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Comptroller of the Currency  
Administrator of National Banks

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Washington, DC 20219

June 14, 2011

Ms. Shagufta Ahmed  
Desk Officer  
Office of Information and Regulatory Affairs  
Office of Management and Budget  
Washington, D.C. 20530

Dear Ms. Ahmed:

The Office of the Comptroller of the Currency (OCC), in coordination with the Board of Governors of the Federal Reserve System (Board), the Federal Deposit Insurance Corporation (FDIC), and the Office of Thrift Supervision (OTS) (collectively, the “agencies”), each of which is submitting a separate request, hereby requests approval by June 17, 2011, for revisions to the following currently approved collections of information pursuant to the Office of Management and Budget’s (OMB) Paperwork Reduction Act (PRA) emergency processing procedures at 5 CFR § 1320.13:

- Consolidated Reports of Condition and Income (Call Report) [OMB Nos. 7100-0036 (for the Board), 3064-0052 (for the FDIC), and 1557-0081 (for the OCC)]
- Thrift Financial Report (TFR) [OMB No. 1550-0023 (for the OTS)]
- Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002S) [OMB No. 7100-0032 (for the Board)]

The agencies have determined that (1) the collection of information within the scope of this request is needed prior to the expiration of time periods established under 5 C.F.R. § 1320.10; (2) this collection of information is essential to the mission of the agencies; and (3) the agencies cannot reasonably comply with the normal clearance procedures because an unanticipated event has occurred and the use of normal clearance procedures is reasonably likely to prevent or disrupt the collection of information.

As described more fully in the attached Supporting Statement, Section 331(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act), which was signed into law on July 21, 2010,<sup>1</sup> required the FDIC to amend its regulations to redefine the assessment base used for calculating deposit insurance assessments as average consolidated total assets

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<sup>1</sup> Public Law 111-203, 124 Stat. 1376 (July 21, 2010).

minus average tangible equity. Under prior law, the assessment base has been defined as domestic deposits minus certain allowable exclusions, such as pass-through reserve balances. In general, the intent of Congress in changing the assessment base was to shift a greater percentage of overall total assessments away from community banks and toward the largest institutions, which rely less on domestic deposits for their funding than do smaller institutions.

In May 2010, prior to the enactment of the Dodd-Frank Act, the FDIC published a Notice of Proposed Rulemaking (NPR) to revise the assessment system applicable to large insured depository institutions. The proposed amendments to the FDIC's assessment regulations were designed to better differentiate large institutions by taking a more forward-looking view of risk and better take into account the losses that the FDIC will incur if an institution fails. The comment period for the May 2010 NPR ended July 2, 2010, and most commenters requested that the FDIC delay the implementation of the rulemaking until the effects of the then pending Dodd-Frank legislation were known.

On November 9, 2010, the FDIC Board approved the publication of two NPRs, one that proposed to redefine the assessment base as prescribed by the Dodd-Frank Act and another that proposed revisions to the large institution assessment system while also factoring in the proposed redefinition of the assessment base as well as comments received on the May 2010 NPR. After revising the proposals where appropriate in response to the comments received on the two November 2010 NPRs, the FDIC Board adopted a final rule on February 7, 2011, amending the FDIC's regulations to redefine the assessment base used for calculating deposit insurance assessments for all 7,500 insured depository institutions and revise the assessment system for approximately 110 large institutions. The final rule took effect for the quarter beginning April 1, 2011, and will be reflected for the first time in the invoices for deposit insurance assessments due September 30, 2011, using data reported in the Call Reports, TFRs, and FFIEC 002/002S reports for June 30, 2011.

On March 16, 2011, the agencies published an initial PRA Federal Register notice in which they requested comment on proposed revisions to these regulatory reports that would provide the data needed by the FDIC to implement the provisions of the February 2011 final rule beginning with the June 30, 2011, report date. The new data items proposed in the initial PRA notice were linked to specific requirements in the FDIC's amended assessment regulations. The draft instructions for these proposed new items incorporated the definitions in and other provisions of these regulations. Accordingly, the FDIC did not anticipate receiving material comments on the reporting changes proposed in their March 2011 initial PRA notice because the FDIC's February 2011 final rule on assessments had taken into account the comments received on the two November 2010 NPRs as well as the earlier May 2010 NPR. Thus, the agencies expected to follow normal clearance procedures and publish a final PRA Federal Register notice for the proposed reporting changes and submit these changes to OMB for review soon after the May 16, 2011, close of the comment period for the initial PRA notice.

The agencies collectively received comments from 19 respondents on their initial PRA notice on the proposed assessment-related reporting changes published on March 16, 2011. Of these 19 respondents, 17 addressed the new data items for subprime and leveraged loans that are inputs to

the revised assessment system for large institutions.<sup>2</sup> More specifically, these commenters stated that institutions generally do not maintain data on these loans in the manner in which these two loan categories are defined for assessment purposes in the FDIC's final rule or do not have the ability to capture the prescribed data to enable them to identify these loans in time to file their regulatory reports for the June 30, 2011, report date. These data availability concerns, particularly as they relate to institutions' existing loan portfolios, had not been raised as an issue during the rulemaking process for the revised large institution assessment system, which included the publication of two NPRs in 2010.<sup>3</sup> This unanticipated outcome at the end of the public comment process for the agencies' March 2011 initial PRA notice required the FDIC to consider possible reporting approaches that would address institutions' concerns about their ability to identify loans meeting the subprime and leveraged loan definitions in the FDIC's assessments final rule while also meeting the objectives of the revised large institution assessment system. However, the consequence of the unexpected need to develop and reach agreement on a workable transition approach for identifying loans that are to be reported as subprime or leveraged for assessment purposes<sup>4</sup> is that the agencies' use of normal clearance procedures for the assessment-related reporting changes to the Call Report, TFR, and FFIEC 002/002S reports is reasonably likely to prevent or disrupt the initial collection of these new assessment data as of the June 30, 2011, report date as called for under the FDIC's final rule.

In order for the FDIC to calculate deposit insurance assessments under the final rule implementing Section 331(b) of the Dodd-Frank Act and the revised large institution assessment system, the FDIC needs certain information not currently collected from insured depository institutions. The best method for obtaining this information would be through revisions to the collections of information identified above. These revisions involve the addition of new items to be completed by all insured depository institutions to support the measurement of the redefined assessment base as well as new items applicable only to institutions subject to the revised large institution assessment system that will be used as inputs to the scorecard measures that determine the initial base assessment rates for these institutions. These new items would be added to these information collections effective June 30, 2011, the first quarter-end report date following the effective date of the FDIC's February 2011 final rule amending its assessment regulations.

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<sup>2</sup> In contrast, only four respondents commented on other aspects of the overall reporting proposal.

<sup>3</sup> In response to the November 2010 NPR on the revised large institution assessment system, the FDIC received a number of comments recommending changes to the definitions of subprime and leveraged loans, which the FDIC addressed in its February 2011 final rule amending its assessment regulations. For example, several commenters on the November 2010 NPR indicated that regular (quarterly) updating of data to evaluate loans for subprime or leveraged status would be burdensome and costly and, for certain types of retail loans, would not be possible because existing loan agreements do not require borrowers to routinely provide updated financial information. In response to these comments, the FDIC's February 2011 final rule stated that large institutions should evaluate loans for subprime or leveraged status upon origination, refinance, or renewal. However, no comments were received on the November 2010 NPR indicating that large institutions would not be able to identify and report subprime or leveraged loans in accordance with the definitions proposed for assessment purposes in their Call Reports and TFRs beginning as of June 30, 2011. These data availability concerns were first expressed in comments on the March 2011 initial PRA notice.

<sup>4</sup> The FDIC presented this transition approach to large institutions during a conference call on June 7, 2011, that all large institutions had been invited to attend. Several institutions offered favorable comments about the transition approach during this call.

Absent OMB approval to implement these reporting changes as of June 30, 2011, community institutions will experience a delay in the shifting of a portion of the overall deposit insurance assessment burden away from them, which was the intent of Section 331(b) of the Dodd-Frank Act.

The FDIC's amended assessment regulations and the related revised reporting requirements will remain in effect beyond the six-month approval period associated with an emergency clearance request. Accordingly, the agencies plan to follow this emergency request with a request for approval of these revisions that will be processed under OMB's normal clearance procedures in accordance with the provisions of 5 C.F.R. § 1320.10.

Very truly yours,



Michele Meyer,  
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