

SUPPORTING STATEMENT
RECORDKEEPING AND CONFIRMATION REQUIREMENTS
FOR SECURITIES TRANSACTIONS
(OMB Control No. 3064-0028)

INTRODUCTION

The FDIC is seeking OMB approval to renew, with revision, its information collection entitled, "Recordkeeping and Confirmation Requirements for Securities Transactions," OMB NO. 3064-0028, which expires on November 30, 2021. There is no change in the method or substance of the collection.

The purpose of the regulation is to ensure that purchasers of securities in transactions effected by insured state nonmember banks are provided with adequate information concerning such transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to securities transactions

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

On June 30, 1977, the Securities and Exchange Commission (SEC) published its final report on bank securities activities pursuant to its mandate under section 11A(e) of the Securities Exchange Act of 1934. The final report included a recommendation to Congress that the Federal banking agencies be mandated to issue and enforce specific rules and regulations governing the conduct of banks in effecting transactions in securities for the accounts of others. This recommendation required that such rules and regulations cover all aspects of this activity including personnel competency standards, recordkeeping requirements, and confirmation requirements.

The FDIC developed its regulation 12 C.F.R. Part 344 to be responsive to the recommendations of the SEC final report. The purpose of the regulation is to ensure that purchasers of securities in transactions effected by an insured state nonmember bank are provided adequate information concerning the transactions. The regulation is also designed to ensure that insured state nonmember banks maintain adequate records and controls with respect to these securities transactions.

2. Use of information collected:

An increasing number of banks, both large and small, located in both urban and rural areas, are offering their customers the ability to purchase and sell securities through the bank. This usually takes the form of a "discount brokerage" service which is advertised by the bank and which is conducted through the facilities of a

registered broker-dealer. It is estimated that 691 FDIC-supervised banks currently have some volume of income from securities brokerage activity.

Trust departments of banks, already involved in investments for beneficiaries of various types of trust accounts, are also involved in the purchase and sale of securities.

In addition, banks have for many years offered their customers -- as an accommodation -- the ability to redeem government bonds and purchase and sell securities. These accommodation services have typically been offered to "small" customers and to those in areas where no securities brokers were located. Usually the service was not advertised and the banks often charged no separate fee.

The FDIC requires insured state nonmember banks to keep certain types of records and provide customers with written confirmations for securities transactions. The past growth of these securities transaction activities, coupled with improved and standardized controls and customer information, was deemed necessary to ensure that the public received the highest possible quality of service and protection.

3. Consideration of the use of improved information technology:

Banks are free to use whatever technological methods are least burdensome for maintaining the required records and for sending the appropriate confirmation notices to their customers.

4. Efforts to identify duplication:

Every effort has been made to avoid duplication. There is no required format for maintaining the required records. If the existing records of the bank contain the required information in an accurate, verifiable form, the information need not be duplicated. The recordkeeping and confirmation requirements contained in 12 C.F.R. Part 344 do not duplicate requirements from any other source. Insured state nonmember banks which effect securities transactions as broker-dealers registered under the Securities Exchange Act of 1934, or which conduct their securities activities through operating subsidiaries registered as broker-dealers, are regulated by the SEC and exempt from the requirements of 12 C.F.R. Part 344. As noted in item 1, these requirements are (in-part) the result of recommendations made by the SEC in 1977. The OCC and the Board impose similar requirements on their supervised institutions.

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

This collection does not have a significant impact on a substantial number of small entities. In particular, 691 FDIC-supervised banks currently have some volume of income from securities brokerage activity. 383 of these FDIC-

supervised institutions have total assets of less than \$550 million therefore meeting the Small Business Administration's definition of a "small entity."

The following exemptions are granted by this regulation to small organizations to minimize burdens:

- (a) Transactions effected by broker-dealers that have entered into "networking arrangements" with banks are exempt from the recordkeeping and reporting requirements of this collection.
- (b) Banks need not generate their own customized confirmation forms. If they use another bank or a broker-dealer to effectuate securities transactions, the bank may opt to merely provide its customer with a copy of the other organization's confirmation form.
- (c) Banks having fewer than 200 securities transactions for customers per year are exempt from the need to establish more elaborate records. As such, they need not prepare or maintain account records for each customer, order tickets, or a record of broker/dealers used by the bank.
- (d) Banks which have fewer than 200 securities transactions for customers per year are exempt from the need to maintain written management policies and operational procedures.
- (e) Bank officers and employees need not report any securities transactions if they aggregate less than \$10,000 in any calendar quarter. Even when more than \$10,000 is involved, the figure is reduced by subtracting U.S. Government and Federal agency securities, as well as mutual fund and money market fund shares in arriving at the \$10,000 reportable figure.

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

Typically the bank is required to furnish the customer written notification within five business days from the date of the transaction. Also, when the bank exercises investment discretion it must furnish the customer, at least once every three months, with an itemized statement that specifies funds and securities in the custody or possession of the bank at the end of the period. These notification requirements are considered to be minimal to ensure that the customer adequately informed of the completion of each transaction and the status of the customer's account.

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 27, 2021 (86 FR 53300). 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).

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)
Maintain Securities Trading Policies and Procedures – 344.8	Recordkeeping (Voluntary)	On Occasion	691	1	1	691
Officer/Employee Filing of Reports of Personal Securities Trading Transactions – 344.9	Third Party Disclosure	On Occasion	2,073	4	1	8,292
Total Annual Burden Hours:						8,983 hours
Source: FDIC.						

Maintain Securities Trading Policies and Procedures – 344.8

Estimated annual burden: 691 hours

Estimated annual cost is: 691 hours x \$41.31 = \$28,545

Officer/Employee Filing of Reports of Personal Securities Trading Transactions – 344.9

Estimated annual burden: 2,073 hours

Estimated annual cost is: 2,073 hours x \$73.09 = \$606,062

Total estimated annual burden: $691 + 8,292 = 8,983$ hours

Total estimated annual cost is: $\$28,545 + \$606,062 = \$634,607$

Summary of Hourly Burden Cost Estimate for “Maintain Securities Trading Policies and Procedures -344.8”

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	\$127.80	0%	\$0.00
Lawyers	\$152.86	0%	\$0.00
Compliance Officers	\$67.64	20%	\$13.53
IT Specialists	\$94.28	0%	\$0.00
Financial Analysts	\$82.31	0%	\$0.00
Clerical	\$34.73	80%	\$27.78
Total Estimated Weighted Average Hourly Compensation Rate		100%	\$41.31

Summary of Hourly Burden Cost Estimate for “Provide Customer with Copy of Broker/Dealer Confirmation and Remuneration Received OR Written Notification or Alternative Notification -344.9”

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	\$127.80	20%	\$25.56
Lawyers	\$152.86	0%	\$0.00
Compliance Officers	\$67.64	60%	\$40.58
IT Specialists	\$94.28	0%	\$0.00
Financial Analysts	\$82.31	0%	\$0.00
Clerical	\$34.73	20%	\$6.95
Total Estimated Weighted Average Hourly Compensation Rate		100%	\$73.09

Source: Bureau of Labor Statistics: "National Industry-Specific Occupational Employment and Wage Estimates:

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:

Sections 344.4, 344.5, and 344.6 refer to reporting and third party disclosure burdens associated with confirmation of securities transactions. These burdens were estimated to total 42,840 hours per year for FDIC-supervised institutions in the previous renewal. FDIC believes these burdens are likely to be borne in the normal course of business. Specifically, for fiduciary activities, the securities transaction and confirmation information is maintained in the trust accounting

system in the course of business and banks notify customers of securities transactions via periodic statements. The banks would do these things even if 12 CFR 344 were not in place. The decrease in burden is the result of the foregoing and the decrease in 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.