December 3, 2019

*Via Electronic Mail*

Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, D.C. 20219

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington D.C. 20429

Re: Call Report and FFIEC 101 Reporting Revisions

Ladies and Gentlemen:

The Bank Policy Institute[1] welcomes the opportunity to comment on the proposal by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to revise the Consolidated Reports of Condition and Income (FFIEC 031, FFIEC 041, FFIEC 051) ("Call Reports") and the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework ("FFIEC 101").[2]

We are generally supportive of the proposed revisions, but we believe that several changes and clarifications to the proposal as described herein would allow the agencies to achieve greater consistency, simplicity and clarity in Call Report and FFIEC 101 reporting requirements.

## I. The agencies should not expand the scope of the FFIEC 031 to require subsidiaries of Category I, II, and III institutions, which previously were required to file the FFIEC 041, to file the FFIEC 031.

We recommend that the agencies clarify that there is no change in scope of the FFIEC 031 Call Report that would require all Category I, II and III institutions to file the FFIEC 031. As proposed, it is unclear whether

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. 53227 (October 4, 2019).

subsidiaries of such Category I, II, and III firms also would be required to file the FFIEC 031, which would result in a significant increase in the associated reporting burden without any meaningful benefit.

The proposal states that "subsidiaries of institutions subject to Category I, II, or III capital standards also are considered Category I, II, or III institutions under the domestic interagency tailoring and foreign interagency tailoring NPRs and would be treated similarly for this change in reporting scope."[3] This language suggests that these subsidiaries (which previously were required to file the FFIEC 041) would now be required to file the FFIEC 031, however that interpretation would conflict with other language contained in the proposal that "the agencies expect this scope revision to have little, if any, impact on institutions."[4] To the contrary, the proposed change in scope of FFIEC 031 to include subsidiaries of Category I, II and III firms would create a significant increase in burden for entities that were not previously required to file the FFIEC 031, including those entities that currently file the FFIEC 041.

Relatedly, the proposed revised language on the cover page of the FFIEC 041 Call Report is also unclear, as it implies that banks that are advanced approaches institutions should not file the FFIEC 041 Call Report. We believe that banking subsidiaries should continue to file the FFIEC 041 Call Report if their total consolidated assets are less than $100 billion, even if they are considered advanced approaches institutions. Likewise, we believe that entities that currently file the FFIEC 051 Call Report because their total consolidated assets are below $5 billion should not be required in the final rule to file the FFIEC 031. BPI opposes the potential increase in scope of the FFIEC 031 and recommends that the agencies confirm that banking subsidiary institutions that are currently required to file the FFIEC 041 or FFIEC 051 should continue to file such reports, as opposed to filing the more burdensome FFIEC 031.

## II. The agencies should not revise the Call Report instructions for reporting Home Equity Lines of Credit that convert from revolving to non-revolving status.

We appreciate the agencies consideration of the operational challenges associated with implementing the previously proposed changes to the Call Report instructions for Schedule RC–C, Part I, items 1.c.(1), 1.c.(2)(a), and 1.c.(2)(b), for the reporting of reporting of home equity lines of credit ("HELOCs")[5] and the extended compliance date to March 31, 2021. However, notwithstanding the extended compliance date, we are not supportive of implementation of this change.

The instructional clarification regarding HELOCs was originally proposed in September 2015[6] but the agencies determined not to proceed with the change in 2016.[7] The current proposal notes that "after further review, the agencies have determined that <u>there would be little or no impact to</u> the regulatory capital calculations, FDIC deposit insurance assessments, <u>or other regulatory reporting requirements</u> as a result of this clarification, which were other concerns previously raised by commenters."[8] We respectfully disagree with this assessment in the current proposal and believe that the same considerations the agencies acknowledged as part of their 2016 decision not to implement the proposed change apply here, i.e., "[t]he agencies will seek to be more conscious of relationships between the Call Report requirements and other FFIEC regulatory reports particularly when considering revisions to the data collected in the Call Report."[9]

As noted in the proposal, this proposed change would impact a large number of schedules within the Call Report, as it would extend to the instructions for all data items that reference Schedule RC–C, Part I, loan category

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3 84 Fed. Reg.53227 at 53235 fn. 31.

4 Id.

5 That is, moving HELOCs where the draw period has expired to existing lines for closed-end mortgage loans.

6 *See* 80 Fed. Reg. 56539 (September 18, 2015).

7 *See* 81 Fed. Reg. 45357 (July 13, 2016).

8 84 Fed. Reg. 53227 at 53240 (emphasis added).

9 81 Fed. Reg. 45357 at 45359.

definitions for open-end and closed-end loans secured by 1–4 family residential properties. A number of the definitional inconsistencies previously raised in our 2015 comment letter responding to the initial proposal remain relevant to the current proposal, and if finalized as proposed, would as before "force institutions to maintain separate reporting systems for collecting data on what are effectively the same assets, liabilities, and income items."[10] If this change is implemented, the definition of HELOCs in the Call Report instructions would not align with the HELOC definition in the instructions for the FR Y-14M, which requires firms to "[c]ontinue reporting the HELOCs in the Y-14M Home Equity schedule even after they have entered into a pay down status and are no longer revolving credits,"[11] thus creating further confusion for reporting firms. This proposed change would also create inconsistencies with the current instructions to the FR Y-9C and the FR Y-14Q, as data from the FR Y-9C is used to populate HELOC data in the FR Y-14Q. We appreciate that the agencies plan to "make corresponding revisions"[12] to the FR Y-9C in a separate proposal, which will in turn revise the instructions to the FR Y-14 Q; however, in the interim the definitional discrepancies across reporting are very likely to prove to be a significant operational challenge for firms.

In addition to the lack of definitional alignment across reports, this clarification regarding HELOCs ignores a key reason for reporting them separately, that is, to understand the performance and the related credit risk of these loans. Relocating HELOCs that have converted to non-revolving closed-end status into the 1-4 closed-end reporting categories would create an instance where items are fundamentally different and therefore not suited for comparison. For example, a HELOC in repayment does not carry the same risk profile as an originally-underwritten 1-4 family closed end loan. We therefore urge the agencies not to implement this change. If the agencies believe that identification of such loans is important from a supervisory perspective, however, we recommend that the agencies consider adding a new memoranda item to identify them. Such a change would provide the agencies with comparable information while minimizing the increased burden to reporters.

## III. Supplementary leverage ratio ("SLR") Tables 1 and 2 should be eliminated from the FFIEC 101 as SLR data is already currently reported in the FR Y-15 report and Pillar 3 disclosures.

Throughout a number of required regulatory reports, there are redundancies in the reporting of SLR data. Currently, bank holding companies report the granular supplementary leverage information that is required in the FFIEC 101 SLR Tables 1 and 2 in the FR Y-15. Micro Data Reference Manual codes generally align across these two filings with some exceptions for some aggregated values where one filing simply may have subtotals and the other does not. Similarly, bank holding companies also disclose the SLR and its granular components in a prescriptive tabular format (Table 13) of their Pillar 3 disclosures. Bank Subsidiaries report only the ratio and total leverage for the SLR in the Call Report (they are not required to report Tables 1 and 2 of the FFIEC 101).

With this overlap in data collection, we recommend that the agencies maintain the current granular reporting of the SLR in the FR Y-15 report and Pillar 3 disclosures and discontinue reporting the FFIEC 101 SLR Tables 1 and 2 for all reporters. Such an approach would ultimately eliminate the FFIEC 101 filing altogether for Category III firms and thereby reduce unnecessary reporting burden for these firms, as their only reporting obligations on the FFIEC 101 are SLR Tables 1 and 2.[13] Otherwise, the SLR Tables would require Category III banks to complete an additional regulatory filing and attestation process while providing the Federal Reserve with no information not already contained in other reports.

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10 *See* The Clearing House and American Bankers Association Letter, *1557-0081, FFIEC 031 and 0431* (November 17, 2015), *available at* https://bpi.com/wp-content/uploads/2018/07/20151117-call-report.pdf.

11 *See* Instructions to FR Y-14M at 97 (modified March 20, 2018), *available at* https://www.federalreserve.gov/apps/reportforms/reporthistory.aspx?sOoYJ+5BzDYnbIw+U9pka3sMtCMopzoV.

12 84 Fed. Reg. 53227 at 53229.

13 However, if the agencies maintain FFIEC 101 SLR Tables 1 and 2 requirements as proposed, a change to Line 2.20 Tier 1 capital for Category III firms to account for Tier 1 capital calculation differences would be appropriate. This change would need to reflect different capital requirements for mortgage servicing assets, certain deferred tax assets and investments in the capital of unconsolidated financial institutions as well as the accumulated other comprehensive income exclusion.

## IV. The agencies should provide at least an eighteen-month implementation period for revisions to the Call Reports and FFIEC 101 related to the proposed Total Loss Absorbing Capacity Holdings Rule.

While the proposal does not outline an effective date of the revisions related to the proposed Total Loss Absorbing Capacity ("TLAC") Holdings Rule, the draft reporting forms for the Call Reports and FFIEC 101 state that forms will be revised in the same quarters as the effective dates of the potential final capital rules, but no earlier than March 30, 2020. As we have previously recommended, the final TLAC holdings rule "should include an implementation period of at least eighteen months following adoption and should not require deductions as to any unsecured debt instrument until the information necessary to determine whether the instrument is a "covered debt instrument" is available."[14] Consistent with our prior recommendation, changes to regulatory reports (e.g., FFIEC 101, Call Report, FR Y-9C) to reflect the finalization and adoption of the TLAC Holdings final rule should be made effective in alignment with our recommended implementation timeline.

Our other recommendations, questions, and requests for clarification are contained in the attached Appendix A.

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BPI appreciates the opportunity to comment on the proposal. If you have any questions, please contact the undersigned by phone at 646.736.3958 or by email at David.Wagner@bpi.com.

Respectfully submitted,

David Wagner
Deputy General Counsel, Senior Vice President
and Head of Finance, Risk and Audit Affairs
*Bank Policy Institute*

cc: Michael Gibson
Mark Van Der Weide
Board of Governors of the Federal Reserve System

Morris Morgan
Jonathan Gould
Office of the Comptroller of the Currency

Doreen Eberley
Nicholas Podsiadly
Federal Deposit Insurance Corporation

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14 *See* Bank Policy Institute et al. Letter. *Regulatory Capital Treatment for Investments in Certain Unsecured Debt Instruments of Global Systemically Important U.S. Bank Holding Companies, Certain Intermediate Holding Companies, and Global Systemically Important Foreign Banking Organizations* (June 7, 2019), *available at* https://www.sifma.org/wp-content/uploads/2019/06/BPI-FSF-SIFMA-Comment-Letter-June-7-2019-Regulatory-Capital-Treatment-of-TLAC-Holdings.pdf.

## Appendix A

- Schedule RC- LC- 16.b. OTC Derivatives, Fair value of collateral.
  - We respectfully submit that the collateral received amount is not economically meaningful especially when that collateral is held by the firm as part of a client relationship to enter into various transactions on behalf of the client including derivative transactions. We therefore recommend that the agencies not collect data on fair value of collateral in Schedule RC- LC- 16.b. OTC Derivatives.
- Schedule RC-R, Part II - Memo line 3, Notional principal amounts of centrally cleared derivative contracts.
  - The agencies should provide whether the allocation of the notional amounts for Settlement-to-Market (STM) trades to be allocated by remaining maturity should be used for determination of Credit Conversion Factors (CCFs) under capital reporting instead of using contractual remaining maturity of the contracts.
- Schedule RC-R, Notional Reporting.
  - We recommend that the agencies determine whether the GAAP Notional or SA-CCR notional should be reported, and to the extent that firms should use SA-CCR notional in other areas of notional reporting (e.g., RC-L).
- Schedule RC-R, Part I.
  - While we support the proposed line item additions to the RC-R, Part I reporting to support changes to the leverage ratio, the proposed line items included in insert B would result in re-ordering the flow of the capital calculation. The proposal would insert the leverage ratio calculations between the calculation of Tier 1 and Tier 2 capital. While the results of individual line items are not affected, we believe this proposed presentation could be confusing to statement users. Specifically, end-users of reports are familiar with calculations which flow through the entire capital stack starting with CET1 and ending with Tier 2 before progressing to the leverage ratio. We urge the agencies to reconsider the presentation and to the extent possible maintain the existing 'flow' of the capital calculation to avoid unnecessary potential confusion and misunderstanding.
  - We recommend that the agencies clarify how to report drawdowns of a HELOC Flex product that contain "lock-out" features, where the borrower has the option to convert a draw of the outstanding loan to a fixed rate interest structure with defined payments and term, and has done so during the drawdown period (i.e., before the official end of the drawdown period, the loan has been converted to a fixed interest rate). Should these loans continue to be reported under the HELOC Flex product characteristics (revolving open-ended and under the HELOC Flex product's maturity date for RC-C Memorandum Line 2) during the drawdown period or should these be reported based on the loan characteristics (close-ended and under the loan's maturity date) upon conversion, even though the drawdown period is still open?
- Schedule RC-L – Line 7a. Credit derivative notional amounts/ Line 12. Gross notional amounts of derivatives & Schedule RC-R, Part II – Memo line 2, Notional principal amounts of over-the-counter derivative contracts/Memo line 3, Notional principal amounts of centrally cleared derivative contracts.
  - The reporting instructions are silent as to whether firms should report the notional for derivatives which have matured but have associated unsettled receivables or payables as of the reporting date. We recommend that firms not be required to report the notional amount of matured derivatives as reporting notional on these positions would overstate related off-balance sheet exposures.
- FFIEC 101, Schedule A.
  - A new line item is added to the FFIEC 101 for the deduction of covered debt instruments (Line Item 56.a) but there is no mention of such item in the RC-R/HC-R. We recommend addition of a line item for covered debt deduction in the Call Report/FR Y-9C.

- In the proposal, the agencies request comment on whether items related to LTD and TLAC amounts, ratios, and the TLAC buffer should be included in the FFIEC 101. We believe that the agencies should not include these items in the FFIEC 101 because the agencies are proposing to include these items in the FR Y-9C, which would result in unnecessary duplicative reporting requirements.