The Clearing House
At the Center of Banking Since 1853

August 22, 2017

Via Electronic Mail

Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551
Attn: Ann E. Misback, Secretary

Office of the Comptroller of the Currency
400 7th Street SW., Suite 3E-218
Mail Stop 9W-11
Washington, D.C. 20219
Attn: Legislative and Regulatory Activities Division

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

Re: OMB Control No. 1557–0081; FFIEC 031, 041 and 051

Ladies and Gentlemen:

The Clearing House Association L.L.C.[1] appreciates the opportunity to comment on the proposal by the Board of Governors of the Federal Reserve, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation (collectively, the "Agencies") to modify the Consolidated Reports of Condition and Income (the "Call Report"). The proposal seeks to revise the FFIEC 051, FFIEC 041, and FFIEC 031 Call Reports to achieve reporting burden reductions, address the definition of ''past due'' for regulatory reporting purposes and

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[1] The Clearing House is a banking association and payments company that is owned by the largest commercial banks and dates back to 1853. The Clearing House Association L.L.C. is a nonpartisan organization that engages in research, analysis, advocacy and litigation focused on financial regulation that supports a safe, sound and competitive banking system. Its affiliate, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States and is currently working to modernize that infrastructure by building a new, ubiquitous, real-time payment system. The Payments Company is the only private-sector ACH and wire operator in the United States, clearing and settling nearly $2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume.

conform the regulatory reporting of equity investments to the accounting standards applicable to such investments. While we appreciate the Agencies' efforts to reduce reporting burden, rather than simply removal of particular line items we request that the overall data items required to be reported in the Call Report and the purported benefits of reporting of various granular data items be revisited in order to achieve significant reductions in reporting burdens with respect to the Call Report.

I. The scope of the FFIEC 041 and FFIEC 031 should not be revised.

The proposal would revise the scope of the FFIEC 041 and 031 to require all institutions with consolidated total assets of $100 billion or more to file the FFIEC 031, regardless of whether such institutions have any foreign offices. The reason for this change is that the Agencies believe that institutions with consolidated total assets of $100 billion or more without foreign offices "have a similar degree of complexity in their activities" as similar institutions with consolidated total assets of $100 billion or more and foreign offices that currently file the FFIEC 031.

As we have stated previously,[2] a one-size-fits-all rule not tailored to the business model and risk profiles of different banks imposes unnecessary burdens and unduly limits banks' ability to lend and otherwise support businesses and consumers. The recent report providing recommendations from the U.S. Treasury on necessary changes to the financial system agreed: "'One-size-fits-all' regulatory standards undermine a diversification of business models."[3] For these reasons, we do not support the proposed revised scope of the FFIEC 041 and FFIEC 031 and urge the Agencies instead to appropriately tailor their regulatory reporting standards based on the business models and risk profiles of different types of banks, without reliance on arbitrary size thresholds.

II. Reduced reporting frequency for certain data items and the moving and/or collapsing of line items do not reduce reporting burden and such changes should not

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[2] *See*, e.g.,, *TCH Submission to the U.S. Treasury Department, Aligning the U.S. Bank Regulatory Framework with the Core Principles of Financial Regulation*, *available at* https://www.theclearinghouse.org/~/media/TCH/Documents/TCH%20WEEKLY/2017/20170502_TCH_Submission_to_UST_re_Core_Principles_Study.pdf/; TCH Letter to The Honorable Governor Daniel K. Tarullo dated July 15, 2014, *Appropriately Tailoring Regulation*, *available at* https://www.theclearinghouse.org/-/media/files/association%20related%20documents/20140715%20letter%20from%20saltzman%20to%20tarullo.pdf.

[3] *See* U.S. Department of the Treasury, *A Financial System That Creates Economic Opportunities, Banks and Credit Unions*, Report to President Donald J. Trump, Executive Order 13772 on Core Principles for Regulating the United States Financial System (June 2017), at 41, *available at* https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf.

be adopted as proposed without ensuring that they meet all of the guiding principles developed by the FFIEC for revisions to Call Report data.

While we are strongly supportive of efforts to simplify reporting, many of the proposed changes to reduce reporting burden by decreasing reporting frequency (e.g., from quarterly to semiannual) for certain data items would not achieve the desired effect, as reporting firms will still be required to collect and organize the data using the original reporting frequency in order to produce the data for the new reporting frequency. Moreover, the proposed changes to decrease reporting frequency would require firms to put additional systems in place to turn on/off reporting for certain line items that would no longer be required to be reported as frequently. If finalized as proposed, these changes to banks' reporting systems would require banks to devote valuable resources to such efforts when such resources would be better spent on serving customers. We urge the Agencies to review whether the items proposed for reduced reporting frequency satisfy all of the guiding principles developed by the FFIEC for use in evaluating potential additions and deletions of Call Report data items, specifically whether the proposed decreases in reporting frequency "serve a long-term regulatory or public policy purpose by assisting the FFIEC member entities in fulfilling their missions of ensuring the safety and soundness of financial institutions and the financial system" and "maximize practical utility and minimize, to the extent practicable and appropriate, burden on financial institutions." We urge that the reporting frequency not be reduced to avoid the need for additional systems and process changes by the banks to implement the reduced reporting frequency requirements.

Furthermore, several of the proposed changes to the FFIEC 041 and 031, e.g., moving the reporting of total trading assets and total trading liabilities from "Domestic Offices" on Schedule RC-D to Schedule RC-H, would not reduce reporting burden as the infrastructure and processes to report these items already exist. Similarly, collapsing the reporting for various detailed loan classifications would not reduce reporting burden, as the infrastructure and processes are already in place to report such line items and firms would be required to combine the data for the new requirement under the proposal.

III. The current definition of past due status should be maintained and the proposed change should not be adopted.

Currently, loans and lease financing receivables with payments scheduled monthly are reported in the Call Report as "past due" when the borrower is in arrears two or more monthly payments. The Agencies note that this requirement has been interpreted to mean that a loan is reported as past due if two monthly payments have not been received by the close of business on the due date of the second monthly payment. In order to "promote the use of a consistent standard in the industry" and reduce the burden for certain institutions calculating past-due loans under two separate processes for reporting loan delinquencies, the Agencies propose that the definition of "past due" be aligned with the Mortgage Bankers Association (MBA) method (i.e., loans would be reported as "past due" if a payment is not received by the end of the day immediately preceding the loan's next payment due date).

The Clearing House strongly disagrees with the proposed change to conform to the MBA method. The proposed change would *increase* the reporting burden on most banks since the MBA method would remove the current reporting flexibility to use some combination of actual day count, the MBA method and OTS based on the particular portfolios, and instead require banks to either create and maintain *two* different processes rather than the *one* process they currently have, or to also change all other reporting that is currently based on their existing processes. This *increased reporting burden* from the proposed change to the MBA method would be significant, since it would entail substantial systems and process changes and is not justified by the purported benefits cited by the FFIEC. This *increased* reporting burden also would manifest itself in the following additional ways:

- generally, there are no differences between reporting required for SEC reporting purposes and regulatory reporting for most banks. When U.S. GAAP requirements are not as prescriptive as regulatory reporting requirements, many banks align the two in order to avoid creation of RAP-GAAP differences. The proposed change to the MBA method, on the other hand, will likely create potential RAP-GAAP differences, which in turn will lead to the need for additional reconciliation exercises;

- banks usually use the same methodologies for past due reporting as for charge-offs and nonaccruals; these systems would in many cases need to be updated and revised in order to reflect a mandated MBA method standard for past due loans, as well as potential additional changes to banks' systems for calculating their ALLL;

- there may be potential impact for banks' systems and processes for calculating standardized approach RWAs, since the proposed change to the definition of past due would affect different risk weightings associated with delinquent/nonaccrual loans;

- loan management and servicing processes also may be impacted. For loan management/servicing, the notifications to customers on the status of their loans such as past due usually are established consistently with past due reporting;

- for loan securitizations there can be legal requirements on loan quality based on factors such as past due, etc. The proposed change to the MBA methodology could create issues with the existing legal agreements which would generate additional costs and systems changes;

- only performing loans are considered for purposes of the U.S. LCR and FR 2052 reporting, so the proposed change would impact such reporting and require firms to reconcile and make adjustments accordingly. Furthermore, the proposed change could impact the calculation of firms' G-SIB surcharge scores, as the FR 2052a collects the underlying data for FR Y-15 Schedule G, which is the basis for the Method 2 calculation of the G-SIB surcharge;

- firms also use performing loans as inputs for CCAR stress testing and Recovery & Resolution planning. The proposed change in methodology would lead to what we believe would be unintended adverse impacts to both reporting exercises; and

- for purposes of the Net Stable Funding Ratio (as currently proposed) performing loans are reported separately from non-performing loans, causing firms to make adjustments if this change is finalized as proposed.

For all these reasons, we respectfully submit that the substantial increased costs and reporting burden that would result from the proposed change to the MBA method for most banks are not justified by the purported benefits of the proposed change to "lessen the burden imposed on institutions that maintain two separate processes for reporting loan delinquencies," and we strongly urge the Agencies not to proceed with this change.

IV. We support the proposed Call Report changes to address changes in accounting for equity investments, but an additional clarification as described in Annex A would help to ensure accurate reporting.

Generally speaking, we support the proposed changes to the reporting of information on equity securities and other equity investments. We agree that the proposed changes will bring transparency to the effect of unrealized gains and losses on equity securities for banks that have significant holdings in those assets classes. However, we believe that an additional clarification is needed to help ensure that firms appropriately report various equity investments that would be subject to change under the proposal. This requested clarification is described in Annex A to this letter.

V. Changes made to the Call Report under the proposal should also be made for purposes of FR Y-9C reporting.

We strongly support the Agencies' initiative to analyze the Call Report in order to identify obsolete or redundant line items and better align the report with recently implemented rules and standards, thereby reducing burden for all banks. To that end, we urge the Agencies to align the Call Report changes adopted as finalized with the FR Y-9C, as differing reporting requirements are burdensome on reporting firms. When changes are made to the Call Report in an effort to reduce reporting burden and corresponding changes are not made to the FR Y-9C, the reporting firms still have to produce and report the same data, thereby negating the potential burden reduction effort by the Agencies. We note that there is a pending notice of proposed rulemaking proposing changes to FR Y-9C reporting that does not reference any of the proposed changes to the Call Report in the proposal. We strongly urge the Agencies to coordinate closely regarding changes made to reporting forms so that intended burden reduction goals can be more effectively achieved.

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The Clearing House appreciates the opportunity to comment on the proposal. If you have any questions, please contact me by phone at 212.613.9883 or by email at david.wagner@*theclearinghouse.org*.

Respectfully submitted,

[redacted]

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Annex A

I. Revised accounting for equity securities under Accounting Standards Update ("ASU") No. 2016-01 "Recognition and Measurement of Financial Assets and Financial Liabilities"

We request that the Agencies provide additional detail related to the following:

- Schedule RC – Balance Sheet, item 5 "Trading Assets" and Schedule RC-D – Trading Assets and Liabilities, Memorandum item 7 "Equity Securities." Some equity securities with readily determinable fair value that are bought and sold on a regular basis do not meet the current U.S. GAAP classification of Available for Sale. Such equity securities are not held with the intention of trading and therefore are classified as non-covered under the Market Risk Rules. In light of there not being an appropriate category for these equity securities other than Schedule RC-F, firms have generally reported such equities as trading assets on Schedule RC-D. With the creation of the new item 2.c., "Equity securities with readily determinable fair values not held for trading" in Schedule RC, should such equity securities be re-classified from Trading Assets to this new line item?