FEDERAL RESERVE BANK *of* NEW YORK

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STATISTICS OFFICER

October 4, 2010

To: The Chief Executive Officer of Each U.S Branch and Agency of a Foreign Bank Located in the Second Federal Reserve District

The following report forms and instructions for the September 30, 2010 reporting date have been posted to the Federal Reserve Board's website at www.federalreserve.gov under "Reporting Forms":

- Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002); and

- Supplemental Report of Assets and Liabilities of a Non-U.S. Branch that is Managed or Controlled by a U.S. Branch or Agency of a Foreign (Non-U.S.) Bank (FFIEC 002s).

There are changes to the FFIEC 002 reporting form and instructions; however, there are no changes to the FFIEC 002S September 30, 2010 report date.

Specifically, the FFIEC 002 reporting form and instructions for Schedule O, Memorandum Items 4(a) and 4(b) were revised to capture the average daily amounts and average daily number of noninterest bearing transaction accounts, respectively.

Troubled Debt Restructurings and Current Market Interest Rates

Many institutions are restructuring or modifying the terms of loans 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).

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

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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 at the time of the restructuring, some institutions have concluded that these restructurings are not TDRs. 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. When evaluating a loan modification to a borrower experiencing financial difficulties, an analysis of all facts and circumstances is necessary to determine whether the bank has made a concession 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 bank's policies or common market practices) and, if so, how the modified or restructured loan should be reported in the FFIEC 002 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.) In the FFIEC 002 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 -C, Part I and in Schedule N 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 C, Part I 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), and the Glossary entry for “Loan Impairment.”
For further information, see the Glossary entry for "Troubled Debt Restructurings" and the instructions for Schedules C, Part I, and N.

Reporting Term Deposits

The Term Deposit Facility (TDF) is a program through which the Federal Reserve Banks offer interest-bearing term deposits to eligible institutions. A term deposit is a deposit with a specific maturity date. Term deposits offered through the TDF should be treated as balances due from a Federal Reserve Bank for FFIEC 002 purposes. Accordingly, term deposits should be reported in Schedule RAL, Assets and Liabilities, item 1.a, “Cash and balances due from depository institutions,” and in Schedule A, Cash and Balances Due From Depository Institutions, item 5, “Balances due from Federal Reserve Banks,” on the FFIEC 002 report. The earnings on these term deposits should be reported in Schedule M, Due from/Due to Related Institutions in the U.S. and in Foreign Countries, Part I, item 2.a, “Head office of parent bank.”

Reporting Purchased Subordinated Securities in Schedule S

In Schedule S, Servicing, Securitization, and Asset Sale Activities, Line 9, the Federal Reserve collects data on the maximum amount of the branch's or agency's credit exposures arising from credit enhancements the branch or agency has provided to other institutions' securitization structures, including those used in structured finance programs (other than asset-backed commercial paper programs, which are covered in Memorandum item 1 of the schedule).

The types of credit enhancements to be reported in Line 9 include purchased subordinated securities. Examples of purchased subordinated securities include, but are not limited to, the mezzanine and subordinate tranches of private-label mortgage-backed securities and collateralized debt obligations. A so-called senior tranche of a securitization or structured finance program is not a subordinated security provided it cannot absorb credit losses prior to another designated senior tranche. The branches or agencies should ensure that they report in Schedule S, Line 9, the carrying value of their holdings of purchased subordinated securities issued in connection with other institutions' securitization and structured finance transactions (other than asset-backed commercial paper programs). Holdings of purchased subordinated securities that serve as credit enhancements for asset-backed commercial paper programs should be reported in Memorandum Line 1.a of Schedule S.

Prepaid Deposit Insurance Assessments

On November 12, 2009, the FDIC Board of Directors adopted a final rule requiring insured depository institutions (except those that are exempted) to prepay their quarterly risk-based deposit insurance assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012, on December 30, 2009. Each institution's regular risk-based deposit insurance assessment for the third quarter of 2009, which is paid in arrears, also is payable on December 30, 2009. The amount of the prepaid assessment was included on the certified statement invoices for the third quarter of 2009, which were available on *FDICconnect,* the FDIC's e-business portal, as of December 15, 2009.

The branch or agency should record the estimated expense for its regular quarterly risk-based assessment for each calendar quarter through a charge to expense during that quarter and a corresponding credit to its prepaid assessments asset (or to an accrued expense payable if it has no prepaid assessments asset). As a result of the interaction between the prepaid assessments and the regular quarterly assessments, the amount of the prepaid assessments asset that a branch or agency should report as a prepaid expense in its June 30, 2010, FFIEC 002 report should be:

- The total amount of its prepaid deposit insurance assessments (paid December 30, 2009);
- Less the actual amount of its regular quarterly assessment for the fourth quarter of 2009 and the first quarter of 2010 (shown on its certified statement invoices for these two quarters, which was available on *FDICconnect* as of March 15, and June 15, 2010); and
- Less the estimated amount of its regular quarterly assessment for the second quarter of 2010 (which should have been accrued as a charge to expense during the second quarter).

This prepaid expense asset should be reported in Schedule RAL, Line 1 h, "Other assets". The year to-date deposit insurance assessment expense for 2010 should be reported as a component of gross unremitted profits in Schedule M, Line 4, "Net due from head office and other related depository institutions".

For further information on the FDIC's prepaid assessments final rule, refer to FDIC Financial Institution Letter (FIL) 63-2009 at http://wwwfdic.gov/news/news/financial/200941109063.html .

For further guidance on reporting regular quarterly deposit insurance assessments, refer to the Call Report Supplemental Instructions for September 30, 2009, at http://www.ffiec.gov/PDF/FFIEC forms/FFIEC 031 041 suppinst 200909.pdf.

Accounting for Financial Asset Transfers and Variable Interest Entities

Amendments to FASB ASC Topics 860, Transfers and Servicing, and 810, Consolidation, resulting from Accounting Standards Update (ASU) No. 2009-16 (formerly FASB Statement No. 166, *Accounting for Transfers of Financial Assets* (FAS 166)) and ASU No. 2009-17 (formerly FASB Statement No. 167, *Amendments to FASB Interpretation No. 46(R)* (FAS 167)), respectively, have changed the way entities account for securitizations and special purpose entities. ASU No. 2009-16 (formerly FAS 166) revised former FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, by eliminating the concept of a “qualifying special-purpose entity,” creating the concept of a “participating interest” (which is discussed more fully in the following section), changing the requirements for derecognizing financial assets, and requiring additional disclosures. ASU No. 2009-17 (formerly FAS 167) revised former FASB Interpretation No. 46(R), *Consolidation of Variable Interest Entities*, by changing how a bank or other company determines when an entity that is insufficiently capitalized or is not controlled through voting or similar rights, i.e., a “variable interest entity” (VIE), should be consolidated.
In general, amended Topics 860 and 810 both take effect as of the beginning of each bank’s first annual reporting period that begins after November 15, 2009, for interim periods therein, and for interim and annual reporting periods thereafter (i.e., as of January 1, 2010, for banks with a calendar year fiscal year). Earlier application is prohibited. Branches and agencies are expected to adopt amended Topics 860 and 810 for Call Report purposes in accordance with the effective date of these two standards. Revised Glossary entries for “Transfers of Financial Assets” and “Servicing Assets and Liabilities” that incorporated the provisions of amended Topics 860 and 810 and a new Glossary entry for “Variable Interest Entities” were included in the FFIEC 002 report instruction book update for June 2010.

The assets and liabilities of consolidated VIEs should be reported on the FFIEC 002 balance sheet (Schedule RAL) in the balance sheet category appropriate to the asset or liability. Similarly, the interest and noninterest income and expenses of consolidated VIEs, including provisions for loan and lease losses, should be reported on the FFIE 002 report income statement (Schedule M, Line 2a) as appropriate to the income or expense.

Accounting for Loan Participations under FAS 166

FAS 166 (FASB ASC Topic 860) modified the criteria that must be met in order for a transfer of a portion of a financial asset, such as a loan participation, to qualify for sale accounting. These changes apply to transfers of loan participations on or after the effective date of FAS 166, which is discussed above. Therefore, branches and agencies with a calendar year fiscal year must account for transfers of loan participations on or after January 1, 2010, in accordance with FAS 166. Loan participations transferred before the effective date of FAS 166 (January 1, 2010, for calendar year branches and agencies) are not affected by this new accounting standard and pre-FAS 166 participations that were properly accounted for as sales under FASB Statement No. 140 will continue to be reported as having been sold.

Under FAS 166, if a transfer of a portion of an entire financial asset meets the definition of a "participating interest," then the transferor (normally the lead lender) must evaluate whether the transfer meets all of the conditions in this accounting standard to qualify for sale accounting. These conditions are the isolation of the transferred assets from the transferor, the transferee's right to pledge or exchange the assets received, and the transferor's lack of effective control over the transferred assets. In general, in order for a loan participation, whether retained by the lead lender or transferred to another party, to meet the definition of a participating interest in FAS 166, it must have all of the following characteristics:

- It must represent a proportionate (pro rata) ownership interest in an entire financial asset;
- All cash flows received from the entire financial asset, except any cash flows allocated as compensation for servicing or other services performed (which must not be subordinated and must not significantly exceed an amount that would fairly compensate a substitute service provider should one be required), must be divided proportionately among the participating interest holders in an amount equal to their share of ownership;
- The rights of each participating interest holder (including the lead lender) must have the same priority, no interest is subordinated to another interest, and no participating interest holder has recourse to the lead lender or another participating interest holder other than standard representations and warranties and ongoing contractual servicing and administration obligations; and
- No party has the right to pledge or exchange the entire financial asset unless all participating interest holders agree to do so.

If a transfer of a portion of a financial asset does not meet the definition of a participating interest, both the lead lender transferring the nonqualifying participation and the party acquiring the nonqualifying participation must account for the transaction as a secured borrowing with a pledge of collateral on the FFIEC 002 report balance sheet (Schedule RAL). On the FFIEC 002 report income statement (Schedule M, Line 2a), the lead lender should report the interest earned on the entire financial asset (subject to the nonaccrual guidance in the FFIEC 002 report instructions) interest income and the interest on the transferred nonqualifying participation, which is reported as a secured borrowing, as interest expense. This interest income and interest expense should not be reported net. In addition, when the financial asset in which a nonqualifying participation has been transferred is reported as a held-for-investment loan, the lead lender should include the entire loan in its determination of an appropriate level for the allowance for loan and lease losses and the related provision for loan and lease losses expense.

Under amended ASC Topic 860, so-called “last-in, first-out” (LIFO) and “first-in, first-out” (FIFO) participations in which all principal cash flows collected on the loan are paid first to one of the participants do not meet the definition of a participating interest. As a result, neither LIFO nor FIFO participations transferred after the effective date of amended ASC Topic 860 will qualify for sale accounting and instead must be reported as secured borrowings.
A revised discussion of loan participations in the Glossary entry for “Transfers of Financial Assets” that incorporates the provisions of amended ASC Topic 860 and addresses related reporting issues was included in the FFIEC 002 report instruction book update for June 2010.

Accounting Standards Codification

In June 2009, the FASB issued Statement No. 168, *The FASB Accounting Standards Codification and the Hierarchy of Generally Accepted Accounting Principles AS* 168), to establish the FASB Codification as the single source of authoritative nongovernmental U.S. generally accepted accounting principles (U.S. GAAP). The FASB Codification reorganizes existing U.S. accounting and reporting standards issued by the FASB and other related private-sector standard setters, and all guidance contained in the FASB Codification carries an equal level of authority. All previously existing accounting standards documents are superseded as described in FAS 168. All other accounting literature not included in the FASB Codification is nonauthoritative. The FASB Codification can be accessed at http://asc.fasb.org/.

The FASB Codification is effective for interim and annual periods ending after September 15, 2009. Therefore, effective for the September 30, 2009, and subsequent FFIEC 002 reports, references in the reporting instructions to specific pre-Codification standards under U.S. GAAP (e.g., FASB Statements of Financial Accounting Standards, FASB Interpretations, Emerging Issues Task Force Issues, and Accounting Principles Board Opinions) should be understood to mean the corresponding reference in the FASB's Accounting Standards Codification.

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Reports Monitoring

Please note that the timeliness of receipt of each of these reports will be monitored and the submission of initial data via facsimile, even if prior to the deadline, does not constitute timely filing.

An original and one copy of the completed FFIEC 002 and FFIEC 002S report(s) (if applicable) must be returned to this Bank, by mail or messenger, no later than November 1, 2010. Any FFIEC 002/002S report received after 5:00 p.m. on November 1, 2010 will be considered late unless postmarked by October 29 or sent overnight service by October 31.

Federal Reserve Bank of New York
Statistics Function
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We will also continue to monitor the accuracy of the periodic regulatory reports submitted for the September 30, 2010 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 current edits for the FFIEC 002/002S reports that were sent to you in a previous mailing.

Electronic Submission Option

Electronic submission of the FFIEC 002/002S reports is available to all U.S. branches and agencies. 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 FFIEC 002/002S 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 FFIEC 002/002S report electronically, please contact Oscar Torres at (212) 720-6796 or Carolyn Polite at (212) 720-5415.

Website

The FFIEC 002/002S forms and instructions are available on the FFIEC website at www.ffiec.gov/ffiec reportforms.htm.

Questions regarding the FFIEC 002 and FFIEC 002S reports should be directed to Oscar Torres, Senior Reports Analyst in the Regulatory Reporting Division at (212) 720-6796, or Henry Castillo, Team Leader in the Division at (212) 720-1318.

Sincerely,

- *Signed by Patricia Selvaggi* -

Patricia Selvaggi
Statistics Officer

Enclosure