

SUPPORTING STATEMENT  
CREDIT RISK RETENTION  
OMB No. 3064-0183

INTRODUCTION

The Federal Deposit Insurance Corporation requests OMB approval to extend, for three years, with revisions, the above-captioned collection of information. The clearance for the collection expires on October 31, 2021.

The Federal Deposit Insurance Corporation requests OMB approval to extend, for three years, with revisions, a currently approved information collection (OMB Control No. 3064-0183) comprised of disclosure and recordkeeping requirements under the credit risk retention rule issued pursuant to section 15G of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78o-11), as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”), Pub. L. No.111-2-3, 124 Stat. 1376 (2010). The Credit Risk Retention rule was jointly issued in 2015 by the Federal Deposit Insurance Corporation (“FDIC”), the Office of the Comptroller of the Currency (“OCC”), the Federal Reserve Board (“Board”), the Securities and Exchange Commission (“SEC”) and, with respect to the portions of the Rule addressing the securitization of residential mortgages, the Federal Housing Finance Agency (“FHFA”) and the Department of Housing and Urban Development (“HUD”). The FDIC Credit Risk Retention rule is found at 12 CFR Part 373.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Section 941 requires the Board, the FDIC, the OCC (collectively, the “Federal banking agencies”), the Commission and, in the case of the securitization of any “residential mortgage asset,” together with HUD and FHFA, to jointly prescribe regulations that (i) require a securitizer to retain not less than five percent of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security (“ABS”), transfers, sells or conveys to a third party, and (ii) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under section 941 and the agencies’ implementing rules. Exempted from the credit risk retention requirements of section 941 are certain types of securitization transactions, including ABS collateralized solely by qualified residential mortgages (“QRMs”), as that term is defined in the Rule. In addition, section 941 provides that the agencies must permit a securitizer to retain less than five percent of the credit risk of residential mortgage loans, commercial real estate (“CRE”) loans, commercial loans and automobile loans that are transferred, sold or conveyed through the issuance of ABS by the securitizer, if the loans meet underwriting standards established by the Federal banking agencies.

The Rule provides a menu of credit risk retention options from which securitizers can choose and sets out the standards, including disclosure and recordkeeping requirements, for each option; identifies the eligibility criteria, including certification and disclosure requirements, that must be met for ABS offerings to qualify for the QRM and other exemptions; specifies the underwriting

standards for CRE loans, commercial loans and automobile loans, as well as disclosure, certification and recordkeeping requirements, that must be met for ABS issuances collateralized by such loans to qualify for reduced credit risk retention; and sets forth the circumstances under which retention obligations may be allocated by sponsors to originators, including disclosure and monitoring requirements.

## 2. Use of information collected:

Part 373 contains several requirements that qualify as information collections under the Paperwork Reduction Act of 1995 (“PRA”). The information collection requirements are found in sections 373.4, .5, .6, .7, .8, .9, .10, .11, .13, .15, .16, .17, .18 and .19 (g). The recordkeeping requirements relate primarily to (i) the adoption and maintenance of various policies and procedures to ensure and monitor compliance with regulatory requirements and (ii) certifications, including as to the effectiveness of internal supervisory controls. The required disclosures for each risk retention option are intended to provide investors with material information concerning the sponsor’s retained interest in a securitization transaction (e.g., the amount, form and nature of the retained interest, material assumptions and methodology, representations and warranties). Compliance with the information collection requirements is mandatory, responses to the information collections will not be kept confidential and, with the exception of the recordkeeping requirements in sections 373.4(d), 373.5(k)(3) and 373.15(d), the Rule does not specify a mandatory retention period for the information.

***Standard Risk Retention.*** Section 373.4 sets forth the conditions that must be met by sponsors electing to use the standard risk retention option, which may consist of an eligible vertical interest or an eligible horizontal residual interest, or any combination thereof. Sections 373.4(c)(1) and 373.4(c)(2) specify the disclosures required with respect to eligible horizontal residual interests and eligible vertical interests, respectively.

A sponsor retaining any eligible horizontal residual interest (or funding a horizontal cash reserve account) is required to disclose: the fair value (or a range of fair values and the method used to determine such range) of the eligible horizontal residual interest that the sponsor expects to retain at the closing of the securitization transaction (§373.4(c)(1)(i)(A)); the material terms of the eligible horizontal residual interest (§373.4(c)(1)(i)(B)); the methodology used to calculate the fair value (or range of fair values) of all classes of ABS interests (§373.4(c)(1)(i)(C)); the key inputs and assumptions used in measuring the estimated total fair value (or range of fair values) of all classes of ABS interests (§373.4(c)(1)(i)(D)); the reference data set or other historical information used to develop the key inputs and assumptions (§373.4(c)(1)(i)(G)); the fair value of the eligible horizontal residual interest retained by the sponsor (§373.4(c)(1)(ii)(A)); the fair value of the eligible horizontal residual interest required to be retained by the sponsor (§373.4(c)(1)(ii)(B)); a description of any material differences between the methodology used in calculating the fair value disclosed prior to sale and the methodology used to calculate the fair value at the time of closing (§373.4(c)(1)(ii)(C)); and the amount placed by the sponsor in the horizontal cash reserve account at closing, the fair value of the eligible horizontal residual interest that the sponsor is required to fund through such account, and a description of such account (§373.4(c)(1)(iii)).

For eligible vertical interests, the sponsor is required to disclose: the form of the eligible vertical interest (§373.4(c)(2)(i)(A)); the percentage that the sponsor is required to retain (§373.4(c)(2)(i)(B)); a description of the material terms of the vertical interest and the amount the sponsor expects to retain at closing (§373.4(c)(2)(i)(C)); and the amount of vertical interest retained by the sponsor at closing (§373.4(c)(2)(ii)).

Section 373.4(d) requires a sponsor to retain the certifications and disclosures required in paragraphs (a) and (c) of this section in its records and the sponsor must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding.

**Revolving Pool Securitizations.** Section 373.5 requires sponsors relying on the revolving pool securitization (or master trust) risk retention option to disclose: the material terms of the seller's interest and the percentage of the seller's interest that the sponsor expects to retain at the closing of the transaction (§373.5(k)(1)(i)); the percentage of the seller's interest that the sponsor retained at closing (§373.5(k)(1)(ii)); the material terms of any horizontal risk retention offsetting the seller's interest under §373.5(g), §373.5(h) and §373.5(i) (§373.5(k)(1)(iii)); and the fair value of any horizontal risk retention retained by the sponsor (§373.5(k)(1)(iv)). Additionally, a sponsor must retain the disclosures required by §373.5(k)(1) in its records and must provide the disclosures upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§373.5(k)(3)).

**Eligible ABCP Conduits.** Section 373.6 addresses the requirements for sponsors utilizing the eligible ABCP conduit risk retention option. The requirements for the eligible ABCP conduit risk retention option include disclosure to each purchaser of ABCP and periodically to each holder of ABCP issued by the ABCP conduit of the name and form of organization of the regulated liquidity provider that provides liquidity coverage to the eligible ABCP conduit, including a description of the material terms of such liquidity coverage, and notice of any failure to fund; and with respect to each ABS interest held by the ABCP conduit, the asset class or brief description of the underlying securitized assets, the standard industrial category code for each originator-seller that retains an interest in the securitization transaction, and a description of the percentage amount and form of interest retained by each originator-seller (§373.6(d)(1)). An ABCP conduit sponsor relying upon this section shall provide, upon request, to the Commission and the sponsor's appropriate Federal banking agency, if any, the information required under §373.6(d)(1), in addition to the name and form of organization of each originator-seller that retains an interest in the securitization transaction (§373.6(d)(2)).

A sponsor relying on the eligible ABCP conduit risk retention option shall maintain and adhere to policies and procedures to monitor compliance by each originator-seller (§373.6(f)(2)(i)). If the ABCP conduit sponsor determines that an originator-seller is no longer in compliance, the sponsor must promptly notify the holders of the ABCP and, upon request, the Commission and the sponsor's appropriate Federal banking agency, in writing of the name and form of organization of any originator-seller that fails to retain, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§373.6(f)(2)(ii)(A)(1)); the name and form of organization of any originator-seller that hedges, directly or

indirectly through an intermediate SPV, its risk retention in violation of the rule, and the amount of ABS interests issued by an intermediate SPV of such originator-seller and held by the ABCP conduit (§373.6(f)(2)(ii)(A)(2)); and any remedial actions taken by the ABCP conduit sponsor or other party with respect to such ABS interests (§373.6(f)(2)(ii)(A)(3)).

**Commercial Mortgage-Backed Securities.** Section 373.7 sets forth the requirements for sponsors relying on the commercial mortgage-backed securities (“CMBS”) risk retention option, and includes disclosures of: the name and form of organization of each initial third-party purchaser (§373.7(b)(7)(i)); each initial third-party purchaser’s experience in investing in commercial mortgage-backed securities (§373.7(b)(7)(ii)); other material information (§373.7(b)(7)(iii)); the fair value and purchase price of the eligible horizontal residual interest retained by each third-party purchaser, and the fair value of the eligible horizontal residual interest that the sponsor would have retained if the sponsor had relied on retaining an eligible horizontal residual interest under the standard risk retention option (§373.7(b)(7)(iv) and (v)); a description of the material terms of the eligible horizontal residual interest retained by each initial third-party purchaser, including the same information as is required to be disclosed by sponsors retaining horizontal interests pursuant to §373.4 (§373.7(b)(7)(vi)); the material terms of the applicable transaction documents with respect to the Operating Advisor (§373.7(b)(7)(vii)); and representations and warranties concerning the securitized assets, a schedule of any securitized assets that are determined not to comply with such representations and warranties, and the factors used to determine that such securitized assets should be included in the pool notwithstanding that they did not comply with the representations and warranties (§373.7(b)(7)(viii)). A sponsor relying on the CMBS risk retention option is also required to provide in the underlying securitization transaction documents certain provisions related to the Operating Advisor (§373.7(b)(6)), to maintain and adhere to policies and procedures to monitor compliance by third-party purchasers with regulatory requirements (§373.7(c)(2)(A)), and to notify the holders of the ABS interests in the event of noncompliance by a third-party purchaser with such regulatory requirements (§373.7(c)(2)(B)).

**Fannie Mae and Freddie Mac ABS.** Section 373.8 requires that a sponsor relying on the Federal National Mortgage Association and Federal Home Loan Mortgage Corporation risk retention option must disclose a description of the manner in which it has met the credit risk retention requirements (§373.8(c)).

**Open-Market CLOs.** Section 373.9 sets forth the requirements for sponsors relying on the open market CLO risk retention option, and includes disclosures of a complete list of, and certain information related to, every asset held by an open market CLO (§373.9(d)(1)), and the full legal name and form of organization of the CLO manager (§373.9(d)(2)).

**Qualified Tender Option Bonds.** Section 373.10 sets forth the requirements for sponsors relying on the qualified tender option bond risk retention option, and includes disclosures of the name and form of organization of the qualified tender option bond entity, a description of the form and subordination features of the retained interest in accordance with the disclosure obligations in section 373.4(d), the fair value of any portion of the retained interest that is claimed by the sponsor as an eligible horizontal residual interest, and the percentage of ABS interests issued that is represented by any portion of the retained interest that is claimed by the sponsor as an eligible

vertical interest (§373.10(e)(1)-(4)). In addition, to the extent any portion of the retained interest claimed by the sponsor is a municipal security held outside of the qualified tender option bond entity, the sponsor must disclose the name and form of organization of the qualified tender option bond entity, the identity of the issuer of the municipal securities, the face value of the municipal securities deposited into the qualified tender option bond entity, and the face value of the municipal securities retained outside of the qualified tender option bond entity by the sponsor or its majority-owned affiliates (§373.10(e)(5)).

***Allocation to Originator.*** Section 373.11 sets forth the conditions that apply when the sponsor of a securitization allocates to originators of securitized assets a portion of the credit risk the sponsor is required to retain, including disclosure of the name and form of organization of any originator that acquires and retains an interest in the transaction, a description of the form, amount and nature of such interest, and the method of payment for such interest (§373.11(a) (2)). A sponsor relying on this section is required to maintain and adhere to policies and procedures that are reasonably designed to monitor originator compliance with retention amount and hedging, transferring and pledging requirements (§373.11(b) (2) (A)), and to promptly notify the holders of the ABS interests in the transaction in the event of originator non-compliance with such regulatory requirements (§373.11(b) (2) (B)).

***QRM and Exempt 3-4 Unit Residential Mortgage Loans.*** Sections 373.13 and 373.19(g) provide exemptions from the risk retention requirements for qualified residential mortgages and qualifying 3-to-4 unit residential mortgage loans that meet certain specified criteria, including that the depositor with respect to the securitization transaction certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that the controls are effective (§§373.13(b)(4)(i) and 373.19(g)(2)), and that the sponsor provide a copy of the certification to potential investors prior to sale of ABS in the issuing entity (§§373.13(b)(4)(iii) and 373.19(g) (2)). In addition, §§373.13(c)(3) and 373.19(g)(3) provide that a sponsor that has relied upon either exemption will not lose the exemption if, after closing of the transaction, it is determined that one or more of the residential mortgage loans does not meet all of the criteria; provided that the depositor complies with certain specified requirements, including prompt notice to the holders of the ABS of any loan that is required to be repurchased by the sponsor, the amount of such repurchased loan, and the cause for such repurchase.

***Reduced Risk Retention for Qualifying Commercial, CRE and Automobile Loans.*** Section 373.15 provides for zero percent risk retention for qualifying commercial loans that meet the criteria specified in Section 373.16, qualifying CRE loans that meet the criteria specified in Section 373.17, and qualifying automobile loans that meet the criteria specified in Section 373.18. Section 373.15 also requires the sponsor to disclose a description of the manner in which the sponsor determined the aggregate risk retention requirement for any securitization transaction that includes both qualifying commercial loans, qualifying CRE loans, or qualifying automobile loans (“qualifying assets”) that are allocated zero percent risk retention and non-qualifying assets for which five percent retention is required (§373.15(a) (4)). In addition, the sponsor is required to disclose descriptions of the qualifying assets, and descriptions of the assets that are not qualifying assets, and the material differences between the group of qualifying assets and the group of assets that are not qualifying assets with respect to the composition of each group’s loan balances, loan terms, interest rates, borrower credit information, and characteristics

of any loan collateral (§373.15(b) (3)). Additionally, a sponsor must retain the disclosures required in §§373.15(a) and (b) in its records and must provide the disclosure upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§373.15(d)).

***Underwriting Standards for Qualifying Commercial, CRE and Automobile Loans.*** Sections 373.16, 373.17 and 373.18 each require that: the depositor of the ABS certify that it has evaluated the effectiveness of its internal supervisory controls and concluded that its internal supervisory controls are effective (§§373.16(a)(8)(i), 373.17(a)(10)(i), and 373.18(a)(8)(i)); the sponsor is required to provide a copy of the certification to potential investors prior to the sale of ABS in the issuing entity (§§373.16(a)(8)(iii), 373.17(a)(10)(iii), and 373.18(a)(8)(iii)); and the sponsor must promptly notify the holders of the ABS of any loan included in the transaction that is required to be cured or repurchased by the sponsor, including the principal amount of such loan and the cause for such cure or repurchase (§§373.16(b)(3), 373.17(b)(3), and 373.18(b)(3)). Additionally, a sponsor must retain the disclosures required in §§373.16(a)(8), 373.17(a)(10) and 373.18(a)(8) in its records and must provide the disclosures upon request to the Commission and the sponsor's appropriate Federal banking agency, if any, until three years after no ABS interests are outstanding (§373.15(d)).

3. Consideration of the use of improved information technology:

Sponsors may use technology to the extent feasible and/or desirable or appropriate to make the required disclosures and to maintain the required records.

4. Efforts to identify duplication:

The information sought in this collection is not duplicated elsewhere.

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

There are no alternatives that would result in lowering the burden on small institutions, while still accomplishing the purpose of the rule.

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

The disclosure requirements are imposed on a per transaction basis as are the retention obligations. Less frequent disclosures would not be adequate to allow investors to evaluate the investment potential of each transaction. The requirement to develop policies and procedures to monitor compliance with regulatory requirements is a one-time burden, although the agencies expect that sponsors will review their policies and procedures as needed to reflect any changed conditions.

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 Part 1320.5(d) (2).

8. Efforts to consult with persons outside the agency:

A 60-day notice seeking public comment on the FDIC's renewal of the information collection was published on August 10, 2021 (86 FR 43652). No comments were received.

9. Payment or gift to respondents:

No payments or gifts will be given to respondents.

10. Any assurance of confidentiality:

No assurances of confidentiality have been made in the Rule. The information will be kept private to the extent permitted by law.

11. Justification for questions of a sensitive nature:

None of the information required to be disclosed or maintained is of a sensitive nature.

12. Estimate of hour burden including annualized hourly costs:

### **Previous Methodology**

To determine the total paperwork burden for the requirements contained in the Credit Risk Retention Rule in the previous renewal of this ICR, FDIC first estimated the universe of sponsors that would be required to comply with the disclosure and recordkeeping requirements. FDIC estimated that approximately 270 unique sponsors conduct ABS offerings each year. This estimate was based on the average number of ABS offerings from 2007 through 2017 reported by the ABS database Asset-Backed Alert for all non-CMBS transactions and by Commercial Mortgage Alert for all CMBS transactions.<sup>1</sup> Of the 270 sponsors, the agencies agreed to an allocation of 8 percent of these sponsors to the Board, 12 percent to FDIC, 13 percent to the OCC, and 67 percent to the Commission.<sup>2</sup>

Next, the FDIC estimated how many respondents keep records and make required disclosures by estimating the proportionate amount of offerings per year for each agency. The estimate was based on the average number of ABS offerings from 2007 through 2017. The agencies estimated the total number of annual offerings per year to be 1,400<sup>3</sup> which resulted in the following

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<sup>1</sup>Data was provided by the Securities and Exchange Commission. See SEC supporting statement for its information collection for the Credit Risk Retention rule (3235-0712) available at [https://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=201803-3235-014](https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=201803-3235-014)

<sup>2</sup>The allocation percentages among the agencies were based on the agencies' assessment of data as of August 13, 2018, including the securitization activity reported by FDIC-insured depository institutions in the June 30, 2017 Consolidated Reports of Condition.

<sup>3</sup>Based on ABS issuance data from Asset-Backed Alert on the initial terms of offerings, supplemented with information from Commercial Mortgage Alert. This estimate included registered offerings, offerings made under Securities Act Rule 144A, and traditional private placements. This estimate was for offerings not exempted under §§ \_\_.19 (a)-(f) and \_\_.20 of the Rule.

estimates:

- a) 13 offerings per year subject to disclosure and recordkeeping requirements under §373.11, which were divided equally among the four agencies (i.e., 3.25 offerings per year per agency);
- b) 110 offerings per year were estimated to be subject to disclosure and recordkeeping requirements under §§373.13 and 373.19(g), which were divided proportionately among the agencies based on the entity percentages described above:
  1. Nine (9) offerings per year for the Board (8%);
  2. 13 offerings per year for the FDIC (12%);
  3. 14 offerings per year for the OCC (13%);
  4. 74 offerings per year for the Commission (67%).
- c) 132 offerings per year were estimated to be subject to the disclosure requirements under §373.15, which were divided proportionately among the agencies based on the entity percentages described above:
  1. 11 offerings per year for the Board (8%);
  2. 16 offerings per year for the FDIC (12%);
  3. 17 offerings per year for the OCC (13%);
  4. 88 offerings per year for the Commission (67%).
- d) Of these 132 offerings per year, 44 offerings per year were estimated to be subject to disclosure and recordkeeping requirements under §§373.16, 373.17, and 373.18, respectively, which were divided proportionately among the agencies based on the entity percentages described above:
  1. 4 offerings per year for each section for the Board (8%);
  2. 6 offerings per year for each section for the FDIC (12%);
  3. 6 offerings per year for each section for the OCC (13%);
  4. 29 offerings per year for each section for the Commission (67%).

To obtain the estimated number of responses (equal to the number of offerings) for each option in subpart B of the rule, FDIC multiplied the number of offerings estimated to be subject to the base risk retention requirements (i.e., 1,158)<sup>4</sup> by the sponsor percentages described above. The result was the number of base risk retention offerings per year per agency. For the FDIC, this was calculated by multiplying 1,158 offerings per year by 12 percent, which equals 139 offerings per year. This number was then divided by the number of base risk retention options under subpart B of the rule (i.e., nine)<sup>5</sup> to arrive at the estimate of the number of offerings per year per agency per base risk retention option. For the FDIC, this was calculated by dividing 139 offerings per year by nine options, resulting in 15 offerings per year per base risk retention option.

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<sup>4</sup> Estimate of 1,400 offerings per year, minus the estimate of the number of offerings qualifying for an exemption under §§373.13, 373.15, and 19(g) as described in (b) and (c) above (i.e. 1,400 minus (b) 110 minus (c) 132 equals 1,158).

<sup>5</sup> For purposes of this calculation, the horizontal, vertical, and combined horizontal and vertical risk retention methods under the standard risk retention option (§373.4) are each counted as a separate option under subpart B of the rule. The other six are §373.5; §373.6; §373.7; §373.8; §373.9; and §373.10.



The agencies assumed that 90% of institutions use the vertical interest form of risk retention while the remaining 10% use the combined vertical and horizontal form of risk retention. The burden tables included in the prior submission used this allocation and of the 45 responses attributed to §373.4; 40 (90%) were allocated to the vertical form of risk retention and 5 (10%) to the other two options (1 response to the horizontal form of risk retention and 4 responses to the combined vertical and horizontal form of risk retention).

### **Cause for Change in Methodology**

The FDIC believes that the prior methodology for estimating the number of offerings by FDIC-supervised institutions overestimates the number of ABS. Furthermore, the OCC has confirmed that the estimates for their 2021 renewal of the OCC’s ICR for this rule are based on the expertise of the OCC’s subject matter experts rather than the 2015 interagency methodology.<sup>6</sup> As a result of these two factors, the FDIC has decided to diverge from the interagency methodology used in 2015 and 2018 and instead use the methodology described below to estimate the number of respondents, responses and burden hours.

### **Estimated Number of Respondents, Responses and Burden Hours (New Methodology)**

Potential respondents to this IC are FDIC-supervised insured depository institutions (“IDIs”) including state nonmember banks, state savings institutions, insured state branches of foreign banks, and any subsidiary of one of the aforementioned entities. As of December 31, 2020, the FDIC supervises 3,227 state nonmember banks, state savings institutions, and insured state branches of foreign banks. Of these 3,227 IDIs, 2,382 are small for the purposes of the Regulatory Flexibility Act (RFA).<sup>7</sup>

Respondents to this IC are FDIC-supervised IDIs that are securitizers of ABS. To generate a universe of potential securitizers, FDIC referenced all FDIC-supervised IDIs that reported a non-zero amount in either: (a) outstanding principal balance of assets sold and securitized with servicing retained or with recourse or other seller-provided credit enhancements;<sup>8</sup> or (b) amount of loans and leases held for investment, net of allowance, and held for sale held by consolidated variable interest entities (VIEs),<sup>9</sup> in the Call Reports for the quarter ending on December 31 for the years 2018, 2019, and 2020. This search resulted in a list of 79 IDIs that were potential securitizers.

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<sup>6</sup> The supporting statement for the OCC’s 2021 renewal is titled “1557-0249 Credit Risk Retention Supporting Statement 5-18-21 1244.docx” and can be found at [https://www.reginfo.gov/public/do/PRAViewDocument?ref\\_nbr=202101-1557-003](https://www.reginfo.gov/public/do/PRAViewDocument?ref_nbr=202101-1557-003).

<sup>7</sup> The SBA defines a small banking organization as having \$600 million or less in assets, where an organization’s “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 84 FR 34261, effective August 19, 2019). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a respondent’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the respondent is “small” for the purposes of RFA.

<sup>8</sup> Schedule RC-S, item 1 on Call Report forms 031 and 041; Supplemental Info, item 4(a) on Call Report form 051.

<sup>9</sup> Schedule RC-V, item 1(c) on forms 031 and 041.

Using this list, FDIC searched for each IDI's name in FitchConnect's repository of ABS offerings ("deals")<sup>10</sup> and compiled a list of deals for which an IDI was listed as the issuer, sponsor, originator, or servicer of the offering. For IDIs for which deals were not found on FitchConnect, the following method was followed: The queried Call Report item labeled "a" in the list above includes assets sold with recourse or other seller-provided credit enhancements, which are outside the scope of the Credit Risk Retention rule. To identify IDIs which securitized from those that did not, a \$75 million threshold of year over year growth in that item is used to identify new securitizations in 2018, 2019, and 2020, based on the assumption that growth of less than \$75 million would be unlikely to reflect sponsorship or issuance of new term ABS offerings during that period. This method yielded a list of 20 institutions. FDIC referenced examination data to determine which institutions securitize, then cross-referenced the list of securitizing IDIs and the list of aforementioned ABS offering naming conventions found using FitchConnect with Intex's database of prospectuses.<sup>11</sup> From this cross-referencing, determined the number of deals associated with each deal name. Finally, FDIC determined whether the sponsor or depositor for each deal was an FDIC-supervised IDI or subsidiary of an FDIC-supervised institution by reading the prospectus of each deal.

Once the set of deals, with corresponding FDIC-supervised securitizers, was constructed, FDIC matched each deal with the sections in Part 373 that imposed one or more PRA requirements on that deal. Most sections impose both disclosure and recordkeeping requirements.<sup>12</sup> For those sections, FDIC separately estimated the burdens for each of the two types of PRA requirements. The following are the respondent counts for each of these sections:

- Two FDIC-supervised IDIs were involved in deals in which credit risk was retained through horizontal interest (§373.4(a) (2) Standard Risk Retention – Horizontal Interest). These two IDIs were involved in four, three, and four such deals in 2018, 2019, and 2020, respectively. FDIC therefore estimates two annual respondents, with a response rate of two annual responses per respondent, for the disclosure requirement associated with §373.4(a) (2) and the corresponding reporting requirement in §373.4(d).<sup>13</sup>
- Two FDIC-supervised IDIs were involved in deals in which credit risk was retained through vertical interest (§373.4(a) (1) Standard Risk Retention – Vertical Interest). These two IDIs were involved in 0, 0, and 13 such deals in 2018, 2019, and 2020, respectively. FDIC therefore estimates two annual respondents, with a response rate of two annual responses per respondent, for the disclosure requirement associated with §373.4(a) (1) and the corresponding reporting requirement in §373.4(d).<sup>14</sup>
- Three FDIC-supervised IDIs were involved in deals in which credit risk was retained through revolving master trusts (§373.5 Revolving Master Trusts). These three IDIs were involved in eight, six, and zero such deals in 2018, 2019, and 2020, respectively. FDIC

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10 <http://app.fitchconnect.com>, using "ABS", "CMBS", and "RMBS" sections under the "Sectors" tab, last accessed on June 11, 2021.

11 <https://www.intex.com/main/>

12 With the noted exception of §373.10 Qualified Tender Option Bonds, which has no recordkeeping burden associated with it.

13  $4+3+4= 11$  total deals.  $11/ (3 \text{ years} * 2 \text{ respondents}) = 1.83$  responses per respondent annually.

14  $0+0+13= 13$  total deals.  $13/ (3 \text{ years} * 2 \text{ respondents}) = 2.17$  responses per respondent annually.

therefore estimates three annual respondents, with a response rate of two annual responses per respondent, for the disclosure requirement associated with §373.5 and the corresponding reporting requirement in §373.5(k) (3).<sup>15</sup>

Using the above methodology, FDIC did not find any ABS offerings that (1) involved an FDIC-supervised IDI or subsidiary of an FDIC-supervised IDI as a securitizer and (2) were subject to the PRA requirements listed in one or more of the following ten sections of part 373: .4(a) (3), .6, .7, .10, .11, .13, .15, .16, .17, and .18. It is possible that an FDIC-supervised IDI or subsidiary of an FDIC-supervised IDI would be a respondent to burden items related to these sections in the next three years. As such, FDIC uses placeholder estimates of one annual respondent and one annual response per respondent for the disclosure and recordkeeping requirements related to each of these ten sections to preserve the burden.

Of the seven unique institutions with securitizations between 2018 and 2020, none are considered small for the purposes of the RFA.<sup>16</sup>

The estimated time per response varies by burden item, these estimates are unchanged from the previous renewal.

Two burden items included in the 2018 ICR have been removed from this IC. The disclosure burden related to §373.8 Fannie Mae and Freddie Mac was removed because it is not possible for FDIC-supervised IDIs or subsidiaries of FDIC-supervised IDIs to be respondents to this burden item. The disclosure burden related to §373.9 Open Market Collateralized Loan Obligations (“CLOs”) was removed because the D.C. Circuit Court invalidated the provisions of the Rule relating to CLOs.<sup>17</sup>

The estimated annual burden, in hours, is the product of the estimated number of respondents, number of responses per respondent, and time per response, as summarized in Summary of Annual Burden table below. The total estimated annual burden for this IC is 376 hours, a 3,075-hour reduction from the 2018 burden estimate of 3,447 hours, which reflects the change in burden estimation methodology described above.

**Summary of Annual Burden (OMB 3064-0183)**

IC Description	Type of Burden (Obligation to Respond)	Frequency of Response	Estimated Number of Respondents	Number of Responses / Respondent	Hours Per Response	Total Annual Estimated Burden
<b>Disclosure Burdens</b>						
§373.4(a)(2) Standard Risk Retention – Horizontal Interest	Disclosure (Mandatory)	On Occasion	2	2	5.5	22
§373.4(a)(1) Standard Risk Retention – Vertical Interest	Disclosure (Mandatory)	On Occasion	2	2	2.0	8
§373.4(a)(3) Standard Risk	Disclosure	On	1	1	7.5	8

<sup>15</sup> 8+6+0= 14 total deals. 14/ (3 years\*3 respondents) = 1.56 responses per respondent annually.

<sup>16</sup> As of December 31, 2020.

<sup>17</sup> The Loan Syndication and Trading Association v. Securities and Exchange Commission and Board of Governors of the Federal Reserve System (No. 17-5004).

Retention – Combined Interest*	(Mandatory)	Occasion				
§373.5 Revolving Master Trusts	Disclosure (Mandatory)	On Occasion	3	2	7.0	42
§373.6 Eligible ABCP Conduits*	Disclosure (Mandatory)	On Occasion	1	1	3.0	3
§373.7 Commercial MBS*	Disclosure (Mandatory)	On Occasion	1	1	20.75	21
§373.10 Qualified Tender Option Bonds*	Disclosure (Mandatory)	On Occasion	1	1	6.0	6
§373.11 Allocation of Risk Retention to an Originator*	Disclosure (Mandatory)	On Occasion	1	1	2.5	3
§373.13 Exemption for Qualified Residential Mortgages*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.15 Exemption for Qualifying Commercial Loans, Commercial Real Estate and Automobile Loans*	Disclosure (Mandatory)	On Occasion	1	1	20.0	20
§373.16 Underwriting Standards for Qualifying Commercial Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.17 Underwriting Standards for Qualifying Commercial Real Estate Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
§373.18 Underwriting Standards for Qualifying Automobile Loans*	Disclosure (Mandatory)	On Occasion	1	1	1.25	1
Disclosure Subtotal						137
<b>Recordkeeping Burdens</b>						
§373.4(a)(2) Standard Risk Retention – Horizontal Interest	Recordkeeping (Mandatory)	On Occasion	2	2	0.5	2
§373.4(a)(1) Standard Risk Retention – Vertical Interest	Recordkeeping (Mandatory)	On Occasion	2	2	0.5	2
§373.4(a)(3) Standard Risk Retention – Combined Interest*	Recordkeeping (Mandatory)	On Occasion	1	1	0.5	1
§373.5 Revolving Master Trusts	Recordkeeping (Mandatory)	On Occasion	3	2	0.5	3
§373.6 Eligible ABCP Conduits*	Recordkeeping (Mandatory)	On Occasion	1	1	20.0	20
§373.7 Commercial MBS*	Recordkeeping (Mandatory)	On Occasion	1	1	30.0	30
§373.11 Allocation of Risk Retention to an Originator*	Recordkeeping (Mandatory)	On Occasion	1	1	20.0	20
§373.13 Exemption for Qualified Residential Mortgages*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.15 Exemption for Qualifying Commercial Loans, Commercial Real Estate and Automobile Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	0.5	1
§373.16 Underwriting Standards for Qualifying Commercial Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.17 Underwriting Standards for Qualifying Commercial Real Estate Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
§373.18 Underwriting Standards for Qualifying Automobile Loans*	Recordkeeping (Mandatory)	On Occasion	1	1	40.0	40
Recordkeeping Subtotal						239

### Total Labor Cost of Estimated Annual Burden

To estimate the weighted average hourly compensation cost of these employees, 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 March 2021.

The hourly wage rates reported do not include non-monetary compensation. According to the June 2020 Employer Cost of Employee Compensation data, compensation rates for health and other benefits are 33.3 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 3.31 percent based on changes in the Consumer Price Index for Urban Consumers (CPI-U) from May 2020 to March 2021 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, IT Specialists, and Clerical) using the estimated allocation of labor reflected in the tables below to find the estimated hourly cost of complying with the two types of burden associated with this information collection; disclosure and recordkeeping. The estimated hourly compensation rates for Disclosure Burdens and for Recordkeeping Burdens are reflected in the following tables:

**Summary of Hourly Burden Cost Estimate for Disclosure Burdens (OMB 3064-0183)**

Estimated Category of Personnel Responsible for Complying with the PRA Burden	Total Estimated Hourly Compensation	Estimated Weights	Estimated Total Weighted Labor Cost Component
Executives and Managers <sup>18</sup>	\$127.80	5%	\$6.39
Lawyers <sup>19</sup>	\$152.86	90%	\$137.57
Compliance Officers <sup>20</sup>	\$67.64	5%	\$3.38
IT Specialists <sup>21</sup>	\$94.28	0%	\$0.00
Financial Analysts <sup>22</sup>	\$82.31	0%	\$0.00
Clerical <sup>23</sup>	\$34.73	0%	\$0.00
Total Estimated Weighted Average Hourly Compensation Rate		100%	\$147.35

**Summary of Hourly Burden Cost Estimate for Recordkeeping Burdens (OMB 3064-0183)**

Estimated Category of Personnel Responsible for Complying with the PRA	Total Estimated Hourly Compensation	Estimated Weights	Estimated Total Weighted Labor Cost Component
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18 Occupation (SOC Code): Management Occupations (110000)

19 Occupation (SOC Code): Legal Occupations (230000)

20 Occupation (SOC Code): Compliance Officers (131040)

21 Occupation (SOC Code): Computer and Mathematical Occupations (150000)

22 Occupation (SOC Code): Financial and Investment Analysts, Financial Risk Specialists, and Financial Specialists, All Other (132098)

23 Occupation (SOC Code): Office and Administrative Support Occupations (430000)

Burden			
Executives and Managers	\$127.80	10%	\$12.78
Lawyers	\$152.86	30%	\$45.86
Compliance Officers	\$67.64	20%	\$13.53
IT Specialists	\$94.28	10%	\$9.43
Financial Analysts	\$82.31	0%	\$0.00
Clerical	\$34.73	30%	\$10.42
Total Estimated Weighted Average Hourly Compensation Rate		100%	\$92.01

Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)" (May 2020), Employer Cost of Employee Compensation (March 2021), Consumer Price Index (March 2021).

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 March 2021 Employer Cost of Employee Compensation data compensation rates for health and other benefits are 33.3 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 3.31 percent between May 2020 and March 2021.

### **Total Estimated Labor Cost Burden**

FDIC estimates the total annual compliance labor cost for this ICR by multiplying the total annual estimated burden hours for each burden type, shown in the above Summary of Annual Burden table, by the weighted average hourly compensation estimate for each burden type, reflected in the above tables. For the disclosure burden, the annual labor cost burden is estimated to be \$20,186.<sup>24</sup> For the recordkeeping burden, the annual labor cost burden is estimated to be \$42,177.<sup>25</sup> The total estimated annual labor cost burden for this information collection is \$67,363.

#### 13. Estimate of start-up cost to respondents:

There are no capital or start-up costs associated with this collection. In addition, there are no system and technology acquisition or operation and maintenance costs.

#### 14. Estimates of annualized cost to the federal government:

None.

#### 15. Analysis of change in burden:

Total estimated annual burden decreased by 3,075 hours from 4,447 hours to 376 hours due to the change in estimation methodology for the number of annual respondents and frequency of response described in Section 12 above.

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<sup>24</sup> 137 hours / year \* \$147.35 / hour = \$20,186 per year.

<sup>25</sup> 239 hours / year \* \$92.01 / hour = \$21,991 per year.

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

The information collected will not be published by the FDIC.

17. Exceptions to expiration date display

Not applicable.

18. Exceptions to certification:

There are no exceptions to certification.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.