

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. 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 instruments 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.

Request for comment on information collection proposal

The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

- a. whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;
- b. the accuracy of the Federal Reserve's estimate of the burden of the proposed 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before July 11, 2005.

ADDRESSES: You may submit comments, identified by *FR 3080*, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include docket number in the subject line of the message.
- FAX: 202/452-3819 or 202/452-3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, N.W., Washington, DC 20551.

All public comments are available from the Board's web site at www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP-500 of the Board's Martin Building (20th and C Streets, N.W.) between 9:00 a.m. and 5:00 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form and instructions, the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Michelle Long, Federal Reserve Board Clearance Officer (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202-263-4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

For further information regarding the purpose and content of the proposed survey contact Jack Walton, Associate Director (202-452-2660), Jeffrey Yeganeh, Manager (202-728-5801), or Susan Foley, Project Leader (202-452-3596), Retail Payments Section, Division of Reserve Bank Operations and Payment Systems.

Proposal to conduct under OMB delegated authority the following survey:

Report title: Check 21 Act Survey

Agency form number: FR 3080

OMB control number: 7100-0279

Frequency: once

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 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 Congress by April 28, 2007.¹

Specifically, Congress directed the Federal Reserve to study and report to Congress 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

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

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

To fully address the issues raised by Congress, the Federal Reserve believes it is necessary to conduct a broad-based survey to ensure the accurate characterization of the nation's evolving check processing system, and the Federal Reserve is hereby publishing for comment a draft survey to 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 Expedited Funds Availability Act (EFAA). EFAA and Regulation CC set maximum permissible hold periods for checks deposited into transaction accounts at depository institutions. 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 depository 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.

The proposed survey would consist of five sections. Section I would collect general information on the depository institution, such as name, address, and contact person.

Section II consists of seven questions on respondents' losses and recoveries related to check fraud. In its role as bank of first deposit and as paying bank, an institution would be asked to provide the value and number of check losses incurred in 2005, as well as the value and number of cases associated with recoveries received in 2005 from check losses. As bank of first deposit, institutions would be asked to provide information on their losses by category, such as the origin of the check (e.g., local or non-local), whether the check was dishonored versus subject to a warranty claim, and the age of the account. As paying bank, institutions would be asked to provide their losses by presentment method (original checks, substitute checks, or checks presented electronically). Both the dollar value and the number of cases would be reported. The respondent also would be asked to compare its check losses in 2005 with its check losses in 2004. Section II questions are in response to study requirements 4 and 5.

Section III consists of two questions on the volume of checks, for cases where the institution was the paying bank and for cases where the institution was the bank of first deposit. The institution would be asked to provide the total number and value of checks presented to it in a calendar month, categorized by presentment method (original checks, substitute checks, or checks presented electronically). The institution also would be asked to provide the total number and value of checks deposited at the institution as the bank of first deposit during the same calendar month, categorized by origin of the check. Section III questions are in response to study requirement 1.

Section IV consists of five questions on the institution's funds availability policies and practices for next-day availability, local, and nonlocal checks. The institution would be asked to provide its number of transaction accounts and the percentage of these

accounts held by consumers. The institution would also be asked to indicate its published funds availability policy, including the percentage of consumer transaction accounts for which the policy permits hold extensions on a case-by-case basis, and to specify what changes (if any) it has made to its policy in the past two years. The institution would be asked to indicate its funds availability practices for deposits that do not qualify as exception holds under Regulation CC. Finally, institutions would be asked for the percentage of check deposits subject to Regulation CC exception holds that receive later availability than the Regulation CC permitted holds for next-day availability, local, and nonlocal checks. Section IV questions are in response to study requirement 2.

Section V consists of three questions addressing the institution's experiences with returned checks. The institution would be asked to specify the number of business days within which it receives local and nonlocal checks that have been returned unpaid by the paying bank. Two questions request data on notifications and procedures regarding large-dollar returned checks. Section V questions are in response to study requirement 3.

The Federal Reserve will accept comments on all aspects of the proposed survey. In general, the Federal Reserve requests comment on how the survey might be modified to improve its responsiveness to the requirements of section 16 of the Check 21 Act, while also enabling depository institutions to respond to the survey with reasonable burden. More specifically, the Federal Reserve requests comments on the following. To what extent are institutions, in their role as banks of first deposit, able to categorize check losses by local and non-local checks (proposed question 2.2)? To what extent are institutions, in their role as paying banks, able to categorize check losses by presentment

method (proposed question 2.6)? How might questions 4.2 and 4.4 be restructured to better capture the frequency with which institutions make funds available sooner than Regulation CC requires? Do the options listed under question 4.3(d) capture the reasons why institutions might have changed their funds availability policies in the past two years? And, finally, do institutions typically track check losses by check or by case (which may involve one or more checks)? The proposed survey is available electronically at www.federalreserve.gov/boarddocs/reportforms/review.cfm.

Board of Governors of the Federal Reserve System, May 5, 2005.

Jennifer J. Johnson,
Secretary of the Board.