

SUPPORTING STATEMENT

ADVANCED CAPITAL ADEQUACY FRAMEWORK REGULATORY REPORTING REQUIREMENTS

FFIEC 101
(OMB No. 3064-0159)

INTRODUCTION

Pursuant to the Office of Management and Budget's (OMB) Paperwork Reduction Act (PRA) emergency processing procedures (5 CFR § 1320.13), the Federal Deposit Insurance Corporation (FDIC), in coordination with 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 for emergency PRA clearance, hereby requests immediate approval of revisions to the Federal Financial Institutions Examination Council (FFIEC) Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework (FFIEC 101; OMB No. 3064-0159).

The FFIEC 101 regulatory report is required to be completed quarterly by banks, savings associations, bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies that must apply the advanced approaches risk-based capital rule (Advanced Capital Adequacy Framework or advanced approaches rule) for regulatory capital purposes.¹ Such institutions are referred to as advanced approaches institutions.² In addition, top-tier Category III bank holding companies, savings and loan holding companies, and insured depository institutions, and all Category III U.S. intermediate holding companies,³ must complete FFIEC 101 Schedule A, Supplementary Leverage Ratio (SLR) Tables 1 and 2, only and do not complete or file any other part of the FFIEC 101. For the FDIC, the FFIEC 101 must be completed by insured state nonmember banks and insured state savings associations that are advanced approaches institutions; the SLR Tables only in the FFIEC 101 must be completed by top-tier insured state nonmember banks and insured state savings associations that are Category III institutions. For the Board and the OCC, the FFIEC 101 or the SLR Tables only, as applicable, must be completed by the advanced approaches institutions and the top-tier Category III institutions, respectively, under their supervision.

On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) became law. Various provisions of the CARES Act led to the agencies issuing implementing regulations, one of which affects reporting in the FFIEC 101. In addition, the agencies have issued other interim final rules and a notice of proposed rulemaking to assist institutions with

¹ See the advanced approaches risk-based capital rule: 12 CFR part 3, subpart E (OCC); 12 CFR part 217, subpart E (FRB); and 12 CFR part 324, subpart E (FDIC).

² Under the agencies' tailoring final rule (see 84 FR 59231 (November 1, 2019)), institutions subject to Category I and II capital standards, and consolidated subsidiaries of such institutions, are advanced approaches institutions.

³ See 12 CFR 3.2 (OCC); 12 CFR 217.2 (Board); 12 CFR 324.2 (FDIC).

managing market disruptions related to the coronavirus disease 2019 (COVID-19) while continuing to provide access to funds and lending to consumers and businesses.

In summary, in connection with one provision of the CARES Act and interim final rules issued by the agencies or the Board alone only the instructions for regulatory reporting, the agencies are requesting emergency PRA clearance for instructional revisions to the FFIEC 101 that would take effect beginning as of the June 30, 2020, report date. The agencies believe these instructional changes would not create a material change in burden.

- CARES Act Section 1102 (Paycheck Protection Program (PPP)) and a related interim final rule – Instructional revisions for reporting average total assets and total leverage exposure used to calculate the leverage ratio and supplementary leverage ratio, respectively, and standardized and advanced approaches risk-weighted assets.
- Supplementary Leverage Ratio interim final rules – Instructional revisions for determining the total leverage exposure used to calculate the supplementary leverage ratio.

A. JUSTIFICATION

1. Circumstances that make the collection necessary:

The U.S. implementation of the Advanced Capital Adequacy Framework was initially detailed in the agencies' Risk Based Capital Standards: Advanced Capital Adequacy Framework – Basel II. This final rule was published on December 7, 2007 (72 FR 69288), and became effective April 1, 2008. The Basel II final rule includes an advanced internal ratings-based approach for calculating regulatory credit risk capital and advanced measurement approaches for calculating regulatory operational risk capital. The agencies approved revisions to the Advanced Capital Adequacy Framework as part of their comprehensive revisions to the regulatory capital rules adopted in July 2013: 78 FR 62018, October 11, 2013 (FRB and OCC); 78 FR 55340, September 10, 2013 (FDIC). These revisions took effect for advanced approaches institutions on January 1, 2014.

On November 1, 2019, the agencies published a final rule to revise the criteria for determining the applicability of regulatory capital and liquidity requirements for large U.S. banking organizations and the U.S. intermediate holding companies of certain foreign banking organizations (tailoring final rule).⁴ Under the tailoring final rule, the most stringent set of standards (Category I) applies to U.S. global systemically important banks (GSIBs). The second set of standards (Category II) applies to banking organizations that are very large or have significant international activity, but are not GSIBs. The third set of standards (Category III) applies to banking organizations with \$250 billion or more in total consolidated assets that do not meet the criteria for Category I or II. The third set of standards also applies to banking organizations with total consolidated assets of \$100 billion or more, but less than \$250 billion, that meet or exceed other specified risk-based indicators. The fourth set of standards (Category IV) applies to banking organizations with total consolidated assets of \$100 billion or more that do not meet the thresholds for one of the other categories. Under the tailoring final

⁴ See 84 FR 59230 (November 1, 2019).

rule, depository institution subsidiaries generally are subject to the same category of standards that apply at the holding company level.⁵

As a result of the tailoring final rule, a bank, savings association, bank holding company, savings and loan holding company, or U.S. intermediate holding company⁶ must apply the Advanced Capital Adequacy Framework if it:

- (i) Is a U.S. global systemically important bank holding company;
- (ii) Has consolidated total assets based on the average of the four most recent calendar quarters, for the most recent quarter or the average of the most recent quarters, as applicable, equal to \$700 billion or more;
- (iii) Has cross-jurisdictional activity based on the average of the four most recent calendar quarters, for the most recent quarter or the average of the most recent quarters, as applicable, equal to \$75 billion or more;
- (iv) Is a subsidiary of a depository institution that uses the Advanced Capital Adequacy Framework to calculate its total risk-weighted assets;
- (v) Is a subsidiary of a bank holding company or savings and loan holding company that uses the Advanced Capital Adequacy Framework its total risk-weighted assets; or
- (vi) Elects to use the Advanced Capital Adequacy Framework to calculate its total risk-weighted assets.

Such an institution must begin reporting on the FFIEC 101, Schedule A, except for a few specific line items, at the end of the quarter after the quarter in which the institution triggers one of the four threshold criteria for applying the Advanced Capital Adequacy Framework or elects to use the framework (an opt-in institution), and must begin reporting data on the remaining schedules of the FFIEC 101 at the end of the first quarter in which the institution has begun its parallel run period.

A fundamental aspect of the Advanced Capital Adequacy Framework is the use of a bank's internal risk estimates for many of the parameters used to derive risk-weighted assets. The FFIEC 101 report provides the agencies and, to a limited extent, the public a basis for comparing the main risk estimates (on an aggregated basis) that underlie a bank's risk-based capital measures across institutions and over time.

In September 2014, the agencies approved a final rule revising the definition of the denominator of the supplementary leverage ratio (SLR) (i.e., total leverage exposure) that had been adopted in July 2013 as part of comprehensive revisions to the agencies' regulatory capital rules.⁷ The final rule revised total leverage exposure as defined in the 2013 rule to include the effective notional principal amount of credit derivatives and other similar instruments through which a banking organization provides credit protection (sold credit protection); modified the calculation of total

⁵ However, standardized liquidity requirements apply only to depository institution subsidiaries with \$10 billion or more in total consolidated assets under Categories I through III, and such requirements do not apply to depository institution subsidiaries under Category IV.

⁶ For simplicity, and unless otherwise indicated, the term "bank" includes banks, savings associations, bank holding companies, savings and loan holding companies, and U.S. intermediate holding companies.

⁷ See 79 FR 57725 (September 26, 2014).

leverage exposure for derivative and repo-style transactions; and revised the credit conversion factors applied to certain off-balance sheet exposures. The final rule also changed the frequency with which certain components of the SLR are calculated and establishes public disclosure requirements for certain items associated with the SLR. The final rule was effective January 1, 2015.

Under the tailoring final rule, all banking organizations subject to the advanced approaches rule must report SLR data in SLR Tables 1 and 2 of FFIEC 101 Schedule A unless the banking organization is:

- (i) a consolidated subsidiary of a bank holding company, savings and loan holding company, or depository institution that is subject to the disclosure requirements in Table 13 of section 173 of the advanced approaches rule, or
- (ii) a subsidiary of a non-U.S. banking organization that is subject to comparable public disclosure requirements in its home jurisdiction.

In addition, under the tailoring final rule, these SLR tables are also required to be completed by top-tier Category III bank holding companies, savings and loan holding companies, and insured depository institutions, and all Category III U.S. intermediate holding companies, but these entities would not complete or file any other part of the FFIEC 101.

The proposed changes to the FFIEC 101 report that are the subject of this request for emergency PRA clearance are as follows:

Regulatory Capital: Paycheck Protection Program Liquidity Facility (PPPLF) and Paycheck Protection Program (PPP) Loans – Interim Final Rule [RIN 3064-AF49] and CARES Act Section 1102

Summary – Section 1102 of the CARES Act allows banking organizations to make loans under a program of the U.S. Small Business Administration (SBA) in connection with COVID-19 disruptions to small businesses (referred to as PPP loans or PPP covered loans). While the loans are funded by the banking organizations, they receive a guarantee from the SBA. The statute specified that these loans should receive a zero percent risk weight for regulatory capital purposes. The Board subsequently established a liquidity facility to permit banking organizations to obtain non-recourse loans, for which PPP loans are pledged to the facility, to provide additional liquidity.

On April 13, 2020, the agencies published an interim final rule with an immediate effective date, which permits banking organizations to exclude from regulatory capital requirements PPP loans pledged to the PPPLF.⁸ The interim final rule modifies the agencies' capital rule to allow banking organizations to neutralize the effects on their risk-based and leverage capital ratios of making PPP loans that are pledged to the PPPLF. Specifically, a banking organization may exclude from its total leverage exposure, average total consolidated assets, standardized total risk-weighted assets, and advanced approaches total risk-weighted assets, as applicable, any exposure from a PPP loan pledged to the PPPLF. The interim final rule also codified the statutory zero percent risk weight for PPP loans; however, the PPP loans already received a zero

⁸ See 85 FR 20387 (April 13, 2020).

percent risk weight under the agencies' existing capital rules as an exposure directly and unconditionally guaranteed by an agency of the U.S. government.

Reporting Revisions – Advanced approaches banking organizations should not include PPP loans in “Total risk-weighted assets” under the advanced approaches reported in the FFIEC 101, Schedule A, item 60. Since these loans already receive a zero percent risk weight, PPP loans are effectively excluded from risk-weighted assets under the current capital rule and the related reporting provisions.

For banking organizations subject to the supplementary leverage ratio requirement, PPP loans would be deducted from the calculation of total leverage exposure for the supplementary leverage ratio. Top-tier advanced approaches and Category III banking organizations would include PPP loans in the FFIEC 101, Schedule A, Supplementary Leverage Ratio (SLR) Table 1, item 1.7.c, “Adjustments for deductions of qualifying central bank deposits for custodial banking organizations,” and in SLR Table 2, item 2.2.b, “Deductions of qualifying central bank deposits from total on-balance sheet exposures for custodial banking organizations,” even if the banking organization is not a custodial banking organization.

Temporary Exclusion of U.S. Treasury Securities and Deposits at Federal Reserve Banks from the Supplementary Leverage Ratio – Interim Final Rules [RINs 7100-AF81 and 3064-AF44]

Summary – On April 14, 2020, the Board published in the *Federal Register* an interim final rule⁹ to temporarily exclude U.S. Treasury Securities (Treasuries) and deposits in their accounts at Federal Reserve Banks (deposits at Federal Reserve Banks) from total leverage exposure for bank holding companies, savings and loan holding companies, and intermediate holding companies subject to the supplementary leverage ratio through March 31, 2021.

On May 15, 2020, the agencies issued an interim final rule¹⁰ to provide depository institutions subject to the supplementary leverage ratio the ability to temporarily exclude Treasuries and deposits at Federal Reserve Banks from total leverage exposure. An electing depository institution must notify its primary Federal banking regulator of its election within 30 days after the interim final rule is effective. The interim final rule will terminate after March 31, 2021.

Reporting Revisions – For top-tier advanced approaches and Category III bank holding companies, savings and loan holding companies, and intermediate holding companies (and top-tier advanced approaches and Category III electing depository institutions), Treasuries and deposits at Federal Reserve Banks should be reported in the FFIEC 101, Schedule A, SLR Tables. Custodial banking organizations will also be able to exclude from the SLR Tables deposits with qualifying foreign central banks subject to the limits in the Section 402 rule,¹¹ in addition to the deductions under this interim final rule. Specifically, Treasuries and deposits at

⁹ See 85 FR 20578 (April 14, 2020).

¹⁰ <https://www.fdic.gov/news/news/press/2020/pr20060.html>.

¹¹ The agencies recently issued a final rule, effective April 1, 2020, which implements section 402 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) by amending the capital rule to allow a banking organization that qualifies as a custodial banking organization to exclude from total leverage exposure deposits at qualifying central banks, subject to limits (402 rule). 85 FR 4569 (January 27, 2020). OMB approved the reporting changes associated with the Section 402 rule in March 2020.

Federal Reserve Banks should be reported in SLR Table 1, item 1.7.c, “Adjustments for deductions of qualifying central bank deposits for custodial banking organizations” and SLR Table 2, item 2.2.b, “Deductions of qualifying central bank deposits from total on-balance sheet exposures for custodial banking organizations,” even if a banking organization is not a custodial banking organization. For purposes of reporting the supplementary leverage ratio as of June 30, 2020, banking organizations may reflect the exclusion of Treasuries and deposits at Federal Reserve Banks from total leverage exposure as if these interim final rules had been in effect for the entire second quarter of 2020. The temporary exclusions from total leverage exposure are available through the March 31, 2021, report date.

2. Use of the information:

The FFIEC 101 reporting requirements entail the quarterly collection of detailed information, encompassing up to approximately 2,700 data elements on nineteen schedules, that pertains to the main components of a respondent bank’s regulatory capital and risk-weighted asset calculations under the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable. The FDIC uses the information collected through these reporting requirements in the following ways:

- To assess and monitor the levels and components of each reporting bank’s regulatory capital requirements and the adequacy of the bank’s capital under the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable;
- To evaluate the impact and competitive implications of the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable, on individual reporting banks and on an industry-wide basis; and
- To supplement on-site examination processes at individual reporting banks.

The reporting schedules also assist banks in understanding expectations around the system development necessary for implementation and validation of the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable. Submitted FFIEC 101 report data that are released publicly on an individual institution basis also provide other interested parties with information about advanced approaches institutions’ regulatory capital, including the supplementary leverage ratio, and Category III institutions’ supplementary leverage ratio.

By incorporating the complete international leverage ratio common disclosure template into SLR Tables 1 and 2 of FFIEC 101 Schedule A, the agencies also ensure transparency and comparability of reporting of regulatory capital elements among internationally active banks.

3. Consideration of the use of improved information technology:

All banks and savings associations are subject to an electronic filing requirement for the FFIEC 101 report. In this regard, all reporting institutions must submit their completed reports electronically using the Federal Reserve’s Reporting Central application.

4. Efforts to identify duplication:

There is no other report that collects information pertaining to a bank's regulatory capital calculations under the Advanced Capital Adequacy Framework and the supplementary leverage ratio, as applicable, at the insured institution level. The Basel II final rule requires certain related public disclosures (referred to as Pillar 3 disclosures) at the consolidated holding company level. However, the regulatory reporting requirements in the FFIEC 101 report are generally more detailed than Pillar 3 disclosures, requiring reporting of greater detail about aggregated risk estimates underlying the calculation of a bank's risk-based capital ratios, and are also more standardized in terms of the breakdown of reported portfolio exposures and reported ranges of risk estimates. In addition, while the regulatory reporting requirements apply to large, internationally active organizations and their depository institution subsidiaries, the Pillar 3 disclosures are not made by these subsidiary institutions. Thus, the Pillar 3 disclosures would not be an acceptable substitute for the Advanced Capital Adequacy Framework Regulatory Reporting Requirements.

Tables 1 and 2 of FFIEC 101 Schedule A collect information related to the agencies' SLR disclosures required in Table 13 of section 173 of the advanced approaches rule. Completing the FFIEC 101 items for the SLR satisfies a bank's requirement to disclose Table 13 and thereby avoids duplication.

5. Methods used to minimize burden if the collection has a significant impact on a substantial number of small entities:

This information collection will not have a significant economic impact on a substantial number of small entities. Category I and II banking organizations that are subject to the Advanced Capital Adequacy Framework on a mandatory basis are large (\$700 billion or more in consolidated assets) or internationally active organizations (\$75 billion or more in cross-jurisdictional activity) and their depository institution subsidiaries. Category III banking organizations that are subject to the supplementary leverage ratio have \$250 billion or more in total consolidated assets, but do not meet the criteria for Category I or II, or have total consolidated assets of \$100 billion or more, but less than \$250 billion, and meet or exceed other specified risk-based indicators. Category III also includes the depository institution subsidiaries of such banking organizations. As a consequence, the advanced approaches rule and the supplementary leverage ratio, and the corresponding FFIEC 101 reporting requirements, have limited applicability to small institutions, including the approximately 2,700 FDIC-supervised institutions with assets of \$600 million or less.

6. Consequences to the Federal program if the collection were conducted less frequently:

Less frequent reporting would reduce the ability of the FDIC to identify and respond in a timely manner to noncompliance with minimum regulatory capital ratios, adverse risk trends that become apparent in the forward-looking risk estimates reported by Category I and II respondents, and evidence of risk estimates that call into question the accuracy of a Category I or II bank's capital calculation or place other institutions with similar types of exposures at a competitive disadvantage. To be most useful as an off-site analytical tool, these reports are

intended to correspond to the frequency and timing of other regulatory submissions including the Consolidated Reports of Condition and Income (Call Report)¹² and the FRB's Bank Holding Company FR Y-9C report.

7. Special circumstances necessitating collection inconsistent with 5 CFR Part 1320.5(d)(2):

There are no special circumstances. This information collection is conducted in accordance with the guidelines in 5 CFR 1320.5(d)(2).

8. Efforts to consult with persons outside the agency:

Because this is a request for emergency PRA clearance, there has been no consultation with persons outside the FDIC regarding the FFIEC 101 instructional revisions that are the subject of this submission. However, these revisions were developed in coordination with the staffs of the Board and the OCC.

The agencies plan to request comment on the FFIEC 101 revisions after the emergency clearance through the standard PRA process, including both 60-day and 30-day notices with requests for comment. In addition, the interim final rules summarized in this Supporting Statement have themselves been issued for comment for varying time periods.

9. Payment or gifts to respondents:

No payment or gift will be provided to respondents.

10. Any assurance of confidentiality:

All data submitted in the FFIEC 101 report is shared among the agencies but, pursuant to 5 U.S.C. § 552(b)(4) and (8), these data will not be released to the public except as follows.

For report dates before an advanced approaches reporting institution has completed its parallel run period, FFIEC 101 Schedule A will be available to the public, except for items 78 (total eligible credit reserves calculated under the advanced approaches rules); 79 (amount of eligible credit reserves includable in tier 2 capital); 86 (expected credit loss that exceeds eligible credit reserves); 87 (advanced approaches risk-weighted assets); 88 (common equity tier 1 capital ratio calculated using the advanced approaches); 89 (additional tier 1 capital ratio calculated using the advanced approaches); and 90 (total capital ratio using the advanced approaches).

For report dates after an advanced approaches reporting institution has completed its parallel run period, all items reported in FFIEC 101 Schedules A and B and items 1 and 2 of Schedule S are available to the public.

To ensure transparency of regulatory capital data reported by banking organizations subject to Category I, II, or III capital standards, the agencies make public the SLR information collected in

¹² For the FDIC, OMB No. 3064-0052.

SLR Tables 1 and 2 of FFIEC 101 Schedule A, regardless of an advanced approaches reporting institution's parallel run status.

11. Justification for questions of a sensitive nature:

The FFIEC 101 report contains no questions of a sensitive nature.

12. Estimate of hour burden including annualized hourly costs:

The proposed instructional revisions that are the subject of this request for emergency PRA clearance are not expected to result in a material change in the overall reporting burden of completing the FFIEC 101 report, which is currently estimated at 674 hours per quarter, on average, for each FDIC-supervised institution required to prepare the FFIEC 101 report. For an institution that must complete SLR Tables 1 and 2 only in the FFIEC 101, the reporting burden is estimated at 3 hours per quarter.

There is currently one FDIC-supervised institutions required to submit the FFIEC 101 report each quarter. The total estimated annual reporting burden for this bank is 2,696 hours. This estimate reflects considerations pertaining to the time required to complete other types of regulatory reports as well as the greater level of detail required in the FFIEC 101 report relative to other regulatory submissions.

The annual recurring salary and employee benefit cost to the FDIC-supervised institutions that are subject to the FFIEC 101 reporting requirements for the burden hours shown above is estimated to be \$228,836. This cost is based on the application of an hourly rate of \$84.88¹³ to the estimated 2,696 total hours of annual reporting burden, which considers the specialized technical skills in the fields of credit risk and operational risk of those bank staff members involved in implementing the Advanced Capital Adequacy Framework who are responsible for completing the regulatory reporting requirements as well as time spent by executive officers responsible for reviewing and approving the completed FFIEC 101 report prior to submission.

13. Estimate of start-up costs to respondents:

None.

¹³ This estimate is derived from the May 2018 75th percentile hourly wage rate reported by the Bureau of Labor Statistics, National Industry-Specific Occupational Employment, and Wage Estimates for Financial Managers (\$71.49), Bookkeeping, Accounting, and Auditing Clerks (\$23.31), and Financial Specialists (\$46.29), and the mean hourly wage for Chief Executives (\$102.30) and Lawyers (\$86.14) in the Depository Credit Intermediation sector. The wage rates have been adjusted for changes in the Consumer Price Index for all Urban Consumers between May 2018 and September 2019 (2.28 percent) and grossed up by 51 percent to account for non-monetary compensation as reported by the September 2019 Employer Costs for Employee Compensation Data. Assuming that 15 percent of the work would require the skills of a chief executive at an hourly cost of \$158.05, 5 percent would require a Lawyer at an hourly cost of \$133.09, 25 percent would require a Financial Manager at an hourly cost of \$110.45, 35 percent would require a Bookkeeping, Accounting, and Auditing Clerk at an hourly cost of \$36.01, and 20 percent would require a Financial Specialist at an hourly cost of \$71.52, the hourly wage estimate for this information collection is $(0.15*158.05 + 0.05*133.09 + 0.25*110.45 + 0.35*36.01 + 0.2*71.52 = \$84.88)$.

14. Estimate of annualized costs to the government:

None.

15. Analysis of change in burden:

There is no change in burden associated with this request for emergency PRA clearance. The total estimated annual reporting burden for the FFIEC 101 information collection will remain 2,696 hours.

As stated in Item 12 above, the proposed instructional revisions to the FFIEC 101 report that are the subject of this request are not expected to produce a material change in the overall reporting burden of completing the FFIEC 101 report, which is currently estimated at 674 hours per quarter for FDIC-supervised institutions.

16. Information regarding collections whose results are planned to be published for statistical use:

Not applicable.

17. Exceptions to display of expiration date:

None.

18. Exceptions to certification:

None.

B. COLLECTION OF INFORMATION EMPLOYING STATISTICAL METHODS

Not applicable.