

activities; (iii) facilitating international action to address these abuses; and (iv) conducting comprehensive outreach to the charitable sector to raise awareness of terrorist exploitation and the steps charities can take to protect themselves from such abuse.

U.S. designations of charities and charitable officials demonstrate the breadth of the problem of terrorist infiltration and exploitation of the charitable sector. To date, the United States has designated forty-three charities worldwide and twenty-nine associated individuals for their support of terrorist organizations and operations. These seventy-two charities and individuals comprise over fifteen percent of all U.S.-designated terrorist supporters or financiers, indicating the primary importance of charities as a critical means of support for terrorist organizations and activities. Treasury maintains a summary of all designated charities, including unclassified background information summarizing the basis of each designation, to assist the donor and charitable communities in identifying those charities associated with terrorist financing and support. Further information and press releases relating to these designations are available on the Treasury Web site at [http://www.treas.gov/offices/enforcement/key-issues/protecting/charities\\_exec-orders.shtml](http://www.treas.gov/offices/enforcement/key-issues/protecting/charities_exec-orders.shtml).

In addition to these ongoing efforts by Treasury and the U.S. Government, other countries and organizations from around the world have recognized and helped curb abuse of the charitable sector by terrorist organizations. The Financial Action Task Force (FATF)—the premier inter-governmental organization responsible for developing and promoting global policies to combat money laundering and terrorist financing—has studied the problem of terrorist financing and abuse across the charitable sector globally and has published typologies of such abuse. The FATF has also published Best Practices for Non-Profit Organizations and more recently issued interpretive guidance strengthening the international standard for combating terrorist abuse of non-profit organizations. Additionally, FATF style regional bodies (FSRBs) such as the Asia Pacific Group (APG), Eurasian Group (EAG) and the Middle East and North Africa Financial Action Task Force (MENA FATF) are developing typologies and studies on the active threat of terrorist financing and support through charities that operate within their regions.<sup>16</sup> These organizations and

their member countries are implementing measures to actively combat this threat through the development and application of supervisory, investigative, and financial authorities to identify and dismantle charities engaged in terrorist financing or support. Many of these documents, which underscore the threat that terrorist organizations and operations pose to the charitable sector, are available on the Treasury Web site at <http://www.treas.gov/offices/enforcement/key-issues/protecting/index.shtml>.

Treasury continually engages in outreach and updates its Web site to communicate useful information regarding: (i) The ongoing risks of terrorist abuse in the charitable sector; (ii) ongoing U.S. and other governmental efforts to mitigate these risks and combat terrorist abuse, and (iii) steps the sector can take to protect against such abuse. Treasury's Guidelines represent one essential component and product of the ongoing outreach that Treasury is conducting with the charitable sector to empower and protect the sector from terrorist abuse. Another example of available resources is Treasury's December 2005 advisory paper, which provides information to charities delivering relief in areas affected by the 2005 South Asia earthquake by detailing typologies of terrorist abuse of charities and reports on activity by militant and terrorist groups in those areas. This paper also shows, through media reports, the extent to which terrorist organizations pose a risk to charities trying to deliver aid in unstable areas, where terrorist organizations themselves and/or their charitable fronts are often engaged in delivering relief as an effective recruitment mechanism in building broader support for their organizations.

Treasury will continue its outreach and informational efforts as part of its larger mission to combat terrorist financing and safeguard the charitable sector from terrorist abuse.

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**BILLING CODE 4811-37-P**

terrorist abuse of charities. MENA FATF Member States have issued a best practices paper, based on the FATF's international standard for combating terrorist abuse of the non-profit sector, tailored to the specific religious, social, and economic values of the region. The comprehensive framework, crafted by the MENA FATF, outlines legislative, regulatory, and procedural measures to ensure that the charitable sector is not misused or abused by terrorist financiers. The MENA FATF charities best practices paper is an indispensable tool for the Middle East and North Africa region in helping to protect against terrorist abuse of charities by offering guidance to promote transparency and accountability in the charitable sector.

**DEPARTMENT OF THE TREASURY**

**Office of the Comptroller of the Currency**

**FEDERAL RESERVE SYSTEM**

**FEDERAL DEPOSIT INSURANCE CORPORATION**

**DEPARTMENT OF THE TREASURY**

**Office of Thrift Supervision**

**Proposed Agency Information Collection Activities; Comment Request**

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

**ACTION:** Joint notice and request for comment.

**SUMMARY:** In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (the "agencies") may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment a proposal to extend, with revision, the Consolidated Reports of Condition and Income (Call Report) for banks and the Thrift Financial Report (TFR) for savings associations, which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC and the agencies should modify the proposed revisions prior to giving final approval. The agencies will then submit the revisions to OMB for review and approval.

**DATES:** Comments must be submitted on or before January 2, 2007.

**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:** Communications Division, Office of the Comptroller of the Currency, Public Information Room,

<sup>16</sup> The efforts of the MENA FATF are particularly exemplary of international efforts to combat

Mailstop 1-5, Attention: 1557-0081, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874-4448, or by electronic mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

**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 docket number in the subject line of the message.

- **Fax:** 202-452-3819 or 202-452-3102.

- **Mail:** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper 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:

- <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- **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:** Steven F. Hanft (202-898-3907), Clearance Officer, Attn: Comments, Room MB-2088, 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/notices.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.

**OTS:** You may submit comments, identified by "1550-0023 (TFR: Schedule DI Revisions)," by any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the instructions for submitting comments.

- **E-mail address:** [infocollection.comments@ots.treas.gov](mailto:infocollection.comments@ots.treas.gov). Please include "1550-0023 (TFR: Schedule DI Revisions)" in the subject line of the message and include your name and telephone number in the message.

- **Fax:** (202) 906-6518.

- **Mail:** Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: "1550-0023 (TFR: Schedule DI Revisions)."

- **Hand Delivery/Courier:** Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Information Collection Comments, Chief Counsel's Office, Attention: "1550-0023 (TFR: Schedule DI Revisions)."

**Instructions:** All submissions received must include the agency name and OMB Control Number for this information collection. All comments received will be posted without change to the OTS Internet Site at <http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>, including any personal information provided.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.ots.treas.gov/pagehtml.cfm?catNumber=67&an=1>. In addition, you may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment for access, call (202) 906-5922, send an e-mail to [public.info@ots.treas.gov](mailto:public.info@ots.treas.gov), or send a facsimile transmission to (202) 906-7755. (Prior notice identifying the materials you will be requesting will assist us in serving you.) We schedule appointments on business days between 10 a.m. and 4 p.m. In most cases, appointments will be available the next business day following the date we receive a request.

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)). Copies of the TFR can be obtained from the OTS's Web site (<http://www.ots.treas.gov/main.cfm?catNumber=2&catParent=0>).

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

**Board:** Michelle E. Long, 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:** Steven F. Hanft, Paperwork Clearance Officer, (202) 898-3907, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

**OTS:** Marilyn K. Burton, OTS Clearance Officer, at [marilyn.burton@ots.treas.gov](mailto:marilyn.burton@ots.treas.gov), (202) 906-6467, or facsimile number (202) 906-6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC. 20552.

**SUPPLEMENTARY INFORMATION:** The agencies are proposing to revise and extend for three years the Call Report and the TFR, which are currently approved collections of information.

1. **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:** 1,900 national banks. **Estimated Time per Response:** 44.31 burden hours. **Estimated Total Annual Burden:** 336,756 burden hours.

**Board: OMB Number:** 7100-0036. **Estimated Number of Respondents:** 919 state member banks. **Estimated Time per**

*Response:* 51.27 burden hours.  
*Estimated Total Annual Burden:*  
 188,469 burden hours.

*FDIC: OMB Number:* 3064–0052.  
*Estimated Number of Respondents:*  
 5,247 insured state nonmember banks.  
*Estimated Time per Response:* 35.52  
 burden hours. *Estimated Total Annual  
 Burden:* 745,494 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 630 hours per quarter, depending on an individual institution's circumstances.

2. *Report Title:* Thrift Financial Report (TFR). *Form Number:* OTS 1313 (for savings associations). *Frequency of Response:* Quarterly. *Affected Public:* Business or other for-profit.

*OTS: OMB Number:* 1550–0023.  
*Estimated Number of Respondents:* 854 savings associations. *Estimated Time per Response:* 36.5 burden hours.  
*Estimated Total Annual Burden:*  
 124,684 burden hours.

The TFR estimates in this notice are carried forward from the burden estimates that appeared in OTS's final Paperwork Reduction Act notice concerning items related to retirement deposit accounts (71 FR 47866, August 18, 2006).

### 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), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (for savings associations). Except for selected data items, these information collections are not given confidential treatment.

### Abstract

Institutions submit Call Report and TFR 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 and TFR data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The agencies use Call Report and TFR 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 and TFR data are also used to calculate all institutions' deposit insurance and Financing Corporation assessments, national banks' semiannual assessment fees, and the OTS's assessments on savings associations.

### Current Actions

#### I. Overview

The four agencies are proposing to replace certain information currently collected in the Call Report and TFR for deposit insurance assessment purposes with the information described in proposed amendments to Part 327 of the FDIC's regulations (71 FR 28790, May 18, 2006). The four agencies also propose to revise the information collected in the Call Report and TFR on time deposits, particularly with respect to certain retirement accounts affected by the FDIC's amended deposit insurance regulations.

In addition, the OCC, the Board, and the FDIC (the banking agencies) propose to implement a number of other changes to the Call Report requirements, most of which are expected to apply to a small percentage of banks. First, the banking agencies would revise the Call Report to collect certain data on fair value measurements from those institutions that choose, under generally accepted accounting principles, to apply a fair value option to one or more financial instruments and one or more classes of servicing assets and liabilities and from certain institutions that report trading assets and liabilities. The banking agencies will also collect an item to capture the change in the fair value of liabilities under the fair value option that is attributable to a change in a bank's own creditworthiness for purposes of measuring a bank's regulatory capital under the banking agencies' capital adequacy standards. Second, the banking agencies propose to collect certain data in the Call Report on 1–4 family residential mortgages with terms that allow for negative amortization. The banking agencies currently do not collect any supervisory data on such loans. Finally, the banking agencies propose to clarify the Call Report instructions for assets serviced for others by explicitly stating that such servicing includes the servicing of loan participations.

These proposed revisions to the Call Report and the TFR, which have been approved for publication by the FFIEC and are discussed in more detail below, would take effect as of March 31, 2007,

and, for certain deposit insurance assessment revisions, March 31, 2008. The specific wording of the captions for the new or revised Call Report and TFR data items discussed in this proposal 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 Revisions

##### A. Deposit Insurance Assessment Revisions to the Call Report and TFR

On May 18, 2006, the FDIC issued proposed amendments to Part 327 of its regulations, "Assessments," under which the FDIC's computation of deposit insurance assessments for certain institutions would be determined using daily averages for deposits rather than quarter-end balances. In addition to the proposed amendments, the agencies are proposing to revise and reduce the overall reporting requirements related to deposit insurance assessments in both the Call Report and the TFR in order to simplify regulatory reporting. Key elements of the proposed revised reporting requirements are:

- Institutions will separately report (a) gross deposits as defined in Section 3(l) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1813(l)) before any allowable exclusions and (b) allowable exclusions;
- The same data items will be reported for both quarter-end and daily average deposits;
- All institutions will report using quarter-end deposits and allowable exclusions; and
- All institutions with \$300 million or more in assets, and other institutions that meet specified criteria, will also report daily averages for deposits and allowable exclusions in addition to quarter-end amounts.

The proposal would provide an interim period covering the March 31, 2007, through December 31, 2007, report dates during which institutions can submit Call Reports and TFRs using either the current or revised formats for reporting data for measuring their assessment base. An institution that chooses to begin reporting under the revised format in any quarter during the interim period must continue to report under the revised format through the rest of the interim period and may not revert back to the current reporting format. The revised reporting format will take effect for all institutions on March 31, 2008, at which time the current format will be eliminated. Although no institution that chooses to

report under the revised format during the 2007 interim period would be required to report daily averages during this period, any institution may elect to report daily averages as of any quarter-end report date in 2007. However, once an institution begins to report daily averages (even during the interim period), it must continue to report daily averages each quarter thereafter in its Call Report or TFR.

Currently, the assessment base definition as detailed in 12 CFR 327.5 of the FDIC's regulations has been driven by the agencies' regulatory reporting requirements. Therefore, as the reporting requirements for deposits in the Call Report and TFR changed over time, the regulatory definition of the assessment base required periodic updates. As a result of the Federal Deposit Insurance Reform Act, the FDIC has proposed to revise the definition of the assessment base within its regulations to be consistent with Section 3(l) of the FDI Act. This will eliminate the need for periodic updates to the FDIC's assessment regulations in response to outside factors and allow a simplification of the associated reporting requirements. In addition, to address timing issues with quarter-end reporting, the FDIC will use daily average deposits and exclusions over the quarter instead of quarter-end totals for deposits and exclusions to compute the assessment base for institutions with \$300 million or more in assets and other institutions who meet specified criteria, which are discussed below. Any institution that reports less than \$300 million in assets and does not meet the other specified criteria may opt permanently to determine its assessment base using daily averages.

At present, 23 items are required in the Call Report to determine a bank's assessment base and eight items are required in the TFR to determine a savings association's assessment base. The agencies are proposing changes to the way the assessment base is reported that would effectively reduce the number of reported items to as few as two for certain small institutions (without foreign offices) and no more than six for other institutions. Specifically, the banking agencies are proposing to replace items 1 through 12 (including their subitems) on Schedule RC-O, "Other Data for Deposit Insurance and FICO Assessments," and OTS is proposing to replace the eight items in the section of Schedule DI, "Consolidated Deposit Information," for "Deposit and Escrow Data for Deposit Insurance Premium Assessments" with the following six items:

- Total Deposit Liabilities as Defined in Section 3(l) of the FDI Act before Exclusions;
- Total Allowable Exclusions (including Foreign Deposits);
- Total Foreign Deposits (included in Total Allowable Exclusions);
- Total Daily Average of Deposit Liabilities as Defined in Section 3(l) of the FDI Act before Exclusions;
- Total Daily Average Allowable Exclusions (including Foreign Deposits);
- Total Daily Average Foreign Deposits (included in Total Daily Average Allowable Exclusions).

Thus, instead of starting with deposits as reported on the balance sheet of the Call Report and TFR and making adjustments to these reported deposits for purposes of measuring an institution's assessment base, which is the present method, the computation of the institution's assessment base under the proposed amendments to the FDIC's assessment regulations and these proposed regulatory reporting revisions will start with the gross total deposit liabilities that meet the statutory definition of deposits in Section 3(l) of the FDI Act before any allowable exclusions from the definition. The allowable exclusions, which are set forth in Section 3(l)(5) and other sections of the FDI Act and in the FDIC's regulations, include foreign deposits (including International Banking Facility deposits) and other deposits described below. As the next step in the assessment base calculation, an institution would report the total amount of all allowable exclusions from the statutory definition of deposits (with separate disclosure of foreign deposits, if any). Total Deposit Liabilities as Defined in Section 3(l) of the FDI Act before Exclusions minus Total Allowable Exclusions would be the institution's Assessment Base. As previously stated, the computation will use either quarter-end balances or daily averages.

The net amount of unposted debits and credits will now not be considered within the definition of the assessment base. For institutions that report daily averages, these debits and credits are captured in the next day's deposits and thus are reflected in the averages. For consistency and because they should not materially affect assessment bases, unposted debits and credits will also not be considered for institutions that only report quarter-end balances.

The agencies believe that the amount of gross total deposit liabilities that meet the statutory definition of deposits is typically found in and supported by the control totals in an institution's deposit systems that provide the detail

sufficient to track, control, and handle inquiries from depositors about their specific individual accounts.

These deposit systems can be automated or manual. In any case, control totals for deposit liabilities should be readily available, which should ease an institution's transition to the revised regulatory reporting requirements. Compared to the amount of information that an institution currently reports in order to determine its assessment base, the proposed changes to the reporting requirements should also facilitate the reporting of daily averages for deposits and allowable exclusions since many of the presently reported adjustments will not need to be tracked and averaged separately.

Section 3(1) of the FDI Act states that the term "deposit" means

(1) The unpaid balance of money or its equivalent received or held by a bank or savings association in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time, or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness, or other similar name, or a check or draft drawn against a deposit account and certified by the bank or savings association, or a letter of credit or a traveler's check on which the bank or savings association is primarily liable: *Provided*, That, without limiting the generality of the term "money or its equivalent", any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts, or other instruments forwarded to such bank or savings association for collection,

(2) Trust funds as defined in this Act received or held by such bank or savings association, whether held in the trust department or held or deposited in any other department of such bank or savings association,

(3) Money received or held by a bank or savings association, or the credit given for money or its equivalent received or held by a bank or savings association, in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including without being limited to, escrow funds, funds held as security for an obligation due to the bank or savings association or others (including funds held as dealers reserves) or for securities loaned by the bank or savings association, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances

or letters of credit, and withheld taxes: *Provided*, That there shall not be included funds which are received by the bank or savings association for immediate application to the reduction of an indebtedness to the receiving bank or savings association, or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness.

(4) Outstanding draft (including advice or authorization to charge a bank's or a savings association's balance in another bank or savings association), cashier's check, money order, or other officer's check issued in the usual course of business for any purpose, including without being limited to those issued in payment for services, dividends, or purchases, and

(5) Such other obligations of a bank or savings association as the Board of Directors, after consultation with the Comptroller of the Currency, Director of the Office of Thrift Supervision, and the Board of Governors of the Federal Reserve System, shall find and prescribe by regulation to be deposit liabilities by general usage, except that the following shall not be a deposit for any of the purposes of this Act or be included as part of the total deposits or of an insured deposit:

(A) Any obligation of a depository institution which is carried on the books and records of an office of such bank or savings association located outside of any State, unless—

(i) Such obligation would be a deposit if it were carried on the books and records of the depository institution, and would be payable at, an office located in any State; and

(ii) The contract evidencing the obligation provides by express terms, and not by implication, for payment at an office of the depository institution located in any State;

(B) Any international banking facility deposit, including an international banking facility time deposit, as such term is from time to time defined by the Board of Governors of the Federal Reserve System in regulation D or any successor regulation issued by the Board of Governors of the Federal Reserve System; and

(C) Any liability of an insured depository institution that arises under an annuity contract, the income of which is tax deferred under section 72 of the Internal Revenue Code of 1986.

The total amount of allowable exclusions from the assessment base will be reported separately for any institution that maintains such records as will readily permit verification of the correctness of its assessment base. These exclusions include:

*Foreign deposits:* The obligations described in subparagraphs (A) and (B) of section 3(l)(5) of the FDI Act, quoted above, which generally relate to foreign deposits.

*Reciprocal balances:* Any demand deposit due from or cash item in the process of collection due from any depository institution (not including a foreign bank or foreign office of another U.S. depository institution) up to the total of the amount of deposit balances due to cash and cash items in the process of collection due such depository institution.

*Drafts drawn on other depository institutions:* Any outstanding drafts

(including advices and authorization to charge the depository institution's balance in another bank) drawn in the regular course of business by the reporting depository institution.

*Pass-through reserve balances:* Reserve balances passed through to the Federal Reserve by the reporting institution that are also reflected as deposit liabilities of the reporting institution. This is not applicable to an institution that does not act as a correspondent institution in any pass-through reserve balance relationship. An institution that is not a member of the Federal Reserve System generally cannot act as a pass-through correspondent unless it maintains an account for its own reserve balances directly with the Federal Reserve.

*Depository institution investment contracts:* Liabilities arising from depository institution investment contracts that are not treated as insured deposits under section 11(a)(5) of the Federal Deposit Insurance Act (12 U.S.C. 1821(a)(5)). A Depository Institution Investment Contract is a separately negotiated depository agreement between an employee benefit plan and an insured depository institution that guarantees a specified rate for all deposits made over a prescribed period and expressly permits benefit-responsive withdrawals or transfers.

In addition to quarter-end balance reporting, institutions that meet certain criteria would be required to report average daily deposit liabilities and average daily allowable exclusions to determine their assessment base effective March 30, 2008. The amounts to be reported would be averages of the balances as of the close of business for each day for the calendar quarter. For days that an office of the reporting institution (or any of its subsidiaries or branches) is closed (*e.g.*, Saturdays, Sundays, or holidays), the amounts outstanding from the previous business day would be used. An office is considered closed if there are no transactions posted to the general ledger as of that date.

The requirement for an institution to report daily averages would apply to any institution that:

(1) Reports \$300 million or more in total assets in its March 31, 2007, Call Report or TFR. The institution would be required to report daily averages beginning in its March 31, 2008, Call Report or TFR.

(2) Reports \$300 million or more in total assets in two consecutive Call Reports or TFRs beginning with its June 30, 2007, report. The institution would be required to report daily averages in its Call Report or TFR beginning March 31, 2008, or on the report date six months after the second consecutive quarter in which it reported \$300 million or more in total assets, whichever is later. For example, if an institution reported \$300 million or

more in total assets in its reports for June 30 and September 30, 2007, it would begin to report daily averages in its report for March 31, 2008. If the institution reported \$300 million or more in total assets in its reports for December 31, 2007, and March 31, 2008, it would begin to report daily averages in its report for September 30, 2008.

(3) Becomes newly insured after March 31, 2007. The institution would be required to report daily averages in its Call Report or TFR beginning March 31, 2008, or on the first report date after becoming insured, whichever is later. If daily averages are reported in the first Call Report or TFR the institution files after becoming insured, the daily averages would include only the dollar amounts for the days since the institution began operations.

After an institution has begun to report daily averages for its total deposits and allowable exclusions, either voluntarily or because it is required to do so, the institution cannot switch back to reporting only quarter-end balances.

An insured depository institution reporting less than \$300 million in total assets in its March 31, 2007, Call Report or TFR may continue to determine its assessment base using quarter-end balances until it meets one of the requirements for reporting daily averages described above. Alternatively, the institution may opt permanently to determine its assessment base using daily averages.

#### B. Revision of Certain Time Deposit Information on the Call Report and TFR

The Federal Reserve uses data from Call Report Schedule RC-E, Deposit Liabilities, and from TFR Schedule DI, Consolidated Deposit Information, to ensure accurate construction of the monetary aggregates for monetary policy purposes.<sup>1</sup> In order to more accurately calculate the monetary aggregates, the banking agencies propose to revise two Schedule RC-E items, Memorandum items 2.b, "Total time deposits of less than \$100,000," and 2.c, "Total time deposits of \$100,000 or more," and add a new Memorandum item 2.c.(1) to this schedule.

In Schedule RC-E, Memorandum item 2.b would be revised to include

<sup>1</sup> In order to calculate the money stock measure M2, the Federal Reserve takes M1 (which consists of currency held by the public, traveler's checks, demand deposits, and other checkable deposits) and adds (1) savings deposits, (2) small-denomination time deposits (time deposits in amounts of less than \$100,000) less Individual Retirement Account (IRA) and Keogh balances at depository institutions, and (3) balances in retail money market mutual funds, less IRA and Keogh balances at money market mutual funds.

brokered time deposits issued in denominations of \$100,000 or more that are participated out by the broker in shares of less than \$100,000 as well as brokered certificates of deposit issued in \$1,000 amounts under a master certificate of deposit. Memorandum item 2.c would be revised to exclude such brokered time deposits. In addition, as a result of the increase in the deposit insurance limit for certain retirement plan deposit accounts from \$100,000 to \$250,000 earlier this year, a new Memorandum item 2.c.(1) would be added to Schedule RC-E to separately identify the portion of the total time deposits of \$100,000 or more reported in Memorandum item 2.c that represents IRA and Keogh Plan accounts.

For the same reasons, OTS proposes to add two new items to Schedule DI of the TFR. These data items would be (1) Time Deposits of \$100,000 or More (excluding brokered time deposits participated out by the broker in shares of less than \$100,000 and brokered certificates of deposit issued in \$1,000 amounts under a master certificate of deposit) and (2) IRA/Keogh Accounts included in Time Deposits of \$100,000 or More.

#### C. Reporting of Certain Fair Value Measurements and the Use of the Fair Value Option in the Call Report

On September 15, 2006, the Financial Accounting Standards Board (FASB) issued Statement No. 157, Fair Value Measurements (FAS 157), which is effective for banks and other entities for fiscal years beginning after November 15, 2007. Earlier adoption of FAS 157 is permitted as of the beginning of an earlier fiscal year, provided the bank has not yet issued a financial statement or filed a Call Report for any period of that fiscal year. Thus, a bank with a calendar year fiscal year may voluntarily adopt FAS 157 as of January 1, 2007. The fair value measurements standard provides guidance on how to measure fair value and would require banks and other entities to disclose the inputs used to measure fair value based on a three-level hierarchy for all assets and liabilities that are remeasured at fair value on a recurring basis.<sup>2</sup>

<sup>2</sup> The FASB's three-level fair value hierarchy gives the highest priority to quoted prices in active markets for identical assets or liabilities (Level 1) and the lowest priority to unobservable inputs (Level 3). Level 1 inputs are quoted prices in active markets for identical assets or liabilities that the reporting bank has the ability to access at the measurement date (e.g., the Call Report date). Level 2 inputs are inputs other than quoted prices included within Level 1 that are observable for the asset or liability, either directly or indirectly. Level

The FASB plans to issue a final standard, *The Fair Value Option for Financial Assets and Financial Liabilities*, before year-end 2006, which would be effective for banks and other entities for fiscal years beginning after December 15, 2006. The FASB's Fair Value Option standard would allow banks and other entities to report certain financial assets and liabilities at fair value with the changes in fair value included in earnings. The banking agencies anticipate that relatively few banks will elect to use the fair value option for a significant portion of their financial assets and liabilities.

The banking agencies plan to clarify the Call Report instructions to explain where financial assets and liabilities measured under the fair value option should be reported in the existing line items of the Call Report. The banking agencies are also proposing to add a new Schedule RC-Q to the Call Report to collect data, by major asset and liability category, on the amount of assets and liabilities to which the fair value option has been applied along with separate disclosure of the amount of such assets and liabilities whose fair values were estimated under level two and under level three of the FASB's fair value hierarchy. The categories are:

- Securities held for purposes other than trading with changes in fair value reported in current earnings;
- Loans and leases;
- All other financial assets and servicing assets;
- Deposit liabilities;
- All other financial liabilities and servicing liabilities; and
- Loan commitments (not accounted for as derivatives).

In addition, the banking agencies propose to collect data on trading assets and trading liabilities in the new schedule from those banks that complete Schedule RC-D, Trading Assets and Liabilities, *i.e.*, banks that reported average trading assets of \$2 million or more for any quarter of the preceding calendar year. In the proposed new schedule, such banks would report the carrying amount of trading assets and trading liabilities whose fair values were estimated under level two and under level three of the FASB's fair value hierarchy. Trading assets and trading liabilities are required to be reported at fair value and, thus, are not covered under the fair value option.

The banking agencies anticipate using this fair value information to make appropriate risk assessments for on-site examinations and off-site surveillance.

<sup>3</sup> inputs are unobservable inputs for the asset or liability.

The addition of these data items should result in minimal additional reporting burden for banks because FAS 157 requires disclosure of amounts under all three levels of the fair value hierarchy on a quarterly and annual basis in financial statements.

The FASB's fair value measurements standard requires banks and other entities to consider the effect of a change in their own creditworthiness when determining the fair value of a financial liability. The banking agencies are proposing to add one new item to Schedule RC-R, Regulatory Capital, for the cumulative change in the fair value of all financial liabilities accounted for under the fair value option that is attributable to changes in the bank's own creditworthiness.<sup>3</sup> This amount would be excluded from the bank's retained earnings for purposes of determining Tier 1 capital under the banking agencies' regulatory capital standards.

The banking agencies plan to clarify the instructions to Schedule RI for the treatment of interest income on financial assets and interest expense on financial liabilities measured under a fair value option. The instructions would be modified to instruct banks to separate the contractual year-to-date amount of interest earned on financial assets and interest incurred on financial liabilities that are reported under a fair value option from the overall year-to-date fair value adjustment and report these contractual amounts in the appropriate interest income or interest expense items on Schedule RI.

#### D. Reporting of Certain Data in the Call Report on 1-4 Family Residential Mortgage Loans With Terms That Allow for Negative Amortization

Recently, the volume of 1-4 family residential mortgage loan products whose terms allow for negative amortization and the number of institutions providing borrowers with such loans has increased significantly. Loans with this feature are structured in a manner that may result in an increase in the loan's principal balance even when the borrower's payments are technically current. When loans with negative amortization are not prudently underwritten and not properly monitored, they raise safety and soundness concerns. However, due to the classification of these loans with all other 1-4 family residential mortgage loans in the Call Report, the banking

<sup>3</sup> The banking agencies also are planning to issue further guidance on the regulatory capital treatment of this cumulative change, and are considering possible regulatory changes.

agencies have no readily available means of identifying the industry's exposure to such loans. Therefore, the banking agencies propose to collect some Call Report items to monitor the extent of use of negatively amortizing residential mortgage loans in the industry.

The banking agencies propose to collect one memorandum item from all banks on Schedule RC-C, Part I, Loans and Leases, for the total amount of closed-end loans with negative amortization features secured by 1-4 family residential properties. In addition, the banking agencies propose to collect two memorandum items on Schedule RC-C and one memorandum item on Schedule RI, Income Statement, from banks with a significant volume of negatively amortizing 1-4 family residential mortgage loans. The banking agencies' determination of the threshold for significant volume would be based on the aggregate carrying amount of negatively amortizing loans being in excess of a certain dollar amount, *e.g.*, \$100 million or \$250 million, or in excess of a certain percentage of the total loans and leases (in domestic offices) reported on Schedule RC-C, *e.g.*, five percent or ten percent. For reporting during 2007, a bank with negatively amortizing loans would determine whether it met the size threshold for reporting the three additional memorandum items using data reported in its December 31, 2006, Call Report. For reporting in 2008 and subsequent years, the determination would be based on data from the previous year-end Call Report. The banking agencies request comment on the specific dollar amount and percentage of loans that should be used in setting the size threshold for additional reporting on negatively amortizing loans.

The two additional Schedule RC-C memorandum items are (1) the total maximum remaining amount of negative amortization contractually permitted on closed-end loans secured by 1-4 family residential properties and (2) the total amount of negative amortization on closed-end loans secured by 1-4 family residential properties that is included in the carrying amount of these loans. The Schedule RI memorandum item is year-to-date noncash income on closed-end loans with a negative amortization feature secured by 1-4 family residential properties. Banks with negatively amortizing 1-4 family residential loans in excess of the reporting threshold for these items would report these three items for the entire calendar year following the end of

any calendar year when this threshold was exceeded.

For the same reasons, OTS proposed on July 31, 2006, to add two new items to Schedule LD of the TFR (71 FR 43286). These items would be the total amount of (1) 1-4 dwelling adjustable rate mortgage loans with negative amortization and (2) total capitalized negative amortization on 1-4 dwelling adjustable rate mortgage loans.

#### E. Call Report Instructional Clarification for Servicing of Loan Participations

Banks report the outstanding principal balance of assets serviced for others in Memorandum item 2 of Schedule RC-S, "Servicing, Securitization, and Asset Sale Activities." In Memorandum items 2.a and 2.b, banks disclose the amounts of 1-4 family residential mortgages serviced with recourse and without recourse, respectively. Memorandum item 2.c covers all other loans and financial assets serviced for others, but banks are required to disclose the amount of such servicing only if the servicing volume is more than \$10 million. The instructions for Memorandum item 2 do not explicitly state whether a bank that has sold a participation in a 1-4 family residential mortgage or other loan or financial asset, which it continues to service, should include the servicing in Memorandum item 2.a, 2.b, or 2.c, as appropriate. The absence of clear instructional guidance has resulted in questions from bankers and has produced diversity in practice among banks.

Subject to the reporting threshold that applies to Memorandum data item 2.c, Memorandum data item 2 was intended to cover the entire volume of loans and other financial assets for which banks perform the servicing function, regardless of whether the servicing involves whole loans and other financial assets or only portions thereof, as is typically the case with loan participations. The risks and responsibilities inherent in servicing are present whether all or part of a loan or financial asset is serviced for the benefit of another party. Accordingly, the banking agencies propose to clarify the instructions to Memorandum item 2 of Schedule RC-S to explicitly state that the amount of loan participations serviced for others should be included in this item.

#### III. Request for Comment

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

(a) Whether the proposed revisions to the Call Report and TFR collections of

information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

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

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

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

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

Comments submitted in response to this joint notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection request.

Dated: September 25, 2006.

**Stuart E. Feldstein,**

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

Board of Governors of the Federal Reserve System, October 23, 2006.

**Jennifer J. Johnson,**

*Secretary of the Board.*

Dated at Washington, DC, this 24th day of October, 2006.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

Dated: October 20, 2006.

**Deborah Dakin,**

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

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## DEPARTMENT OF THE TREASURY

### Office of Foreign Assets Control

#### Additional Designation of Entities Pursuant to Executive Order 12978

**AGENCY:** Office of Foreign Assets Control, Treasury.

**ACTION:** Notice.