

SUPPORTING STATEMENT
Anti-Money Laundering and Countering the Financing of Terrorism
Program Requirements
(OMB No. 3064-0087)

INTRODUCTION

The Federal Deposit Insurance Corporation (FDIC) is requesting OMB approval of a three-year extension with revisions of the information collection to be re-titled *Anti-Money Laundering and Countering the Financing of Terrorism Program Requirements* (OMB Control No. 3064-0087). This information collection consists of recordkeeping requirements contained in a proposed rule that revises subsections 326.8(b) and (c) of FDIC's regulation 12 C.F.R. Part 326.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

As required by Section 8(s) of the Federal Deposit Insurance Act (12 U.S.C. § 1818(s)), the FDIC's proposed 12 C.F.R. § 326.8(b) and (c), would require all insured nonmember banks to establish and maintain procedures designed to assure and monitor their compliance with the requirements of the Bank Secrecy Act (31 U.S.C. 5311 *et seq.*) and the Treasury's implementing regulations at 31 C.F.R. Chapter X.

An institution's compliance program must be reduced to writing, approved by the institution's board of directors and noted in the minutes of the board meeting. The compliance program must consist of a system of internal controls to assure ongoing compliance and provide for independent testing for compliance to be conducted by bank personnel or by an outside party. The bank must also designate an individual or individuals responsible for compliance, and provide for the training of appropriate personnel.

Current Actions – *Notice of Proposed Rulemaking*

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC) and the National Credit Union Administration (NCUA) (the "Agencies") have issued a notice of proposed rulemaking, published in the *Federal Register* on August 9, 2024 (89 FR 65242) (the "Proposed Rule"). The Proposed Rule contains recordkeeping requirements that clarify the recordkeeping requirements included in the Agencies currently approved information collections. Under the proposed rule, respondents "must establish, implement, and maintain an effective, risk-based, and reasonably designed AML/CFT program to ensure and monitor compliance with the requirements of the Bank Secrecy Act." The proposed rule also requires that "the AML/CFT program and each of its components, as required under paragraphs (b)(2)(i) through (vi) of this section, must be documented and approved by the [the Respondent's] board of directors."

2. **Use of the information:**

The information is reviewed by the FDIC during the course of bank examinations to verify compliance with statutory and regulatory requirements. The agency report of examination will describe any problem with the compliance program, including the procedures followed by an insured bank.

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

Banks may use any appropriate technology to prepare and maintain their written procedures. However, the applied technology must not impede the examination process.

4. **Efforts to identify duplication:**

The information collected is unique to each institution and does not duplicate information existing elsewhere.

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

The FDIC has certified that the Proposed Rule does not have a significant impact on a substantial number of small entities.¹

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

Banks are expected to collect relevant information as frequently as is necessary to keep abreast of its operating condition. Non-compliance with Bank Secrecy Act requirements exposes banks to statutory penalties, fines and sanctions. Less frequent collection of this information would hinder the agency's ability to assess the safety and soundness of FDIC-supervised institutions.

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 Agencies published a notice of proposed rulemaking in the *Federal Register* seeking comment on the proposed rule on August 9, 2024 (89 FR 65242). Any comments received will be addressed when the final rule is issued.

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

¹ See 89 FR 65242 (August 9, 2024), at 65256.

None.

10. **Any assurance of confidentiality:**

The information will be kept private to the extent provided by law.

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

Not applicable. No sensitive information is collected.

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

The Agencies reviewed the methodology used to estimate the recordkeeping burden found in their respective currently-approved information collections and determined that the OCC, FDIC, and NCUA included activities that are better classified as other types of burden and beyond the scope of recordkeeping burden in their PRA burden estimates. The Board limited its PRA burden estimate to recordkeeping activities. The Agencies acknowledge those existing burdens in the currently approved information collections but the OCC, FDIC, and NCUA have determined much of those ongoing burdens are not specifically related to recordkeeping. The Agencies are taking this opportunity to revise and align the burden estimation methodology and assumptions used for this information collection to show only recordkeeping activities which the Agencies assume are not affected by the size of the respondent institution. The Agencies assume that the recordkeeping requirements in the proposed rule encompass two distinct activities: (1) the one-time burden associated with documenting the required AML/CFT program and creating its necessary policies and training and testing materials; and (2) the ongoing (occasional) burden of documenting (a) revisions to policies, (b) required periodic reviews of the risk assessment and independent testing, (c) compliance with training requirements, and (d) Board of Directors oversight of the AML/CFT program as required by the proposed rule.

Based on supervisory experience, the Agencies estimate the time required to document and retain a record of the necessary changes to a respondent's newly created compliance program as prescribed in the Proposed Rule, averages approximately 32 hours. In accordance with OMB guidance, since the implementation burden is incurred only in year one of the three-year PRA clearance cycle, the annual burden is the average of the implementation burden imposed over three years or 10.67 hours per year (32 hours in year one, plus zero hours for years two and three; divided by three).

Based on supervisory experience, the Agencies estimate the annual burden related only to documenting maintenance of the AML/CFT program and Board of Directors oversight averages approximately 8 hours per year. The Agencies assume that all their supervised entities will review their AML/CFT program annually and will submit the revised plan for Board of Director ratification every year.

Table 1- Summary of Annual Burden						
Information Collection Description	Type of Burden	Obligation to Respond	Estimated Number of Respondents	Estimated Frequency of Responses	Estimated Time per Response (Hours)	Estimated Annual Burden (Hours)
Establish AML/CFT Program. (Implementation) 12 CFR 326.8(b) and (c)	Recordkeeping	Mandatory	2,936	.3	32	31,328
Maintain AML/CFT Program. (Ongoing) 12 CFR 326.8(b) and (c)	Recordkeeping	Mandatory	2,936	1	8	23,488

Total Estimated Annual Burden

54,816 hours

Annualized Cost of Internal Hourly Burden:

Estimated Hourly Cost

The estimated hourly cost is derived using an assumption that Management Occupations would conduct 1 percent of the hourly burden associated with this collection, Compliance Officers would conduct 29 percent, and Office and Administrative Support Occupations would conduct 70 percent.

To estimate the hourly cost of compliance, 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. However, the latest OEWS wage data are as of May 2021 and do not include non-wage compensation. To adjust these wages for use in this estimate, FDIC 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. It then multiplies the resulting compensation rates by approximately 1.10 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 December 2022.

Table 2 shows the labor allocation and hourly cost estimate for each of the two line items in this ICR.

Table 2. Summary of Hourly Burden Cost Estimate (OMB No. 3064-0087)			
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. (\$133.82)	Lawyer (\$165.76)	Compl. Ofc. (\$64.61)	IT (\$102.64)	Fin. Anlst. (\$101.15)	Clerical (\$37.83)	
1. Establish AML/CFT Program. (Implementation) 12 CFR 326.8(b) and (c)	25	1 (\$1.34)	0	29 (\$18.74)	0	0	70 (\$26.48)	\$11.64
2. Maintain AML/CFT Program. (Ongoing) 12 CFR 326.8(b) and (c)	75	1 (\$1.34)	0	29 (\$18.74)	0	0	70 (\$26.48)	\$34.92
Weighted Average Hourly Compensation Rate:								\$46.56
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 December 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. 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.								

Total Estimated Annual Cost

As shown in Table 3, the total estimated annual cost associated with this information collection is \$2,552,233.

Table 3. Total Estimated Cost Burden (OMB No. 3064-0087)			
Information Collection Request	Annual Burden (Hours)	Weighted Average Hourly Compensation Rate	Annual Respondent Cost
Procedures for Monitoring Bank Secrecy Act Compliance	54,816	\$46.56	\$2,552,233
Total Annual Respondent Cost:			\$2,552,233
Source: FDIC.			

13. Estimate of start-up costs to respondents:

None.

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

None.

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

The change in burden is due to the change in methodology for calculating the estimated annual burden for this information collection. See discussion in Section 12 above.

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

The information is not published.

17. **Exceptions to Display of expiration date:**

None.

18. **Exceptions to certification:**

None.

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

Not applicable.