

**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)**

**1. Explain the circumstances that make the collection of information necessary.**

The Board of Governors of the Federal Reserve System (Board) requests approval from the Office of Management and Budget (OMB) to extend for three years, with revision, 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). The Board submits this request on behalf of itself, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) (collectively, the agencies). No separate submission will be made by the FDIC or OCC.

The FFIEC 002 must be submitted quarterly by U.S. branches and agencies of foreign banks. The report requests detailed schedules of assets and liabilities as a condition report with a variety of supporting schedules. This information is used to fulfill the agencies' supervisory and regulatory requirements pursuant to the International Banking Act of 1978 (IBA). The FFIEC 002S is a mandatory supplement to the FFIEC 002 and collects information on assets and liabilities of any non-U.S. branch that is managed or controlled by a U.S. branch or agency of a foreign bank. A separate FFIEC 002S supplement is completed by the managing or controlling U.S. branch or agency for each applicable foreign branch. The FFIEC 002S collection improves data on U.S. deposits, credit, and international indebtedness, and assists U.S. bank supervisors to determine the assets managed or controlled by the U.S. agency or branch of the foreign bank.

The agencies propose to revise the FFIEC 002 related to an interim final rule (IFR) that amended the Board's Regulation D, an FDIC final rule on deposit insurance assessments, and certain sections of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act) for which the agencies received emergency approvals from OMB. In addition, the agencies propose changes to the FFIEC 002 related to U.S. generally accepted accounting principles (GAAP). There are no proposed revisions to the FFIEC 002S at this time. The estimated total annual burden for the FFIEC 002 and FFIEC 002S is 21,703 hours, and would remain unchanged with the proposed revisions. The forms and instructions are available on the FFIEC's public website at [https://www.ffiec.gov/ffiec\\_report\\_forms.htm](https://www.ffiec.gov/ffiec_report_forms.htm).

**2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.**

The reporting panel for the FFIEC 002 and FFIEC 002S consists of 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 supporting schedules. Each schedule requires information on balances of the entire reporting branch or agency. On the schedules for cash (Schedule A), loans (Schedule C), and deposits (Schedule E), separate details are reported on balances of International Banking Facilities (IBFs). Unlike the Call Report for domestic banks and thrifts, the FFIEC 002 collects no income data.

A separate FFIEC 002S must be completed by any U.S. branch or agency of a foreign bank for each non-U.S. banking branch of its parent bank that the U.S. branch or agency manages or controls. 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.

**3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.**

All affected institutions must submit their completed reports electronically using the Federal Reserve's Reporting Central application.

**4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.**

The data collected through the FFIEC 002 and 002S are unique and cannot be replaced by data already collected by the federal government.

**5. If the collection of information impacts small businesses or other small entities, describe any methods used to minimize burden.**

Of the respondents, 89 for the FFIEC 002 and 11 for the FFIEC 002S are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), <https://www.sba.gov/document/support-table-size-standards>. There are no special accommodations given to mitigate the burden on small entities.

**6. Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.**

The FFIEC 002 must be submitted quarterly by U.S. branches and agencies of foreign banks. The report requests detailed schedules of assets and liabilities as a condition report with a

variety of supporting schedules. This information is used to fulfill the agencies' supervisory and regulatory requirements pursuant to the International Banking Act of 1978 (IBA). Less frequent reporting would diminish the agencies' capacity to carry out the supervisory and regulatory responsibilities imposed by the IBA.

**7. Explain any special circumstances that would cause an information collection to be conducted in a manner inconsistent with 5 CFR 1320.5(d)(2).**

This information collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

**8. Describe comments in response to the *Federal Register* notice and efforts to consult outside the agency.**

On July 22, 2020, the agencies, under the auspices of the FFIEC, published an initial notice in the *Federal Register* (85 FR 44361) requesting public comment for 60 days on the extension, with revision, of the FFIEC 002 and FFIEC 002S. The comment period for this notice expired on September 21, 2020. The agencies received 2 public comments on the proposed reporting changes from a banking trade association and a U.S. government agency. The comment from the government agency was in strong support of the continued use of the FFIEC 002 and FFIEC 002S.

*Board Regulation D Amendments*

The agencies received one comment letter from a banking trade association that raised concerns with the proposed FFIEC 002 changes related to the Board's IFR amending Regulation D that deletes the numeric limits on transfers and withdrawals that may be made each month from the definition of "savings deposits."

The commenter recommended that a depositor's eligibility to hold a NOW account should not be included in the criteria assessment to determine the reporting treatment for savings deposits for which the numeric limits on transfers and withdrawals have been removed. The commenter noted that "if a firm does not offer NOW accounts, they would be required to report savings deposits as NOW accounts, ATS accounts, or telephone and preauthorized transfer accounts (and as transaction accounts) based on a depositor's eligibility to hold such account" and "for firms that do not offer NOW accounts, the data necessary to determine a depositor's eligibility for NOW accounts would not be readily available." In addition, the commenter also noted that this reporting treatment would be inconsistent with the Regulation D definition of savings deposits, as NOW account eligibility is not a component of the definition. The commenter believes gathering the data necessary to distinguish these depositors from other savings account holders solely for regulatory reporting purposes would create business and systems challenges. The agencies agree with the commenter that the depositor's eligibility to hold a NOW account should not be included in the assessment criteria for classification as a "savings deposit" as such reporting would not be consistent with the Regulation D definition of savings deposits. Therefore, the agencies will remove the depositor's eligibility to hold a NOW account from the assessment criteria in the FFIEC 002 instructions.

Secondly, the commenter requested clarification on how institutions should report the components of retail sweep arrangements. Specifically, the commenter asked whether institutions should continue to report the nontransaction components of, or savings deposits in, retail sweep arrangements as nontransaction accounts. If not, the commenter asked whether institutions should strictly follow the proposed assessment criteria for the treatment of accounts where the transfer limit has been removed. The agencies have modified the description of retail sweep arrangements in the FFIEC 002 instructions to remove references to transaction and nontransaction components. Further, institutions should not follow the proposed assessment criteria for the treatment of accounts for which the transfer limit has been removed. Instead, institutions that offer valid retail sweep programs should report each component of the retail sweep arrangement based on the customer account agreement established by the depository institution. Two key criteria must be met for a valid retail sweep program. These criteria are (1) a depository institution must establish by agreement with its customer two distinct, legally separate accounts and (2) the swept funds must actually be moved between the customer's accounts on the depository institution's official books and records as of the close of business on the day(s) on which the depository institution intends to report the funds as being in separate accounts.

Lastly, the commenter requested that the Board confirm that savings deposits or accounts described in 12 CFR 204.2(d)(2) would not be subject to Regulation CC - Availability of Funds and Collection of Checks (12 CFR Part 229) as a result of the recent amendments to Regulation D. Because Regulation CC continues to exclude accounts described in 12 CFR 204.2(d)(2) from the Regulation CC "account" definition, the recent amendments to Regulation D did not result in savings deposits or accounts described in 12 CFR 204.2(d)(2) now being covered by Regulation CC.

**9. Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.**

There are no payments or gifts provided to respondents.

**10. Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy. If the collection requires a systems of records notice (SORN) or privacy impact assessment (PIA), those should be cited and described here.**

In general, the information collected in the FFIEC 002 report is made available to the public, except that the data collected from a U.S. branch or agency of a foreign bank in Schedule M of the FFIEC 002 report is withheld as confidential commercial and financial information. Schedule M requires respondents to report the amounts due to/due from related institutions in the U.S. and in foreign countries; however, U.S. banking organizations, which are direct competitors of the FFIEC 002 respondents, are not required to disclose financial information involving transactions with related institutions. Accordingly, disclosure of this confidential financial information on the FFIEC 002 report would put respondents at a distinct competitive disadvantage relative to their U.S. banking organization counterparts. Schedule M, therefore, is considered exempt from public disclosure pursuant to exemption 4 of the Freedom of Information Act (FOIA), which protects "trade secrets and commercial or financial information

obtained from a person and privileged or confidential” (5 U.S.C. § 552(b)(4)). If a respondent believes that disclosure of any of the public portions of its FFIEC 002 report would be reasonably likely to result in substantial harm to its competitive position under exemption 4 of the FOIA, the respondent may request confidential treatment for such information as set forth in the Board’s Rules Regarding the Availability of Information (12 CFR 261.15) and in the Instructions to the FFIEC 002 report.

The FFIEC 002S report collects data on transactions with all entities, both related and nonrelated, and similar to Confidential Schedule M of the FFIEC 002 report, also collects data on the amount due to/from transactions with related institutions (both depository and non-depository). The data collected on the FFIEC 002S report has been deemed confidential since the inception of the report. The primary rationale for confidential treatment of the FFIEC 002S report in its entirety is because the report may contain intracompany business information and because home country data collected on the FFIEC 002S could reveal information about individual customers. U.S. banking organizations, which are direct competitors of the FFIEC 002S respondents, are not required to publicly disclose such financial information involving transactions with related institutions. Accordingly, disclosure of the confidential financial information submitted on the FFIEC 002S report, would put respondents at a distinct competitive disadvantage relative to their U.S. banking organization counterparts. The FFIEC 002S report, therefore, is considered exempt from disclosure in its entirety pursuant to exemption 4 of the FOIA. Aggregate data from the FFIEC 002S report for multiple respondents, which does not reveal the identity of any individual respondent, may be released.

**11. Provide additional justification for any questions of a sensitive nature.**

There are no questions of a sensitive nature.

**12. Provide estimates of the annual hourly burden of the collection of information.**

As shown in the table below, the estimated total annual burden for the FFIEC 002 and FFIEC 002S is 21,703 hours, would remain unchanged with the proposed revisions. These burden estimates account for all filers of the FFIEC 002 and FFIEC 002S, including those supervised by the FDIC or OCC. These reporting requirements represent less than 1 percent of the Board’s total paperwork burden.

<b>FFIEC 002 and FFIEC 002S</b>	<i>Estimated number of respondents<sup>1</sup></i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FFIEC 002	209	4	24.87	20,791
FFIEC 002S	38	4	6	<u>912</u>
<i>Total</i>				21,703

<sup>1</sup> Of these respondents, 89 for the FFIEC 002 and 11 for the FFIEC 002S are considered small entities as defined by the Small Business Administration (i.e., entities with less than \$600 million in total assets), <https://www.sba.gov/document/support--table-size-standards>.

The estimated total annual cost to the public for the FFIEC 002 and FFIEC 002S is \$1,253,348.

Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rates (30% Office & Administrative Support at \$20, 45% Financial Managers at \$71, 15% Lawyers at \$70, and 10% Chief Executives at \$93). Hourly rates for each occupational group are the (rounded) mean hourly wages from the Bureau of Labor and Statistics (BLS), *Occupational Employment and Wages May 2019*, published March 31, 2020, <https://www.bls.gov/news.release/ocwage.t01.htm>. Occupations are defined using the BLS Standard Occupational Classification System, <https://www.bls.gov/soc/>.

**13. Provide an estimate for the total annual cost burden to respondents or record keepers resulting from the collection of information.**

There are no annualized costs to the respondents.

**14. Provide estimates of annualized costs to the Federal government.**

The estimated cost to the Federal Reserve System for collecting and processing the FFIEC 002 and FFIEC 002S is \$62,700. The Federal Reserve System collects and processes the data for all three of the agencies.

**15. Explain the reasons for any program changes or adjustments reported on the burden worksheet.**

**Regulation-Related Revisions**

From March through June 2020, in response to the impact on the financial markets and the strains on the U.S. economy as a result of COVID-19, the agencies published in the *Federal Register* numerous IFRs to make certain changes to their regulatory capital and liquidity rules to support prudent lending by banking organizations and facilitate banking organizations' use of the Board's emergency facilities. The Board made revisions to its Regulation D - Reserve Requirements of Depository Institutions (12 CFR Part 204) that affect the reporting of deposit liabilities on the FFIEC 002, Schedule E, Deposit Liabilities and Credit Balances. The FDIC proposed and subsequently adopted revisions to its deposit insurance assessment rules that require the collection of new data items on the FFIEC 002 Schedule O, Other Data for Deposit Insurance Assessments.

The Board requested and received emergency approval on May 27, 2020, from OMB to implement revisions to the FFIEC 002 that take effect beginning with the June 30, 2020, report date. The Board requested and received emergency approvals on June 8, 2020, and July 8, 2020, from OMB to implement further revisions to the FFIEC 002 that take effect beginning with the June 30, 2020, and September 30, 2020, report dates, respectively. The agencies are requesting comment on whether there should be any further changes to the items or instructions developed by the agencies to implement the revisions for which emergency approvals were received from OMB, and in regard to the Board Regulation D amendments, on whether to adopt proposed

revisions to the FFIEC 002 to remove a reporting option that was implemented by the emergency approvals and could result in the collection of ambiguous data.

Further, the agencies have requested comment in connection with each of the IFRs described below. If modifications are made to the associated final rules, the agencies would modify the information collection revisions in this proposal to incorporate such changes.

#### *Money Market Mutual Fund Liquidity Facility*

To enhance the liquidity and functioning of money markets, the Federal Reserve Bank of Boston (FRBB) launched the Money Market Mutual Fund Liquidity Facility (MMLF) on March 18, 2020.<sup>2</sup> On March 23, 2020, the agencies published an IFR, which permits banking organizations to exclude from regulatory capital requirements exposures related to the MMLF (MMLF IFR).<sup>3</sup>

The MMLF IFR modifies the agencies' capital rule to allow banking organizations to neutralize the effects of purchasing assets from money market mutual funds under the MMLF on their risk-based and leverage capital ratios. This treatment extends to the community bank leverage ratio. 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 acquired from an eligible money market mutual fund pursuant to a non-recourse loan under the MMLF and pledged to the FRBB. The MMLF IFR applies only to activities under the MMLF. The facility is scheduled to terminate on September 30, 2020, unless the facility is extended by the Board.

Consistent with U.S. GAAP, the agencies would expect banking organizations to report assets purchased from money market mutual funds under the MMLF on their balance sheets. To be eligible collateral for pledging to the FRBB, assets must be purchased from an eligible money market mutual fund at either the seller's amortized cost or fair value. Thereafter, banking organizations would subsequently measure the assets at amortized cost or fair value depending on the asset category in which the assets are reported on their balance sheets. The non-recourse nature of the transaction through the MMLF would impact the valuation of the liability to the FRBB. After reflecting any appropriate discounts on the assets purchased and the associated liabilities, organizations are not expected to report any material net gains or losses (if any) at the time of purchase. Any discounts generally would be accreted over time into income and expense.

On May 12, 2020, the FDIC approved a proposed rule modifying its deposit insurance assessment rules to mitigate the effects of participation in the MMLF on insured depository institutions (IDIs).<sup>4</sup> The proposed changes would remove the effect of participation in the MMLF program on certain adjustments to an IDI's assessment rate, provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF, and

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<sup>2</sup> See <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200318a.htm>.

<sup>3</sup> 85 FR 16232 (March 23, 2020).

<sup>4</sup> 85 FR 30649 (May 20, 2020). The FDIC's proposed rule also would modify its deposit insurance assessment rules to mitigate the effects of participation in the Paycheck Protection Program and the Paycheck Protection Program Liquidity Facility on IDIs.

remove the effect of participation in the MMLF program when classifying IDIs as small, large, or highly complex for assessment purposes. On June 26, 2020, the FDIC published a final rule that mitigates the deposit insurance assessment effects of participating in the MMLF program on IDIs as proposed.<sup>5</sup>

In connection with the FDIC's deposit insurance assessments final rule, starting with the FFIEC 002 report as of June 30, 2020, FDIC-insured branches would be required to separately report in Schedule O, Memorandum item 7, the quarterly average amount outstanding of assets purchased from money market funds under the MMLF with the collection of this item expected to be time-limited. The agencies plan to propose to discontinue the collection of this item once individual institution information is no longer needed for deposit insurance assessment purposes.<sup>6</sup>

#### *Paycheck Protection Program (PPP) Loans and Liquidity Facility (PPPLF)*

Section 1102 of the CARES Act allows banking organizations to make loans under the PPP of the U.S. Small Business Administration (SBA) in connection with COVID-19 disruptions to small businesses. Although the PPP loans are funded by lenders, the loans receive a guarantee from the SBA. The statute specified that these PPP loans should receive a zero percent risk weight for regulatory capital purposes. The Board subsequently established a liquidity facility, the PPPLF, to extend non-recourse loans to eligible financial institutions to fund PPP loans pledged to the PPPLF and thereby provide additional liquidity to these institutions.<sup>7</sup>

On April 13, 2020, the agencies published an IFR with an immediate effective date, which permits banking organizations to exclude from regulatory capital requirements PPP loans pledged to the PPPLF.<sup>8</sup> This IFR modifies the agencies' capital rule to allow banking organizations to neutralize the effects on their risk-based capital and leverage ratios of making PPP loans that are pledged under the Board's liquidity facility. 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 Board's liquidity facility. The IFR also codified the statutory zero percent risk weight for PPP loans.

On May 12, 2020, the FDIC approved a proposed rule modifying its deposit insurance assessment rules to mitigate the effects of participation in the PPP and the PPPLF on IDIs.<sup>9</sup> The proposed changes would remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an IDI's assessment rate, remove the effect of participation in the PPPLF program on certain adjustments to an IDI's assessment rate, provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the PPPLF, and

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<sup>5</sup> 85 FR 38282 (June 26, 2020).

<sup>6</sup> Findings from the statutorily mandated review of the Call Report will also be used for evaluating the FFIEC 002 new items.

<sup>7</sup> See <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200406a.htm> and <https://www.federalreserve.gov/newsevents/pressreleases/monetary20200416a.htm>.

<sup>8</sup> 80 FR 20387 (April 13, 2020).

<sup>9</sup> 85 FR 30649 (May 20, 2020). The FDIC's proposed rule also would modify its deposit insurance assessment rules to mitigate the effects of participation in the MMLF on IDIs.



remove the effect of participation in the PPPLF program when classifying IDIs as small, large, or highly complex for assessment purposes.

On June 26, 2020, the FDIC published a final rule modifying its deposit insurance assessments rule to mitigate the effects of participation in the PPP and the PPPLF on IDIs.<sup>10</sup> After the FDIC considered the comments on the proposed rule, the final rule provides an offset to an IDI's assessment amount for the increase to its assessment base attributable to participation in the PPP rather than to participation in the PPPLF as had been proposed.

In connection with the FDIC's deposit insurance assessments proposed rule, the Board requested and received emergency approval from OMB for FDIC-insured branches to separately report in Schedule O, Other Data for Deposit Insurance Assessments, Memorandum item 6, the quarterly average amount of PPP loans pledged to the PPPLF starting with the FFIEC 002 report as of the June 30, 2020, report date.

In connection with the FDIC's deposit insurance assessments final rule, the Board requested and received emergency approval from OMB to change the information separately reported by FDIC-insured branches in Schedule O, Other Data for Deposit Insurance Assessments, Memorandum item 6, from the quarterly average of PPP loans pledged to the PPPLF to the quarter-end amount of PPP loans starting with the FFIEC 002 report as of the September 30, 2020, report date. The collection of this item would be time-limited. The agencies would expect to propose to discontinue the collection of this item once individual institution information is no longer needed for deposit insurance assessment purposes.<sup>11</sup>

#### *Board Regulation D Amendments*

The Board published in the *Federal Register* on April 28, 2020, an IFR that amends the Board's Regulation D.<sup>12</sup> The IFR amends the "savings deposit" definition in Regulation D by deleting the six-transfer-limit provisions in this definition that require depository institutions either to prevent transfers and withdrawals in excess of the limit or to monitor savings deposits ex post for violations of the limit. The IFR also makes conforming changes to other definitions in Regulation D that refer to "savings deposit" as necessary.

The IFR permits, but does not require, depository institutions to immediately suspend enforcement of the six-transfer limit and allow their customers to make an unlimited number of convenient transfers and withdrawals from their savings deposits. The IFR also does not require any changes to the deposit reporting practices of depository institutions.

To implement the IFR, the agencies temporarily revised the instructions to the FFIEC 002 via emergency approvals from OMB to reflect the revised definition of "savings deposits" in Regulation D, beginning with reports for the June 30, 2020, report date. Specifically, the

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<sup>10</sup> 85 FR 38282 (June 26, 2020).

<sup>11</sup> Findings from the statutorily mandated review of the Call Report will also be used for evaluating the FFIEC 002 new items.

<sup>12</sup> 85 FR 23445 (April 28, 2020).

agencies published supplemental instructions to the FFIEC 002<sup>13</sup> which include temporary revisions to the General Instructions for FFIEC 002 Schedule E, as well as the Glossary entries for “Deposits” in the FFIEC 002 instructions, to remove references to the six-transfer limit. In addition, the supplemental instructions temporarily revised the General Instructions for FFIEC 002 Schedule E to state that if a depository institution chooses to suspend enforcement of the six-transfer limit on a “savings deposit,” the depository institution may continue to report that account as a “savings deposit” or may instead choose to report that account as a “transaction account” based on an assessment of certain characteristics of the account.

The agencies are revising the instructions to the FFIEC 002 to reflect the revised definition of “savings deposits” in accordance with the amendments to Regulation D in the IFR, starting with the June 30, 2020, report date. Specifically, the agencies are revising the General Instructions for FFIEC 002 Schedule E, as well as the Glossary entries for “Deposits” in the FFIEC 002 instructions, to remove references to the six-transfer limit from descriptions of “savings deposits.”

In the IFR, the Board amended the “savings deposit” definition in Regulation D to allow customers to be able to access savings deposits more easily. However, the agencies recognize that the corresponding temporary revisions to the instructions for the FFIEC 002 created a reporting option that could result in the collection of ambiguous data by allowing a depository institution to report a savings deposit as either a “savings deposit” or a “transaction account” if the institution suspends enforcement of the six-transfer limit. To resolve this potential issue, the agencies propose to remove the reporting option and require instead that a depository institution report each account as a “savings deposit” or a “transaction account” based on the institution’s assessment of account characteristics. Specifically, the agencies propose to revise the General Instructions for FFIEC 002 Schedule E, effective for reporting beginning in the first quarter of 2021, to state that where the reporting institution has suspended the enforcement of the six-transfer limit rule on an account that otherwise meets the definition of a savings deposit, the institution must report such deposits as a “savings deposit” (and as a “nontransaction account”) or a “transaction account” based on an assessment of the following characteristics:

- (1) If the reporting institution does not retain the reservation of right to require at least seven days’ written notice before an intended withdrawal, the account must be reported as a demand deposit (and as a “transaction account”).
- (2) If the reporting institution retains the reservation of right to require at least seven days’ written notice before an intended withdrawal and the depositor is eligible to hold a NOW account, the account must be reported as an ATS account, NOW account, or a telephone and preauthorized transfer account (and as a “transaction account”).
- (3) If the reporting institution retains the reservation of right to require at least seven days’ written notice before an intended withdrawal and the depositor is ineligible to hold a NOW account, the account must be reported as a savings deposit (and as a “nontransaction account”).

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<sup>13</sup> 2Q2020 COVID-19 Related Supplemental Instructions (FFIEC 002), [https://www.ffiec.gov/pdf/FFIEC\\_forms/FFIEC002\\_suppinst\\_COVID\\_202006.pdf](https://www.ffiec.gov/pdf/FFIEC_forms/FFIEC002_suppinst_COVID_202006.pdf).

The agencies anticipate that there will be no measurable increase in burden associated with these proposed revisions. The agencies may consider further modifying the treatment of “savings deposits” and “transaction accounts” in the instructions for the FFIEC 002 after a review of the reported data. Any such changes would be proposed by the agencies through a separate *Federal Register* notice pursuant to the Paperwork Reduction Act (PRA).

### **Revisions Related to Section 4013 of the CARES Act**

As provided for under the CARES Act, a financial institution may account for an eligible loan modification either under Section 4013 or in accordance with Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Subtopic 310-40, Receivables—Troubled Debt Restructurings by Creditors. If a loan modification is not eligible under Section 4013, or if the institution elects not to account for the loan modification under Section 4013, the financial institution should evaluate whether the modified loan is a troubled debt restructuring (TDR) under ASC Subtopic 310-40.

To be an eligible loan under Section 4013 (Section 4013 loan), a loan modification must be (1) related to COVID-19, (2) executed on a loan that was not more than 30 days past due as of December 31, 2019, and (3) executed between March 1, 2020, and the earlier of (A) 60 days after the date of termination of the National Emergency or (B) December 31, 2020.

Financial institutions accounting for eligible loans under Section 4013 are not required to apply ASC Subtopic 310-40 to the Section 4013 loans for the term of the loan modification. Financial institutions do not have to report Section 4013 loans as TDRs in regulatory reports.

Consistent with Section 4013, the agencies requested and received emergency approvals from OMB to add two new data items for Section 4013 loans to the FFIEC 002, which would be collected quarterly beginning with the June 30, 2020, report date, with the collection of these items expected to be time-limited. These new items, Memorandum item 5.a, “Number of Section 4013 loans outstanding,” and Memorandum item 5.b, “Outstanding balance of Section 4013 loans,” would be added to FFIEC 002 Schedule C, Part I, Loans and Leases. These items would enable the agencies to monitor individual institutions’ and the industry’s use of the temporary relief provided by Section 4013 as well as the volume of loans modified in accordance with Section 4013. The agencies plan to propose to discontinue the collection of these specific items once the aggregate industry activity has diminished to a point where individual institution information is of limited practical utility.<sup>14</sup>

The agencies will collect branch-and-agency-level Section 4013 loan information in the FFIEC 002 on a confidential basis. While the agencies generally make branch-and-agency-level FFIEC 002 data publicly available, the agencies are collecting Section 4013 loan information as part of condition reports for the impacted entities and the agencies believe disclosure of these items at the institution level would not be in the public interest.<sup>15</sup> Such information is permitted to be collected on a confidential basis, consistent with 5 U.S.C. § 552(b)(8).<sup>16</sup>

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<sup>14</sup> These new items will be reviewed in connection with the statutorily mandated review of the Call Report.

<sup>15</sup> 12 U.S.C. § 1464(v)(2).

<sup>16</sup> Exemption 8 of the Freedom of Information Act (FOIA) specifically exempts from disclosure information

The public disclosure of supervisory information on Section 4013 loans could have a detrimental impact on financial institutions offering modifications under this provision to borrowers that need relief due to COVID-19. Financial institutions may be reluctant to offer modifications under Section 4013 if information on these modifications made by each institution is publicly available, as analysts, investors, and other users of public FFIEC 002 information may penalize an institution for using the relief provided by the CARES Act. The agencies have encouraged financial institutions to work with their borrowers during the National Emergency related to COVID-19, including use of the relief under Section 4013.<sup>17</sup>

The agencies may disclose Section 4013 loan data on an aggregated basis, consistent with confidentiality.

### **Revisions Related to U.S. GAAP**

#### *Nonaccrual Treatment of Purchased Credit-Deteriorated Assets*

ASU 2016-13 introduced the concept of purchased credit-deteriorated (PCD) assets. PCD assets are acquired financial assets that, at acquisition, have experienced more-than-insignificant deterioration in credit quality since origination. When recording the acquisition of PCD assets, the amount of expected credit losses as of the acquisition date is recorded as an allowance and added to the purchase price of the assets rather than recording these acquisition date expected credit losses through provisions for credit losses. The sum of the purchase price and the initial allowance for credit losses (ACL) establishes the amortized cost basis of the PCD assets at acquisition. Any difference between the unpaid principal balance of the PCD assets and the amortized cost basis of the assets as of the acquisition date is a noncredit discount or premium. The initial ACL and any noncredit discount or premium determined on a collective basis at the acquisition date are allocated to the individual PCD assets.

After acquisition, any noncredit discount or premium is accreted or amortized into interest income, as appropriate, over the remaining lives of the PCD assets on a level-yield basis. However, if a PCD asset is placed in nonaccrual status, institutions must cease accreting the noncredit discount or amortizing the noncredit premium into interest income consistent with the guidance in ASC paragraph 310-20-35-17.

The current instructions for Call Report Schedule RC-N, Past Due and Nonaccrual Loans, Leases, and Other Assets, provide an exception to the general rule for placing financial assets in nonaccrual status set forth in the Call Report Glossary entry for “Nonaccrual status” for purchased credit-impaired (PCI) assets. The instructions for FFIEC 002 Schedule N, Past Due, Nonaccrual, and Restructured Loans, include a similar exception for PCI assets. Topic 326 replaces the concept of PCI assets in previous GAAP with the concept of PCD assets.<sup>18</sup> Although

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“contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.”

<sup>17</sup> See “Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus (Revised)” (April 7, 2020), available at <https://www.occ.gov/news-issuances/news-releases/2020/nr-ia-2020-50a.pdf>.

<sup>18</sup> According to ASC paragraph 310-30-15-2, PCI assets, in general, are loans and debt securities with evidence of deterioration of credit quality since origination acquired by completion of a transfer for which it is probable, at

there is some similarity between the concepts of PCI and PCD assets, these two concepts are not identical. Nevertheless, ASU 2016-13 provides that, upon adoption of Topic 326, all PCI assets will be deemed to be, and accounted for prospectively as, PCD assets. However, the Schedule RC-N instructions indicate that the nonaccrual exception for PCI assets was not extended to PCD assets by stating that “For purchased credit-deteriorated loans, debt securities, and other financial assets that fall within the scope of ASU 2016-13, nonaccrual status should be determined and subsequent nonaccrual treatment, if appropriate, should be applied in the same manner as for other financial assets held by an institution.”

As described in the Call Report Supplemental Instructions for March 2020, if an institution has adopted ASU 2016-13 and has a PCD asset, including a PCD asset that was previously a PCI asset or part of a pool of PCI assets, that would otherwise be required to be placed in nonaccrual status (see the Glossary entry for “Nonaccrual status”), the institution may elect to continue accruing interest income and not report the PCD asset as being in nonaccrual status if the following criteria are met:

- (1) The institution reasonably estimates the timing and amounts of cash flows expected to be collected, and
- (2) the institution did not acquire the asset primarily for the rewards of ownership of the underlying collateral, such as use of collateral in operations of the institution or improving the collateral for resale.

Additionally, these Call Report Supplemental Instructions state that when a PCD asset that meets the criteria above is not placed in nonaccrual status, the asset should be subject to other alternative methods of evaluation to ensure that the institution’s net income is not materially overstated. Further, an institution is not permitted to accrete the credit-related discount embedded in the purchase price of a PCD asset that is attributable to the acquirer’s assessment of expected credit losses as of the date of acquisition (i.e., the contractual cash flows the acquirer did not expect to collect at acquisition). Interest income should no longer be recognized on a PCD asset to the extent that the net investment in the asset would increase to an amount greater than the payoff amount. If an institution is required or has elected to carry a PCD asset in nonaccrual status, the asset must be reported as a nonaccrual asset at its amortized cost basis in Call Report Schedule RC-N, column C.

For PCD assets for which the institution has made a policy election to maintain a previously existing pool of PCI assets as a unit of account for accounting purposes upon adoption of ASU 2016-13, the determination of nonaccrual or accrual status should be made at the pool level, not at the individual asset level.

For a PCD asset that is not reported in nonaccrual status, the delinquency status of the PCD asset should be determined in accordance with its contractual repayment terms for purposes of reporting the amortized cost basis of the asset as past due in Schedule RC-N, column A or B, and in FFIEC 002 Schedule N, column A or B, as appropriate. If the PCD asset that is not reported in nonaccrual status consists of a pool of loans that were previously PCI assets that is

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acquisition, that the investor will be unable to collect all contractually required payments receivable.

being maintained as a unit of account after the adoption of ASU 2016-13, delinquency status should be determined individually for each loan in the pool in accordance with the individual loan's contractual repayment terms.

The agencies are proposing to update the Call Report and FFIEC 002 instructions to revise the nonaccrual treatment for PCD assets to provide institutions the option to not report PCD assets in nonaccrual status if they meet the criteria described above. The instructions also would incorporate the other reporting guidance for PCD assets in the Call Report Supplemental Instructions for March 2020 described above.

### *Last-of-Layer Hedging*

In ASU No. 2017-12, Derivatives and Hedging (Topic 815)-Targeted Improvements to Accounting for Hedging Activities, the FASB added the last-of-layer method to its hedge accounting standards to lessen the difficulties institutions encountered under existing accounting rules when seeking to enter into a fair value hedge of the interest rate risk of a closed portfolio of prepayable financial assets or one or more beneficial interests secured by a portfolio of prepayable financial instruments. Typically, prepayable financial assets would be loans and AFS debt securities.<sup>19</sup> Under ASU 2017-12, there are no limitations on the types of qualifying assets that could be grouped together in a last-of-layer hedge other than meeting the following two criteria: (1) They must be prepayable financial assets that have a contractual maturity date beyond the period being hedged and (2) they must be eligible for fair value hedge accounting of interest rate risk (for example, fixed-rate instruments). For example, fixed-rate residential mortgages, auto loans, and collateralized mortgage obligations could all be grouped and hedged together in a single last-of-layer closed portfolio. For a last-of-layer hedge, ASC paragraph 815-10-50-5B states that an institution may need to allocate the related fair value hedge basis adjustment (FVHBA) "to meet the objectives of disclosure requirements in other Topics." This ASC paragraph then explains that the institution "may allocate the basis adjustment on an individual asset basis or on a portfolio basis using a systematic and rational method." Due to the aggregation of assets in a last-of-layer closed portfolio, institutions may find it challenging to allocate the related FVHBA to the individual loan or AFS debt security level when necessary for financial reporting purposes.

In March 2018, the FASB added a project to its agenda to expand last-of-layer hedging to multiple layers, thereby providing more flexibility to entities when applying hedge accounting to a closed portfolio of prepayable assets. In connection with this project, the FASB anticipated that there would be diversity in practice if entities were required to allocate portfolio-level, last-of-layer FVHBAs to more granular levels, which in turn could potentially hamper data quality and comparability. In addition, the allocation would increase operational burden on institutions with little, if any, added value to risk management or to users of the financial statements. As such, for financial reporting purposes, the FASB Board has tentatively decided that it would require these FVHBAs to be presented as a reconciling item, i.e., in the aggregate for loans and AFS debt securities, in disclosures required by other areas of GAAP.<sup>20</sup>

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<sup>19</sup> Prepayable held-to-maturity debt securities do not qualify for last-of-layer hedging.

<sup>20</sup> The tentative decision was made at the FASB Board meeting on October 16, 2019. The Board meeting minutes are available at [https://www.fasb.org/jsp/FASB/Document\\_C/DocumentPage&cid=1176173617941](https://www.fasb.org/jsp/FASB/Document_C/DocumentPage&cid=1176173617941). Currently, no

The agencies are also proposing similar treatment for last-of-layer FVHBAs on FFIEC 002 Schedule C, Part I, Loans, and Schedule RAL, Assets and Liabilities, Memorandum item 3.b, “Amortized cost of available-for-sale securities,” following the FASB’s adoption of a final last-of-layer hedge accounting standard. The instructions for Schedule C, Part I, item 10, “LESS: Any unearned income on loans reflected in items 1-8 above,” would be revised to explicitly state that last-of-layer FVHBAs associated with the loans reported in Schedule C, Part I, should be included in this item.

In addition, the agencies are proposing to revise the FFIEC 002 instructions to state that institutions should report amounts for last-of-layer FVHBAs applicable to available-for-sale debt securities in Schedule RAL, Memorandum item 3.b, “Amortized cost of available-for-sale securities.”

**16. Provide information regarding plans for publication of data.**

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. In addition, individual respondent data are also available on the FFIEC public website at <https://www.ffiec.gov/NPW>.

**17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.**

No such approval is sought.

**18. Explain each exception to the topics of the certification statement identified in “Certification for Paperwork Reduction Act Submissions.”**

There are no exceptions.