



March 21, 2022

Via Electronic Mail

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, D.C. 20219

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Manuel E. Cabeza, Counsel,
Attn: Comments, Room MB-3007
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington D.C. 20429

Re: FFIEC 009 and FFIEC 009a (OMB No. 1557-0100) Reporting Revisions

To Whom It May Concern:

The Bank Policy Institute¹ welcomes the opportunity to comment on the proposal by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to revise the Country Exposure Report (FFIEC 009) and the Country Exposure Information Report (FFIEC 009a).² BPI is generally supportive of the intent of the proposed revisions, however we believe that the agencies would achieve greater consistency, simplicity, and clarity in both the FFIEC 009 and FFIEC 009a reporting requirements by making a few changes to the draft reporting instructions and further clarifying certain aspects of the proposal as described herein. Additionally, while not related to the proposed changes, our comments also seek confirmation on CUISP netting practices for purposes of FFIEC 009 reporting.

¹ The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

² 87 Fed. Reg. 3170 (January 20, 2022).

I. The agencies should further modify the headers for Columns 13-17 and 18-22 in Schedule C, Part I of the FFIEC to more accurately capture the redistributions specified in the reporting instructions.

The proposal would change the name of the “Redistribution of Claims to adjust for Ultimate Risk Basis” columns in Schedule C, Part I of the FFIEC 009 to “Redistribution of Claims to adjust for Guarantor Basis.” This change in the main heading would result in a change in the title for Columns 13-17 to “Outward Claims with Guarantors Resident in Other Jurisdictions” and for 18-22 to “Inward Claims with Guarantors Resident in Other Jurisdictions.” While the proposal indicates that the modification is not considered substantive and that “the data currently collected in these columns are not impacted by the change in the names of the columns,”³ these proposed heading changes could be read to imply that certain risk transfers that are currently reported in these columns would no longer be considered in scope. Specifically, the changed headings could imply that the risk transfers reported on the FFIEC 009 would be limited to only those with guarantors in countries other than that of the immediate counterparty. This would create a divergence from the current reporting instructions where the reporting of risk transfers is required, for instance, in the case of sovereign guarantees of repayment of debt securities issued by government-owned corporations, where the issuer of the securities and the guarantor are in the same country but are part of different sectors.

Therefore, if the agencies’ intent is not to change reporting practices or the data provided as indicated in the proposal, we recommend that the new headers for Columns 13-17 and Columns 18-22 be adjusted to read “Outward Claims with Guarantors in Other **Sectors** or Jurisdictions” and “Inward Claims with Guarantors in Other **Sectors** or Jurisdictions,” respectively. This would more accurately capture the redistributions specified in the current FFIEC 009 instructions and the examples contained therein, which do not contain proposed changes related to the proposal with respect to risk transfers. Alternatively, if the agencies do not accept our recommendation to adjust the new column headers to include “Sectors,” at a minimum, the agencies should make it clear in the reporting instructions that the risk transfers reported in Columns 13-17 and Columns 18-22 would not be limited to only guarantors in countries other than that of the immediate counterparty.

II. The reporting instructions for new Column 18 “Of Which Resale and Reverse Repurchase Agreements and Securities Lending (Collateral)” on Schedule C, Part II of the FFIEC 009 require clarification.

The proposal would add two new columns to the FFIEC 009 Schedule C, Part II, one of which is Column 18 “Of Which Resale and Reverse Repurchase Agreements and Securities Lending (Collateral).” The proposal states that this column would duplicate the existing Column 16 “but would reallocate amounts based on the country in which the collateral was issued.”⁴ While we are supportive of the agencies’ goal of providing “a more complete view of the origin of collateral and its value as a risk mitigant,” there are a few areas in the proposed instructions for Column 18 that require further clarification.

³ 87 Fed. Reg. 3170 at 3172.

⁴ Id.

The draft instructions for Column 18 specify that firms should “report by country of collateral, **securities** reported in Column 16 of Schedule C, Part II ...”⁵ However, the draft instructions for Column 16 indicate to report claims collateralized by securities **or cash**. The instructions for Column 18 do not include details on the reporting of claims where cash collateral is provided and therefore it is unclear whether such claims should be carried over from Column 16. Similarly, the draft instructions for Column 18 also note that “the sum total of Column 17 should equal the sum total of Column 18.” However, firms are required to report the total claims arising from reverse repos and securities lending in Column 17, which is not parallel to the instructions for Column 18. In order to remove ambiguity in the current reporting instructions for this new line item, we recommend that the instructions to Column 18 be aligned with those for Columns 16 and 17. Specifically, we would recommend including similar language for instructing firms to “report **claims** reported in Columns 1 through 10 of Schedule C, Part II” “by country of collateral (i.e., the issuer of collateral, or for cash collateral, the legal entity where the cash is held, which is the legal entity with the liability for the cash collateral)” in Column 18. Additionally, we request that the agencies add a specific example to the instructions for Schedule C, Part II of the FFIEC 009 to illustrate the reporting of resale agreement claims collateralized by both securities **and** cash.

Further, the draft reporting instructions regarding collateralized claims note that “in the case of resale agreements, securities lending arrangements and other similar financing agreements, the claims should be allocated based on the counterparty, not the underlying collateral (i.e., no risk-transfer should be made) in Column 17” and that “[t]he same **collateral** should be allocated based on the underlying collateral in Column 18.”⁶ The use of “collateral” with respect to Column 18 seems out of place and is not parallel to the instructions for Column 17. Therefore, the agencies should clarify whether the intention is for Column 18 to allocate the same **claims** based on the underlying collateral similar to Column 17, for which the instructions specify that the claims should be allocated based on the counterparty.

III. Clarification is needed on the reporting treatment of claims in Columns 13-18 in Schedule C, Part II of the FFIEC 009 in light of the proposed revisions.

The draft reporting instructions for Columns 13-18 “Collateral Held Against Claims with No Risk Transfers” of Schedule C, Part II of the FFIEC 009 state that firms should report claims in these columns “for which the obligor provided collateral that did not meet the definition of collateral for the risk-transfers of claims” consistent with the existing reporting instructions. Firms currently report claims in Columns 13-18 if a guarantee is provided by the guarantor that belongs to the same sector and same country as the immediate counterparty. In light of the proposed revisions, including the new columns that fall under the header “Collateral Held Against Claims with No Risk Transfers,” confirmation is needed that in cases where risk transfer is taking place through a change in sector or country of immediate counterparty and Ultimate basis (now on Guarantor basis), such as a reverse repurchase receivable facing a bank branch of a head office located in a country other than that of the bank branch,

⁵ FFIEC, *FFIEC 009 Country Exposure Report Proposed Revisions to the FFIEC 009* (draft as of January 20, 2022) at page 38, available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009_20220120_fi_draft.pdf.

⁶ FFIEC, *FFIEC 009 Country Exposure Report Proposed Revisions to the FFIEC 009* (draft as of January 20, 2022) at page 32 available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009_20220120_fi_draft.pdf (emphasis added).

the claims should not be reported in Columns 13-18 of Schedule C, Part II, consistent with exist reporting practices.

IV. Clarification is needed with respect to the proposed change in reporting basis for Columns 1 and 2 of Schedule L of the FFIEC 009.

Appendix A of the draft instructions for the FFIEC 009 proposes to change the reporting basis for Columns 1 and 2 of Schedule L “Foreign-Office Liabilities” from Ultimate to Guarantor; however, no changes have been made to the actual reporting instructions for these columns to reflect this revision. The draft reporting instructions for Schedule L state that “[d]eposits of a foreign branch are assumed to be the liabilities of the foreign branch, unless they are explicitly redeemable outside the country in which the branch is located,”⁷ which is the same as the current reporting instructions. In cases of foreign offices where there is no payment guaranteed outside the country of the office, firms understand that reporting in Schedule L should be made on an immediate counterparty basis (i.e., in the country of the foreign office). However, the guarantor concept has a limited meaning for liabilities and therefore the agencies should provide clarification in the reporting instructions for Schedule L with respect to this proposed change in the reporting basis. Specifically, we recommend that the instructions be updated to read “Deposits of a foreign branch are assumed to be the liabilities of the foreign branch, unless they are explicitly **guaranteed** outside the country in which the branch is located.”

V. The proposed reporting instructions for the FFIEC 009a require clarification.

The proposal would add six new columns to the FFIEC 009a “to enhance its effectiveness by adding key information on an immediate-counterparty basis,”⁸ which currently concentrates on guarantor basis. This includes a new Column 1 “Amount of Cross-border Claims Outstanding (excluding derivative products and a new Column 2 “Amount of Foreign Office Claims on Local Residents (excluding derivative products).” The draft reporting instructions for Column 2 direct firms to report “the sum of Columns 6 through 10 from Schedule C, Part I, of the FFIEC 009,”⁹ which are “Claims on Local Residents in Non-Local Currency.” However, there is no indication in the heading for Column 2 of the FFIEC 009a that the data reported in the column should be limited to only claims on local residents in non-local currency, nor is there any reference in the draft instructions for the reporting of claims on local residents in local currency. We therefore recommend that the agencies clarify whether the data in Column 2 should include claims on local residents in both local and non-local currencies and subsequently modify the heading for Column 2 to clearly specify what is to be captured. If the intention for new Columns 1 and 2 of the FFIEC 009a is to collect data on the *total* claims by the immediate counterparty and as a result should reflect the claims in both local and non-local currencies, the agencies should clarify the reporting instructions for Column 2 to reference Column 12 from Schedule C, Part I of the FFIEC 009 to incorporate claims on local residents in local currency as well.

⁷ FFIEC, *FFIEC 009 Country Exposure Report Proposed Revisions to the FFIEC 009* (draft as of January 20, 2022) at page 47 available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009_20220120_fi_draft.pdf (emphasis added).

⁸ 87 Fed. Reg. 3170 at 3173.

⁹ FFIEC, *FFIEC 009a Country Exposure Information Report Proposed Revisions to the FFIEC 009a* (draft as of January 20, 2022) at page 11 available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009a_20220120_fi_draft.pdf.

Additionally, the proposal would add Columns 8-11 to the FFIEC 009a “for Distribution of Amount of Cross-Border Claims across counterparty sector, that is, Banks, Public, Non-Bank Financial Institutions (NBFIs) and Other.”¹⁰ These four columns would capture the amounts reported in Columns 1 and 2 and group them by sector and the draft reporting instructions for Columns 8-11 note that firms should include the amounts reported in in Schedule C, Part I and Schedule D of the FFIEC 009. However, Schedule D of the FFIEC 009 collects information on the fair value of derivative contracts and the headers for new Columns 1 and 2 of the FFIEC 009a explicitly indicate that firms should exclude derivative products. This would create an inconsistency in which Columns 8-11 would include derivatives products while derivatives products are excluded from Columns 1 and 2, which should not be the case as these columns merely distribute the amounts captured in Columns 1 and 2. Given this inconsistency, the agencies should revise the reporting instructions for Columns 8-11 to remove the references to Schedule D of the FFIEC 009.¹¹

The same inconsistency is present in Column 3 “Amount of Cross-border Claims Outstanding After Mandated Adjustments for Transfer of Exposure (excluding derivative products)” (existing Column 1), Column 4 “Amount of Foreign Office Claims on Local Residents (excluding derivative products)” (existing Column 2) and Columns 12-15 (existing Columns 6-9), which capture the amounts reported in Columns 3 and 4. Columns 12-15, like Columns 8-11, reference Schedule D of the FFIEC 009. Here again, there is a conflict in which Columns 12-15 would include derivative products, while derivatives are explicitly excluded from Columns 3 and 4. These columns should not be treated inconsistently, as Columns 12-15 just group the amounts reported in Columns 3 and 4. Additionally, as these are existing columns, there are validity edits in place for Columns 12-15, which do not require the reporting of balances from Schedule D of the FFIEC 009, excluding derivatives, and therefore firms’ current reporting practices do not incorporate derivatives in the amounts reported in Columns 12-15. In light of these inconsistencies, and similar to our recommendation above for Columns 8-11, we recommend that the agencies revise the reporting instructions for Columns 12-15 to remove the references to the FFIEC 009 Schedule D, consistent with the existing validity edits for these columns.

VI. The heading for Column 24 of the FFIEC 009a should be revised to be consistent with corresponding column titles in Schedule C, Part II of the FFIEC 009.

The draft instructions note that the data captured in Column 24 (currently Column 18) of the FFIEC 009a “Of Which, Resale Agreements and Securities Lending (Counterparty)” is the amount “included in on the FFIEC 009 report on Schedule C, Part II, Column 16.”¹² Given the changes to the FFIEC 009 and thus the numbering of columns, the reporting instructions for Column 24 of the FFIEC 009a should reference Column 17 of Schedule C, Part II of the FFIEC 009. Additionally, the column header for Column 24 does not include “Repurchase Agreements” which is inconsistent with the column headers of Columns 17 and 18 on the FFIEC 009 which are “Of Which, Resale and Reverse Repurchase Agreements

¹⁰ 87 Fed. Reg. 3170 at 3173.

¹¹ The draft reporting instructions for the FFIEC 009a erroneously do not reference Column 11 Other – Immediate-Counterparty. The finalized reporting instructions should correct this likely unintentional oversight and clearly reference Column 11 to ensure clear reporting instructions for the same.

¹² FFIEC, *FFIEC 009a Country Exposure Information Report Proposed Revisions to the FFIEC 009a* (draft as of January 20, 2022) at page 13 available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009a_20220120_fi_draft.pdf.

and Securities Lending (Counterparty)” and “Of Which, Resale and Reverse Repurchase Agreements and Securities Lending (Collateral),” respectively. As the FFIEC 009a is a supplement to the FFIEC 009, and in order to maintain consistency between the two reports, we recommend that the agencies revise the heading for Column 24 of the FFIEC 009a, to read “Of Which, Resale **and Reverse Repurchase** Agreements and Securities Lending (Counterparty),” to mimic the headings in the corresponding columns of the FFIEC 009.

VII. Confirmation from the agencies is needed regarding firms’ current CUSIP netting practices on the FFIEC 009.

There is conflicting guidance regarding CUSIP netting¹³ practices in the FFIEC 009, which has led to differences in reporting practices in the industry. The current reporting instructions to the FFIEC 009 were revised in 2019 to state that CUSIP netting is allowed for the FFIEC 009 report, but “should only be applied when the office of the reporter with the position, the country of the issuer of the underlying security, and the counterparty to a short position are in the same country.”¹⁴ This guidance is consistent with and uses the same language provided in FAQ #11, which was released by the agencies in September 2015.¹⁵ However, during the Federal Reserve Bank of New York’s 2016 Country Exposure Report (FFIEC 009) and Country Exposure Information Report (FFIEC 009a) Reporting Seminar, guidance was provided to firms stating that “CUSIP Netting of long and short positions is permitted on the 009, only when the issuer of the underlying security and the foreign offices holding the long and short positions are in the same country.”¹⁶ Unlike the current reporting instructions and the language in FAQ #11, this guidance from the seminar does not include any requirement with respect to the country of a counterparty to a short position for CUSIP netting on the FFIEC 009.

Following the seminar, noting this difference from the language contained in FAQ #11, firms sought confirmation from the Federal Reserve Bank of New York that they are permitted to follow the guidance provided during the seminar and subsequently changed their reporting practices to be reflect the same. In light of these differences regarding CUSIP netting in the FFIEC 009, we request that the agencies confirm that firms are permitted to follow the guidance provided by the Federal Reserve Bank of New York, which would allow CUSIP netting on the FFIEC 009 if the country of the office holding the position and the issuer of the underlying security are the same. This would align with current reporting practices for a number of firms and would be consistent with the reporting of short positions in the

¹³ The current FFIEC 009 reporting instructions note that “‘CUSIP netting’ refers to the industry practice where trading assets and trading liabilities in the same exact security (based on its security identifier) may be reported on a net basis.”

¹⁴ FFIEC, *Instructions for the Preparation of Country Exposure Report Reporting Form FFIEC 009* (effective September 2019 at page GEN-9, available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009_201909_i.pdf).

¹⁵ See FFIEC 009 FAQs (Updated September 30, 2015) available at https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC009_201509_FAQ.pdf.

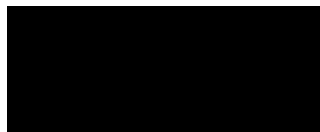
¹⁶ Federal Reserve Bank of New York, *FFIEC 009 Reporting Seminar Materials* (June 8, 2016), available at https://www.newyorkfed.org/medialibrary/media/research/conference/2016/ffiec009/ffiec_009_seminar_presentation.pdf?la=en.

Schedule L Column 3, Foreign-Office Liabilities by Country of Creditor, which are reported as exposures to the issuer of the securities.¹⁷

* * * * *

Bank Policy Institute appreciates the opportunity to comment on the proposal. If you have any questions, please contact the undersigned by phone at 646.757.0380 or by email at alix.roberts@bpi.com.

Respectfully submitted,



Alix Roberts
Assistant Vice President, Regulatory Affairs
Bank Policy Institute

cc: Michael Gibson
Mark Van Der Weide
Board of Governors of the Federal Reserve System

Benjamin McDonough
Grovetta Gardineer
Office of the Comptroller of the Currency

Doreen Eberley
Nicholas Podsiadly
Federal Deposit Insurance Corporation

¹⁷ FFIEC, *Instructions for the Preparation of Country Exposure Report Reporting Form FFIEC 009* (effective September 2019) at page L-1, available at https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC009_201909_i.pdf.