FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

SUMMARY:

Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83-Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Board Clearance Officer—Michelle Long—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829); OMB Desk Officer—Mark Menchik—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or e-mail to *mmenchik@omb.eop.gov*.

Final approval under OMB delegated authority to conduct the following survey:

Report title: Check 21 Act Survey.
Agency form number: FR 3080.
OMB control number: 7100–0279.
Effective date: October 31, 2005.
Frequency: one-time.
Reporters: Depository institutions.
Annual reporting hours: 15,000 hours.
Estimated average hours per response: 10 hours.
Number of respondents: 1,500.

General description of report: This information collection is voluntary (12 U.S.C. 5015) and may be accorded confidential treatment under the Freedom of Information Act (5 U.S.C. 552 (b)(4)).

Abstract: Section 16 of the Check Clearing for the 21st Century Act (Check 21 Act) requires the Federal Reserve to study the implementation of the law and its effect on various aspects of check processing, including funds availability, and to report the results of the study to the Congress by April 28, 2007.[1] Specifically, the Congress directed the Federal Reserve to study and report to them on:

(1) The percentage of total checks cleared in which the paper check is not returned to the paying bank;

(2) The extent to which banks make funds available to consumers for local and nonlocal checks prior to the expiration of maximum hold periods;

(3) The length of time within which depositary banks learn of the nonpayment of local and nonlocal checks;

(4) The increase or decrease in check-related losses over the study period; and

(5) The appropriateness of the time periods and amount limits applicable under sections 603 and 604 of the Expedited Funds Availability Act (EFAA), as in effect on the date of enactment of the Check 21 Act.

To fully address the issues raised by the Congress, the Federal Reserve proposed to conduct a survey to ensure the accurate characterization of the nation's evolving check processing system. The survey would gather data from a nationally representative sample of depository institutions, including commercial banks, savings institutions, and credit unions.

Further, the availability for withdrawal of funds deposited by check is governed by the Federal Reserve's Regulation CC, which implements the EFAA. The EFAA and Regulation CC set maximum permissible hold periods for checks deposited into transaction accounts at depository institutions. The EFAA directs the Federal Reserve to reduce the statutory funds availability schedules as the check clearing system improves, while also ensuring that the reduced schedules provide depositary banks a reasonable opportunity to learn of the nonpayment of most checks in each category (such as ''nonlocal'' checks and ''local'' checks). The results of the proposed survey would be used to determine whether reducing the hold periods in Regulation CC is warranted.

Current Actions: On May 10, 2005, the Federal Reserve issued for public comment a proposal to conduct the Check 21 Act survey (70 FR 24581). The comment period ended on July 11, 2005. The Federal Reserve received seven comment letters from: three trade associations, two banks, one corporate credit union, and one credit union.

[1] The Check 21 Act also directs the Federal Reserve to include in its report to the Congress any recommendations for legislative action.

Summary of Comments

All commenters agreed that a survey is appropriate to obtain the information necessary to address the Check 21 Act requirements. Notwithstanding their support of the survey, nearly all asserted that the adoption of Check 21 is taking place relatively slowly; thus, it is too early to study its benefits to the check collection system. Two commenters expressed concern about the amount of detail requested from survey respondents. In addition, two commenters stated that the survey, in its proposed form, did not adequately serve its stated purpose. One commenter expressed concern regarding whether responses to the survey would be kept confidential. Two commenters recommended that the Federal Reserve provide adequate notice to selected survey participants and extend the submission deadline. Commenters also requested an optional narrative section to enable respondents to comment on various issues and clarification on particular terms in the survey.

Reporting Burden

All commenters addressed the estimated burden to depository institutions for completing the survey and stated that the actual burden to depository institutions would be greater than the Federal Reserve had estimated because institutions in many cases do not currently maintain data in the form and categories contemplated by the survey. (For example, some banks' systems do not distinguish between original and substitute checks.) Consequently, depository institutions may need to make programming changes or gather the data manually, either of which would be costly and time consuming. The Federal Reserve recognizes that the burden for each survey respondent will vary based on an institution's size and recordkeeping practices. Given that the survey has been substantially shortened and simplified in response to the comments, the Federal Reserve believes that the estimate of an average of ten hours per respondent is reasonable, especially given that respondents have the option to respond by providing an estimate or by indicating ''don't know.''

As previously noted, many commenters cautioned that it is premature to gauge the effects of the Check 21 Act. Based on Reserve Bank experiences and anecdotal industry information, it appears that, to date, relatively few depository institutions have taken advantage of the new check processing methods made possible by the Check 21 Act and that check collection and return times have not materially improved since the Act became effective. Accordingly, and in light of commenters' statements that it would be quite burdensome to respond to the survey as initially proposed, the survey has been shortened and simplified, where possible:

- Four questions (out of seven) were deleted from the check losses section of the survey (Section 2);
- Four questions (out of five) were deleted from the funds availability section of the survey (Section 4); and
- Two questions (out of three) were deleted from the returned items section of the survey (Section 5).[2]

Survey Methodology

Three commenters raised questions about the survey methodology, postulating that the proposed survey would produce unrepresentative results because participation is voluntary and depository institutions have the option of providing estimates. Two commenters recommended that the survey focus on published funds availability policies (i.e., instances where depository institutions' published policies provide for faster funds availability than is required by Regulation CC), believing that such focus would provide the Federal Reserve with enough information to determine whether the maximum hold periods in Regulation CC should be shortened. Additionally, two commenters encouraged the Federal Reserve to augment the survey by using data collected by industry organizations and the Federal Reserve Banks.

The Federal Reserve believes that the survey methodology is sound. The survey panel would be a stratified random sample of approximately 3,000 depository institutions, including commercial banks, savings institutions, and credit unions. While an earlier survey on check losses conducted by the Federal Reserve in 1996 achieved only a 30 percent response rate, the response rates for recent voluntary surveys of check payments conducted by the Federal Reserve (with outside consultants) have been about 50 percent with nearly all the largest 100 panel members responding. The Federal Reserve believes that modifications to the current survey, such as simplifying the survey, will improve the response rate and that the survey is likely to achieve a higher response rate than the 1996 survey. If the response rate in the more recent surveys is achieved, survey items such as the number and value of checks deposited at banks and the number and value of checks paid by banks can be estimated with a sampling standard error of about 1 percent. Sampling standard errors for other items may be higher depending on the variability of the item across banks, and the item response rate. While published availability schedules may be easier for depository institutions to report, actual funds availability practices for check deposits to consumer accounts that do not qualify for exception holds under Regulation CC will provide better information for the Federal Reserve in considering whether to shorten the maximum hold periods. Assuming an improved response rate from that of the 1996 survey, that the item response rates are high, and that the probability of responding is uncorrelated with the variables being estimated (e.g. fraud experience), the study will provide statistically valid national estimates that are not available from existing industry or trade sources.

Confidentiality

One commenter raised a concern over the confidentiality, availability, and accessibility of some of the requested information, and suggested that lack of assurance of confidentiality would diminish the response rate for voluntary compliance. The commenter states that much of the information sought in the proposed survey is considered proprietary and confidential by respondents, particularly information regarding check losses, internal systems tracking mechanisms, and the results determined by these mechanisms. While the commenter indicates it has protected many of its internal processes by patenting them or obtaining trademark protection, the commenter raises concerns whether other trade secret and high level security information would be subject to protection.

First, the information collected in the survey will be treated and maintained as confidential by the Board's Division of Reserve Bank Operations and Payment Systems (RBOPS). RBOPS will not share this information, or otherwise make this information available to, any other Federal Reserve staff or to any third parties. Second, the information that is collected will be aggregated before it is submitted to the Congress. No confidential information will be disclosed, and care will be taken to ensure that individual respondents are not identified and that their identities cannot be deduced from any information that is disclosed. Third, the Federal Reserve regards the information requested on the form as confidential and generally subject to protection from disclosure under exemption 4 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(4). Exemption 4 exempts from disclosure ''trade secrets and commercial or financial information obtained from a person and privileged and confidential.'' In the event of a FOIA request for the information, the Federal Reserve would claim exemption 4 as a basis for withholding and decline to produce it. If, for any reason, the Federal Reserve believes that particular information cannot be withheld from disclosure under exemption 4, the Federal Reserve will inform the respondent of its views and give the respondent an opportunity to object and to provide additional information supporting withholding, as required under section 261.16 of the Board's ''Rules Regarding the Availability of Information,'' 12 CFR 261.16.

Adequate Notice About the Final Survey and Extension of the Submission Date

Two commenters recommended that the Federal Reserve provide notice of the survey to selected participants no later than October 1, 2005, and that the Federal Reserve extend the submission deadline from May 2006 to July 2006 to afford sufficient time for depository institutions to implement processes and system changes to facilitate the data collection. The Federal Reserve is publishing the final survey in October and plans to contact survey participants directly in November 2005. Based upon prior data collections of this size and complexity, the Federal Reserve believes that the submission deadline provides ample time for depository institutions to respond to the survey. The Federal Reserve will use the time between May 2006 and April 2007 to tabulate and analyze responses to the survey, to draft the required report to the Congress, and to assess whether any legislative recommendations are desirable.

Optional Narrative Section and Other Clarifications

A few commenters suggested that an optional narrative section be included in the survey to enable respondents to comment on various issues, including funds availability, consumer protection, and specific types of check losses, such as those resulting from fraudulent cashier's checks and teller's checks. Inclusion of such a narrative section would be infeasible given the survey's sample size and scope.

[2] Section 1 of the survey requests basic information such as institution name, address, and phone number. Section 3, which contains two questions, requests information regarding the overall volume and value of checks that banks handle. These sections remain largely unchanged.

Five commenters suggested that certain language be clarified, and several of these suggestions have been incorporated into the survey document. For example, the survey now more clearly indicates that checks converted to ACH transactions should be excluded, clarifies which types of losses should be included as check losses, and explains the difference between electronic check presentment and paper check presentment. Additionally, the survey document more clearly indicates that a respondent should check an estimate box if an answer is an estimate, or enter ''DK'' (don't know) if the respondent has volume of the type being measured, but is unable to report at least an estimate.

Board of Governors of the Federal Reserve System, October 11, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 05–20663 Filed 10–14–05; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 10, 2005.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30303:

1. Flint Community Bancshares, Inc., Albany, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Flint Community Bank, Albany, Georgia (in organization).

2. SBT Bancorp, Inc., Clarkesville, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Southern Bank & Trust, Clarkesville, Georgia (in organization).

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Citizens Development Company, Billings, Montana; to merge with Midwest Bancorporation, Billings, Montana, and thereby indirectly acquire Clarke County State Bank, Osceola, Iowa; Farmers and Merchants State Bank, Iroquois, South Dakota; and Farmers State Bank, Stickney, South Dakota.

2. Citizens Development Company, Billings, Montana; to merge with United Bancorporation, Billings, Montana, and thereby indirectly acquire Lincoln County Bank, Merrill, Wisconsin; United Bank, Osseo, Wisconsin; Bank of Poynette, Poynette, Wisconsin; and Cambridge State Bank, Cambridge, Wisconsin.

C. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Nebraska Bankshares, Inc., Farnam, Nebraska; to acquire up to 100 percent of the voting shares of First State Bank (also known as Holbrook Exchange Company, Holbrook, Nebraska (in organization).

Board of Governors of the Federal Reserve System, October 12, 2005.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E5–5691 Filed 10–14–05; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1229]

Federal Reserve Bank Services Private Sector Adjustment Factor

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved modifications to the method for calculating the private sector adjustment factor, which imputes the costs that would have been incurred and profits that would have been earned, including the return on equity capital, had the Federal Reserve Banks' priced services been provided by a private sector business. When setting prices in 2006, the Board will use only the capital asset pricing model to determine the target return on equity capital. Rather than continuing the long-standing process of identifying a peer group to calibrate the target return on equity capital, the return on equity capital will be based on the rate of return for the equity market as a whole. The Board's method for setting the level of equity capital imputed to priced services would continue to be based on the Federal Deposit Insurance Corporation guidelines for a well-capitalized depository institution for insurance premium purposes. In addition, the Board will continue using the financial data from the top fifty bank holding companies by deposit balance to determine the priced-services effective tax rate each year.

DATES: This revised method will be used to calculate the targeted return on equity capital beginning with the 2006 price setting.

FOR FURTHER INFORMATION CONTACT: Gregory L. Evans, Assistant Director (202/452–3945), Brenda L. Richards, Manager (202/452–2753), or Jonathan Mueller, Financial Analyst (202/530–6291); Division of Reserve Bank Operations and Payment Systems. Telecommunications Device for the Deaf (TDD) users may contact 202/263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Monetary Control Act (MCA) requires that the Board establish fees for ''priced services'' provided to depository institutions to recover, over the long run, all direct and indirect costs actually incurred as well as imputed costs that would have been incurred, including financing costs, taxes, and certain other expenses, and the return on equity (profit) that would have been earned, if a private business