

SUPPORTING STATEMENT  
LARGE-BANK DEPOSIT INSURANCE PROGRAMS  
OMB No. 3064-0162

INTRODUCTION

The Federal Deposit Insurance Corporation requests OMB approval to extend, for three years, with revisions, the above-captioned collection of information. The clearance for the collection expires on November 30, 2024.

Upon the failure of an FDIC-insured depository institution, the FDIC is required to pay insured deposits as soon as possible<sup>1</sup>. To do so, the FDIC must be able to quickly determine the total insured amount for each depositor. To make this determination, the FDIC must ascertain the balances of all deposit accounts owned by the same depositor in the same ownership capacity at a failed institution as of the day of failure. The FDIC established a rule (12 CFR 360.9) to modernize the process of determining the insurance status of each depositor in the event of such a failure.

The rule requires the largest insured depository institutions to adopt mechanisms that would, in the event of the institution's failure (1) provide the FDIC with standard deposit account and other customer information, and (2) allow the placement and release of holds on liability accounts, including deposits. The rule applies only to insured depository institutions having at least \$2 billion in domestic deposits and either: more than 250,000 deposit accounts; or total assets over \$20 billion, regardless of the number of deposit accounts.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Section 360.9 requires the largest insured depository institutions to adopt mechanisms that, in the event of the institution's failure: (1) provide the FDIC with standard deposit account and customer information; and (2) allow the FDIC to place and release holds on liability accounts, including deposits. Section 360.9 applies only to insured depository institutions having at least \$2 billion in domestic deposits and either: (1) more than 250,000 deposit accounts; or (2) total assets over \$20 billion, regardless of the number of deposit accounts (referred to hereinafter as "Covered Institutions").

When handling a depository institution failure, the FDIC is required to structure the least costly of all possible resolution transactions, except in the event of systemic risk. In addition, the FDIC is required to pay insured deposits "as soon as possible" after an institution fails. The FDIC places a high priority on providing access to insured deposits promptly and, in the past, has usually been

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<sup>1</sup> The FDIC can meet its obligation to pay insured deposits either by payment in cash or by making available to each depositor a transferred deposit in a another insured depository institution. 12 U.S.C §1821(f)(1).

able to allow most depositors access to their deposits on the business day following closing. Doing so enables the FDIC to: (1) maintain public confidence in the banking industry and the FDIC; (2) provide the best possible service to insured depositors by minimizing uncertainty about their status and avoiding costly disruptions that may limit their ability to meet financial obligations; (3) mitigate the spillover effects of a failure, such as risks to the payments system, problems stemming from depositor illiquidity and a substantial reduction in credit availability; and (4) retain, where feasible, the franchise value of the failed institution.

The largest insured depository institutions are growing increasingly complex. Section 360.9 is intended to allow the deposit operations of a failed institution to be continued on the day following failure. It helps facilitate an insurance determination and dramatically improve upon access to depositor funds when one of these institutions fails. It also permits the FDIC to meet its legal mandates regarding the resolution of failed insured institutions, provide liquidity to depositors promptly, enhance market discipline, ensure equitable treatment of depositors at different institutions and reduce the FDIC's costs by preserving the franchise value of a failed institution.

Making deposit insurance determinations is inherently complex because a single depositor may have more than one account and may hold accounts in different ownership capacities, each of which may be separately insured. To make insurance determinations, the FDIC must aggregate all accounts owned by a depositor in a single ownership capacity. This process often requires reviewing detailed account agreements and other documents. The larger the number of deposit accounts at an institution, the more complex and difficult the insurance determination becomes. Complexity also depends upon the volume of transactions, the amount of uninsured funds, the number of separate computer systems or "platforms" on which deposit accounts are maintained and the speed at which the institution's deposit operations must be resumed following failure. In most instances, larger institutions are considerably more complex, have more deposit accounts, are more geographically dispersed and have more diverse systems and data-integration issues than small institutions.

Under the rule, on a case-by-case basis and in consultation with the Covered Institution's primary federal regulator, the FDIC can accelerate the implementation timeframe for Covered Institutions that are "troubled". That is, a Covered Institution that either: (1) has a composite rating of 3, 4 or 5 under the Uniform Financial Institutions Rating System (commonly referred to as CAMELS) or (2) is undercapitalized as defined for purposes of the prompt corrective action rules. In determining the accelerated implementation timeframe for such institutions, the FDIC would be required to consider such factors as the: (1) complexity of the institution's deposit systems and operations; (2) extent of asset quality difficulties; (3) volatility of funding sources; (4) expected near-term changes in capital levels; and (5) other relevant factors appropriate for the FDIC

to consider in its roles as insurer and possible receiver of the institution.

2. Use of information collected:

*Provisional holds:* Covered Institutions are required to have in place an automated process for implementing provisional holds concurrent with or immediately following the daily deposit account processing on the day of failure. After completion of the failed institution's final daily processing, the Successor Institution places provisional holds on selected deposit accounts. Provisional holds, once posted, allow depositors access to the remaining balance in their accounts the day following failure, yet guard against the possibility of an uninsured depositor or unsecured general creditor receiving more than allowed under deposit insurance rules or the depositor preference statute. The FDIC uses a standard set of depositor and customer data to make deposit insurance determinations. These determinations are provided to the Successor Institution shortly after failure.

*The generation of deposit account and customer data in a standard structure:* A Covered Institution is required to have in place practices and procedures to provide the FDIC with required depositor and customer data in a standard format following the close of any day's business. Covered Institutions are not required to collect or generate new depositor or customer information. Instead, the standard data files are created through a mapping of pre-existing data elements and internal institution codes into standard data formats. The standard data files would be used in the period immediately before and after a Covered Institution's failure to calculate the amount of deposit insurance coverage and to identify the least costly of all possible resolution transactions. The FDIC conduct infrequently at institutions that do not make major changes to their deposit systems—perhaps only once every three-to-five year.

3. Consideration of the use of improved information technology:

Insured depository institutions provide deposit account information via electronic file.

4. Efforts to identify duplication:

The information sought in this collection is not duplicated elsewhere.

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

The rule applies to the largest banks only. It does not impose any burden on small entities.

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

frequently:

Section 360.9 requires the largest insured depository institutions to adopt mechanisms that would, in the event of the institution's failure, provide the FDIC with standard deposit account and customer information and allow the FDIC to place and release holds on liability accounts, including deposits. Thus, Covered Institutions are required to have the mechanisms in place and are subject to periodic testing, but the collection would be accessed only when a large bank is close to failing.

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 9, 2024 (89 FR 73090). No comments have been received.

9. Payment or gift to respondents:

No payments or gifts will be given to respondents.

10. Any assurance of confidentiality:

No individual bank or customer information will be made available outside the FDIC. In addition, to protect financial privacy, the FDIC's testing process would not require that Covered Institutions transmit **any** sensitive customer data outside of the institution's premises. Therefore, all testing involving any sensitive customer data would be conducted on the institution's premises.

11. Justification for questions of a sensitive nature:

None.

12. Estimate of Annual Burden

There has been no change in the methodology or substance of this information collection. The FDIC has revised the number of institutions it tests for compliance with the requirements of the rule from 40 institutions annually to 30 institutions per year. This had resulted in a reduction in the number of estimated respondents for one of the ICs comprising this ICR. The estimated number of responses and time per response for all ICs remain the same. The number of

respondents has changed as follows:

### **Estimated Number of Respondents**

Potential respondents to this information collection are IDIs that meet the definition of a “covered institution” under Section 360.9, excluding the IDIs that are released from the requirements of Section 360.9 due to previously approved exemptions. Under 12 CFR 370.8(d), covered institutions are exempt after submitting a certification that the institution is following the requirements of 12 CFR Section 370 (Section 370). Also, Institutions can apply for an exemption from the requirements of Section 360.9 if the institution has a “high concentration of deposits incidental to credit card operations.”<sup>2</sup> Additionally, the SME informed me that, according to internal FDIC policy, an institution ceases to be covered by the requirements of Section 360.9 if it has not met the definition of a covered institution for three consecutive quarters prior to the current quarter.

As of December 31, 2023, there were 4,596 IDIs in total,<sup>3</sup> and of these there were 168 IDIs that meet the definition of covered institution. Of these 168 IDIs, 26 have been released from the requirements of Section 360.9 due to compliance with Section 370, zero IDIs received exemptions under Section 360.9(f), and 21 IDIs ceased to meet the definition of a covered institution for three consecutive quarters as per internal policy. Therefore, the estimated number of institutions that are subject to the requirements of Section 360.9 as of December 31, 2023, is 121.<sup>4</sup> As of December 31, 2021 and 2022, there were 128 and 125 CIs respectively for an annual average of 125 newly covered institutions per year. The FDIC expects the number of institutions subject to Section 360.9 to remain approximately the same over the next three years, so using these historical data, it estimates the number of covered institutions in each of the next three years is 125. FDIC does not expect any small entities to be affected.<sup>5</sup>

To estimate the number of respondents for IC1, IC2, IC3, and IC4, FDIC uses the average number of IDIs that became newly subject to the requirements of Section 360.9 after meeting the definition of a covered institution for two consecutive quarters in 2021, 2022, and 2023. FDIC Call Report data show that in 2021, 2022, and 2023 there were 8, 5, and 10 newly qualified covered institutions, respectively. Meaning between 2021 and 2023, 23 institutions became newly subject to the requirements of Section 360.9, which equates to an annual average

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2 12 CFR 360.9(f).

3 Call Report data for the period ending December 31, 2023.

4  $168 - 26 - 0 - 21 = 121$

5 For purposes of the Regulatory Flexibility Act (RFA), no IDIs meet the criteria to be a covered institution and be considered “small.” March 31, 2024, Call Report data. *Id.* The Small Business Administration (SBA) defines a small banking organization as having \$850 million or less in assets, where an organization’s “assets are determined by averaging the assets reported on its four quarterly financial statements for the preceding year.” See 13 CFR 121.201 (as amended by 87 FR 69118, effective December 19, 2022). In its determination, the “SBA counts the receipts, employees, or other measure of size of the concern whose size is at issue and all of its domestic and foreign affiliates.” See 13 CFR 121.103. Following these regulations, the FDIC uses a covered entity’s affiliated and acquired assets, averaged over the preceding four quarters, to determine whether the covered entity is “small” for the purposes of RFA.

of 7.67 newly covered institutions per year.<sup>6</sup> Using these historical data, FDIC estimates 8 respondents per year to IC1, IC2, IC3, and IC4.<sup>7</sup> These estimates are one more than the corresponding estimates in the 2021 ICR, due to the small increase in the historical number of newly covered institutions.

To estimate the number of respondents for IC5, IC6, and IC7 FDIC use the average number of IDIs that submitted a request for exemption from provisional hold requirements, extension of compliance deadline, and exemption from Section 360.9, respectively, for newly covered institutions from 2021 to 2023. The FDIC received no exemption requests pursuant to 360.9(c)(9) (IC5), one institution submitted an extension request pursuant to 360.9(e)(7) (IC6), and no institutions submitted an exemption request pursuant to 360.9(f) (IC7) from 2021 to 2023. Given the lack of historical requests, FDIC uses a placeholder respondent count of one (1) respondent per year to IC 5, IC6, and IC7 to account for the possibility that a newly covered institution may submit these requests as part of their implementation phase in the future. These estimates are identical to the corresponding estimates in the 2021 ICR.

To estimate the number of respondents for IC8, FDIC use the average number of covered institutions that notified the FDIC of the identity of their responsible person from 2021 to 2023. Between 2021 and 2023, 370 institutions notified the FDIC of the identity of the person responsible for producing standard data downloads,<sup>8</sup> for an annual average of 123.33 (370/3) newly covered institutions per year. Using these historical data, FDIC estimate 123 respondents per year to IC8. These estimates are three less than the corresponding estimates in the 2021 ICR, due to the small decrease in the historical number of notifications.

To estimate the number of respondents for IC9 and IC10, which are the ongoing counterparts to IC5 and IC7 respectively, FDIC uses the average number of covered entities that submitted requests for exemptions from the provisional hold requirements of Section 360.9 pursuant to Section 360.9(c)(9) and Section 360.9 for institutions that were already covered institutions in compliance with Section 360.9 prior to the request. The FDIC received no exemption requests pursuant to 360.9(c)(9) (IC9) or exemption requests pursuant to 360.9(f) (IC10) from 2021 to 2023. As such, FDIC uses a placeholder respondent count of one (1) institution per year to account for the possibility that covered institutions that are already in compliance with Section 360.9 may submit requests pursuant to Section 360.9(f) in the future. These estimates are identical to the corresponding estimates in the 2021 ICR.

In 2022, FDIC changed the number of IDIs whose systems are tested annually for compliance with the requirements of Section 360.9, pursuant to Section 360.9(h) from 40 to 30 covered institutions per year. As such, FDIC estimates that there will be 30 respondents per year for IC11. This estimate is ten less than the corresponding estimate in the 2021 ICR, due to the change in FDIC policy.

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<sup>6</sup> FDIC Call Report data, December 2020 through December 2023

<sup>7</sup> 8 IDIs in 2021, 5 IDIs in 2022, and 10 IDIs in 2023 newly qualified as covered institutions and became subject to the requirements of Section 360.9.  $((8 + 5 + 23) / 3 \text{ years}) = 7.67$

<sup>8</sup> 134 institutions in 2021, 118 institutions in 2022, 118 institutions in 2023.  $((134 + 118 + 118) / 3 \text{ years}) = 123$

<b>Summary of Annual Burden and Internal Cost</b>							
	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response	Frequency of Response	Total Annual Estimated Burden
<b>Implementation</b>							
<b>Posting and removing provisional holds - 360.9(c)(1) and (2)</b>	Recordkeeping	Mandatory	8	1	150	One time	1,050
<b>Providing standard data format for deposit account and customer information - 360.9(d)(1)</b>	Recordkeeping	Mandatory	8	1	110	One time	770
<b>Notification of identity of person responsible for producing standard data downloads - 360.9(c)(3)</b>	Reporting	Mandatory	8	1	8	One time	56
<b>Request for exemption from provisional hold requirements - 360.9(c)(9)</b>	Reporting	Voluntary	1	1	20	On occasion	20
<b>Provide deposit account and customer information in required standard format - 360.9(d)(3)</b>	Reporting	Mandatory	8	1	40	On occasion	280
<b>Request for extension of compliance deadline - 360.9(e)(7)</b>	Reporting	Voluntary	1	1	20	On occasion	20
<b>Request for exemption - 360.9(f)</b>	Reporting	Voluntary	1	1	20	On occasion	20
<b>Total Implementation Burden</b>							2,216
<b>Ongoing</b>							
<b>Notification of identity of person responsible for producing standard data downloads - 360.9(c)(3)</b>	Reporting	Mandatory	126	1	8	One time	1,008
<b>Request for exemption from provisional hold requirements - 360.9(c)(9)</b>	Reporting	Voluntary	1	1	20	On occasion	20
<b>Request for exemption - 360.9(f)</b>	Reporting	Voluntary	1	1	20	On occasion	20
<b>Test compliance with 360.9 (c) - (d) pursuant to 360.9(h)</b>	Reporting	Mandatory	40	1	80	On occasion	3,200
<b>Total Ongoing Burden</b>							4,248
<b>Total Estimated Annual Burden</b>							6,464

### Total Labor Cost of Estimated Annual Burden

The FDIC is not making any changes to the distribution of labor by occupation used to estimate the dollar value of the estimated total annual burden. It uses this estimated allocation of labor, along with estimated average cost of compensation for executives, compliance officers, and clerical, to estimate the hourly cost of

complying with this ICR. To estimate the average cost of compensation per hour, FDIC use 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. However, the latest OEWS wage data are as of May 2023 and do not include non-wage compensation. To adjust these wages for use in the burden estimate, FDIC multiplies the OEWS hourly wages by approximately 1.53 to account for non-wage compensation, using the BLS Employer Cost of Employee Compensation (ECEC) data as of March 2023 (the latest published release prior to the OEWS wage data). It then multiplies the resulting compensation rates by approximately 1.03 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 2022 and December 2023.

After calculating these adjustments, FDIC weights the total hourly compensation for the occupations shown in the table, using the assumed allocation of labor to find the estimated hourly cost of complying with this ICR.

Information Collection (IC) (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. (\$145.59)	Lawyer (\$181.4)	Compl. Ofc. (\$76.79)	IT (\$110.5)	Fin. Anlst. (\$99.92)	Clerical (\$39.25)	
1. Posting and removing provisional holds - Implementation - 360.9(c)(1) and (2) (Mandatory)	20.17	5	5	25	60	5	0	\$106.84
2. Providing standard data format for deposit account and customer information - Implementation - 360.9(d)(1) (Mandatory)	14.79	5	5	25	60	5	0	\$106.84
3. Notification of identity of person responsible for producing standard data	1.08	5	5	60	25	5	0	\$95.04



downloads - Implementation - 360.9(c)(3) (Mandatory)								
4. Provide deposit account and customer information in required standard format - Implementation - 360.9(d)(3) (Mandatory)	5.38	5	5	25	60	5	0	\$106.84
5. Request for exemption from provisional hold requirements - Implementation - 360.9(c)(9) (Voluntary)	0.34	5	30	40	20	5	0	\$119.51
6. Request for extension of compliance deadline - Implementation - 360.9(e)(7) (Voluntary)	0.34	5	30	40	20	5	0	\$119.51
7. Request for exemption - Implementation 360.9(f) (Voluntary)	0.34	5	30	40	20	5	0	\$119.51
8. Notification of identity of person responsible for producing standard data downloads - Ongoing - 360.9(c)(3) (Mandatory)	16.54	5	5	60	25	5	0	\$95.04
9. Request for exemption from provisional hold requirements - Ongoing - 360.9(c)(9) (Voluntary)	0.34	5	30	40	20	5	0	\$119.51
10. Request for exemption - Ongoing - 360.9(f)	0.34	5	30	40	20	5	0	\$119.51

(Voluntary)								
11. Test compliance with 360.9 (c) - (d) pursuant to 360.9(h) - Ongoing - 360.9 (h) (Mandatory)	40.35	5	5	40	45	5	0	\$101.79
<b>Weighted Average Hourly Compensation Rate:</b>								<b>\$102.94</b>
Source: Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2023), Employer Cost of Employee Compensation (March 2023), and Employment Cost Index (March 2023 and March 2024). 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.								
Note: The estimated hourly compensation rate for a given IC is the average of the hourly compensation rates for the occupations used to comply with that IC, weighted by the estimated share of hours spent by each occupation. The weighted average hourly compensation rate for the entire ICR is the average of the estimated hourly compensation rates for all ICs, weighted by the share of hourly burden for IC. These hourly weights, as shown in the "Hourly Weight" column of this table, are the quotients of the estimated number of annual burden hours for each IC and the total estimated number of annual burden hours across all ICs.								

### **Total Estimated Annual Labor Cost**

Using the total estimated burden hours, and the estimate of the weighted average hourly compensation rate, the total cost burden, as reported in Table 2, for OMB No. 3064-0162 is estimated to be \$612,287 per year. The estimated cost burden is higher than the estimate in the 2021 ICR (\$561,112.16) by \$51,195.84. The increase is a result of the increase in weighted average hourly compensation rate from \$93.02 in 2021 to \$102.94 in 2024, driven by an increase in wages, and an increase in the estimated number of newly covered institutions annually. The overall increase was attenuated by a decrease in the estimated annual responses to 190, a decrease of nine from the 2021 (199). This decrease was driven by a lower estimated number of institutions that will be tested for compliance each year in 2024 (IC11) a decrease in the number of institutions notifying the FDIC of the identity of the person producing standard data downloads (IC8).

### 13. Estimate of start-up cost to respondents:

On-going costs for testing, maintenance and other periodic items is estimated to range between \$6,000 and \$13,000 for those Covered Institutions using software or servicing provided by a vendor. For super-regional organizations on-going costs are estimated to be between \$150,000 and \$250,000. The largest, most complex Covered Institution was estimated to have on-going costs as high as \$500,000 per year. Overall, on-going industry cost estimates ranged from \$4 million to \$6.5 million. Placed in context, this is 0.8 to 1.4 percent of a one basis

point assessment against the deposits of Covered Institutions. This analysis assumes an hourly cost of \$160 for Covered Institutions.

14. Estimates of annualized cost to the federal government:

None.

15. Analysis of change in burden:

There is no change in the methodology or substance of this information collection. The estimated annual burden hours associated with this information collection is 5,948, as compared to an estimated 6,464 burden hours in the 2021 OMB clearance. The decrease in estimated burden hours associated with this ICR is primarily the result of a lower estimated number of institutions that will be tested for compliance each year in 2024 (30) than in 2021 (40). This lower estimate of the number of institutions that will be tested for compliance each year contributed to a reduction of 800 estimated burden hours. The lower estimated number of notifications to the FDIC of the identity of the person responsible for producing standard data downloads in 2024 (123) than in 2021 (126) reduced the estimated annual burden associated with this IC by 24 hours. However, the higher estimated number of new covered institutions per year in 2024 (8) than in 2021 (7) attenuated the decrease by increasing the estimated annual burden by 308 hours.

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

No publication will be made of this information.

17. Exceptions to expiration date display

Not applicable.

18. Exceptions to certification:

There are no exceptions to certification.