

## § 208.120

the Board will consider the dollar value of the securities that the institutional customer has in its portfolio and/or under management. While the interpretation in this section is potentially applicable to any institutional customer, the guidance contained in this section is more appropriately applied to an institutional customer with at least \$10 million invested in securities in the aggregate in its portfolio and/or under management.

[Reg. H, 63 FR 37658, July 13, 1998. Redesignated at 65 FR 14814, Mar. 20, 2000. Redesignated further at 65 FR 75841, Dec. 4, 2000. Redesignated further at 75 FR 44688, July 28, 2010; 75 FR 44692, July 28, 2010; 78 FR 62284, Oct. 11, 2013; 80 FR 70672, Nov. 16, 2015]

## Subpart K—Forms, Instructions and Reports

SOURCE: Reg. H, 84 FR 29051, June 21, 2019, unless otherwise noted.

### § 208.120 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued by the Board under section 7 of the Federal Deposit Insurance Act, 12 U.S.C. 1817(a)(3) and (12), and section 9 of the Federal Reserve Act, 12 U.S.C. 324.

(b) *Purpose and scope.* This subpart informs a state member bank where it may obtain forms and instructions for reports of conditions and implements 12 U.S.C. 1817(a)(12) to allow reduced reporting for a covered depository institution when such institution makes its reports of condition for the first and third calendar quarters of a year.

### § 208.121 Definitions.

*Covered depository institution* means a state member bank that meets all of the following criteria:

(1) Has less than \$5 billion in total consolidated assets as reported in its report of condition for the second calendar quarter of the preceding year, except that, during the calendar year 2021, a state member bank shall determine whether it meets the requirement in paragraph (1) of this section by using the lesser of its total consolidated assets as reported in its report of condition as of December 31, 2019, and its total consolidated assets as re-

## 12 CFR Ch. II (1–1–23 Edition)

ported in its report of condition for the second calendar quarter of 2020. The relief provided under this paragraph (1) of this section does not apply to a state member bank if the Board determines that permitting the state member bank to determine its assets in accordance with that paragraph would not be commensurate with the risk profile of the state member bank. When making this determination, the Board will consider all relevant factors, including the extent of asset growth of the state member bank since December 31, 2019; the causes of such growth, including whether growth occurred as a result of mergers or acquisitions; whether such growth is likely to be temporary or permanent; whether the state member bank has become involved in any additional activities since December 31, 2019; the asset size of any parent companies; and the type of assets held by the state member bank. In making a determination pursuant to this paragraph (1), the Board will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in 12 CFR 263.202.

(2) Has no foreign offices, as defined in this section;

(3) Is not required to or has not elected to use 12 CFR part 217, subpart E, to calculate its risk-based capital requirements; and

(4) Is not a large institution or highly complex institution, as such terms are defined in 12 CFR 327.8, or treated as a large institution, as requested under 12 CFR 327.16(f).

*Foreign country* refers to one or more foreign nations, and includes the overseas territories, dependencies, and insular possessions of those nations and of the United States.

*Foreign office* means:

(1) A branch or consolidated subsidiary in a foreign country, unless the branch is located on a U.S. military facility;

(2) An international banking facility as such term is defined in 12 CFR 204.8;

(3) A majority-owned Edge Act or Agreement subsidiary including both its U.S. and its foreign offices; and

(4) For an institution chartered or headquartered in any U.S. state or the

## Federal Reserve System

## Pt. 208, App. C

District of Columbia, a branch or consolidated subsidiary located in a U.S. territory or possession.

*Report of condition* means the FFIEC 031, FFIEC 041, or FFIEC 051 versions of the Consolidated Report of Condition and Income (Call Report) or the FFIEC 002 (Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks), as applicable, and as they may be amended or superseded from time to time in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

*Total consolidated assets* means total assets as reported in a state member bank's report of condition.

[Reg. H, 84 FR 29051, June 21, 2019, as amended at 85 FR 77360, Dec. 2, 2020]

### § 208.122 Reporting.

(a) A state member bank is required to file the report of condition (Call Report) in accordance with the instructions for these reports. All assets and liabilities, including contingent assets and liabilities, must be reported in, or otherwise taken into account in the preparation of, the Call Report. The Board uses Call Report data to monitor the condition, performance, and risk profile of individual state member banks and the banking industry. Reporting state member banks must also submit annually such information on small business and small farm lending as the Board may need to assess the availability of credit to these sectors of the economy. The report forms and instructions can be obtained from Federal Reserve District Banks or through the website of the Federal Financial Institutions Examination Council, <http://www.ffiec.gov/>.

(b) Every insured U.S. branch of a foreign bank is required to file the FFIEC 002 version of the report of condition (Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks) in accordance with the instructions for the report. All assets and liabilities, including contingent assets and liabilities, must be reported in, or otherwise taken into account in the preparation of the report. The Board uses the reported data to monitor the condition, performance, and risk profile of individual insured branches and the banking industry. Insured branches

must also submit annually such information on small business and small farm lending as the Board may need to assess the availability of credit to these sectors of the economy. The report forms and instructions can be obtained from Federal Reserve District Banks or through the website of the Federal Financial Institutions Examination Council, <http://www.ffiec.gov/>.

### § 208.123 Reduced reporting.

A covered depository institution may file the FFIEC 051 version of the report of condition, or any successor thereto, which shall provide for reduced reporting for the reports of condition for the first and third calendar quarters for a year.

### § 208.124 Reservation of authority.

(a) Notwithstanding § 208.123, the Board in consultation with the applicable state chartering authority may require an otherwise eligible covered depository institution to file the FFIEC 041 version of the report of condition, or any successor thereto, based on an institution-specific determination. In making this determination, the Board may consider criteria including, but not limited to, whether the institution is significantly engaged in one or more complex, specialized, or other higher risk activities, such as those for which limited information is reported in the FFIEC 051 version of the report of condition compared to the FFIEC 041 version of the report of condition. Nothing in this part shall be construed to limit the Board's authority to obtain information from a state member bank.

(b) Nothing in this subpart limits the authority of the Board under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions or violations of law.

#### APPENDIXES A–B TO PART 208 [RESERVED]

#### APPENDIX C TO PART 208—INTERAGENCY GUIDELINES FOR REAL ESTATE LENDING POLICIES

The agencies' regulations require that each insured depository institution adopt and