

Supporting Statement Prompt Corrective Action OMB Control No. 3064-0115

Introduction

The FDIC is requesting OMB approval of an extension, without change, of an existing information collection. The collection of information is comprised of reporting requirements contained in FDIC regulations 12 CFR parts 303, 324, and 390 associated with Prompt Corrective Action (“PCA”). The current clearance for this collection of information expires on April 30, 2021.

A. Justification.

1. Circumstances that make the collection necessary:

The PCA provisions of section 38 of the Federal Deposit Insurance Act require or permit the FDIC and other federal banking agencies to take certain supervisory actions when FDIC-insured institutions fall within certain PCA categories. They also restrict or prohibit certain activities and require the submission of a capital restoration plan when an insured institution becomes undercapitalized. Various provisions of the statute and the FDIC’s implementing regulations require the prior approval of the FDIC before an FDIC-supervised institution, or certain insured depository institutions, can engage in certain activities, or allow the FDIC to make exceptions to restrictions that would otherwise be imposed. This collection of information consists of the applications that are required to obtain the FDIC’s prior approval.

Specifically, the collection consists of applications: (1) to make a capital distribution from an FDIC-supervised institution that would be undercapitalized after making said distribution; (2) from certain undercapitalized institutions to engage in any new line of business; (3) from critically undercapitalized institutions to pay interest on subordinated debt; (4) from certain undercapitalized institutions to pay any bonus or increased compensation to any senior executive officer; (5) from critically undercapitalized institutions to enter into any material transaction other than in the usual course of business; (6) from critically undercapitalized institutions to extend credit for any highly leveraged transaction; (7) from critically undercapitalized institutions to amend their charters or bylaws under certain circumstances; (8) from critically undercapitalized institutions to make any material change in accounting methods; (9) from critically undercapitalized institutions to engage in any covered transaction as defined in section 23A(b) of the Federal Reserve Act, 12 USC 371c; and (10) from critically undercapitalized institutions to pay excessive compensation or bonuses.

2. Use of the information:

This information helps institutions comply with the statutory requirements and allows the FDIC to properly discharge its responsibilities under section 38 of the FDI Act.

3. Consideration of the use of improved information technology:

Institutions can submit PCA-related applications to the FDIC via the FDIC's interactive Website, *FDICconnect*.

4. Efforts to identify duplication:

There is no duplication. Each application is unique. Similar information is not available from any other source.

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

The same statutory requirements apply to all institutions regardless of size.

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

Conducting the collection less frequently would present safety and soundness risks and would violate the statutory provisions.

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

None. This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.

8. Efforts to consult with persons outside the agency:

A notice seeking public comment for a 60-day period was published in the *Federal Register* on February 17, 2021 (86 FR 9935). No comments were received.

9. Payment to respondents:

None.

10. Any assurance of confidentiality:

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). Information will be kept private to the extent allowed by law.

11. Justification for questions of a sensitive nature:

This collection contains no sensitive information.

12. Estimates of Hour Burden and Annualized Cost:

Summary of Annual Burden and Internal Cost (3064-0115)							
	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response	Estimated Average Number of Responses per Respondent	Total Annual Estimated Burden
Prompt Corrective Action (12 CFR parts 303, 324, and 390)	Reporting	Voluntary	12	On Occasion	4 hours	1.334	64 hours
Total Estimated Annual Burden							64 hours

Estimated Hourly Labor Compensation Rates -To estimate the weighted average hourly compensation cost of the burdens described above, 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 2020.

The hourly wage rates reported do not include non-monetary compensation. According to the December 2020 Employer Cost of Employee Compensation data, compensation rates for health and other benefits are 34 percent of total compensation. To account for non-monetary compensation, FDIC adjusts the hourly wage rates reported by BLS by that percentage. FDIC also adjusts the hourly wage by 1.71 percent based on changes in the Consumer Price Index for Urban Consumers (CPI-U) from May 2019 to December 2020 to account for inflation and ensure that the wage information is contemporaneous with the non-monetary compensation statistic.

After calculating these adjustments, FDIC then weights the total hourly compensation for the five occupations (Executives and Managers, Lawyers, Compliance Officers, Financial Analysts, and Clerical), using the agency’s estimated allocation of labor to find the estimated

hourly cost of complying with this IC.¹ The estimated hourly compensation rates are as follows:

Summary of Hourly Burden Cost Estimate (OMB No. 3064-0115)			
Estimated Category of Personnel Responsible for Complying with the PRA Burden	Total Estimated Hourly Compensation	Allocated Weights	Weighted Hourly Compensation
Executives and Managers ²	\$123.30	40%	\$49.32
Lawyers ³	151.44	30%	\$45.43
Compliance Officers ⁴	67.35	10%	\$6.74
Financial Analysts ⁵	79.40	10%	\$7.94
Clerical ⁶	33.44	10%	\$3.34
Weighted Average:			\$112.77
<p>Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)" (May 2019), Employer Cost of Employee Compensation (December 2020), Consumer Price Index (December 2020).</p> <p>Note: The 75th percentile wage information reported by the BLS in the Specific Occupational Employment and Wage Estimates does not include health benefits and other non-monetary benefits. According to the December 2020 Employer Cost of Employee Compensation data compensation rates for health and other benefits are 34 percent of total compensation. Additionally, the wage has been adjusted for inflation according BLS data on the Consumer Price Index for Urban Consumers (CPI-U) so that it is contemporaneous with the non-wage compensation statistic. The inflation rate was 1.71 percent between May 2019 and December 2020.</p>			

Total Estimated Compliance Cost

Estimated Labor Cost – FDIC estimates the total annual cost burden for this information collection by multiplying the total estimated annual burden hours shown in the Summary of Estimated Annual Burden table above, by the weighted average hourly compensation estimate

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- 1 The SMEs have indicated that they did not have information sufficient to allocate labor hours and, accordingly, it was agreed that an even allocation among the listed occupations would be used.
 - 2 Occupation (SOC Code): Management Occupations (110000).
 - 3 Occupation (SOC Code): Legal Occupations (230000).
 - 4 Occupation (SOC Code): Compliance Officers (131040).
 - 5 Occupation (SOC Code): Financial and Investment Analysts, Financial Risk Specialists, and Financial Specialists, All Other (132098).
 - 6 Occupation (SOC Code): Office and Administrative Support Occupations (430000).

shown in the Summary of Hourly Burden Cost Estimate table . The total annual cost burden is estimated to be approximately \$7,217.⁷

13. Estimate of annualized costs to respondents:

None.

14. Estimate of annualized costs to the government:

None.

15. Changes in burden:

There is no change in the substance or methodology of this information collection. The change in burden is due to economic fluctuations, particularly, the number of insured depository institutions estimated to become subject to Prompt Corrective Action limitations and reporting requirements. This has resulted in a reduction in estimated annual burden from 68 hours to 64 hours.

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.

⁷ 64 hours / year multiplied by \$112.77 / hour = \$7,217.28 per year.