

- The proposed Guidance includes examples of circumstances in which customer notice would be expected and those when it would not. Please comment on whether the examples in the proposed Guidance should be modified or supplemented and provide your rationale.

### III. Paperwork Reduction Act

#### A. Request for Comment on Proposed Information Collection

In accordance with the requirements of the Paperwork Reduction Act of 1995, the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Agencies are requesting comment on a proposed information collection. The Agencies also give notice that, at the end of the comment period, the proposed collections of information, along with an analysis of the comments and recommendations received, will be submitted to OMB for review and approval.

Comments are invited on:

- Whether the collection of information is necessary for the proper performance of the Agency's functions, including whether the information has practical utility;
- The accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, utility, and clarity of the information to be collected;
- Ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and
- Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the information collections should be modified prior to submission to OMB for review and approval. The comments will also be summarized or included in the Agencies' requests to OMB for approval of the collections. All comments will become a matter of public record.

Comments should be addressed to:

**OCC:** Public Information Room, Office of the Comptroller of the Currency, 250 E Street, SW, Mail stop 1-5, Attention: Docket 03-18, Washington, DC 20219;

fax number (202) 874-4448; Internet address: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). Due to delays in paper mail delivery in the Washington area, commenters are encouraged to submit their comments by fax or e-mail. You can make an appointment to inspect the comments at the Public Information Room by calling (202) 874-5043.

**Board:** Comments should refer to Docket No. OP-1155 and may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. However, because paper mail in the Washington area and at the Board of Governors is subject to delay, please consider submitting your comments by e-mail to

[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov), or faxing them to the Office of the Secretary at (202) 452-3819 or (202) 452-3102. Members of the public may inspect comments in Room MP-500 between 9 a.m. and 5 p.m. on weekdays pursuant to 12 CFR section 261.12, except as provided in 12 CFR section 261.14, of the Board's Rules Regarding Availability of Information, 12 CFR sections 261.12 and 261.14.

**FDIC:** Steven F. Hanft, Legal Division (Consumer and Compliance Unit), Room MB-3064, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to the title of the proposed collection. 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 a.m. and 5 p.m., Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**OTS:** Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; send a facsimile transmission to (202) 906-6518; or send an e-mail to [infocollection.comments@ots.treas.gov](mailto:infocollection.comments@ots.treas.gov). OTS will post comments and the related index on the OTS Internet site at <http://www.ots.treas.gov>. In addition, interested persons may inspect the comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906-5922, send an e-mail to [publicinfo@ots.treas.gov](mailto:publicinfo@ots.treas.gov), or send a facsimile transmission to (202) 906-7755.

#### B. Proposed Information Collection

**Title of Information Collection:** Notice Regarding Unauthorized Access to Customer Information.

**Frequency of Response:** On occasion.

#### Affected Public:

**OCC:** National banks, District of Columbia banks, and Federal branches and agencies of foreign banks.

**Board:** State member banks, bank holding companies, affiliates and certain non-bank subsidiaries of bank holding companies, uninsured state agencies and branches of foreign banks, commercial lending companies owned or controlled by foreign banks, and Edge and agreement corporations.

**FDIC:** Insured nonmember banks, insured state branches of foreign banks, and certain subsidiaries of these entities.

**OTS:** Savings associations and certain of their subsidiaries.

**Abstract:** The proposed Guidance describes the Agencies' expectations regarding a response program, including customer notification procedures, that a financial institution should develop and apply under the circumstances described in the Appendix to address unauthorized access to or use of customer information that could result in substantial harm or inconvenience to a customer.

The information collections in the proposed Guidance would require financial institutions to: (1) Develop notices to customers; (2) determine which customers should receive the notices and send the notices to customers; and (3) ensure that their contracts with their service providers satisfy the proposed Guidance.

**Estimated Burden:** It is estimated that it will initially take institutions 20 hours (2.5 business days) to develop and produce the notices described in the proposed Guidance and 24 hours per incident (three business days) to determine which customers should receive the notice and notify the customers. For the purposes of this analysis, it is estimated that two percent of supervised institutions will experience an incident of unauthorized access to customer information on an annual basis, resulting in customer notification.<sup>6</sup>

Thus, the burden associated with this collection of information may be summarized as follows. However, the burden estimate does not include time for financial institutions to adjust their contracts with service providers, if needed; nor for service providers to

<sup>6</sup> This estimate is based upon the Agencies' experience and data gathered by the FDIC on 2,000 institutions that indicates slightly less than one percent of those institutions experienced some form of unauthorized access to customer information during any 12 month period. However, the Agencies are assuming that other incidents of unauthorized access to customer information may have occurred, but were not reported.