

**Supporting Statement for the disclosure requirements in connection with
Regulation DD (Truth in Savings)
(OMB No. 7100-0271)**

Summary

The Board of Governors of the Federal Reserve System, under delegated authority from the Office of Management and Budget (OMB), proposes to extend for three years, without revision, the disclosure requirements of Regulation DD, which implements the Truth in Savings Act (TISA). The Federal Reserve is required to renew these requirements every three years pursuant to the Paperwork Reduction Act of 1995 (PRA), which classifies regulations such as Regulation DD as “required information collections.”¹

TISA and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. TISA and Regulation DD mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts and overdraft services.

The information collected pursuant to Regulation DD is triggered by specific events and disclosures and must be provided to consumers within the time periods established by TISA and regulation. There are no reporting forms associated with Regulation DD. To ease the compliance cost (particularly for small entities), model clauses and sample forms are appended to the regulation. Depository institutions are required to “retain evidence of compliance” for 24 months, but the regulation does not specify the types of records that must be retained.

Regulation DD applies to all depository institutions except credit unions.² The Board accounts for the paperwork burden associated with Regulation DD only for institutions that the Board supervises.³ Other federal agencies account for the paperwork burden imposed on the depository institutions for which they have regulatory enforcement authority. The current total annual burden is estimated to be 166,050 hours

¹ 44 U.S.C. § 3501 *et seq*

² Credit unions are covered by a substantially similar rule issued by the National Credit Union Administration.

³ The Board supervises state member banks, branches and agencies of foreign banks (other than federal branches, federal agencies, and insured state branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act.

for the 1,107 institutions supervised by the Board⁴ that are deemed “respondents” for purposes of the Paperwork Reduction Act.

Background and Justification

TISA was contained in the Federal Deposit Insurance Corporation Improvement Act of 1991. The purpose of TISA and its implementing regulation is to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the APY, and other account terms. TISA requires depository institutions to disclose key terms for deposit accounts at account opening, upon request, when changes in terms occur, and in periodic statements.⁵ It also includes rules about advertising for deposit accounts. TISA does not provide exemptions from compliance for small institutions.⁶

In November 2007, the Board published a final rulemaking (72 FR 63477) that amended Regulation DD to address the timing and delivery of electronic disclosures, consistent with the requirements of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). This rule provides that disclosures may be provided to a consumer in electronic form subject to the consumer consent and other provisions of the E-Sign Act. Certain disclosures, however, may be provided to a consumer in electronic form without regard to the consumer consent and other provisions of the E-Sign Act. Mandatory compliance with the final rulemaking was required by October 1, 2008.

On January 29, 2009, the Board published a final rulemaking (74 FR 5584) that amended Regulation DD, to expand the requirement to disclose overdraft fees on periodic statements to apply to all institutions. Previously, this requirement applied only to institutions promoting the payment of overdrafts. The final rule required formatting for aggregate fee disclosures that was more effective and noticeable to consumers. Account balances disclosed to a consumer through any automated system were required to exclude additional amounts that the institution may provide or amounts that may be transferred from another account to cover an item where there are insufficient or unavailable funds. Mandatory compliance with the final rulemaking was required by January 1, 2010. Further technical clarifications of these rules were adopted in a final rulemaking published on June 4, 2010 (75 FR 31673). The clarifications addressed the application of

⁴ The number of respondents supervised by the Board was obtained from numbers published in the Board of Governors of the Federal Reserve System 96th Annual Report 2009: 845 State member banks, 204 Branches & agencies of foreign banks, 3 Commercial lending companies, and 55 Edge Act or agreement corporations.

⁵ Consumer accounts held by unincorporated associations of individuals were covered until October 1994, when the regulation was amended to implement legislation that limited TISA’s coverage to accounts held by natural persons. The amendment reduced paperwork requirements and burden on depository institutions.

⁶ In September 1998, the Board published revisions to Regulation DD to implement statutory amendments made by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) of 1996, which, among other things, eliminated certain disclosure requirements with respect to automatically renewable time accounts with a term of thirty days or less. 63 FR 52107 (September 29, 1998). *See also* Economic Growth and Regulatory Paperwork Reduction Act of 1996, Pub. L. 104-208, 110 Stat. 3009. EGRPRA also repealed TISA’s civil liability provisions, effective September 30, 2001.

the rule to retail sweep programs and standardized the terminology used in overdraft fee disclosures. These clarifications became effective July 6, 2010, except for provisions revising certain disclosures, which became effective October 1, 2010.

Description of Information Collection

TISA and Regulation DD cover accounts held by individuals primarily for personal, family, or household purposes. The disclosure requirements associated with Regulation DD are described below.

Account Disclosures (Section 230.4)

Depository institutions are required to provide account disclosures containing rate and fee information to a consumer upon request. Account disclosures must also be provided prior to opening an account or before services are provided, whichever is earlier. The purpose of the disclosure requirement is to provide account holders and prospective account holders with the type and amount of any fees that may be imposed, (including ATM withdrawals or other electronic fund transfers); the interest rate and the APY that will be paid on an account; and other key terms. Institutions are required to specify the categories of transactions for which an overdraft fee may be imposed in the account-opening disclosures provided under TISA.

Subsequent Notices (Section 230.5)

Change-in-terms notice (Section 230.5(a)). Depository institutions are required to provide 30 days' notice of any change that may reduce the APY or adversely affect consumers, such as a change in fees. Certain types of events such as changes in the interest rate and APY for variable rate accounts are exempt from this requirement.

Notice prior to maturity (Sections 230.5(b), (c)). Depository institutions are required to provide notices prior to maturity for certain time accounts. The timing and content requirement of the notice varies depending on the term of a time deposit and whether it renews automatically:

- For automatically renewable time accounts with a term less than or equal to one month, no advance notice is required.
- Advance notices for automatically renewable time accounts with a maturity longer than one month but less than or equal to one year may be sent either 30 days before maturity or, as an alternative, 20 calendar days before the end of a grace period, so long as the grace period is at least 5 days. The alternative timing rule was adopted to allow flexibility for institutions to maintain any existing practice to send notices 10 to 15 days prior to maturity. The notice may contain the disclosures required when the account is opened or, as an alternative, information on the interest rate and APY for the new account, the maturity date for the existing and new accounts, and any changes in terms.
- For automatically renewable time accounts with terms longer than one year, institutions must provide disclosures required at account opening. The timing

rules for these accounts longer than one year are the same as for accounts with maturities longer than one month but less than or equal to one year.

For nonrenewable time accounts with a maturity of less than or equal to one year, no notice is required. If the maturity is longer than one year, the notice must provide information on the maturity date, and whether or not interest will be paid after maturity.

Periodic Statement Disclosure (Section 230.6)

Neither TISA nor the regulation mandates that depository institutions provide periodic statements. If an institution chooses to provide periodic statements, however, the statements must contain specific information: the total number of days in, or the beginning and ending dates of, the statement period; the dollar amount of interest earned and APY earned; fees imposed on the account, itemized by type and dollar amount; and if applicable, the total overdraft and returned item fees for the statement period and for the calendar year to date.

Advertising (Section 230.8)

The advertising rules apply to both depository institutions and deposit brokers. The purpose of the advertising rules is to provide potential shoppers with uniform and accurate information that they can use in deciding among various deposit accounts.

Additional disclosure requirements for overdraft services (Section 230.11)

Institutions providing periodic statements must separately disclose on such statements the total amount of fees or charges imposed on the deposit account for paying overdrafts and the total amount of fees charged for returning items unpaid. These disclosures must be provided for the statement period and for the calendar year to date. Furthermore, advertisements generally promoting the payment of overdrafts must disclose the fees for the payment of each overdraft, the categories of transactions for which a fee for paying an overdraft may be imposed, the time period by which a consumer must repay or cover any overdraft, and the circumstances under which the institution will not pay an overdraft. Moreover, any account balance disclosed to a consumer through an automated system (including, but not limited to, an ATM, Internet Web site, or telephone response system) must exclude additional amounts that the institution may provide or that may be transferred from another account of the consumer to cover an item where there are insufficient or unavailable funds in the consumer's account. An institution may, however, disclose an additional account balance that includes such additional amounts provided the institution states that any such balance includes such additional amounts, and if applicable, that additional amounts are not available for all transactions.

Sensitive Questions

This information collection contains no questions of a sensitive nature, as defined by OMB guidelines.

Consultation Outside the Agency

All of the Board's rulemaking activities under Regulation DD are subject to the notice and comment requirements of the Administrative Procedure Act. 5 U.S.C. § 551 et seq. On March 1, 2011, the Federal Reserve published a notice in the *Federal Register* (76 FR 11247) requesting public comment for 60 days on the extension, without revision, of this information collection. The comment period for this notice expires on May 2, 2011.

Time Schedule for Information Collection

Information collection pursuant to Regulation DD is triggered by specific events, and disclosures must be provided to consumers within the time periods established by the TISA and regulation. There is no reporting form associated with the requirements of Regulation DD; disclosures pertaining to a particular transaction or consumer account are not publicly available. Disclosures of an institution's account terms that appear in advertisements are available to the public.

Legal Status

The Board's Legal Division has determined that section 269 of TISA (12 U.S.C. § 4308) authorizes the Board to issue regulations to carry out the provisions of the act.⁷ An institution's disclosure obligations under Regulation DD are mandatory. The Federal Reserve does not collect any information; therefore, no issue of confidentiality arises.

Estimate of Respondent Burden

The general account disclosures (section 230.4) are in standardized, machine-generated form and do not substantively change from one individual account to another; thus, the cost to the public is small. Subsequent notices (section 230.5) and periodic statements (section 230.6) are machine-generated reports of information that for the most part would be captured by the institution and disclosed to the consumer for business purposes; the marginal cost of complying with these regulations is considered to be small. The cost of complying with the advertising rules (section 230.8) is also considered to be small. The cost of complying with the additional disclosure requirements for overdraft services (Section 230.11) is sufficiently accounted for under the cost estimates for

⁷ At a future date, the newly-established Consumer Financial Protection Bureau will be responsible for Regulation DD (Pursuant Section 1100B of the Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. 111-203, 124 STAT. 1376, 2110). The legal authority for the Board to promulgate amendments to Regulation DD remains unchanged at this time.

periodic statement (section 230.6) and advertising (section 230.8) requirements. The regulation does not specify the kind of records that must be retained for this purpose.

The current total annual burden is estimated to be 166,050 hours for the 1,107 institutions supervised by the Board that are deemed respondents for purposes of the PRA. This estimated burden arises exclusively from the disclosures required under the regulation and is shown in the table below. The estimated annual burden for Regulation DD represents less than 2 percent of total Federal Reserve System paperwork burden.

	<i>Number of respondents⁸</i>	<i>Estimated annual frequency</i>	<i>Average time per response</i>	<i>Estimated annual burden hours</i>
Account disclosures (230.4) <u>Subsequent Notices (230.5)</u>	1,107	12	1 hour	13,284
Change in terms notices (230.5(a))	1,107	12	1.5 hours	19,926
Notices prior to maturity (230.5(b) and (c))	1,107	12	1.5 hours	19,926
Periodic statement disclosure (230.6)	1,107	12	8 hours	106,272
Advertising (230.8)	1,107	12	30 mins	<u>6,642</u>
<i>Total</i>				166,050

The total annual cost to the public is estimated to be \$7,082,033.⁹

Estimate of Cost to the Federal Reserve System

Since the Federal Reserve does not collect any information, the cost to the Federal Reserve System is negligible.

⁸ Of the 1,107 respondents, 400 are small entities as defined by the Small Business Administration (i.e., entities with less than \$175 million in total assets)

www.sba.gov/contractingopportunities/officials/size/table/index.html.

⁹ Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$49, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$77). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2009, www.bls.gov/news.release/ocwage.nr0.htm Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/

Financial Industry Burden Averages

The other federal financial agencies¹⁰ are responsible for estimating and reporting to OMB the total paperwork burden for the institutions for which they have administrative enforcement authority. They may, but are not required to, use the Board's burden estimates. There are approximately 16,200 depository institutions potentially affected by this collection of information and are considered respondents for purposes of the PRA. Using the Board's method, the total estimated annual burden for all financial institutions subject to Regulation DD, including institutions supervised by the Board, would be approximately 2,430,000 hours. The above estimates represent an average across all respondents and reflect variations between institutions based on their size, complexity, and practices.

¹⁰ Administrative enforcement - Section 270 of TISA contains the provisions relating to administrative sanctions for failure to comply with the requirements of the act and this part. Compliance is enforced by the agencies listed in that section.