

SUPPORTING STATEMENT
Office of Thrift Supervision
Thrift Financial Report (TFR)
(OMB No. 1550-0023)

The Office of Thrift Supervision (OTS), in coordination with the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (Board), and the Office of the Comptroller of the Currency (OCC) (collectively, the “agencies”), each of which is submitting a separate request, hereby requests approval by June 21, 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)]

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) and revised the assessment system for large insured depository institutions. 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 revised large institution assessment system, which will be used to determine the initial base assessment rate that will be applied to a large institution’s assessment base as redefined, is 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.

In order for the FDIC to calculate deposit insurance assessments under the final rule approved by the FDIC Board in February 2011, 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 April 1, 2011, effective date of the FDIC’s February 2011 final rule amending its assessment regulations.

A. JUSTIFICATION

1. Circumstances and Need

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 Act² 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, 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.⁵ 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 and the other agencies did not anticipate receiving

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.

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.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 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 purposes⁸ 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 banks 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.

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. However, no comments were received on the November 2010 NPR regarding the data availability concerns 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.

2. Use of Information Collected

The deposit insurance assessment-related reporting changes that are the subject of this request for emergency clearance will provide the information the FDIC needs to calculate (1) the assessment bases for all insured depository institutions as redefined in accordance with section 331(b) of the Dodd-Frank Act and the FDIC's final rule, and (2) the assessment rates for "large institutions" and "highly complex institutions" using a scorecard set forth in the final rule that combines CAMELS ratings⁹ and certain forward-looking financial measures to assess the risk such institutions pose to the Deposit Insurance Fund (DIF).

3. Use of Technology to Reduce Burden

All banks and savings associations are subject to an electronic filing requirement for Call Reports and TFRs. Insured U.S. branches of foreign banks are permitted to submit the FFIEC 002/002S reports electronically. Institutions may use information technology to the extent feasible to maintain required records.

4. Efforts to Identify Duplication

The information to be collected to calculate the assessment bases for all insured depository institutions and the assessment rates for large and highly complex institutions supports the FDIC's administration of the federal deposit insurance system for and is not duplicated elsewhere.

5. Minimizing the Burden on Small Entities

The information that is the subject of this request for emergency clearance is the minimum necessary for the FDIC to administer the federal deposit insurance system for insured depository institutions. In general, the large institution assessment system applies to institutions with \$10 billion or more in total assets and therefore will not affect small institutions.

With respect to the information to be collected to calculate the assessment bases for all insured depository institutions, institutions with less than \$1 billion in assets (other than newly insured institutions) may use a weekly averaging method for calculating average consolidated total assets unless they opt to report daily averages on a permanent basis. In general, banks with less than \$1 billion in assets will be able to carry the average total assets figure reported in the quarterly averages schedule of the Call Report over to the deposit insurance assessment schedule. Under the FDIC's final rule, tangible equity capital is defined as Tier 1 capital, which institutions already measure for regulatory capital purposes, and average tangible equity will be calculated using a monthly averaging method, but institutions with less than \$1 billion in assets (other than newly insured institutions) may report on an end-of-quarter basis unless they opt to report monthly averages on a permanent basis. In general, banks with less than \$1 billion in assets will be able to carry the quarter-end Tier 1 capital figure reported in the regulatory capital schedule of the Call Report over to the deposit insurance assessment schedule.

⁹ An institution's composite rating under the Uniform Financial Institutions Rating System is often referred to as a CAMELS rating. See 62 FR 752, January 6, 1997.

6. Consequences of Less Frequent Collection

Collection of the deposit insurance assessment data that are the subject of this request for emergency clearance less frequently than quarterly would reduce the FDIC's ability to timely calculate and collect the quarterly assessments for insured deposits.

7. Special Circumstances

There are no special circumstances.

8. Consultation with Persons Outside the OTS

As mentioned in Section 1 above, the agencies published an initial PRA notice on March 16, 2011, in which they requested comment on proposed revisions to their regulatory reports: the Call Report, the TFR, and the FFIEC 002/002S reports. 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 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 fourteen depository institutions, four bankers' organizations, and one 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 purposes¹⁰ has led to this request for emergency clearance because 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.

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 attached draft final PRA 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.

9. Payment or Gift to Respondents

No gifts will be given to respondents.

10. Confidentiality

Information collected in Call Reports, TFRs, and FFIEC 002/002S reports pertaining to the redefined assessment base would be publicly available. With respect to the information to collected for use as inputs to scorecard measures in the revised large institution assessment system, large and highly complex institutions would begin to report information on criticized and classified items, nontraditional mortgage loans, subprime consumer loans, leveraged loans, top 20 counterparty exposures, and largest counterparty exposure for assessment purposes in accordance with the definitions in the FDIC's final rule. Information of a similar nature is typically gathered through examination processes at these institutions and, accordingly, is treated as confidential examination information. Because the agencies would continue to regard these new data items as examination-related information, the information from large and highly complex institutions on criticized and classified items, nontraditional mortgage loans, subprime consumer loans, leveraged loans, top 20 counterparty exposures, and largest counterparty exposure would be accorded confidential treatment when collected via the Call Report and TFR.

¹⁰ See footnote 8.

The other new data items to be collected from large and highly complex institutions would be publicly available.

11. Information of a Sensitive Nature

No information of a sensitive nature is requested.

12. Estimate of Annual Burden

It is estimated that, on average, it will take an OTS-supervised savings association approximately 62.9 hours each quarter to prepare the TFR (60.3 hours each quarter to prepare quarterly schedules for the TFR, 1.6 hours each quarter for annual schedules, and one hour annually for recordkeeping) after making the necessary recordkeeping and systems changes that will enable it to generate the data required to be reported in the new assessment-related data items that are the subject of this proposal. There are currently 724 OTS-supervised savings associations. The total estimated annual reporting burden for these OTS-supervised savings associations is 182,166 hours. This annual reporting burden has been estimated by considering the varying numbers of items potentially reportable by savings associations of different sizes and the extent to which such savings associations will actually have amounts to report in these items as a result of the activities and transactions in which they are engaged. Then, based on the agency staff's understanding of savings associations' recordkeeping and reporting systems and their customary and usual business practices, professional judgment has been applied to arrive at a burden estimate for the TFR.

13. Capital, Start-up, and Operating Costs

The estimate of annual burden cited above in Section 12 is the estimated ongoing burden for the quarterly filing of the TFR. The amount of initial burden arising from implementing recordkeeping and systems changes to enable banks to report the applicable assessment-related data items that are the subject of this request for emergency clearance that would be added to the ongoing TFR burden will vary significantly. For the vast majority of the nearly 724 OTS-supervised savings associations, including the smallest institutions, this initial burden will be nominal because only a few of the new data items will be relevant to them.

At the other end of the spectrum, many of the new data items are to be reported solely by the 19 OTS-supervised savings associations that would be large or highly complex institutions, as defined in the FDIC's revised assessment regulations. To achieve consistency in reporting across this group of institutions, the instructions for the new data items applicable only to these institutions, which are drawn directly from definitions contained in the FDIC's assessment regulations, as amended in February 2011, are prescriptive. Transition guidance has been provided for the two categories of higher-risk assets (subprime and leveraged loans) for which large and highly complex institutions have indicated that their data systems do not currently enable them to identify individual assets meeting the FDIC's definitions that will be used for assessment purposes only. The transition guidance provides time for large and highly complex institutions to revise their data systems to support the identification and reporting of assets in these two categories on a going-forward basis. The guidance also permits these institutions to

use existing internal methodologies developed for supervisory purposes to identify existing assets (and, in general, assets acquired during the transition period) that would be reportable in these higher-risk asset categories on an ongoing basis.

Comments submitted in response to the agencies' initial PRA notice, published on March 16, 2011, that addressed the initial burden that large and highly complex institutions would incur to identify assets meeting the definitions of subprime and leveraged loans in the FDIC's assessment regulations were written in the context of applying these definitions to all existing loans. The transition guidance created for these loans is intended to mitigate the initial data capture and systems burden that institutions would otherwise incur. Thus, the initial burden associated with implementing the recordkeeping and systems changes necessary to identify assets reportable in these two higher-risk asset categories will be significant for the large and highly complex institutions supervised by the OTS, but the agencies are currently unable to estimate the amount of this initial burden. Large and highly complex institutions will also experience additional initial burden in connection with implementing systems changes to support their ability to report the other new assessment-related items applicable to such institutions. However, given their focus on subprime and leveraged loans, respondents to the agencies' initial PRA notice offered limited comments about the burden of the other new items for large and highly complex institutions.

14. Estimates of Annualized Cost to the Federal Government

The cost to the agencies of the reporting changes that are the subject of this request for emergency clearance includes the cost of:

- developing reporting requirements, instructions, and data validation edits;
- computer processing (including developing, maintaining, and modifying software programs) associated with the agencies' systems for collecting and validating Call Reports, TFRs, and FFIEC 002/002S reports and the FDIC's systems for calculating and collecting assessments; and
- the agencies' personnel involved in the preceding tasks and in the review and validation of reported and calculated data.

The incremental costs associated with the implementation of the revisions to the currently approved collections of information that are the subject of this submission are encompassed within the agencies' personnel and data processing budgets and are not separately identifiable.

15. Reason for Change in Burden

The change in burden associated with this request for emergency clearance is caused by two factors: (1) the FDIC's implementation of a final rule adopted February 7, 2011, that (a) redefines the assessment base for insured depository institutions in accordance with Section 31(b) of the Dodd-Frank Act and (b) revises the system used to set assessment rates for "large institutions" and "highly complex institutions" by using a scorecard that combines CAMELS ratings and certain forward-looking financial measures to assess the risk such institutions pose to the DIF, and (2) a net decrease in the number of reporting institutions supervised by the OTS.

Currently, there are 724 OTS-supervised savings associations submitting quarterly TFRs. This number is 17 less than previously reported (741 previously versus 724 now). Because of the extremely small number of OTS-supervised savings associations that are large or highly complex institutions for assessment purposes in comparison to the overall number of OTS-supervised savings associations, the OTS estimates that the overall effect of the proposed assessment-related reporting revisions across the range of banks under its supervision would be an average increase of 1.66 hours per response (61.24 hours to 62.90 hours). The analysis of the change in burden is as follows:

Currently approved burden	181,514 hours
Revisions to assessment-related data (program change)	+4,816 hours
<u>Adjustment (decrease in savings associations)</u>	<u>-4,164 hours</u>
Requested (new) burden:	182,166 hours
Net change in burden:	-652 hours

16. Publication

Except for the new data items for criticized and classified items, nontraditional mortgage loans, subprime consumer loans, leveraged loans, top 20 counterparty exposures, and largest counterparty exposure that will be collected from large or highly complex institutions and will be accorded confidential treatment, the agencies will make the data collected in the other new assessment-related data items publicly available as part of the data collected in the Call Report, the TFR, and the FFIEC 002 report that are currently made available to the public.

17. Exceptions to Expiration Date Display

None.

18. Exceptions to Certification

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.

Attachment:

Draft Final PRA Federal Register Notice (not for publication; referenced in response to Section 8, Consultation with Persons Outside the OTS, above)