

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

INTRODUCTION

This submission is being made in connection with guidance published in the *Federal Register* by the Federal Deposit Insurance Corporation (FDIC) and the Board of Governors of the Federal Reserve System (Board). On August 15, 2024, in connection with OMB Control No. 3064-0210, the FDIC and Board separately published Guidance for Resolution Plan Submissions of Domestic Triennial Full Filers (89 FR 66388) and Guidance for Resolution Plan Submissions of Foreign Triennial Full Filers (89 FR 66510). 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. The FDIC is seeking the extension, with revisions, of the ICR for a period of three years.

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 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:

The FDIC and Board jointly published the proposed guidance in the *Federal Register* (88 FR 64626 and 88 FR 64641, September 19, 2023). The comment period on the proposed guidance closed on November 30, 2023. The FDIC received no PRA comments.

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:

For domestic firms, the final guidance eliminates expectations related to separability, reducing the average burden hours per response by 3,000 for domestic firms using an SPOE strategy and 975 for domestic firms using an MPOE strategy. The final guidance also clarifies expectations around operational shared services for firms using an SPOE resolution strategy and around the IDI Resolution Plan/Least-Cost Test for all firms. Regarding operational shared services, the guidance clarifies that a firm's implementation plan to ensure continuity of shared services should include those that are material to the execution of the resolution strategy, such as reliance on outside bankruptcy counsel and consultants. Regarding the FDI Act's least-cost requirement and how it relates to expectations around IDI resolution, the agencies provided additional detail on how firms can develop and support the valuation of an IDI's assets and liabilities in an IDI resolution. The agencies do not anticipate these clarifications impacting the burden estimates.

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. As a result of this split and the final revisions, there is a proposed net increase in the overall estimated burden hours of 14,922 hours for the Board and 14,304 hours for the FDIC. Therefore, the total Board estimated burden for its entire information collection would be 216,129 hours and the total FDIC estimated burden would be 210,844 hours.

As shown in the table, the triennial full filers' resolution plan submissions would be estimated more granularly according to single point of entry (SPOE) and multiple point of entry (MPOE) resolution strategies.

Table 1. Summary of Estimated Annual Burden (OMB No. 3064-0210)					
Information Collection (IC) (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)
Biennial Filers - Domestic, 12 CFR 381.4(a)	Reporting (Annual)	4	1	39,550:00	158,200
Triennial Full - FBO SPOE, 12 CFR 381.4(b)	Reporting (Annual)	2	1	11,848:00	23,696
Triennial Full - FBO MPOE, 12 CFR 381.4(b)	Reporting (Annual)	3	1	5,939:00	17,817
Triennial Full - Domestic MPOE, 12 CFR 381.4(b)	Reporting (Annual)	2	1	5,285:00	10,570
Triennial Reduced, 12 CFR 381.4(c)	Reporting (Annual)	28	1	20:00	560
Waivers by Covered Companies, 12 CFR 381.4(d)(6)(ii)	Reporting (Annual)	1	1	01:00	1
Total Annual Burden (Hours):					210,844
Source: FDIC.					
Note: The estimated annual IC time burden is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response for a given IC. The estimated annual number of responses is the product, rounded to the nearest whole number, of the estimated annual number of respondents and the estimated annual number of responses per respondent. This methodology ensures the estimated annual burdens in the table are consistent with the values recorded in OMB's consolidated information system.					

Annualized Cost of Internal Hourly Burden:
210,844 hours x \$98.51 per hour = \$20,770,242

Table 2. Summary of Hourly Burden Cost Estimate (OMB No. 3064-0210)								
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)	
Biennial Filers - Domestic, 12 CFR 381.4(a)	75.03	10	15	0	0	45	30	\$98.51
Triennial Full - FBO SPOE, 12 CFR 381.4(b)	11.24	10	15	0	0	45	30	\$98.51
Triennial Full - FBO MPOE, 12 CFR 381.4(b)	8.45	10	15	0	0	45	30	\$98.51
Triennial Full - Domestic MPOE, 12 CFR 381.4(b)	5.01	10	15	0	0	45	30	\$98.51
Triennial Reduced, 12 CFR 381.4(c)	0.27	10	15	0	0	45	30	\$98.51
Waivers by Covered Companies, 12 CFR 381.4(d)(6)(ii)	0.00	10	15	0	0	45	30	\$98.51
Weighted Average Hourly Compensation Rate:								\$98.51
<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 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.</p> <p>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</p>								

estimated number of annual burden hours across all ICs.

Table 3. Total Estimated Cost Burden (OMB No. 3064-0210)			
Information Collection Request	Annual Burden (Hours)	Weighted Average Hourly Compensation Rate	Annual Respondent Cost
Reporting Requirements Associated with Resolution Planning	210,844	\$98.51	\$20,770,242
Total Annual Respondent Cost:			\$20,770,242
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:

See section 12 above.

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.