DATE: October 12, 2018

MEMORANDUM TO: The Board of Directors

FROM: Doreen R. Eberley
Director, Division of Risk Management Supervision

SUBJECT: Notice of Proposed Rulemaking: Reduced Reporting on Call Reports for Covered Depository Institutions

RECOMMENDATION AND SUMMARY

Staff recommends that the Federal Deposit Insurance Corporation (FDIC) Board of Directors (the Board) authorize publication of the attached notice of proposed rulemaking (NPR or proposal) in the *Federal Register* with a 60-day comment period. The NPR would implement section 205 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRPCA) (enacted May 24, 2018), which requires the Federal banking agencies to issue regulations that allow reduced reporting for certain insured depository institutions on the first and third quarter reports of condition for a calendar year.

The proposal would implement the EGRRCPA requirement by: (1) increasing, by regulation, the asset threshold for the FFIEC 051 Call Report to allow insured depository institutions with less than $5 billion in total consolidated assets and that meet other criteria to file the FFIEC 051 Call Report; and (2) including a related Paperwork Reduction Act (PRA) notice to further reduce the number of data items reported in the FFIEC 051 Call Report for the first and third quarters of a calendar year for all eligible insured depository institutions. The OCC and Board also are proposing similar reduced reporting for certain uninsured institutions that they supervise with less than $5 billion in total consolidated assets that otherwise meet the same criteria. As explained in more detail below, the FFIEC 051 Call Report is the most streamlined version of the Call Report and already is being used by the majority of institutions with total assets below the new statutory $5 billion threshold required by section 205. If approved, the NPR will be issued jointly by the FDIC, the Board of Governors of the Federal Reserve System (Federal Reserve), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies).

CONCURRENCE:

Charles Yi
General Counsel

DISCUSSION

Background

Section 7(a)(1) of the Federal Deposit Insurance Act (FDI Act) requires FDIC-supervised institutions to file reports of condition in such form as the Board may require.[1] Section 7(a)(3) requires that all insured depository institutions file four reports of condition annually.[2] For most insured depository institutions, the report of condition is the Consolidated Reports of Condition and Income (Call Report).[3] The agencies, through the Federal Financial Institutions Examination Council (FFIEC), have implemented their statutory requirements by creating various Call Reports for use by depository institutions in complying with their reporting obligations.[4]

While Call Report data provide valuable information about the financial condition of, and risks facing, institutions, the agencies acknowledge the burden on institutions of providing this information. In December 2014, the FFIEC began an initiative to reduce burden associated with the Call Report, with a focus on small institutions. Over the course of the last several years, the FFIEC member entities have, among other things: (1) developed guiding principles to evaluate potential Call Report changes and the need for specific data items; (2) identified data items for elimination or less frequent collection, or added new or raised existing reporting thresholds in an effort to reduce reporting burden on institutions; (3) conducted outreach with community banks and industry representatives; and (4) received comments and suggestions for streamlining the Call Reports through comment letters submitted under a review of the agencies' regulations required by the Economic Growth and Regulatory Paperwork Reduction Act.[5] These and other efforts helped the agencies identify burdensome data items to be considered for removal or reduced reporting frequency. In August 2016, the agencies invited public comment on a proposed FFIEC Call Report which would be a streamlined Call Report that could be filed by institutions with less than $1 billion in total assets and only domestic offices and that are not advanced approaches institutions (the FFIEC 051 Call Report).[6]

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[1] *See* 12 U.S.C. § 1817(a)(1). Similar statutory requirements exist for institutions supervised by the Federal Reserve and the OCC.

[2] *See* 12 U.S.C. § 1817(a)(3). Generally, the reports of condition must be in such form, must contain such information, and must be provided to the agencies on such date as the agencies require.

[3] The Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices (FFIEC 031), the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only (FFIEC 041), and the Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less Than $1 Billion (FFIEC 051).

[4] *See* 12 U.S.C. 3305(c). The FFIEC is responsible for developing uniform reporting systems (including the Call Report) for federally supervised institutions.

[5] 12 U.S.C. 3311.

[6] 81 FR 54190 (Aug. 15, 2016).

The FFIEC member entities implemented the FFIEC 051 Call Report in March 2017, and proposed additional reporting reductions in June and November 2017, which were implemented in June 2018. EGRRCPA was introduced in November 2017 and enacted in May 2018. Section 205 of EGRRCPA amends section 7(a) of the FDI Act to require the Federal banking agencies to issue regulations to allow reduced reporting for covered depository institutions with less than $5 billion in total consolidated assets in their Call Reports filed for the first and third quarter of a calendar year. To comply with the new law, staff recommends that the Board adopt the attached NPR.

Description of the Proposed Rule

Implementation of Section 205

The proposal would implement section 205 in a manner that reduces the regulatory burden while continuing to collect sufficient information for the agencies to fulfill their statutory roles of chartering, licensing, supervising, or insuring depository institutions. The agencies are proposing to meet the statutory requirements of section 205 by: (1) expanding eligibility for filing the FFIEC 051 Call Report to insured depository institutions with $1 billion or more, but less than $5 billion in total consolidated assets; and (2) reducing the reporting frequency for several line items on the FFIEC 051 Call Report for the first and third calendar quarters, which would apply to all covered depository institutions under $5 billion in total consolidated assets, including the institutions with total consolidated assets below $1 billion that are currently eligible to file the FFIEC 051 Call Report. The Federal Reserve and OCC also would propose to allow uninsured institutions under their supervision that meet the proposed definition of "covered depository institution" to file the FFIEC 051 Call Report.

The agencies are proposing the FFIEC 051 Call Report as the Call Report through which eligible institutions may obtain reduced reporting because the FFIEC 051 Call Report is the most streamlined version of the Call Report,[7] and already is being used by the majority of institutions with total assets below the new statutory less than $5 billion threshold required by section 205.[8]

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[7] As of June 30, 2018, the FFIEC 051 Call Report represents a total reduction of approximately 43 percent of the data items, and reduced frequency to semiannual or annual reporting of about 6 percent of the data items, compared with the FFIEC 041 Call Report in use before the implementation of the FFIEC 051 Call Report in March 2017.

[8] Based on June 30, 2018 Call Report data, of the 5,357 institutions with reported total assets of less than $5 billion, 4,810 or almost 90 percent of those institutions reported less than $1 billion in total assets and are already eligible to file the FFIEC 051 Call Report based on asset size. Approximately 77 percent of the 4,810 institutions with total assets below $1 billion already file the FFIEC 051 Call Report, and thus would face no costs associated with switching reports to obtain the proposed reduced reporting for the first and third calendar quarters of a year.

Expanding Eligibility for Filing the FFIEC 051 Call Report

Based on June 30, 2018 Call Report data, 547 institutions that reported total assets of $1 billion or more, but less than $5 billion, could be eligible to file the FFIEC 051 Call Report under the proposed rule. Although these institutions currently are not eligible to file the FFIEC 051 Call Report in 2019 because they report $1 billion or more in total assets, under the proposed rule they could file the FFIEC 051 Call Report in 2019 without needing to make significant changes to their Call Report data systems or incur significant cost. Because the FFIEC 051 Call Report uses the same definitions for data items as other Call Report versions, as well as most of the same data item identifiers needed to program institutions' Call Report data systems, the agencies anticipate that newly eligible covered depository institutions would be able to file the FFIEC 051 Call Report without the need to make significant changes to their Call Report preparation processes or incur significant cost. Accordingly, filing the FFIEC 051 Call Report under the proposed rule would provide an immediate and significant reduction in reporting burden for these institutions in all four quarters of a calendar year, with additional proposed reduced reporting in the first and third calendar quarters.

Consistent with section 205, under the proposed rule the FDIC would define "covered depository institution" as an insured depository institution, as such term is defined in section 3 of the FDI Act, 12 U.S.C. 1813, that meets all the following criteria: (1) has less than $5 billion in total consolidated assets as reported in its Call Report for the second calendar quarter of the preceding calendar year; (2) has no foreign offices; (3) is not an advanced approaches institution for purposes of the agencies' regulatory capital requirements; (4) is not a large or highly complex institution for purposes of the FDIC's assessment regulations; and (5) is not a state-licensed insured branch of a foreign bank. With the exception of the criterion related to treatment under the FDIC's assessment regulations, these other criteria are identical to the current eligibility criteria for institutions with less than $1 billion in total assets to file the FFIEC 051 Call Report, and would be determined each quarter. As mentioned above, the OCC and Federal Reserve would define "covered depository institution" in their respective rules to allow uninsured institutions under their supervision that meet all of the criteria to file the FFIEC 051 Call Report.

The proposed rule would define "total consolidated assets" as total assets as reported in an insured depository institution's report of condition, which is reported on a consolidated basis. An insured depository institution would determine whether it satisfies the asset-size eligibility criterion for filing the FFIEC 051 Call Report based on the total assets it reported in its Call Report for the second calendar quarter (i.e., as of June 30) of the previous calendar year, which is consistent with the current instructions for determining eligibility to file the FFIEC 051 Call Report. By proposing this method of determining whether an institution meets the asset-size eligibility criterion, the agencies seek to allow an institution sufficient time to address any systems changes needed if the institution wants to take advantage of, or is no longer eligible for, reduced reporting in the following calendar year. Through the PRA notice, the agencies are proposing to delete an instruction that requires current FFIEC 051 Call Report filers to immediately begin filing the FFIEC 041 Call Report if, as a result of a merger, the surviving institution's total assets equal or exceed $1 billion. For example, under the new asset threshold, an institution that merges with or acquires another institution after meeting the asset threshold as of June 30, 2018, may file the FFIEC 051 Call Report during the 2019 calendar year, unless the institution's primary Federal regulator requires the institution to file the FFIEC 041 Call Report under the Reservation of Authority discussed below. If the institution continues to report total assets of $5 billion or more as of the June 30, 2019, then the institution would no longer meet the definition of "covered depository institution" and would not be eligible to file the FFIEC 051 Call Report in the 2020 calendar year.

The agencies propose to exclude an insured depository institution that has foreign offices or that is an insured branch of a foreign bank from the definition of "covered depository institution." Insured branches of foreign banks, both Federally and State-licensed branches, would be those branches defined in section 3(s) of the FDI Act, 12 U.S.C. 1813(s). The agencies believe it is appropriate to exclude these institutions, as the nature of their international activities requires more comprehensive and detailed financial information in order to effectively supervise and monitor them.[9]

The agencies also propose to exclude from the definition of "covered depository institution" an insured depository institution that is treated as an advanced approaches institution for purposes of the agencies' regulatory capital rules.[10] Currently, advanced approaches institutions are excluded from filing the FFIEC 051 Call Report. While advanced approaches institutions typically have total assets of more than $250 billion, their subsidiaries also qualify as advanced approaches institutions, some of which may have total assets of less than $5 billion. The agencies believe it is appropriate to exclude these subsidiaries because they often engage in specialized or highly complex activities that require a higher degree of financial information to ensure effective supervision and monitoring.

Finally, the agencies propose to exclude from the definition of "covered depository institution" an insured depository institution that is assessed as a "large institution" or "highly complex institution," as defined in the FDIC's assessment regulations.[11] Although exclusion on this basis is likely to be rare, it would apply to an institution that meets the asset-size criterion of having less than $5 billion in total assets as of June 30 of the prior calendar year, but that is assessed as a large or highly complex institution under the FDIC's assessment regulations. The FDIC uses the data reported by a large or highly complex institution on either the FFIEC 031 or FFIEC 041 Call Report, as appropriate, to calculate the appropriate assessment rate. By

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[9] Insured depository institutions with foreign offices are currently required to file the FFIEC 031 Call Report. Insured branches of foreign banks, both Federally and State-licensed insured branches, are required to file the FFIEC 002 version of the report of condition.

[10] *See* 12 CFR § 3.100(b) (OCC); § 217.100(b) (Board); § 324.100(b) (FDIC).

[11] *See* 12 C.F.R. §§ 327.8(f), (g) and (s).

excluding any insured depository institution that is assessed as a large or highly complex institution under the FDIC's assessment regulations, the proposal would ensure that an institution that reports total assets of less than $5 billion as of the report of condition for the second calendar quarter of a previous year, but is treated as a large or highly complex institution for assessment purposes, will continue to file the FFIEC 031 or FFIEC 041 Call Report, as appropriate, which contains the data required by the FDIC to calculate the institution's assessment rate.

As mentioned above, the non-asset-size eligibility criteria would be determined each quarter. Because failing to meet the non-asset-size criteria often reflects a significant change in the operations of an institution as a result of deliberate planning, such as opening a foreign branch or becoming subject to a different approach under the agencies' regulatory capital rules, the agencies do not believe a grace period is necessary if an institution becomes ineligible for reduced reporting. If, therefore, in any calendar quarter an institution no longer meets all of these other criteria, then that institution would become ineligible for reduced reporting on the FFIEC 051 Call Report in that quarter.

The proposed rule also includes a Reservation of Authority that would allow the appropriate Federal banking agency, on an institution-specific basis, to require a covered depository institution to file the FFIEC 041 Call Report, in any calendar quarter or quarters in which the covered depository institution would otherwise be eligible to file the FFIEC 051 Call Report. In making such a determination, the appropriate Federal banking agency may consider criteria including, but not limited to, whether the institution is significantly engaged in one or more complex, specialized, or other higher-risk activities, such as those for which limited information is reported in the FFIEC 051 Call Report compared to the FFIEC 041 Call Report.

Technical and Conforming Amendments

Staff proposes to amend Part 304 of the FDIC's Rules and Regulations by restructuring the regulation and creating a "Subpart A" and "Subpart B." In Subpart A, the FDIC would put the current text of Part 304, with limited technical, non-substantive changes. In Subpart B, the staff proposes to include the regulatory text implementing section 205.

Paperwork Reduction Act

The agencies, through the FFIEC, are including in the NPR a related PRA notice that proposes to reduce the reporting frequency of several data items on the FFIEC 051 Call Report for the first and third calendar quarters (i.e., these items would be reported in the June 30 and December 31 reports only) that would be applicable to all covered depository institutions. Among other things, these items include omitting the detailed information about risk-weighted assets on Schedule RC-R, reducing detailed reporting of troubled debt restructurings on Schedules RC-C and RC-N, and reducing detailed reporting of certain fiduciary and related services items on Schedule RC-T in the first and third calendar quarters.

Through the PRA notice, the agencies propose to add a limited number of items to the FFIEC 051 Call Report for institutions with total assets of $1 billion or more, generally with reduced reporting frequency. Among other things, these items include components of service charge income on certain deposit accounts, disaggregated data on the allowance for loan and lease losses, and estimated uninsured deposits. These items are currently reported by institutions with total assets of $1 billion or more that file the FFIEC 041 Call Report, but they are not required to be completed by institutions with less than $1 billion in total assets that file the FFIEC 041 or FFIEC 051 Call Reports. Therefore, they would not represent new items on the FFIEC 051 Call Report for institutions with total assets of $1 billion or more, but rather are items carried over from the FFIEC 041 Call Report, generally using the same definitions and calculations. Moreover, the proposal recommends reducing the reporting frequency of all but one of the carried-over items.

By including the PRA notice as part of the NPR, the agencies intend to allow for a final rule to take effect for the FFIEC 051 Call Report filed by covered depository institutions for the first quarter of 2019 while permitting sufficient time for public comment.

STAFF CONTACTS

RMS
Robert Storch
Chief Accountant
x8-8906

Legal
Nefretete Smith
Counsel
x8-6851

Kathryn Marks
Counsel
x8-3896