SUPPORTING STATEMENT
Reporting and Recordkeeping Requirements for Brokered Deposits
(OMB No. 3064-0099)

INTRODUCTION

The Federal Deposit Insurance Corporation ("FDIC") is requesting OMB approval for the extension, with revisions, of a currently approved collection of information titled "Reporting and Recordkeeping Requirements for Brokered Deposits," currently approved under OMB Control No. 3064-0099. The FDIC is proposing to issue a rule (the "Proposed Rule") that would: (1) revise the "deposit broker" definition; (2) amend the analysis of the "primary purpose" exception to the "deposit broker" definition; (3) amend two of the designated business relationships under the primary purpose exception; (4) make changes to the notice and application process for the primary purpose exception; and (5) clarify when an insured depository institution can regain status as an "agent institution" under the limited exception for a capped amount of reciprocal deposits.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

Section 29 of the Federal Deposit Insurance Act (FDI Act)[1] prohibits less than well-capitalized[2] insured depository institutions[3] (IDIs) from accepting brokered deposits. The FDIC has found significant reliance on brokered deposits increases an institution's risk profile, particularly as its financial condition weakens. The FDIC's statistical analyses and other studies have found that an IDI's use of brokered deposits in general is correlated with a higher probability of failure and higher losses to the Deposit Insurance Fund (DIF) upon failure.[4]

On December 15, 2020, the FDIC Board adopted a final rule that established a new framework for analyzing whether certain deposit arrangements qualify as brokered deposits (the 2020 Final Rule).[5] After the 2020 Final Rule took effect, the FDIC initially observed a significant decline in reported brokered deposits. IDIs reported a nearly $350 billion, or 31.8 percent, decline in

1 12 U.S.C. 1831f.
2 For purposes of section 29 of the FDI Act and section 337.6 of the FDIC's Rules and Regulations, 12 CFR 337.6, the terms "well capitalized," "adequately capitalized," and "undercapitalized" have the same meaning as to each IDI as provided under the regulations implementing section 38 of the FDI Act issued by the appropriate federal banking agency for that institution. *See* 12 CFR 337.6(a)(3)(i).
3 Insured depository institutions include banks and savings associations insured by the FDIC. *See* 12 U.S.C. 1813(c)(2).
4 *See* FDIC, Study on Core Deposits and Brokered Deposits, (July 8, 2011), available at https://www.fdic.gov/regulations/reform/coredeposit-study.pdf. *See also* 84 FR 2366, 2369 (Feb. 6, 2019). The FDIC updated its analysis in the 2011 Study on Core Deposits and Brokered Deposits with data through the end of 2017. *See id.* at 2384-2400 (Appendix 2).
5 *See* FDIC, Press Release: FDIC Board Approves Final rule on Brokered Deposit and Interest Rate Restrictions (Dec. 15, 2020) available at https://www.fdic.gov/news/press-releases/2020/pr20136.html. The 2020 Final rule was published in the Federal Register on January 22, 2021. *See* Unsafe and Unsound Banking Practices: Brokered Deposits and Interest Rate Restrictions Final Rule, 86 FR 6742 (January 22, 2021).

brokered deposits between the first and second quarters of 2021 after the 2020 Final Rule became effective, which is the largest quarterly decline since brokered deposit reporting began in 1983. This significant decline can be interpreted as IDIs reclassifying a considerable amount of deposits from brokered to not brokered, because of the 2020 Final Rule.

If left unchanged, this underreporting of brokered deposits could have serious consequences for IDIs and the DIF, which is used to protect depositors of insured banks and to resolve failed banks, as such underreporting impedes the ability to evaluate the extent of reliance on brokered deposits and the effects on an IDI's risk profile. Moreover, the FDIC is concerned that these issues expose IDIs individually and the banking system more broadly to the type of risk the brokered deposit restrictions are intended to address—namely that a less than well capitalized institution could rely on less stable third party deposits for rapid growth that may weaken the safety and soundness of IDIs and the banking system and expose the FDIC to increased losses. To address these concerns and challenges, the FDIC is proposing amendments that would (1) simplify certain definitions of the 2020 Final Rule to reduce operational challenges and reporting burdens on IDIs; (2) help ensure uniform and consistent reporting of brokered deposits by IDIs; and (3) strengthen the safety and soundness of the banking system by ensuring that less than well capitalized institutions are restricted from relying on brokered deposits to support risky, rapid growth.

2. Use of the Information:

For the application for waiver of the prohibition on the acceptance of brokered deposits, the applicant is required to furnish information in letter form. Generally, the required information pertains to the timeframe for which the waiver is requested; policies governing the use of the deposits; the volume, rates, and maturities of deposits held and anticipated; asset growth plans; procedures and practices regarding deposit solicitations; management oversight of the solicitation, acceptance, and use of the deposits; the reasons the institution believes its acceptance, renewal, or rollover of brokered deposits would pose no undue risk; and a recent consolidated financial statement, including balance sheet and income statement.

For the application for a primary purpose exception, the applicant is required to furnish information to establish that it qualifies for the primary purpose exception. The information furnished by the applicant is used by the FDIC as a basis for evaluating the factors required by the proposed rule before approving the application.

A depository institution must maintain and, upon request must present to an examiner, records to establish that applicable requirements continue to be met for deposits placed by a third party that has been granted a primary purpose exception by FDIC.

3. Consideration of the use of improved information technology:

Applicants are free to use whatever methods are least burdensome for them to supply the required information. Records can be maintained utilizing any information technology that permits review by FDIC examiners.

4. Efforts to identify duplication:

The information required is unique. It is not duplicated elsewhere.

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

All insured state chartered associations (and federal savings associations, where applicable), regardless of size, must submit the same applications. The information required to be submitted in the applications are intended to impose the minimum burden consistent with the FDIC's statutory mandates.

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

Conducting the collection less frequently would present safety and soundness risks.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 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 August 23, 2024 the FDIC published a notice of proposed rulemaking in the Federal Register (89 FR 68244) requesting public comment on the Proposed Rule. The FDIC will address any comments received when the Final Rule is issued.

9. Payment or gifts to respondents

None.

10. Any assurance of confidentiality:

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

11. Justification for questions of a sensitive nature:

No information of a sensitive nature is requested.

12. Estimate of hour burden including annualized hourly costs:

Deposit Broker Definition

The proposed rule would amend the "deposit broker" definition by revising the "engaged in the business of placing deposits" ("placing") and "engaged in the business of facilitating the placement of deposits" ("facilitating") prongs. The revised "deposit broker" definition would (1) combine the "placing" and "facilitating" prongs, (2) remove the term "matchmaking activities" and replace it with a deposit allocation provision, and (3) add a new factor related to fees. Specifically the proposed rule would provide that a person be engaged in the business of placing or facilitating the placement of deposits of third parties if that person engages in one or more of the following activities:

- The person receives third party funds and deposits those funds at one or more IDIs;
- The person has legal authority, contractual or otherwise, to close the account or move the third party's funds to another IDI;
- The person is involved in negotiating or setting rates, fees, terms, or conditions for the deposit account;
- The person proposes or determines deposit allocations at one or more IDIs (including through operating or using an algorithm[, or any other program [or technology] that is functionally similar]]) ; or
- The person has a relationship or arrangement with an IDI or customer where the IDI, or the customer, pays the person a fee or provides other remuneration in exchange for, or related to, the placement of deposits.

Exclusive Placement Arrangement

Under the FDI Act, the term "deposit broker" is defined, in relevant part, to include "any person engaged in the business of placing deposits, or facilitating the placement of deposits, of third parties with insured depository institutions . . . ."[6] In the 31 years between when Congress adopted the brokered deposit restrictions in 1989, until the 2020 Final Rule, the FDIC had never construed the reference to "insured depository institutions" in the deposit broker definition to exclude deposits to a single IDI.

The 2020 Final Rule amended the FDIC's regulations so that the brokered deposit restrictions do not apply where a third party that otherwise meets the definition of deposit broker has an exclusive deposit placement arrangement at only one IDI. Under this change, an IDI can rely for one hundred percent of its deposits on an unaffiliated third party without any of those deposits considered brokered. The IDI can fall below well capitalized and still rely on those third party placed deposits for one hundred percent of its funding without any of those deposits being considered brokered, which provides an avenue for less than well capitalized IDIs to obtain and retain brokered deposits that appears to conflict with intent of the statutory prohibition. An IDI can form multiple "exclusive" third party relationships to fund itself without any of those deposits considered brokered. Thus, the current regulation exposes the banking

6 12 U.S.C. 1831f(g)(1)

system to the kind of risk the brokered deposit restrictions were intended to address.

For these reasons, and to mitigate any unintended effects of the interpretation as related to the statute's purpose, the FDIC is proposing to revise the brokered deposit regulations to restore their applicability to any third party that meets the definition of deposit broker, including those involved in placing deposits at only one IDI.[7]

7 This proposal would be consistent with the general statutory interpretation rule that "[i]n determining the meaning of any Act of Congress, words importing the plural include the singular, unless the context indicates otherwise." *See* 1 U.S.C. 1.

Primary Purpose Exception Analysis

The proposed rule would revise the analysis for determining when an agent or nominee meets the primary purpose exception to the "deposit broker" definition. The statutory definition of the "primary purpose exception" excludes "an agent or nominee whose primary purpose is not the placement of funds with depository institutions" from being considered a "deposit broker.

The current regulation focuses the primary purpose exception analysis on the third party's business relationship with its customers. While that is an important part of analyzing the exception, the FDIC believes that the relationship between the IDI and third party is also important in determining the purpose motivating the placement of third-party deposits and if the primary purpose is or is not the placement of funds with IDIs.

Consistent with the statutory language, the focus of the exception is on the role of the agent or nominee (or third party) and whether that third party places customer deposits at an IDI as a secondary purpose in furtherance of some other "primary purpose." Understanding the intent of the third party in placing those deposits at a particular IDI or IDIs is necessary in determining whether the deposit placement activity is primary. As such, in understanding why the third party is placing deposits on behalf of customers at particular IDIs, consideration should be given to both the customer-third party relationship and the third party-IDI relationship. This is because the primary purpose of a customer's business relationship with a third party may be distinct from the intention of the third party in placing those customer funds at particular IDIs.

Accordingly, the proposal provides that the primary purpose exception to the "deposit broker" definition would apply when an agent or nominee whose primary purpose in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance with respect to particular business lines.[8] As detailed below, the proposal would provide additional factors to consider, including fees or other remuneration provided to the third party, in determining whether the intent of the third party in placing deposits at an IDI is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance.

Eligible applicants for the primary purpose exception process

The proposed rule would also update the primary purpose application process under §303.243(b). The 2020 Final Rule allows a third party or an IDI on behalf of a third party to submit a primary purpose exception application. From the FDIC's experience, some third parties have provided insufficient information for the FDIC to process an application, such as failing to provide required information on all parties within a deposit arrangement, including the receiving IDIs. Moreover, the FDIC has observed some IDIs misunderstand the primary purpose exception application approvals provided to third party applicants, as the IDI was not the applicant and the approval does not apply to its particular deposit placement activity with the third party.

8 The FDIC would view a third party placing funds for the primary purpose of providing FDIC deposit insurance to third parties as not meeting the statutory exception, as the purpose of providing FDIC insurance coverage is indistinguishable from the placement of deposits.

For these reasons, the FDIC proposes to no longer allow third parties to apply for a primary purpose exception. As proposed, each IDI wishing to rely on a primary purpose exception would be required to submit an application for the specific deposit placement arrangement that it has with the third party involved. This would provide the FDIC the opportunity to review the specific facts and circumstances surrounding the deposit placement activity between the individual IDI applicant and the third party in determining whether a primary purpose exception should be approved.

Proposed additional factors for primary purpose exception application

Under the 2020 Final Rule, applicants that seek a primary purpose exception must include certain information when submitting an application to the FDIC.[9] The proposed rule would add new factors to be considered as part of the primary purpose exception application. Specifically, the proposed rule would amend §303.243(b)(4)(ii) to include consideration of whether:

- The IDI, or customer, pays fees or other remuneration to the agent or nominee for deposits placed with the IDI and the amount of such fees or other remuneration[, including how the amount of fees or other remuneration is calculated];

- The agent or nominee has discretion to choose the IDI(s) at which customer deposits are or will be placed; and

- The agent or nominee is mandated by law to disburse funds to customer deposit accounts.

These new factors would supplement the factors that were provided under the 2020 Final Rule. The FDIC believes consideration of these factors, in conjunction with the existing factors, is necessary to fully consider the purpose of the placement of third party deposits at an IDI and whether the third party is eligible for a primary purpose exception. Approval of a primary purpose exception application would be based on the consideration of all applicable factors and any additional information provided by the applicant

25 Percent Test Designated Exception

The proposed rule would revise the current "25 percent test" designated exception and its notice process to (1) align with the proposed analysis of the primary purpose exception; and (2) ensure that the FDIC and the IDI can properly determine whether any additional third parties meet the "deposit broker" definition before the exception can be invoked. In order to more clearly describe the business arrangements intended to qualify for this primary purpose exception, the proposed rule would revise the "25 percent test" and rename it as the "Broker-Dealer Sweep Exception."

9 *See* 12 CFR 303.243(b)(4)(ii).

Reporting Issues with the 25 Percent Test

The 2020 Final Rule provides that the primary purpose of an agent's or nominee's business relationship with its customers will not be considered to be the placement of funds at a depository institution, if less than 25 percent of the total assets that the agent or nominee has under administration for its customers, in a particular business line, is placed at IDIs.[10]

Since implementation of the 2020 Final Rule, the FDIC has encountered a number of challenges with notice filings submitted under the 25 percent test and reporting associated with sweep deposits. The challenges became more apparent since the new reporting items related to sweep deposits were added to the Call Report shortly after the 2020 Final Rule became effective. The FDIC anticipated that most unaffiliated sweep deposits would be classified as brokered deposits because of the understanding that most broker-dealers, even those with valid primary purpose exceptions, outsourced their deposit allocation functions to an intervening third party providing matchmaking activities and these additional third parties would thus meet the "deposit broker" definition.[11] Approximately 27 percent of all IDIs reported a non-zero amount for total sweep deposits that are not brokered deposits as of December 31, 2023.

The FDIC has observed several reasons for this misreporting. An IDI must conduct a detailed analysis to accurately determine the status of all third parties involved in a sweep deposit program. The analysis may include a review of the agreements between the broker-dealer and any additional third party within the deposit placement arrangement, including third parties with which an IDI may not have a direct contractual relationship.[12] Additionally, the FDIC has observed a number of IDIs and other stakeholders misunderstanding the current "matchmaking activities" definition. This indicates that the "matchmaking activities" definition has not been uniformly understood across the industry. This lack of understanding has likely contributed to IDIs over reporting sweep deposits as not brokered when these deposits should be considered brokered.

Proposed Broker-Dealer Sweep Primary Purpose Exception

As proposed, subject to the additional conditions below, the Broker-Dealer Sweep Exception would be available only to a broker-dealer or investment adviser registered with the Securities and Exchange Commission and only if less than 10 percent of the total assets that the broker-dealer or investment adviser, as agent or nominee, has under management for its customers, in a particular business line, is placed into non-maturity accounts at one or more IDIs, without regard to whether the broker-dealer or investment adviser and depository institutions are affiliated.

10 12 CFR 337.6(a)(5)(v)(I)(1)(i).
11 The FDIC has identified a few IDIs that retain these functions in house and are properly reporting unaffiliated sweep deposits as not brokered
12 *See* FDIC, Statement of the [FDIC] Regarding Reporting of Sweep Deposits on Call Reports, (July 15, 2022) available at https://www.fdic.gov/resources/bankers/brokered-deposits/statement-sweep-deposits.pdf.

The FDIC is proposing the Broker-Dealer Sweep Exception because a third party that places less than 25 percent of its customer's assets under administration in a bank account does not, by itself, demonstrate that the deposit-placement activity is for a goal other than to provide deposit insurance or a deposit placement service. Rather, placing less than 10 percent of customer funds at IDIs would be more indicative that the primary purpose for broker dealers and investment advisers in placing customer funds at IDIs is to safe-keep customer free cash balances (e.g., uninvested funds) that are awaiting reinvestment. The FDIC views that the 10 percent threshold as evidence that a de-minimis amount of customer funds are placed into deposit accounts for the primary purpose of re-investment rather than to provide a deposit placement service or deposit insurance. Further, lowering the threshold to 10 percent may reduce potential risks to safety and soundness and to the DIF by providing more transparency regarding the characteristics of the deposits so placed. Despite the business relationship between the IDI and the third party placing those deposits, the latter may well have a fiduciary duty and other incentives to transfer those deposits if the IDI is perceived to be in trouble.

In addition, the proposal would amend one of the key measures used as part of this designated exception from "customer assets under administration" to "customer assets under management." From the FDIC's experience with the 2020 Final Rule, "customer assets under administration" is a more appropriate measure when including a broader group of business relationships and business lines; whereas "assets under management" would be appropriate under the proposed rule to accurately reflect the scope of the types of services provided by broker dealers and investment advisers. The proposed rule would define "assets under management" to mean securities portfolios and cash balances with respect to which an investment adviser or broker-dealer provides continuous and regular supervisory or management services.

Prior Notice Requirement (no additional third parties)

In order to ensure accurate and uniform reporting by depository institutions receiving sweep deposits from broker-dealers, the proposed rule would allow an IDI to file a designated exception notice for the Broker-Dealer Sweep Exception on behalf of broker-dealers that place deposits at the IDI only if *no additional third party* (including any affiliate) is involved in the sweep program. IDIs would be able to rely on the Broker-Dealer Sweep Exception if the FDIC has not provided a written disapproval within 90 days from submission.

Application Requirement (additional third parties)

In an effort to ensure that the FDIC has the ability to properly scrutinize the role of additional third parties as part of sweep programs, the proposal would create an application process for IDIs that wish to invoke the Broker-Dealer Sweep Exception when additional third parties are involved in the arrangement. The application process would review whether the broker-dealer or investment adviser meets the criteria under the Broker-Dealer Sweep Exception and it would review whether any additional third party involved in the deposit placement arrangement meets the "deposit broker" definition. If the additional third party meets the "deposit broker" definition, then the FDIC would deny the application and the deposits being placed through the sweep program would be brokered notwithstanding the broker-dealer itself qualifying for a primary purpose exception. The proposed rule would require an application regardless of whether the sweep arrangement involves IDI-affiliated parties. The FDIC believes treating affiliated and unaffiliated relationships the same when an additional third party is involved would help ensure consistent and equitable treatment of sweep deposits across the industry.

Enabling Transactions Designated Exception

The 2020 Final Rule distinguished between acting with the purpose of placing deposits and acting with the purpose of placing deposits to enable transactions and created the enabling transactions primary purpose exception. A third party qualifies for the current enabling transactions primary purpose exception by either submitting an application or submitting a notice. In a deposit placement arrangement where interest, fees, or other remunerations are provided to the depositor, the agent or nominee must receive prior approval before relying on the enabling transactions primary purpose exception by submitting an application to the FDIC.[13] Under the enabling transactions test, where 100 percent of customer funds that have been placed at depository institutions, with respect to a particular business line, are placed into transaction accounts, and no fees, interest, or other remuneration is provided to the depositor, the agent or nominee may file a notice with the FDIC to rely on the enabling transactions designated exception.[14]

The current enabling transactions test would not satisfy the proposed primary purpose exception, because placing deposits into accounts with transactional features would not, by itself, prove that the substantial purpose of the deposit placement arrangement is for a purpose other than providing deposit insurance or a deposit-placement service. The FDIC believes that there is no relevant difference between an agent or nominee's purpose in placing deposits to enable transactions and placing deposits to access a deposit account and deposit insurance.

13 12 CFR 303.243(b)(4)(i).
14 12 CFR 303.243(b)(3)(i)(B).

For these reasons, the FDIC is proposing to eliminate the enabling transactions test and the corresponding notice process. As proposed, IDIs that currently rely on a primary purpose of enabling transactions under the notice process could file an application under the general primary purpose exception application process under current § 303.243(b)(4)(ii) (subject to the amendments under the proposed rule), if they believe that the primary purpose in placing customer deposits at IDIs is for a substantial purpose other than to provide a deposit-placement service or FDIC deposit insurance with respect to the particular business line. The proposed rule would also eliminate the application process for the enabling transactions exception where interest, fees, or other remuneration is provided to depositors under § 303.243(b)(4)(i). Applications previously approved under this provision would be rescinded.

Other Designated Business Exceptions

Under the 2020 Final Rule, the FDIC identified other designated business exceptions that meet the primary purpose exception in addition to the 25 percent and enabling transactions tests discussed above. The proposed rule would retain the remaining designated business exceptions listed in the 2020 Final Rule [, as well as the additional designated exception for non-discretionary custodians engaged in the placement of deposits].

Agent Institution Status for Reciprocal Deposits

The amount of reciprocal deposits an IDI can except from being considered brokered under the limited exception turns on whether the IDI qualifies as an agent institution and if so, whether the IDI is subject to the special cap. An IDI that meets the agent institution definition can lose its agent institution status due to no longer meeting the rule's provisions related to reciprocal deposits. Section 29 and the 2018 Reciprocal Deposits Rule do not clarify how and when an IDI might regain agent institution status after losing such status. As a result, the FDIC has received numerous questions about this issue.

In response to questions raised, and in recognition that the current statute and regulation do not provide clarity on this issue, the FDIC proposes to add a new section 337.6(e)(3) to provide a path for an IDI to regain agent institution status. Under the proposal, an IDI that lost its agent institution status is eligible to regain its agent institution status as follows:

- If the IDI is well capitalized, the date the IDI is notified that its CAMELS composite condition is rated outstanding or good at its most recent examination under 12 U.S.C. §1820(d);

- The date the FDIC grants a brokered deposit waiver; or

- On the last day of the third consecutive calendar quarter during which the IDI did not at any time receive reciprocal deposits that caused its total reciprocal deposits to exceed its special cap.

To illustrate, if as the result of an examination, a well-capitalized IDI that had had a CAMELS composite rating of "3" or worse receives written notice, including, for example, a transmittal letter, informing it that it had received an upgrade to a composite rating of "2", the IDI would regain its agent institution status as of the date of the written notice under the proposal. If the

FDIC grants a brokered deposit waiver to an adequately-capitalized IDI, the IDI would regain agent institution status on the date the FDIC grants the waiver. If the IDI does not fit into either of these categories and lost its agent institution status during the fourth quarter of 2024 but can demonstrate that it did not receive any reciprocal deposits that caused its total reciprocal deposits to exceed its special cap at any time during the first, second, or third quarters of 2025, it would regain agent institution status on the last day of the third quarter of 2025.

Current Actions: The proposed rule revises the currently-approved information collection as follows:

Section 303.243(b)(3), Notice Submission for Primary Purpose Exception Based on Placement of Less Than 10 Percent of Customer Assets Under Management – Implementation. An insured depository institution must notify the FDIC through a written notice that the insured depository institution will rely upon *the 10 percent* designated business exception described in 12 CFR § 337.6(a)(5)(iv)(I)(1)(i) of this chapter. See line item two of the table below.

Section 303.243(b)(3)(vii), Notice Submission for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management – Ongoing. Notice filers that submit a notice under *the 10 percent test* described in 12 CFR § 337.6(a)(5)(iv)(I)(1)(i) of this chapter must provide to the FDIC quarterly updates of the figures that were provided as part of the notice. This is the corresponding ongoing reporting requirement associated with line item two. See line item five of the table below.

Section 12 CFR 303.243(b)(4)(i), Application for Primary Purpose Exception Based on 10 Test With Additional 3rd Party – Implementation. Applicants that seek the primary purpose exception where the broker dealer or investment adviser place less than 10 percent of customer funds into insured depository institutions through the use of an additional third party that does not meet the deposit broker definition must file a primary purpose exception application with the FDIC. See line item three of the table below.

Section 12 CFR 303.243(b)(4)(vi), Reporting for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management with Additional 3rd Party – Ongoing. Applicants that receive a written approval for the primary purpose exception shall provide reporting to the FDIC. This is the corresponding ongoing reporting requirement associated with line item three. See line item six of the table below.

Estimated Annual Burden:

Summary of Estimated Annual Burden (OMB No. 3064-0099)					
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)

1. Application for Waiver of Prohibition on Acceptance of Brokered Deposits, 12 CFR 337.6(c) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	3	2.375	06:00	42
2. Notice Submission for Primary Purpose Exception Based on Placement of Less Than 10 Percent of Customer Assets Under Management - Implementation, 12 CFR 303.243(b)(3) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	7	1.091	03:00	24
3. Application for Primary Purpose Exception Based on 10 Test With Additional 3rd Party - Implementation, 12 CFR 303.243(b)(4)(i) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	10	1.138	10:00	110
4. Application for Primary Purpose Exception Not Based on Business Arrangements that Meets a Designated Exception - Implementation, 12 CFR 303.243(b)(4)(ii) (Required to Obtain or Retain a Benefit)	Reporting (On Occasion)	7	4.238	10:00	300
5. Notice Submission for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management - Ongoing, 12 CFR 303.243(b)(3)(vii) (Required to Obtain or Retain a Benefit)	Reporting (Quarterly)	7	4.364	00:30	16
6. Reporting for Primary Purpose Exception Based on the Placement of Less Than 10 Percent of Customer Assets Under Management with Additional 3rd Party - Ongoing, 12 CFR 303.243(b)(4)(vi)	Reporting (Quarterly)	10	4.552	00:30	23

(Required to Obtain or Retain a Benefit)					
7. Reporting for Primary Purpose Exception Not Based on the Business Arrangements that meets a Designated Exception - Ongoing, 12 CFR 303.243(b)(4)(vi) (Required to Obtain or Retain a Benefit)	Reporting (Quarterly)	7	16.952	00:15	30
Total Annual Burden (Hours):					***545***
Note: The estimated annual time burden for a given collection is the product, rounded to the nearest hour, of the estimated annual number of responses and the estimated time per response. 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.					

The total estimated annual burden for OMB No. 3064-0099 is 545 hours, an increase of 168 hours from the most recent Paperwork Reduction Act renewal.[15]

Total Estimated Hourly Labor Compensation Rates

For the 2021 ICR, FDIC estimated that 5 percent of the labor associated with each IC is performed by Executives and Managers, 5 percent is performed by Lawyers, 10 percent is performed by Compliance Officers, 30 percent is performed by IT personnel, 40 percent is performed by Financial Analysts, and 10 percent is performed by Clerical personnel. The FDIC believes that this allocation remains reasonable and appropriate. Table 2 shows the overall estimated hourly compensation rate for this ICR.

To estimate the average cost of compensation per hour, 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 2022 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 2022 (the latest published release prior to the OEWS wage data). It then multiplies the resulting compensation rates by approximately 1.05 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 March 2023.

15 *See* FDIC Application for Waiver of Prohibition on Acceptance of Brokered Deposits Information Collection Request, OMB No. 3064-0099, https://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=202308-3064-001.

Table 2. Summary of Hourly Burden Cost Estimate (OMB No. 3064-0099)								
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. ($132.34)	Lawyer ($170.71)	Compl. Ofc. ($65.6)	IT ($104.27)	Fin. Anlst. ($96.78)	Clerical ($37.28)	
1. Application for Waiver of Prohibition on Acceptance of Brokered Deposits, 12 CFR 337.6(c) (Required to Obtain or Retain a Benefit)	12.31	5	5	10	30	40	10	$95.43
2. Notice Submission for Primary Purpose Exception Based on Placement of Less Than 25 Percent of Customer Assets Under Administration - Implementation, 12 CFR 303.243(b)(3)(i)(A) (Required to Obtain or Retain a Benefit)	18.46	5	5	10	30	40	10	$95.43
3. Notice Submission for Primary Purpose Exception Based on Enabling Transactions - Implementation, 12 CFR 303.243(b)(3)(i)(B) (Required to Obtain or Retain a Benefit)	41.03	5	5	10	30	40	10	$95.43
4. Application for Primary Purpose Exception Not Based on Business Arrangements that Meets a Designated Exception - Implementation, 12 CFR 303.243(b)(4) (Required to Obtain or Retain a Benefit)	12.82	5	5	10	30	40	10	$95.43

5. Notice Submission for Primary Purpose Exception Based on the Placement of Less Than 25 Percent of Customer Assets Under Administration - Ongoing, 12 CFR 303.243(b)(3)(v) (Required to Obtain or Retain a Benefit)	11.79	5	5	10	30	40	10	$95.43
6. Notice Submission for Primary Purpose Exception Based on Enabling Transactions - Ongoing, 12 CFR 303.243(b)(3)(v) (Required to Obtain or Retain a Benefit)	3.08	5	5	10	30	40	10	$95.43
7. Reporting for Primary Purpose Exception Not Based on the Business Arrangements that meets a Designated Exception - Ongoing, 12 CFR 303.243(b)(4)(vi) (Required to Obtain or Retain a Benefit)	0.51	5	5	10	30	40	10	$95.43
							Weighted Average Hourly Compensation Rate:	***$95.43***

Source: Bureau of Labor Statistics: 'National Industry-Specific Occupational Employment and Wage Estimates: Industry: Credit Intermediation and Related Activities (5221 And 5223 only)' (May 2022), Employer Cost of Employee Compensation (March 2022), and Employment Cost Index (March 2022 and March 2023). 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.

The estimated hourly cost was $106.11 in the 2021 ICR. Since the allocation of labor in this ICR is the same as in the 2021 ICR, the difference is solely due to changes in the hourly compensation rates for the occupations involved.

Total Estimated Compliance Cost

FDIC estimate the total annual labor cost burden for OMB No. 3064-0099 by multiplying the

total annual estimated burden hours reported in Table 1 by the corresponding weighted average hourly cost estimate reported in Table 2. The estimated total annual cost burden is thus equal to 545 hours per year * $95.43 per hour = $52,009.35 per year**.**

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 discussion in Section 12.

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

Not applicable. No publication for statistical use is contemplated.

17. Exceptions to Display of expiration date:

None.

18. Exceptions to certification:

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.