

**Supporting Statement for the
Notice of Branch Closure
(FR 4031; OMB No. 7100-0264)**

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 Notice of Branch Closure (FR 4031; OMB No. 7100-0264). The mandatory reporting, recordkeeping, and disclosure requirements regarding the closing of any branch of an insured depository institution are imposed by section 228 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA). There is no reporting form associated with the reporting portion of this information collection; state member banks (SMBs) notify the Federal Reserve by letter prior to closing a branch. The Federal Reserve uses the information to fulfill its statutory obligation to supervise state member banks. The current annual burden for the FR 4031 is estimated to be 291 hours for 80 respondents.

Background and Justification

Section 228 of the FDICIA added a new section to the Federal Deposit Insurance Act (FDI Act) that imposed reporting, recordkeeping, and disclosure requirements on insured depository institutions that propose to close any branch (section 42; 12 U.S.C. 1831r-1). The provision became effective on December 19, 1991.

On September 21, 1993, the federal banking agencies¹ issued a joint final policy statement to provide guidance to institutions in complying with section 42 of the FDI Act (58 FR 49083). The policy statement defines a branch for purposes of section 42, clarifies what constitutes a branch closing, and provides guidance to institutions in identifying customers to be notified in the event of a branch closing.

Section 42 of the FDI Act was amended by section 106 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Pub. L. 103-328, 108 Stat. 2338) (Interstate Act). The Interstate Act changed section 42 in two ways, both relating to proposed closings by interstate banks (banks that maintain branches in more than one state) of branches in low- or moderate-income areas. First, the amendment provides a new notice procedure. Second, the amendment requires the appropriate federal banking agency to convene a meeting of organizations, depository institutions, agency representatives, and other interested persons to discuss the feasibility of obtaining adequate alternative facilities and service if a person from the affected area requests such a meeting and if other prescribed requirements are satisfied.

On September 30, 1996, section 42 of the FDI Act was amended by section 2213 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (Pub. L. 104-208, 110 Stat. 3009) (EGRPRA). The EGRPRA amended section 42 of the FDI Act to clarify that section 42 does not apply to: (1) an automated teller machine; (2) the relocation of a branch or consolidation

¹ The term federal banking agencies means: the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS).

of one or more branches into another branch, if the relocation or consolidation occurs within the immediate neighborhood and does not substantially affect the nature of the business or customers served; and (3) a branch that is closed in connection with an emergency acquisition under sections 11(n), 13(f), or 13(k) of the FDI Act or any assistance provided by the FDIC under section 13(c) of the FDI Act (12 U.S.C. 1821(n), 1823(f) and (k), and 1823(c)).

Effective June 29, 1999, the federal banking agencies revised the 1993 joint policy statement to reflect the changes to section 42 of the FDI Act made by the Interstate Act and EGRPRA. The revised policy statement incorporates the new procedure and provides for banks to inform customers in affected areas of their ability to comment on a particular branch closing. The Federal banking agencies also clarified that main offices, remote service facilities, loan production offices, and insured branches of foreign banks are not branches for purposes of section 42.

Description of Information Collection

There are several requirements associated with this information collection. Each insured financial institution must adopt a policy regarding the closing of its branches. When a branch is scheduled for closing, the insured financial institution must notify both its regulator and its customers. The agencies examine institutions for compliance with these requirements and may make adverse examination findings or take enforcement action for failure to comply.

SMBs report any proposed branch closing to their local Reserve Bank no later than 90 days prior to the date of the proposed branch closing. The notification must include the following information:

- the identification of the branch to be closed,
- the proposed date of closing,
- a detailed statement of the reasons for the decision to close the branch, and
- statistical or other information in support of such reasons consistent with the institution's written policy for branch closings.

The SMB must notify branch customers of the closing by including a notice in any regular account statement or in a separate mailing and by posting a notice in the branch to be closed. The customer notice should state the location of the branch to be closed and the proposed date of closing and either identify where customers may obtain service following the closing date or provide a telephone number for customers to call to determine such alternative sites. The information on the proposed date of the branch closing and alternative sites for service must also be posted in the branch to be closed. If the institution is an interstate bank and the branch is located in a low- or moderate-income area, the customer notice must also contain the mailing address of the appropriate federal banking agency and a statement that comments on the proposed branch closing may be mailed to that agency.

Time Schedule for Information Collection

At least ninety days prior to the proposed date of the branch closure, state member banks must advise their local Reserve Banks of the closing and send a notice to the branch's customers.

At least thirty days before the closing date, the bank must post a notice in the branch to be closed. Customer notices and the institution's branch closing policy are not submitted to the regulator.

Legal Status

The Board's Legal Division has determined that Section 42(a)(1) of the FDI Act (12 U.S.C. 1831r-l(a)(1)) authorizes the Board to require this information collection. The reporting requirements associated with the FR 4031 are mandatory. Individual respondent data are not considered confidential; however, an SMB may request confidential treatment pursuant to exemption b (4) of the Freedom of Information Act. 5 U.S.C. 552 (b)(4).

Estimate of Respondent Burden

An SMB incurs reporting and third-party-disclosure burden each time it closes a branch. The recordkeeping burden for adopting a branch closing policy is a one-time burden incurred by an institution when it opens its first branch. Based on the number of notifications received from 2007 through 2009, the Federal Reserve estimates that each year on average 70 SMBs are affected by the reporting and third-party-disclosure requirements and an additional 10 SMBs are affected by the recordkeeping requirements. The following table shows the total annual burden for this information collection is estimated to be 291 hours, which represents less than 1 percent of the total Federal Reserve System paperwork burden.

| | <i>Number of respondents</i> | <i>Estimated annual frequency</i> | <i>Estimated average hours per response</i> | <i>Estimated annual burden hours</i> |
|---|--------------------------------------|---|---|--|
| <i>Reporting burden:</i> | | | | |
| Regulatory notice | 70 | 1 | 2.00 | 140 |
| <i>Third party disclosure burden²:</i> | | | | |
| Customer mailing | 70 | 1 | 0.75 | 53 |
| Posted notice | 70 | 1 | 0.25 | 18 |
| <i>Recordkeeping burden:</i> | | | | |
| Adoption of policy | 10 | 1 | 8.00 | <u>80</u> |
| Total | | | | 291 |

The total cost to the public is estimated to be \$17,940.³

². The estimated annual burden has been rounded up to the nearest whole number in order to accommodate OMB's online information collection inventory application.

³. 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% Administrative or Junior Analyst @ \$25, 45% Managerial or Technical @ \$55, 15% Senior Management @ \$100, and 10% Legal Counsel @ \$144). Hourly rate estimates for each occupational group are averages using data from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2007, <http://www.bls.gov/news.release/ocwage.nr0.htm> Occupations are defined using the BLS Occupational Classification System, <http://www.bls.gov/soc/>.

Estimate of Cost to the Federal Reserve System

Annual costs associated with this notice are negligible. Because there is no standard reporting form, there are no printing or distribution costs.

Sensitive Questions

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

Consultation Outside the Agency and Discussion of Public Comments

On January 29, 2010, the Federal Reserve published a notice in the *Federal Register* (75 FR 4819) requesting public comment for 60 days on the extension, without revision, on Notice of Branch Closure. The comment period for this notice expired on March 30, 2010. The Federal Reserve did not receive any comments. On April 9, 2010, the Federal Reserve published a final notice in the *Federal Register* (75 FR 18208).