

**SUPPORTING STATEMENT**  
**ACCOUNT BASED DISCLOSURES IN CONNECTION WITH**  
**CONSUMER FINANCIAL PROTECTION BUREAU REGULATIONS E AND DD**  
**AND**  
**FEDERAL RESERVE REGULATION CC**  
**(OMB CONTROL NO. 3064-0084)**

**INTRODUCTION**

The FDIC is requesting OMB approval to extend, with revisions, the information collection covering reporting, recordkeeping and disclosure requirements imposed by Consumer Financial Protection Bureau (CFPB) Regulations E and DD; and for Federal Reserve Regulation CC for those institutions impacted by the regulations over which the FDIC has enforcement authority. This information collection is currently approved under Control Number 3064-0084 and the approval expires on July 31, 2024.

**A. JUSTIFICATION**

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

Regulation E implements the Electronic Fund Transfer Act and is authorized by 15 U.S.C. § 1693b.<sup>1</sup> It affects institutions that offer electronic fund transfer (EFT) services and prepaid accounts, and it affects issuers of prepaid gift cards and gift certificates. Regulation DD implements the Truth in Savings Act and is authorized by 12 U.S.C. § 4308(a).<sup>2</sup> It affects institutions that offer deposit accounts to consumers. Regulation CC implements the Expedited Funds Availability Act and is authorized by 12 U.S.C. §§ 4008 and 5014.<sup>3</sup> It affects institutions that provide transaction accounts to customers. For Regulations E and DD, the FDIC has enforcement responsibility for state nonmember banks, savings institutions, and insured state branches of foreign banks with \$10 billion or less in total assets.<sup>4</sup> For regulation CC, the FDIC has enforcement authority for all state nonmember banks, savings institutions, and insured state branches of foreign banks.<sup>5</sup>

Regulation E is designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to EFT services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: initial and updated EFT terms,<sup>6</sup> the consumer's potential liability for unauthorized transfers,<sup>7</sup> and error resolution rights and procedures.<sup>8</sup>

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<sup>1</sup> 12 C.F.R. 1005.

<sup>2</sup> 12 C.F.R. 1030.

<sup>3</sup> 12 C.F.R. 229.

<sup>4</sup> Regulation E, 15 U.S.C. § 1693o; Regulation DD, 12 U.S.C. § 4309; CFPB enforcement authority for insured depository institutions delineated in 12 U.S.C. § 5516.

<sup>5</sup> 12 C.F.R. 229.3 (a)(1)(iii).

<sup>6</sup> 12 C.F.R. 1005.7(b) and 1005.8(a),

<sup>7</sup> 12 C.F.R. 1005.17(c)(2), 1005.17(c)(1), and 1005.17.

<sup>8</sup> 12 C.F.R. 1005.8(b), 1005.11, and 1005.18.

Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. Regulation DD requires depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur.<sup>9</sup> Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods.<sup>10</sup> It also contains rules about advertising deposit accounts.<sup>11</sup>

Like Regulations E and DD, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods,<sup>12</sup> disclose their availability policies to customers,<sup>13</sup> and begin accruing interest on such deposits promptly.<sup>14</sup> The disclosures are intended to alert customers that their ability to use deposited funds may be delayed,<sup>15</sup> prevent unintentional (and costly) overdrafts,<sup>16</sup> and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. The regulation also requires notice to the depository bank and to a customer of nonpayment of a check.<sup>17</sup>

## **2. Use of the information:**

Regulations E, CC and DD promote the informed use of account services by ensuring adequate disclosure of relevant terms. The Regulations impose third-party disclosure requirements on affected institutions and are intended to provide consumers meaningful and useful information about the terms, costs and rights relating to services and consumer products to allow them to make informed decisions about which institution and product best suits their needs.

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

The information collections in Regulations E, CC and DD are primarily third party disclosures. Institutions may provide electronic disclosures consistent with the Electronic Signatures in Global and National Commerce Act (E-Sign Act), 15 U.S.C. §§ 7001 et seq., 12 C.F.R. § 1005.17 and 12 C.F.R. § 1030.03(a).

## **4. Efforts to Identify Duplication**

Regulations E, CC and DD require account related disclosures when specified events occur and the content of the disclosures do not overlap. If institutions provide periodic

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9 12 C.F.R. 1030.4.

10 12 C.F.R. 1030.6.

11 12 C.F.R. 1030.8.

12 12 C.F.R. 229.10.

13 12 C.F.R. 229.16, 229.17, and 229.18(d).

14 12 C.F.R. 229.14.

15 12 C.F.R. 229.13 (g).

16 12 C.F.R. 1005.20, FRB R-1377.

17 12 C.F.R. 229.33(a) and (d).

statements concerning accounts, Regulation E and CC require certain disclosures, of different content, to be provided in those periodic statements.

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

Generally, the relevant statutes require the disclosures to be made notwithstanding the size of the institution.

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

The disclosure requirements are event based and may not be made less frequently consistent with the underlying statutes and regulations.

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:**

A notice seeking public comment for a 60-day period was published in the *Federal Register* on May 7, 2024 (89 FR 38136). No comments were received.

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

None.

10. **Any assurance of confidentiality:**

Since the regulations only contain a third-party disclosure requirements, no issue of confidentiality arises. The disclosure of information to consumers with regard to the availability of funds is available to the public. Any information collected by the FDIC will be kept private to the extent permitted by law.

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

No sensitive information is collected.

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

### **Estimated Number of Respondents, Responses and Burden Hours**

#### **Regulation E**

Potential respondents to the IC line items associated with Regulation E include state nonmember banks, savings institutions, and insured state branches of foreign banks with \$10 billion or less in consolidated assets. The methodologies for the estimate of the annual number of respondents are as follows:

1. Three items (line items 1, 3, and 4) under Regulation E apply to all state nonmember banks, savings institutions, and insured state branches of foreign banks with \$10 billion or less in total assets. There are 3,172 such institutions.
2. There are two line items that apply to institutions that are FDIC-supervised, have \$10 billion or less in consolidated assets, and are engaged in issuing payroll cards (line items 2 and 5). To estimate the number of respondents to these line items, FDIC uses the CFPB's Prepaid Account Agreements Database, which identifies agreements by product type. This database shows eight institutions that have prepaid product agreements under the product type "Payroll".<sup>18</sup> FDIC therefore estimates eight respondents to these items.
3. There are ten line items (numbered 6 to 15) that apply to FDIC-supervised institutions subject to the CFPB's Prepaid Accounts Rule, which modified Regulation E and was effective starting in 2019. Banks issuing prepaid account agreements are required to submit to the CFPB documents containing, among other things, the general terms and conditions of these agreements.<sup>19</sup> For ease of exposition, Table 1 groups these line items into a. items that apply to new products, b. implementation items that apply to new entrants, and c. ongoing items that apply to active products that are not new.
4. There are two line items that apply to new products under the CFPB's Prepaid Accounts Rule (line items 6 and 7). These are disclosure burdens that FDIC-supervised institutions must incur when they launch a new prepaid product.
5. There are four line items that are implementation burdens under the CFPB's Prepaid Accounts Rule (line items 8 through 11). These implementation burdens apply to new entrants to prepaid products.
6. There are four line items that are ongoing burdens under the CFPB's Prepaid Accounts Rule (line items 12 through 15). These ongoing burdens apply to the upkeep of systems and processes after a new entrant completes the corresponding implementation burden.
7. Four line items (numbered 16 to 19) apply to banks that issue gift cards and gift

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<sup>18</sup> FDIC excluded products issued by The Bancorp Bank, because The Bancorp Bank's prepaid accounts are usually managed by program managers. CFPB has taken the information collection burden where funds are managed by a third party and not by an FDIC-supervised institution.

<sup>19</sup> See footnote 22.

certificates. Using the CFPB's Prepaid Accounts Agreements Database, FDIC initially estimated the number of respondents by counting the number of FDIC-supervised institutions with less than \$10 billion in total assets where the product had "Gift" in the name. One such bank exists. However, FDIC is uncertain whether the CFPB's Prepaid Accounts Agreements Database is a reliable indicator of the number of banks offering gift cards, because the CFPB did not require gift card providers to submit accounts agreements to the Prepaid Rule account agreement database as gift cards are not subject to the Rule. Most gift cards are offered by retailers. Given the lack of data, the FDIC believes that estimating the number of FDIC-supervised institutions with less than \$10 billion in total assets involved in issuing gift cards and gift certificates by taking the number of banks that issue multiple prepaid products is an appropriate methodology. For ease of exposition, Table 1 groups these line items into (a) implementation items that apply to new entrants and (b) ongoing items that apply to existing issuers.

8. There are two line items that are implementation burdens for banks issuing gift cards and gift certificates (line items 16 and 17). These implementation burdens apply to new entrants to gift cards and gift certificates.
9. There are two line items that are ongoing burdens for banks issuing gift cards and gift certificates (line items 18 and 19). The FDIC estimates the number of banks issuing gift cards and gift certificates by counting the number of banks actively issuing multiple products.
10. The FDIC reviewed the information collection lines related to the overdraft opt-in disclosures (1005.17, FRB r-1343) and the line item related to the systems change to implement a disclosure update (1005.20(e)(3)), and it has determined that these ICs are one-time burdens that do not impose ongoing burden on the public. The overdraft opt-in disclosures (1005.17, FRB r-1343) state that a financial institution shall not assess an overdraft fee for paying ATM and one-time debit card transactions that overdraw a consumer's account, unless the consumer affirmatively consents, or opts in, to the institution's payment of overdrafts for these transactions, pursuant to an opt-in notice that is substantially similar to Model Form A-9. The item related to the systems change to implement a disclosure update (1005.20(e)(3)) was incurred by institutions engaged in issuing gift cards and gift certificates. The FDIC notes that affected institutions have already incurred the burdens associated with these ICs and will not need to implement systems changes related to this burden a second time. The FDIC believes that, on an ongoing basis, there is no additional burden as the disclosure was sufficiently accounted for once incorporated into the current initial account disclosure section 1005.7(b).

The estimates for time per response and annual number of responses per respondent vary by line item. FDIC based these estimates for the new line items related to the Prepaid Accounts rule on the number of products listed in the CFPB's Prepaid Accounts Database (to find responses per respondent) and the CFPB's estimates in its ICR (to find the estimated time per response).<sup>20</sup>

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<sup>20</sup> The CFPB reports its estimates under OMB Control No. 3170-0014.

The estimated annual number of respondents, responses, and burdens for the ICs under Regulation E are delineated in Table 1 below:

**Table 1: Summary of Annual Burden for Regulation E (OMB No. 3064-0084)**

	Type of Burden (Obligation to Respond)	Estimated Number of Respondents	Estimated Number of Responses/ Respondent	Estimated Time per Response (Hours)	Total Annual Estimated Burden (Hours)
<b>Regulation E - 12 C.F.R. Part 1005</b>					
<i>Initial disclosures</i>					
1. General (1005.7(b))	Disclosure (Mandatory)	3,172	83	0.025	6,582
2. Payroll cards (1005.18(c)(1))	Disclosure (Mandatory)	8	5,000	0.025	1,000
3. Change in terms (1005.8(a))	Disclosure (Mandatory)	3,172	113	0.017	6,093
<i>Error resolution rules</i>					
4. General (1005.8(b) and 1005.11)	Disclosure (Mandatory)	3,172	3	0.5	4,758
5. Payroll cards (1005.18)	Disclosure (Mandatory)	8	8	0.5	32
<i>Prepaid Accounts Rule (1005.18) – New Products</i>					
6. Short Form Disclosure (1005.18(b)(2) and 100.515(c))	Disclosure (Mandatory)	4	53	40	8,480
7. Long Form Disclosure 1005.18(b)(4) and 1005.15(c)	Disclosure (Mandatory)	4	53	8	1,696
<i>Prepaid Accounts Rule (1005.18) - Implementation</i>					
8. Short Form Additional Fee Type Disclosure (1005.18(b)(2)(ix) implementation	Disclosure (Mandatory)	1	1	4	4
9. Access to Prepaid Account Information 1005.18(c)(5) and 1005.15(d) implementation	Recordkeeping (Mandatory)	1	1	24	24
10. Error Resolution 1005.18(e)(2) and 1005.1511 implementation	Recordkeeping (Mandatory)	1	1	8	8
11. Submission of Agreements (1005.19) (b) implementation	Reporting (Mandatory)	1	1	1	1
<i>Prepaid Accounts Rule - Ongoing</i>					
12. Short Form Additional Fee Type Disclosure (1005.18(b)(2)(ix) ongoing	Disclosure (Mandatory)	15	1	.5	8
13. Access to Prepaid Account Information 1005.18(c)(5) and 1005.15(d) ongoing	Recordkeeping (Mandatory)	15	1	.5	8
14. Error Resolution (1005.18 (e)(2) and 1005.11 ongoing	Recordkeeping (Mandatory)	15	1	.5	8
15. Submission of Agreements (1005.19(b) ongoing	Reporting (Mandatory)	15	1	.5	8
<i>Gift card/gift certificate (section 1005.20, FRB R-1377) - Implementation</i>					
16. Exclusion policies & procedures (1005.20(b)(2)) implementation	Recordkeeping (Mandatory)	1	1	40	40
17. Policy & procedures (1005.20(e)(1)) implementation	Recordkeeping (Mandatory)	1	1	40	40
<i>Gift card/gift certificate (section 1005.20, FRB R-1377) - Ongoing</i>					
18. Exclusion policies & procedures (1005.20(b)(2) ongoing	Recordkeeping (Mandatory)	10	1	8	80
19. Policy & procedures (1005.20(e)(1)) ongoing	Recordkeeping (Mandatory)	10	1	8	80

<b>Subtotal Regulation E Burden</b>					28,950
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## Regulation DD

Potential respondents to information collection line items associated with Regulation DD include state nonmember banks, savings institutions, and insured state branches of foreign banks with \$10 billion or less in consolidated assets.

All five items under Regulation DD apply to all state nonmember banks, savings institutions, and insured state branches of foreign banks with \$10 billion or less in total assets.

The estimates for time per response and number of responses per respondent vary by line item.

The estimated annual number of respondents, responses, and burdens for the ICs under Regulation DD are delineated in Table 2 below:

**Table 2: Summary of Annual Burden for Regulation DD (OMB No. 3064-0084)**

	Type of Burden (Obligation to Respond)	Estimated Number of Respondents	Estimated Number of Responses/ Respondent	Estimated Time per Response (Hours)	Total Annual Estimated Burden Hours)
<b>Regulation DD - 12 C.F.R. Part 1030</b>					
1. Account disclosures (upon request and new accounts) (section 1030.4)	Disclosure (Mandatory)	3,172	170	0.025	13,481
<i>Subsequent notices (section 1030.5)</i>					
2. Change in terms	Disclosure (Mandatory)	3,172	380	0.017	20,491
3. Prematurity (renewal) notices to consumers	Disclosure (Mandatory)	3,172	340	0.017	18,334
4. Disclosures on periodic statements (section 1030.6)	Disclosure (Mandatory)	3,172	12	4	152,256
5. Advertising (section 1030.8)	Disclosure (Mandatory)	3,172	12	0.5	19,032
<b>Subtotal Regulation DD Burden</b>					
					223,594

Source: FDIC

## Regulation CC

Potential respondents to Regulation CC include all state nonmember banks, savings institutions, and insured state branches of foreign banks.

The estimates for time per response and frequency of response vary by line item.

The estimated annual number of respondents, responses, and burdens for the ICs under Regulation CC are delineated in Table 3 below:

**Table 3: Summary of Annual Burden for Regulation CC (OMB No. 3064-0084)**

	Type of Burden	Estimated	Estimated Number	Estimated Time	Total Annual
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	(Obligation to Respond)	Number of Respondents	of Responses/ Respondent	per Response (Hours)	Estimated Burden (Hours)
<b>Regulation CC - 12 C.F.R. Part 229</b>					
1. Specific availability policy disclosure (initial notice to consumers, upon request, upon change in policy) (sections 229.16, 229.17 and 229.18(d))	Disclosure (Mandatory)	3,227	140	0.017	7680
2. Case-by-case hold notice to consumers (section 229.16(c))	Disclosure (Mandatory)	3,227	717	0.05	115688
3. Notice of exceptions to hold policy (section 229.13(g))	Disclosure (Mandatory)	3,227	247	0.05	39853
4. Notice posted where consumers make deposits (including at ATMs) (sections 229.18(b) and 229.18(c))	Disclosure (Mandatory)	3,227	1	0.25	807
5. Notice to consumers of changes in policy (section 229.18(e))	Disclosure (Mandatory)	3,227	170	0.017	9,326
6. Annual notice of new ATMs (section 229.18(e))	Disclosure (Mandatory)	3,227	1	5	16,135
7. Notice of nonpayment - notice to depository bank (section 229.33(a) and (d))	Disclosure (Mandatory)	3,227	2,211	0.017	121,293
8. Response to consumer's re-credit claim (validation, denial, reversal) (section 229.54(e))	Disclosure (Mandatory)	3,227	12	0.25	9,681
9. Bank's claim against an indemnifying bank (section 229.55)	Reporting (Mandatory)	3,227	5	0.25	4,034
10. Consumer awareness disclosure (section 229.57)	Disclosure (Mandatory)	3,227	170	0.017	9,326
11. Regulation CC Consumer Burden - Expedited re-credit claim notice (section 229.54(a) and (b)(2))	Reporting (Mandatory)	3,227	8	0.25	6,454
<b>Subtotal Regulation CC Burden</b>					340,277

Source: FDIC

## Summary of Burdens for the three Regulations

**Table 4: Summary of Annual Burden (OMB No. 3064-0084)**

	Total Estimated Annual Burden
Subtotal Regulation E	28,950 Hours
Subtotal Regulation DD	223,594 Hours
Subtotal Regulation CC	340,277 Hours
<b>Total Burden</b>	592,821 Hours

Source: FDIC

## Hourly Burden Cost Estimate

To estimate the weighted average hourly compensation cost of these employees, FDIC uses the 75<sup>th</sup> 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.

The hourly wage rates reported do not include non-monetary compensation.



The FDIC uses the total estimated hourly compensation of compliance officers (\$67.35) for all line items except for the ninth line under “Regulation CC – 12 C.F.R. Part 229” titled “Bank’s claim against an indemnifying bank”. There FDIC uses the total estimated hourly compensation of legal occupations (\$151.44).

FDIC estimates the total annual cost burden for this ICR by taking the product of the estimated number of respondents, estimated time per response, frequency of responses, and total estimated hourly compensation of the relevant occupation for each line item, and then summing those values, as shown below in Table 5:

**Table 5: Total Estimated Cost Burden (OMB Control No. 3064-0084)**

Relevant Line Item(s)	Occupation (SOC Code)	Total Estimated Hourly Compensation	Annual Estimated Burden Hours	Annual Estimated Cost Burden
All line items except for the ninth item line under “Regulation CC – 12 C.F.R. Part 229”	Compliance Officers (131040)	\$67.35	588,247	\$39,618,435
Ninth line item under “Regulation CC – 12 C.F.R. Part 229” titled “Bank’s claim against an indemnifying bank”	Legal Occupations (230000)	\$151.44	4,034	\$610,909
Total			592,821	\$40,229,344

**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 burden. There is no change in the methodology or substance of this information collection.

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

The information collected will not be published.

**17. Exceptions to Display of Expiration Date**

Not applicable.

18. **Exceptions to Certification**

None.

B. **STATISTICAL METHODS**

Not applicable.