

November 29, 2010

Communications Division
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
Board of Governors of the
Federal Reserve System
20th Street & Constitution Avenue, NW
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Mr. Gary Kuiper
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Attn. Comments, Room F-1072
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Re: Proposed Agency Information Collection Activities; Comment Request 75 Federal Register 60497; September 30, 2010; Consolidated Reports of Condition and Income, **OCC:** 1557-0081; **FRB:** FFIEC 031 and 041; **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 the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies). The agencies' proposed revisions to the Call Report include several changes and new items to provide additional data that the agencies believe are needed for reasons of safety and soundness, and to assist the agencies' understanding of banks' credit and liquidity exposures.

ABA supports the agencies' proposed revisions relating to Assets Covered by FDIC Loss-Sharing (L-S) Agreements and appreciates the agencies' responsiveness to industry's petition for more granular reporting information in the Call Report for the various categories of assets subject to FDIC loss-sharing agreements entered into by banks with the FDIC as a result of an

¹ The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$13 trillion banking industry and its 2 million employees. The majority of ABA's members are banks with less than \$165 million in assets. Learn more at www.aba.com.

² 75 *Fed. Reg.* 60497 (September 30, 2010).

acquisition. As you know, ABA has frequently called for granularity in such instances to aid the users of such data to understand bank conditions more clearly.

ABA also supports, in part, the agencies' proposed instructional revisions relating to Maturity and Repricing Data for Assets and Liabilities at Contractual Ceilings and Floors. ABA supports the proposed instructional revisions for Schedule RC-C, part I, Loans and Leases. ABA has been vocal in our request for clarification of the instructions. However, ABA opposes the proposed instructional revisions for Schedules RC-B, Securities; RC-E, Deposit Liabilities; and RC-M, Memoranda, due to possible unforeseen consequences that need to be evaluated more closely.

ABA members have expressed no concerns with many of the agencies' proposed revisions. However, we urge the agencies to consider including in the final revisions to the Call Report the several changes suggested below to the agencies' proposed revisions. We also offer suggestions on several issues that have not been proposed by the agencies.

- Troubled Debt Restructurings (TDRs): ABA recommends that the agencies defer the proposed TDR revisions, including the new breakdowns by loan category, of loans that have undergone troubled debt restructurings to coincide with the final decision on the pending FASB proposal on Troubled Debt Restructurings. ABA also strongly opposes the proposed caption change and recommends retaining the current captions for Schedule RC-C, part I, Memorandum item 1, and Schedule RC-N, Memorandum item 1, as "restructured" instead of changing them to "troubled debt restructurings."
- Nonbrokered Deposits Obtained Through the Use of Deposit Listing Service Companies: ABA opposes the proposed new Memorandum item that would require banks to report the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits.
- Deposits of Individuals, Partnerships, and Corporations: ABA recommends that the agencies defer until March 31, 2012, implementation of the proposed new breakout on Schedule RC-E of separate line items for deposits of individuals and deposits of partnerships and corporations. In response to the agencies' request for comment on the proposed approach for reporting official and certified checks as a result of the proposed new breakout of deposit items, ABA recommends that if, and when, sources of deposits are broken out in the new line items, all official and certified checks be reported in only one of the new line items – deposits of partnerships and corporations.
- Instructional Revisions Relating to Maturity and Repricing Data for Assets and Liabilities at Contractual Ceilings and Floors: ABA supports and recommends that the agencies adopt the proposed instructional revisions only for Schedule RC-C, Loans and Leases. ABA opposes the expansion of the agencies' proposed instructional revisions to other schedules.

ABA believes these suggested changes would still allow the agencies to obtain the meaningful information that they need, while avoiding some of the excess regulatory burden borne by banks and our customers. These points, as well as additional suggestions for improving the revisions to

the Call Report, are set forth below, including recommendations on issues that were not included in the agencies' proposed revisions.

Discussion

ABA supports the following item:

Assets Covered by FDIC Loss-Sharing (L-S) Agreements.

The agencies proposed to distinguish and further break down existing items for loans and leases and other real estate owned (OREO) covered by FDIC loss-sharing agreements by loan categories in Schedule RC-M, Memoranda. They also proposed to break down existing items in Schedule RC-N, Past Due and Nonaccrual Loans, Leases, and Other Assets for reporting past due and nonaccrual U.S. Government-guaranteed loans to segregate loans and leases covered by FDIC loss-sharing agreements from other guaranteed loans. The reporting of the new breakout of loans and leases covered by loss-sharing agreements in Schedule RC-N would include a reporting of these loans and leases using the same categories as in proposed revised Schedule RC-M, item 13.a.

ABA supports the agencies' proposed revisions and recommends that the agencies adopt the proposed loss-sharing agreements revisions without change. ABA has often advocated the value of additional, more granular information in the Call Report for the various categories of assets subject to FDIC loss-sharing agreements. ABA believes that the agencies' proposed revisions will provide a more precise and accurate picture of a bank's asset quality, which will be beneficial to regulators, reporting banks, investors, and the public.

ABA supports in part the following item:

Instructional Revisions Relating to Maturity and Repricing Data for Assets and Liabilities at Contractual Ceilings and Floors:

The agencies proposed instructional revisions to clarify the treatment of assets and liabilities whose interest rates have reached contractual ceilings or floors. These revisions would affect reporting of maturity and repricing data in four schedules: Schedule RC-B, Securities; RC-C, part I, Loans and Leases; RC-E, Deposit Liabilities; and RC-M, Memoranda.

ABA recommends that the agencies adopt the approach they have proposed but only for Schedule RC-C, part I, Loans and Leases, commencing as of the March 31, 2011, Call Report. The immediate issue to be resolved concerns the reporting of long-term loans with rate resets at periodic intervals. As we stated in our letter to the agencies dated May 6, 2010,

Affected loans are secured commercial real estate loans for which the interest rate periodically resets, subject to a contractual floor on the interest rate that may or may not come into effect at the time of the rate reset. For example, assume a 20-year loan that has a reset every five years tied to a spread over the amortizing Federal Home Loan Bank of New York rate and that has a floor of 6%. At the time of reset, the rate will be the higher of the rate tied to the FHLB rate or 6%.

The instructions for Schedule RC-C, Part I, Memoranda Item No. 2. state:

When the rate on a loan with a floating rate has **reached** a contractual floor or ceiling level, the loan is to be treated as “fixed rate” rather than as “floating rate” **until the rate is again free to float.** (Emphasis added)

This instruction changes the treatment of the floating rate loan to a “fixed rate” loan. The loan would have to be recorded on Schedule RC-C, Part I, Memorandum Item No. 2.b. as a fixed rate loan that reflects the remaining maturity of the loan, rather than as a floating rate loan that reflects the next repricing date, even though the loan rate resets periodically during the term of the loan. Later, if the index moves up above the floor but the loan is still 3 years away from the reset date, the loan would now be reported as a floating rate at the next repricing date because the loan no longer complies with the instructions which read “[w]hen the rate on a loan with a floating rate has reached a contractual floor...the loan is to be treated as ‘fixed rate’ rather than as ‘floating rate’...”.

The result is that the Call Report data create a misleading impression of the reporting bank’s assets. It is not prudent to penalize, on the Call Report or the resulting UPBR report, those institutions that protected their assets in declining interest rate environments by the use of interest rate floors. An identical loan without a floor should no longer be more accurately represented on Schedule RC-C than one with a floor that protects the interest rate risk of the bank. Likewise, it is not prudent to permit the Call Report to reflect a bank’s balance sheet as having 15-20 year fixed rates when the rates are reset to market every three or five years. The proposed change to Schedule RC-C, part I, Loans and Leases would address this issue.

ABA opposes the proposed revisions to Schedules RC-B, RC-E, and RC-M, Memoranda, respectively. These schedules address other types of assets and liabilities, and the reporting may not raise the same sorts of concerns that exist with the reporting of loans as described above. Our members believe that not enough research has been completed at this time to understand the effects on certain financial institutions of reporting certain complex investment products with imbedded calls and certain unique deposit products that have multiple variables that could affect the change in a rate. Thus, ABA strongly recommends that these schedules not be revised at this time in order to avoid unintended consequences.

ABA has concerns with the following items:

Troubled Debt Restructurings (TDRs).

The agencies proposed that banks report detailed information on loan categories that have undergone troubled debt restructurings. More specifically, they propose: (1) to use additional loan category breakdowns of existing Schedules RC-C, part I, Loans; and RC-N, Past Due and Nonaccrual loan Memorandum item 1; (2) to include in the new breakout consumer loans whose terms have been modified in TDRs, which are currently excluded from reporting in the Call Report; (3) to exclude leases; (4) to require itemization and description of restructured loans in any category of loans included in restructured “All other loans” if the amount of restructured

loans in any category exceeds 10 percent of the amount of restructured “All other loans;” and (5) to revise the captions for Schedules RC-C, part I, and RC-N, Memorandum item 1, to indicate that the loans to be reported are troubled debt restructurings.

ABA recommends that the agencies defer the proposed TDR revisions, including the new breakdowns by loan category, of loans that have undergone troubled debt restructurings to coincide with the final decision on the pending FASB proposal on Troubled Debt Restructurings by Creditors.³ The deferral is important in order for the Call Report definition of TDRs to be consistent with the accounting standards for troubled debt restructurings.

ABA also strongly opposes the proposed caption change and recommends retaining the current captions for Schedule RC-C, part I, Memorandum item 1, and Schedule RC-N, Memorandum item 1, as “restructured” instead of changing them to “troubled debt restructurings.” This change in the caption, while perhaps seemingly just a technical amendment, could have significant substantive effects.

The term "Troubled Debt Restructurings", as defined by current accounting standards, reflects a population that is different from the regulatory definition of "Restructurings," with the former generally being a subset of the latter. If the Call Report caption is changed as is being proposed, there is an increased likelihood that the amount of TDRs reported to the SEC and those reported in regulatory reports will vary and cause confusion to users of the information.

FASB is currently considering changes to the criteria for loan restructurings to qualify as TDRs. We recommend that, until FASB finalizes its changes, this proposed change to the Call Report be deferred. We also recommend that this proposal be evaluated in light of any new credit quality information provided by banks in response to the recently issued accounting standards update (ASU 2010-20: Disclosures about the Credit Quality of Financing Receivables and the Allowance for Credit Losses) regarding enhanced credit quality disclosures. Such new information may diminish the necessity for the specific data requested in this proposal.

Deferring the proposed TDR revisions in the Call Report until the FASB revisions on TDRs are finalized would minimize confusion among banks and would provide consistent regulatory and FASB definitions and treatment of TDRs.

Nonbrokered Deposits Obtained Through the Use of Deposit Listing Service Companies.

Banks would be required to report in a new Memorandum item in Schedule RC-E, Deposit Liabilities, the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits. The agencies define a deposit listing service as a company that compiles information about interest rates offered on deposits, such as certificates of deposit, by insured depository institutions. The agencies also state that a deposit listing service is not a

³ See FASB Proposed Accounting Standards Update: Receivables (Topic 310), Clarifications to Accounting for Troubled Debt Restructurings by Creditors. Comments due: December 13, 2010.

deposit broker (which facilitates the placement of CDs) if all of the four specified criteria⁴ are met.

ABA opposes this proposed new Memorandum item to Schedule RC-E in which banks would report the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits. There is no practical way for banks to track this information, as proposed. As a result, whatever would get reported is likely to be of limited utility to anyone. Neither is it clear what purpose would be served by providing this information if it could be obtained.

Deposits of Individuals, Partnerships, and Corporations.

The agencies proposed a breakdown of the existing item for deposits of individuals, partnerships, and corporations into separate new items for deposits of individuals, and deposits of partnerships and corporations in Schedule RC-E, Deposit Liabilities. As a result of this proposed separate reporting of deposits, the agencies also proposed that official checks in the form of money orders and travelers checks be reported as deposits of individuals, while all other official checks and certified checks would be reported as deposits of partnerships and corporations.

ABA recommends that the agencies defer until **March 31, 2012**, the implementation of this new breakout of separate line items for deposits of individuals, and deposits of partnerships and corporations on Schedule RC-E. The proposal would require significant system programming changes for many banks to track and break out the sources of deposit, as proposed. ABA members believe that a deferral of reporting this new data until the March 31, 2012, Call Report would provide a reasonable amount of time for banks to make system modifications necessary to capture these new tracking data. This would also be consistent with the agencies' preferred time for implementing Call Report revisions, which typically occur at the end of the first quarter of the calendar year.

ABA recommends that if, and when, the source of deposits is broken out between (a) individuals, and (b) partnerships and corporations, an operationally more workable approach for banks would be to report all official and certified checks in one of the proposed new breakout categories rather than splitting them between the two new proposed categories. Thus, ABA recommends reporting all such checks in the category of deposits of partnerships and corporations, since most of these official and certified checks would be used by partnerships and corporations rather than individuals.

⁴ See 75 Fed. Reg. 60501- 60502 (September 30, 2010). Criteria generally include: (1) the provider of the listing service is compensated solely by subscription fees (*i.e.*, the fees paid by subscribers as payment for their opportunity to see the rates gathered by the listing service) and/or listing fees (*i.e.*, the fees paid by depository institutions as payment for their opportunity to list or "post" their rates); (2) fees paid by a depository institution are flat fees; (3) in exchange for these fees, the listing service performs no services other than (a) gathering and transmitting information on the availability of the deposits; and/or (b) transmitting messages between depositors and depository institutions; and (4) the listing service is not involved in placing deposits.

ABA recommends clarification of instructions that will accompany the proposed new item:

Credit and Debit Valuation Adjustments Included in Trading Revenues:

Banks with total assets of \$100 billion or more would be required to report additional information for credit and debit valuation adjustments included in trading revenues for banks.

The agencies have proposed new reporting in Schedule RI Memorandum 8.f. and 8.g. of the impact on trading revenue of changes in the creditworthiness of the bank's derivatives counterparties on the bank's derivative assets, and the impact on trading revenue of changes in the creditworthiness of the bank on the bank's derivative liabilities. ABA recommends that the instructions that will accompany these new reporting items be explicit on what is required to be reported.

Proposed additional items that are not included the agencies' proposal:

Permanent Increase in the Amount of the Deposit Insurance Coverage to \$250,000 by the Dodd-Frank Act:

ABA recommends that the agencies revise and update the Call Report, as needed, to eliminate references to deposit insurance coverage that are no longer needed due to the permanent increase in the standard maximum deposit insurance amount to \$250,000.⁵ Several items in the Call Report require banks to identify deposits between \$100,000 and \$250,000. If these deposits are not obtained using a deposit broker, we see no reason to distinguish them on the Call Report. They are as much a "core" deposit as any other that is obtained from within the bank's market. The permanent increase of deposit insurance to \$250,000 removes the need to continue distinguishing between different amounts of core deposits. The references to "\$100,000" are vestiges from law that has since been changed and should now be updated in the Call Report.

Schedule RC-O, Other Data for Deposit Insurance and FICO Assessments:

ABA recommends that the agencies revise and update Schedule RC-O, as needed, to eliminate items that are no longer necessary in light of the new method for calculating the deposit insurance assessment base, as required by the Dodd-Frank Act.⁶

ABA questions the status of Schedule RC-O of the Call Report, given the recent proposal issued by the FDIC to revise the deposit insurance assessment calculation pursuant to the Dodd-Frank Act. Since the FDIC assessment will be asset-based in the near future, ABA anticipates changes being necessary to Schedule RC-O. ABA requests that the agencies provide ample time for comments on any proposal issued to address the change in reporting requirements.

⁵ See Section 335, Permanent Increase in Deposit and Share Insurance, Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203 (July 21, 2010).

⁶ See Section 331, Deposit Insurance Reforms, Dodd-Frank Act, wherein the revised assessment base for an insured depository institution is "an amount equal to (1) the average consolidated total assets of the insured depository institution ...; minus (2) the sum of (A) the average tangible equity of the insured depository institution ..., and (B) in the case of an insured depository institution that is a custodial bank ... or a banker's bank ... an amount that the Corporation determines is necessary to establish assessments consistent with the definition under section 7(b)(1) of the Federal Deposit Insurance Act ... for a custodial bank or a banker's bank."

Standardization of Schedules:

ABA requests that schedules in Form FFIEC 041 seeking information regarding “Loans to finance agricultural production and other loans to farmers” (RI-B, RC-C, and RC-N) be standardized using the overall structure of **Schedule RC-C, item 3. – Loans and Lease Financing Receivables**. Currently, schedules RI-B and RC-N aggregate “Loans to finance agricultural production and other loans to farmers” with “All other loans”. The subsequent Memoranda for RI-B and RC-N then require the respective amounts to be segregated from “All other loans” in lines RI-B, Memorandum item 3. and RC-N, Memorandum item 4. The proposed change would allow for a more efficient preparation of the schedules.

Conclusion

ABA appreciates the opportunity to comment on the Proposed Revisions included in the Joint Notice and Request for Comment and the additional issues raised in our comments.

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,



Kathleen P. McTighe
Senior Counsel