

## SUPPORTING STATEMENT

### GUIDANCE ON SOUND INCENTIVE COMPENSATION POLICIES (OMB No. 3064-0175)

#### INTRODUCTION

The FDIC is requesting OMB approval of the three-year extension, without change, of its collection of information entitled “Guidance on Sound Incentive Compensation Policies” (OMB Control No. 3064-0175) which consists of recordkeeping requirements contained in guidance issued by the Federal banking agencies on June 25, 2010. There is no change in the method or substance of the information collection which currently expires on July 31 2023.

#### A. JUSTIFICATION

##### 1. Circumstances that make the collection necessary:

Incentive compensation practices in the financial services industry contributed to the financial crisis that began in 2007. Bank employees too often were rewarded for increasing short-term revenue or profit without adequate regard to the risks taken to achieve those results. These practices exacerbated the risks and losses at a number of banking organizations and resulted in the misalignment of the interests of employees with the long-term safety and soundness of their organizations. On June 25, 2010, the Federal Deposit Insurance Corporation (FDIC) adopted guidance (Guidance), pursuant to authority under Section 39 of the Federal Deposit Insurance Act (12 USC 1831p-1), designed to help ensure that incentive compensation policies at FDIC-supervised banking institutions do not encourage imprudent risk-taking and are consistent with the safety and soundness of those institutions.<sup>1</sup>

The Guidance is based on three key principles that are designed to ensure that incentive compensation arrangements at a banking organization do not encourage employees to take excessive risks. These principles provide that incentive compensation arrangements should:

- Provide employees incentives that do not encourage excessive risk-taking beyond the organization’s ability to effectively identify and manage risk;
- Be compatible with effective controls and risk management; and
- Be supported by strong corporate governance, including active and effective oversight by the organization’s board of directors.

The Guidance promotes the improvement of incentive compensation practices in the banking industry by providing a common prudential foundation for incentive compensation arrangements across banking organizations, and promoting the overall movement of the industry towards better practices. Supervisory action plays a critical

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<sup>1</sup> 75 FR 36395 (June 25, 2010).

role in addressing misaligned compensation incentives, especially where issues of competition may make it difficult for individual firms to act alone. Through their actions, supervisors could help to better align the interests of managers and other employees with organizations' long-term health and reduce concerns that making prudent modifications to incentive compensation arrangements might have adverse competitive consequences.

2. **Use of the information:**

The FDIC uses the information as part of its supervisory process. Examiners review incentive compensation arrangements at FDIC-supervised institutions for compliance with the institution's policies and procedures. Examiners will also assess the institution's incentive compensation policies and procedures as part of the safety and soundness examination of the institution.

3. **Consideration of the use of improved information technology:**

FDIC-supervised institutions may use any technology they wish in order to lessen the burden of meeting this recordkeeping requirement.

4. **Efforts to identify duplication:**

There is no duplication. Each FDIC-supervised institution will adopt standards and policies tailored to their particular operations.

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

All FDIC-supervised institutions, large and small may be affected. Small insured state nonmember banks and state savings associations generally have a narrower range of products and less complex operations. Therefore, these smaller institutions may not have incentive compensation programs and if they do, will have much simpler incentive compensation policies and procedures. The incentive compensation policies suggested are intended to be commensurate with the size and complexity of each institution.

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

Less frequent collection would hinder the FDIC's ability to assess the safety and soundness of FDIC-supervised institutions and take corrective action as needed.

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 1320.5(d)(2).

8. **Efforts to consult with persons outside the agency:**

The FDIC published a notice in the *Federal Register* seeking comment for a 60-day period on renewal of this information collection on March 2, 2023 (88 FR 13117). No comments were received.

9. **Payment or gifts to respondents:**

None.

10. **Any assurance of confidentiality:**

Information is kept private to the extent allowed by law. To the extent the Agencies collect information during an examination of a banking organization, confidential treatment may be afforded to the records under exemption 8 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(8).

11. **Justification for questions of a sensitive nature:**

Not applicable. No sensitive information is collected.

12. **Estimate of hour burden including annualized hourly costs:**

***Estimated Annual Burden:***

The FDIC estimates of the number of respondents to this information collection as well as the hourly burden per response, recognizing a difference between the amount of time required to implement policies and procedures and the amount of time required to maintain records on an ongoing basis once those policies and procedures have been established.

*Total Estimated Number of Respondents*

Potential respondents to this information collection include all FDIC-supervised institutions that adopt or revise incentive based compensation schemes. Given that the Guidance was issued in 2010 and based on supervisory experience, FDIC assumes that all FDIC-supervised institutions that have incentive compensation arrangements have now adopted incentive compensation policies and procedures. FDIC estimates that the time required to implement these policies and procedures is 40 hours and is reporting one (1) respondent for implementation burden as a placeholder for an institution implementing such policies in the future.<sup>2</sup> Based on supervisory experience with large institutions,

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<sup>2</sup> This information collection has been active since 2010. Therefore, all institutions with incentive-based compensation schemes have gone through the initial implementation burden. Only institutions which newly adopt an incentive-based compensation program would face the initial implementation burden. It is difficult to accurately estimate the number of institutions who will adopt an incentive compensation program each year. However, the FDIC assumes that the smaller institutions that make a large portion of FDIC-supervised institutions are unlikely to do so.

FDIC has found that approximately 64.7 percent of such institutions revise their incentive compensation policies and procedures annually.<sup>3</sup> Applying this percentage to the current number of FDIC-supervised institutions (3,068 institutions) yields 1,985 as the estimated number of institutions that revise incentive compensation policies and procedures annually.<sup>4</sup>

*Estimated Hourly Burden*

FDIC estimates the recordkeeping burden associated with implementing and documenting incentive-based compensation policies and procedures continues to be 40 hours per respondent, per year. FDIC estimates the recordkeeping burden associated with revising and documenting incentive-based compensation policies and procedures previously adopted and documented to be 2 hours per respondent, per year.

Information Collection (IC) Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Time per Response (Hours)	Frequency of Response	Total Estimated Annual Burden (Hours)
Implementation of Incentive Compensation Policies and Procedures	Recordkeeping	Voluntary	1	40	One Time	40
Maintenance of Existing Incentive Compensation Policies and Procedures	Recordkeeping	Voluntary	1,985	2	Annually	3,970
Total Estimated Annual Burden						4,010

*Annualized Labor Cost of Internal Hourly Burden:*

To estimate the average cost of compensation per hour, FDIC uses the 75th percentile hourly wages reported by the Bureau of Labor Statistics (BLS) National Industry-Specific Occupational Employment and Wage Estimates (OEWS) for the relevant occupations in the Depository Credit Intermediation sector.<sup>5</sup> However, the latest OEWS wage data are as of May 2021 and do not include non-wage compensation. FDIC then multiplies the OEWS hourly wages by approximately 1.51 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2021 (the latest published release prior to the OEWS wage data). FDIC then multiplies the resulting compensation rates by approximately 1.08 to account for the change in the seasonally adjusted Employment Cost Index for the Credit Intermediation and Related Activities sector (NAICS Code 522) between March 2021 and September 2022.

<sup>3</sup> The precise fraction is 11 out of 17.

<sup>4</sup> There are 3,068 FDIC-supervised institutions based on September 30, 2022, Call Report data.

<sup>5</sup> The BLS reports that the 75th percentile wage rate of Legal Occupations (SOC Code 230000) in the Credit Intermediation and Related Activities Sector as of May 2021 is higher than the maximum survey response of \$100 per hour. As such, FDIC uses \$100 per hour as a placeholder estimate. The placeholder may underestimate the cost of complying with this ICR.

Table 2. Summary of Hourly Burden Cost Estimate (OMB No. 3064-0175)

Information Collection (Obligation to Respond)	Hourly Weight (%)	Percentage Shares of Hours Spent by and Hourly Compensation Rates for each Occupation Group (by Collection)						Estimated Hourly Compensation Rate
		Exec. & Mgr. (\$131.75)	Lawyer (\$163.2 )	Compl. Ofc. (\$63.62)	IT (\$101.06)	Fin. Anlst. (\$99.59 )	Clerical (\$37.24)	
1. Initial implementation: Interagency Guidance on Sound Incentive Compensation Practices, 75 Fed. Reg. 36395 (Voluntary)	0.99	0	0	0	0	0	100	\$37.24
2. Ongoing maintenance and revision: Interagency Guidance on Sound Incentive Compensation Practices, 75 Fed. Reg. 36395 (Voluntary)	99.01	0	0	0	0	0	100	\$37.24
<b>Weighted Average Hourly Compensation Rate:</b>								<b>\$37.24</b>
<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 2021), Employer Cost of Employee Compensation (March 2021), and Employment Cost Index (March 2021 and September 2022). Standard Occupational Classification (SOC) Codes: Exec. And Mgr = 11-0000 Management Occupations; Lawyer = 23-0000 Legal Occupations; Compl. Ofc. = 13-1040 Compliance Officers; IT = 15-0000 Computer and Mathematical Occupations; Fin. Anlst. = 13-2051 Financial and Investment Analysts; Clerical = 43-0000 Office and Administrative Support Occupations.</p> <p>Note: The estimated hourly compensation rate for a given collection is the average of the hourly compensation rates for the occupations used to comply with that collection, weighted by the share of hours spent by each occupation. The weighted average hourly compensation rate is the average of the estimated hourly compensation rates for all information collections, weighted by the share of hourly burden for each collection. These hourly weights, calculated as the estimated number of annual burden hours in a given collection over the total estimated number of annual burden hours across all collections, are shown in the "Hourly Weight" column of this table.</p>								

**Total Estimated Labor Cost**

FDIC estimates the total annual internal cost burden for OMB No. 3064-0175 by multiplying the total annual estimated burden hours reported in Table 1 by the weighted average hourly compensation estimate reported in Table 2. The total annual cost burden is estimated as: 4,010 hours per year times \$37.24 per hour equaling **\$149,332 per year**. This is an increase of \$6,979 from the 2020 ICR's cost estimate of \$142,353. The increase in estimated costs is because of the increase in the estimated hourly compensation from \$32.59 per hour in the 2020 ICR to \$37.24 per hour that was partially offset by a decline in the estimated number of responses.

13. **Estimate of start-up costs to respondents:**

None.

14. **Estimate of annualized costs to the government:**

None.

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

There is no change in the substance or methodology of this information collection. The change in burden is due to a decrease in the number of FDIC-supervised institutions.

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

The information collected is for internal FDIC use only and is not published.

17. **Display of expiration date:**

This information collection involves recordkeeping requirements only. The expiration date of the information collection is readily available at [www.reginfo.gov](http://www.reginfo.gov)<sup>6</sup>

18. **Exceptions to certification:**

None.

**B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS**

Not applicable.

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<sup>6</sup> <https://www.reginfo.gov/public/Forward?SearchTarget=PRA&textfield=3064-0175>