



December 23, 2020

Via Electronic Mail

Office of the Comptroller of the Currency
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Federal Deposit Insurance Corporation
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Re: Call Report, FFIEC 101, and FFIEC 002 Revisions

To Whom it May Concern:

The Bank Policy Institute¹ welcomes the opportunity to comment on the Joint notice and request for comment by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency regarding revisions to the Consolidated Reports of Condition and Income ("Call Reports"), Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework, and the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks.²

¹ The Bank Policy Institute is a nonpartisan public policy, research and advocacy group, representing the nation's leading banks and their customers. Our members include universal banks, regional banks and the major foreign banks doing business in the United States. Collectively, they employ almost 2 million Americans, make nearly half of the nation's small business loans, and are an engine for financial innovation and economic growth.

² 85 Fed. Reg. 74784 (November 23, 2020) (hereafter, the "Joint Notice").

BPI appreciates the agencies considering a number of the recommendations outlined in our letter³ responding to those revisions to the Call Reports proposed in July (“Initial Call Report Proposal”).⁴ However, we believe there are items addressed in the Joint Notice that require further clarification, particularly regarding those revisions to the Call Report related to the Federal Reserve’s Regulation D Interim Final Rule, which remove the numeric limits on monthly transfers and withdrawals from the definition of “savings deposits” (“Regulation D IFR”).⁵ Additionally, our letter highlights other recommendations and areas for clarification in light of the Federal Reserve’s recent proposals related to the FR Y-9C and FR 2886b (“FR Y-9C Proposal”)⁶ and to revise the FR 2900, FR 2910a, FR 2915, FR 2930 (“Reports of Deposits Proposal”).⁷

I. Further clarification is needed regarding the alignment of definitions provided in the Call Report instructions with those contained in Regulation D.

We strongly support the agencies’ removal of a depositor’s eligibility to hold a NOW account from the assessment criteria to determine the treatment of accounts where the reporting institution has suspended enforcement of the six-transfer limit, as recommended in the Initial BPI Call Report Letter.⁸ However, the current entry in the Glossary for “deposits” in the updated proposed draft instructions to the Call Reports, that reflect the modifications made in the Joint Notice, remains unchanged and still explicitly defines “savings deposits” as “nontransaction accounts.”⁹ In an effort to achieve consistency in reporting and to assist with compliance, further clarification is needed with respect to the definitions of transaction accounts, nontransaction accounts, and savings deposits outlined in the Glossary entries in the Call Report instructions and their alignment with, or divergence from, definitions in Regulation D.

³ See the Bank Policy Institute Letter re: Call Report, FFIEC 101, and FFIEC 002 Revisions (September 21, 2020), available at <https://bpi.com/wp-content/uploads/2020/09/BPI-Comment-Letter-re-Call-ReportFFIEC-101-and-FFIEC-002-Revisions-9-21-2020.pdf> (hereafter, the “Initial BPI Call Report Letter”). We understand from the Joint Notice that the agencies are considering allowing the use of electronic signatures on the Call Report on a permanent basis, per our recommendation. We appreciate the agencies’ consideration of this proposal and continue to encourage the use of this practice in reporting on an ongoing basis.

⁴ 85 Fed. Reg. 44361 (July 22, 2020).

⁵ 85 Fed. Reg. 23445 (April 28, 2020).

⁶ 85 Fed. Reg. 63553 (October 8, 2020).

⁷ 85 Fed. Reg. 54577 (September 2, 2020).

⁸ As discussed in our comments responding to the FR Y-9C proposal (hereafter, the “BPI FR Y-9C Letter”), we also recommend that the Federal Reserve remove a depositor’s eligibility to hold a NOW account from the assessment criteria to determine the reporting of savings deposits for which the six-transfer limit has been removed from the FR Y-9C and FR 2886b.

⁹ See Federal Financial Institutions Examination Council, Redlined Draft FFIEC 031 and FFIEC 041 Instructions for Proposed Revisions to the Call Reports with Effective Dates Beginning with the March 31, 2020, Report Date (November 25, 2020) pages 57-61, available at https://www.ffiec.gov/pdf/FFIEC_Forms/FFIEC031_FFIEC041_20201125_i_draft.pdf.

There are existing differences in the definition for “deposits” between Regulation D and the Call Report (e.g., primary obligations, which are not reported as deposits on the Call Reports),¹⁰ that are known and understood by the reporting firms. However, prior to the Regulation D IFR, both Regulation D and the Call Report treated “savings deposits” as “nontransaction accounts.” As a result of these revisions to Regulation D and the Call Report instructions, “savings deposits” are now classified explicitly as nontransaction accounts on the Call Report, while Regulation D would consider such “savings deposits” as transaction accounts. This new difference in the definition of “transaction accounts” between Regulation D and the Call Report requires clarification to allow firms to classify and report the relevant data accurately. For example, the entry in the Glossary of the updated proposed Call Report instructions for “deposits” states that “[u]nder the Federal Reserve's current Regulation D, no transaction account, regardless of its other characteristics, is classified either as a savings deposit or as a time deposit. [...] For all items in the Consolidated Reports of Condition and Income involving time or savings deposits, a strict distinction, based on Regulation D definitions, is to be maintained between transaction accounts and time and savings accounts.”¹¹ This glossary entry does not appear to be fully aligned with those definitions provided in Regulation D, which state that “savings deposits” described in paragraph §204.2(d)(2) are included in the definition of “transaction accounts.”¹² Since “savings deposits” are defined in the Glossary of the Call Report instructions as “nontransaction accounts” and constitute the entire savings deposit category, we therefore request that the agencies confirm that there is a divergence in the instructions to the Call Report from the Regulation D definition of “transaction account.” If there is such a divergence in definitions, we also recommend that the final instructions to the Call Reports be updated to reflect the same.

II. If savings deposits are meant to be classified differently across reports, the “Summary of Legitimate Interseries Differences” should be updated and the required cross-report reconciliation of transaction accounts removed.

As highlighted in the Initial BPI Call Report Letter, the classification of savings deposits as “nontransaction accounts,” as outlined in the updated draft instructions to the Call Reports, is inconsistent with the classification of savings deposits proposed for the FR 2900 in the Reports of Deposits Proposal.¹³ While the definition for “savings deposits” in the proposed draft instructions of the FR 2900 is similar to the definition in the Call Report instructions Glossary, the proposed revisions to the FR 2900, would require firms to report all savings deposits as “transaction accounts” in the new annual item *E.1.a Net Transaction Accounts*. The proposed inclusion of “savings deposits” in the definition of “transaction accounts” in the instructions to the FR 2900 is aligned with the revised Regulation D.¹⁴ The

¹⁰ See Board of the Governors of the Federal Reserve System, Summary of Legitimate Interseries Differences, *available at* https://www.federalreserve.gov/reportforms/legitdifferences/LD_FR2900CB_201808.pdf.

¹¹ Federal Financial Institutions Examination Council, Redlined Draft FFIEC 031 and FFIEC 041 Instructions for Proposed Revisions to the Call Reports with Effective Dates Beginning with the March 31, 2020, Report Date (November 25, 2020) at page 58, *available at* https://www.ffiec.gov/pdf/FFIEC_Forms/FFIEC031_FFIEC041_20201125_i_draft.pdf.

¹² See 12 CFR 204.2(e) *Transaction account*.

¹³ This inconsistency is also outlined in greater detail in the BPI FR Y-9C Comment Letter.

¹⁴ As noted above in Section I, as a result of the Regulation D IFR, Regulation D includes savings deposits in its definition of transaction accounts.

same savings deposits that would be required to be reported as “transaction accounts” on the FR 2900 annual item E.1.a would be reported as “nontransaction accounts” on the Call Report. This difference in classification of savings deposits across reports is not due to changes in the specific characteristics of the savings deposit product itself, but instead is a direct result of the proposed revisions to the FR 2900 and the corresponding instructions.

For current reporting, there is no difference in the classification of savings deposits as transaction or nontransaction accounts between the Call Report, FR Y-9C, and the FR 2900. Further, firms are currently required to reconcile transaction accounts between the Call Report and FR 2900. However, in light of the difference in classification of savings deposits across reports that would be created by the proposed FR 2900 revisions, there would be an increase in burden for firms in completing the required cross-report reconciliation of transaction accounts. While the Joint Notice notes that “the FR 2900 and Call Report serve two separate purposes,”¹⁵ if the agencies intend to create a difference in the classification of savings deposits upon adoption of the Initial Call Report Proposal, the FR Y-9C Proposal, and the Reports of Deposits Proposal, we recommend that the Federal Reserve update its “Summary of Legitimate Interseries Differences”¹⁶ to include this difference in the classification of savings deposits and remove the requirement to reconcile “transaction accounts” across the Call Reports and FR 2900.

III. The option to report savings deposits as NOW accounts in the assessment criteria for determining the treatment of accounts for which the six-transfer limit has been removed should be clarified.

As noted in Section I above, we support the agencies’ modification to eliminate depositor eligibility from the assessment criteria for determining the treatment of savings accounts on which the six-transfer limit has been removed. However, the draft instructions to the Call Reports still define “savings deposits” as “nontransaction accounts.” In determining the treatment of a deposit for which the transfer limit has been removed, the assessment criteria included in the updated draft reporting instructions (as a result of the removal of depositor eligibility to hold a NOW account) would only take into account the reservation of right to require at least seven days’ written notice before an intended withdrawal. Consequently, if the reservation of right is retained and a deposit otherwise meets the definition of “savings deposits” as outlined in the Call Report Glossary, then it is likely that reporting of savings deposits and “nontransaction accounts” on the Call Report, Schedule RC-E would go unchanged for many of the respondent firms, even if the six-transfer limit has been removed.

However, the revised assessment criteria would allow reporting firms that offer NOW accounts the option to report a deposit that meets the definition of a “savings deposit,” and on which the reservation of right to require at least seven days’ written notice before an intended withdrawal has been retained, as a NOW account (and a transaction account).¹⁷ As noted in the Initial BPI Call Report Letter and the BPI FR Y-9C Letter, generally, NOW accounts offered by firms are markedly different from

¹⁵ 85 Fed. Reg. 74784 at 74788.

¹⁶ <https://www.federalreserve.gov/apps/reportforms/auxiliary.aspx?sOoYJ+5BzDbll7g2+r203S0gg6NcUlj6>.

¹⁷ See Federal Financial Institutions Examination Council, Redlined Draft FFIEC 031 and FFIEC 041 Instructions for Proposed Revisions to the Call Reports with Effective Dates Beginning with the March 31, 2020, Report Date (November 25, 2020) at page 93, available at https://www.ffiec.gov/pdf/FFIEC_Forms/FFIEC031_FFIEC041_20201125_i_draft.pdf.

their savings deposits products. If firms choose to utilize this option to report their savings deposits products as NOW accounts, there would be difficulty in making comparisons to prior quarters and inconsistencies in the information collected across the industry, as different firms could take varied approaches to classifying similar deposits. Therefore, we recommend that the agencies further clarify this option to report savings deposits as NOW accounts. Specifically, we recommend that this option in the assessment criteria be revised to state that it is only applicable to institutions that offer NOW accounts and the account offered subsequent to the suspension of the enforcement of the six-transfer limit rule is equivalent to the reporting firm's NOW account offering and is held by eligible depositors as authorized by federal law.¹⁸

IV. The effective dates of reporting revisions related to the implementation of the Regulation D IFR should be consistent across reports and delayed until the second quarter of 2021.

While BPI did not include comments related to the timing of the implementation of the reporting revisions related to the Regulation D IFR in the Initial BPI Call Report Letter, the subsequent proposals related to the treatment of deposits and comparable populations of data related to the FR Y-9C, FR 2886b and the Reports of Deposits, create a misalignment with respect to effective dates. Specifically, the revisions to the Call Reports related to the Regulation D IFR are effective the first quarter of 2021 while the corresponding revisions to the FR Y-9C and FR 2886b, have a proposed effective data as of the December 31, 2020. Additionally, the relevant revisions proposed to the FR 2900 and FR 2915 would take effect with the report as-of dates April 12, 2021, and June 21, 2021, respectively. Varied implementation timelines for similar populations of data can create burden for firms similar to those issues associated with interseries differences across reports as discussed in greater detail in the Initial BPI Call Report Letter, BPI FR Y-9C Letter and BPI's letter responding to the Reports of Deposits Proposal.

Therefore, consistent with the recommendation described in the BPI FR Y-9C Letter, we recommend that the proposed revisions to the Call Reports, FR Y-9C, and FR 2886b resulting from the Regulation D IFR be delayed until the second quarter of 2021, thus better aligning with the proposed effective dates of the corresponding revisions to the FR 2900 and FR 2915. Such a change would align the timing of the revisions to the treatment of deposits across reports, while also giving firms additional time to implement any further changes made by the Federal Reserve and other agencies in light of the various comments received in response to the reporting proposals that have been recently put out for comment, as well as those currently proposed that would require substantial time to implement.

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¹⁸ See 12 CFR 204.130.

The Bank Policy Institute appreciates the opportunity to comment on the Joint Notice. If you have any questions, please contact the undersigned by phone at 646-736-3943 or by email at Alix.Roberts@bpi.com.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Alix Roberts', with a stylized flourish at the end.

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