



6714-01-P

## **FEDERAL DEPOSIT INSURANCE CORPORATION**

### **Agency Information Collection Activities: Submission for OMB Review; Comment Request (OMB No. 3064-0029; -0030; -0070; -0104; -0204)**

**AGENCY:** Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Agency Information Collection Activities: Submission for OMB Review; Comment Request.

**SUMMARY:** The FDIC, as part of its obligations under the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on the renewal of the existing information collections described below. On October 29, 2019, the FDIC requested comment for 60 days on a proposal to renew these information collections. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these information collections, and again invites comment on their renewal.

**DATES:** Comments must be submitted on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- <https://www.FDIC.gov/regulations/laws/federal>.
- *Email: comments@fdic.gov*. Include the name and number of the collection in the subject line of the message.

- *Mail:* Manny Cabeza (202-898-3767), Regulatory Counsel, MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

**FOR FURTHER INFORMATION CONTACT:** Manny Cabeza, Regulatory Counsel, 202-898-3767, [mcabeza@fdic.gov](mailto:mcabeza@fdic.gov), MB-3128, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:**

Proposal to renew the following currently approved collections of information:

1. Title: Notification of Performance of Bank Services.

OMB Number: 3064-0029.

Form Number: 6120/06.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

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)

Notification of Performance of Bank Services (FDIC Form 6120/06)	Reporting	Mandatory	650	On Occasion	30 minutes	325
<b>Total Estimated Annual Burden</b>						<b>325 hours</b>

General Description of Collection:

Insured state nonmember banks are required to notify the FDIC, under section 7 of the Bank Service Company Act (12 U.S.C. 1867), of the relationship with a bank service company. The Form FDIC 6120/06, Notification of Performance of Bank Services, may be used by banks to satisfy the notification requirement.

There is no change in the method or substance of the collection. The estimated number of respondents is estimated to increase based on the response rate observed over the last three years. The estimated time per response and the frequency of responses is expected to remain the same.

2. Title: Securities of Insured Nonmember Bank Services.

OMB Number: 3064-0030.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Summary of Annual Burden						
Information Collection Description	Type of Burden	Obligation to Respond	Estimated Number of Responses	Estimated Frequency of Responses	Estimated Time per Response (Hours)	Estimated Annual Burden (Hours)
Form 3 - <i>Initial Statement of Beneficial Ownership</i>	Reporting	Mandatory	58	1	1	58

Form 4 - <i>Statement of Changes in Beneficial Ownership</i>	Reporting	Mandatory	297	4	0.5	594
Form 5 - <i>Annual Statement of Beneficial Ownership</i>	Reporting	Mandatory	69	1	1	69
Form 8-A	Reporting	Mandatory	2	2	3	12
Form 8-C	Reporting	Mandatory	2	1	2	4
Form 8-K	Reporting	Mandatory	21	4	2	168
Form 10	Reporting	Mandatory	2	1	215	430
Form 10-C	Reporting	Mandatory	1	1	1	1
Form 10-K	Reporting	Mandatory	21	1	140	2,940
Form 10-Q	Reporting	Mandatory	21	3	100	6,300
Form 12b-25	Reporting	Mandatory	6	1	3	18
Form 15	Reporting	Mandatory	2	1	1	2
Form 25	Reporting	Mandatory	2	1	1	2
Schedule 13D	Reporting	Mandatory	2	1	3	6
Schedule 13E-3	Reporting	Mandatory	2	1	3	6
Schedule 13G	Reporting	Mandatory	2	1	3	6

Schedule 14A	Reporting	Mandatory	21	1	40	840
Schedule 14C	Reporting	Mandatory	2	1	40	80
Schedule 14D-1 (Schedule TO)	Reporting	Mandatory	2	1	5	10
<b>Total Estimated Annual Burden</b>						<b>11,546 hours</b>

General Description of Collection:

Section 12(i) of the Securities Exchange Act of 1934 (Exchange Act) grants authority to the Federal banking agencies to administer and enforce sections 10A(m), 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 of the Exchange Act and Sections 302, 303, 304, 306, 401(b), 404, 406, and 407 of the Sarbanes-Oxley Act of 2002. Pursuant to section 12(i), the FDIC has the authority, including rulemaking authority, to administer and enforce these enumerated provisions as may be necessary with respect to state nonmember banks and state savings associations over which it has been designated the appropriate Federal banking agency. Section 12(i) generally requires the FDIC to issue regulations substantially similar to those issued by the Securities and Exchange Commission (SEC) regulations to carry out these responsibilities. Thus, part 335 of the FDIC regulations incorporates by cross-reference the SEC rules and regulations regarding the disclosure and filing requirements of registered securities of state nonmember banks and state savings associations.

This information collection includes the following:

Beneficial Ownership Forms: FDIC Forms 3, 4, and 5 (FDIC Form Numbers 6800/03, 6800/04, and 6800/05)

Pursuant to section 16 of the Exchange Act, every director, officer, and owner of more than ten percent of a class of equity securities registered with the FDIC under section 12 of the Exchange Act must file with the FDIC a statement of ownership regarding such securities. The initial filing is on Form 3 and changes are reported on Form 4. The Annual Statement of beneficial ownership of securities is on Form 5. The forms contain information on the reporting person's relationship to the company and on purchases and sales of such equity securities. 12 CFR 335.601 through 336.613 of the FDIC's regulations, which cross-reference 17 CFR 240.16a of the SEC's regulations, provide the FDIC form requirements for FDIC Forms 3, 4, and 5 in lieu of SEC Forms 3, 4, and 5, which are described at 17 CFR 249.103 (Form 3), 249.104 (Form 4), and 249.105 (Form 5).

Forms 8-A and 8-C for Registration of Certain Classes of Securities

Form 8-A is used for registration pursuant to section 12(b) or (g) of the Exchange Act of any class of securities of any issuer which is required to file reports pursuant to section 13 or 15(d) of that Act or pursuant to an order exempting the exchange on which the issuer has securities listed from registration as a national securities exchange. Form 8-C has been replaced by Form 8-A. Form 8-A is described at 17 CFR 249.208a. There is no actual "Form 8-A" as filers must

produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

#### Form 8-K: Current Report

This is the current report that is used to report the occurrence of any material events or corporate changes that are of importance to investors or security holders and have not been reported previously by the registrant. It provides more current information on certain specified events than would Forms 10-Q and 10-K. The form description is at 17 CFR 249.308. There is no actual "Form 8-K" as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

#### Forms 10 and 10-C: Forms for Registration of Securities

Form 10 is the general reporting form for registration of securities pursuant to section 12(b) or (g) of the Exchange Act of classes of securities of issuers for which no other reporting form is prescribed. It requires certain business and financial information about the issuer. Form 10-C has been replaced by Form 10. Form 10 is described at 17 CFR 249.210. There is no actual "Form 10" as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer's particular circumstances.

#### Form 10-K: Annual Report

This annual report is used by issuers registered under the Exchange Act to provide information described in Regulation S-K, 17 CFR 229. The form is described at 17 CFR 249.310. There is no actual “Form 10-K” as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer’s particular circumstances.

#### Form 10-Q: Quarterly Reports

The Form 10-Q is a report filed quarterly by most reporting companies. It includes unaudited financial statements and provides a continuing overview of major changes in the company’s financial position during the year, as compared to the prior corresponding period. The report must be filed for each of the first three fiscal quarters of the company’s fiscal year and is due within 40 or 45 days of the close of the quarter, depending on the size of the reporting company. The description of Form 10-Q is at 17 CFR 249.308a. There is no actual “Form 10-Q” as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer’s particular circumstances.

#### Form 12b-25: Notification of Late Filing

This notification extends the reporting deadlines for filing quarterly and annual reports for qualifying companies. There is no FDIC Form 12b-25. The form is described at 17 CFR 249.322.

#### Form 15: Certification and Notice of Termination of Registration

This form is filed by each issuer to certify that the number of holders of record of a class of security registered under section 12(g) of the Exchange Act is reduced to a specified level in order to terminate the registration of the class of security. For a bank, the number of holders of record of a class of registered security must be reduced to less than 1,200 persons. For a savings association, the number of record holders of a class of registered security must be reduced to (1) less than 300 persons or (2) less than 500 persons and the total assets of the issuer have not exceeded \$10 million on the last day of each of the issuer's most recent three fiscal years. In general, registration terminates 90 days after the filing of the certification. There is no FDIC Form 15. This form is described at 17 CFR 249.323.

#### Schedule 13D: Certain Beneficial Ownership Changes

This Schedule discloses beneficial ownership of certain registered equity securities. Any person or group of persons who acquire a beneficial ownership of more than 5 percent of a class of registered equity securities of certain issuers must file a Schedule 13D reporting such acquisition together with certain other information within ten days after such acquisition. Moreover, any material changes in the facts set forth in the Schedule generally precipitates a duty to promptly file an amendment on Schedule 13D. The SEC's rules define the term beneficial owner to be any person who directly or indirectly shares voting power or investment power (the power to sell the security). There is no FDIC form for Schedule 13D. This schedule is described at 17 CFR 240.13d-101.

### Schedule 13E-3: Going Private Transactions by Certain Issuers or Their Affiliates

This schedule must be filed if an issuer engages in a solicitation subject to Regulation 14A or a distribution subject to Regulation 14C, in connection with a going private merger with its affiliate. An affiliate and an issuer may be required to complete, file, and disseminate a Schedule 13E-3, which directs that each person filing the schedule state whether it reasonably believes that the Rule 13e-3 transaction is fair or unfair to unaffiliated security holders. There is no FDIC form for Schedule 13E-3. This schedule is described at 17 CFR 240.13e-100.

### Schedule 13G: Certain Acquisitions of Stock

Certain acquisitions of stock that are over than 5 percent of an issuer must be reported to the public. Schedule 13G is a much abbreviated version of Schedule 13D that is only available for use by a limited category of persons (such as banks, broker/dealers, and insurance companies) and even then only when the securities were acquired in the ordinary course of business and not with the purpose or effect of changing or influencing the control of the issuer. There is no FDIC form for Schedule 13G. This schedule is described at 17 CFR 240.13d-102.

### Schedule 14A: Proxy Statements

State law governs the circumstances under which shareholders are entitled to vote. When a shareholder vote is required and any person solicits proxies with respect to securities registered under section 12 of the Exchange Act, that person

generally is required to furnish a proxy statement containing the information specified by Schedule 14A. The proxy statement is intended to provide shareholders with the proxy information necessary to enable them to vote in an informed manner on matters intended to be acted upon at shareholders' meetings, whether the traditional annual meeting or a special meeting. Typically, a shareholder is also provided with a proxy card to authorize designated persons to vote his or her securities on the shareholder's behalf in the event the holder does not vote in person at the meeting. Copies of preliminary and definitive (final) proxy statements and proxy cards are filed with the FDIC. There is no FDIC form for Schedule 14A. The description of this schedule is at 17 CFR 240.14a-101.

#### Schedule 14C: Information Required in Information Statements

An information statement prepared in accordance with the requirements of the SEC's Regulation 14C is required whenever matters are submitted for shareholder action at an annual or special meeting when there is no proxy solicitation under the SEC's Regulation 14A. There is no FDIC form for Schedule 14C. This schedule is described at 17 CFR 240.14c-101.

#### Schedule 14D-1: Tender Offer

This schedule is also known as Schedule TO. Any person, other than the issuer itself, making a tender offer for certain equity securities registered pursuant to section 12 of the Exchange Act is required to file this schedule if acceptance of the offer would cause that person to own over 5 percent of that class of the

securities. This schedule must be filed and sent to various parties, such as the issuer and any competing bidders. In addition, the SEC’s Regulation 14D sets forth certain requirements that must be complied with in connection with a tender offer. This schedule is described at 17 CFR 240.14d-100. There is no actual form for Schedule 14D-1 as filers must produce a customized narrative document in compliance with the requirements in accordance with the filer’s particular circumstances.

There is no change in the method or substance of the collection. The estimated number of respondents, as well as the estimated time per response and the frequency of response, is expected to remain the same.

3. Title: Application for a Bank to Establish a Branch or Move its Main Office or a Branch.

OMB Number: 3064-0070.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

<b>Summary of Annual Burden</b>						
<b>Information Collection Description</b>	<b>Type of Burden</b>	<b>Obligation to Respond</b>	<b>Estimated Number of Respondents</b>	<b>Estimated Frequency of Responses</b>	<b>Estimated Time per Response (Hours)</b>	<b>Estimated Annual Burden (Hours)</b>
Application to Establish a Branch, Move Main Office or Move Branch	Reporting	Mandatory	718	On Occasion	5	3,590
<b>Total Estimated Annual Burden</b>						<b>3,590 hours</b>

General Description of Collection:

Section 18(d) of the Federal Deposit Insurance Act (12 USC 1828(d) (FDI Act) provides that no FDIC insured state nonmember bank or state savings association shall establish and operate any new domestic branch or move its main office or any such branch from one location to another without the prior written consent of the FDIC. In granting or withholding consent to the applicant, FDIC considers: (a) the financial history and condition of the depository institution; (b) the adequacy of its capital structure; (c) its future earnings prospects; (d) the general character and fitness of its management; (e) the risk presented by the depository institution to the Deposit Insurance Fund; (f) the convenience and needs of the community to be served; and (g) whether its corporate powers are consistent with the purposes of the FDI Act. FDIC regulations found at 12 CFR 303, subpart C, specify the steps that respondents must take to comply with the statutory mandate.

There is no change in the method or substance of the collection. The estimated number of respondents has been revised based on the number of responses recorded over the last three years. The estimated time per response and the frequency of responses is expected to remain the same.

4. Title: Activities and Investments of Savings Associations.

OMB Number: 3064-0104.

Affected Public: Insured state savings associations.

Burden Estimate:

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)
Application for Exemption – § 28 and Subsidiary Notice - §18(m)	Reporting	Mandatory	18	On Occasion	12	216
<b>Total Estimated Annual Burden</b>						<b>216 hours</b>

General Description of Collection:

Section 28 of the FDI Act limits the powers of state savings associations to acquire or retain equity investments of a type or amount not permitted for a federal savings association. Section 28 also prohibits insured state savings associations and their subsidiaries from engaging as principal in any activity of a type or in an amount that is not permitted for a federal savings association or its subsidiaries. Section 28 charges the FDIC with the responsibility of enforcing the restrictions and filing requirements, and permits the FDIC to grant exceptions under certain circumstances.

12 CFR part 362 details the activities that state savings associations and/or their subsidiaries may engage in, under certain criteria and conditions, and identifies the information that banks must furnish to the FDIC in order to obtain the FDIC's approval or non-objection.

There is no change in the method or substance of the collection. The estimated number of respondents has been revised upward based on the number of

responses recorded over the last three years. The estimated time per response and the frequency of responses is expected to remain the same.

5. Title: Margin and Capital Requirements for Covered Swap Entities.

OMB Number: 3064-0204.

Affected Public: Any FDIC-insured state-chartered bank that is not a member of the Federal Reserve System or FDIC-insured state-chartered savings association that is registered as a swap dealer, major swap participant, security-based swap dealer, or major security-based swap participant.

Burden Estimate:

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)
§ 349.1(d)(1), (d)(2) Meeting criteria for exemption	Reporting	Mandatory	1	1	1,000	1,000
§ 349.1(h)	Disclosure	Mandatory	1	1	10	10
§ 349.2 Definition of “Eligible Master Netting Agreement,” paragraphs (4)(i) and (ii) § 349.8(g) Documentation § 349.10 Documentation of Margin Matters	Recordkeeping	Mandatory	1	1	5	5
349.5(c)(2)(i) Required Margin	Recordkeeping	Mandatory	1	1	4	4

§ 349.7(c) Custody Agreement	Recordkeeping	Mandatory	1	1	100	100
§ 349.8(c) and (d) Initial Margin Model	Reporting	Mandatory	1	1	240	240
§ 349.8(e) Periodic Review	Recordkeeping	Mandatory	1	1	40	40
§ 349.8(f) Control, Oversight, and Validation Mechanisms						
§ 349.8(f)(3) Initial Margin Modeling Report	Reporting	Mandatory	1	1	50	50
§ 349.8(h) Escalation Procedures	Recordkeeping	Mandatory	1	1	20	20
§ 349.9(e) Requests for Determinations	Reporting	Mandatory	1	3	10	30
§349.11(b)(1) Posting Initial Margin	Recordkeeping	Mandatory	1	250	1	250
<b>Total Estimated Annual Burden</b>						<b>1,749 hours</b>

General Description of Collection:

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) required the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the FDIC, the Farm Credit Administration, and Federal Home Finance Agency (each, an agency, and collectively, the agencies) to jointly adopt rules that establish capital and margin requirements for swap entities that are prudentially regulated by one of the agencies (covered swap entities).<sup>1</sup> These capital and margin requirements apply

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<sup>1</sup> Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111–203, 124 Stat. 1376 (2010). See 7 U.S.C. 6s; 15 U.S.C. 78o–10. Sections 731 and 764 of the Dodd-Frank Act added a new section 4s to the Commodity Exchange Act of 1936, as amended, and a new section 15F to the Exchange Act, as

to swaps that are not cleared by a registered derivatives clearing organization or a registered clearing agency (non-cleared swaps).<sup>2</sup> The agencies published regulations that require swap dealers and security-based swap dealers under the agencies' respective jurisdictions to exchange margin with their counterparties for swaps that are not centrally cleared (Swap Margin Rule or Rule). First issued in 2015, the Swap Margin Rule includes a phased compliance schedule from 2016 to 2020 and generally applies only to a non-cleared swap entered into on or after the applicable compliance date. A non-cleared swap entered into prior to an entity's applicable compliance date is "grandfathered" by this regulatory provision and is generally not subject to the margin requirements in the Swap Margin Rule (legacy swap) unless it is amended or novated on or after the applicable compliance date. The FDIC's Swap Margin Rule and its reporting, recordkeeping and disclosure requirements under the PRA can be found at 12 CFR part 349.

Section 349.1(d) refers to statutory provisions that set forth conditions for an exemption from clearing. Section 349.1(d)(1) provides an exemption for non-cleared swaps if one of the counterparties to the swap is not a financial entity, is using swaps to hedge or mitigate commercial risk, and notifies the CFTC of how

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amended, respectively, which require registration with the Commodity Futures Trading Commission (CFTC) of swap dealers and major swap participants and the SEC of security-based swap dealers and major security-based swap participants (each a swap entity and, collectively, swap entities). Section 1a (39) of the Commodity Exchange Act of 1936, as amended, defines the term "prudential regulator" for purposes of the margin requirements applicable to swap dealers, major swap participants, security-based swap dealers and major security-based swap participants. *See* 7 U.S.C. 1a (39).

<sup>2</sup> A "swap" is defined in section 721 of the Dodd-Frank Act to include, among other things, an interest rate swap, commodity swap, equity swap, and credit default swap, and a security-based swap is defined in section 761 of the Dodd-Frank Act to include a swap based on a single security or loan or on a narrow-based security index. *See* 7 U.S.C. 1a (47); 15 U.S.C. 78c(a)(68).

it generally meets its financial obligations associated with entering into non-cleared swaps. Section 349.1(d)(2) provides an exemption for security-based swaps if the counterparty notifies the SEC of how it generally meets its financial obligations associated with entering into non-cleared security-based swaps. Section 349.1(h) contains the disclosure requirements for transfers of legacy swaps initiated by a covered swap entity's counterparty that fall outside the scope of the Swap Margin Rule.

Section 349.2 defines terms used in part 349, including the definition of “eligible master netting agreement,” which provides that a covered swap entity that relies on the agreement for purpose of calculating the required margin must: (1) Conduct sufficient legal review of the agreement to conclude with a well-founded basis that the agreement meets specified criteria; and (2) establish and maintain written procedures for monitoring relevant changes in law and to ensure that the agreement continues to satisfy the requirements of this section. The term “eligible master netting agreement” is used elsewhere in part 349 to specify instances in which a covered swap entity may: (1) Calculate variation margin on an aggregate basis across multiple non-cleared swaps and security-based swaps and (2) calculate initial margin requirements under an initial margin model for one or more swaps and security-based swaps.

Section 349.5(c)(2)(i) specifies that a covered swap entity shall not be deemed to have violated its obligation to collect or post margin from or to a counterparty if

the covered swap entity has made the necessary efforts to collect or post the required margin, including the timely initiation and continued pursuit of formal dispute resolution mechanisms, or has otherwise demonstrated upon request to the satisfaction of the agency that it has made appropriate efforts to collect or post the required margin.

Section 349.7 generally requires a covered swap entity to ensure that any initial margin collateral that it collects or posts is held at a third-party custodian. Section 349.7(c) requires the custodian to act pursuant to a custody agreement that: (1) Prohibits the custodian from rehypothecating, repledging, reusing, or otherwise transferring (through securities lending, securities borrowing, repurchase agreement, reverse repurchase agreement or other means) the collateral held by the custodian, except that cash collateral may be held in a general deposit account with the custodian if the funds in the account are used to purchase an asset held in compliance with § 349.7, and such purchase takes place within a time period reasonably necessary to consummate such purchase after the cash collateral is posted as initial margin and (2) is a legal, valid, binding, and enforceable agreement under the laws of all relevant jurisdictions, including in the event of bankruptcy, insolvency, or a similar proceeding. A custody agreement may permit the posting party to substitute or direct any reinvestment of posted collateral held by the custodian under certain conditions.

With respect to collateral collected by a covered swap entity pursuant to § 349.3(a) or posted by a covered swap entity pursuant to § 349.3(b), the agreement must require the posting party to substitute only funds or other property that would qualify as eligible collateral under § 349.6 and for which the amount net of applicable discounts described in Appendix B would be sufficient to meet the requirements of § 349.3 and direct reinvestment of funds only in assets that would qualify as eligible collateral under § 349.6.

Section 349.8 establishes standards for the use of initial margin models. These standards include: (1) A requirement that the covered swap entity receive prior approval from the relevant Agency based on demonstration that the initial margin model meets specific requirements (§§ 349.8(c)(1) and 349.8(c)(2)); (2) a requirement that a covered swap entity notify the relevant Agency in writing 60 days before extending use of the model to additional product types, making certain changes to the initial margin model, or making material changes to modeling assumptions (§ 349.8(c)(3)); and (3) a variety of quantitative requirements, including requirements that the covered swap entity validate and demonstrate the reasonableness of its process for modeling and measuring hedging benefits, demonstrate to the satisfaction of the relevant Agency that the omission of any risk factor from the calculation of its initial margin is appropriate, demonstrate to the satisfaction of the relevant Agency that incorporation of any proxy or approximation used to capture the risks of the covered swap entity's non-cleared swaps or noncleared security-based swaps is appropriate, periodically

review and, as necessary, revise the data used to calibrate the initial margin model to ensure that the data incorporate an appropriate period of significant financial stress (§§ 349.8(d)(5), 349.8(d)(10), 349.8(d)(11), 349.8(d)(12), and 349.8(d)(13)). Also, if the validation process reveals any material problems with the initial margin model, the covered swap entity must promptly notify the Agency of the problems, describe to the Agency any remedial actions being taken, and adjust the initial margin model to ensure an appropriately conservative amount of required initial margin is being calculated (§ 349.8(f)(3)). Section 349.8 also establishes requirements for the ongoing review and documentation of initial margin models. These standards include: (1) A requirement that a covered swap entity review its initial margin model annually (§ 349.8(e)); (2) a requirement that the covered swap entity validate its initial margin model at the outset and on an ongoing basis, describe to the relevant Agency any remedial actions being taken, and report internal audit findings regarding the effectiveness of the initial margin model to the covered swap entity's board of directors or a committee thereof (§§ 349.8(f)(2), 349.8(f)(3), and 349.8(f)(4)); (3) a requirement that the covered swap entity adequately document all material aspects of its initial margin model (§ 349.8(g)); and (4) that the covered swap entity must adequately document internal authorization procedures, including escalation procedures, that require review and approval of any change to the initial margin calculation under the initial margin model, demonstrable analysis that any basis for any such change is consistent with the requirements of this section, and independent review of such demonstrable analysis and approval (§ 349.8(h)).

Section 349.9 addresses the treatment of cross-border transactions and, in certain limited situations, will permit a covered swap entity to comply with a foreign regulatory framework for noncleared swaps (as a substitute for compliance with the prudential regulators' rule) if the prudential regulators jointly determine that the foreign regulatory framework is comparable to the requirements in the prudential regulators' rule. Section 349.9(e) allows a covered swap entity to request that the prudential regulators make a substituted compliance determination and must provide the reasons therefore and other required supporting documentation. A request for a substituted compliance determination must include: (1) A description of the scope and objectives of the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps; (2) the specific provisions of the foreign regulatory framework for non-cleared swaps and security-based swaps (scope of transactions covered; determination of the amount of initial and variation margin required; timing of margin requirements; documentation requirements; forms of eligible collateral; segregation and rehypothecation requirements; and approval process and standards for models); (3) the supervisory compliance program and enforcement authority exercised by a foreign financial regulatory authority or authorities in such system to support its oversight of the application of the non-cleared swap and security-based swap regulatory framework; and (4) any other descriptions and documentation that the prudential regulators determine are appropriate. A covered swap entity may make a request under this section only if directly supervised by

the authorities administering the foreign regulatory framework for non-cleared swaps and non-cleared security-based swaps.

Section 349.10 requires a covered swap entity to execute trading documentation with each counterparty that is either a swap entity or financial end user regarding credit support arrangements that: (1) Provides the contractual right to collect and post initial margin and variation margin in such amounts, in such form, and under such circumstances as are required and (2) specifies the methods, procedures, rules, and inputs for determining the value of each non-cleared swap or noncleared security-based swap for purposes of calculating variation margin requirements and the procedures for resolving any disputes concerning valuation.

Section 349.11(b)(1) provides that the requirement for a covered swap entity to post initial margin under § 349.3(b) does not apply with respect to any noncleared swap or non-cleared security based swap with a counterparty that is an affiliate. A covered swap entity shall calculate the amount of initial margin that would be required to be posted to an affiliate that is a financial end user with material swaps exposure pursuant to § 349.3(b) and provide documentation of such amount to each affiliate on a daily basis.

There is no change in the method or substance of the collection. The FDIC currently does not supervise any institutions that are subject to this information collection but is reporting one respondent as a placeholder to preserve the burden

estimates. For clarity, the burden presentation has been changed to correspond to the burden presentation made by the other agencies in their respective information collections. There is no change in the total estimated annual burden.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Federal Deposit Insurance Corporation.

Dated at Washington, DC, on January 2, 2020.

**Annmarie H. Boyd,**

*Assistant Executive Secretary.*

[FR Doc. 2020-00058 Filed: 1/7/2020 8:45 am; Publication Date: 1/8/2020]