

SUPPORTING STATEMENT  
APPLICATION FOR CONSENT TO EXERCISE TRUST POWERS  
(OMB Control No. 3064-0025)

INTRODUCTION

The FDIC is seeking OMB approval to renew, without revision, its information collection entitled, “Application for Consent to Exercise Trust Powers,” OMB N0. 3064-0025, which expires on November 30, 2021. There is no change in the method or substance of the collection.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

FDIC regulations at 12 CFR 333.2 prohibit any insured state nonmember bank from changing the general character of its business without the prior written consent of the FDIC. The FDIC has considered the exercise of trust powers by a bank to be a change in the general character of a bank’s business if the bank did not exercise those powers previously. Trust powers create a new fiduciary relationship that normally affects the character of a bank’s business. Therefore, unless a bank is currently exercising trust powers, it must file a formal application to obtain the FDIC’s written consent to exercise trust powers. State banking authorities, not the FDIC, grant trust powers to their banks. The FDIC merely consents to the exercise of such powers. A bank may not necessarily choose or be ready to exercise trust powers although it has been granted such powers by its state authorities.

2. Use of information collected:

Banks wishing to exercise trust powers file formal applications on Form FDIC 6200/09 with the appropriate FDIC regional office. The FDIC evaluates the information in relation to the seven banking factors enumerated in section 6 of the FDI Act (12 USC 1816), the adequacy of the institution’s compliance with the Community Reinvestment Act (12 USC 2902), and the minimum requirements for sound banking practices in the operation of a trust department as listed on the Statement of Principles of Trust Department Management, which is part of the Form 6200/09 package.

Form FDIC 6200/09 identifies the trust powers applied for and provides additional information to assist the FDIC in deciding whether to grant consent to exercise trust powers. The form also indicates that all applicants must adopt, as a bank policy, the Statement of Principles of Trust Department Management.

An applicant that is an ‘eligible depository institution,’ as defined in Section 303.2(r) of the FDIC’s Rules and Regulations (12 CFR 303.2(r)), must provide information on whether it has been granted trust powers by its state

banking authority, which are a prerequisite to FDIC's consent to exercise state-granted trust powers. The bank must supply information about the proposed trust officer, as well as the officer's experience, education, and other qualifications in fiduciary matters. Furthermore, if the applicant intends to utilize a third party to manage the investments or account administration of its proposed trust department, information about such servicing arrangements must be provided. Eligible depository institutions will receive expedited processing of their applications.

An applicant that does not qualify as an eligible depository institution must provide the information required for an eligible depository institution, plus information about its proposed trust operation, including information about members of the bank's proposed Trust Committee, the qualifications of trust counsel, projections of the size and profitability of the proposed trust activity, and the applicant's analysis of the financial impact of any proposed net operating losses on the applicant institution must be provided. Applications received from banks that are not eligible depository institutions will receive standard processing.

The purpose of the evaluation by the FDIC is three-fold: (1) to ensure that the new activities to be undertaken by the bank will not unduly jeopardize the financial condition of the bank, (2) to ensure that the proposed new activities are legally permissible, and (3) to determine that bank management has sufficient ability and expertise in the non-banking area they propose to enter. The FDIC's evaluation also serves to safeguard the banking system and the banking public as depositors and beneficiaries of trust accounts.

Probably the most important prerequisite for the FDIC's consent to the exercise of trust powers is that the applicant bank provides sufficiently qualified management and staff to meet satisfactory standards of competency in trust matters. If the FDIC's evaluation indicates that an applicant may not be equipped to manage trust activities and more limited powers will suffice, the bank may be encouraged to file for specific limited powers. In all cases, in order to approve any application for consent to exercise trust powers, the FDIC must conclude that management is capable of handling the anticipated trust business operations.

3. Consideration of the use of improved information technology:

Respondents have the option of submitting their responses electronically via a secure FDIC-sponsored Internet connection known as *FDICConnect*.

4. Efforts to identify duplication:

The information being collected could exist if a bank applies to its state banking authority for a grant of trust powers and, upon being granted the powers, immediately applies to the FDIC for consent to exercise these powers. To alleviate this eventuality, the FDIC has offered to provide its application form to state banking authorities, at no charge, for joint state-FDIC use. The form is

designated as Form FDIC 6200/09A when it is used as a joint state-FDIC application. The information needed by FDIC for evaluation and analysis of an application to exercise trust powers is not necessarily available in the state applications filed by respondents or is not always available in the detail necessary to satisfy the purpose and need for which this collection is undertaken. The information being collected is considered essential to the purpose and need of the collection and to the analysis of results. It is therefore necessary and not deemed duplicative within the meaning of the PRA and OMB's regulation.

The FDIC collects the requested information only from the insured state nonmember banks and state associations that it directly supervises. Similar information is collected by the Federal Reserve System from member banks, and the Comptroller of the Currency from national banks and savings associations.

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

The information required on the application form applies to all banks, regardless of size, that wish FDIC consent to exercise trust powers. Small banks in many cases will be applying for limited trust powers rather than full trust powers. The evaluation standards for limited trust powers would be less broad than the standards for full trust powers.

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

This collection is not a periodic reporting system. The form is submitted only on the occasion of a bank applying for consent to exercise trust powers.

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 September 22, 2021 (86 FR 52680). No comments were received.

9. Payment or gift to respondents:

Not applicable.

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). Respondents are advised on the Form FDIC 6200/09 that the information furnished by the bank in their application is normally subject to public review.

11. Justification for questions of a sensitive nature:

No sensitive information is collected.

12. Estimate of hour burden including annualized hourly costs:

Summary of Estimated Annual Implementation Burden						
IC Description	Type of Burden (Obligation to Respond)	Frequency of Response	Number of Respondents	Number of Responses / Respondent	Estimated Time per Response (Hours)	Annual Burden (Hours)
Eligible depository institutions	Reporting (Mandatory)	On Occasion	6	1	8	48
Not-eligible depository institutions	Reporting (Mandatory)	On Occasion	1	1	24	24
Total Annual Burden Hours:					72 hours	
Source: FDIC.						

Total estimated annual burden: 72 hours

The total estimated annual cost is:

$$72 \text{ hours} \times \$109.47 = \$7,881.84$$

Summary of Hourly Burden Cost Estimate			
Estimated Category of Personnel Responsible for Complying with the PRA Burden	Total Estimated Hourly Compensation	Estimated Weights	Weighted Hourly Compensation
Executives and Managers <sup>1</sup>	\$127.80	75%	\$95.85
Compliance Officer <sup>2</sup>	\$67.64	15%	\$10.15
Clerical <sup>3</sup>	\$34.73	10%	\$3.47
Weighted Average		100%	\$109.47 <sup>4</sup>

<sup>1</sup> Occupation (SOC Code): Management Occupations (110000).

<sup>2</sup> Occupation (SOC Code): Compliance Officers (131040).

<sup>3</sup> Occupation (SOC Code): Office and Administrative Support Occupations (430000).

<sup>4</sup> Total may not appear to sum precisely due to rounding.

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

13. Estimate of start-up cost to respondents:

There are no anticipated capital, start-up, or operating costs.

14. Estimates of annualized cost to the federal government:

None.

15. Analysis of change in burden:

There is no change to the substance of this information collection. The decrease in burden is a result of the change in the estimated number of respondents.

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

The information contained in this collection is not published.

17. Exceptions to expiration date display:

Not applicable.

18. Exceptions to certification:

None.

B. STATISTICAL METHODS

Statistical methods are not employed in this collection.