

Pilot program listing all approvals and decisions Caltrans makes with respect to responsibilities assumed under the MOU. Quarterly reports submitted by Caltrans for the first eight quarters of Pilot program participation were reviewed for this audit. Each of the first seven quarterly reports has been revised; some reports have been revised multiple times. In summary, for the first seven quarterly reports, a total of 63 new projects were added in report revisions and 29 projects initially reported were subsequently deleted. The reporting issues spanned across the majority of districts reporting projects, and seven districts submitted revisions to four or more quarterly reports. Inaccurate project reporting has been a consistent issue affecting the quarterly report process and has been identified in previous FHWA audit reports. Among the errors discovered were reporting errors related to incorrectly characterizing projects (e.g., CEs under Section 6004 and Section 6005), and omissions associated with untimely reporting of project approvals and decisions by district staff (i.e., a subsequent quarterly report included a project that was approved in the previous quarter). The approach used by each district to collect project information for the quarterly reports is highly variable and is one key contributor to continued reporting inaccuracies.

The current Caltrans approach to developing the quarterly reports continues to be deficient. The accuracy of the reports on project approvals and decisions affects FHWA oversight of the Pilot Program. For example, if Caltrans does not report to FHWA a project being administered under the Pilot Program, the project may not be included in the audit process. Additionally, now that the FHWA onsite audit process will move to an annual basis (semi-annual audits were required during the first 2 years of the Pilot Program), the project approval and decision reporting takes on increased significance as less in-field auditing will occur.

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## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

### FEDERAL RESERVE SYSTEM

### FEDERAL DEPOSIT INSURANCE CORPORATION

#### Agency Information Collection Activities: Submission for OMB Review; Joint Comment Request

**AGENCIES:** Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

**ACTION:** Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (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. On August 19, 2009, the agencies, under the auspices of the Federal Financial Institutions Examination Council (FFIEC), requested public comment for 60 days on a proposal to extend, with revision, the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. After considering the comments received on the proposal, the FFIEC and the agencies will proceed with most of the reporting changes with some limited modifications in response to the comments.

**DATES:** Comments must be submitted on or before January 22, 2010.

**ADDRESSES:** Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

**OCC:** You should direct all written comments to: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 2-3, Attention: 1557-0081, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-5274, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You may personally inspect and photocopy comments at the OCC, 250 E Street, SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 874-4700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.

**Board:** You may submit comments, which should refer to "Consolidated Reports of Condition and Income, 7100-0036," by any of the following methods:

- **Agency Web Site:** <http://www.federalreserve.gov>. Follow the instructions for submitting comments on the <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 the OMB control 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 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.

**FDIC:** You may submit comments, which should refer to "Consolidated Reports of Condition and Income, 3064-0052," by any of the following methods:

- **Agency Web Site:** <http://www.fdic.gov/regulations/laws/federal/propose.html>. Follow the instructions for submitting comments on the FDIC Web site.
  - **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.
  - **E-mail:** [comments@FDIC.gov](mailto:comments@FDIC.gov).
- Include "Consolidated Reports of Condition and Income, 3064-0052" in the subject line of the message.
- **Mail:** Gary Kuiper (202-898-3877), Counsel, Attn: Comments, Room F-1072, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
  - **Hand Delivery:** Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m.

**Public Inspection:** All comments received will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html> including any personal information provided.

Comments may be inspected at the FDIC Public Information Center, Room E-1002, 3501 Fairfax Drive, Arlington, VA 22226, between 9 a.m. and 5 p.m. on business days.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies 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:** For further information about the revisions

discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of the Call Report forms can be obtained at the FFIEC's Web site ([http://www.ffiec.gov/ffiec\\_report\\_forms.htm](http://www.ffiec.gov/ffiec_report_forms.htm)).

**OCC:** Mary Gottlieb, OCC Clearance Officer, (202) 874-5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

**Board:** Michelle Shore, Federal Reserve Board Clearance Officer, (202) 452-3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263-4869.

**FDIC:** Gary Kuiper, Counsel, (202) 898-3877, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**SUPPLEMENTARY INFORMATION:** The agencies are proposing to revise and extend for three years the Call Report, which is currently an approved collection of information for each agency.

**Report Title:** Consolidated Reports of Condition and Income (Call Report).

**Form Number:** Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

**Frequency of Response:** Quarterly.

**Affected Public:** Business or other for-profit.

**OCC:**

**OMB Number:** 1557-0081.

**Estimated Number of Respondents:** 1,543 national banks.

**Estimated Time per Response:** 48.90 burden hours.

**Estimated Total Annual Burden:** 301,811 burden hours.

**Board:**

**OMB Number:** 7100-0036.

**Estimated Number of Respondents:** 861 state member banks.

**Estimated Time per Response:** 54.84 burden hours.

**Estimated Total Annual Burden:** 188,869 burden hours.

**FDIC:**

**OMB Number:** 3064-0052.

**Estimated Number of Respondents:** 4,955 insured state nonmember banks.

**Estimated Time per Response:** 38.94 burden hours.

**Estimated Total Annual Burden:** 771,791 burden hours.

The estimated time per response for the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (e.g., size

distribution of institutions, types of activities in which they are engaged, and existence of foreign offices). The average reporting burden for the Call Report is estimated to range from 16 to 655 hours per quarter, depending on an individual institution's circumstances.

### General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). At present, except for selected data items, these information collections are not given confidential treatment.

### Abstract

Institutions submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. Call Report data provide the most current statistical data available for evaluating institutions' corporate applications, identifying areas of focus for both on-site and off-site examinations, and considering monetary and other public policy issues. The agencies use Call Report data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. Call Report data are also used to calculate institutions' deposit insurance and Financing Corporation assessments and national banks' semiannual assessment fees.

### Current Actions

#### I. Overview

On August 19, 2009, the agencies requested comment on proposed revisions to the Call Report (74 FR 41973). The agencies proposed to implement certain changes to the Call Report requirements in 2010 to provide data needed for reasons of safety and soundness or other public purposes. The proposed revisions responded, for example, to a change in accounting standards, a temporary increase in the deposit insurance limit, and credit availability concerns. As proposed, the Call Report changes would take effect as of March 31, 2010, except for new data items pertaining to reverse mortgages, which would be collected annually beginning December 31, 2010.

The agencies collectively received comments from seven respondents: four banks, one bankers' organization, one

law firm, and a government agency. None of these commenters addressed every specific aspect of the proposal. Rather, individual respondents commented upon one or more of the proposed Call Report changes. Four of the commenters offered general views on the overall proposal. One bank expressed general support for the agencies' proposal and identified a few items that deserved further consideration. The bankers' organization commented that its members expressed no concerns with many of the proposed changes, but it urged the agencies to consider several suggested changes in the final revisions. The organization's suggested changes also included the proposed collection of data in one subject area that was not addressed in the agencies' proposal. The government agency supported the collection of the additional proposed Call Report data and noted that Call Report data are crucial to key components of the agency's economic analysis.

However, one bank opposed the proposed revisions, stating they would not improve the safety and soundness of any bank, yet would add to banks' costs of operations. While an important use of Call Report data is to assist the agencies in fulfilling their supervisory responsibilities with respect to the safety and soundness of individual banks as well as the banking system as a whole, Call Report data are also used for a variety of other purposes, such as determining deposit insurance assessments, supporting the conduct of monetary policy, and assessing the availability of credit. In this regard, Congress has recognized that Call Report data serve multiple purposes as demonstrated by Section 307 of the Riegle Community Development and Regulatory Improvement Act of 1994, which directed each federal banking agency to review the information banks are required to report in the Call Report and "eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes." Furthermore, in developing the Call Report revisions for 2010, the agencies carefully considered the purposes for which the proposed additional data would be used, which are described in the agencies' August 19, 2009, **Federal Register** notice and, to the extent appropriate, in this **Federal Register** notice. The agencies also considered the estimated cost and burden to banks of reporting these additional data.

The following section of this notice describes the proposed Call Report changes and discusses the agencies' evaluation of the comments received on

the proposed changes, including modifications that the FFIEC and the agencies have decided to implement in response to those comments. The following section also addresses the agencies' response to the recommendation from the bankers' organization's concerning the collection of certain additional data from banks that had not been included in the agencies' August 19, 2009, proposal.

After considering the comments received on the proposal, the FFIEC and the agencies will move forward in 2010 with most of the proposed reporting changes after making certain modifications in response to the comments. The agencies will not implement the items for interest expense and quarterly averages for brokered time deposits in 2010 as had been proposed, but will instead reconsider their data needs with respect to deposit funding and related costs. In addition, the FFIEC and the agencies will add four items to the Call Report on assets covered by FDIC loss-sharing agreements in response to the recommendation from the bankers' organization.

The agencies recognize institutions' need for lead time to prepare for reporting changes. Thus, consistent with longstanding practice, for the March 31, 2010, report date, banks may provide reasonable estimates for any new or revised Call Report item initially required to be reported as of that date for which the requested information is not readily available. This policy on the use of reasonable estimates will apply to the reporting of those new Call Report items that will be first implemented effective December 31, 2010.

Furthermore, the specific wording of the captions for the new or revised Call Report data items discussed in this notice and the numbering of these data items should be regarded as preliminary.

*Type of Review:* Revision and extension of currently approved collections.

## II. Discussion of Proposed Call Report Revisions

The agencies received either no comments on or comments expressing support for the following revisions, and therefore these revisions will be implemented effective March 31, 2010, as proposed:

- New Memorandum items in Schedule RI, Income Statement, identifying total other-than-temporary impairment losses on debt securities, the portion of the total recognized in other comprehensive income, and the net losses recognized in earnings,

consistent with the presentation requirements of a recent accounting standard;

- A change in the reporting frequency for the number of certain deposit accounts from annually to quarterly, which is reported in Schedule RC-O, Other Data for Deposit Insurance and FICO Assessments; and

- The elimination of the item for internal allocations of income and expense from Schedule RI-D, Income from Foreign Offices, which is completed only by certain banks on the FFIEC 031 report form.

The agencies received one or more comments addressing or otherwise relating to each of the following proposed revisions:

- Clarification of the instructions for reporting unused commitments in Schedule RC-L, Derivatives and Off-Balance Sheet Items;

- Breakdowns of the existing items in Schedule RC-L for unused credit card lines and other unused commitments, with the former breakdown required only for certain institutions, and a related breakdown of the existing item for other loans in Schedule RC-C, part I, Loans and Leases;

- New items pertaining to reverse mortgages that would be collected annually in Schedule RC-C, part I, and Schedule RC-L beginning December 31, 2010;

- A breakdown of the existing item for time deposits of \$100,000 or more (in domestic offices) in Schedule RC-E, Deposit Liabilities;

- Revisions of existing items for brokered deposits in Schedule RC-E;

- New items for the interest expense and quarterly averages for fully insured brokered time deposits and other brokered time deposits in Schedule RI, Income Statement, and Schedule RC-K, Quarterly Averages; and

- A change in the reporting frequency for small business and small farm lending data from annually to quarterly in Schedule RC-C, part II, Loans to Small Businesses and Small Farms.

The comments related to each of these proposed revisions are discussed in Sections II.A. through G. of this notice along with the agencies' response to these comments. The agencies also received one comment recommending the addition of data to the Call Report on assets covered by FDIC loss-sharing agreements, which the agencies had not proposed. This recommendation is discussed in Section II.H.

### A. Clarification of the Instructions for Reporting Unused Commitments

Banks report unused commitments in item 1 of Schedule RC-L, Derivatives

and Off-Balance Sheet Items. The instructions for this item identify various arrangements that should be reported as unused commitments, including but not limited to commitments for which the bank has charged a commitment fee or other consideration, commitments that are legally binding, loan proceeds that the bank is obligated to advance, commitments to issue a commitment, and revolving underwriting facilities. However, the agencies have found that some banks have not reported commitments that they have entered into until they have signed the loan agreement for the financing that they have committed to provide. Although the agencies consider these arrangements to be commitments to issue a commitment and within the scope of the existing instructions for reporting commitments in Schedule RC-L, they believe that these instructions may not be sufficiently clear. Therefore, the agencies proposed to revise the instructions for Schedule RC-L, item 1, "Unused commitments," to clarify that commitments to issue a commitment at some point in the future are those where the bank has extended terms and the borrower has accepted the offered terms, even though the related loan agreement has not yet been signed.

One bank and the bankers' organization commented on this proposed revision to the instructions for reporting commitments to issue a commitment. The bank recommended that these instructions "should include only terms extended and accepted in writing to allow the banks to develop a reliable tracking system." Similarly, the bankers' organization recommended that the commitment be in writing, but also stated that banks should only be required to report when the commitment "has an expiration date of greater than 90 days." The bankers' organization further added that it "would be exceedingly difficult to capture commitments that have an expiration date of 90 days or less and that are not in writing." The organization requested that the agencies delay the effective date of the revised instructions for reporting commitments to issue a commitment by at least six months "to allow banks sufficient time to adjust their systems."

The agencies generally agree with the recommendation that the instructions for reporting commitments to issue a commitment should cover situations where the terms extended and accepted are in writing. However, in those circumstances where the extension and acceptance of the terms are not in writing but are legally binding on both

the bank and the borrower under applicable law, the agencies believe that such commitments should be reported. Furthermore, when the terms of a commitment to issue a commitment have been extended and accepted in writing or, if not in writing, are legally binding, the agencies believe that it is a sound banking practice and a sound internal control for the bank entering into such commitments to maintain an appropriate tracking system for the commitments whether or not there is a related regulatory reporting requirement.

Accordingly, the agencies have revised the proposed instructional clarification pertaining to the reporting of commitments to issue a commitment in Schedule RC-L, item 1, "Unused commitments," to state that commitments to issue a commitment at some point in the future are those where the bank has extended terms, the borrower has accepted the offered terms, and the terms extended and accepted are in writing or, if not in writing, are legally binding on the bank and the borrower, even though the related loan agreement has not yet been signed. Although the agencies have decided not to delay the effective date for this instructional clarification, banks are reminded that, because of the revision to the instructions for reporting commitments to issue a commitment in Schedule RC-L, item 1, they may provide a reasonable estimate of the amount of such commitments in their Call Reports for March 31, 2010.

After modifying the proposed revised instructions for Schedule RC-L, item 1, "Unused commitments," in response to the comments received, the instructions for this item would read as follows, effective March 31, 2010:

Report in the appropriate subitem the unused portions of commitments. Unused commitments are to be reported gross, *i.e.*, include in the appropriate subitem the unused amount of commitments acquired from and conveyed or participated to others. However, exclude commitments conveyed or participated to others that the bank is not legally obligated to fund even if the party to whom the commitment has been conveyed or participated fails to perform in accordance with the terms of the commitment.

For purposes of this item, commitments include:

(1) Commitments to make or purchase extensions of credit in the form of loans or participations in loans, lease financing receivables, or similar transactions.

(2) Commitments for which the bank has charged a commitment fee or other consideration.

(3) Commitments that are legally binding.

(4) Loan proceeds that the bank is obligated to advance, such as:

(a) Loan draws;

(b) Construction progress payments; and  
(c) Seasonal or living advances to farmers under prearranged lines of credit.

(5) Rotating, revolving, and open-end credit arrangements, including, but not limited to, retail credit card lines and home equity lines of credit.

(6) Commitments to issue a commitment at some point in the future, where the bank has extended terms, the borrower has accepted the offered terms, and the extension and acceptance of the terms are in writing or, if not in writing, are legally binding on the bank and the borrower, even though the related loan agreement has not yet been signed.

(7) Overdraft protection on depositors' accounts offered under a program where the bank advises account holders of the available amount of overdraft protection, for example, when accounts are opened or on depositors' account statements or ATM receipts.

(8) The bank's own takedown in securities underwriting transactions.

(9) Revolving underwriting facilities (RUFs), note issuance facilities (NIFs), and other similar arrangements, which are facilities under which a borrower can issue on a revolving basis short-term paper in its own name, but for which the underwriting banks have a legally binding commitment either to purchase any notes the borrower is unable to sell by the rollover date or to advance funds to the borrower.

Exclude forward contracts and other commitments that meet the definition of a derivative and must be accounted for in accordance with FASB Accounting Standards Codifications Subtopic 815-10, Derivatives and Hedging—Overall (formerly referred to as Statement No. 133), which should be reported in Schedule RC-L, item 12. Include the amount (not the fair value) of the unused portions of loan commitments that do not meet the definition of a derivative that the bank has elected to report at fair value under a fair value option. Also include forward contracts that do not meet the definition of a derivative.

The unused portions of commitments are to be reported in the appropriate subitem regardless of whether they contain "material adverse change" clauses or other provisions that are intended to relieve the issuer of its funding obligations under certain conditions and regardless of whether they are unconditionally cancelable at any time.

In the case of commitments for syndicated loans, report only the bank's proportional share of the commitment.

For purposes of reporting the unused portions of revolving asset-based lending commitments, the commitment is defined as the amount a bank is obligated to fund—as of the report date—based on the contractually agreed upon terms. In the case of revolving asset-based lending, the unused portions of such commitments should be measured as the difference between (a) the lesser of the contractual borrowing base (*i.e.*, eligible collateral times the advance rate) or the note commitment limit, and (b) the sum of outstanding loans and letters of credit under the commitment. The note commitment limit is the overall maximum loan amount beyond which the bank will not advance funds

regardless of the amount of collateral posted. This definition of "commitment" is applicable only to revolving asset-based lending, which is a specialized form of secured lending in which a borrower uses current assets (*e.g.*, accounts receivable and inventory) as collateral for a loan. The loan is structured so that the amount of credit is limited by the value of the collateral.

#### B. Additional Categories of Unused Commitments and Loans

The extent to which banks are supplying credit during the current financial crisis has been of great interest to the Executive Branch, the Congress, and the banking agencies. Bank lending plays a central role in any economic recovery and the agencies need data to better determine when credit conditions have eased. One way to measure the supply of credit is to analyze the change in total lending commitments by banks, considering both the amount of loans outstanding and the volume of unused credit lines. These data are also needed for safety and soundness purposes because draws on commitments during periods when banks face significant funding pressures, such as during the fall of 2008, can place significant and unexpected demands on the liquidity and capital positions of banks.

Therefore, the agencies proposed breaking out in further detail two categories of unused commitments on Schedule RC-L, Derivatives and Off-Balance Sheet Items. The agencies also proposed to break out in further detail one new loan category on Schedule RC-C, part I, Loans and Leases. These new data items would improve the agencies' ability to obtain timely and accurate readings on the supply of credit available to households and businesses. These data would also be useful in determining the effectiveness of the government's economic stabilization programs.

Unused commitments associated with credit card lines are reported in Schedule RC-L, item 1.b. This data item is not sufficiently meaningful for monitoring the supply of credit because it mixes consumer credit card lines with credit card lines for businesses and other entities. As a result of this aggregation, it is not possible to fully monitor credit available specifically to households. Furthermore, bank supervisors would benefit from splitting credit card lines into two data items, because the usage patterns, profitability, and evolution of credit quality through the business cycle are likely to differ for consumer credit cards and business credit cards. Therefore, the agencies proposed to split Schedule RC-L, item 1.b, into unused consumer credit card lines and other unused credit card lines.

This breakout would be reported by institutions with either \$300 million or more in total assets or \$300 million or more in unused credit card commitments.

Schedule RC–L, item 1.e, aggregates all other unused commitments, and includes unused commitments to fund commercial and industrial (C&I) loans (other than credit card lines to commercial and industrial enterprises, which are reported in item 1.b, and commitments to fund commercial real estate, construction, and land development loans not secured by real estate, which are reported in item 1.c.(2)). Separating these C&I lending commitments from the other commitments included in other unused commitments would considerably improve the agencies' ability to analyze business credit conditions. A very large percentage of banks responding to the Board's Senior Loan Officer Opinion Survey on Bank Lending Practices (FR 2018; OMB No. 7100–0058) reported having tightened lending policies for C&I loans and credit lines during 2008; however, C&I loans on banks' balance sheets actually expanded through the end of October 2008, reportedly as a result of substantial draws on existing credit lines. In contrast, other unused commitments reported on the Call Report contracted, but without the proposed breakouts of such commitments, it was not possible to know how total business borrowing capacity had changed. The FR 2018 data are qualitative rather than quantitative and are collected only from a sample of institutions up to six times per year. Having the additional unused commitment data reported separately on the Call Report, along with the proposed changes to Schedule RC–C described below, would have indicated more clearly whether there was a widespread restriction in new credit available to businesses.

Therefore, the agencies proposed to split Schedule RC–L, item 1.e, into three categories: unused commitments to fund commercial and industrial loans (which would include only commitments not reported in Schedule RC–L, items 1.b and 1.c.(2), for loans that, when funded, would be reported in Schedule RC–C, item 4), unused commitments to fund loans to financial institutions (defined to include depository institutions and nondepository financial institutions, i.e., real estate investment trusts, mortgage companies, holding companies of other depository institutions, insurance companies, finance companies, mortgage finance companies, factors and other financial intermediaries, short-term business

credit institutions, personal finance companies, investment banks, the bank's own trust department, other domestic and foreign financial intermediaries, and Small Business Investment Companies), and all other unused commitments. With respect to Schedule RC–C, part I, the agencies also proposed to revise item 9, "Other loans," by breaking out a new category for loans to nondepository financial institutions (as defined above). Banks already report data on loans to depository institutions in Schedule RC–C, part I, item 2.

Lending by nondepository financial institutions was a key characteristic of the recent credit cycle and many such institutions failed; however, little information existed on the exposure of the banking system to these firms as this information was obscured by the current structure of the Call Report's loan schedule. The proposed addition of separate items for unused commitments to financial institutions and loans to nondepository financial institutions, together with the existing data on loans to depository institutions, will allow supervisors and other interested parties to monitor more closely the exposure of individual banks to financial institutions and assess the impact of changes in credit availability to this sector on the larger economy.

Two commenters addressed these proposed revisions to Schedules RC–L and RC–C. The bankers' organization indicated that the proposed revisions relating to additional categories of unused commitments were acceptable. One bank expressed support for the proposed reporting of unused commitments and loans to nondepository financial institutions, agreeing that this information would be useful to the agencies in their monitoring of lending activity. However, this bank also asserted that the instructions for categorizing loans in Schedule RC–C "are complex, require considerable effort, and introduce the potential for inconsistency across reporting institutions." The bank asked the agencies to consider simplifying the loan categorization requirements by "(1) Consolidating reporting categories, where feasible; (2) creating a decision tree matrix with prioritization for competing criteria; (3) recommending the use of more objective criteria (such as SIC classifications)." The agencies periodically review the reporting categories used in Schedule RC–C and have limited the level of detail required from smaller banks, but in recent years the agencies have found that additional loan categories are needed to better monitor the credit risk profiles of

individual institutions and the industry as a whole, to assess credit availability, and to conduct the agencies' other activities. When assigning loans to the loan categories in Schedule RC–C, the schedule already assigns priority to loans secured by real estate, regardless of borrower loan purpose. Loans that do not meet the definition of the term "loan secured by real estate" are then categorized by borrower or purpose. The agencies believe the remaining loan categories (e.g., loans to depository institutions; commercial and industrial loans; loans to individuals for household, family, and other personal expenditures; and loans to foreign governments and official institutions) are sufficiently distinct from one another. The instructions for Schedule RC–C provide detailed descriptions of the types of loans and borrowers that fall within the scope of each loan category.

#### C. Reverse Mortgage Data

Reverse mortgages are complex loan products that leverage equity in homes to provide lump sum cash payments or lines of credit to borrowers. These products typically are marketed to senior citizens who own homes with accumulated equity. Access to data regarding loan volumes, dollar amounts outstanding, and the institutions offering reverse mortgages or participating in reverse mortgage activity is severely limited. As a consequence, the agencies currently are unable to effectively identify and monitor institutions that offer these products.

The reverse mortgage market currently consists of two basic types of products: Proprietary products designed and originated by financial institutions and a federally-insured product known as a Home Equity Conversion Mortgage (HECM). Some reverse mortgages provide for a lump sum payment to the borrower at closing, with no ability for the borrower to receive additional funds under the mortgage at a later date. Other reverse mortgages are structured like home equity lines of credit in that they provide the borrower with additional funds after closing, either as fixed monthly payments, under a line of credit, or both. There are also reverse mortgages that provide a combination of a lump sum payment to the borrower at closing and additional payments to the borrower after the closing of the loan.

The volume of reverse mortgage activity is expected to increase dramatically in the coming years as the U.S. population ages. A number of consumer protection related risks and safety and soundness related risks are

associated with these products and the agencies need to collect information from banks to monitor and mitigate those risks. For example, proprietary reverse mortgages structured as lines of credit, which are not insured by the federal government, expose borrowers to the risk that the lender will be unwilling or unable to meet its obligation to make payments due to the borrower. Additionally, in an economic environment in which housing prices are declining, there is the risk that the reverse mortgage loan balance may exceed the value of the underlying collateral value of the home.

The agencies proposed that new items be added to the Call Report to collect reverse mortgage data on an annual basis beginning on December 31, 2010. Collecting this information will provide the agencies with the necessary information for policy development and the management of risk exposures posed by institutions' involvement with reverse mortgages. First, a new Memorandum item would be added to Schedule RC-C, part I, Loans and Leases, for "Reverse mortgages outstanding that are held for investment." In this Memorandum item, banks would report separately the amount of HECM reverse mortgages and the amount of proprietary reverse mortgages that are held for investment and included in Schedule RC-C, part I, item 1.c, Loans "Secured by 1-4 family residential properties." Additionally, new items would be added to Schedule RC-L, Derivatives and Off-Balance Sheet Items, to collect information on the amounts of "Unused commitments for HECM reverse mortgages outstanding that are held for investment" and "Unused commitments for proprietary reverse mortgages outstanding that held for investment." Because these reverse mortgages have been structured in whole or in part like home equity lines of credit, the unused commitments associated with these mortgages are also reportable in existing item 1.a, "Revolving, open-end lines secured by 1-4 family residential properties," of Schedule RC-L. The proposed new unused commitment items would be subsets of item 1.a.

In many instances, institutions do not underwrite and fund reverse mortgages, but instead refer borrowers to other reverse mortgage lenders. These referring institutions may receive fees for performing actual services for the reverse mortgage lender in connection with the reverse mortgages of the customers who have been referred to the reverse mortgage lender. This model enables consumers to deal first with their local institutions without the

institutions having to build an entirely new lending function. It also provides an economy of scale for a specialized lender by allowing it to build its business by partnering with existing institutions rather than establishing a large physical branch network. The banking agencies proposed to add a new Memorandum item to Schedule RC-C, part I, in which each bank making referrals to reverse mortgage lenders would annually report the estimated number of referrals made during the year for which the bank received a fee. Banks would report separately the estimated number of fee-paid referrals they made for HECM reverse mortgages and proprietary reverse mortgages beginning on December 31, 2010.

Finally, many banks that originate reverse mortgages routinely sell their funded mortgages in the secondary market. As a result, these loans will not remain on the originating banks' balance sheets for long periods of time and, therefore, the proposed items for reverse mortgages outstanding that are held for investment will not capture the extent of banks' reverse mortgage activity when it involves the origination and sale of these loans. Thus, the agencies proposed to add Memorandum items to Schedule RC-C, part I, in which banks would report the principal amount of reverse mortgages originated for sale that have been sold during the year. HECM and proprietary reverse mortgages sold would be reported separately. These items are distinct and separate from the items described above for the estimated number of referrals because the referring bank does not fund the loan, but instead refers the borrower to another lender that ultimately funds the reverse mortgage. The information on loans sold during the year also would be collected annually beginning on December 31, 2010.

The bankers' organization was the only respondent to comment on the proposed collection of reverse mortgage data. The organization stated that it generally has no concerns with the new reporting requirements, except for the items relating to the reporting of the estimated number of fee-paid referrals. The organization asked the agencies to reconsider this reporting requirement because it may require banks to report information that is inconsistent with the legal requirements of the Real Estate Settlement Procedures Act (RESPA). The agencies have reviewed the proposed reporting of data on reverse mortgage referrals and acknowledge that the description of this proposed reporting requirement could be viewed in such a manner. Under RESPA and its implementing regulations, a mortgage

lender may pay fees or compensation to another party, such as a bank that has referred a customer to the mortgage lender, only for services actually performed by that party. Accordingly, to avoid possible misinterpretation or misunderstanding, the agencies are revising their proposed annual data items for the reporting of the estimated number of fee-paid referrals during the year. As revised, banks would annually report the estimated number of reverse mortgage loan referrals to other lenders during the year from whom they have received any compensation for services performed in connection with the origination of the reverse mortgages. The revised referral data items would be implemented beginning December 31, 2010. The other proposed reverse mortgage data items would be implemented as proposed beginning on that same date.

#### D. Time Deposits of \$100,000 or More

On October 3, 2008, the Emergency Economic Stabilization Act of 2008 temporarily raised the standard maximum deposit insurance amount (SMDIA) from \$100,000 to \$250,000 per depositor. Under this legislation, the SMDIA was to return to \$100,000 after December 31, 2009. However, on May 20, 2009, the Helping Families Save Their Homes Act extended this temporary increase in the SMDIA to \$250,000 per depositor through December 31, 2013, after which the SMDIA is scheduled to return to \$100,000.

At present, banks report a two-way breakdown of their time deposits (in domestic offices) in Schedule RC-E, Deposit Liabilities, distinguishing between time deposits of less than \$100,000 and time deposits of \$100,000 or more. In response to the extension of the temporary increase in the limit on deposit insurance coverage, the agencies understand that time deposits with balances in excess of \$100,000, but less than or equal to \$250,000, have been growing and can be expected to increase further. However, given the existing Schedule RC-E reporting requirements, the agencies are unable to monitor growth in banks' time deposits with balances within the temporarily increased limit on deposit insurance coverage.

Therefore, the agencies proposed to replace Schedule RC-E, Memorandum item 2.c, "Total time deposits of \$100,000 or more," with a revised Memorandum item 2.c, "Total time deposits of \$100,000 through \$250,000," and a new Memorandum item 2.d, "Total time deposits of more than \$250,000." Existing Memorandum item

2.c.(1), "Individual Retirement Accounts (IRAs) and Keogh Plan accounts included in Memorandum item 2.c, 'Total time deposits of \$100,000 or more,' above," would be renumbered and recaptioned as Memorandum item 2.e, "Individual Retirement Accounts (IRAs) and Keogh Plan accounts of \$100,000 or more included in Memorandum items 2.c and 2.d above," but the scope of this Memorandum item would not change.

The only comment that the agencies received concerning this proposed change came from the bankers' organization, which recommended that the proposed three-way breakout of time deposits (i.e., below \$100,000, between \$100,000 and \$250,000, and above \$250,000) "be replaced with references to the deposit insurance limit in effect at the time of the report, without specified dollar amounts" in order to "remove what can be an impediment to a bank using the larger (but fully insured) deposits as a funding source." The bankers' organization further noted that deposits from a bank's "core" customers that have been increased up to the \$250,000 deposit insurance limit are likely to be as stable as deposits below \$100,000 because of the certainty of deposit insurance. As a consequence, the organization stated that the proposed collection of data on time deposits between \$100,000 and \$250,000 "suggests that there is greater volatility in deposits" in this size range and reinforces a perception "that an institution should not rely on" such deposits, which represent "stable and comparatively inexpensive funding."

Although time deposits of \$100,000 through \$250,000 currently fall within the limit of deposit insurance per depositor (for deposits maintained in the same right and capacity), the recent increase in deposit insurance coverage is temporary. Thus, the extent to which a bank's funding has been derived from time deposits between \$100,000 and \$250,000 and the bank's ability to retain or replace time deposits that will no longer be fully insured after the expiration date of the temporary increase in the SMDIA are key safety and soundness concerns for the agencies because there is no assurance that the temporary increase will be made permanent. Replacing the existing two-way breakout of time deposits between those of less than \$100,000 and those of \$100,000 or more with a two-way breakout based on the \$250,000 temporarily increased insurance limit, as recommended by the bankers' organization, would not enable the agencies to identify the amount of time deposits in the \$100,000 to \$250,000

range that are susceptible to the loss of deposit insurance coverage when the temporary increase is scheduled to expire. Therefore, the agencies will implement the change to the reporting of time deposits of \$100,000 or more in Schedule RC-E as proposed.

#### E. Revisions of Brokered Deposit Items

As mentioned in Section II.D. above, the SMDIA has been increased temporarily from \$100,000 to \$250,000 through year-end 2013. However, the data that banks currently report in the Call Report on fully insured brokered deposits in Schedule RC-E, Memorandum items 1.c.(1) and 1.c.(2), is based on the \$100,000 insurance limit (except for brokered retirement deposit accounts for which the deposit insurance limit was already \$250,000). Therefore, in response to the temporary increase in the SMDIA, the agencies proposed to revise the reporting of fully insured brokered deposits in Schedule RC-E. Furthermore, given the linkage between the deposit insurance limits and the Memorandum items on fully insured brokered deposits in Schedule RC-E, the scope of these items needs to be changed whenever deposit insurance limits change. To ensure that the scope of these Memorandum items, including the dollar amounts cited in the captions for these items, changes automatically as a function of the deposit insurance limit in effect on the report date, Memorandum item 1.c, "Fully insured brokered deposits," would include a footnote stating that the specific dollar amounts used as the basis for reporting fully insured brokered deposits in Memorandum items 1.c.(1) and 1.c.(2) reflect the deposit insurance limits in effect on the report date. The instructions for Memorandum item 1.c would be similarly clarified.<sup>1</sup>

In addition, consistent with the reporting of time deposits in other items of Schedule RC-E, brokered deposits would be reported based on their balances rather than the denominations in which they were issued.

Accordingly, Memorandum items 1.c.(1) and 1.c.(2) of Schedule RC-E on fully insured brokered deposits and their instructions would be revised as follows:

<sup>1</sup> The proposed linkage of the scope of the Memorandum items on fully insured brokered deposits in Schedule RC-E to the deposit insurance limits in effect on the report date is consistent with an existing linkage between the deposit insurance limits in effect on the report date and the Memorandum items in Schedule RC-O, Other Data for Deposit Insurance and FICO Assessments, on the amount and number of deposit accounts within the insurance limit and in excess of the insurance limit.

- Memorandum item 1.c.(1), "Brokered deposits of less than \$100,000": Report in this item brokered deposits with balances of less than \$100,000. Also report in this item time deposits issued to deposit brokers in the form of large (\$100,000 or more) certificates of deposit that have been participated out by the broker in shares with balances of less than \$100,000. For brokered deposits that represent retirement deposit accounts (as defined in Schedule RC-O, Memorandum item 1) eligible for \$250,000 in deposit insurance coverage, report such brokered deposits in this item only if their balances are less than \$100,000.

- Memorandum item 1.c.(2), "Brokered deposits of \$100,000 through \$250,000 and certain brokered retirement deposit accounts": Report in this item brokered deposits (including brokered retirement deposit accounts) with balances of \$100,000 through \$250,000. Also report in this item brokered deposits that represent retirement deposit accounts (as defined in Schedule RC-O, Memorandum item 1) eligible for \$250,000 in deposit insurance coverage that have been issued by the bank in denominations of more than \$250,000 that have been participated out by the broker in shares of \$100,000 through exactly \$250,000.

The proposed revisions to Schedule RC-E, Memorandum items 1.c.(1) and 1.c.(2), that relate to the temporary increase in the SMDIA would remain in effect during this increase, after which the dollar amounts used as the basis for reporting fully insured brokered deposits in these items would revert to the amounts in effect prior to the temporary increase.

Comments addressing the proposed changes to the existing Schedule RC-E Memorandum items on brokered deposits were submitted by one bank and the bankers' organization. The bank expressed concern about the ability of institutions to report at the level of detail required by the proposed revised items for fully insured brokered deposits. As the basis for this comment, the bank cited language contained in the existing instructions for Schedule RC-E, Memorandum item 1.c, which states that "under current deposit insurance rules the deposit broker is not required to provide information routinely on these purchasers [of brokered deposits] and their account ownership capacity to the bank issuing the deposits." As a consequence, the existing instructions include a rebuttable presumption that, if such information on purchasers and their account ownership capacity is not readily available to the issuing bank, "retail brokered deposits" and certain

brokered transaction accounts or money market deposit accounts are fully insured brokered deposits and should be reported as brokered deposits of less than \$100,000.

The agencies are not aware of instances where this rebuttable presumption has impeded banks' ability to report their fully insured brokered deposits based on the \$100,000 insurance limit. This rebuttable presumption would be retained along with the instructions stating that brokered deposits covered by this presumption should be reported as brokered deposits of less than \$100,000.<sup>2</sup> Therefore, the agencies believe that these instructions will continue to facilitate banks' ability to report their fully insured brokered deposits based on the temporary increase in the insurance limit of \$250,000 in Memorandum items 1.c.(1) and (2) of Schedule RC-E as they have been proposed to be revised.

As with the proposed revision to the reporting of time deposits of more than \$100,000 discussed in Section II.D. above, the bankers' organization recommended that fully insured brokered deposits be reported solely based on the deposit insurance limit in effect on the report date rather than by distinguishing between those fully insured brokered deposits of less than \$100,000 and those of \$100,000 through \$250,000. For the reasons cited in Section II.D. above, the agencies believe it is appropriate to distinguish between fully insured brokered deposits in these two size ranges as had been proposed.

Finally, the bankers' organization separately indicated in its comment letter that it regarded as acceptable the proposed reporting of brokered deposits based on their balances rather than on the denominations in which they were issued.

Therefore, after considering the comments from the bank and the bankers' organization about the revisions to the reporting of brokered deposits, the agencies have decided to proceed with the revisions as proposed.

#### F. Interest Expense on and Quarterly Averages for Brokered Deposits

Under Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f), an insured depository institution that is less than well capitalized generally may not pay a rate of interest that significantly exceeds the prevailing rate in the institution's "normal market

area" and/or the prevailing rate in the "market area" from which the deposit is accepted. In the case of an adequately capitalized institution with a waiver to accept brokered deposits, the institution may not pay a rate of interest on brokered deposits accepted from outside the bank's "normal market area" that significantly exceeds the "national rate" as defined by the FDIC. On May 29, 2009, the FDIC's Board of Directors adopted a final rule making certain revisions to the interest rate restrictions under Section 337.6 of the FDIC's regulations. Under the final rule, the "national rate" is a simple average of rates paid by U.S. depository institutions as calculated by the FDIC.<sup>3</sup> When evaluating compliance with the interest rate restrictions in Section 337.6 by an institution that is less than well capitalized, the FDIC generally will deem the national rate to be the prevailing rate in all market areas. The final rule is effective January 1, 2010.

At present, the agencies are unable to evaluate the level and trend of the cost of brokered time deposits to institutions that have acquired such funds, nor can the agencies compare the cost of such deposits across institutions with brokered time deposits. Access to data on the cost of brokered deposits would also assist the agencies in evaluating the overall cost of institutions' time deposits, for which data have long been collected in the Call Report.

Furthermore, many of the banks that have failed since the beginning of 2008 have relied extensively on brokered deposits to support their asset growth. Therefore, to enhance the agencies' ability to evaluate funding costs and the impact of brokered time deposits on these costs, the agencies proposed to add two Memorandum items to both Schedule RC-K, Quarterly Averages, and Schedule RI, Income Statement. In these Memorandum items, banks would report the interest expense and quarterly averages for "fully insured brokered time deposits" and "other brokered time deposits." The definition of "fully insured brokered time deposits" would be based on the definitions of "fully insured brokered deposits" and "time deposits" in Schedule RC-E, Deposit Liabilities. "Other brokered time deposits" would consist of all brokered time deposits that are not "fully insured brokered deposits."

Three banks, the law firm, and the bankers' organization commented upon the proposed reporting of the interest

expense and quarterly averages for brokered time deposits with only the bankers' organization stating that the proposal would be acceptable. One bank that opposed the proposal questioned how the reporting of additional detail on interest expense would make it "a safer institution." Another bank, which had also commented upon the proposed revisions to the reporting of brokered deposits discussed in Section II.E. above, again expressed concern about the ability of banks to distinguish between fully insured and other brokered time deposits in order to track interest expense and quarterly averages because deposit brokers are not required to provide information routinely on the purchasers of brokered deposits and their account ownership capacity to the issuing bank. The third bank observed that information on the cost of brokered time deposits, which would be derived from the interest expense and quarterly average, "means little unless you know both the term of the CD [certificate of deposit] and the origination date." This bank expressed concern that if the agencies monitor the cost of brokered time deposits alone, it would "encourage banks to shorten terms on brokered CDs to lower their rates," thereby increasing both liquidity risk and interest rate risk. The bank suggested that bank examinations may be the best way to monitor the risks of brokered time deposits.

Finally, the law firm stated that it did not believe the proposed reporting of interest expense and quarterly averages for brokered time deposits would "provide meaningful data to the Agencies unless additional changes are made to the Call Report." The law firm noted that the Call Report "does not require reporting of deposits obtained in the national deposit market" other than brokered deposits and identified "deposits obtained via the internet or through deposit 'listing services'" as two examples of "alternative means for banks to access the national deposit market without using a deposit broker." As a result, "data on the interest expenses related to brokered time deposits will be misleading if additional factors are not taken into account." The law firm recommended that the agencies "reconsider the information that they require concerning the national deposit market and the cost of deposit funding to banks."

After considering these comments, the agencies continue to believe that meaningful information about the cost of brokered time deposits would assist the agencies in carrying out their supervisory and regulatory responsibilities. However, rather than

<sup>2</sup> See the "Draft Instructions for the Proposed New and Revised Call Report Items for 2010" on the Web pages for the FFIEC 031 and 041 Call Reports, which can be accessed at [http://www.ffiec.gov/ffiec\\_report\\_forms.htm](http://www.ffiec.gov/ffiec_report_forms.htm).

<sup>3</sup> The FDIC publishes a weekly schedule of national rates and national interest-rate caps by maturity, which can be accessed at <http://www.fdic.gov/regulations/resources/rates/>.

focusing solely on brokered time deposits, the agencies agree that it would be beneficial to reevaluate their information needs with respect to deposit funding, including the various sources of such funding and their related costs, particularly in relation to the national deposit market. Therefore, the agencies will not implement the proposed collection of data on the interest expense and quarterly averages for fully insured brokered time deposits and other brokered time deposits in 2010. Instead, as suggested above, the agencies will reconsider how best to meet their need for relevant data on deposit funding and related costs and they will then develop a new set of proposed Call Report revisions that would be issued for public comment in accordance with the requirements of the Paperwork Reduction Act of 1995 and would be implemented no earlier than in 2011.

#### G. Change in Reporting Frequency for Loans to Small Businesses and Small Farms

Section 122 of the Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA) requires the banking agencies to collect from insured institutions annually the information the agencies “may need to assess the availability of credit to small businesses and small farms.” To implement these requirements, the banking agencies added Schedule RC–C, Part II—Loans to Small Businesses and Small Farms to the Call Report effective June 30, 1993. This schedule requests information on the number and amount currently outstanding of “loans to small businesses” and “loans to small farms,” as defined in the Call Report instructions, which all banks must report annually as of June 30.

The United States is now emerging from a recession, although unemployment has continued to rise. In this regard, the current administration stated earlier this year that it “firmly believes that economic recovery will be driven in large part by America’s small businesses,” but “small business owners are finding it harder to get the credit necessary to stay in business.”<sup>4</sup> Because “[c]redit is essential to economic recovery,” Treasury Secretary Geithner announced on March 16, 2009, that “we need our nation’s banks to go the extra mile in keeping credit lines in place on reasonable terms for viable businesses.”<sup>5</sup> Accordingly, Secretary

Geithner asked the banking agencies “to call for quarterly, as opposed to annual reporting of small business loans, so that we can carefully monitor the degree that credit is flowing to our nation’s entrepreneurs and small business owners.”<sup>6</sup>

In response to Secretary Geithner’s request and to improve the agencies’ own ability to assess the availability of credit to small businesses and small farms, the agencies proposed to change the frequency with which banks must submit Call Report Schedule RC–C, Part II, from annually to quarterly beginning March 31, 2010. The agencies did not propose to make any revisions to the information that banks are required to report on this schedule.

Three banks and the bankers’ organization submitted comments objecting to the proposed change in the frequency of reporting small business and small farm loan data in the Call Report. One bank cited the amount of time it takes to obtain these data for the June Call Report and questioned their usefulness. The bank also questioned how the reporting of these data, even on an annual basis, makes it “a safer institution.” A second bank stated that the change in reporting frequency “will be quite burdensome at some banks,” noting that “this information is easy to gather for some banks and very difficult to gather for other banks” because their data “processors do not readily report this information.” The bank recommended a more streamlined data request in order to limit the burden on small banks. The third bank stated that the agencies “have not demonstrated that this additional reporting burden would provide any useful information.” The bank asserted that because banks gather the small business and small farm data solely to report it to the agencies and do not use the information for any other purpose, the proposed change in reporting frequency “would only increase our regulatory burden.” The bank also observed that the small business and small farm loan schedule in the Call Report “does not collect information on the size of the business only the size of the loan.” The bankers’ organization also expressed concern with the burden related to the proposed change in reporting frequency. To better balance the provision of more frequent information and reporting burden, it recommended that banks with \$1 billion or more in total assets report semiannually and banks with less than \$1 billion in total assets continue to report annually.

When developing the small business and small farm loan reporting requirement in 1992, which was mandated by Section 122 of FDICIA, the FFIEC originally proposed to have institutions use the annual sales of their business and farm borrowers as the way to distinguish loans to small businesses and small farms from other business and farm loans. However, because commenters on the proposal indicated that such sales data are usually not contained in loan systems, the FFIEC considered other reporting alternatives that would be based on data already maintained in loan systems. Certain commenters on the FFIEC’s 1992 proposal suggested reporting “by loan size since loan sizes are available in loan systems, thereby minimizing reporting burden, and loan size would tend to be indicative of borrower size.”<sup>7</sup> The FFIEC concluded that this suggestion had merit after noting that data reported in the 1989 National Survey of Small Business Finances showed a strong correlation between size of business and loan size.

Furthermore, the agencies note that Call Report small business and small farm lending data are an invaluable resource for understanding credit conditions facing small businesses. Quarterly rather than annual collection of these data would improve the agencies’ and federal policymakers’ ability to monitor credit conditions facing small businesses and small farms and would significantly contribute to their development of policies intended to address any problems that arise in credit markets. In recent months, the Department of the Treasury, the Small Business Administration, and the Department of Agriculture have identified a particular need for these data as they have worked to develop policies to ensure that more small businesses and small farms have access to credit. In addition, the Board would find more frequent collection of these data very valuable for monetary policymaking purposes.

The bankers’ organization has suggested that the burden associated with quarterly reporting of small business and small farm loans could be minimized by exempting banks with less than \$1 billion in total assets from this reporting requirement. However, given the key role played by small banks in lending to small businesses and small farms, such an exemption would significantly reduce the value of the data to policymakers. For example, the small business and small farm loan data reported in the Call Report as of June 30,

<sup>4</sup> <http://www.financialstability.gov/roadtostability/smallbusinesscommunity.html>.

<sup>5</sup> <http://www.financialstability.gov/latest/tg58-remarks.html>.

<sup>6</sup> *Ibid.*

<sup>7</sup> 57 FR 54237, November 17, 1992.

2009, reveal that commercial banks with less than \$1 billion in total assets held 34 percent of all small business loans and more than 75 percent of all small farm loans.

The fact that small business and small farm lending data are currently collected only once per year is especially problematic when stabilization policies are being contemplated or implemented. First, determining whether stabilization policies are needed requires an accurate diagnosis of the current situation in the financial system. An accurate diagnosis depends crucially on the availability of timely data. Second, successful stabilization policies need to be accurately targeted. Again, timely data is required to identify which parts of the financial system are in need of stabilization. While these needs are particularly acute during periods of economic contraction, the same need for timely and targeted information to inform policy making exists throughout the credit cycle.

The bank-level Call Report data provide information that cannot be obtained from other indicators of small business credit conditions. The agencies' other indicators of small business credit conditions—including the Board's Senior Loan Officer Opinion Survey and its Flow of Funds Accounts—do not provide the same level of detail that is available from bank Call Reports, and therefore cannot be used to answer many questions that naturally arise during the policy development process. For example, during a period of credit contraction, these other sources cannot be used to identify which types of banks are contracting loans. This is a significant constraint for agencies, as having detailed information about the characteristics of affected banks is crucial to designing well-targeted and effective policy responses. Moreover, there is evidence that small business lending by small banks does not correlate with lending by larger banks.

Monetary policymaking also would benefit from more timely information on small business credit conditions and flows. To determine how best to adjust the federal funds rates over time, the Board must continuously assess the prospects for real activity and inflation in coming quarters. Credit conditions have an important bearing on the evolution of those prospects over time, and so the Board pays close attention to data from Call Reports and other sources. In trying to understand the implications of aggregate credit data for the macroeconomic outlook, it is helpful to be able to distinguish between

conditions facing small firms and those affecting other businesses for several reasons. First, small businesses comprise a substantial portion of the nonfinancial business sector and their hiring and investment decisions have an important influence on overall real activity.<sup>8</sup> Second, because small businesses tend to depend more heavily on banks and other institutions for external financing, they are more likely to experience material swings in their ability to obtain credit relative to larger firms. Third, the relative opacity of small businesses and their consequent need to provide collateral for loans is thought to create a "credit" channel for monetary policy to influence real activity. Specifically, changes in monetary policy may alter the value of assets used as collateral for loans, thereby affecting the ability of small businesses to obtain credit, abstracting from the effects of any changes in loan rates.

Finally, the credit conditions facing small businesses and small farms differ substantially from those facing large businesses, making it necessary to collect indicators that are specific to these borrowers. Large businesses may access credit from a number of different channels, including the corporate bond market and the commercial paper market. In contrast, small businesses and small farms rely almost exclusively on credit provided through the bank lending channel. The dependence of small businesses and small farms on bank lending—particularly from smaller banks—magnifies the importance of Call Report data, which provide the most comprehensive data on bank lending, and emphasizes the importance of collecting quarterly data from banks of all sizes.

Therefore, although the agencies have considered the comments received and they recognize that changing the reporting frequency of the existing small business and small farm loan reporting requirement from annually to quarterly will increase reporting burden for all institutions, the FFIEC and the agencies believe that collecting these data more frequently will serve an important public purpose to assist in the economic recovery and, therefore, have decided to proceed with the proposed change from annual to quarterly reporting for Call Report Schedule RC-C, part II, effective March 31, 2010.

<sup>8</sup> Based on statistics tabulated early in the decade, roughly one quarter of all nonfinancial business assets were outside the corporate sector, and such firms tend to be partnerships and proprietorships, which tend to be small businesses.

#### H. Assets Covered by FDIC Loss-Sharing Agreements

The bankers' organization requested that the agencies revise the Call Report to collect information on loss-sharing agreements with the FDIC even though this had not been proposed by the agencies. The organization noted that there is currently no guidance on how a bank that acquires a failed bank should report any loss-sharing agreement in the Call Report. It also stated that the Call Report does not provide users with a "readily accessible summary of the bank's net exposures on assets that are subject to loss-share agreements. The organization observed that "[t]his will become an increasingly important long-term and more common reporting issue as additional failed banks are acquired from the FDIC under a loss-share agreement."

Under loss sharing, the FDIC agrees to absorb a portion of the loss on a specified pool of a failed institution's assets in order to maximize asset recoveries and minimize the FDIC's losses. In general, the FDIC will reimburse 80 percent of losses incurred by an acquiring institution on covered assets over a specified period of time up to a stated threshold amount, with the acquirer absorbing 20 percent. Any losses above the stated threshold amount will be reimbursed by the FDIC at 95 percent of the losses booked by the acquirer. Over the past year, the FDIC has entered into loss-sharing agreements with acquiring institutions in connection with approximately 80 failed bank and thrift acquisitions. Some acquiring institutions have been involved in multiple failed institution acquisitions. The continued use of loss-sharing agreements is expected in connection with the resolution of failures of insured institutions by the FDIC. Assets covered by loss-sharing agreements include, but are not limited to, loans, other real estate, and debt securities.

As the bankers' organization indicated, the Call Report does not include a "readily accessible summary" of assets that reporting banks have acquired from failed institutions that are covered by FDIC loss-sharing agreements. Any covered loans and leases that are past due 30 days or more or are in nonaccrual status are reportable in items 10 and 10.a of Schedule RC-N, Past Due and Nonaccrual Loans, Leases, and Other Assets, as loans and leases that are wholly or partially guaranteed by the U.S. Government. However, these items would also include loans and leases guaranteed by other U.S. Government

agencies (such as the Small Business Administration and the Federal Housing Administration) that are past due 30 days or more or are in nonaccrual status and they would exclude loans and leases covered by FDIC loss-sharing agreements that do not meet these past due or nonaccrual reporting conditions as of the report date. Thus, the amount of covered loans and leases is not readily identifiable from the Call Report and the amount of other covered assets cannot be determined at all from the Call Report.

The agencies agree with the bankers' organization that the reporting of summary data on covered assets would be beneficial to Call Report users and to the banks holding covered assets. Therefore, the agencies will add such a summary to Call Report Schedule RC-M, Memoranda, effective March 31, 2010. In this summary, banks that have entered into loss-sharing agreements with the FDIC would separately report the carrying amounts of (1) Loans and leases, (2) other real estate owned, (3) debt securities, and (4) other assets covered by such agreements. The agencies will also consider whether the collection of additional information concerning covered assets would be warranted and, if so, it would be incorporated into a formal proposal that the agencies would publish with a request for comment in accordance with the requirements of the Paperwork Reduction Act of 1995.

### *III. Effect of New Accounting Standards on Schedule RC-S, Servicing, Securitization, and Asset Sale Activities*

On June 12, 2009, the Financial Accounting Standards Board (FASB) issued Statements of Financial Accounting Standards Nos. 166 and 167, which revise the existing standards governing the accounting for financial asset transfers and the consolidation of variable interest entities.<sup>9</sup> Statement No. 166 eliminates the concept of a "qualifying special-purpose entity," changes the requirements for derecognizing financial assets, and requires additional disclosures. Statement No. 167 changes how a company determines when an entity that is insufficiently capitalized or is not

controlled through voting (or similar rights) should be consolidated. This consolidation determination is based on, among other things, an entity's purpose and design and a company's ability to direct the activities of the entity that most significantly impact the entity's economic performance.<sup>10</sup> In general, the revised standards take effect January 1, 2010. The standards are expected to cause a substantial volume of assets in bank-sponsored entities associated with securitization and structured finance activities to be brought onto bank balance sheets.

The agencies currently collect data on banks' securitization and structured finance activities in Schedule RC-S, Servicing, Securitization, and Asset Sale Activities. The agencies will continue to collect Schedule RC-S after the effective date of Statements Nos. 166 and 167 and banks should continue to complete this schedule in accordance with its existing instructions, taking into account the changes in accounting brought about by these two FASB statements. In this regard, items 1 through 8 of Schedule RC-S involve the reporting of information for securitizations that the reporting bank has accounted for as sales. Therefore, after the effective date of Statements Nos. 166 and 167, a bank should report information in items 1 through 8 only for those securitizations for which the transferred assets qualify for sale accounting or are otherwise not carried as assets on the bank's consolidated balance sheet. Thus, if a securitization transaction that qualified for sale accounting prior to the effective date of Statements Nos. 166 and 167 must be brought back onto the reporting bank's consolidated balance sheet upon adoption of these statements, the bank would no longer report information about the securitization in items 1 through 8 of Schedule RC-S.

Items 11 and 12 of Schedule RC-S are applicable to assets that the reporting bank has sold with recourse or other seller-provided credit enhancements, but has not securitized. In Memorandum item 1 of Schedule RC-S, a bank reports certain transfers of small business obligations with recourse that qualify for sale accounting. The scope of these items will continue to be limited to such sold financial assets after the effective date of Statements Nos. 166 and 167. In Memorandum item 2 of Schedule RC-S, a bank currently reports the outstanding principal balance of loans and other financial assets that it

services for others when the servicing has been purchased or when the assets have been originated or purchased and subsequently sold with servicing retained. Thus, after the effective date of Statements Nos. 166 and 167, a bank should continue to report retained servicing for those assets or portions of assets reported as sold as well as purchased servicing in Memorandum item 2. Finally, Memorandum item 3 of Schedule RC-S collects data on asset-backed commercial paper conduits regardless of whether the reporting bank must consolidate the conduit in accordance with FASB Interpretation No. 46(R). This will continue to be the case after the effective date of Statement No. 167, which amended this FASB interpretation.

The agencies plan to evaluate the disclosure requirements in Statements Nos. 166 and 167 and the disclosure practices that develop in response to these requirements. This evaluation will assist the agencies in determining the need for revisions to Schedule RC-S that will improve their ability to assess the nature and scope of banks' involvement with securitization and structured finance activities, including those accounted for as sales and those accounted for as secured borrowings. Such revisions, which would not be implemented before March 2011, would be incorporated into a formal proposal that the agencies would publish with a request for comment in accordance with the requirements of the Paperwork Reduction Act of 1995.

The bankers' organization addressed the reporting of information associated with securitization and structured finance activities, recommending that information be required in Schedule RC-S for assets that must be consolidated under Statements Nos. 166 and 167 that are held as securities by third parties as well as any applicable loan loss allowances and related deferred tax assets. The agencies will consider these recommendations as they evaluate their data needs with respect to on-balance sheet securitizations and structured finance transactions. Any resulting potential new reporting requirements would be incorporated into the formal proposal mentioned above.

### *IV. Request for Comment*

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

(a) Whether the proposed revisions to the Call Report collections of information are necessary for the proper performance of the agencies' functions,

<sup>9</sup> Statement of Financial Accounting Standards No. 166, *Accounting for Transfers of Financial Assets*, amends Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*. Statement of Financial Accounting Standards No. 167, *Amendments to FASB Interpretation No. 46(R)*, amends FASB Interpretation No. 46(R), *Consolidation of Variable Interest Entities*. In general, under the FASB Accounting Standards Codification™, see Topics 860, Transfers and Servicing, and 810, Consolidation.

<sup>10</sup> FASB News Release, June 12, 2009, [http://www.fasb.org/cs/ContentServer?c=FASBContent\\_C&pagename=FASB/FASBContent\\_C/NewsPage&cid=1176156240834&pf=true](http://www.fasb.org/cs/ContentServer?c=FASBContent_C&pagename=FASB/FASBContent_C/NewsPage&cid=1176156240834&pf=true).

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 and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record.

Dated: December 16, 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, December 17, 2009.

**Jennifer J. Johnson,**

*Secretary of the Board.*

Dated at Washington, DC, this 16th day of December, 2009.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E9-30489 Filed 12-22-09; 8:45 am]

**BILLING CODE 4810-33-P; 6210-01-P; 6714-01-P**

## DEPARTMENT OF THE TREASURY

### Alcohol and Tobacco Tax and Trade Bureau

#### Proposed Information Collections; Comment Request

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, we invite comments on the proposed or continuing information collections listed below in this notice.

**DATES:** We must receive your written comments on or before February 22, 2010.

**ADDRESSES:** You may send comments to Mary A. Wood, Alcohol and Tobacco

Tax and Trade Bureau, at any of these addresses:

- P.O. Box 14412, Washington, DC 20044-4412;
- 202-453-2686 (facsimile); or
- [formcomments@ttb.gov](mailto:formcomments@ttb.gov) (e-mail).

Please send separate comments for each specific information collection listed below. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment. If you submit your comment via facsimile, send no more than five 8.5 x 11 inch pages in order to ensure electronic access to our equipment.

**FOR FURTHER INFORMATION CONTACT:** To obtain additional information, copies of the information collection and its instructions, or copies of any comments received, contact Mary A. Wood, Alcohol and Tobacco Tax and Trade Bureau, P.O. Box 14412, Washington, DC 20044-4412; or telephone 202-453-2265.

#### SUPPLEMENTARY INFORMATION:

##### Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please not do include any confidential or inappropriate material in your comments.

*We invite comments on:* (a) Whether this information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

#### Information Collections Open for Comment

Currently, we are seeking comments on the following forms and recordkeeping requirements:

*Title:* Usual and Customary Business Records Relating to Tax-Free Alcohol.  
*OMB Control Number:* 1513-0059.

*TTB Recordkeeping Number:* 5150/3.

*Abstract:* Tax-free alcohol is used for nonbeverage purposes by educational organizations, hospitals, laboratories, etc. The use of alcohol free of tax is regulated to prevent illegal diversion to taxable beverage use. These records maintain spirits accountability and protect tax revenue and public safety. The record retention requirement for this information collection is 3 years.

*Current Actions:* We are submitting this information collection for extension purposes only. The estimated number of respondents has changed; however, no material change is being made to the information collection.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Not-for-profit institutions; Federal Government; and State, local, or tribal governments.

*Estimated Number of Respondents:* 4,751.

*Estimated Total Annual Burden Hours:* 1.

*Title:* Letterhead Applications and Notices Relating to Denatured Spirits.

*OMB Control Number:* 1513-0061.

*TTB Recordkeeping Number:* 5150/2.

*Abstract:* Denatured spirits are used for nonbeverage industrial purposes in the manufacture of personal and household products. Permits and applications control the spirits' authorized uses and flow, and protect tax revenue and public safety. Letterhead application and notice requirements are used by TTB officials to ensure that lawful and appropriate actions are taken with regard to denatured spirits. The record retention requirement for this information collection is 3 years.

*Current Actions:* We are submitting this information collection for extension purposes only. The estimated number of respondents and estimated total annual burden hours has changed; however, no material change is being made to the information collection.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit; Not-for-profit institutions; and State, local, or tribal governments.

*Estimated Number of Respondents:* 3,778.

*Estimated Total Annual Burden Hours:* 1,889.