

FEDERAL RESERVE BANK *of* NEW YORK

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PATRICIA SELVAGGI
ASSISTANT VICE PRESIDENT

December 30, 2013

To: The Individuals Responsible for Preparing the Consolidated Financial Statements for Holding Companies (FR Y-9C) Located in the Second Federal Reserve District

Subject: Holding Companies Reporting Requirements for December 31, 2013

The following report forms and instructions for the December 31, 2013 reporting date have been posted to the Federal Reserve Board's website at www.federalreserve.gov under "Reporting Forms":

- (1) Consolidated Financial Statements for Holding Companies (FR Y-9C);
- (2) Parent Company Only Financial Statements for Large Holding Companies (FR Y-9LP);
- (3) Financial Statements for Employee Stock Ownership Plan Holding Companies (FR Y-9ES);
- (4) Parent Company Only Financial Statements for Small Holding Companies (FR Y-9SP);
- (5) Financial Statements of U.S. Nonbank Subsidiaries of U.S. Holding Companies (FR Y-11);
- (6) Financial Statements of Foreign Subsidiaries of U.S. Banking Organizations (FR 2314);
and
- (7) Consolidated Holding Company Report of Equity Investments in Nonfinancial Companies (FR Y-12)

There are no changes to the reporting forms for the FR Y-9C, FR Y-9LP, FR Y-9SP, FR 2314/S, FR-Y11/S and FR Y-12 for this quarter. The FR Y-9ES form and instructions have been modified to change the phrase "bank holding company(ies)" to "holding company(ies)," and incorporate references to savings and loan holding company (SLHC) respondents. The FR Y-9C reporting instructions have been modified to clarify that the reporting of recorded investment amounts must be net of unearned income on Schedule HI-C. The FR Y-12A instructions have been changed to incorporate references to SLHC respondents. There are no

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changes to the FR Y-9LP, FR Y-9SP, FR 2314/S, FR-Y11/S or FR Y-12 reporting instructions. The revised instruction (data edits) pages for the FR Y-9C, FR Y-9ES and FR Y-12A have vertical black lines in the margins to annotate revisions.

Supplemental instructions concerning current accounting and reporting issues affecting the FR Y-9 series of reports are provided in this letter. A summary of significant updates to the FR Y-9C, FR Y-9ES and FR Y-12 reporting forms and instructions is included in the Attachment.

Please note that on December 11, 2013, an initial notice published in the *Federal Register* announced proposals to reduce reporting burden by increasing the asset size thresholds for filing the annual FR Y-11/S and FR 2314/S. In addition, the proposals for the FR Y-11S and FR 2314S would eliminate the threshold based on the percentage of consolidated assets of the top-tier organization for either of these reports. Finally, the proposals would clarify when the reports for the FR Y-11/S and FR 2314/S must be filed if a subsidiary is divested or liquidated. The comment period ends on February 10, 2014. The initial *Federal Register* notice¹ and copies of the proposed reporting forms and instructions are available on the Board's public web site <http://www.federalreserve.gov/apps/reportforms/review.aspx>. Pending review of public comments and final Board approval, which is planned for February 2014, the proposed changes would be retroactive to the December 31, 2013 reporting period.

Subscription Service

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

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

Reports Submission

All FR Y-9C, FR Y-9LP, FR Y-9SP and FR Y-9ES filers are required to submit electronically. A signed and attested printout of the data submitted must be maintained in the holding companies (HCs) files. The cover page of the Reserve Bank supplied report forms should be used to fulfill the signature and attestation requirements and should be attached to the printout placed in the HCs files.

¹ The initial *Federal Register* notice also extended, without revision, the Consolidated Report of Condition and Income for Edge and Agreement Corporations (FR 2886b).

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For the FR Y-11, FR 2314, and FR Y-12 reports that are not submitted electronically, an original and two copies (one-sided) of each completed report must be returned to this bank by mail or messenger by the dates listed below.

The Federal Reserve continues to monitor the timeliness of receipt of these reports. Earlier submission would aid this Bank in reviewing and processing the reports and is encouraged.

The submission deadline for all **FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-12** filers is Friday, February 14, 2014. Any **FR Y-9C, FR Y-9LP, FR Y-9SP, and FR Y-12** reports received after 5:00 p.m. on February 14 will be considered late. The submission deadline for all **FR Y-9ES** filers is Thursday, July 31, 2014. Any **FR Y-9ES** reports received after 5:00 p.m. on July 31, 2014 will be considered late. The submission deadline for the **FR Y-12A** is February 18, 2014. Any FR Y-12A reports received after 5:00 p.m. on February 18 will be considered late unless postmarked by February 13 or sent by overnight service on February 14. The submission deadline for the **FR Y-11/S** and **FR 2314/S** is Monday, March 3, 2014. Any FR Y-11 and FR 2314 reports received after 5:00 p.m. on March 3 will be considered late unless postmarked by Thursday, February 27, 2014 or sent by overnight service on Friday, February 28.

Submission of initial data via facsimile, even if prior to this deadline does not constitute an official filing. In view of this, please be sure that completed reports are submitted on time to:

Federal Reserve Bank of New York
Statistics Function
Administrative Support Staff
33 Liberty Street, 4th Floor
New York, N.Y. 10045

Editing of Data by Respondents

All HCs must submit their FR Y-9 reports via the Federal Reserve's internet submission facility (IESUB), using either data entry or file transfer. This data collection system will subject a HC's electronic data submission to the published validity and quality edit checks and transmit the results of such checks to the HC shortly thereafter. HCs must resolve any validity edits before the data can be accepted. The validity and quality edits are provided at the end of the reporting instructions for the FR Y-9C, FR Y-9LP, FR Y-9SP and FR Y-9ES. HCs will also be provided a method for supplying explanations for quality edits. (Guidelines for providing quality explanations can be found at: <http://www.frb services.org/centralbank/reportingcentral/iesub.html>. These explanations will be held confidential.

Reports that contain validity edit failures or have quality edit failures that are not explained on or before the filing deadline will be deemed late.

Companies that offer computer software to aid in the preparation of FR Y-9 reports or HCs that have developed their own reporting software may choose to incorporate validity and quality edit checks into their software.

The Federal Reserve will continue to provide updates about the enhanced IESUB submission process on the web site:

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

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 Code², (ii) the borrower has not reaffirmed the 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, and 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.

² 11 USC Chapter 7

TDR Determination

In determining whether a secured consumer debt discharged in a Chapter 7 bankruptcy constitutes a troubled debt restructuring, a holding company 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 holding company 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. Holding companies should refer to the Glossary section of the *Instructions for Preparation of Consolidated Financial Statements for Holding Companies* for additional information on TDRs.

Measure of Impairment

If a holding company 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 holding company 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, holding companies 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 holding company 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, holding companies 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, and negative equity in the collateral and sustained timely payment performance by the borrower.

Holding companies 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 holding companies 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. Holding companies 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 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

Holding companies should follow the 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*³ (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 uncollectable, a holding company 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 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, holding companies may choose to evaluate the likelihood of continued repayment on a pool basis. In order for a pool analysis to be used, a holding company 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 holding company 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

³ While the terms of the revised policy apply only to federally insured depository institutions, the Federal Reserve believes the guidance is broadly applicable to holding companies and their nonbank lending subsidiaries. Refer to the [Bank Holding Company Supervision Manual](#) (Section 2241.0) for details.

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.

Bank Subsidiary Reporting Differences

Generally, the FR Y-9C reports should reflect the same accounting practices as those used in its subsidiary depository institutions' Reports of Condition and Income (Call Reports). However, if a company adopts accounting practices for purposes of its published consolidated GAAP financial statements that are different from those used in subsidiary depository institution Call Reports, it should use those practices in preparation of the FR Y-9C. For example, if a holding company's depository institution subsidiary charges down certain discharged secured consumer debt for Call Report purposes but not for purposes of its published consolidated GAAP financial statements, it should not charge down those loans for purposes of preparing the FR Y-9C. In this situation, the holding company should explain differences in reporting between the subsidiary and the holding company in the FR Y-9C "Notes to the Income Statement – Other" and "Notes to the Balance Sheet – Other" report sections.

Determining the Fair Value of Derivatives

Accounting Standards Codification (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. generally accepted accounting principles.

“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.
- 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-9C Report Schedule HC-C, part I, item 9.a, "Loans to nondepository financial institutions," and on the balance sheet in Schedule HC, item 4.a, "Loans and leases held for sale," or item 4.b, "Loans and leases, net of unearned income," as appropriate. For risk-based capital purposes, a loan to a mortgage loan originator secured by residential mortgages that is reported in Schedule HC-C, part I, item 9.a, should be assigned a 100 percent risk weight and included in column F of Schedule HC-R, item 38 or 39, based on its balance sheet classification.

In situations where the transaction between the mortgage loan originator and the transferee (acquiring) institution is accounted for as a secured borrowing with pledge of collateral, the transferee (acquiring) institution's designation of the financing provided to the originator as held for sale is appropriate only when the conditions in ASC Subtopic 310-10, Receivables – Overall (formerly AICPA Statement of Position 01-6, "Accounting by Certain Entities (Including Entities With Trade Receivables) That Lend to or Finance the Activities of Others") and the 2001 Interagency Guidance on Certain Loans Held for Sale have been met. In these situations, the mortgage loan originator's planned sale of the pledged collateral (i.e., the individual residential mortgage loans) to a takeout investor is not relevant to the transferee institution's designation of the loan to the originator as held for investment or held for sale. In situations where the transferee institution simultaneously extends a loan to the originator and transfers an interest (for example, a participation interest) in the loan to the originator to another party, the transfer to the other party also should be evaluated to determine whether the conditions in ASC Topic 860 for sale accounting treatment have been met. If this transfer qualifies to be accounted for as a sale, the portion of the loan to the originator that is retained by the transferee institution should be classified as held for investment when the transferee has the intent and ability to hold that portion for the foreseeable future or until maturity or payoff (which is generally in the near term).

Market Risk Capital Rules

In August 2012, the agencies published a joint final rule revising their market risk capital rules effective January 1, 2013. The joint final rule modified the definition of a covered position, revised the calculation of the measure for market risk, and eliminated Tier 3 capital. Institutions subject to the market risk capital rules should report their market risk equivalent assets in item 58 of Schedule HC-R, Regulatory Capital, in accordance with the revised rules. In June 2013, item 19 of Schedule HC-R, “Tier 3 capital allocated for market risk,” was removed from the schedule. The instruction book updates for each of the first three quarters of 2013 include revisions to the portions of the instructions for Schedule HC-R affected by the revised market risk capital rules.

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 that includes an FDIC loss-sharing agreement. This ASU amends ASC Topic 805, Business Combinations (formerly FASB Statement No. 141 (revised 2007), “Business Combinations”), which includes guidance applicable to FDIC-assisted acquisitions of failed institutions.

Under the ASU, when an institution experiences a change in the cash flows expected to be collected on an FDIC 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. Early adoption of the ASU is permitted. For institutions with a calendar year fiscal year, the ASU took effect January 1, 2013. The ASU’s provisions should be applied prospectively to any new indemnification assets acquired after the date of adoption and to indemnification assets existing as of the date of adoption arising from an FDIC-assisted acquisition of a financial institution. Institutions with indemnification assets arising from FDIC loss-sharing agreements are expected to adopt ASU 2012-06 for FR Y-9C 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>.

Troubled Debt Restructurings and Current Market Interest Rates

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

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.

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 reaching this conclusion, 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 in the marketplace 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 the holding company 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 holding company's policies or common market practices) If TDR accounting and disclosure is appropriate, the holding company must determine how the modified or restructured loan should be reported.

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 result in the restructured loan being a TDR. (As noted above, other types of concessions could also result in a TDR.) In the FR Y-9C report, until a loan that is a TDR is paid in full or otherwise settled, sold, or charged off, the loan must be reported the appropriate loan category in Schedule HC-C, items 1 through 9, and in the appropriate loan category in:

- Schedule HC-C, Memorandum item 1, if it is in compliance with its modified terms, or
- Schedule HC-N, Memorandum item 1, if it is not in compliance with its modified terms.

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 HC-C, Memorandum item 1, 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 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.

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.” 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. The outcome of applying such an aggregation approach must be consistent with the measurement methods prescribed in ASC Subtopic 310-10 and the “Loan Impairment” Glossary entry 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). Thus, an institution applying the aggregation approach to TDRs should not use the measurement method prescribed in ASC Subtopic 450-20, Contingencies – Loss Contingencies (formerly FASB Statement No. 5, “Accounting for Contingencies”) for loans not individually considered impaired that are collectively evaluated for impairment. When a loan not previously considered individually impaired is restructured and determined to be a TDR, absent a partial charge-off, it generally is not appropriate for the impairment estimate on the loan to decline as a result of the change in impairment method prescribed in ASC Subtopic 450-20 to the method prescribed in ASC Subtopic 310-10.

For further information, see the Glossary entry for “Troubled Debt Restructurings” and the instructions for Schedules HC-C and HC-N.

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. (For most public holding companies, the ASU took effect July 1, 2011, but retrospective application began as of January 1, 2011.) Nonpublic companies should apply the new guidance for annual periods ending after December 15, 2012, including interim periods within those annual periods. (For most nonpublic holding companies, the ASU took effect January 1, 2012.)

Holding companies 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-9C instruction book. To the extent the guidance in the ASU differs from a holding company's existing accounting policies and practices for identifying TDRs, the holding company will be expected to apply the ASU for FR Y-9C reporting purposes in accordance with the standard's effective date and transition provisions, which are outlined above. To the extent that a holding company's existing accounting policies and practices are consistent with guidance in the ASU, the holding company should continue to follow its existing policies and practices.

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

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

Furthermore, the ASU provides new guidance regarding insignificant delays in payment as part of a 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, holding companies should refer to ASU 2011-02, which is available at <http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498>.

Reporting Defined Benefit Postretirement Plans

Holding companies should continue to follow the guidance regarding the reporting of defined benefit postretirement plans that was included in the FR Y-9C Supplemental Instructions for June 30, 2013. These instructions can be accessed via the Federal Reserve's Web site (http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201306.pdf).

Goodwill Impairment Testing

Holding companies should continue to follow the guidance regarding reporting related to goodwill impairment testing that was included in the FR Y-9C Supplemental Instructions for March 31, 2013. These instructions can be accessed via the Federal Reserve's Web site (http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201303.pdf).

Small Business Lending Fund

Holding companies should continue to follow the guidance regarding reporting related to the U.S. Treasury Department's Small Business Lending Fund (SBLF) that was included in the FR Y-9C Supplemental Instructions for March 31, 2013. These instructions can be accessed via the Federal Reserve's Web site (http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201303.pdf).

Treasury Department's Community Development Capital Initiative Program

Holding companies should continue to follow the guidance regarding reporting related to the Treasury Department's Community Development Capital Initiative Program that was included in the FR Y-9C Supplemental Instructions for September 30, 2012. These instructions can be accessed via the Federal Reserve's Web site (http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201209.pdf).

Reporting Purchased Subordinated Securities in Schedule HC-S

Holding companies should continue to follow the guidance on reporting purchased subordinated securities in Schedule HC-S that was included in the FR Y-9C Supplemental Instructions for September 30, 2011. These instructions can be accessed via the Federal Reserve's Web site

(http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201109.pdf).

Consolidated Variable Interest Entities

Holding companies should continue to follow the guidance on reporting and accounting for consolidated variable interest entities that was included in the FR Y-9C Supplemental Instructions for September 30, 2011. These instructions can be accessed via the Federal Reserve's Web site

(http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201109.pdf).

Treasury Department's Capital Purchase Program

Holding companies should continue to follow the guidance on accounting and reporting for the U.S. Treasury Department's Capital Purchase Program (CPP) under the Troubled Asset Relief Program mandated by the Emergency Economic Stabilization Act of 2008 that was included in the FR Y-9C Supplemental Instructions for September 30, 2011. These instructions can be accessed via the Federal Reserve's Web site

(http://www.federalreserve.gov/reportforms/supplemental/SI_FRY9_201109.pdf).

Electronic Submission Option

This Bank offers HCs the option of submitting their FR Y-11/S, FR 2314/S, and FR Y-12/A reports electronically. Any HCs interested in submitting these reports electronically should contact Carolyn Polite at (212) 720-5415 for information concerning the procedures for electronic transmission. HCs choosing to submit these reports electronically must maintain in their files a signed printout of the data submitted.

Website

Report forms and instructions for the FR Y-9C, FR Y-9LP, FR Y-9SP, FR Y-9ES, FR Y-11/S, FR 2314/S and FR Y-12 are available on the Federal Reserve Board's web site at www.federalreserve.gov under "Reporting Forms."

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Questions regarding these reports should be addressed to Anthony Guglielmo at (212) 720-8002. Questions regarding the capital adequacy guidelines should be directed to Scott Nagel in the Accounting and Capital Policy Department at (212) 720-1803.

Sincerely,

Patricia Selvaggi
Assistant Vice President

ATTACHMENT

Revisions to the FR Y-9C for December 2013

Report Form

No changes

Instructions Only

- (1) *Schedule HI-C, General Instructions.* Clarified reporting of recorded investment amounts must be net of unearned income.
- (2) *Schedule HC-C, item 11.* Clarified the reporting of unearned income.

Revisions to the FR Y-9ES for December 2013

Report Form

- (1) Changed the phrase “bank holding company(ies)” to “holding company(ies)” throughout the report.

Report Instructions

- (1) Changed the phrase “bank holding company(ies)” to “holding company(ies)” and incorporated references to SLHC respondents throughout the instructions.

Revisions to the FR Y-12A for December 2013

Report Form

No changes

Report Instructions

Incorporated references to SLHC respondents throughout the instructions.

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