

Supporting Statement
Exemptions to Suspicious Activity Report Requirements
OMB Control No. 3064-NEW

A. Justification.

1. Circumstances that make the collection necessary:

This Information Collection Request (ICR) is being filed in connection with the issuance of a Notice of Proposed Rulemaking that would amend the FDIC's suspicious activity report ("SAR") regulation to allow the FDIC to issue additional, case-by-case exemptions from SAR filing requirements. The FDIC's current filing exemptions pertain to property crimes (robberies and burglaries) and lost, missing, counterfeit, or stolen securities. FinCEN has broad authority to grant exemptions to its parallel but not identical SAR rule. The proposed rule would make it possible for the FDIC to grant exemptions, in conjunction with FinCEN, to FDIC-supervised institutions that develop innovative solutions to otherwise meet Bank Secrecy Act requirements ("BSA") more efficiently and effectively.

The proposed rule would allow the FDIC to issue exemptions from the filing requirements of its SAR regulations. The proposed rule would amend 12 CFR § 353.3(d) *Exemptions* by adding three subparagraphs that would permit the FDIC to exempt an FDIC-supervised institution from certain SAR filing requirements. Under the proposed rule, the FDIC would determine whether the requested exemption is consistent with safe and sound banking, along with other appropriate factors; and, where the exemption was relevant to BSA enforcement, would seek FinCEN's determination that the proposed exemption is consistent with the purposes of the BSA. When an exemption request overlaps with FinCEN's SAR rule, the FDIC would seek FinCEN's concurrence in granting the exemption. For exemption requests pertaining only to the FDIC's SAR rule, the FDIC may consult with FinCEN. Under the proposed rule, the FDIC could also revoke previously granted exemptions if circumstances change.

The reporting requirements arise from the procedures found in new proposed subparagraphs to be added to 12 CFR §353.3(d) of FDIC Rules and Regulations. Supervised institutions wishing to obtain an exemption from the SAR reporting requirements must submit a written request to the FDIC with sufficient detail to enable FDCI to make a determination whether to exempt such supervised institution from the requirements of 12 CFR §353.3. Under the proposed rule, the FDIC would determine whether the exemption is consistent with safe and sound banking and may consider other appropriate factors. The FDIC would also seek FinCEN's determination whether the exemption is consistent with the purposes of the BSA, if applicable. In addition, the proposed rule provides that the FDIC may grant an exemption for a specified time period. The supervised institution would then be able to rely on the exemption for a period of time as determined and communicated by the FDIC. The FDIC would also be able to extend the period of time or revoke an exemption. Under the proposed rule, the FDIC could also extend or revoke previously granted exemptions if circumstances change related to the factors set out above

(consistency with the BSA and safety and soundness) or any imposed conditions.

2. Use of the information:

The FDIC would use the information provided by a supervised institution to determine whether to grant the requested exemption from the SAR reporting requirements.

3. Consideration of the use of improved information technology:

Any information technology may be used that permits consideration of a request by FDIC.

4. Efforts to identify duplication:

The information required is unique. It is not duplicated elsewhere.

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

This collection does not have an impact on a substantial number of small entities. The burden related to preparing a written request for an exemption is fairly nominal.

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

The information collection is voluntary and arises only occasionally if a supervised institution wished to request an exemption from existing SAR requirements. Conducting the collection less frequently would prevent FDIC from considering supervised institutions requests.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320:

None. The information collection is conducted in accordance with OMB guidelines in 5 CFR part 1320.

8. Efforts to consult with persons outside the agency:

The Agencies published the information collection requirements contained in the proposed rule for 60 days of comment.¹ Any comments received will be addressed when the final rule is issued.

9. Payment to respondents:

None.

¹ 86 FR 6529 (January 22, 2021).

10. Any assurance of confidentiality:

The information will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

There are no questions of a sensitive nature. No personally identifiable information is collected.

12. Burden estimate:

Potential respondents to this information collection (IC) include all FDIC-insured depository institutions. Since this is a new IC, the FDIC does not have historical data on which to base an estimate of the annual number of respondents. However, an institution would only request an exemption from SAR filing requirements if it had developed a technological solution for gathering and submitting the information contained in SARs to the relevant law enforcement and regulatory agencies. FDIC believes that few FDIC-supervised institutions would be willing and able to invest the resources to develop such a technological solution, and estimates that approximately three (3) FDIC-supervised institutions will request exemptions annually.

Summary of Annual Burden						
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)
Request for an Exemption from SAR Filing Requirements.	Reporting	Voluntary	3	On Occasion	8	24

Total Estimated Annual Burden

24 hours

FDIC estimates that submitting a request for an exemption from SAR filing requirements would take eight hours per institution, and that 56.25 percent (4.5 hours) of the work related to responding to this IC would be performed by Compliance Officers, 25 percent (2 hours) would be performed by Lawyers, 12.5 percent (1 hour) would be performed by Executives and Managers, and 6.25 percent (0.5 hours) would be performed by Office and Administrative Support Occupations. Based on recent Bureau of Labor Standards (BLS) estimates of wages for these professions, the average hourly compliance cost for respondents to this ICR is \$91.98.²

² The estimate includes the May 2019 75th percentile hourly wage rate for Compliance Officers (\$43.70), Legal Occupations (\$98.27), Management Occupations (\$80.01), and Office and Administrative Support Occupations (\$21.70) reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates. These wage rates have been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2019 and March 2020 (0.79 percent) and grossed up by 51 percent to account for non-monetary compensation as reported by the March 2020 Employer Costs for Employee Compensation Data.

FDIC estimates the total annual cost burden for this information collection by multiplying the total estimated annual burden of 24 hours, by the weighted average hourly compensation estimate of \$91.98 to arrive at an estimated labor cost of \$2,207.52 per year.

13. Estimate of annualized costs to respondents (excluding cost of hour burden in Item #12):

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

The increase in burden is due to the implementation of this new information collection.

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

No publication for statistical use is contemplated.

17. Display of expiration date:

Not applicable.

18. Exceptions to certification statement:

Not applicable.

B. Collections of Information Employing Statistical Methods.

Not applicable.

Assuming that Compliance Officers comprise 56.25 percent of the hourly burden associated with this information collection, Lawyers would comprise 25 percent, Executives and Managers would comprise 12.5 percent, and Office and Administrative Support Occupations would comprise 6.25 percent, the hourly cost estimate is calculated as $((0.5625 * \$66.43) + (0.25 * \$149.39) + (0.125 * \$121.63) + (0.625 * \$32.99)) = \$91.98$.