Supporting Statement for the
Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks
(FFIEC 002; OMB No. 7100-0032)
and the 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)

Summary

The Board of Governors of the Federal Reserve System (Board) requests approval from the Office of Management and Budget (OMB) to revise the Federal Financial Institutions Examination Council (FFIEC) Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100-0032) 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) under the emergency clearance provisions of OMB's regulations. The Board submits this request on behalf of the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC). No separate submission will be made by either of those agencies.

The agencies propose to (1) delete existing data items for the total daily averages of deposit liabilities before exclusions, allowable exclusions, and foreign deposits and (2) add data items for reporting average consolidated total assets, average tangible equity, and the holdings of long-term unsecured debt issued by other FDIC-insured depository institutions. These revisions arise from a final rule approved by the FDIC Board of Directors on February 7, 2011, that implements the requirements of section 331(b) of the Dodd-Frank Act by amending part 327 of the FDIC's regulations, effective April 1, 2011. Section 331(b) required the FDIC to amend its regulations to redefine the assessment base used for calculating deposit insurance assessments as average consolidated total assets minus average tangible equity. The agencies would implement the proposed changes for the June 30, 2011, reporting date. The proposed annual burden for the FFIEC 002 is estimated to be 25,577 hours, an increase of 9 hours from the current burden of 25,568 hours. The current annual burden for the FFIEC 002S is estimated to be 1,368 hours and would remain unchanged.

Background and Justification

The agencies use the FFIEC 002 report for supervisory and regulatory purposes. The Board also uses the data for monetary policy purposes. The report is similar to the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031 and FFIEC 041; OMB No. 7100-0036) required of all U.S. commercial banks, although the FFIEC 002 collects fewer data items of information. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978 (IBA).

Section 331(b) of the Dodd-Frank Act, which was signed into law on July 21, 2010, required the FDIC to amend its regulations to redefine the assessment base used for calculating deposit insurance assessments as average consolidated total assets 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.[1] 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 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[2] 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.[3] 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.[4] 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, Thrift Financial Reports (TFR) (OMB No. 1550-0023), and FFIEC 002 and FFIEC 002S reports for June 30, 2011.

On March 16, 2011, the agencies published an initial *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.[5] The new data items proposed in the initial 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 the March 2011 initial 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 *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 notice.

---

1 See 75 FR 23516, May 3, 2010.

2 See 75 FR 72582, November 24, 2010.

3 See 75 FR 72612, November 24, 2010.

4 See 76 FR 10672, February 25, 2011.

5 See 76 FR 14460, March 16, 2011.

The agencies collectively received 19 comments on their initial notice; 17 addressed the new data items for subprime and leveraged loans that are inputs to the revised assessment system for large institutions.[6] 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.[7]

This unanticipated outcome at the end of the public comment process for the agencies' March 2011 initial 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[8] 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. 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.

Description of Information Collection

The reporting panel for the FFIEC 002 includes all U.S. branches and agencies (including their IBFs) of foreign banks, whether federally licensed or state chartered, insured or uninsured. The FFIEC 002 consists of a summary schedule of assets and liabilities (Schedule RAL) and several

6 In contrast, only four respondents commented on other aspects of the overall reporting proposal.

7 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.

8 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.

supporting schedules. Information is required in each schedule on balances of the entire reporting branch or agency. On the schedules for cash (Schedule A), loans (Schedule C), and deposits (Schedule E), separate detail is reported on balances of IBFs. Unlike the Call Report for domestic banks, the FFIEC 002 collects no income data.

The FFIEC 002S covers all of the foreign branch's assets and liabilities, regardless of the currency in which they are payable. The supplement also covers transactions with all entities, both related and nonrelated, regardless of location. All due from/due to relationships with related institutions, both depository and nondepository, are reported on a gross basis, that is, without netting due from and due to data items against each other.

Proposed Revisions

The proposed revisions discussed below would be effective June 30, 2011. These revisions arise from a final rule approved by the FDIC Board of Directors on February 7, 2011, which implemented Section 331(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). Section 331(b) required the FDIC to amend its regulations to redefine the assessment base used for calculating deposit insurance assessments as average consolidated total assets minus average tangible equity.

- The proposed deletion of the existing data items for the total daily averages of deposit liabilities before exclusions, allowable exclusions, and foreign deposits.[9]
- The proposed addition of a new data item for reporting average consolidated total assets, which should be calculated using the institution's total assets, as defined for Call Report balance sheet (Schedule RC) purposes, except that the calculation should incorporate all debt securities (not held for trading) at amortized cost, equity securities with readily determinable fair values at the lower of cost or fair value, and equity securities without readily determinable fair values at historical cost.[10]
- The proposed addition of a new data item for reporting average tangible equity, which is defined as Tier 1 capital.[11]
- The proposed addition of a new data item for holdings of long-term unsecured debt issued by other FDIC-insured depository institutions.

9 The specific items to be deleted are, in the Call Report, existing items 4, 5, and 6 in Schedule RC-O – Other Data for Deposit Insurance and FICO Assessments; in the TFR, existing line items DI540, DI550, and DI560 in Schedule DI – Consolidated Deposit Information; and in the FFIEC 002 report, existing items 4, 5, and 6 in Schedule O – Other Data for Deposit Insurance Assessments.

10 For an insured branch, average consolidated total assets would be calculated using the total assets of the branch (including net due from related depository institutions), as defined for purposes of Schedule RAL – Assets and Liabilities of the FFIEC 002 report, but with debt and equity securities measured in the same manner as for other insured institutions.

11 For an insured branch, tangible equity would be defined as eligible assets (determined in accordance with section 347.210 of the FDIC's regulations) less the book value of liabilities (exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries).

Time Schedule for Information Collection

The FFIEC 002 and FFIEC 002S are collected as of the end of the last calendar day of March, June, September, and December. U.S. branches and agencies of foreign banks must submit the FFIEC 002 and FFIEC 002S to the appropriate Federal Reserve Bank within 30 calendar days following the report date. After the processing and editing functions have been completed, the Board sends the data to the FDIC and OCC for their use in monitoring the U.S. activities of foreign banks under their supervision. Aggregate data for all U.S. branches and agencies that file the FFIEC 002 are published in the *Federal Reserve Bulletin* and are also used in developing flow of funds estimates and the estimates published in the Federal Reserve weekly H.8 statistical release, *Assets and Liabilities of Commercial Banks in the United States*. Aggregate data for the FFIEC 002S are available to the public upon request.

Individual respondent data, excluding confidential information, are available to the public from the National Technical Information Service in Springfield, Virginia, upon request. The information on file is provided on compact discs. In addition, individual respondent data are also available on the FFIEC public website at www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.

Legal Status

The Board's Legal Division has determined that section 7(c)(2) of the IBA (12 U.S.C. § 3105(c)(2)) authorizes the agencies to require the FFIEC 002 and FFIEC 002S. In addition, section 4(b) of the IBA (12 U.S.C. § 3102(b)) authorizes the OCC to collect the information from Federal branches and Federal agencies of foreign banks. Further, section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(a)) authorizes the agencies to collect the information from insured branches of foreign banks. The Board's Legal Division has also determined that the individual respondent information on the FFIEC 002 contained in Schedule M (Due from/Due to Related Institutions in the U.S. and in Foreign Countries) and the FFIEC 002S is exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Information from all other schedules of the FFIEC 002 is available to the public on request. The proposed items would not be held confidential.

Consultation Outside the Agency and Discussion of Public Comments

The agencies published the notice for comment in the *Federal Register* on March 16, 2011 (76 FR 14460). The agencies proposed to implement certain changes to these reports as of June 30, 2011, to provide data needed by the FDIC to implement amendments to its assessment regulations (12 CFR Part 327) that were adopted by the FDIC Board of Directors in a final rule on February 7, 2011. The agencies collectively received 19 comments: 14 depository institutions, 4 bankers' organization, and 1 government agency. The comment period for this notice expired on May 16, 2011. The agencies modified the proposal in response to several comment letters.

The FDIC's proposed redefinition of the assessment base to implement Section 331(b) of the Dodd-Frank Act was included in an NPR approved for publication by the FDIC Board on November 9, 2010, the comment period for which ended on January 3, 2011. The FDIC initially proposed to revise the assessment system applicable to large insured depository institutions in an NPR with a 60-day comment period that was approved for publication by the FDIC Board on April 13, 2010. On November 9, 2010, the FDIC Board approved the publication of a second NPR seeking comment through January 3, 2011, on proposed revisions to the assessment system for large insured depository institutions that took into account the redefined assessment base prescribed by the Dodd-Frank Act as well as comments received on the earlier NPR.

The agencies collectively received comments from 19 respondents on their initial PRA notice on the proposed assessment-related reporting requirements published on March 16, 2011. Comments were received from 14 depository institutions, 4 bankers' organizations, and 1 government agency. Three of the bankers' organizations commented on certain aspects of the proposed reporting requirements associated with the redefined assessment base, with one of these organizations welcoming the proposed reporting changes and deeming them "reasonable and practical." Seventeen of the 19 respondents (all of the depository institutions and three of the bankers' organizations) addressed the reporting requirements proposed for large institutions, with specific concerns raised by all 17 about the definitions of subprime consumer loans and leveraged loans in the FDIC's final rule, which were carried directly into the draft reporting instructions for these two proposed data items, and large institutions' ability to report the amount of subprime consumer loans and leveraged loans in accordance with the final rule's definitions, particularly beginning as of the June 30, 2011, report date.

These data availability concerns, particularly as they relate to large 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. This unanticipated outcome at the end of the public comment process for the agencies' March 16, 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 has led to this request for emergency clearance because the agencies' use of normal clearance procedures for the assessment-related reporting changes to the 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.

For further information concerning the comments received on the agencies' March 16, 2011, initial PRA notice and the responses to these comments, please refer to the "Current Actions" section of the draft final notice. This draft final notice had been under development in connection with the agencies' use of the normal clearance procedures for the assessment-related reporting changes before the agencies determined that their use of such procedures is reasonably likely to prevent or disrupt the initial collection of these new assessment data as of the June 30, 2011, report date.

The agencies will follow this request for emergency processing with a request under normal clearance procedures, during which comments will be solicited for the typical 60-day and

30-day periods. All comments received on paperwork burden, whether during the 60-day or 30-day comment periods, will be considered in finalizing the collection.

Estimate of Respondent Burden

The current estimated annual reporting burden for the FFIEC 002 is 25,568. The agencies estimate that the total proposed annual reporting burden is 25,577 hours, an increase of 9 hours. This increase is attributed to an increase in the hourly estimate for the new and revised data items. The current estimated annual reporting burden for the FFIEC 002S is 1,368 hours and would remain unchanged. These reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

	Number of respondents	*Annual frequency*	*Estimated average hours per response*	*Estimated annual burden hours*
Current				
FFIEC 002	238	4	25.42	0
FFIEC 002S	57	4	6	1,368
Total				25,568
Proposed				
FFIEC 002	238	4	25.43	24,209
FFIEC 002S	57	4	6	1,368
Total				25,577
Change				9

The total cost to the public is estimated to increase to $1,090,859 from $1,090,475 for the FFIEC 002 and FFIEC 002S.[12]

Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

12 Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative or Support @ $16, 45% Financial Managers @ $49, 15% Legal Counsel @ $54, and 10% Chief Executives @ $77). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages 2009*, www.bls.gov/news.release/ocwage.nr0.htm. Occupations are defined using the BLS Occupational Classification System, www.bls.gov/soc/.

Estimate of Cost to the Federal Reserve System

The current annual cost to the Federal Reserve System for collecting and processing the FFIEC 002 and the FFIEC 002S is estimated to be $221,900. The Federal Reserve System collects and processes the data for all three of the agencies.