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B-328684

December 28, 2016

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Subject: *Federal Deposit Insurance Corporation: Recordkeeping for Timely Deposit Insurance Determination*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Federal Deposit Insurance Corporation (FDIC) entitled "Recordkeeping for Timely Deposit Insurance Determination" (RIN: 3064-AE33). We received the rule on December 16, 2016. It was published in the *Federal Register* as a final rule on December 5, 2016, with an effective date of April 1, 2017. 81 Fed. Reg. 87,734.

The final rule requires each insured depository institution that has two million or more deposit accounts to (1) configure its information technology system to be capable of calculating the insured and uninsured amount in each deposit account by ownership right and capacity, which would be used by FDIC to make deposit insurance determinations in the event of the institution's failure, and (2) maintain complete and accurate information needed by FDIC to determine deposit insurance coverage with respect to each deposit account, except as otherwise provided. FDIC states that it is adopting this final rule to facilitate prompt payment of FDIC-insured deposits when large insured depository institutions fail.

Enclosed is our assessment of FDIC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review of the procedural steps taken indicates that FDIC complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Andy Jiminez
Director, Office of Legislative Affairs
Federal Deposit Insurance Corporation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
FEDERAL DEPOSIT INSURANCE CORPORATION
ENTITLED
“RECORDKEEPING FOR TIMELY DEPOSIT
INSURANCE DETERMINATION”
(RIN: 3064-AE33)

(i) Cost-benefit analysis

The Federal Deposit Insurance Corporation (FDIC) estimates that the final rule will apply to 38 institutions, each with two million or more deposit accounts. Together, these institutions hold more than \$10 trillion in total assets and manage over 400 million deposit accounts. FDIC estimates that the cost of the final rule will be \$478 million. These costs include, for example, implementing the deposit insurance calculation, data extraction, and data reporting. Benefits of the final rule include: ensuring prompt and efficient deposit insurance determinations by FDIC and thus the liquidity of deposit funds; enabling FDIC to readily resolve a failed insurance depository institution, reducing the costs of failure of a covered institution; and promoting long term stability in the banking system by reducing moral hazard. Although these benefits are expected to accrue to the public at large, FDIC stated that it is not possible to quantify these benefits with precision.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FDIC certified that this final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, FDIC is not subject to the Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On April 28, 2015, FDIC published an Advance Notice of Proposed Rulemaking seeking comment on whether certain insured deposit institutions such as those that have two million or more deposit accounts should be required to take steps to ensure that depositors would have access to their FDIC-insured funds in a timely manner (usually within one business day of failure) if one of these institutions were to fail. 80 Fed. Reg. 23,478 (April 28, 2015). FDIC developed and then published in the *Federal Register* a notice of proposed rulemaking for this final rule. 81 Fed. Reg. 10,026 (Feb. 26, 2016). FDIC received 14 comment letters from insured depository institutions, industry trade associations, financial intermediaries, mortgage servicing companies, technology firms, an industry consultant, and an individual. In addition, FDIC staff participated in meetings or conference calls with industry representatives. FDIC responded to the comments in the final rule.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

FDIC determined that this final rule involves a collection of information under the Paperwork Reduction Act. As required by the Act, the Office of Management and Budget (OMB) assigned an OMB control number: 3064-0202.

Statutory authorization for the rule

FDIC cites 12 U.S.C. §§ 1817(a)(9), 1819 (Tenth), 1821(f)(1), 1822(c), and 1823(c)(4) as authority for the final rule.

Executive Order No. 12,866 (Regulatory Planning and Review)

As an independent regulatory agency, FDIC is not subject to the requirements of the Order.

Executive Order No. 13,132 (Federalism)

As an independent regulatory agency, FDIC is not subject to the requirements of the Order.