

# FEDERAL RESERVE BANK *of* NEW YORK

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ASSISTANT VICE PRESIDENT

April 8, 2015

To: The Individuals 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, 2015 have been posted to the Federal Reserve Board's website at [www.federalreserve.gov](http://www.federalreserve.gov) under "Reporting Forms." The FR Y-7N/S collections of information have been extended to March 31, 2017. There are no changes to the FR Y-7N report forms or instructions.

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 \$500 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 \$250 million (and less than \$500 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.

The Federal Reserve System is in the midst of a multi-year project of replacing the Internet Electronic Submission (IESUB) application with a new reporting application, Reporting Central, report-by-report. Effective with the December 31, 2014 report date, the FR Y-7NS report is available for electronic data submission via Reporting Central only (i.e., IESUB can no longer be used). The FR Y-7N transitioned to Reporting Central as of September 2014. For institutions that do not choose to file this report electronically, the Federal Reserve will continue to accept paper copy submissions. For institutions that submit these reports electronically, they must maintain in their files a signed printout of the data submitted. Additional information about the Reporting Central application, including an online resource center, is available at: <http://www.frb services.org/centralbank/reportingcentral/index.html>.

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As part of the transition to Reporting Central, the Federal Reserve has modified its internal procedures for handling confidentiality requests for those institutions that choose to submit data electronically. Generally, the FR Y-7NS reports are available to the public upon request on an individual basis. However, an institution may request confidential treatment for the entire report or for specific items on the FR Y-7NS. To better facilitate confidentiality requests and ensure the data are properly handled during the review of the request, the Federal Reserve strongly encourages institutions that are of the opinion that disclosure of certain commercial or financial information in the report would likely result in substantial harm to its (or its subsidiaries') competitive position or that disclosure of the submitted personal information would result in unwarranted invasion of personal privacy to:

- (1) notify their Reserve Bank of their intent to request confidential treatment in advance of the written request and
- (2) send the confidentiality request in writing prior to data submission.

For institutions that choose not to submit data electronically, written requests for confidentiality may be provided concurrently with the paper submission of the report.

For more information on confidentiality requests, please see the FR Y-7N/S General Instructions (page GEN-5).

Supplemental instructions concerning current accounting and reporting issues affecting the FR Y-7N are provided in this letter.

### **Extraordinary Items**

In January 2015, the Financial Accounting Standards Board (FASB) issued Accounting Standards Update (ASU) No. 2015-01, "Simplifying Income Statement Presentation by Eliminating the Concept of Extraordinary Items." This ASU eliminates from U.S. generally accepted accounting principles (GAAP) the concept of extraordinary items. At present, Accounting Standards Codification (ASC) Subtopic 225-20, Income Statement – Extraordinary and Unusual Items (formerly Accounting Principles Board Opinion No. 30, "Reporting the Results of Operations"), requires an entity to separately classify, present, and disclose extraordinary events and transactions. An event or transaction is presumed to be an ordinary and usual activity of the reporting entity unless evidence clearly supports its classification as an extraordinary item. For FR Y-7N purposes, if an event or transaction currently meets the criteria for extraordinary classification, an institution must segregate the extraordinary item from the results of its ordinary operations and report the extraordinary item in its income statement in Schedule IS, item 10, "Extraordinary items, net of applicable income taxes."

ASU 2015-01 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2015. Thus, for example, institutions with a calendar year fiscal year must begin to apply the ASU in their FR Y-7N report for March 31, 2016. Early adoption of ASU 2015-01 is permitted provided that the guidance is applied from the beginning of the fiscal year of adoption. For FR Y-7N report purposes, an institution with a calendar year fiscal year must apply the ASU prospectively, that is, in general, to events or transactions occurring after the date of adoption. However, an institution with a fiscal year other than a calendar year may elect to apply ASU 2015-01 prospectively or, alternatively; it may elect to apply the ASU retrospectively to all prior calendar quarters included in the institution's year-to-date FR Y-7N income statement that includes the beginning of the fiscal year of adoption.

After an institution adopts ASU 2015-01, any event or transaction that would have met the criteria for extraordinary classification before the adoption of the ASU should be reported in the FR Y-7N report Schedule IS, item 5.a.10, "Other noninterest income," or item 7, "Noninterest expense," as appropriate, unless the event or transaction would otherwise be reportable in another item of Schedule IS. In addition, consistent with ASU 2015-01, the agencies plan to remove the term "extraordinary items" from, and revise the caption for, Schedule IS, item 10, in 2016.

For additional information, institutions should refer to ASU 2015-01, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

### **Accounting by Private Companies for Identifiable Assets in a Business Combination**

In December 2014, the FASB issued ASU No. 2014-18, "Accounting for Identifiable Intangible Assets in a Business Combination," which is a consensus of the Private Company Council (PCC). This ASU provides an accounting alternative that permits a private company, as defined in U.S. GAAP (and discussed in a later section of these Supplemental Instructions), to simplify the accounting for certain intangible assets. The accounting alternative applies when a private company is required to recognize or otherwise consider the fair value of intangible assets as a result of certain transactions, including when applying the acquisition method to a business combination under ASC Topic 805, Business Combinations (formerly FASB Statement No. 141 (revised 2007), "Business Combinations").

Under ASU 2014-018, a private company that elects the accounting alternative should no longer recognize separately from goodwill:

- Customer-related intangible assets unless they are capable of being sold or licensed independently from the other assets of a business, and
- Noncompetition agreements.

However, because mortgage servicing rights and core deposit intangibles are regarded as capable of being sold or licensed independently, a private company that elects this accounting alternative must recognize these intangible assets separately from goodwill, initially measure them at fair value, and subsequently measure them in accordance with ASC Topic 350, Intangibles – Goodwill and Other (formerly FASB Statement No. 142, “Goodwill and Other Intangible Assets”).

A private company that elects the accounting alternative in ASU 2014-18 also must adopt the private company goodwill accounting alternative described in ASU 2014-02, “Accounting for Goodwill,” which is discussed in a later section of these Supplemental Instructions. However, a private company that elects the goodwill accounting alternative in ASU 2014-02 is not required to adopt the accounting alternative for identifiable intangible assets in ASU 2014-18.

A private company’s decision to adopt ASU 2014-18 must be made upon the occurrence of the first business combination (or other transaction within the scope of the ASU) in fiscal years beginning after December 15, 2015. The effective date of the private company’s decision to adopt the accounting alternative for identifiable intangible assets depends on the timing of that first transaction.

- If the first transaction occurs in the private company’s first fiscal year beginning after December 15, 2015, the adoption will be effective for that fiscal year’s annual financial reporting period and all interim and annual periods thereafter.
- If the first transaction occurs in a fiscal year beginning after December 15, 2016, the adoption will be effective in the interim period that includes the date of the transaction and subsequent interim and annual periods thereafter.

Early application of the intangibles accounting alternative is permitted for any annual or interim period for which a private company’s financial statements have not yet been made available for issuance. Customer-related intangible assets and noncompetition agreements that exist as of the beginning of the period of adoption should continue to be accounted for separately from goodwill, i.e., such existing intangible assets should not be combined with goodwill.

An HC that meets the private company definition in U.S. GAAP is permitted, but not required, to adopt ASU 2014-18 for FR Y-7N purposes and may choose to early adopt the ASU, provided it also adopts the private company goodwill accounting alternative. If a private institution issues U.S. GAAP financial statements and adopts ASU 2014-18, it should apply the ASU’s intangible asset accounting alternative in its FR Y-7N report in a manner consistent with its reporting of intangible assets in its financial statements.

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For additional information on the private company accounting alternative for identifiable intangible assets, institutions should refer to ASU 2014-18, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

**Private Company Accounting Alternatives, Including Accounting for Goodwill**

In May 2012, the Financial Accounting Foundation, the independent private sector organization responsible for the oversight of the Financial Accounting Standards Board (FASB), approved the establishment of a Private Company Council (PCC) to improve the process of setting accounting standards for private companies. The PCC is charged with working jointly with the FASB to determine whether and in what circumstances to provide alternative recognition, measurement, disclosure, display, effective date, and transition guidance for private companies reporting under U.S. generally accepted accounting principles (GAAP). Alternative guidance for private companies may include modifications or exceptions to otherwise applicable existing U.S. GAAP standards.

The Federal Reserve has concluded that an institution that is a private company, as defined in U.S. GAAP (as discussed in the next section of these Supplemental Instructions), is permitted to use private company accounting alternatives issued by the FASB when preparing its FR Y-7 report(s), except as provided in 12 U.S.C. 1831n(a) as described in the following sentence. If the Federal Reserve determines that a particular accounting principle within U.S. GAAP, including a private company accounting alternative, is inconsistent with the statutorily specified supervisory objectives, the Federal Reserve may prescribe an accounting principle for regulatory reporting purposes that is no less stringent than U.S. GAAP. In such a situation, an institution would not be permitted to use that particular private company accounting alternative or other accounting principle within U.S. GAAP for FR Y-7N reporting purposes. The Federal Reserve would provide appropriate notice if they were to disallow any accounting alternative under the statutory process.

On January 16, 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-02, "Accounting for Goodwill," which is a consensus of the PCC. This ASU generally permits a private company to elect to amortize goodwill on a straight-line basis over a period of ten years (or less than ten years if more appropriate) and apply a simplified impairment model to goodwill. In addition, if a private company chooses to adopt the ASU's goodwill accounting alternative, the ASU requires the private company to make an accounting policy election to test goodwill for impairment at either the entity level or the reporting unit level. Goodwill must be tested for impairment when a triggering event occurs that indicates that the fair value of an entity (or a reporting unit) may be below its carrying amount. In contrast, existing U.S. GAAP does not permit goodwill to be amortized, instead requiring goodwill to be tested for impairment at the reporting unit level annually and between annual tests in certain circumstances. The ASU's goodwill accounting alternative, if elected by a private company, is effective prospectively for new goodwill recognized in annual periods beginning after December 15, 2014, and in interim

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periods within annual periods beginning after December 15, 2015. Goodwill existing as of the beginning of the period of adoption is to be amortized prospectively over ten years (or less than ten years if more appropriate). The ASU states that early application of the goodwill accounting alternative is permitted for any annual or interim period for which a private company's financial statements have not yet been made available for issuance.

A non-bank entity that meets the private company definition in ASU 2014-02, as discussed in the following section of these Supplemental Instructions (i.e., a private institution), is permitted, but not required, to adopt this ASU for FR Y-7 reporting purposes and may choose to early adopt the ASU. If a private institution issues U.S. GAAP financial statements and adopts the ASU, it should apply the ASU's goodwill accounting alternative in its FR Y-7 reports in a manner consistent with its reporting of goodwill in its financial statements. Thus, for example, a private institution with a calendar year fiscal year that chooses to adopt ASU 2014-02 must apply the ASU's provisions in its December 31, 2015, and subsequent quarterly FR Y-7N reports unless early application of the ASU is elected. If a private institution with a calendar year fiscal year is adopting ASU 2014-02 for 2014 financial reporting purposes, the institution may implement the provisions of the ASU in its FR Y-7 reports for December 31, 2014. This would require the private institution to report in its year-end 2014 FR Y-7N one full year's amortization of goodwill existing as of January 1, 2014, and the amortization of any new goodwill recognized in 2014. Alternatively, the calendar year private institution could begin to apply the provisions of ASU 2014-02 in its FR Y-7N or FR Y-7NS report for September 30, 2014, in which case it would report nine months' amortization of goodwill existing as of January 1, 2014, and the amortization of any new goodwill recognized in the first nine months of 2014. For the FR Y-7N, goodwill amortization expense should be reported in item 7 of the income statement (Schedule IS) unless the amortization is associated with a discontinued operation, in which case the goodwill amortization should be included within the results of discontinued operations and reported in Schedule IS, item 10, "Extraordinary items, net of applicable income taxes."

Private institutions choosing to early adopt the goodwill accounting alternative in ASU 2014-02 that have a fiscal year or an early application date other than the one described in the examples above should contact their Federal Reserve District Bank for reporting guidance.

For additional information on the private company accounting alternative for goodwill, institutions should refer to ASU 2014-02, which is available at

<http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

**Definitions of Private Company and Public Business Entity**

According to ASU No. 2014-02, “Accounting for Goodwill,” a private company is a business entity that is not a public business entity. ASU No. 2013-12, “Definition of a Public Business Entity,” which was issued in December 2013, added this term to the Master Glossary in the Accounting Standards Codification. This ASU states that a business entity, such as a non-bank entity, that meets any one of five criteria set forth in the ASU is a public business entity for reporting purposes under U.S. GAAP, including FR Y-7N reporting purposes. An institution that is a public business entity is not permitted to apply the private company goodwill accounting alternative discussed in the preceding section when preparing its FR Y-7N reports.

As defined in ASU 2013-12, a business entity is a public business entity if it meets any one of the following criteria:

- It is required by the U.S. Securities and Exchange Commission (SEC) to file or furnish financial statements, or does file or furnish financial statements (including voluntary filers), with the SEC (including other entities whose financial statements or financial information are required to be or are included in a filing).
- It is required by the Securities Exchange Act of 1934 (the Act), as amended, or rules or regulations promulgated under the Act, to file or furnish financial statements with a regulatory agency other than the SEC (such as one of the federal banking agencies).
- It is required to file or furnish financial statements with a foreign or domestic regulatory agency in preparation for the sale of or for purposes of issuing securities that are not subject to contractual restrictions on transfer.
- It has issued securities that are traded, listed, or quoted on an exchange or an over-the-counter market, which includes an interdealer quotation or trading system for securities not listed on an exchange (for example, OTC Markets Group, Inc., including the OTC Pink Markets, or the OTC Bulletin Board).
- It has one or more securities that are not subject to contractual restrictions on transfer, and it is required by law, contract, or regulation to prepare U.S. GAAP financial statements (including footnotes) and make them publicly available on a periodic basis (for example, interim or annual periods). An entity must meet both of these conditions to meet this criterion.

ASU 2013-12 also explains that if an entity meets the definition of a public business entity solely because its financial statements or financial information is included in another entity’s filing with the SEC, the entity is only a public business entity for purposes of financial statements that are filed or furnished with the SEC, but not for other reporting purposes.

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If an institution does not meet any one of the first four criteria, it would need to consider whether it meets both of the conditions included in the fifth criterion to determine whether it would be a public business entity. A mutual institution does not meet the fifth criterion. With respect to the first condition under the fifth criterion, a stock institution must determine whether it has a class of securities not subject to contractual restrictions on transfer, which the FASB has stated means that the securities are not subject to management preapproval on resale. A contractual management preapproval requirement that lacks substance would raise questions about whether the stock institution meets this first condition.

For additional information on the definition of a public business entity, institutions should refer to ASU 2013-12, which is available at

<http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

### **Accounting for a Subsequent Restructuring of a Troubled Debt Restructuring**

When a loan has previously been modified in a troubled debt restructuring (TDR), the lending institution and the borrower may subsequently enter into another restructuring agreement. The facts and circumstances of each subsequent restructuring of a TDR loan should be carefully evaluated to determine the appropriate accounting by the institution under U.S. generally accepted accounting principles. Under certain circumstances it may be acceptable not to account for the subsequently restructured loan as a TDR. The federal financial institution regulatory agencies will not object to an institution no longer treating such a loan as a TDR if at the time of the subsequent restructuring the borrower is not experiencing financial difficulties and, under the terms of the subsequent restructuring agreement, no concession has been granted by the institution to the borrower. To meet these conditions for removing the TDR designation, the subsequent restructuring agreement must specify market terms, including a contractual interest rate not less than a market interest rate for new debt with similar credit risk characteristics and other terms no less favorable to the institution than those it would offer for such new debt. When assessing whether a concession has been granted by the institution, the Federal Reserve considers any principal forgiveness on a cumulative basis to be a continuing concession. When determining whether the borrower is experiencing financial difficulties, the institution's assessment of the borrower's financial condition and prospects for repayment after the restructuring should be supported by a current, well-documented credit evaluation performed at the time of the restructuring.

If at the time of the subsequent restructuring the institution appropriately demonstrates that a loan meets the conditions discussed above, the impairment on the loan need no longer be measured as a TDR in accordance with ASC Subtopic 310-10, Receivables – Overall (formerly FASB Statement No.114), and the loan need no longer be disclosed as a TDR in the FR- Y7N report, except as noted below. Accordingly, going forward, loan impairment should be measured under ASC Subtopic 450-20, Contingencies – Loss Contingencies (formerly FASB Statement



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No. 5). Even though the loan need no longer be measured for impairment as a TDR or disclosed as a TDR, the recorded investment in the loan should not change at the time of the subsequent restructuring (unless cash is advanced or received). In this regard, when there have been charge-offs prior to the subsequent restructuring, consistent with longstanding FR Y-7N instructions, no recoveries should be recognized until collections on amounts previously charged off have been received. Similarly, if interest payments were applied to the recorded investment in the TDR loan prior to the subsequent restructuring, the application of these payments to the recorded investment should not be reversed nor reported as interest income at the time of the subsequent restructuring.

If the TDR designation is removed from a loan that meets the conditions discussed above and the loan is later modified in a TDR or individually evaluated and determined to be impaired, then the impairment on the loan should be measured under ASC Subtopic 310-10 and, if appropriate, the loan should be disclosed as a TDR.

For a subsequently restructured TDR loan on which there was principal forgiveness and therefore does not meet the conditions discussed above, the impairment on the loan should continue to be measured as a TDR. However, if the subsequent restructuring agreement specifies a contractual interest rate that, at the time of the subsequent restructuring, is not less than a market interest rate for new debt with similar credit risk characteristics and the loan is performing in compliance with its modified terms after the subsequent restructuring, the loan need not continue to be reported as a TDR in Schedule BS-A, item 7.d, in calendar years after the year in which the subsequent restructuring took place. To be considered in compliance with its modified terms, a loan that is a TDR must be in accrual status and must be current or less than 30 days past due on its contractual principal and interest payments under the modified repayment terms.

Institutions may choose to apply this guidance prospectively to subsequently restructured loans that meet the conditions discussed above for removing the TDR designation. Institutions also may choose to apply this guidance to loans outstanding as of September 30, 2014, for which there has been a previous subsequent restructuring that met the conditions discussed above at the time of the subsequent restructuring. However, prior FR Y-7N reports should not be amended.

### **Reporting Certain Government-Guaranteed Mortgage Loans upon Foreclosure**

In August 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-14, "Classification of Certain Government-Guaranteed Mortgage Loans upon Foreclosure," to address diversity in practice for how government-guaranteed mortgage loans are recorded upon foreclosure. The ASU updates guidance contained 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), because U.S. generally accepted accounting principles (GAAP) previously did not provide specific guidance on how to categorize or measure foreclosed mortgage loans that are government guaranteed. The new ASU

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clarifies the conditions under which a creditor must derecognize a government-guaranteed mortgage loan and recognize a separate “other receivable” upon foreclosure (that is, when a creditor receives physical possession of real estate property collateralizing a mortgage loan in accordance with the guidance in ASC Subtopic 310-40).

Under the new guidance, institutions should derecognize a mortgage loan and record a separate other receivable upon foreclosure of the real estate collateral if the following conditions are met:

- The loan has a government guarantee that is not separable from the loan before foreclosure.
- At the time of foreclosure, the institution has the intent to convey the property to the guarantor and make a claim on the guarantee and it has the ability to recover under that claim.
- At the time of foreclosure, any amount of the claim that is determined on the basis of the fair value of the real estate is fixed (that is, the real estate property has been appraised for purposes of the claim and thus the institution is not exposed to changes in the fair value of the property).

This guidance is applicable to fully and partially government-guaranteed mortgage loans. Upon foreclosure, the separate other receivable should be measured based on the amount of the loan balance (principal and interest) expected to be recovered from the guarantor. This other receivable should be reported in Schedule BS, item 7, “All other assets.” Any interest income earned on the other receivable would be reported in Schedule IS, item 1 “Interest income.” Other real estate owned would not be recognized by the institution.

For institutions that are public business entities, as defined under U.S. GAAP (as discussed in the preceding section of these Supplemental Instructions), ASU 2014-14 is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2014. For example, institutions with a calendar year fiscal year that are public business entities must apply the ASU in their FR Y-7N reports beginning March 31, 2015. However, institutions that are not public business entities (i.e., that are private companies) are not required to apply the guidance in ASU 2014-14 until annual periods ending after December 15, 2015, and interim periods beginning after December 15, 2015. Thus, institutions with a calendar year fiscal year that are private companies must apply the ASU in their December 31, 2015, and subsequent quarterly FR Y-7N reports. Earlier adoption of the guidance in ASU 2014-14 is permitted if the institution has already adopted the amendments in ASU No. 2014-04, “Reclassification of Residential Real Estate Collateralized Consumer Mortgage Loans upon Foreclosure” (which is discussed in the following section of these Supplemental Instructions).

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Entities can elect to apply ASU 2014-14 on either a modified retrospective transition basis or a prospective transition basis. However, institutions must use the method of transition that is elected for ASU 2014-04 (that is, either modified retrospective or prospective). Applying ASU 2014-14 on a prospective transition basis should be less complex for institutions than applying the ASU on a modified retrospective transition basis. Under the prospective transition method, an institution should apply the new guidance to foreclosures of real estate property collateralizing certain government-guaranteed mortgage loans (based on the criteria described above) that occur after the date of adoption of the ASU. Under the modified retrospective transition method, an institution should apply a cumulative-effect adjustment to affected accounts existing as of the beginning of the annual period for which the ASU is adopted.

For additional information, institutions should refer to ASU 2014-14, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

### **Reclassification of Residential Real Estate Collateralized Consumer Mortgage Loans Upon a Foreclosure**

In January 2014, the FASB issued Accounting Standards Update (ASU) No. 2014-04, “Reclassification of Residential Real Estate Collateralized Consumer Mortgage Loans. Upon Foreclosure” to address diversity in practice for when certain loan receivables should be derecognized and the real estate recognized. The ASU updated guidance contained in Accounting Standards Codification Subtopic 310-40, Receivables - Troubled Debt Restructurings by Creditors.

Under prior accounting guidance, all loan receivables were reclassified to other real estate owned (OREO) when the institution, as creditor, obtained physical possession of the property, regardless of whether formal foreclosure proceedings had taken place. The new ASU clarifies when a creditor is considered to have received physical possession (resulting from an in-substance repossession or foreclosure) of residential real estate collateralizing a consumer mortgage loan. Under the new guidance, physical possession for these residential real estate properties is considered to have occurred and a loan receivable would be reclassified to OREO only upon:

- The institution obtaining legal title through foreclosure even if the borrower has redemption rights whereby it can legally reclaim the real estate for a period of time, or
- Completion of a deed-in-lieu of foreclosure or similar legal agreement under which the borrower conveys all interest in the residential real estate property to the institution to satisfy the loan.

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Real estate-secured loans other than consumer mortgage loans collateralized by residential real estate should continue to be reclassified to OREO when the institution has received physical possession of a borrower's assets, regardless of whether formal foreclosure proceedings take place.

The ASU is effective for fiscal years, and interim periods within those fiscal years, beginning after December 15, 2014. However, nonpublic entities, as defined under generally accepted accounting principles, are not required to apply the guidance in the ASU to interim periods in the year of adoption.

Early adoption is permitted under the standard. A nonbank subsidiary electing to early adopt should include as other real estate owned on Schedule BS, item 6, all residential real estate collateral underlying consumer mortgage loans when the institution has obtained physical possession of the collateral as defined under ASU 2014-04. Nonbank subsidiaries should report the cumulative effect of a change in accounting principle<sup>1</sup> in Schedule HI-A, item 6.

A nonbank subsidiary can elect to apply the ASU on either a modified retrospective transition basis or a prospective transition basis. Under the modified retrospective transition method, an institution should apply a cumulative-effect adjustment to residential consumer mortgage loans and OREO existing as of the beginning of the annual period for which the amendments are effective. As a result of adopting the ASU, assets reclassified from OREO to loans should be measured at the carrying value of the real estate at the date of adoption while assets reclassified from loans to OREO should be measured at the lower of the net amount of loan receivable or the OREO property's fair value less costs to sell at the time of adoption. Under the prospective transition method, an institution should apply the new guidance to all instances where the institution receives physical possession of residential real estate property collateralized by consumer mortgage loans that occur after the date of adoption.

For additional information, institutions should refer to ASU 2014-04, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

### **Secured Consumer Debt Discharged in a Chapter 7 Bankruptcy Order**

Questions have arisen regarding the appropriate accounting and regulatory reporting treatment for certain secured consumer loans where (i) the loan has been discharged in a Chapter 7 bankruptcy under the U.S. Bankruptcy Code<sup>2</sup>, (ii) the borrower has not reaffirmed the

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<sup>1</sup> The cumulative effect of a change in accounting principle is the difference between (1) the balance in the retained earnings account at the beginning of the year in which the change is made and (2) the balance in the retained earnings account that would have been reported at the beginning of the year had the newly adopted accounting principle been applied in all prior periods.

<sup>2</sup> 11 USC Chapter 7

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debt, (iii) the borrower is current on payments, and (iv) the loan has not undergone a troubled debt restructuring (TDR) before the bankruptcy.

When a debtor files for Chapter 7 bankruptcy, a trustee is appointed to liquidate the debtor's assets for the benefit of creditors. Generally, Chapter 7 bankruptcy results in a discharge of personal liability for certain debts that arose before the petition date. A bankruptcy discharge acts as a permanent injunction of claims against the debtor, but does not extinguish certain secured debt or any existing liens on the property securing the debt.

In general, for certain secured debt, the loan agreement (including the promissory note and, depending on the state, the security interest) entered into before bankruptcy remains in place after the debt has been discharged in a Chapter 7 bankruptcy. However, the lender may no longer pursue the borrower personally for a deficiency due to nonpayment. In addition, the institution's ability to manage the loan relationship is restricted. For example, after a borrower has completed Chapter 7 bankruptcy, an institution is limited with regard to collection efforts, communications with the borrower, loss mitigation strategies, and reporting on the discharged debt to credit bureaus.

The accounting and regulatory reporting issues that arise for secured consumer loans discharged in a Chapter 7 bankruptcy include: (1) whether the discharge is a TDR, (2) the measure of impairment, (3) whether the loan should be placed in nonaccrual status, and (4) charge-off treatment.

### TDR Determination

In determining whether a secured consumer debt discharged in a Chapter 7 bankruptcy constitutes a troubled debt restructuring, a nonbank subsidiary needs to assess whether the borrower is experiencing financial difficulties and whether a concession has been granted to the borrower. Under Financial Accounting Standards Board (FASB) Accounting Standards Codification (ASC) Subtopic 310-40, a bankruptcy filing is an indicator of a borrower's financial difficulties. Determining whether a nonbank subsidiary has granted a concession in a Chapter 7 bankruptcy requires judgment. In assessing whether a concession has been granted, institutions should consider all relevant facts and circumstances, including the effect of changes to the legal rights and obligations of the lender and the borrower resulting from Chapter 7 bankruptcy. Changes taken as a whole that are not substantive may not be considered a concession. Nonbank subsidiaries should refer to the Glossary section of the *Instructions for Preparation of Consolidated Financial Statements for Holding Companies (FR Y-9C)* for additional information on TDRs.

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If a nonbank subsidiary has concluded that the completion of a Chapter 7 bankruptcy filing has resulted in a TDR, the loan should be measured for impairment under ASC Section 310-10-35 (formerly FASB Statement No. 114, “Accounting by Creditors for Impairment of a Loan”). Under this guidance, impairment shall be measured based on the present value of expected future cash flows discounted at the loan’s effective interest rate, except that as a practical expedient, a nonbank subsidiary may measure impairment based on a loan’s observable market price, or the fair value of the collateral if the loan is collateral dependent. For regulatory reporting purposes, nonbank subsidiaries must measure impairment based on the fair value of the collateral when an impaired loan is determined to be collateral dependent. A loan is considered to be collateral dependent if repayment of the loan is expected to be provided solely by the underlying collateral and there are no other available and reliable sources of repayment. Judgment is required to determine whether an impaired loan is collateral dependent, and a nonbank subsidiary should assess all available credit information and weigh all factors pertaining to the loan’s repayment sources.

If repayment of an impaired loan is not solely dependent upon the underlying collateral, impairment would be measured based on the present value of expected future cash flows. ASC Section 310-10-35 allows impaired loans to be aggregated and measured for impairment with other impaired loans that share common risk characteristics.

Discharged secured consumer debts that are not TDRs (or are not otherwise determined to be in the scope of ASC 310-10 and held for investment) should be measured collectively for impairment under ASC Subtopic 450-20 (formerly FASB Statement No. 5, “Accounting for Contingencies”). In estimating the allowance for loan and lease losses (ALLL) under ASC Subtopic 450-20, nonbank subsidiaries should consider all available evidence and weigh all factors that affect the collectability of the loans as of the evaluation date. Factors can include the bankruptcy filing, delinquent senior liens, negative equity in the collateral, and sustained timely payment performance by the borrower.

Nonbank subsidiaries should ensure that loans are properly segmented based upon similar risk characteristics when calculating the allowance under ASC Subtopic 450-20. Borrowers of secured consumer debt discharged in a Chapter 7 bankruptcy generally are considered to have a higher credit risk profile than those borrowers that have not filed for Chapter 7 bankruptcy. For nonbank subsidiaries with significant holdings of these loans to borrowers who have completed a Chapter 7 bankruptcy, it is appropriate to segment these mortgage loans separately from pools of mortgage loans to borrowers who have not filed for Chapter 7 bankruptcy when calculating the allowance. Nonbank subsidiaries should follow existing regulatory guidance in calculating the ALLL including, if applicable, the *Interagency Supervisory Guidance on Allowance for Loan and Lease Losses Estimation Practices for Loans and Lines of Credit Secured by Junior Liens on 1-4 Family Residential Properties*, which can be accessed at <http://fedweb.frb.gov/fedweb/bsr/srltrs/sr1203.shtm>.

Regardless of the impairment method used, when available information confirms that specific loans, or portions thereof, are uncollectible, these amounts should be promptly charged off against the allowance for loan and leases losses.

### Accrual Status

Nonbank subsidiaries should follow the FR Y-9C Glossary entry under “Nonaccrual Status” when determining whether secured consumer debt discharged in a Chapter 7 bankruptcy should be on accrual status. These instructions also address the restoration of nonaccrual assets, including any loans identified as TDRs that are in nonaccrual status, to accrual status.

Consistent with GAAP and regulatory guidance, institutions are expected to follow revenue recognition practices that do not result in overstating income. For a secured consumer loan discharged in a Chapter 7 bankruptcy, whether or not it is a TDR, placing the loan on nonaccrual when payment in full of principal and interest is not expected is one appropriate method to ensure income is not overstated.

### Charge-off Treatment

GAAP states that loans shall be charged off in the period in which the loans are deemed uncollectible. Because of heightened risk that loans discharged through bankruptcy may be uncollectible, the interagency *Uniform Retail Credit Classification and Account Management Policy*<sup>3</sup> (Uniform Retail Credit Policy) requires such loans to be charged down to collateral value (less costs to sell) within 60 days of notification from the bankruptcy court unless the institution can clearly demonstrate and document that repayment is likely to occur. To assess whether such a loan should be deemed uncollectible, a nonbank subsidiary should perform a credit analysis at the time a borrower whose loan is current completes Chapter 7 bankruptcy (hereafter, a post-discharge analysis). If the post-discharge analysis indicates repayment of principal and interest is likely to continue, then immediate charge down to collateral value and full application of payments to reduce the recorded investment in the loan is not required.

If a credit analysis does not support that repayment of principal and interest is likely to continue, the loan should be charged down to the collateral’s fair value (less costs to sell). Any balance not charged off should be placed on nonaccrual when full collection of principal and

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<sup>3</sup> While the terms of the revised policy apply only to federally insured depository institutions, the Federal Reserve believes the guidance is broadly applicable to U.S. nonbank lending subsidiaries of foreign banking organizations. Refer to the [Bank Holding Company Supervision Manual](#) (Section 2241.0) for details.

interest is not expected. The Uniform Retail Credit Policy can be accessed at <http://fedweb.frb.gov/fedweb/bsr/srltrs/SR0008.htm>.

As discussed in the Uniform Retail Credit Policy, evaluating the quality of a retail credit portfolio on a loan-by-loan basis is inefficient and burdensome for the institution being examined and for examiners given the generally large number of relatively small-balance loans in a retail credit portfolio. Therefore, the type of credit analysis that is performed to assess whether repayment is likely to continue may vary depending on whether the loans are managed individually or on a homogenous pool basis.

For loans managed in pools, nonbank subsidiaries may choose to evaluate the likelihood of continued repayment on a pool basis. In order for a pool analysis to be used, a nonbank subsidiary must identify various credit risk indicators that signify likelihood of continuing repayment. Such indicators might include measures of historical payment performance, loan structure, lien position, combined loan-to-value ratios, amounts paid over the minimum payment due and other pertinent factors that have been associated with payment performance in the past. Such credit risk indicators should then be considered as a whole when determining whether objective evidence supports the likelihood of continuing repayment. A nonbank subsidiary using pool-based analysis should also conduct ongoing monitoring to ensure the appropriateness of the credit risk indicators used to support the likelihood of continuing repayment.

For all loans managed individually and any loans managed on a pool basis where the pool analysis does not support likelihood of continuing repayment, a loan-level, post-discharge credit analysis would be necessary to support likelihood of continuing repayment. A loan-level, post-discharge analysis should demonstrate and document structured orderly collection, post-discharge repayment capacity, and sustained payment performance. If likelihood of continuing repayment cannot be supported, the loan should be deemed uncollectable and charged down to collateral value (less costs to sell) within 60 days of notification from the bankruptcy court.

### **Determining the Fair Value of Derivatives**

ASC Topic 820, Fair Value Measurement (formerly FASB Statement No. 157, “Fair Value Measurements”), defines fair value and establishes a framework for measuring fair value. As stated in ASC Topic 820, fair value is a market-based measurement, not an entity-specific measurement, and the fair value of a derivative position should be measured using the assumptions that market participants would use when pricing that position, including assumptions about risks. An entity should select inputs that are consistent with the characteristics of the derivative position that market participants would take into account in a transaction for the derivative asset or liability. In the absence of a Level 1 input, an entity should apply an adjustment, such as a premium or discount, when market participants would do so when determining the fair value of a derivative position, consistent with the unit of account. For derivatives, the unit of account generally is the individual transaction unless an entity has made



an accounting policy decision to apply the exception in ASC Topic 820 pertaining to measuring the fair value of a group of financial instruments the entity manages on the basis of its net exposure to either market risks or credit risks.

When measuring the fair value of a derivative position that has a bid-ask spread, ASC Topic 820 does not preclude the use of mid-market pricing or other pricing conventions as a practical expedient for measuring the fair value within the bid-ask spread. An entity should determine the price within the bid-ask spread that is most representative of fair value, which is the price that would be received to sell the asset or paid to transfer the liability (i.e., an exit price), based on assumptions a market participant would use in a similar circumstance. An institution should maintain documented policies for determining the point within the bid-ask spread that is most representative of fair value and consistently apply those policies.

An entity is expected to apply all of its valuation policies and techniques for measuring fair value consistently over time. Nevertheless, ASC Topic 820 acknowledges that a change in valuation technique from one methodology to another that results in an equally or more representative measure of the fair value of a derivative position may be appropriate. However, it would be inappropriate for an entity to alter its valuation methodology or policies to achieve a desired financial reporting outcome. An example of an inappropriate change in valuation methodology that would result in a fair value estimate not representative of a derivative position's exit price would be for an entity to migrate from using a mid-market pricing convention to using a price within the bid-ask spread that is more advantageous to the entity to offset the impact of adverse changes in market prices or otherwise mask losses.

Unless its fair value measurement is categorized within Level 1, if there has been a change in valuation technique for a derivative position, ASC Topic 820 requires an entity to disclose that change and the reasons for making it in the notes to financial statements prepared in accordance with U.S. GAAP.

### **“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 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.

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- 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

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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>.

### **True-up Liability under an FDIC Loss-Sharing Agreement**

As discussed above, an institution that acquires a failed insured institution may enter into a loss-sharing agreement with the FDIC under which the FDIC agrees to absorb a portion of the losses on a specified pool of the failed institution's assets during a specified time period. The acquiring institution typically records an indemnification asset representing its right to receive payments from the FDIC for losses during the specified time period on assets covered under the loss-sharing agreement.

Since 2009, most loss-sharing agreements have included a true-up provision that may require the acquiring institution to reimburse the FDIC if cumulative losses in the acquired loss-share portfolio are less than the amount of losses claimed by the institution throughout the loss-sharing period. Typically, a true-up liability may result because the recovery period on the loss-share assets (e.g., eight years) is longer than the period during which the FDIC agrees to reimburse the acquiring institution for losses on the loss-share portfolio (e.g., five years).

Consistent with U.S. GAAP and the Glossary entry for "Offsetting" in the FR Y-9C instructions, institutions are permitted to offset assets and liabilities recognized in the Report of Condition when a "right of setoff" exists. Under ASC Subtopic 210-20, Balance Sheet – Offsetting (formerly FASB Interpretation No. 39, "Offsetting of Amounts Related to Certain Contracts"), in general, a right of setoff exists when a reporting institution and another party each owes the other determinable amounts, the reporting institution has the right to set off the amounts each party owes and also intends to set off, and the right of setoff is enforceable at law. Because the conditions for the existence of a right of offset in ASC Subtopic 210-20 normally would not be met with respect to an indemnification asset and a true-up liability under a loss-sharing agreement with the FDIC, this asset and liability should not be netted for FR Y-7N reporting purposes.

### **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

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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).

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 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

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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 result 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,

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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,

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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 225.2 of Federal Reserve Regulation Y, 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.

### **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](http://service.govdelivery.com/service/subscribe.html?code=USFRBNEWYORK_8)

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**Electronic Submission Option**

Effective with the June 30, 2014 report date, the FR Y-7N report is available for electronic data submission via Reporting Central only (i.e. IESUB can no longer be used). This report will be available electronically by manual data entry and file uploads. For institutions that do not choose to file this report electronically, the Federal Reserve will continue to accept paper copy submissions. For institutions that submit these reports electronically, they must maintain in their files a signed printout of the data submitted. Additional information about the Reporting Central applications, including an online resource center is available at:

<http://www.frbservices.org/centralbank/reportingcentral/index.html>

As a part of the transition to Reporting Central, the Federal Reserve has modified its internal procedures for handling confidentiality requests for those institutions that choose to submit data electronically. Generally, the FR Y-7N reports are available to the public upon request on an individual basis. However, a reporting foreign banking organization (FBO) may request confidential treatment. To better facilitate confidentiality requests and ensure the data are properly handled during the review of the request, the Federal Reserve strongly encourages institutions that are of the opinion that disclosure of certain commercial or financial information in the report would likely result in substantial harm to its (or its subsidiaries') competitive position or that disclosure of the submitted personal information would result in unwarranted invasion of personal privacy to (1) notify their Reserve Bank of their intent to request confidential treatment in advance of the written request and (2) send the confidentiality request in writing prior to data submission. For institutions that choose not to submit data electronically, written request for confidentiality may be provided concurrently with the paper submission of the report. For more information on confidentiality requests, please see the FR Y-7N/S General Instructions (page GEN-5).

**Report Submission**

The completed FR Y-7N/FR Y-7NS report must be received by the Federal Reserve Bank of New York on **Monday, June 1, 2015**. Any FR Y-7N report received after 5:00 p.m. on **Monday, June 1, 2015** will be considered late unless postmarked by **Friday, May 29, 2015** or sent by overnight service by **Saturday, May 30, 2015**. Completed reports should be submitted to:

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



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We continue to monitor the accuracy of the periodic regulatory reports submitted for the March 31, 2015 report date. The staff of this Reserve Bank will monitor whether banking 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.

If there are any questions concerning this report please contact Staff Directors: Kenneth Aberbach, at (212) 720-8234; Lesley Chao, at (212) 720-5429; Morgan Norful, at (212) 720-8055; or Cheryl Skillman, at (212) 720-8739.

Sincerely,

Patricia Selvaggi  
Assistant Vice President