was published in the Federal Register on October 14, 2020 (85 FR 65139) and no comments were received.

9. Provision of payments to recordkeepers

No payment or gift has been provided to any respondents.

10. Assurance of confidentiality

Any confidential information provided will be maintained as confidential consistent with applicable provisions of the Trade Secrets Act, Freedom of Information Act, and the Privacy Act.

11. Justification of sensitive questions

No sensitive questions will be asked.

12. Estimated burden of information collection

Collection Instrument	Number of Respondents	Number of Responses per Respondent	Average Burden per Response (in hours)	Total Annual Burden (in hours)	Average Hourly Wage Rate ³	Total Annual Respondent Cost
Information Assessment for Determination/ Review (1320.20) ⁴	8	1	50	400	\$85.18	\$34,072
Consultation on Proposed Determination (1320.11) ⁵	1	1	20	20	\$85.18	\$1,704
Opportunity to Contest Proposed Determination (1320.12)	1	1	10	10	\$85.18	\$852
Opportunity to Contest	1	1	10	10	\$85.18	\$852

³ It is expected that administrative and/or operational managers for the financial institutions would prepare and submit the information for these collections. The average wage rate for operation managers is \$59.15 in 2019. https://www.bls.gov/oes/current/oes_nat.htm A benefit multiplier of 1.44 is used to calculate a fully-loaded wage rate of \$85.18 ($\$59.15 \times 1.44 = \85.18).

Using the BLS Employer Costs for Employee Compensation – March 2020 report <https://www.bls.gov/news.release/pdf/ecec.pdf>, a benefit multiplier of 1.44 was calculated by taking the private industry worker 50th (median) wage percentile total compensation rate divided by the wages and salaries rate ($\$26/\$18.05 = 1.44$).

⁴ Currently, eight FMUs are designated as systemically important. It is estimated that it could take 50 hours to review the designation of an institution for potential rescission.

⁵ The Council has received no requests from respondents under §§ 1320.11 or 1320.12. No respondent has previously requested a hearing pursuant to § 1320.14. One respondent for each type of request is entered as a placeholder in the event such a request is received in the future.

Waivers/Modification (1320.14)						
Total				440		\$37,480

13. Estimated total annual cost burden to respondents

The Council estimates that there will be no annualized capital/start-up costs for the respondents to collect and submit this information.

14. Estimated cost to the federal government

There will be no annualized capital/start-up costs for the government to receive this information.

15. Reasons for change in burden

The changes to the collection since the previous OMB approval include refining the burden and cost estimates. There are no program changes to the collection.

The estimate of annual burden hours has decreased by 60 hours, from 500 to 440, based on a revised estimate of the number of anticipated responses. The total annual respondent cost estimate of \$37,480 was not included in the previous OMB submission and has been added.

16. Plans for tabulation, statistical analysis and publication

There are no plans for tabulation, statistical analysis and publication.

17. Reasons why displaying the OMB expiration date is inappropriate

There are no associated forms or other collection instruments where the expiration date would appear.

18. Exceptions to certification statement

There are no exceptions to the certification statement.