DATE:	May 31, 2019
MEMORANDUM TO:	The Board of Directors
FROM:	Doreen R. Eberley Director, Division of Risk Management Supervision
SUBJECT:	Final Rule: 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 final rule in the *Federal Register*. The final rule implements section 205 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) (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. Staff recommends that the Board finalize the rule as proposed.

The final rule implements section 205 of the EGRRCPA 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 reportable in the FFIEC 051 Call Report for the first and third quarters of a calendar year for all eligible insured depository institutions. The Office of the Comptroller of the Currency (OCC) and Board of Governors of the Federal Reserve System (Federal Reserve) also are providing 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 $5 billion statutory threshold required by section 205. If approved, the final rule will be issued jointly by the FDIC, Federal Reserve, and OCC (collectively, the agencies).

Finally, in the final rule the agencies indicate that they are committed to looking for ways to further reduce reporting in the FFIEC 051 Call Report for the first and third quarters.

CONCURRENCE:

Nicholas J. Podsiadly
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 and performance of, and risks facing, individual institutions as well as the entire industry and the community bank segment thereof, the agencies acknowledge the burden on institutions of providing this information. Beginning 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 taken a comprehensive approach to reviewing the form and content of the Call Reports and the usage of the data items filed by institutions. This initiative involved multiple channels of outreach to supervised institutions, including opportunities for public comment on proposed revisions through the PRA process and roundtable discussions with community banks and industry representatives. These and other efforts helped the agencies identify burdensome data items to be considered for removal, reduced reporting frequency, or a new or increased reporting threshold. In August 2016, the agencies invited public comment on a proposed new, streamlined FFIEC Call Report that could be filed by institutions with less than $1 billion in total assets and domestic offices only that are not advanced approaches institutions (the FFIEC 051 Call Report).[5]

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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 dates 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] 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.

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.

On November 19, 2018, the agencies published a notice of proposed rulemaking (NPR). The comment period on the proposal closed on January 18, 2019. The agencies collectively received 1,018 comments, including 21 unique comments and 997 nearly identical comments using one of two templates. Commenters included individuals, banks and bank personnel, industry trade associations, industry analysts, and members of Congress.

Commenters generally expressed the view that the reductions proposed by the agencies did not go far enough in providing reduced reporting in the first and third calendar quarters to eligible institutions. Other commenters expressed concerns that the proposal would reduce the amount of publicly available information on eligible institutions and increase their burden to obtain information directly from such institutions.

Many commenters questioned the sufficiency of reporting burden reduction as a result of the agencies' designation of the FFIEC 051 Call Report as the report of condition that establishes reduced reporting. Many of these commenters recommended an alternative version of the FFIEC 051 Call Report, for the first and third calendar quarters, that consists only of an institution's basic financial statements, such as a balance sheet, income statement, and statement of changes in shareholders' equity. A few commenters suggested technical revisions to the FFIEC 051 Call Report schedules.

After carefully considering the comments, and in the interest of making reduced reporting available to covered depository institutions expediently, particularly for institutions with total assets of $1 billion or more, but less than $5 billion, staff is recommending that the FDIC, along with the other agencies, finalize the rule as proposed. In the final rule, the agencies note that, by law, they must collect certain data items on a quarterly basis, including items that are not typically found on an institution's basic financial statements (i.e., balance sheet, income statement, and statement of changes in shareholders' equity).[6] In addition to information the

[6] For example, certain data collection and reporting requirements are satisfied through the collection of data on various Call Report schedules: 12 U.S.C. 1817(a)(4) and (6) require reporting of deposit liabilities (Schedule RC-E); 12 U.S.C. 1817(a)(3) and (c) requires four Call Reports annually that serve as the basis for determining an institution's deposit insurance assessment (Schedule RC-O, and certain items on Schedules RI, RC, RC-C, RC-E, RC-N, and RC-R); 12 U.S.C. 1831n(a)(3)(C) requires that off-balance

agencies are required to collect on a quarterly basis by statute, the agencies need other information to effectively monitor the safety and soundness of institutions and the financial system, as well as to monitor compliance with consumer financial protection laws and regulations and to fulfill agency-specific missions.

On an ongoing basis, the agencies will continue to follow the guiding principles developed by the FFIEC to evaluate potential future revisions to the FFIEC 051 Call Report.[7] The agencies also will consider ways to simplify the Call Report forms and instructions. The agencies are committed to looking for ways to further reduce reporting burden, particularly in the first and third calendar quarters. When doing so, the agencies would take into account whether revisions can be made to the FFIEC 051 Call Report without violating compliance with existing laws or regulations, jeopardizing safety and soundness supervision and monitoring, or impairing the Federal Reserve's ability to conduct monetary policy or the FDIC's ability to calculate risk-based deposit insurance assessments.

Description of the Final Rule

Implementation of Section 205

The final rule implements section 205 in a manner that allows reduced reporting and, hence, provides reduced 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 final rule meets 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) offering reduced reporting frequency for numerous line items on the FFIEC 051 Call Report for the first and third calendar quarters, which 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 allow uninsured institutions under their supervision that meet the definition of "covered depository institution" to file the FFIEC 051 Call Report every quarter, which includes reduced reporting in the first and third calendar quarters.

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sheet items be reported or taken into account in any report of condition (Schedule RC-L); 12 U.S.C. 1831o and its implementing regulations on prompt corrective action (12 C.F.R. Part 6 (OCC); 12 C.F.R. Part 208, Subpart D (Board); 12 C.F.R. Part 324, Subpart H (FDIC)) rely on quarterly reporting of regulatory capital (Schedule RC-R).

[7] *See* 83 FR at 58434 ((1) Data items serve a long-term regulatory or public policy purpose by assisting the FFIEC members in fulfilling their missions; (2) data items to be collected maximize practical utility and minimize, to the extent practicable and appropriate, burden on financial institutions; and (3) equivalent data items are not readily available through other means).

The agencies are using the streamlined FFIEC 051 Call Report as the Call Report to implement reduced reporting because: the FFIEC 051 Call Report is the version of the Call Report that collects the least information;[8] reduced reporting in the reports for the first and third quarters was one of the primary objectives when the FFIEC 051 Call Report was implemented in 2017 and revised in 2018; and it is already being used by the majority of institutions with total assets below the $5 billion statutory threshold set by section 205.[9]

Expanding Eligibility for Filing the FFIEC 051 Call Report

Based on Call Report data as of June 30, 2018, 547 institutions that reported total assets of $1 billion or more, but less than $5 billion, would be eligible to file the FFIEC 051 Call Report under the rule. Although these institutions currently are not eligible to file the FFIEC 051 Call Report because they reported $1 billion or more in total assets as of the eligibility date for 2019, under the final rule they could choose to file the FFIEC 051 Call Report beginning with the reports for the third quarter of 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 nearly all of the same data item identifiers used in the FFIEC 041 Call Report and 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, compared to continuing to prepare the FFIEC 041 Call Report, filing the FFIEC 051 Call Report under the final rule would provide an immediate and significant reduction in reporting burden for these institutions going forward in all four quarters of a calendar year, with the benefit of additional reduced reporting in the first and third calendar quarters.

Consistent with section 205, the final rule defines "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;

[8] As of June 30, 2018, the FFIEC 051 Call Report represents a reduction of approximately 43 percent in the total number of reportable data items, and includes a reduced (i.e., semiannual or annual) reporting frequency for about 6 percent of the reportable data items, compared with the FFIEC 041 Call Report in use before the implementation of the FFIEC 051 Call Report in March 2017.

[9] Based on June 30, 2018, Call Report data, of the 5,357 institutions that 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 reduced reporting for the first and third calendar quarters of a 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 non-asset-size 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 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 final rule also defines "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. Through the PRA notice, the agencies are deleting an existing 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.[10] For example, under the new asset-size threshold for the FFIEC 051 Call Report in the final rule, 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 for each quarter of 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 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 for report dates in the 2020 calendar year.

The final rule excludes 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

[10] Absent this deletion, the asset size used in this instruction would have been increased to $5 billion, consistent with section 205.

more comprehensive and detailed financial information in order to effectively supervise and monitor them.[11]

The final rule also excludes 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.[12] 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 final rule excludes 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 final rule excludes 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.[13] 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 additional data required to be 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 excluding any insured depository institution that is assessed as a large or highly complex institution under the FDIC's assessment regulations, the final rule ensures 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 will 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 final rule does not provide a grace period with respect to such changes. If, therefore, in any calendar quarter an institution no longer meets all of these other criteria, then that institution will become ineligible to file the FFIEC 051 Call Report beginning in that quarter.

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[11] 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.

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

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

The final 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. This Reservation of Authority is currently included in the General Instructions to the FFIEC 051 Call Report. Consistent with current supervisory practices and experience, the exercise of the reservation of authority generally would be a decision made by a member of the appropriate agency's senior management and would not be at the discretion of examination staff.

Technical and Conforming Amendments

The final rule amends Part 304 of the FDIC's Rules and Regulations by restructuring the regulation and creating a "Subpart A" and "Subpart B." Subpart A includes the current text of Part 304, with limited technical, non-substantive changes. Subpart B contains the regulatory text implementing section 205.

Paperwork Reduction Act

The agencies, through the FFIEC, are including with the final rule a related PRA notice that provides for reductions in 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 are adding a limited number of items to the FFIEC 051 Call Report for institutions with total assets of $1 billion or more, but less than $5 billion and 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 quarterly 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 do 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. Additionally, the agencies are reducing the reporting frequency of all but one of the carried-over items from quarterly to semiannually or annually.

The agencies will submit the PRA notice to the Office of Management and Budget (OMB) once the final rule is adopted by the agencies. Subject to OMB's approval, the Call Report revisions, including the expanded eligibility for institutions with $1 billion or more, but less than $5 billion, in total assets to file the FFIEC 051 Call Report, will be effective for the September 30, 2019, report date.

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