

FEDERAL RESERVE BANK *of* NEW YORK

33 LIBERTY STREET, NEW YORK, NY 10045-0001

RICHARD ROBERTS
STATISTICS OFFICER

April 1, 2013

TO: The Officer Responsible for Filing the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations:

The report forms and instructions for the Financial Statements of U.S. Nonbank Subsidiaries Held by Foreign Banking Organizations (FR Y-7N) for the quarter ending March 31, 2013, have been posted to the Federal Reserve Board's website at www.federalreserve.gov under "Reporting Forms." There are no changes to the FR Y-7N report forms.

Several minor clarifications have been made to the FR Y-7N reporting instructions. A summary of these clarifications is provided in this letter in Attachment 1. The revised instruction pages for the FR Y-7N have vertical black lines in the margins to annotate revisions. Supplemental instructions concerning current accounting and reporting issues are provided in this letter.

Foreign Banking Organizations file the FR Y-7N quarterly for each U.S. nonbank subsidiary with total assets equal to or greater than \$1 billion or with total off-balance-sheet activity equal to or greater than \$5 billion. Foreign Banking Organizations file the detailed FR Y-7N annually for each U.S. nonbank subsidiary that does not meet the criteria to file quarterly but has total assets equal to or greater than \$250 million (and less than \$1 billion). Foreign Banking Organizations file the abbreviated FR Y-7NS annually for each nonbank subsidiary that does not meet the criteria to file the detailed report, but has total assets equal to or greater than \$50 million (and less than \$250 million). The FR Y-7N/FR Y-7NS must be submitted for each legal entity subject to reporting requirements. Therefore, consolidation of individual entities is not permitted.

"Purchased" Loans Originated By Others

When acquiring loans originated by others, institutions should consider whether the transaction should be accounted for as a purchase of the loans or as a secured borrowing in accordance with Accounting Standards Codification (ASC) Topic 860, Transfers and Servicing (formerly FASB Statement No. 140, "Accounting for Transfers and Servicing of Financial

Assets and Extinguishments of Liabilities,” as amended). For the transaction to qualify for sale accounting:

- First, unless the transfer is of an entire financial asset, the transferred portion of the financial asset must meet the definition of a participating interest.
- Second, the transfer must meet all of the conditions set forth in Subtopic 860-10 to demonstrate that the transferor has surrendered control over the transferred financial assets.

For example, some institutions have entered into various residential mortgage loan purchase programs. These programs often function like traditional warehouse lines of credit; however, in some cases, the mortgage loan transfers are legally structured as purchases by the institution rather than as pledges of collateral to secure the funding. Under these programs, an institution provides funding to a mortgage loan originator while simultaneously obtaining an interest in the mortgage loans subject to a takeout commitment. A takeout commitment is a written commitment from an approved investor (generally, an unrelated third party) to purchase one or more mortgage loans from the originator.

Although the facts and circumstances of each program must be carefully evaluated to determine the appropriate accounting, an institution should generally account for a mortgage purchase program with continuing involvement by the originator, including takeout commitments, as a secured borrowing with pledge of collateral, i.e., a loan to the originator secured by the residential mortgage loans, rather than a purchase of mortgage loans.

When loans obtained in a mortgage purchase program do not qualify for sale accounting, the financing provided to the originator (if not held for trading purposes) should be reported in FR Y-7N Report Schedule BS-A, item 5, “All other loans and lease financing receivables” and on the balance sheet in Schedule BS, item 3.a, “Loans and lease financing receivables, net of unearned income.”

Indemnification Assets and Accounting Standards Update No. 2012-06

In October 2012, the FASB issued Accounting Standards Update (ASU) No. 2012-06, “Subsequent Accounting for an Indemnification Asset Recognized at the Acquisition Date as a Result of a Government-Assisted Acquisition of a Financial Institution,” to address the subsequent measurement of an indemnification asset recognized in an acquisition of a financial institution. This ASU amends ASC Topic 805, Business Combinations (formerly FASB Statement No. 141 (revised 2007), “Business Combinations.”

Under the ASU, when an institution experiences a change in the cash flows expected to be collected on a government loss-sharing indemnification asset because of a change in the cash flows expected to be collected on the assets covered by the loss-sharing agreement, the institution should account for the change in the measurement of the indemnification asset on the

same basis as the change in the assets subject to indemnification. Any amortization of changes in the value of the indemnification asset should be limited to the lesser of the term of the indemnification agreement and the remaining life of the indemnified assets.

The ASU is effective for fiscal years, and interim periods within those fiscal years, beginning on or after December 15, 2012. For institutions with a calendar year fiscal year, the ASU takes effect January 1, 2013. Early adoption of the ASU is permitted. The ASU's provisions should be applied prospectively to any new indemnification assets acquired after the date of adoption and to indemnification assets existing as of the date of adoption arising from a government-assisted acquisition of a financial institution. Institutions with indemnification assets arising from a government-assisted acquisition of a financial institution are expected to adopt ASU 2012-06 for FR Y-7N reporting purposes in accordance with the effective date of this standard.

For additional information, institutions should refer to ASU 2012-06, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

Goodwill Impairment Testing

In September 2011, the FASB issued Accounting Standards Update (ASU) No. 2011-08, "Testing Goodwill for Impairment," to address concerns about the cost and complexity of the existing goodwill impairment test in ASC Topic 350, Intangibles-Goodwill and Other (formerly FASB Statement No. 142, "Goodwill and Other Intangible Assets"). The ASU's amendments to ASC Topic 350 are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011 (i.e., for annual or interim tests performed on or after January 1, 2012, for nonbanking subsidiaries with a calendar year fiscal year). Early adoption of the ASU is permitted. Nonbanking subsidiaries should adopt ASU 2011-08 for FR Y-7N reporting purposes in accordance with the standard's effective date and early adoption provisions.

Under ASU 2011-08, a nonbanking subsidiary has the option of first assessing qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test described in ASC Topic 350. If, after considering all relevant events and circumstances, a nonbanking subsidiary determines it is not more likely than not (that is, a likelihood of 50 percent or less) that the fair value of a reporting unit is less than its carrying amount (including goodwill), then the nonbanking subsidiary does not need to perform the two-step goodwill impairment test. (In other words, if it is more likely than not - a likelihood of more than 50 percent - that the fair value of a reporting unit is greater than its carrying amount, a nonbank subsidiary would not have to test the unit's goodwill for impairment.) If the nonbanking subsidiary instead concludes that the opposite is true (that is, it is more likely than not that the fair value of a reporting unit is less than its carrying amount), then it is required to

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perform the first step and, if necessary, the second step of the two-step goodwill impairment test. Under ASU 2011-08, a nonbanking subsidiary may choose to bypass the qualitative assessment for any reporting unit in any period and proceed directly to performing the first step of the two-step goodwill impairment test. The ASU includes examples of events and circumstances that a nonbanking subsidiary should consider in evaluating whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount.

For additional information, please refer to ASU 2011-08, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

Troubled Debt Restructurings and Current Market Interest Rates

Many institutions are restructuring or modifying the terms of loans through workout programs, renewals, extensions, or other means to provide payment relief for those borrowers who have suffered deterioration in their financial condition. Such loan restructurings may include, but are not limited to, reductions in principal or accrued interest, reductions in interest rates, and extensions of the maturity date. Modifications may be executed at the original contractual interest rate on the loan, a current market interest rate, or a below-market interest rate. Many of these loan modifications meet the definition of a troubled debt restructuring (TDR).

Nonbanking subsidiaries should note that effective as of March 31, 2011, BS-A, item 7.d. was revised to “Loans restructured in troubled debt restructurings” to clarify this should not include lease agreements. In addition, “Loans restructured in troubled debt restructurings” (Schedule BS-A, item 7.d.) include loans to individuals for household, family and other personal expenditures, and all loans secured by 1-4 family residential properties whose terms have been modified in troubled debt restructurings.

The TDR accounting and reporting standards are set forth in ASC Subtopic 310-40, Receivables - Troubled Debt Restructurings by Creditors (formerly FASB Statement No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings," as amended). This guidance specifies that a restructuring of a debt constitutes a TDR if, at the date of restructuring, the creditor for economic or legal reasons related to a debtor's financial difficulties grants a concession to the debtor that it would not otherwise consider. The creditor's concession may include a restructuring of the terms of a debt to alleviate the burden of the debtor's near-term cash requirements, such as a modification of terms to reduce or defer cash payments required of the debtor in the near future to help the debtor attempt to improve its financial condition and eventually be able to pay the creditor.

Because the stated interest rate charged the borrower after a loan restructuring may be greater than or equal to interest rates available in the marketplace for similar types of loans to

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nontroubled borrowers at the time of the restructuring, some institutions have concluded that these restructurings are not TDRs; however, this conclusion may be inappropriate. In making this determination, these institutions may not have considered all of the facts and circumstances associated with the loan modification besides the interest rate. An interest rate on a modified loan greater than or equal to those available for similar credits does not in and of itself preclude a modification from being designated as a TDR. Rather, when evaluating a loan modification to a borrower experiencing financial difficulties, an analysis of all facts and circumstances is necessary to determine whether a concession was made to the borrower with respect to the market interest rate (or has made some other type of concession that could trigger TDR accounting and disclosure, for example, terms or conditions outside of the subsidiary's policies or common market practices) and, if so, how the modified or restructured loan should be reported on the FR Y-7N report.

Generally, a restructured loan yields a current market interest rate if the restructuring agreement specifies an interest rate greater than or equal to the rate that the institution was willing to accept at the time of the restructuring for a new loan with comparable risk. A restructured loan does not yield a market interest rate simply because the interest rate charged under the restructuring agreement has not been reduced. In addition, when a modification results in an increase (either temporary or permanent) in the contractual interest rate, the increased interest rate cannot be presumed to be an interest rate that is at or above market. Therefore, in determining whether a loan has been modified at a market interest rate, an institution should analyze the borrower's current financial condition and compare the rate on the modified loan to rates the institution would charge customers with similar financial characteristics on similar types of loans. This determination requires the use of judgment and should include an analysis of credit history and scores, loan-to-value ratios or other collateral protection, the borrower's ability to generate cash flow sufficient to meet the repayment terms, and other factors normally considered when underwriting and pricing loans.

Likewise, a change in the interest rate on a modified or restructured loan does not necessarily mean that the modification is a TDR. For example, a creditor may lower the interest rate to maintain a relationship with a debtor that can readily obtain funds from other sources. To be a TDR, the borrower must also be experiencing financial difficulties. The evaluation of whether a borrower is experiencing financial difficulties is based upon individual facts and circumstances and requires the use of judgment when determining if a modification of the borrower's loan should be accounted for and reported as a TDR.

An institution that restructures a loan to a borrower experiencing financial difficulties at a rate below a market interest rate has granted a concession to the borrower that results in the restructured loan being a TDR. (As noted above, other types of concessions could also result in a TDR.) On the FR Y-7N report, until a loan that is a TDR is paid in full or otherwise settled,

sold, or charged off, the loan must be reported in the appropriate loan category in Schedule BS-A as necessary.

However, a loan that is a TDR (for example, because of a modification that includes a reduction in principal) that yields a market interest rate at the time of restructuring (and is in compliance with its modified terms) need not continue to be reported as a TDR in Schedule BS-A in calendar years after the year in which the restructuring took place. To be considered in compliance with its modified terms, a loan that is a TDR must not be in nonaccrual status and must be current or less than 30 days past due on its contractual principal and interest payments under the modified repayment terms.

A loan restructured in a TDR is an impaired loan. Thus, all TDRs must be measured for impairment in accordance with ASC Subtopic 310-10, Receivables – Overall (formerly FASB Statement No. 114, “Accounting by Creditors for Impairment of a Loan,” as amended)”. For further information, see the instructions for Schedules BS-A.

Consistent with ASC Subtopic 310-10, TDRs may be aggregated and measured for impairment with other impaired loans that share common risk characteristics by using historical statistics, such as average recovery period and average amount recovered, along with a composite effective interest rate. However, the outcome of such an aggregation approach must be consistent with the measurement methods prescribed in ASC Subtopic 310-10 and the “Loan Impairment” Glossary entry in the FR Y-9C instructions for loans that are individually considered impaired (i.e., the present value of expected future cash flows discounted at the loan's original effective interest rate or the loan's observable market price if the loan is not collateral dependent; the fair value of the collateral – less estimated costs to sell, if appropriate – if the loan is collateral dependent), not the measurement method prescribed in ASC Subtopic 450-20, Contingencies – Loss Contingencies (formerly FASB Statement No. 5, “Accounting for Contingencies”) for loans not individually considered impaired that are collectively evaluated for impairment. When a loan not previously considered individually impaired is restructured and determined to be a TDR, absent a partial charge-off, it generally is not appropriate for the impairment estimate on the loan to decline as a result of the change in impairment method prescribed in ASC Subtopic 450-20 to the method prescribed in ASC Subtopic 310-10.

Troubled Debt Restructurings and Accounting Standards Update No. 2011-02

In April 2011, the FASB issued Accounting Standards Update (ASU) No. 2011-02, “A Creditor’s Determination of Whether a Restructuring Is a Troubled Debt Restructuring,” to provide additional guidance to help creditors determine whether a concession has been granted to a borrower and whether a borrower is experiencing financial difficulties. The guidance is also intended to reduce diversity in practice in identifying and reporting TDRs. This ASU is effective for public companies for interim and annual periods beginning on or after June 15, 2011, and

should be applied retrospectively to the beginning of the annual period of adoption for purposes of identifying TDRs. The measurement of impairment for any newly identified TDRs resulting from retrospective application will be applied prospectively in the first interim or annual period beginning on or after June 15, 2011. Early adoption of the ASU is permitted for both public and nonpublic entities, with nonpublic entities that adopt early subject to a retrospective identification requirement.

Nonbanking subsidiaries are expected to continue to follow the accounting and reporting guidance on TDRs in the preceding section of these Supplemental Instructions and in the FR Y-7N Instruction book. To the extent the guidance in the ASU differs from a nonbanking subsidiary's existing accounting policies and practices for identifying TDRs, the nonbank subsidiary will be expected to apply the ASU for FR Y-7N reporting purposes in accordance with the standard's effective date and transition provisions, which are outlined above. To the extent that a nonbanking subsidiary's existing accounting policies and practices are consistent with guidance in the ASU, the nonbanking subsidiary should continue to follow its existing policies and practices.

ASU 2011-02 reiterates that the two conditions mentioned in the preceding section on "Troubled Debt Restructurings and Current Market Interest Rates" must exist in order for a loan modification to be deemed a TDR: (1) a company must grant a concession to the borrower as part of the modification and (2) the borrower must be experiencing financial difficulties. The ASU explains that a company may determine that a borrower is experiencing financial difficulties if it is probable that the borrower will default on any of its debts in the foreseeable future. The borrower does not have to be in default at the time of the modification. Other possible factors that should be considered in evaluating whether a borrower is experiencing financial difficulties is if the borrower has declared (or is in the process of declaring) bankruptcy, the creditor does not expect the borrower's cash flows to be sufficient to service its debt under the existing terms, or there is substantial doubt about an entity's ability to continue as a going concern.

Another important aspect of the ASU is that it prohibits financial institutions from using the effective interest rate test included in the TDR guidance for borrowers in ASC Subtopic 470-60, Debt – Troubled Debt Restructurings by Debtors, when determining whether the creditor has granted a concession as part of a loan modification. However, as explained in ASU 2011-02, if a borrower does not have access to funds at a market rate of interest for similar debt, the rate on the modified loan is considered to be a below-market rate and may be an indicator that the company has granted a concession to the borrower.

Furthermore, the ASU provides new guidance regarding insignificant delays in payment as part of loan modification. If, after analysis of all facts and circumstances, a creditor

determines that a delay in payment is insignificant, the creditor has not granted a concession to the borrower. This determination requires judgment and should consider many factors, including, but not limited to, the amount of the delayed payments in relation to the loan's unpaid principal or collateral value, the frequency of payments due on the loan, the original contractual maturity, and the original expected duration of the loan.

For additional information, nonbanking subsidiaries should refer to ASU 2011-02, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

Variable Interest Entities

Reporters preparing the FR Y-7N should submit a report for each legal entity subject to reporting requirements (i.e. on a parent only basis). Therefore, consolidation of individual entities, including VIEs, is not permitted. However, respondents should separately assess whether a VIE meets the definition of a subsidiary as defined by Section 211.2(w) of Federal Reserve Regulation K, which generally includes companies 25 percent or more owned or controlled by another company, and determine if any such entities meet the criteria for filing the FR Y-7N.

Reporting Defined Benefit Postretirement Plans

ASC Subtopic 715-20, Compensation-Retirement Benefits – Defined Benefit Plans-General (formerly FASB Statement No. 158, “Employers’ Accounting for Defined Benefit Pension and Other Postretirement Plans” (FAS 158)) requires a nonbank subsidiary that sponsors a single-employer defined benefit postretirement plan, such as a pension plan or health care plan, to recognize the funded status of each such plan on its balance sheet. An overfunded plan is recognized as an asset while an underfunded plan is recognized as a liability. As of the end of the fiscal year when a nonbank subsidiary initially applied former FAS 158, the previously recognized postretirement plan amounts must be adjusted to recognize gains or losses, prior service costs or credits, and transition assets or obligations that have not yet been included in the net periodic benefit cost of its plans. These adjustment amounts are recognized directly in equity capital as components of the ending balance of accumulated other comprehensive income (AOCI), net of tax. Thereafter, a nonbanking subsidiary must recognize certain gains and losses and prior service costs or credits that arise during each reporting period, net of tax, as a component of other comprehensive income (OCI) and, hence, AOCI. Postretirement plan amounts carried in AOCI are adjusted as they are subsequently recognized in earnings as components of the plans’ net periodic benefit cost. For further information on accounting for defined benefit postretirement plans, nonbanking subsidiaries should refer to FAS 158; FASB Statement No. 87, *Employers’ Accounting for Pensions*; and FASB Statement No. 106,

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Employers' Accounting for Postretirement Benefits Other Than Pensions all of which are codified in ASC Topic 715, Compensation-Retirement Benefits.

Subscription Service

We offer a subscription service which enables you to receive recent news and updates on our reporting forms and instructions and upcoming Bank events. You can sign up for this service at the following website:

http://service.govdelivery.com/service/subscribe.html?code=USFRBNEWYORK_8

Electronic Submission Option

Electronic submission of the FR Y-7N report is available to all U.S. nonbank subsidiaries. We encourage you to take advantage of this method of reporting submission. Vendors have developed a software package that provides the means to submit the FR Y-7N electronically. Submitting reports electronically using the software package provides the following benefits:

- A timely and efficient alternative to sending the report forms by mail; and
- A printed report is generated that can serve as your institution's permanent record of the report.

For information on filing the FR Y-7N report electronically, please contact David Ignell at (212) 720-1458.

Report Submission

An original and one copy of the completed FR Y-7N/FR Y-7NS report must be received by the Federal Reserve Bank of New York on **Thursday, May 30, 2013**. Any FR Y-7N report received after 5:00 p.m. on **Thursday, May 30, 2013** will be considered late unless postmarked by **Monday, May 27, 2013** or sent by overnight service by **Wednesday, May 29, 2013**. Completed reports should be submitted to:

**Federal Reserve Bank of New York
Statistics Function
33 Liberty Street, 4th Floor
New York, New York 10045**

We continue to monitor the accuracy of the periodic regulatory reports submitted for the March 31, 2013 report date. The staff of this Reserve Bank will monitor whether banking

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organizations are meeting their basic reporting requirements through the use of "validity edits." The edits for the FR Y-7N report are included in the instructions.

Questions regarding the FR Y-7N should be directed to David Ignell, Reports Analyst in the Regulatory Reports Division at (212) 720-1458 or Geraldine Bitton, Team Leader of that Division at (212) 720-8478.

Sincerely,

- *Signed by Richard Roberts* -

Richard Roberts
Statistics Officer

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Attachment 1

Revisions to the FR Y-7N/S for March 2013

Report Forms

(1) *Page 1*. Revised the reporting date to March 31, 2013.

Report Instructions

(1) *Schedule BS, item 18.b*. Corrected line item reference for reporting any portion of the proceeds received from the sale of limited-life preferred stock in excess of its par or stated value to item 13.