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October 19, 2009 **Submitted Via E-Mail**

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Office of the Comptroller of the Currency
Public Information Room
Mail Stop 2-3
Attention: 1557-0081
250 E Street, SW
Washington, DC 20219

Ms. Jennifer J. Johnson
Secretary
Federal Reserve Board
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Washington, DC 20551

Mr. Herbert J. Messite
Counsel
Attn: Comments, Room F-1052
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Proposed Agency Information Collection Activities; Comment Request; 74 Federal Register 41973; August 19, 2009; Consolidated Reports of Condition and Income, **OCC:** 1557-0081; **FRB:** 7100-0036; **FDIC:** 3064-0052

Ladies and Gentlemen:

The American Bankers Association (ABA)[1] appreciates the opportunity to comment on the proposed revisions to the Consolidated Reports of Condition and Income (Call Report),[2] as issued by the Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation (FDIC) (collectively, the "Agencies"). The Agencies' proposed changes to the Call Report include several changes and new items that are intended to provide additional data which the banking Agencies believe is needed for reasons of safety and soundness and to respond to changes in accounting standards, an

[1]The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $13.5 trillion in assets and employ over 2 million men and women.
[2] 74 *Fed. Reg.* 41973 (August 19, 2009).

increase in the deposit insurance limit, credit availability concerns, and new information on reverse mortgage products.

The proposed changes would be phased in during 2010, with all proposed revisions taking effect on March 31, 2010, except for the new reverse mortgage reporting which would take effect on December 31, 2010.

The ABA members have expressed no concerns with many of the proposed changes. However, we urge the Agencies to consider including in the final revisions to the Call Report the several changes suggested below. We believe these suggested changes would provide the Agencies with meaningful information without creating undue burden on banks.

Areas in which we believe revisions to the Call Report could most benefit from changes are as follows:

- **Unused Commitments**: The ABA recommends that the proposed revised instructions relating to when a "commitment to issue a commitment" must be reported should require banks to report only when there is a commitment that (1) has an expiration date of greater than 90 days and (2) is in writing. The ABA also requests a delayed effective date of at least six months of the provisions for reporting unused commitments to issue a commitment to allow banks sufficient time to adjust their systems.

- **Brokered Deposits**: The ABA recommends replacing the proposed breakout of time deposits and brokered deposits based on stated dollar thresholds with a requirement that banks report such deposits based upon the then-current FDIC coverage limit in effect at the time of the report.

- **Change in Reporting Frequency for Loans to Small Businesses and Small Farms**: The ABA recommends that the reporting frequency be changed to semi-annual instead of the proposed quarterly reporting frequency for banks with over $1 billion in total assets and annually for all others.

- **Reverse Mortgages**: The ABA recommends that the Agencies reconsider the need for reporting the proposed new "fee-paid referrals" received by banks relating to reverse mortgages, and clarify that the information requested on the Call Report would be consistent with whatever is required under the Real Estate Settlement Procedures Act (RESPA) legal requirements.

- **Loss Share**: The ABA requests the Agencies to address an issue of increasing importance to banks that enter into loss-share agreements with the FDIC.

These points, as well as additional suggestions for improving the revisions to the Call Report, are set forth below.

Discussion

The ABA supports the following items:

Other-than-temporary-impairment (OTTI).

The Agencies propose to require new items in the Call Report to identify components of other-than-temporary impairment (OTTI) losses on debt securities, including total OTTI losses for the calendar year-to-date reporting period, the portion of these total losses recognized in other comprehensive income, and net losses recognized in earnings, consistent with the presentation requirements of a recent accounting standard. The ABA supports these proposed revisions as a reasonable way to track the presentation requirements of FSP FAS 115-2.

Change in reporting frequency for the number of deposit accounts with balances of $250,000 or less.

Banks would be required to report quarterly on the number of deposit accounts with balances of $250,000 or less, to be consistent with the quarterly reporting for other existing Call Report items on the number of deposit accounts. The ABA supports this proposed revision, which would provide consistency of reporting frequency.

Loss share.

This is a new issue that has not been proposed by the Agencies. The ABA requests the Agencies to revise the Call Report to address an issue of increasing importance to banks that enter into loss-share agreements with the FDIC as a result of an acquisition. Currently there is no guidance from the Agencies on how the acquiring bank should report the loss-share agreement on the Call Report. This can lead to the over-reporting of the amount of "troubled" assets by not providing the reader with a readily accessible summary of the bank's net exposures on assets that are subject to the loss-share agreements. It would be beneficial to regulators, reporting banks, investors, and the public to have uniform guidance on how banks should report the loss-share on the Call Report. This issue is complex yet time-sensitive. This will become an increasingly important long-term and more common reporting issue as additional failed banks are acquired from the FDIC under a loss-share agreement.

The ABA has concerns with the following items:

Unused commitments.

More information would be required for unused commitments, including information about unused credit card lines and other unused commitments (with a breakdown for credit card lines required for banks of $300 million or more in assets or unused credit card commitments), separate C & I lending commitments, and loans to nondepository financial institutions.

Instructions are clarified for unused commitments, including when a commitment to issue a commitment must be reported and when commitments have been conveyed or participated to others. The Agencies' proposed revised instructions for Schedule RC-L, item 1 for reporting unused commitments, including "commitments to issue a commitment" state:

> [c]ommitments include: … (6) Commitments to issue a commitment at some point in the future, where the bank has extended terms and the borrower has accepted the offered terms, even though the related loan agreement has not yet been signed.[3]

Most of the proposed unused commitment revisions are acceptable to the ABA. However, the ABA has concerns with the proposed instructions for reporting when a "commitment to issue a commitment" must be reported on the Call Report.

- The ABA recommends that the proposed revised instructions relating to when a "commitment to issue a commitment" must be reported should require banks to report only when there is a commitment that (1) has an expiration date of greater than 90 days <u>and</u> (2) is in writing. Our suggestion would apply in those situations where there has been an oral commitment greater than 90 days that is not memorialized in writing as of the reporting date. Once those specified transactions are memorialized in writing, they would be included in the amount of "commitments to issue a commitment" in the next Call Report. It would be exceedingly difficult to capture commitments that have an expiration date of 90 days or less and that are not in writing. The ABA believes that these further clarifications would be an appropriate balance between the need for additional information and the need to avoid undue burden.

- The ABA also requests a delayed effective date of at least six months of the provisions for reporting unused commitments to issue a commitment to allow banks sufficient time to adjust their systems to comply with the Agencies' instructions on reporting a commitment to issue a commitment.

<u>Brokered deposits</u>.

The proposed changes would require a breakdown of time deposits of $100,000 or more, revisions of items for brokered deposits resulting from the temporarily increased deposit insurance coverage, and reporting of brokered deposits based on their ***balances*** rather than the denominations in which they were issued.

New items for the interest expense on and quarterly averages for fully insured brokered time deposits and other brokered time deposits also would be required.

The Agencies' proposed reporting of ***balances*** and the additional reporting items for interest expense and quarterly averages for brokered deposits are acceptable to the ABA. However, the ABA has concerns with the proposed new reporting revisions.

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[3] *See* 74 *Fed. Reg.* 41975 – 41976 (August 19, 2009).

For each proposed reporting change that would require a more detailed breakout for the levels of deposit insurance coverage limit (*e.g.*, below $100,000, between $100,00 and $250,000, and above $250,000), the ABA recommends that the proposed breakout be replaced with references to the deposit insurance limit in effect at the time of the report, without specified dollar amounts. We believe this will remove what can be an impediment to a bank using the larger (but fully insured) deposits as a funding source.

Depositors now have certainty – at least through the end of 2013 – that up to $250,000 of FDIC insurance is available for any account that is maintained in a bank in a separate right and capacity. We have heard from many institutions that a consequence of the increased coverage is that they already have seen an increase in deposits from many "core" customers who now maintain balances up to the $250,000 limit. Given that these deposits have the certainty of FDIC insurance, they are likely to be as stable as deposits below $100,000. Drawing a distinction as proposed, however, suggests that there is greater volatility in deposits between $100,000 and $250,000. We believe this will only reinforce a perception, reflected in conversations that several of our members have had with the Agencies, that an institution should not rely on deposits in that range. This can have the effect of discouraging a bank from pursuing stable and comparatively inexpensive funding.

<u>Change in reporting frequency for loans to small businesses and small farms</u>.

The Agencies propose to require loans to small businesses and small farms to be reported quarterly instead of annually.

The ABA has concerns with the burden related to this proposed revision. We recommend instead that the reporting frequency (1) be changed to semi-annual for banks with total assets of $1 billion or more, and (2) remain annual for banks having less than $1 billion in assets. We believe this would achieve a reasonable balance of providing the Agencies with more frequent information on loans to small businesses and small farms without creating an undue burden on banks, especially small banks.

<u>Reverse mortgages (12/31/2010 commencement date)</u>.

The changes would require annual reporting on reverse mortgage loan volumes, dollar amounts outstanding, held for investment, originated and sold, and the institutions offering reverse mortgages or participating in reverse mortgage activity for: (1) proprietary products designed and originated by financial institutions, and (2) a federally insured Home Equity Conversion Mortgage (HECM) product.

Overall, the ABA has no concerns with the proposed new reverse mortgage reporting requirements, except for the item relating to reporting of "[e]stimated number of reverse mortgages for which <u>fee-paid referrals were received</u> (*emphasis added)* during the year[4]". The ABA requests the Agencies to reconsider the need for this

[4] We note that the Joint Notice and Request for comment located at 74 *Fed. Reg.*41973*, at* 41978, column 1, proposes adding a new Memorandum item to Schedule RC-C, part I, to annually collect the estimated number of fee-paid referrals during the year from each bank making referrals beginning on December 31, 2010; whereas the proposed Draft instructions "Insert C" to Schedule RC-C,

reporting requirement. As stated and explained in the Joint Notice and Request for Comment, these new line items may require reporting of items that are inconsistent with RESPA legal requirements. At a minimum, the Call Report requirements should impose reporting requirements that are consistent with RESPA.

Additional ABA comment:

FASB Accounting Standards Nos. 166 and 167.

The Agencies note that they expect the revised accounting standards will cause a large volume of assets in bank-sponsored entities associated with securitization and structured finance activities to be brought back onto bank balance sheets. The Agencies also clarify the continued reporting requirements by banks for numerous items following the January 1, 2010 effective date of the FASB Statements of Financial Accounting Standards Nos. 166 and 167.

The ABA recommends that information required in Schedule RC-S also be required for positions of those assets now consolidated under FAS 166 and 67 that are held as securities by third parties. Additionally, any applicable allowances for loan and lease losses, as well as deferred tax assets, should be included within this Schedule. Separately identifying assets that present to the bank different levels of credit and market exposure than applicable unsecuritized loans will assist users and regulators in assessing overall risk.

Conclusion

The ABA appreciates the opportunity to comment on the Proposed Revisions included in the Joint Notice and Request for Comment and the additional issue raised in our comments relating to the urgent need for the Agencies to provide uniform guidance on the method of reporting loss-share information in the Call Report.

Please contact the undersigned at (202) 663-5331 or kmctighe@aba.com, if you have any questions. Thank you for considering our comments and recommendations.

Sincerely,

K. P. McTighe

Kathleen P. McTighe
Senior Counsel

Memorandum item 15.b requests information on the estimated number of reverse mortgages for which fee-paid referrals were received during the year. This language appears to be inconsistent.