BANK POLICY INSTITUTE

June 28, 2019

Via Electronic Mail

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Attn: OMB Number 1557-0100
400 7th Street SW, Suite 3E-218
Washington, D.C. 20219

Ann E. Misback
Secretary
Attn: OMB Number 7100-0035
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Robert E. Feldman
Executive Secretary
Attn: Comments, OMB Number 3064-0017
Federal Deposit Insurance Corporation
550 17th Street, N.W. Washington, D.C. 20429

Re: Proposed Agency Information Collection Activities: Comment Request – FFIEC 009 and FFIEC 009a (OCC OMB Number 1557-0100; Federal Reserve OMB Number 7100-0035; and FDIC OMB Number 3064-0017)

Ladies and Gentlemen:

The Bank Policy Institute[1] appreciates the opportunity to comment on the proposal by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve and the Federal Deposit Insurance Corporation to extend for three years without revision the Country Exposure Report (FFIEC 009) and the Country Exposure Information Report (FFIEC 009a).[2] We provide several recommendations below regarding consistency among reports and areas where additional guidance is needed in support of the Agencies' ongoing efforts to minimize the burden of information collection on respondents while enhancing the quality, utility and clarity of the information to be collected.

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[1]The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

[2] 84 Fed. Reg. 18,120 (April 29, 2019).

There are inconsistencies in several defined terms between the FFIEC 009and various other reports that should be eliminated. In order to reduce reporting burden for respondents, the Agencies should ensure definitional consistency across these reports so that respondents do not need consider whether the same or different data should be reported on multiple reports without proper guidance from the Agencies. For example, the term "financial institution" is used with different definitions in the FFIEC 009, FR 2510, FR Y-15 and FR Y-9C; if a different interpretation of the term "financial institution" and different data reporting is intended by the Agencies for one or more of these reports, that interpretation and the reason(s) underlying it should be included in the relevant form instructions. Another example is the term "domicile/incorporation". The FFIEC 009, TIC reports, FR Y-15 use the term "country of incorporation or charter", while the FR Y-9C, Call Report and FR Y-14Q use the term "principal business address" or "country in which the obligor is headquartered" when defining domicile. There is no explanation provided in the instructions to any of these reports why maintaining these different definitions of "domicile/incorporation" is important or how such different definitions help to enhance the quality, utility and clarity of the information to be provided.

With respect to sector classification, there are inconsistencies between the FFIEC 009 and FR Y-15 regarding which types of entities should be considered "non-bank financial institutions" (NBFIs) and "financial institutions". The FFIEC 009 specifically includes private equity companies, finance companies and mortgage companies, while the FR Y-15 specifically excludes finance companies and does not include private equity companies or mortgage companies. No reasons or purported benefits for these differences in classifications are provided in the instructions to the reporting forms to offset the additional reporting burden, expense and operational complexity and additional data reconciliations required by these classification differences. We recommend that this sector classification be made consistent across reports, and that additional guidance in the form of specific NAICS codes be provided.

Another reporting inconsistency pertains to the reporting of foreign-office operating lease liabilities. Effective 1Q19, foreign-office operating lease liabilities are reported on Schedule L (Other borrowed money), but operating lease assets are excluded from Schedule C as fixed assets. We recommend that the reporting of operating lease assets and liabilities be made consistent, and that operating lease liabilities be excluded from Schedule L.

Reporting of short sales also should be conformed for the FR 2510 and Schedule L of the FFIEC 009. Schedule L requires reporting of short sales by country of the counterparty to which the foreign office owes delivery until the settlement date. This requirement to identify the counterparty to a short sale from inventory positions is quite burdensome for reporting institutions, particularly when such requirement is contrasted with the requirement in FR 2510, Line 21 which provides that the immediate counterparty country and sector for short sale contracts are those of the issuer of the short position sold (rather than the counterparty to whom the financial instrument has been sold). The reporting convention by issuer of the short adopted under FR 2510 should be adopted also for purposes of FFIEC 009 to reduce reporting burden.

There is also inconsistency between the CUSIP netting permitted for purposes of the FFIEC 009 with the netting permitted under U.S. GAAP. The FFIEC 009 currently allows netting only if the office holding the position, the issuer of the underlying security and the counterparty to the short-position are the same, while U.S. GAAP allows netting to be applied on an entity/office level basis to trading assets and liabilities in the same security. We recommend that CUSIP netting for purposes of the FFIEC 009 should be aligned with netting permitted under U.S. GAAP to simplify the currently required operational and reconciliation processes and therefore reduce the reporting burden.

Lastly, items to be excluded under Schedule C (Claims) and Schedule L (foreign-office liabilities) should be more specifically identified and the list of exclusions should be expanded. Certain cross-border claims should be excluded from cross-border claims reporting, including (1) insurance BOLI/COLI, (2) deferred tax assets, (3) physical commodities held in inventory, (4) initial margin, (5) pension assets and (6) cash in vault. Additionally, deferred tax liabilities should be excluded from Schedule L.

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BPI would be pleased to discuss these issues further with you. Please contact the undersigned at 646.736.3958 or by email at david.wagner@bpi.com if you have any questions.

Respectfully submitted,

David Wagner

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