

agencies will continue to collect these items, for which they received emergency approval from OMB, until the Transaction Account Guarantee Program ends.

In addition, on September 23, 2008, the OCC, the Board, and the FDIC requested public comment for 60 days on proposed revisions to the Call Report for implementation on a phased-in basis during 2009 (73 FR 54807). On October 1, 2008, the OTS requested public comment for 60 days on proposed revisions to the TFR that would also take effect on a phased-in basis during 2009 (73 FR 57205). In response to these requests, the agencies received certain comments recommending the collection of additional deposit data related to deposit insurance assessments even though the agencies had not proposed to collect these additional data in their proposals. More specifically, one bankers' organization recommended that the Call Report and the TFR be revised to require "reciprocal deposits"<sup>4</sup> to be reported separately from brokered deposits. This bankers' organization also commented on the reporting of certain sweep accounts from other institutions, including affiliated institutions, in the Call Report and the TFR.

The impetus for the bankers' organization's comments about the reporting of these two types of deposits was a Notice of Proposed Rulemaking (NPR) on which the FDIC was simultaneously requesting comment concerning amendments to its deposit insurance assessment regulations (12 CFR part 327).<sup>5</sup> In the NPR, the FDIC proposed to alter the way in which it differentiates for risk in the risk-based assessment system; revise deposit insurance assessment rates, including base assessment rates; and make technical and other changes to the rules governing the risk-based assessment system. In its comment letters to the agencies on the proposed Call Report and TFR revisions, the bankers' organization observed that the Call Report and the TFR may need to be revised depending on the FDIC's decisions on the treatment of these accounts for deposit insurance assessment purposes.

<sup>4</sup> The organization also recommended that "reciprocal deposit" be defined as a deposit "obtained when an insured depository institution exchanges funds, dollar-for-dollar, with members of a network of other insured depository institutions, where each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members, and all funds placed through the network are fully insured by the FDIC."

<sup>5</sup> 73 FR 61560, October 16, 2008.

The FFIEC and the agencies have monitored the outcome of the FDIC's rulemaking for assessments and the need for new Call Report data items for reciprocal deposits and certain sweep accounts to support any modifications that the FDIC makes in its risk-based assessment system in a final rule. In this regard, on February 27, 2009, the FDIC Board of Directors adopted a final rule that revised the FDIC's assessment regulations effective April 1, 2009. For institutions in Risk Category I of the risk-based assessment system, the final rule introduces a new financial ratio into the financial ratios method. This method determines the assessment rates for most institutions in Risk Category I using a combination of weighted Uniform Financial Institutions Rating System component ratings and certain financial ratios. The new ratio will capture brokered deposits (in excess of 10 percent of domestic deposits) that are used to fund rapid asset growth, but it will exclude brokered deposits that an institution receives through a deposit placement network on a reciprocal basis (reciprocal deposits).

To enable the FDIC to adjust banks' and savings associations' brokered deposits, which are already reported in the Call Report and the TFR, for any reciprocal deposits included therein, the agencies will add an item to the schedules in these two reports in which data are reported for assessment purposes (Schedules RC-O and DI, respectively). The definition of reciprocal deposits in the FDIC's final rule<sup>6</sup> would be used for this new item, which would be collected in the Call Report and the TFR beginning June 30, 2009. The addition of this reciprocal deposits item to the Call Report and the TFR is responsive to the previously mentioned comments received from a bankers' organization when the agencies requested comments on proposed revisions to the Call Report and the TFR for implementation in 2009.

In its final rule on assessments, the FDIC decided not to adjust brokered deposits for balances swept into an insured institution by a nondepository institution. Accordingly, the FFIEC and the agencies are not revising the Call Report and the TFR to collect data on such sweep accounts.

<sup>6</sup> The final rule defines "reciprocal deposits" as "[d]eposits that an insured depository institution receives through a deposit placement network on a reciprocal basis, such that: (1) For any deposit received, the institution (as agent for depositors) places the same amount with other insured depository institutions through the network; and (2) each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members."

## Request for Comment

Public comment is requested on all aspects of this joint notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies. All comments will become a matter of public record.

Dated: March 20, 2009.

**Michele Meyer,**

*Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.*

Board of Governors of the Federal Reserve System, March 27, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

Dated at Washington, DC, this 25th day of March, 2009.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

Dated: March 24, 2009.

**Deborah Dakin,**

*Senior Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.*

[FR Doc. E9-7361 Filed 4-1-09; 8:45 am]

BILLING CODE 4810-33-P, 6210-01-P, 6714-01-P, 6720-01-P

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## FEDERAL RESERVE SYSTEM

### Proposed Agency Information Collection Activities; 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 approval authority under the Paperwork Reduction Act (PRA), 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 Paperwork Reduction Act Submission, 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 Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, 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 June 1, 2009.

**ADDRESSES:** You may submit comments, identified by FR 4022 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](mailto: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, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified 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 form in Room MP-500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202-395-6974.

**FOR FURTHER INFORMATION CONTACT:** A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: <http://www.federalreserve.gov/boarddocs/reportforms/review.cfm> or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, 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.

## Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Report

*Report Title:* Recordkeeping Requirements Associated with the Interagency Statement on Complex Structured Finance Activities.

*Agency Form Number:* FR 4022.

*OMB Control Number:* 7100-0311.

*Frequency:* Annual.

*Reporters:* State member banks, bank holding companies, and U.S. branches and agencies of foreign banks supervised by the Federal Reserve.

*Estimated Annual Reporting Hours:* 230 hours.

*Estimated Average Hours per Response:* New respondents, 25 hours; existing respondents, 10 hours.

*Estimated Number of Respondents:* New respondents, 2; existing respondents, 18.

*General Description of Report:* This information collection is authorized pursuant to 12 U.S.C. 248(a), 248(i), 483, and 602, 12 U.S.C. 1844, and 12 U.S.C. 3108(a). Respondent participation in the statement is voluntary. However, the Federal Reserve expects to use the statement in reviewing the internal controls and risk management systems of those financial institutions engaged in complex structured finance transactions (CSFTs) as part of the Federal Reserve's supervisory process. Since the Federal Reserve does not collect any information, no issue of confidentiality normally arises. However, in the event records generated under the statement are obtained by the Board during an examination of a state member bank or U.S. branch or agency of a foreign bank, or during an inspection of a bank holding company, confidential treatment may be afforded to the records under exemption 8 of the Freedom of Information Act (FOIA), 5 U.S.C. 552(b)(8). FOIA exemption 8 exempts from disclosure matters that are contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.

*Abstract:* The Interagency Statement on Complex Structured Finance Activities provides that state member banks, bank holding companies, and U.S. branches and agencies of foreign banks supervised by the Federal Reserve should establish and maintain policies and procedures for identifying, evaluating, assessing, documenting, and controlling risks associated with certain CSFTs.

A financial institution engaged in CSFTs should maintain a set of formal,

firm-wide policies and procedures that are designed to allow the institution to identify, evaluate, assess, document, and control the full range of credit, market, operational, legal, and reputational risks associated with these transactions. These policies may be developed specifically for CSFTs, or included in the set of broader policies governing the institution generally. A financial institution operating in foreign jurisdictions may tailor its policies and procedures as appropriate to account for, and comply with, the applicable laws, regulations and standards of those jurisdictions.

A financial institution's policies and procedures should establish a clear framework for the review and approval of individual CSFTs. These policies and procedures should set forth the responsibilities of the personnel involved in the origination, structuring, trading, review, approval, documentation, verification, and execution of CSFTs. A financial institution should define what constitutes a new complex structured finance product and establish a control process for the approval of such new products. An institution's policies also should provide for new complex structured finance products to receive the approval of all relevant control areas that are independent of the profit center before the product is offered to customers.

Board of Governors of the Federal Reserve System, March 27, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-7339 Filed 4-1-09; 8:45 am]

**BILLING CODE 6210-01-P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be

available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 27, 2009.

**A. Federal Reserve Bank of Cleveland** (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *Community Exchange Bancshares Inc.*, Hindman, Kentucky; to become a bank holding company by acquiring 100 percent of the voting shares of Hindman Bancshares Inc., and its subsidiary Bank of Hindman Inc., both of Hindman, Kentucky.

Board of Governors of the Federal Reserve System, March 30, 2009.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E9-7406 Filed 4-01-09; 8:45 am]

**BILLING CODE 6210-01-S**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of the Secretary

#### Findings of Scientific Misconduct

**AGENCY:** Office of the Secretary, HHS.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Office of Research Integrity (ORI) and the Assistant Secretary for Health have taken final action in the following case:

*Robert B. Fogel, M.D., Harvard Medical School and Brigham and Women's Hospital:* Based on information that the Respondent volunteered to his former mentor on November 7, 2006, and detailed in a written admission on September 19, 2007, and ORI's review of Joint Inquiry and Investigation reports by Harvard Medical School (HMS) and the Brigham and Women's Hospital (BWH), the U.S. Public Health Service (PHS) found that Dr. Robert B. Fogel, former Assistant Professor of Medicine

and Associate Physician at HMS, and former Co-Director of the Fellowship in Sleep Medicine at BWH, engaged in scientific misconduct in research supported by National Heart, Lung, and Blood Institute (NHLBI), National Institutes of Health (NIH), awards P50 HL60292, R01 HL48531, K23 HL04400, and F32 HL10246, and National Center for Research Resources (NCRR), NIH, award M01 RR02635.

PHS found that Respondent engaged in scientific misconduct by falsifying and fabricating baseline data from a study of sleep apnea in severely obese patients published in the following paper: Fogel, R.B., Malhotra, A., Dalagiorgou, G., Robinson, M.K., Jakab, M., Kikinis, R., Pittman, S.D., and White, D.P. "Anatomic and physiologic predictors of apnea severity in morbidly obese subjects." *Sleep* 2:150-155, 2003 (hereafter referred to as the "*Sleep* paper"); and in a preliminary abstract reporting on this work. Specifically, PHS found that for the data reported in the *Sleep* paper, the Respondent:

• Changed/falsified roughly half of the physiologic data

• Fabricated roughly 20% of the anatomic data that were supposedly obtained from Computed Tomography (CT) images

• Changed/falsified 50 to 80 percent of the other anatomic data

• Changed/falsified roughly 40 to 50 percent of the sleep data so that those data would better conform to his hypothesis.

Respondent also published some of the falsified and fabricated data in an abstract in *Sleep* 24, Abstract Supplement A7, 2001.

Dr. Fogel has entered into a Voluntary Settlement Agreement in which he has voluntarily agreed, for a period of three (3) years, beginning on March 16, 2009:

(1) To exclude himself from serving in any advisory capacity to PHS, including but not limited to service on any PHS advisory committee, board, and/or peer review committee, or as a consultant;

(2) That any institution that submits an application for PHS support for a research project on which the Respondent's participation is proposed or that uses the Respondent in any capacity on PHS supported research, or that submits a report of PHS-funded research in which the Respondent is involved, must concurrently submit a plan for supervision of the Respondent's duties to the funding agency for approval; the supervisory plan must be designed to ensure the scientific integrity of the Respondent's research contribution; a copy of the supervisory plan must also be submitted to ORI by