BANK POLICY INSTITUTE

May 18, 2020

Via Electronic Mail

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

Re: Capital Assessments and Stress Testing Reports (FR Y-14A/Q/M; OMB No. 7100-0341)

Ladies and Gentlemen:

The Bank Policy Institute[1] welcomes the opportunity to comment on the March 2020 proposal by the Board of Governors of the Federal Reserve System to revise the FR Y-14A/Q/M reports.[2] We support the Federal Reserve's ongoing efforts to reduce reporting burden for firms and to clarify reporting instructions and requirements. For example, the Federal Reserve's proposed removal of the PPNR Metrics worksheets from the FR Y-14A is a welcome change as PPNR results are already available on the PPNR Projections and Net Interest Income worksheets, and thus would significantly reduce burden and duplicative reporting for respondents. However, we believe that there are a number of proposed revisions that would require systems changes that would ultimately contradict this objective and therefore should be reconsidered. We have also included other recommendations and requests for clarification on the proposed changes in Appendix A.

I. The Federal Reserve should not proceed with the proposed revisions to Schedule H.1 and Schedule H.2 of the FR Y-14Q that would require firms to report interest rate data for undrawn commitments.

The Proposal would revise the instructions of Schedules H.1 and H.2 to no longer allow firms to report fully undrawn commitments as "0" and would instead require firms to report interest rate data as if the facility were fully drawn on the reporting date. This proposed change would prove to be exceptionally challenging, as most firms do not currently have systems in place that capture the necessary interest rate data for undrawn commitments. In order to achieve the level of detail necessary for this new requirement, some firms would need to complete a manual review of physical documents to determine the various interest rate options for the unfunded commitments. Additionally, in many cases, there are multiple interest rate options available for an undrawn commitment and the borrower is not required to choose an interest rate until a draw has been made, at which time the relevant rate is entered into the accounting system. As an example, it is not unusual for credit agreements to be structured to allow clients the flexibility to select the index at which to draw, and thus a future draw for any particular client could be

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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 85 Fed. Reg. 15776 (March 19, 2020).

under, for example, either a LIBOR contract or a PRIME contract. The specific option of the client's choosing would not be known as of the reporting date for undrawn facilities.

Similarly, the proposed instructions indicate that for fully undrawn facilities, respondents should "report the interest rate that would apply per the terms of the credit agreement if the credit facility was fully drawn on the reporting date. For credit facilities that allow for multiple interest rates, report the most conservative rate per the terms of the credit agreement."[3] In order for firms to comply with this instruction, it would require the additional time and resources described above to identify the interest rate options for each facility, but would then also require identifying and calculating on the reporting date the most conservative rate that is available for that particular facility (given the base rate and the spread). Such a requirement could also result in a firm reporting different applicable interest rates for the same credit facility on different reporting dates as between reporting dates, the most conservative interest rate for a certain facility may vary and thus could require firms to revisit applicable interest rates every quarter.

In addition to the significant reporting challenges associated with the proposed revision, the proposed instructions would require further clarification from the Federal Reserve in order for firms to correctly populate the new fields. Such as for variable rate loans, it is not clear which date index rate should be sourced to calculate the interest rate, floor, and ceiling. For example, if the interest rate is calculated using LIBOR and the agreement reads that LIBOR as of funding date should be used for the calculation of the interest rate, there is ambiguity as to what the reportable value should be until the funding is initiated and if LIBOR at quarter-end should be used for the calculation. Similarly, this proposed reporting requirement for Schedule H.1 and Schedule H.2 is at a facility level, while credit agreements may allow for loans to be funded in multiple tranches each of which could provide for multiple interest rates. It is unclear how firms should report such arrangements at a facility level and would require significant operational build out to satisfy this reporting requirement. This lack of clarity and uncertainty could also create disparate reporting across the industry as it would require assumptions across these interest rate fields.

For these reasons, we therefore strongly recommend that the Federal Reserve not proceed with this proposed reporting revision.

II. The Federal Reserve should not move forward at this time with implementation of the proposed fields to capture Legal Entity Identifiers (LEIs) assigned to reported obligors in Schedules H.1 and H.2 of the FR Y-14Q.

The Proposal would add fields to the FR Y-14Q Schedules H.1 and H.2 to capture LEIs assigned to reported obligors and, if applicable, entities that are identified as the primary source of repayment, when the primary source of repayment differs from the reported obligor. However, many firms do not currently gather LEIs from their new or existing clients. In order to comply with this proposed new data collection, such firms will have to establish new processes to first obtain and verify LEI data, which would require the allocation of additional resources as currently, there is no automated method to populate LEI data. Additionally, there are further complications associated with gathering LEIs as the infrastructure for checking existing LEIs has some shortcomings. Specifically, small differences in the name used to search for an entity can lead to false negatives when checking whether an entity has an LEI. Matching LEIs to the, in some cases, thousands of entities in current data bases would be very manually intensive since naming conventions are frequently different and matching is not always obvious. Furthermore, these firms do not have placeholders for LEI data in their current accounting systems. Therefore, to accommodate this proposed new data collection, such firms would need to make major technological and systems changes to update their systems to capture the new LEI field going forward and then proceed to backfill their systems for existing clients. Even for those firms that already collect LEIs for purposes of Schedule L of the FR Y-14Q, LEI data for obligors may not be readily available in their current systems used to produce Schedule H. As a result, these firms would also require substantial systems changes to incorporate LEI data appropriately into Schedule H. As such, the Proposal's requirement to capture these LEIs would not only entail significant changes in the current

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[3] Federal Reserve, *Draft Instructions for the Capital Assessments and Stress Testing information collection* (Reporting Form FR Y-14Q) (Modified March 19, 2020), available at https://www.federalreserve.gov/reportforms/formsreview/FR%20Y-14Q_Instructions_DFAST_2021_Draft.pdf.

systems for producing Schedule H but also the related business practices, which will require a substantial amount of time to complete and implement.

On top of these potential implementation challenges, many firms have had to redistribute resources to quickly and efficiently respond to the current COVID-19 pandemic and the associated economic crisis in order to meet the financial needs of those most affected. In doing so, firms have shifted their focus to implementing the necessary systems changes for reporting and capturing new data associated with the many federal lending facilities prompted by the pandemic. At the same time, firms have also been faced with addressing their own challenges with COVID-19, specifically dealing with a shift to a number of employees now working from home, disruptions to third party service providers, and constraints on overseas resources. The agencies themselves have noted the severe impacts of the pandemic on financial institutions in several recent statements and press releases.[4] In light of these competing priorities and additional resource requirements, it would be particularly disruptive for firms to try to implement this new LEI data requirement by September 30, 2020. Accordingly, as we appreciate the value of adding the LEI field to "enhance data quality of the stress test by allowing the [Federal Reserve] to precisely identify parties to financial transactions"[5] and understand that there is a trend to standardize the use of LEIs, we recommend that the Federal Reserve implement this new collection in a future proposed request once the impact of the current pandemic has subsided. This would allow firms to allocate the necessary resources to backfill LEI data and to implement the required systems changes. We would be pleased to discuss future implementation of LEI data collection and a reasonable timeline for the same with Federal Reserve staff that would allow firms sufficient time to update the necessary systems and business practices to ensure compliance.

III. The Federal Reserve should revise the instructions of Schedule D of the FR Y-14M to permit firms to report CECL projections consistent with firms' CECL reporting practices.

Currently not all firms calculate CECL projections on a monthly basis, with some only calculating as of the reporting date at the end of every quarter. The draft instructions for Schedule D of the FR Y-14M in relevant part propose that firms report "the estimated dollar amount of lifetime losses for the 12 months under the CECL projection (rolling basis each reporting month)." As drafted, the instructions do not offer firms the flexibility necessary to align reporting with their current CECL process of calculating losses quarterly and therefore would prove operationally challenging for such firms. Therefore, we request that the Federal Reserve revise the instructions for Schedule D of the FR Y-14M to permit firms to disclose their CECL projection data consistent with firms' CECL reporting practices; that is, allow firms that only calculate CECL quarterly, to disclose the CECL projection data at the quarter-end reporting date and that same amount in the following two month ends.

IV. The instructions for Schedule H.2 of the FR Y-14Q field 39 "Property Size" should not be revised as proposed.

While we appreciate that the Federal Reserve is proposing revisions to the instructions of Schedule H to clarify certain fields, we believe that certain changes to the reporting instructions may inadvertently create ambiguity, where such ambiguities did not previously exist. Specifically, the Federal Reserve is proposing to clarify the instructions to Schedule H.2 field 39 "Property Size" which includes removing guidance on how to report a single property comprised of a single property type which is denoted as 'Other' in field 9 – Property type. Given this proposed revision, it's unclear what property size should be reported for 'Other' property types, such as skilled nursing facilities and self-storage. As a result of the Proposal, such single property types would no longer be permitted to be classified as 'Other,' despite not fitting into the other applicable categories.

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[4] *See* Federal Reserve, *Federal Reserve Statement on Supervisory Activities* (March 24, 2020) available at https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200324a1.pdf; and *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus* (March 22, 2020) available at https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20200322a1.pdf.

[5] 85 Fed. Reg. 15776 at 15781.

Additionally, the proposed instructions no longer clearly address the reporting of mixed property types. The instructions state that if a facility consists of mixed property types where one predominates, firms are to report the size for the property type; however it is unclear if firms are to only report the size of the single predominate property type and exclude the size of the other property types that secure the facility. We believe that the current instructions provide clear guidance for mixed property types as well as 'Other' property types and should therefore be unchanged.

V. The Federal Reserve should not expand the scope of the FR Y-14Q sub-schedule L.5 to require firms to report client-cleared derivatives exposures.

The Proposal would require firms to report client-cleared derivatives exposures in sub-schedule L.5, which would impose substantial new reporting requirements by significantly broadening the scope of information required to be reported on Schedule L. Specifically, the revisions require firms to report their clients' exposures to designated central clearing counterparties (CCPs) and their own exposures associated with their guarantees of a client's performance to a CCP or an exchange. Reporting all of the line items in sub-schedule L.5 for an applicable client-cleared transaction will be operationally challenging. Firms will be required to obtain and source information on client-cleared derivatives which are not currently scoped into the data sets used to produce Schedule L.

In addition, the Proposal states that "all client-cleared derivatives exposures be reported on the large counterparty default (LCPD) section;"6 however, the draft instructions and forms for the FR Y-14Q make no reference to an LCPD section. As instructions and a form have not yet been provided for the LCPD section, firms cannot accurately assess the section and therefore have no opportunity to provide real comment. Similarly, the proposed instructions go on to state that the Federal Reserve would not include client-cleared derivatives exposures reported in the LCPD section as a part of the stress test at this time and "this information would be collected only for monitoring purposes."7 However, as the proposed instructions are silent on the LCPD section, they do not clearly show how such exposures will be distinguished and therefore how the Federal Reserve will exclude the exposures from its stress test projections.

A similar revision to Schedule L was originally included in the revised instructions for the FR Y-14Q report that were posted on the Federal Reserve's website in August 2017,8 but the Federal Reserve ultimately rescinded this change. While we appreciate the Federal Reserve accepting our recommendation from our 2017 comment letter9 by now proposing this new requirement through the formal notice and comment process, we urge the Federal Reserve to withdraw this revision in light of the potential burden associated with the volume of data in sub-schedule L.5. Additionally, our concerns previously raised in our 2017 comment letter remain relevant to the current Proposal, specifically that if finalized as proposed, the changes would "require firms to report information relating to the exposures of others (i.e., their clients) even if such exposures do not present any credit risk for the reporting firm, which is both fundamentally different from the information currently reported on Schedule L and unrelated to the purpose of Schedule L."10 Similarly, as firms will be required to report exposures other than their own, we are also concerned that the reporting of this information could result in an inaccurate depiction of firms' exposures to CCPs.

However, if the Federal Reserve proceeds with this new data collection as proposed, a significant delay in implementation given the operational challenges associated with sourcing the data required in Schedule L.5 would be

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6 85 Fed. Reg. 15776 at 15782.

7 *Id.*

8 Federal Reserve, *Instructions for the Capital Assessments and Stress Testing information collection (Reporting Form FR Y-14Q*) (Modified August 22, 2017), *available at* https://www.federalreserve.gov/reportforms/forms/FR_Y-14Q20161231_i.pdf.

9 *See* The Clearing House and American Bankers Association Letter, *Revisions to Form FR Y-14Q Instructions* (October 25, 2017).

10 *See id.*

necessary, as well as further information on the proposed LCPD section. We recommend that if adopted, this revision be implemented no earlier than June 30, 2021.

VI. The Federal Reserve should allow firms to report negative and positive mark-to-market (MtM) amounts with a counterparty on a gross basis without offsetting in the absence of a legally enforceable netting agreement between the firm and the counterparty in sub-schedule L.5 – Netting Agreement Reporting of the FR Y-14Q.

The draft instructions for FR Y-14Q sub-schedule L.5 Netting Agreement Reporting propose the offsetting of negative MtM with positive MtM amounts with a counterparty in the absence of a legally enforceable netting agreement. Additionally, they would disallow the offsetting of negative MtM with positive MtM amounts with a counterparty when a netting agreement is in place but is not legally enforceable. These proposed reporting requirements would create a RAP-GAAP difference.[11] Under U.S. GAAP, firms are not permitted to offset negative and positive MtM with the same counterparty in the absence of a legally enforceable netting agreement. Therefore, we recommend that the Federal Reserve permit firms to report negative and positive MtM amounts with a counterparty on a gross basis without offsetting in the absence of a legally enforceable netting agreement between the firm and the counterparty.

VII. The Federal Reserve should delay implementation of certain proposed revisions to Schedule F of the FR Y-14Q until June 30, 2021.

The Proposal would require firms to report corporate single name exposures at the obligor level in sub-schedule F.22 of the FR Y-14Q, which would require significant system changes. The proposed changes to this sub-schedule would require firms to report information on a regular quarterly basis that was previously only provided to the Federal Reserve on an annual basis. Certain reference data is not readily available in the internal risk management systems, namely Ticker, RED code, and issuer names held in index. Currently, the information relating to this exposure is aggregated manually since it is only required to be collected annually. In order to implement this process operationally on a quarterly basis, it would require a significant systemic solution, which will take time to develop and implement.

Additionally, the Federal Reserve has proposed two changes to Schedule F of the FR Y-14Q to "isolate the impact of specific hedges."[12] One of the proposed revisions is a new requirement for firms to report a version of Schedule F that separately captures the impact of accrual loans. While we appreciate the Federal Reserve's continued efforts to ensure consistent reporting across firms, requiring firms to file an additional trading template creates incremental administrative burden as it would require its own set of controls and verification steps. Additionally, for some firms, hedges are generally utilized to cover credit risk without regard for how the underlying loan is accounted, therefore in order to comply with this proposed change such firms would need to isolate hedges based on accounting treatment of their underlying loan risk. Segregating this data would pose a significant burden for such firms, requiring them to invest additional time and resources.

The second revision to hedge reporting included in the Proposal is a change in the instructions for Schedule F to clarify that X-Valuation Adjustments (XVA) such as Funding Valuation Adjustments (FVA) or other such Valuation Adjustments should not be reported in the Schedule. While we support the Federal Reserve's efforts to remove ambiguity, as is the justification for the proposed change, splitting out XVA from Schedule F can prove to be

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[11] It is our understanding that generally, the agencies seek to avoid or reduce RAP-GAAP differences. This is explicit under the statutory provisions of Section 37(a) of the Federal Deposit Insurance Act, which state that the accounting principles applicable to reports or statements required to be filed by all insured depository institutions with the federal banking agencies (OCC, Board, FDIC) must be uniform and consistent with GAAP. Similarly, the current instructions for the FFIEC's Call Reports, effective March 2020, state in relevant part that "[i]n their Call Reports submitted to the federal bank supervisory agencies, banks and their subsidiaries shall present their financial condition and results of operations on a consolidated basis in accordance with U.S. generally accepted accounting principles (GAAP)."

[12] 85 Fed. Reg. 15776 at 15781.

challenging for firms. Funded FVA are built into the pricing models (through overnight index swaps discounting) when re-valuing positions under global market shock. In addition, liquidity valuations adjustments currently play an important role for some firms in the reporting of impacts for private equity. Thus, extensive modelling changes would be necessary to complete the calculation of various metrics reported as part of the schedule.

Implementation of these revisions to Schedule F will not only require firms to make systems changes but may also require firms to adjust current data collection processes. Firms would need to test such processes to ensure they are compliant prior to the effective date. Therefore, we recommend that the Federal Reserve delay implementation of the abovementioned proposed revisions to reporting in Schedule F until June 30, 2021.

Our technical recommendations and requests for clarification are contained in the attached Appendix A.

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The Bank Policy Institute appreciates the opportunity to comment on the Proposal. If you have any questions, please contact the undersigned by phone at 646.736.3943 or by email at alix.roberts@bpi.com.

Respectfully submitted,

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Appendix A

I. FR Y-14Q, Schedule F

a) The proposed instructions for Schedule F of the FR Y-14Q, state the following: "Positions that are held outside of the trading book that are hedges of accrual loans or hedges of loans held under fair value accounting (FVO hedges) should not be included in this schedule. Instead, they should each be reported separately in their own FR Y-14Q Trading schedules."

   i) We request that the Federal Reserve clarify what "positions" these instructions refer to. Do the "positions that are held outside of the trading book" refer to amounts that are reported in Schedule HC-D of the FR Y-9C? The amounts reported in the FR Y-9C, Schedule HC-D, Trading Assets and Liabilities, include both "trading book" and "banking book" transactions as defined in regulatory capital rules. Do the proposed instructions "held outside of the trading book" refer to banking book positions which are reported in Schedule HC-D?

   ii) The Federal Reserve should clarify the reporting requirements for these "positions." Should these "positions" be reported in FR Y-14Q Trading, credit valuation adjustment (CVA) Hedge or fair value option (FVO) Loan Hedge submission type?

b) We request that the Federal Reserve clarify or better define "average credit spread" in the instructions for F.22 IDR Corporate Credit Table G. The proposed instructions ask firms to provide the average credit spread of underlying constituents in Credit Table G. The Federal Reserve should clarify if there is a specific credit spread tenor that should be used, like a 5-year spread, as it is a general industry standard.

II. FR Y-14Q, Schedule H

a) The proposed new options of Credit Facility Types "Revolving Credit (of any type) – Capital Call Subscription" and "Term loan (of any type) – Capital Call Subscription" in field 20 of Schedule H.1 of the FR Y-14Q are unclear and seem to be duplicative when combined with other new line items. The revised instructions for field 22 require firms to report new Credit Facility Purpose "Capital Call Subscription," which combined with current field 20 options "Revolving Credit" and "Term loan" should provide the Federal Reserve with the break out of revolving credit or term loan credit facility type for each capital call subscription facility purpose. Therefore, we propose that the revision in field 20 not be implemented and that the new options be removed.

III. FR Y-14M, Schedule D

a) The Federal Reserve is proposing to revise the instructions for Schedule D.2, Line items 11 and 12, "Projected Managed/Book Losses" to have firms report lifetime losses under the CECL projection. However, we believe that the amounts reported in these line items will be the same as those reported in Line items 9 and 10, "ALLL for Managed/Book Balances," for firms that have adopted ASU 2016-13. That is because under ASU 2016-13, the Allowance for Credit Losses (ACL) for the Managed and Book balances, reported in lines 9 and 10 respectively, represents the lifetime projected losses on the managed and book loans as of the reporting date, which would be reported in lines 11 and 12 respectively. If that is not the intention of the revised instructions, we request that the Federal Reserve clarify the reporting requirements for line items 11 and 12 as compared to line items 9 and 10. Additionally, could the Federal Reserve confirm if the projected losses should include interest and fees as well?

IV. FR Y-14Q, Schedule L

a) We recommend that the Federal Reserve clarify if the credit default swap (CDS) hedge notional in tab 1 and tab 5 are meant to be inconsistent. Based on the draft instructions, tab 1 should include only CDS hedges, but tab 5 should include both CDS hedges and index.

b) The proposed instructions for FR Y-14, Schedule L state the following: "Gross CE, Net CE, and CVA (as defined in column instructions below) should include all exposures to the CCP, such as default fund contributions, initial margin, variation margin, and any other collateral provided to the CCP that exceeds contract MtM amounts. For a CCP whose rule book is in place so that variation margin is considered as a settlement payment for the exposures that arise from marking to fair value, with a title to the payment being transferred to the receiving party, firms should treat variation margin posted or received from a CCP as part of the Mark-to-Market (MtM) consistent with SR 17-7." We interpret these instructions to require firms to report zero in the variation margin column for exposures to CCPs whose rule book considers variation margin as a settlement payment. In addition, the variation margin should be included in the Gross CE column, and firms should continue to report all exposures to the CCP, such as default fund contributions and initial margin and any other collateral provided to the CCP that exceeds contract MtM amounts in their specific columns. We request the Federal Reserve to confirm if this interpretation of SR 17-7 is appropriate.

c) We recommend that the Federal Reserve expand the examples provided in the draft instructions to better illustrate how firms should report when both positive and non-positive legal opinions exist for a given netting agreement. The Federal Reserve should also further clarify Netting Aggregate Reporting. Specifically, for a netting agreement, if there are both positive and negative legal opinions on collateral enforceability how should information be represented in the template?

d) We recommend that the Federal Reserve include instructions on what agreement type value should be included for cases where there is both SFT and Derivatives exposure but not cross product netting. Additionally, we ask the Federal Reserve to clarify what value of agreement type should be included if there is no netting agreement for SFT and Derivatives between CCP vs non CCP.

e) We ask the Federal Reserve to provide clarification with regard to reporting for tab 1 vs tab 5. Specifically, can firms continue to report CVA at the Counterparty Legal Entity Level for tab 1? As drafted, the current instructions for tab 1 and tab 5 seem to contradict each other. Further, we recommend that the Federal Reserve provide additional clarification with regard to netting set consistency across tabs 1, 2, 3, and 5.

f) We request that the Federal Reserve clarify how to aggregate contractual terms from credit support annexes. Currently firms report at the margin level, while the instructions are to report at Netting agreement level; for example, in cases where there are five Margin Agreements (four margined and one not), firms should report under two line items with four margin agreements as collapsed, and one as N/A.