

SUPPORTING STATEMENT
Reporting Requirements Associated with Resolution Planning
(OMB Control No. 3064-0210)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting a three-year renewal of the Reporting Requirements Associated with Resolution Planning (OMB No. 3064-0210). This collection comprises the reporting associated with firms required submit resolution plans pursuant to Section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and 12 CFR 381 (Part 381). The current clearance for the collection expires on January 31, 2024. There is no change in the method or substance of the collection.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

To promote financial stability, section 165(d) of the Dodd-Frank Act requires certain companies to periodically submit a plan for such company's rapid and orderly resolution under the Bankruptcy Code in the event of the company's material financial distress or failure.

On November 1, 2011, the agencies published the a final rule in the *Federal Register* (76 FR 67323), to implement the resolution plan requirement set forth in section 165(d)(1) of the Dodd-Frank Act. The effective date for Part 381 was November 30, 2011, and the first set of resolution plans were submitted in July 2012, as required by the regulation.

On November 1, 2019, the agencies amended Part 381 in the *Federal Register* (84 FR 59194). The effective date for Part 381, as amended, was December 31, 2019.

Resolution plans filed under section 165(d) and Part 381 assist covered companies and regulators in conducting advance resolution planning for a covered company. Through the FDIC's experience in failed bank resolutions, as well as the Board of Governors of the Federal Reserve System's (Board) and the FDIC's experience in the most recent financial crisis, it became apparent that advance planning has the potential to improve the efficient resolution of a covered company. Advance planning has long been a component of resiliency and recovery planning by financial companies. The resolution plan required of covered companies under Part 381 supports the FDIC's planning for the exercise of its resolution authority under the Dodd-Frank Act by providing the FDIC with an understanding of the covered companies' structures and complexity, as well as their resolution strategies and processes. The resolution plans also keep the agencies apprised of relevant changes to the covered companies' structure, complexity, and other factors that may affect resolvability. In addition, these plans enhance the agencies' understanding of the U.S. operations of foreign banking organizations and improve efforts to develop a comprehensive and

coordinated resolution strategy for a foreign banking organization.

Part 381 requires each resolution plan to contain certain information, including information regarding the manner and extent to which any insured depository institution affiliated with the covered company is adequately protected from risks arising from the activities of nonbank subsidiaries of the company; descriptions of the ownership structure, assets, liabilities, and contractual obligations of the company; identification of the cross-guarantees tied to different securities; identification of major counterparties; a process for determining to whom the collateral of the company is pledged; and other information that the Board and the FDIC jointly require by rule or order. Part 381 also requires a strategic analysis by the covered company of how it can be resolved under the Bankruptcy Code within a reasonable period of time and in a manner that substantially mitigates the risk that the failure of the covered company would have serious adverse effects on financial stability in the United States. Since the implementation of Part 381 in 2011, the agencies have provided additional guidance to covered companies regarding the information that should be included in, or that can be omitted from, a company's resolution plan.

The information collected under Part 381 has been helpful for identifying obstacles to a rapid and orderly resolution under the Bankruptcy Code. The agencies have used this information to provide feedback to covered companies concerning improvements to their resolution plans and planning processes. The resolution plan submissions have also provided information about covered companies' structure and operations that have been useful to the FDIC in planning for any actions it would take with respect to its authority under the Dodd-Frank Act.

2. Use of the information:

As stated above, the resolution plans required of covered companies under Part 381 support the FDIC's planning for the exercise of its resolution authority under the Dodd-Frank Act and the Federal Deposit Insurance Act (FDI Act) by providing the FDIC with an understanding of the covered companies' structures and complexity, as well as their resolution strategies and processes. The resolution plans also keep the agencies apprised of relevant changes to the covered companies' structure, complexity, and other factors that may affect resolvability.

The reporting requirements are found in sections 381.3, 381.4, 381.5, 381.6, 381.7, 381.8, 381.11 of Part 381. Compliance with the information collection is mandatory. No other federal law mandates these reporting requirements.

General Requirements

Section 381.3 - In connection with the submission of a resolution plan, certain covered companies are required to establish and implement a process and methodology to identify each of its critical operations. Certain covered companies, including those that have previously submitted a resolution plan under this part and

do not currently have an identified critical operation under this part would be able to request a waiver of the requirement to have a process and methodology under 381.3(a)(1).

Section 381.4 - Resolution plan required sets forth a staggered schedule for submission of initial resolution plans by firms that become covered companies and become subject to Part 381, and requires that covered companies submit an updated resolution plan on the July 1 of each year in which a plan is due. In addition, section 381.4 establishes a requirement that a covered company provide notice to the Board and FDIC of extraordinary events that have the potential to affect its resolvability. Section 381.4 allows the FDIC and the Board to jointly modify a covered company's resolution plan submission deadline, and to jointly require a covered company to submit an interim update to its resolution plan. Additionally, a covered company that submits a request to waive certain informational content requirements from its full resolution plan, as permitted under section 381.4, is required to submit certain information supporting its request for a waiver.

Section 381.5 – This section describes the informational content of a full resolution plan.

Section 381.6 – This section describes the informational content of a targeted resolution plan.

Section 381.7 – This section describes the informational content of a reduced resolution plan.

Section 381.8 – This section requires that, if the Board and FDIC jointly determine that a resolution plan of a covered company is not credible or would not facilitate an orderly resolution of the covered company under the Bankruptcy Code, a covered company is required to resubmit a revised plan within 90 days of receiving notice of deficiencies the agencies jointly identified in the resolution plan (or such other period as the agencies jointly determine). A covered company would also be able to submit a written request for an extension of time to resubmit a revised resolution plan.

Section 381.11 – This section describes the informational content of the public section of a full resolution plan, a targeted resolution plan, and a reduced resolution plan.

3. Consideration of the use of improved information technology:

Covered companies may use technology to the extent feasible and/or desirable or appropriate to make the required reports. Generally, at the direction of the Board and the FDIC, covered companies have used a secure electronic portal to submit their resolution plans in digital format.

4. Effort to identify duplication:

The reporting requirements are found in sections 381.3, 381.4, 381.5, 381.6, 381.7, 381.8, 381.11 of Part 381. Compliance with the information collection is mandatory. No other federal law mandates these reporting requirements and therefore the reporting requirements are not otherwise duplicated.

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, according to Call Report data as of March 31, 2023, there were 3,012 FDIC-supervised institutions of which 2,306 have total assets of less than \$850 million therefore meeting the Small Business Administration's definition of a "small entity." In particular, Part 381 applies to covered companies, which would include only bank holding companies and foreign banks that are or are treated as a bank holding company (foreign banking organization), in both cases with at least \$250 billion in total consolidated assets. The assets of a covered company substantially exceed the \$850 million asset threshold at which a banking organization is considered a "small entity" under the Small Business Administration's regulations.

In addition, Part 381 applies to a nonbank financial company designated by the Financial Stability Oversight Council (FSOC) under section 113 of the Dodd-Frank Act regardless of such a company's asset size. Although the asset size of nonbank financial companies may not be the determinative factor of whether such companies may pose systemic risks and would be designated by the FSOC for supervision by the Board, it is an important consideration. It is therefore unlikely that a financial firm that is at or below the \$850 million asset threshold would be designated by the FSOC under section 113 of the Dodd-Frank Act because material financial distress at such firms, or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities, are not likely to pose a threat to the financial stability of the United States.

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

Resolution plans filed under section 165(d) and Part 381 assist covered companies and regulators in conducting advance resolution planning for a covered company. Through the FDIC's experience in failed bank resolutions, as well as the Board's and the FDIC's experience in the most recent financial crisis, it became apparent that advance planning has the potential to improve the efficient resolution of a covered company. Advance planning has long been a component of resiliency and recovery planning by financial companies. The resolution plan required of covered companies under Part 381 supports the FDIC's planning for the exercise of its resolution authority under the Dodd-Frank Act by providing the FDIC with an understanding of the covered companies' structures and complexity as well as their resolution strategies and processes. The resolution plans also keep the agencies apprised of relevant changes to the covered companies' structure, complexity, and other factors that may affect resolvability. The resolvability of firms changes as markets change and as firms' activities, structures, and risk profiles change. Less frequent collection

of information could impede the FDIC’s advance resolution planning.

7. Special circumstances necessitating collection inconsistent with 5 CFR 1320.5(d)(2):

None. This information collection is conducted in accordance with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

On July 18, 2023, the FDIC issued the proposed guidance in the Federal Register (88 FR 45902) seeking comment on any reporting, recordkeeping, or third-party disclosure requirements under the PRA. No comments were received with respect to the PRA.

9. Payment or gift 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).

11. Justification for questions of a sensitive nature:

No questions of a sensitive nature are included in the collection.

12. Estimate of Hour Burden:

The FDIC’s estimated burden¹ for the respondents for complying with the collection of information is 203,332 hours.

Summary of Estimated Annual Burden (OMB No. 3064-0210)					
Information Collection (Obligation to Respond)	Type of Burden (Frequency of Response)	Number of Respondents	Number of Responses per Respondent	Time per Response (HH:MM)	Annual Burden (Hours)
12 CFR 381.4(a) - Biennial Filers - Domestic	Reporting (Biennial)	4	1	40,115:00	160,460
12 CFR 381.4(b) - Triennial Full - Complex Foreign	Reporting (Triennial)	1	1	9,916:00	9,916

¹ Historically, the Board and the FDIC have split the respondents for purposes of PRA clearances. As such, the agencies will split the change in burden as well. The FDIC has agreed to take the burden of the new triennial full complex filer and one Proposed FBO whereas the Board will take the burden for the remaining two Proposed FBOs. Specially, as a result of this split and these revisions, there will be a net decrease in the overall estimated burden of 6,438 hours for the Board and 6,587 hours for the FDIC. Therefore, the total Board estimated burden for its entire information collection (7100-0346) is 209,168 hours and the total FDIC estimated burden for its entire information collection (3064-0210) is 203,332 hours.

12 CFR 381.4(b) - Triennial Full - Foreign and Domestic	Reporting (Triennial)	7	1	5,667:00	39,669
12 CFR 381.4(c) - Triennial Reduced	Reporting (Triennial)	27	1	20:00	540
12 CFR 381.4(d)(6)(ii) - Waivers by Covered Companies	Reporting (On occasion)	1	1	1:00	1
Total Annual Burden (Hours):					210,586

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 method or substance of the collection. The 7,254-hour increase in burden hours is a result of an increase in the number of entities subject to the information collection.

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

The information is not published.

17. Display of Expiration Date

Not applicable.

18. Exceptions to Certification Statement

None.

B. STATISTICAL METHODS

Not applicable.