



May 16, 2011

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Office of the Comptroller
of the Currency
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Attention: 1557–0081

Mr. Gary A. Kuiper
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Attention: Comments 3064-0052

Jennifer J. Johnson
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Board of Governors of the
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Washington, D.C. 20551

Office of Information and
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U.S. Office of Management
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New Executive Office Building
Room 10325
725 17th Street, N.W.
Washington, D.C. 20503

Re: Consolidated Reports of Condition and Income (FFIEC 031 and 041)

Ladies and Gentlemen:

The Clearing House Association L.L.C. (“The Clearing House”)¹, an association of major commercial banks, appreciates the opportunity to comment on the proposed revisions (the “Proposal”) to the Consolidated Reports of Condition and Income (the “Call Report”) and the instructions thereto (the “Instructions”) jointly proposed by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (hereinafter collectively the “Agencies”). Our comments to the Proposal are presented below.

¹ Established in 1853, The Clearing House is the nation’s oldest banking association and payments company. It is owned by the world’s largest commercial banks, which collectively employ 1.4 million people in the United States and hold more than half of all U.S. deposits. The Clearing House Association is a nonpartisan advocacy organization representing – through regulatory comment letters, amicus briefs and white papers – the interests of its owner banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated-clearing-house, funds-transfer and check-image payments made in the U.S. See The Clearing House’s web page at www.theclearinghouse.org.

Executive Summary

The scope of this letter will make recommendations on the implementation of the Proposal. Specifically, The Clearing House:

Recommends that the Agencies ensure that information formerly collected via examination and supervision and now proposed for collection in the Call Report remains confidential by collecting the data only on a new Schedule RC-O, Part II;

Requests that the Agencies restrict access to a bank's individual rate calculation worksheet ("FDIC's Rate Calculator"), available on the FDIC's website, to authorized persons at the bank;

Recommends that the new data items should reference other related Call Report schedules, as appropriate;

Recommends that the definition of a custodial bank's deposit liabilities directly linked to fiduciary, custody, or safekeeping accounts include such deposit accounts held in foreign offices and custodial transaction accounts related to escrows and IOLTAs;

Requests that the Agencies confirm that the amount of a bank's holdings of long-term unsecured debt issued by other insured depository institutions (IDIs) as reported on the balance sheet refers to that reported as securities in Schedule RC-B item, 6a and Schedule RC-D, item 5b;

Recommends that large and highly complex institutions be permitted to report the same information currently reported to their primary regulators with respect to Criticized and Classified assets;

Requests that the Agencies confirm that the definition of nontraditional mortgage loans does not include conventional adjustable-rate mortgage loans or payment option adjustable-rate mortgages that are in the fully amortizing period;

Recommends that large and highly complex institutions be permitted to report the information currently being reported to their primary regulator with respect to subprime and leveraged loans, that large banks that were not required to report any information on subprime and leveraged loans, such banks should be expressly allowed to report in accordance with the OCC 2001 and 2008 Guidance on subprime and leveraged loans and that The Clearing House will work with the FDIC to develop an approach to ensure consistent and accurate reporting; and

Recommends that the Agencies permit banks to report the same Exposure at Default (EAD) as that reported in their Form FFIEC 101, Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.

I. The Agencies should ensure that information formerly collected via examination and supervision now proposed for collection in the Call Reports remains confidential.

As stated in the Proposal, except for selected data, the items in the Call Report and the FFIEC 002 are not given confidential treatment.² Currently, the proposed data items including those for criticized and classified items, nontraditional mortgage loans, subprime consumer loans, leveraged loans, top 20 counterparty exposures and largest counterparty exposure (“Supervisory Items”) are gathered for the Agencies’ use through examination and supervision processes, rather than in the Call Reports, and are treated as confidential examination information.³ The Proposal requires each large or highly complex institution to collect these Supervisory Items in its Call Report on Draft Form for June 2011 Schedule RC-O, Memorandum items 6 through 9, 14, and 15. According to the Proposal, the Agencies would continue to regard these Supervisory Items as examination information and therefore, would continue to give these items confidential treatment when collected via the Call Report.⁴ The Clearing House members fully support that these Supervisory Items receive confidential treatment. In order to facilitate this confidential treatment, we recommend that the new items required for assessments be collected on a new Call Report schedule, RC-O, Part II. We believe this would most efficiently facilitate the ability to remove these Supervisory Items from the Call Report before making the reports available to the public, thereby maintaining confidential treatment of this sensitive data. We believe this would be most efficient for both the Agencies and individual banks. In addition, please confirm that any changes to these items will be published in the Federal Register since they now will be collected via the Call Report.

II. The Agencies should restrict access to a bank’s individual rate calculation worksheet (“FDIC’s Assessment Rate Calculator”), available on the FDIC’s website, to authorized persons at the bank.

In August 2006, the FDIC began providing a spreadsheet that banks could download to estimate their insurance assessment rates for future quarters.⁵ The calculator has been updated to reflect the February 25, 2011 Final Rule on Assessments, Large Bank Pricing (the “Final Rule”). By entering a bank’s FDIC certificate number, the spreadsheet is automatically populated by data from a bank’s Call Report, providing the user with an estimate of the bank’s

² Proposal page 14461.

³ Proposal page 14466.

⁴ Proposal pages 14466 and 14467.

⁵ Assessment calculator see <http://www.fdic.gov/deposit/insurance/calculator.html>

assessment rate. Currently, this rate calculator spreadsheet is publicly available. The Clearing House is concerned that items that are considered confidential (namely the new items in the Proposal) that are used to calculate a bank's FDIC assessment rate would be able to be viewed by the public if they have access to the certificate number of a bank. Therefore, The Clearing House requests that the FDIC limit the access to a bank's rate calculator to persons authorized by the institution to calculate its own assessment rates. The FDIC should continue to provide a generic rate calculator to the public.

III. New data items should reference other related Call Report Schedule items, as appropriate.

The Clearing House believes that the new data items should include references to other related Call Report schedule items, as appropriate. This would help to provide clarity in reporting these new items. For example, long-term debt should be referenced to Schedule RC-M. This would assist our member banks with the edit checks for the Call Report.

IV. The definition of a custodial bank's deposit liabilities directly linked to fiduciary, custody or safekeeping accounts should include short-term time deposit accounts linked to fiduciary, custody or safekeeping accounts held in foreign offices and escrows and other trust and custody-related deposit liabilities.

The Final Rule provides for the deduction of the daily or weekly average amounts of certain low-risk assets from the assessment base of custodial banks.⁶ The amount of the deduction of these low-risk assets is limited to the daily or weekly average amount of the custodial bank's deposit liabilities classified as transaction accounts and identified by the custodial bank as being directly linked to a fiduciary, custody, or safekeeping account.⁷ In addition, the Final Rule does not permit a deduction for non-transaction accounts, which may be part of a wealth management strategy.⁸

The Proposal provides that custodial banks with deposits in foreign offices can include foreign office deposit liabilities with the characteristics of a transaction account that are directly linked to fiduciary, custody, or safekeeping accounts.⁹ While these foreign office deposits are largely held in demand accounts, on occasion they are held in short-term time deposit accounts (usually 1-7 days). These short-term time deposit accounts provide cash management features for the client and are not part of a wealth management strategy. Therefore, The Clearing House recommends that the Agencies include short-term time deposit accounts directly linked to fiduciary, custody, or safekeeping accounts held in foreign offices in the calculation of a custodial bank's qualifying deduction of low-risk assets.

⁶ 76 Fed. Reg. 10680 (February 25, 2011).

⁷ Proposal page 14463.

⁸ 76 Fed. Reg. 10680 (February 25, 2011).

⁹ Proposal, page 14465 n. 13.

In addition, while not reported on Schedule RC-T, banks perform fiduciary and custody services for customers for which the bank holds escrow accounts and other trust and custody-related deposit liabilities such as IOLTAs. These accounts, which can be held in transaction accounts or in short-term time deposit accounts, also are not offered as part of a wealth management strategy. Therefore, The Clearing House recommends that the Agencies also include escrows and other trust and custody-related deposit liabilities in the calculation of a custodial bank's qualifying deduction of low-risk assets.

V. The Agencies should confirm that the amount of a bank's holdings of long-term unsecured debt issued by other insured depository institutions ("IDIs") as reported on the balance sheet refers to that reported as securities in Schedule RC-B, item 6a and Schedule RC-D, item 5b.

Proposed Call Report Schedule RC-O, TFR Schedule DI, and FFIEC 002 Report Schedule O would require banks to report the amount of their holdings of long-term unsecured debt issued by other IDIs (as reported on the balance sheet).¹⁰ Since long-term unsecured debt issued by other IDIs generally is not separately identified in bank systems, banks would need to retrospectively identify these assets at the instrument level for holdings currently in the systems and put processes in place to ensure that future holdings are identifiable. As the proposal does not provide any further clarification on what constitutes long-term unsecured debt issued by other IDIs, The Clearing House requests that the Agencies confirm and clarify that the amount of a bank's holdings of long-term unsecured debt issued by other IDIs be that amount as reported in Schedule RC-B, item 6a, Other domestic debt securities and Schedule RC-D, item 5b, All other debt securities.

VI. The Agencies should permit the banks to report the same information that is submitted quarterly to the bank's primary regulator for the items added to the Call Report for Criticized and Classified Items and should clarify the definition of Nontraditional Mortgage Loans.

The Proposal requires that Criticized and Classified items designated Special Mention, Substandard, Doubtful and Loss be added to the Call Report.¹¹ The OCC and Federal Reserve have standard definitions for Criticized and Classified asset categories.¹² The Clearing House recommends that the Agencies permit large and highly complex institutions to report the same information that is submitted quarterly to the bank's primary regulator (e.g., for the banks regulated by the OCC, it would be the data on the reporting form commonly known as the Bank & Holding Company FAST Data Reporting Form). In addition, the Agencies should confirm that

¹⁰ Proposal page 14465.

¹¹ Proposal page 14467.

¹² OCC Comptroller's Handbook page 15 <http://www.occ.gov/static/publications/handbook/RCR.pdf>
Federal Reserve Supervisory Manual, Section 2060
<http://www.federalreserve.gov/boarddocs/supmanual/cbem/2000.pdf>

the definition of nontraditional mortgage loans would not include conventional amortizing adjustable-rate mortgage loans and that nontraditional loans can be reclassified as traditional loans when they begin fully amortizing.

VII. The information required by the Proposal with respect to subprime loans and leveraged lending in the Proposal is currently not reported by large or highly complex institutions, may not be available for significant numbers of loans on the balance sheet as of June 30, 2011 and is in conflict with the information currently provided by banks to their primary regulator. Large and highly complex institutions should be expressly permitted to report the information currently being reported to their primary regulator for June 30, 2011 Call Reports. In the case of large banks not previously required to report any information on subprime and leveraged lending, such banks should be expressly allowed to report in accordance with the OCC 2001 and 2008 Guidance on subprime and leveraged loans for June 30, 2011 Call Reports. The Clearing House will work with the FDIC to ensure long-term consistent and accurate reporting.

We appreciated the opportunity to meet with you and the American Bankers Association on May 12 to discuss in detail our concerns with respect to the Final Rule's definitions of subprime loans and leveraged lending. We would be pleased to provide you with a supplemental written submission describing those concerns. As we described during the meeting, information currently reported by a bank within its own lending policies in accordance with the Subprime Lending Guidance issued by the Agencies on January 31, 2001 (the "2001 Guidance") and the leveraged lending guidance issued by the OCC in February 2008 in its Comptroller's Handbook (the "2008 Guidance"), which has been reviewed and audited by that bank's primary regulator, is in conflict with the new definitions and criteria for subprime loans and leveraged lending introduced by the FDIC in the Final Rule. This information is not currently provided by banks and has not been tracked by banks in the form now required by the FDIC. Moreover, only institutions that have the OCC as their primary regulator currently are required to report leveraged lending data. Therefore, for large or highly complex institutions that are not regulated by the OCC, such as state-chartered banks, leveraged lending data would need to be collected manually to comply with the 2008 Guidance. Reporting according to the Proposal for all large and highly complex institutions, therefore, will create an undue reporting burden since banks will need to review in the aggregate millions of loan files, which is an intensively manual process, in an attempt to provide such data for the June 30, 2011 Call Reports. Further, the information required by the Proposal often may not be available at all for certain loans that were originated many years ago or for loans purchased or otherwise acquired through acquisitions, mergers, securitizations or other third-party transactions pursuant to which the "seller" did not maintain the information now required by the Proposal.

The Clearing House recommends that, consistent with normal FDIC policy with respect to any new Call Report item initially required to be reported as of that date for which the requested information is not readily available, large and highly complex institutions be

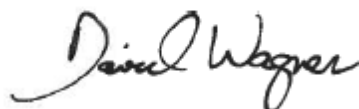
expressly allowed to report the information currently being reported to their primary regulator with respect to subprime and leveraged loans. In the case of large banks not previously required to report any information on subprime and leveraged loans, such banks should be expressly allowed to report in accordance with the OCC 2001 and 2008 Guidance with respect to subprime and leveraged loans. This treatment would be consistent with the way in which the Large Bank Pricing Model was developed by the FDIC and therefore validate the assumptions used when developing the model. We acknowledge that this interim solution does not resolve the issue of how to report in compliance with the Final Rule those subprime and leveraged loans on the balance sheets of banks as of June 30, 2011, as well as new loans originated or acquired after June 30, 2011, but The Clearing House would be pleased to work with the FDIC to develop an approach to ensure consistent reporting to the FDIC and the banks' primary regulators.

VIII. The Agencies should permit banks to report the same Exposure at Default (EAD) as that reported in their Form FFIEC 101, Risk-Based Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework.

According to the Proposal, highly complex institutions would be required to report the total amount of the institution's 20 largest counterparty exposures, using the Basel II Exposure at Default (EAD) formula for derivative trading and Securities Financing Transactions (SFTs). We urge the Agencies to permit banks to report the same EAD as that reported in their Form FFIEC 101. This approach would be consistent with the risks related to these exposures. Moreover, since the calculation of the new assessment is based on the EADs reported in the Form FFIEC 101, any change in these EADs would require an adjustment to the calculation of the assessment.

We greatly appreciate your consideration of our comments and would welcome the opportunity to discuss them further with you at your convenience. If we can facilitate arranging for those discussions, or if you have any questions or need further information, please contact me at 212.613.9883 (email: david.wagner@theclearinghouse.org) or Gail Haas at 212.612.9233 (email: gail.haas@theclearinghouse.org).

Sincerely yours,



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