

Proposal: FR Y-14A/Q/M & FR Y-16 Capital Assessments & Annual Company-Run Stress Testing (#14-07; pub'd 7/15/1

Description: Initial Board review of proposals to extend for three year with revision: (1) FR Y-14A/Q/M, Capital Assessments and Stress Testing; and (2) FR Y-16, Annual Company-Run Stress Test for \$10-50 billion companies.

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Comment ID: 129620

From: Anonymous

Proposal:

Subject: Information Collection Proposals

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Comments:

Date: Sep 15, 2014

Proposal: Agency Information Collection [ICP-201407]

Document ID: ICP-201407

Revision: 1

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Your comment: Mr. Robert deV. Frierson, Esq.

Secretary

Board of Governors of the Federal Reserve System

20th Street &&&& Constitution Avenue, N.W.

Washington, D.C. 20551

Re: Proposed Agency Information Collection Activities; Comment Request notice issued on 7/15/2014 for FRY-14A/Q/M.

Mr. Frierson:

We appreciate the opportunity to comment on the proposed revisions for the Board of Governors of the Federal Reserve System (the "Federal Reserve") to the Instructions and Forms of the Capital Assessments and Stress Testing information collection (including Forms FR Y 14-A, 14-Q and 14-M) which would revise several schedules of the Reports and expand the reporting panel. As currently proposed, these revisions would become effective September 30, 2014 and December 31, 2014, as applicable.

While reviewing the proposed changes with the instructions that were published, we have come across a few questions for which we seek more clarification.

A) Counterpart Credit Risk (CCR) Schedule

With the latest revisions, the reporting frequency for the CCR schedule has been changed from annual to quarterly. In the quarterly instructions, the reporting threshold of \$500Bn in consolidated assets is not included. We are seeking clarification on whether the FRB intends to make the CCR schedule a part of compulsory filing or would the \$500Bn threshold mentioned on FR Y-14A apply to the FR Y-14Q as well.

B) Securities Schedule

As per the latest instructions provided by FRB for the proposed changes, the securities schedule

starting Q3 2014 appears to require reporting securities on the lot level basis as compared to the CUSIP level, as the instructions have changed from &ldquo;Report CUSIP-level data&hellip;&rdquo; to &ldquo;Report individual security-level data&hellip;&rdquo;. Please confirm that lot-level reporting is required. If the reporting is now required at the lot level, the changes from CUSIP level will be a significant challenge for institutions, as management and reporting of the AFS and HTM securities positions is performed at the CUSIP level.

In order to achieve lot-level reporting requirements, it would entail modifications to our respective source systems and reporting processes, which might not be feasible within the given time frame. Currently, we have developed project plans which will satisfy the reporting requirements; however, given the rules are not finalized and the complexity of the requirements, we would request to extend the required deadline in order to develop a complete and comprehensive systemic solution.

#### OTTI Reporting

As per the proposed instructions the OTTI to be reported on the Securities 1 schedule should be cumulative. Does Cumulative mean LTD or YTD? On the Y-9C schedule HI line item 17.c it is reported as YTD. Kindly clarify if this will be reported the same way as in Y-9C.

#### C) Balances Schedule

For purposes of the FRY-14Q Reporting for the Wholesale Corp and CRE schedules, the Utilized/Outstanding Balance of the loans are reported gross of deferred fees and costs. This is different than the FRY-9C Schedule HC-C reporting requirements which are reported net of deferred (unamortized) fees and costs. This difference has been confirmed by the FRB through the FAQs (CORP &ndash; WSL0135; CRE - WSC0066).

For the Wholesale loan balances captured on the Supplemental schedule, they are also being reported gross of deferred fees and costs as the instructions for this schedule per the FRY-14Q Wholesale instructions:

&ldquo;For the purposes of reporting this schedule, the carrying value of an asset is defined as the original cost of the asset less any write-downs associated with depreciation, amortization or impairment costs.&rdquo;

Deferred (unamortized) fees and costs are not included.

For the new Balances schedule, however, the proposed instructions say:

&ldquo;The balances reported here should be consistent with the balances reported on Schedule HC-C of the FR Y-9C for corresponding line items.&rdquo; It then provides an example where the total of specific lines on the Balances schedule is said to equal the corresponding FRY-9C balances.

Should the deferred (unamortized) fees and costs be included in the loans amounts for the Balances Schedule?

#### D) Legal Reserving History of Settled/Closed Legal Events schedule

On the new schedule E.8 Legal Reserving History of Settled/Closed Legal Events, how far back do we need to go so as to report the settled/closed legal events? Given the complexity of the requirements, we would be comfortable reporting no more than seven years.

We would be happy to discuss any questions you have regarding the above.

Kind Regards,



August 21, 2014

Mr. Robert deV. Frierson, Esq.  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street & Constitution Avenue, N.W.  
Washington, D.C. 20551

Re: Proposed Agency Information Collection Activities; Comment Request: Capital Assessments and Stress Testing Information Collection (79 Fed. Reg. 41,276 July 15, 2014 -- OMB control number: 7100-0341)

Mr. Frierson:

The Clearing House Association L.L.C. ("**The Clearing House**"), joined by The Risk Management Association ("**RMA**" and together, the "**Associations**"),<sup>1</sup> appreciate the opportunity to comment on the proposed revisions (the "**Proposal**") by the Board of Governors of the Federal Reserve System (the "**Federal Reserve**") to the Instructions and Forms of the Capital Assessments and Stress Testing information collection (including Forms FR Y 14-A, 14-Q and 14-M; collectively, the "**Reports**") which would revise several schedules of the Reports and expand the reporting panel. As proposed, these revisions would become effective September 30, 2014 and December 31, 2014, as applicable.

The Associations support strong capital planning and stress testing as invaluable tools for increasing the safety and soundness of individual banking institutions and, more generally, enhancing the stability of the financial system as a whole. We recognize that the Reports form an integral part of the Federal Reserve's capital planning and supervisory stress testing process. Nevertheless, we are concerned that, as more fully described below, certain aspects of the Proposal will create serious implementation difficulties, as well as require technical corrections and clarifications, and should therefore be reconsidered.

Part I of this letter sets forth our overarching concerns regarding the Proposal, including as to the proposed timing of the implementation of the changes to the Reports and interaction with the 2014-2015 capital planning and CCAR process, the need to better align changes in the Reports with proposed changes to the Form FR Y-9C<sup>2</sup> and issues with respect to additional reporting of legal reserve information. We also emphasize that there are several important points of clarification and other enhancements to the Reports that need to be resolved before subject banking organizations can

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<sup>1</sup> Descriptions of the Associations are provided in Annex A of this letter.

<sup>2</sup> 79 Fed. Reg. 45, 808 (Aug. 6, 2014).

implement the changes in the Proposal. Finally, this letter is also accompanied by an Annex (Annex B) containing a number of technical corrections we believe should be addressed by the Federal Reserve in the final release of the reporting forms and accompanying instructions.

## **I. Overarching Concerns**

### **A. The Proposed Effective Dates of the Proposal Should Be Postponed to Give Banking Organizations Additional Time to Implement Changes to the Reports and Ensure that They Are Able to Effectively Provide Reliable Data in Accordance with Their Own Internal Control and Governance Processes and the Federal Reserve's Qualitative Expectations.**

The Associations are concerned that the proposed effective date of September 30, 2014 for the majority of the Proposal's revisions does not afford subject banking organizations adequate time to implement these revisions in a manner that comports with their requisite internal control and governance processes. Many of the proposed changes to the Reports are quite granular and will require a great deal of time and manual effort on the part of subject banking organizations to revise their information technology infrastructure, policies, procedures and related systems in order to appropriately capture, categorize and error-check the newly required information.

For example, the Proposal calls for changes to the Counterparty Credit Risk ("CCR") Schedule that both increase the reporting frequency and greatly increase the magnitude of information required to be reported. Specifically, the Proposal would change the reporting frequency of the CCR Schedule from annually to quarterly, and would add a worksheet to collect derivative exposures at a legal-entity netting-agreement level for all Central Clearing Counterparty and G-7 counterparties and the top 25 non-G-7 counterparties, with a breakout of collateral into cash and non-cash and exposures into 14 asset categories (with asset sub-categories added for 30 asset types).

In addition, the Proposal would now require additional detail at the lot level regarding certain securities positions, whereas many banking organizations currently only provide data at the CUSIP level. At many subject banking organizations, positions, total cost basis and risks of a securities portfolio are aggregated and managed at the CUSIP level, and reconciling CUSIP positions by historical transaction lots is therefore not performed. Given these current business processes, readily available transaction-level lot reconciliation is not available (although this "lots" information is retained and available for each CUSIP position, it does not necessarily correspond to the actual historical transactions, because "lot" information is frequently altered by operational processes). Thus, the capability to utilize existing systems to report positions by transactional lots does not currently exist within many banking organizations' existing infrastructure, which does not allow accurate reconciliation on the security holdings at this level. Significant changes to reporting systems with additional time to ensure compliance with internal control and governance processes would be needed to adapt existing reporting processes to accommodate these proposed changes.

The currently proposed implementation dates of September 30, 2014, and December 31, 2014, as applicable, will make it very challenging to implement all of the cumulative changes to banking organizations' information technology infrastructure, policies, procedures and related systems to comply with the Proposal, especially in light of the requisite internal control and governance processes

that are essential elements of the Comprehensive Capital Analysis and Review (“**CCAR**”) exercise and the Federal Reserve’s related qualitative expectations. Moreover, this issue is further exacerbated by the fact that the currently proposed implementation dates overlap with the effective 2014-2015 capital planning and CCAR processes, as well as normal year-end financial reporting and related activities. As the Federal Reserve recently recognized, the capital planning and CCAR processes in and of themselves already occur at a time when banking organizations “are often resource constrained due to other financial reporting requirements.”<sup>3</sup>

We also expect that there will likely be other, more granular clarifications and/or modifications to the Reports that will likely be necessary for proper implementation of the Reports required by the Proposal. It is therefore also likely that the Frequently Asked Questions (“**FAQ**”) process with subject banking organizations also will be needed.<sup>4</sup> As such, allowing time to accommodate this important process for resolving technical and clarification issues in the Proposal further underscores the need for a delayed implementation of the Proposal.

As such and subject to the pending implementation of the proposed revisions to Form FR Y-9C as discussed below, we urge the Federal Reserve to delay the Proposal’s effective date to, at minimum, no earlier than six months after the final rule is published – *i.e.*, after the submission of the required capital plan under 12 CFR § 225.8 for 2015. We respectfully submit that doing so will enhance the quality and robustness of the Reports and of the CCAR process more generally by allowing banking organizations sufficient time to properly implement the many necessary changes to their systems and reporting infrastructure in order to complete the revised Reports.

**B. The Proposed Conforming Changes Based on Recently Proposed Changes to the FR Y-9C Should Be Adopted Simultaneously with the Changes to that Form.**

The Associations appreciate that several of the proposed revisions are intended to better align and increase consistency between the Reports and the FR Y-9C. Since the FR Y-9C Schedule HC-R collects regulatory data on (1) Tier 1, Tier 2 and total capital and regulatory capital ratios and (2) risk-weighted assets, many of its components overlap with elements that are reported on the FR Y-14 forms. The Proposal notes that, based on additional proposed changes to the FR Y-9C, the Federal Reserve may

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<sup>3</sup> Amendments to the Capital Plan and Stress Test Rules, 79 Fed. Reg. 37420, 37421 (July 1, 2014).

<sup>4</sup> More particularly, the reporting frequency and content for the CCR Schedule in the proposed FR Y-14A and 14Q require further clarification, as well as the materiality threshold of the FR Y-14Q. Information required in the second quarter as part of the Mid-year Monitoring Report and on the FR Y-14A during the third quarter appears in the Proposal to now be required on the FR Y-14Q report in addition to these current requirements. This duplication apparently results in reporting the same information a total of six times each year. We recommend (i) eliminating the reporting of this information on the Mid-year Monitoring Report, since this requirement can be fulfilled by the second quarter FR Y-14Q submission, and (ii) eliminating the reporting of this information on the third quarter FR Y-14Q, since this requirement can be fulfilled by the FR Y-14A submission during that quarter. Further, the Investment Securities with Designated Accounting Hedges Template includes the attributes “Effective Portion of Cumulative Gains and Losses” and “Ineffective Portion of Cumulative Gains and Losses”; we believe that the attributes should be based on the current period and or year-to-date gains and losses as they are more closely aligned with performance of the hedge.

need to further modify the Reports to ensure they remain consistent.<sup>5</sup> Indeed, the Federal Reserve proposed changes to Form FR Y-9C<sup>6</sup> on August 6, 2014 – after release of the Proposal – which would, among other things, revise Schedule HC-R, which is referenced in the Proposal’s instructions for completing Tier 1 capital and total capital components.<sup>7</sup> We believe that the changes in the Proposal should be postponed and adopted concurrently with the recently proposed changes to the FR Y-9C, but, as described above, in no event earlier than six months after the final rule is published. Making the relevant parts of the Proposal effective simultaneously with changes to the FR Y-9C will allow banking organizations to avoid the unnecessarily duplicative efforts required to make successive changes to their reporting systems and infrastructure as each report, although inherently linked, is separately modified and then brought into conformity with the other.

C. The Federal Reserve Should Not Adopt the Proposed Changes to the Operational Risk Schedule Requiring Additional Reporting of Litigation Reserve Information.

As the Associations and other industry participants have previously submitted to and discussed with the Federal Reserve,<sup>8</sup> we are particularly concerned that, as a general matter, extensive reporting of litigation reserve-related information to the Federal Reserve has the potential to be very damaging to banking organizations “whenever they are defendants in litigation, irrespective of the merits of the claim, and thus inimical to the safety and soundness of the banking system.”<sup>9</sup> Disclosure (inadvertent or

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<sup>5</sup> Footnote 2 to the Proposal states that “the Federal Reserve may modify the proposed revisions to the FR Y-14 report prior to finalization of this proposal as appropriate and consistent to align with any additional changes being considered to the FR Y-9C report.”

<sup>6</sup> 79 Fed. Reg. 45, 808 (Aug. 6, 2014).

<sup>7</sup> Specifically, the new Capital and Risk-Weighted Asset (“RWA”) Schedules refer to FR Y-9C line items that are no longer completed by advanced-approach bank holding companies, and the instructions for Market RWA in the Advanced RWA worksheet of the FR Y-14A Summary Template refer to the market risk instructions for the General RWA summary worksheet, which requires a different definition of market risk (Basel I versus Basel II). This particular schedule on the FR Y-9C follows the general risk-based capital rules that will be eliminated beginning with the March 31 reporting deadline to conform to the revised regulatory capital rules (78 FR 62018 (Oct. 11, 2013)). Thus, if implementation of the Proposal is not delayed to conform the FR Y-14 schedules accordingly, the fourth quarter FR Y-14 Reports will not be comparable in this aspect to the report of any prior or subsequent reporting period. In line with the Agencies’ intent to revise both the Summary and Regulatory Capital Transitions schedules to be consistent with schedule HC-R of the FR Y-9C, we believe that BHCs should not be required to provide capital projections beyond the 5 percent Tier 1 common ratio required in the capital plan rule (assuming the Federal Reserve does not eliminate the Tier 1 Common ratio requirement for capital planning and stress testing purposes; see, The Clearing House Association L.L.C., *Proposed Amendments to the Capital Plan and Stress Test Rules*, Comment Letter to the U.S. Banking Agencies, Aug 11, 2014). Calculating projections of Tier 1 capital and total capital based on the general risk-based capital rules exclusively for purposes of completing the FR Y-14A creates an additional, unnecessary burden on the BHCs and is inconsistent with their other reporting requirements.

<sup>8</sup> See The Clearing House Association L.L.C., *FR Y-14A/Q/M Capital Plans; Proposed Agency Information*, Comment Letter to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, Aug. 6, 2012.

<sup>9</sup> *Id.*, at 1.

otherwise) would create fundamental unfairness for bank defendants, most clearly in the case of claims by the Federal Reserve itself and claims of other Governmental agencies, but also more broadly. As we have previously discussed with the Federal Reserve, we believe that disclosure of confidential litigation reserve information will threaten the safety and soundness of banking institutions.

Even when reporting of additional information with respect to litigation reserves is done on a confidential basis and taking into account the Federal Reserve's strong record of maintaining confidentiality, the real risk remains that the Federal Reserve may nonetheless "be obligated to, or feel itself to be obligated to, release information to others that have demonstrated less care in protecting confidential bank information."<sup>10</sup> We further note that the Federal Reserve cannot provide assurances to subject banking organizations that it will not provide the confidential litigation reserve information to Congress or other Government authorities, as we have previously noted.

The newly requested information on historical reserves under the Proposal would allow third parties who may obtain access to this information to gain unwarranted insights and understanding of subject banking organizations' reserving practices and related litigation strategies. Such insights could be very easily applied by adverse parties to gain an unfair advantage in current and future controversies involving these banking organizations and would therefore undermine and be extremely detrimental to the banking organization's position in potential settlement negotiations. Potential adverse parties may include, but are not limited to, the Consumer Financial Protection Bureau ("CFPB") and the Federal Reserve itself, if the banking organization is in litigation with, or under investigation by, a government agency. Tracking each subject banking organization's reserving history and terminal outcomes for historical litigation may allow third-party litigation adversaries who obtain such information to reverse engineer the ways in which the banking organization analyzes its own assessments of its vulnerability, thereby virtually destroying the banking organization's ability to defend itself – even in instances in which only historical information is disclosed. In short, once an adversary gains an understanding of the way the bank has historically reserved for various pending litigation matters at different stages in the process and, based on such insight, can arrive at a good estimate of such reserves, the banking organization's ability to argue for damages below the amount of the reserve would be severely compromised in the course of settlement negotiations or otherwise. This situation is even more acute where multiple separate suits and other actions arise out of a related set of circumstances and one particular litigation is settled while other related actions remain open. Accordingly, "a bank that establishes its litigation reserves conscientiously and conservatively would place itself at a serious financial and competitive disadvantage"<sup>11</sup> if the amounts of their historical litigation reserving practices were used to build projections and thereby predict reserves for pending litigation.

In addition, a further significant concern previously raised by The Clearing House arises from the inevitably substantial attorney input into the determination of litigation reserves. Our adversary system requires that rules which govern the information obtainable by each party in adversarial litigation remain even-handed. This is the reason our legal system includes protections for attorney work product. In planning for litigation, it is common to consider its impact both inside and outside the

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<sup>10</sup> *Id.*, at 2.

<sup>11</sup> *Id.*, at 2.



courtroom – *i.e.*, in determining how much should be reserved in the banking organization’s financial statements. The Proposal requires subject banking organizations to report reserve-related decisions made throughout the life of a given legal event, including both initial amounts and subsequent adjustments, and the relative dates of each. Because this information relates in each instance to an actual controversy, the thought processes and materials prepared as a part of the evaluation and planning for litigation reserves should not be required to be provided to potential adversaries. If the possibility or existence of a controversy is the cause for creation of documentation, that documentation and the thought processes behind it are protected as attorney work product. The legal analyses used to determine whether and how much to reserve for litigation contingencies by definition analyze the likely results of anticipated or ongoing litigation. The fact that the information becomes “historical” once a given matter has been concluded does not alter this fact. “The individual reserve figures reveal the mental impressions, thoughts and conclusions of an attorney in evaluating a legal claim.”<sup>12</sup> As discussed above, not only is the historical work product protected by attorney-client privilege, but so also is the analyses underlying the historical practices that may be highly instructive to adverse parties in predicting current and future reserving practices in other, pending, matters. The Proposal therefore threatens to upset this informational balance and the Federal Reserve should remain cautious in seeking such information and infringing upon those rights.

Finally, we note that the Proposal calls for changes to litigation reserves reporting that will greatly increase the level of detail required to be reported. The granularity of the information sought under the Proposal is both operationally difficult for banking organizations to provide and impractical at the requested level of disaggregation. For example, the Operational Risk Schedule would be revised by collecting, for each closed or settled legal event above \$250,000, the (a) date of awareness, (b) date on which a claim was filed, proceedings were instituted, or settlement negotiations began, (c) date of settlement, final or final judgment, (d) cause of action, (e) reserve history and (f) terminal outcome. We are quite concerned with the operational difficulties necessarily involved in collecting and providing this information. For example, the proposed threshold of \$250,000, in combination with the proposed claim-related dates requires disaggregation of data currently tracked, collected and reported at a much higher level of aggregation and typically as a single, consolidated line item. Requiring dates, *i.e.*, “date of awareness” of a claim, which refers to the date on which the organization became aware of the legal or regulatory matter, asks banking organizations to begin reporting items not currently tracked. This granular data will be both ambiguous and impractical to provide.

Given the many substantive and practical concerns inherent in reporting the information sought under the Proposal for litigation reserves, The Clearing House urges that the Federal Reserve not adopt the Proposal as it concerns litigation reserves reported on the Operational Risk Schedule.

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The Associations appreciate the opportunity to provide comments on the Proposed Rule. We greatly appreciate your consideration of our comments and would welcome the opportunity to discuss them further with you at your convenience. If we can facilitate arranging for those discussions, or if you

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<sup>12</sup> *Simon v. G.D. Searle & Co.*, 816 F.2d 397, 401 (8th Cir. 1987).

have any questions or need further information, please contact David Wagner at (212) 613-9883 (email: [david.wagner@theclearinghouse.org](mailto:david.wagner@theclearinghouse.org)) Ed DeMarco at (215) 446-4052 (email: [edemarco@rmahq.org](mailto:edemarco@rmahq.org)) or Ryan Pozin at (212) 613-0135 (email: [ryan.pozin@theclearinghouse.org](mailto:ryan.pozin@theclearinghouse.org)).

Respectfully Submitted,



David Wagner  
Executive Managing Director and Head of  
Finance Affairs  
*The Clearing House Association L.L.C.*



Edward DeMarco, Jr.  
General Counsel and Director of Operational  
Risk & Regulatory Relations/Communications  
*The Risk Management Association*

cc: The Honorable Daniel K. Tarullo  
*Board of Governors of the Federal Reserve System*

The Honorable Thomas J. Curry  
*Office of the Comptroller of the Currency*  
The Honorable Martin J. Gruenberg  
*Federal Deposit Insurance Corporation*

The Honorable Mary Miller  
*Department of the Treasury*

The Honorable Sarah Bloom Raskin  
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Michael Gibson  
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Mark E. Van Der Weide  
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*Federal Reserve Bank of New York*

Andrew Gladin  
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Sarah Flowers  
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Ryan Pozin  
*The Clearing House*

## ANNEX A

The Clearing House. Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world's largest commercial banks, which hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing – through regulatory comment letters, amicus briefs and white papers – the interests of its owner banks on a variety of important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily which represents nearly half of the automated clearing-house, funds transfer, and check-image payments made in the United States. See The Clearing House's web page at [www.theclearinghouse.org](http://www.theclearinghouse.org).

RMA. RMA is a 501(c)(6) not for-profit, member-driven professional association whose sole purpose is to advance the use of sound risk principles in the financial services industry. RMA helps its members use sound risk principles to improve institutional performance and financial stability and enhance the risk competency of individuals through information, education, peer-sharing and networking. RMA has 2,600 institutional members that include banks of all sizes as well as nonbank financial institutions. They are represented in the Association by more than 16,000 risk management professionals who are chapter members in financial centers throughout North America, Europe, and Asia/Pacific.

### Technical Corrections and Enhancements

In addition to the foregoing overarching issues and clarifying questions, we also submit the following suggestions for technical corrections and amendments to the Reports set forth in the Proposal:

#### FR Y-14A Summary Template

Some formulas for totals and ratios have been removed throughout the worksheets to the Reports but not in a consistent manner – bank holding companies (“BHCs”) are likely expected to include formulas themselves.

##### A. Balance Sheet Worksheet

- Item 110 (excel row 126): #REF! error;
- Inconsistent instruction: Worksheet states that when a “supervisory baseline scenario” is selected on the cover sheet, the Balance Sheet Worksheet should tie to “Capital – DFAST” Worksheet; however, other guidance from July 2014 instructs filers to tie Summary Schedule Worksheets to “Capital – CCAR” Worksheet.<sup>13</sup>

##### B. General RWA

- Cell A1 (the title of the worksheet): #REF! error.

##### C. Standardized RWA

- Cell A1 (the title of the worksheet): #REF! error;
- Item 6: shaded and locked cells with no formulas;
- Formula error: Item 22 “RWA for Derivatives and off-balance sheet asset categories” includes “RWA for Balance Sheet Asset categories” (on balance sheet);
- Formula error: Instructions for Item 40 as the sum of 9a, 9b, 10, 24 and 26 is incorrect. Formula should be sum of 11, 22 and 39;
- Line item 9d (All other on-balance sheet securitization exposures) from the Proposed Revised Call Report Schedule RC-R Part II instructions is missing from the FR Y-14A template;
- Part II of schedule RC-R contains line item 10 (off-balance sheet securitization exposures) and is clear in its instructions that derivatives and off-balance sheet items in line items 12 through 21 should exclude securitizations. The Y-14A template does not have a line item for off-balance sheet securitization exposures and does not contain the instructions that derivatives and off-balance sheet items in line items 12 through 21 should exclude securitizations. In an effort to

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<sup>13</sup> All previous FAQ responses should be incorporated into the final instructions/templates.

## ANNEX B

synchronize the Y-14A template with schedule HC-R of the FR Y-9C (or RC-R of FFIEC 031 and 041), the Agencies should add an additional line item in the Y-14A template for off-balance sheet securitization exposures and note that they should be excluded from line items 12 through 21, consistent with the RC-R.

### D. Advanced RWA

- Numbering in instructions does not match the numbering on the template (*e.g.* Total RWA is listed as line item 81 in the instructions and 88 on the template).

### E. Capital (CCAR and DFAST)

- Formula error: Item 87: formula adds Tier 1 capital to Tier 2 capital for advanced approaches BHCs that exited parallel run – if BHCs do not fill out parallel run items, there won't be any Tier 2, but the Tier 1 amount will still be reflected, understating total capital (also item 116). A statement to show 0 if Tier 2 items are 0 should be added;
- Line item 117 (Total risk-weighted assets using the general risk-based capital rules) states that "this item is derived from the FR Y-14a, Standardized RWA worksheet item 49." The instructions should be modified to reference the appropriate line item from the General RWA worksheet, as opposed to the Standardized RWA worksheet.
- Line item 118 (Total risk-weighted assets using standardized approach) should be corrected to reference the appropriate line item on the Standardized RWA worksheet, as opposed to the General RWA worksheet;
- Line item 121 (Tier 1 Common ratio (based upon generally applicable risk weighted assets)) and line item 122 (Common Equity Tier 1 ratio) both reference line item 117 (RWA using the general risk-based capital rules; reflective of Tier 1 Common capital deductions and adjustments). In 2014, the denominator of the Common Equity Tier 1 ratio reported on line item 122 should be RWA using the general risk-based capital rules, reflective of Common Equity Tier 1 (revised risk-based) capital deductions and adjustments;
- Items 124 and 126 (Tier 1 capital and total capital) do not specify whether to use general or revised risk based rules (Instructions say either-or);
- Item 148: Formula but no instructions are provided.

### F. Trading Worksheet

- Cell G14 (CVA Hedges Total for Cross-Asset Terms) should be outlined to indicate that it is a reported item.

## **FR Y-14A Regulatory Capital Transitions Template**

### A. Capital Composition

- Accumulated other comprehensive income ("AOCI") in items 10-14 has to be zeroed out to pass data completeness check even if AOCI opt out election is chosen.

## ANNEX B

### B. Planned Actions

- Dropdowns for Action type, Exposure type and RWA type do not work;
- Excel Row 109 – “Reported changes from prior period” takes difference between current quarter and prior quarter; the formulas for the cells for “Total Assets for Leverage Ratio” (cell J109) and “Total Leverage Exposure for Supplementary Ratio” (cell K109) contain #REF! errors.



FINANCIAL  
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Building Success. Together.

September 15, 2014

Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Comments on FR Y-14A, FR Y-14Q, and FR Y-14M

Dear Mr. Frierson:

The Financial Services Roundtable (the Roundtable)<sup>1</sup> and the American Bankers Association (ABA)<sup>2</sup> (collectively the Associations) appreciate the opportunity to submit these comments on the Federal Reserve Board's (the Board) proposed changes to the FR Y-14A, FR Y-14Q, and FR Y-14M.

This comment letter is divided into three parts, and it also includes four appendices with more detailed comments and background information to improve the overall reporting process.

In Part I, we propose nine guiding principles to govern regulatory reporting requirements. As regulatory reporting requirements become more complex, we believe that the adherence to some basic guiding principles would benefit both reporting companies and the Board. Such principles would provide a framework for the reporting process that minimizes confusion and facilitates the submission of reliable, quality data.

In Part II, we make five general recommendations for improving the overall FR Y-14 data reporting process. These recommendations are an outgrowth of a productive and ongoing dialogue that has occurred between members of the Associations and Board staff during the course of the past two years, which was initiated by former Governor Elizabeth Duke. That dialogue already has resulted in several improvements to the reporting process, which have been

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<sup>1</sup> As *advocates for a strong financial future*<sup>TM</sup>, FSR represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. FSR member companies provide fuel for America's economic engine, accounting directly for \$98.4 trillion in managed assets, \$1.1 trillion in revenue, and 2.4 million jobs.

<sup>2</sup> The American Bankers Association is the voice of the nation's \$15 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard \$11 trillion in deposits and more than \$8 trillion in loans.

beneficial, but additional actions are needed to improve the process further for both reporting companies and the Board to ensure quality data to support prudent risk management.

In Part III, we offer several general background comments on the changes proposed by the Board to help set the context for many of our specific comments in Appendices 1, 2 and 3. For example, in light of the tight timeframe between the close of the comment period and the effective date for implementation, we recommend that the proposed changes be postponed and adopted concurrently with changes to the FR Y-9C report being considered, but in no event should they be effective earlier than the first quarter of 2015. Additionally, we strongly recommend that the Board eliminate any requirement for reporting companies to disclose legal reserves for pending and probable litigation claims. The disclosure of this information, either inadvertently or in response to some formal proceeding, would be highly damaging to a reporting company.

Appendices 1, 2 and 3 contain our detailed comments and questions on the proposed changes to the FR Y-14 schedules and instructions. Appendix 1 contains our comments on FR Y-14A, Appendix 2 contains our comments on FR Y-14Q, and Appendix 3 contains our comments on FR Y-14M.

Appendix 4, “Discussion Guide for FR Y-14 Data Submissions,” which is dated April 2, 2014 and which previously has been provided to Board staff as part of our ongoing dialogue, provides further background on the basis for the recommendations made in Part II of this submission.

## **I. Proposed Guiding Principles to Govern Regulatory Reporting Requirements**

The Associations believe that both the Board and reporting companies would benefit if the Board developed and then adopted a set of guiding principles to govern regulatory reporting requirements going forward. Reliable, quality financial data are critical for prudent risk management at reporting companies and for the Board’s supervisory functions. A set of guiding principles could help ensure that submitted data meet appropriate standards for reliability and quality. The guiding principles we propose are as follows:

**Ongoing Dialogue** – Reported financial data and their continuing development should be the subject of ongoing and open discussions between reporting companies and the Board on a regular basis (e.g., at least quarterly) to review both current and future reporting requirements. The Board should consider creating a formal advisory committee of reporting companies’ technical experts to meet at least quarterly with the Board and staff to discuss ongoing data issues of mutual concern;

**Open Communications** – Communications between the Board and reporting companies should be open in both directions, with appropriate requirements to protect confidential information. Responses to questions for interpretations, clarifications, and explanation of data filing requirements set by the Board should be both timely and comprehensive, with questions answered in an efficient and complete manner well in advance of filing deadlines to ensure data quality;

Timing of Changes – Changes to any data filing requirements should be effective no sooner than six months after approval by the Board to ensure high data quality and minimize the potential for operational risk based on frequent data change requirements and too-short conformance requirements. Sudden and/or quick reporting requirement changes can undercut the objective of new reporting instructions and should be avoided, consistent with guidance contained in BCBS 239, Principles for Effective Risk Data Aggregation and Risk Reporting (January 2013);

Prioritization – Data requirements should be prioritized based on risk needs and subject to a rigorous cost-benefit analysis by the Board before changes to reporting schedules are introduced and implemented;

Confidentiality – Data submitted should be treated as confidential supervisory information and not subject to disclosure to any third parties;

Public Comment – Changes to both formal instructions and technical instructions should be combined into a single, combined notice of proposed rulemaking, and that notice should be subject to formal public comment and approval by the Board before any changes are required;

Industry Suggestions – In some cases, reporting companies may have suggestions for calculating or presenting data based on their familiarity with underlying data systems, risk management practices or specific products. In these cases, we believe that the Board should consider incorporating reporting companies' technical suggestions, which would reduce operational burdens, allow for greater reliance on existing systems and potentially improve overall data management and analysis. The Board might consider implementing this recommendation by providing reporting companies with an opportunity to submit alternative data reporting templates; and

Exemptions – The Board should consider, and approve where appropriate, individual company requests for exemptions from reporting some items or some schedules based on the business lines and balance sheets of the reporting company.

Coordination – The Board should coordinate with other federal banking agencies to standardize file formats for data submissions across the banking agencies.

## **II. Recommendations for Improving the FR Y-14 Process**

Members of the Associations and Board staff have held several meetings during the past two years to discuss a variety of themes and issues related to the FR Y-14 data submission process. In the course of those meetings, member companies have developed several recommendations for improving the data collection and review process in order to enhance the quality and utility of the data submissions. Some of those recommendations already have been implemented by the Board. Additional recommendations are summarized below. “Discussion Guide for FR Y-14 Data Submissions” (Appendix 4), which is dated April 2, 2014, and which



previously has been provided to Board staff, provides further background on the basis for the general recommendations made in Part II of this submission to enhance the overall reporting process.

#### A. Timing and Timelines

The Board and reporting companies have a common interest in ensuring that data submitted are accurate and usable. To achieve this goal, the Associations believe that one of the most important adjustments the Board could make to the current process is to establish an agreed upon timeline for change requests to allow reporting companies adequate time to update coding, mapping, validation, and reporting structures. More specifically, we recommend that changes not be effective prior to six months from issuance of a final rule, and longer time periods may be necessary if changes affect multiple or complex fields, similar to instruction changes for the Y-9C submission. Such transitional arrangements are necessary in light of the considerable complexity introduced by many of the new changes in the reporting fields, particularly those related to securities financing transactions (SFTs) and derivatives, which in some cases involve unprecedented requests for granular information, and may even go so far as requiring firms to de-construct and re-aggregate data in a manner that disregards legally enforceable netting sets.

The accuracy of data submissions is enhanced when reporting companies are able to establish governance structures and software systems for capturing, reviewing, validating, and reporting the data. Conversely, the accuracy of data submissions can be jeopardized when companies are required to submit data without sufficient lead time to make appropriate adjustments to systems, protocols, and procedures. In such cases, companies must develop short-term “work-arounds” to existing systems or collect the data manually, which pose problems for operational risk management and can impair the integrity of the data. Also, sudden and/or quick reporting requirement changes may be inconsistent with supervisory guidance BCBS 239, Principles for Effective Risk Data Aggregation and Risk Reporting (January 2013). A minimum period of six months between the issuance of a final rule and the effective date of the proposed changes would avoid this problem and improve the quality of the data received by the Board while reducing the potential for inadvertent and unintentional filing problems that may result.

Additionally, we recommend that the Board establish a timeline for resolution of inquiries submitted to the Board, and provide adequate time for all reporting companies to incorporate acquisition data into current portfolios and reporting structures (one year is recommended) to allow for the submission of more accurate and consistent reporting.

#### B. Communications between the Board and Reporting Companies

Data quality is enhanced when reporting companies have a clear and consistent understanding of what is expected of them. Accordingly, the Associations recommend the Board make the following improvements to communications between the Board and reporting companies with respect to the FR Y-14 submissions:

Forum – Continue open, ongoing forums and timely communications with designated representatives from the Board to discuss data reporting issues of mutual concern,

including clarifying questions regarding FAQs or instructions on a real-time basis (all filing companies invited to attend);

FAQs – Modify the FAQ process to notify affected companies when newly issued FAQs or amended FAQs are published. While the modified FAQ process gives reporting companies a “human touch” when preparing and submitting FAQs, the potential for reporting companies to obtain valuable feedback generated by other organizations that was available in the previously more frequently distributed FAQ document has been removed. More frequent consolidated FAQ distributions, perhaps bi-weekly, would be helpful;

FAQs and Instructions – Modify the current FAQ process by ensuring that FAQs are incorporated into final instructions. Also, the Board should publish any applicable FAQs in a central location (e.g., FRB website);

Reference Material – Include the version and/or release date for each FR Y-14 instruction document so that reporting companies and the Board can reference a specific version of instructions when communicating with each other; and

Edit Checks – Enhance the distribution of redlined edit check definitions and instructions to include a summary of changes. The edit check change process has been improved over the past year, but there still are inconsistencies across schedules with regard to how new, modified, deleted, and archived edit checks are indicated.

### C. Notifications to Reporting Companies

In the past year, the Board has made several notable improvements to its notification procedures to reporting companies, including new alerts through subscription emails and an improved website, both of which are beneficial. The Associations recommend that the Board take the following further actions to provide reporting companies with even better and more timely notification of changes to the FR Y-14 reporting requirements:

Early Warning System – Develop a master calendar with an early warning system to advise and alert reporting companies to possible changes that may be months away, but which will still take time and resources to implement. A public master calendar for reporting requirements over a two-to-three year horizon, with appropriate industry consultation, would benefit both the Board and reporting companies. Changes could be discussed informally in advance with the industry and then made as needed based on appropriate timelines described above. Even if alerts about potential changes were preliminary and nonbinding, it would help to alert the companies to these potential changes well in advance of final reporting changes and address them through a public comment process. This change would also help create more frequent and an even better dialogue between the reporting companies and the Board in advance of any new announcements or changes to existing forms and instructions, with a goal of achieving better outcomes for both the Board and reporting companies;

FAQ Timeliness and Transparency – Establish a more responsive and timely tracking system for FAQs, so reporting companies can submit reports and schedules in an efficient way that does not create additional potential risks when tight-deadlines are imposed for changes and when answers are not clear or do not address the particular question raised. The acknowledgment of receipt of an FAQ question with an approximate response time would be a helpful start. Also, it would be helpful to have a dedicated email address for confidential questions that arise for individual reporting companies; and

Central Contact Information List – Update the contact information to enhance better two-way communications between the various Board divisions and the individual experts in charge of the various reports at the reporting companies.

#### D. File Formats

The Associations recommend that the Board make the following adjustments to the file formats used in the FR Y-14 submissions:

Single Format – Adopt a single file format to be used through all FR Y-14 and other Board requested data submissions; this appears to be occurring with the continued shift to XML, but more work to make the process fully consistent is needed;

XML Templates – For schedules previously submitted in Excel format (.XLSX) prior to conversion to XML, provide submission templates in the Excel format which have been pre-mapped for XML conversion and are valid according to the required schema file (.XSD). The XML templates should also provide facilities for importing, exporting and validating XML data against the schema.

While the sample XML files already provided are useful for understanding the layout and structure of the XML data and for performing edit checks, they are significantly different from the reporting view (reporting layout) of the former Excel files. As a result, they are not conducive to management reviews because of the codification of collection elements (See for example, schedules FR Y-14A Summary and FR Y-14Q PPNR). Using the non-reporting views of the sample XML files, it is particularly difficult to validate the XML data and to determine if an accurate conversion (Excel to XML) has taken place.

Data Dictionary – Establish an FR Y-14 data dictionary that leverages industry standards (e.g., MISMO/FHA). This also appears to be occurring with the introduction of the 14A XML MDRM. However, the consolidation of how schedule data points are referenced needs to be considered (e.g., 14A Summary Schedule MDRM vs. 14A PPNR technical codes vs. 14A PPNR line item codes vs. 14A Retail schedule column names); and

Coordination – Collaborate and coordinate with other federal banking agencies to determine standardized file formats for data submissions across the banking agencies.

#### E. Edit Checks

As part of the on-going dialogue with Board staff over the FR Y-14 reporting process, members of the Associations have asked Board staff to review and reconsider over 150 edit checks related to the FR Y-14 data submissions. Based upon that experience, the Associations recommend that the Board implement the following additional changes with respect to edit checks to make the process more effective:

Prior Review – Establish an ongoing process to discuss changes and additions to data elements prior to releasing formally, in order to obtain feedback from reporting companies on feasibility and decrease the probability for continuing but unnecessary edit check issues;

Updates – Update edit checks to be consistent with requirements per the most updated instructions/FAQs and remove invalid edit checks where business justifications have been identified;

Tolerance and Optionality – Add a generic response section and/or change tolerance/optionality levels/acceptable data responses to mitigate subsequent questions and follow up from the Board; for example, fee-based products do not have an interest rate;

Historical Data – Limit the requirement for providing historical data on acquired portfolios to data available in the acquired portfolio (maximum of five years prior to the acquisition date); and

Testing – When schedules are introduced or changed, the test phase should include the execution of the edit rules by the Board and sharing of results with reporting companies; this should greatly improve the data quality on the inaugural filings through proactive development versus reactive troubleshooting. Currently, the test phase only covers the ability to upload the file on the Board side and does not include any verification or compliance with edit rules. Given the complexity and size of the 14A Summary Schedule submission, there is concern about filed edit check resolution with the inaugural filing of the 14A XML in January. This will be taxing on resources in January as it overlaps with (1) the “post-submission” qualitative review by the regulators that is a key component of the CCAR exam (this lands in Jan/Feb) and/or (2) year-end regulatory reporting activity (e.g., Annual reports, Y-9C, 14M/Q, etc.).

### **III. General Comments on Proposed Changes**

The Associations have several general concerns about the proposed changes:

#### A. Effective Date for Proposed Changes

The current proposal highlights the need to expand the time period between proposed changes and the effective date for the changes. Most of the changes in the current proposal are

scheduled to be effective two weeks after the close of the public comment period on the changes. This is an unrealistic timeline for both industry and the Board. A two-week turnaround time only increases the chance for creating unnecessary operational risk issues that will work to erode the quality of the data as a direct result. Additionally, the proposed effective date does not give reporting companies sufficient time to make the systems and procedural changes needed to report the required data properly. Moreover, two weeks is an insufficient period of time for the Board to consider fully the detailed public comments on both the policy and technical issues raised by the proposed changes and then make the necessary modifications to the proposed changes based upon a comprehensive and methodical consideration of those comments.

Furthermore, while several of the proposed revisions would better align and increase consistency between the FR Y-14 A/Q/M and FR Y-9C, the changes intended to conform the FR Y-14 A/Q/M to FR Y-9C are based on modifications to the FR Y-9C currently being considered, but which are not yet proposed. For example, several of the Regulatory Capital Transitions Schedule definitions and worksheets would be modified to align with changes the Federal Reserve is considering to the FR Y-9C. Moreover, based on additional changes being considered for the FR Y-9C by the Board, the Proposal notes that the Federal Reserve may have to further modify the FR Y-14 A/Q/M further to ensure they remain consistent.

Therefore, we recommend that the changes in the Proposal be postponed and adopted concurrently with changes to the FR Y-9C report being considered, but, as described above, in no event earlier than the first quarter of 2015. Making the relevant parts of the Proposal effective simultaneously with changes to FR Y-9C will allow banks to avoid the duplicative and burdensome efforts required to make successive changes to their reporting systems and infrastructure since each report, although inherently linked, is separately modified and then brought into conformance with the other. Such a change would also result in a better outcome for the Federal Reserve as a result.

## **B. Reporting of Litigation Reserves**

The newly requested data in the operational risk schedule related to legal reserves is highly problematic on both policy and operational grounds. As a policy matter, this information is extremely sensitive and the release of the information (advertently or not) would be extremely prejudicial to a reporting company. Legal reserves are both privileged and highly confidential. The disclosure of this information could compromise on-going litigation strategies as it would both inform opposing parties of how banks weigh the strengths/weaknesses of the subject claims and establish a floor for plaintiffs' settlement demands on those claims. Opposing parties also could seek to introduce the data on reserves as evidence in the litigation in an effort to demonstrate an admission of liability or to set the amount of damages. In addition, providing historical legal reserves and settlement history would provide more transparency into each bank's overall legal reserve practice and strategy. Legal reserves for litigation claims are established by banks in consultation with their legal counsel and often, if not always, entail the exercise of significant professional judgment by experienced legal counsel in weighing the relative strengths of claims and defenses in light of existing law and factual developments. Additionally, as an operational matter, the granularity of the data sought is difficult to provide

and impractical at the requested level of disaggregation. We strongly recommend that the Board not require reporting banks to disclose this information.

#### C. Expansion of Reporting Panel for FR Y-14 Reports

The Board has proposed to add bank holding companies that have relied upon Supervisory Letter SR 01-01 (“SR 01-01 institutions”) to the group of FR Y-14 reporting companies. These bank holding companies, however, currently are not subject to capital planning and stress testing requirements that are the supervisory basis for the FR Y-14 data submissions.<sup>3</sup> Accordingly, the Associations recommend that the Board delay the application of these reporting requirements for such companies unless the companies are subject to the capital planning and stress testing rules. The timing, operational readiness, and operational risk considerations discussed above in Part II.A and Part III.A of this letter further support the Associations’ recommendation regarding delaying these reporting requirements for SR 01-01 institutions.

#### D. Unclear Instructions

Throughout the instructions, we found areas where further clarification is needed. For example: (1) on the SFT worksheet in the counterparty template, some of proposed requirements are unclear (“WWR” is not defined; the requirement for master netting agreement is confusing since all counterparties may not have this type of agreement; and the need for the legal enforceability requirement is unclear if we consider all netting contracts to be legally enforceable); (2) there are inconsistent or incorrect formulas and Y-9C references in the instructions (specifically on the Income Statement and Capital worksheets); (3) line item references in the instructions for the Capital – CCAR and Capital – DFAST worksheets do not refer to correct line items on the 14A template; and (4) for certain line items, instructions may be generally clear for the 14As, but the same line items in the 14Qs are less clear, or not updated; this creates confusion and ambiguity from a practitioner's perspective and will likely result in several rounds of FAQs. Where appropriate, we have included suggested changes to the instructions for the Board’s consideration to further clarify their intent and facilitate their effective implementation.

#### E. Level of Granularity

Most of the proposed templates require data inputs at a higher level of granularity than has been required in the past. Given that reporting companies are expected to adopt these changes for the upcoming CCAR cycle, we are concerned with maintaining data integrity in such a tight turnaround time.

For example, the proposal calls for changes to the Counterparty Credit Risk (“CCR”) Schedule that greatly increase the magnitude of information required to be reported. Specifically, the Proposal adds the SFT exposure worksheet to collect exposures at a legal-entity netting-

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<sup>3</sup> In proposed amendments to the Board’s capital planning and stress testing rules published on July 1, 2014, the Board has proposed that bank holding companies that rely on SR Letter 01-01 not be subject to the rules until January 1, 2016. 79 Fed. Reg. 37430 (July 1, 2014).

agreement level for all Central Clearing Counterparty and G-7 counterparties and the top 25 non-G-7 counterparties, with a breakout of collateral into cash and non-cash and exposures into 14 asset categories (with asset sub-categories added for 30 asset types). Such changes are estimated to increase the number of reported data points from roughly 650 to more than 31,000, a 49x increase. This increase in reported data points represents a greater level of granularity and a significantly higher verification and attestation effort. As such, we urge the Federal Reserve to consider the marginal utility of the additional data granularity and increased reporting frequency as compared to the investment and oversight that will need to be diverted for ongoing production and validation.

#### F. Pace of Change

Reporting companies not only have to adopt the proposed template changes on September 30, 2014, but also have to submit XML-formatted templates for CCAR 2015. The XML instructions have not yet been released to the reporting companies reflecting the proposed template changes. The Board should consider pushing the XML template requirement or proposed 14A/14Q template changes to a later date to ensure that high quality data is reported.

#### G. Technical Instructions

The Board currently publishes official instructions for the FR Y-14 reports on its website for public viewing. Changes to these instructions require a formal comment period allowing each institution to comment on changes, including requesting additional clarification on instructions to assist the Board in improving data collection and integrity before the instructions are considered final. Unfortunately, technical instructions (instructions guiding how to complete the output of each schedule and edit validations that must occur prior to submission) are not included in this publication nor are they subject to formal public comment. Past changes to these technical instructions, at times just weeks before a filing deadline, have contributed significantly and unnecessarily to the cost and burden of creating FR Y-14 submissions and increase the potential for data integrity issues that are inadvertent and unintended.

When considering all changes made to the FR Y-14A/Q/M since its inception in September 2011, many institutions estimate that the time needed to accommodate changes to technical instructions account for 90% of the total work and time required to ensure that FR Y-14 submissions are valid and in the appropriate format. Additionally, it is common for the Board to make changes to these technical instructions only weeks before the submission due date, thereby causing institutions to develop ad-hoc and manual processes to accommodate such changes outside of a controlled development process, which in turn increase the potential unnecessarily for unwanted operational risk issues through no fault of the reporting company making a good faith effort to comply with the changes. The Board should combine the published formal instructions and technical instructions into a single document with a formal comment period for any and all changes.

We believe that the instruction process could be improved by (i) incorporating the XML format into the instructions (the FRY -14A reporting instructions are based on the old Excel format, not the XML format); and (ii) giving MDRM codes to new items in the instructions, so

reporting companies can start working on technical implementation of templates during the public comment period.

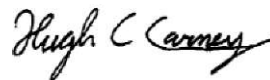
#### H. Privacy of Data

We have a continuing concern about data privacy. Competing concerns must be weighted in any data collection: does the specificity of the data collected for supervisory purposes jeopardize the privacy of the individuals about whom the data speak? In addition to determining whether any data collected are necessary and suitable to the supervisory purpose, the agencies must consider whether the risk of damage to individuals' privacy is also merited. In the FR Y-14 data collection we believe there are many instances where this risk outweighs the supervisory benefit. The collection of financials and tax IDs of corporate loan clients is just one example. Reporting companies need to disclose this to their customer base and could have negative impacts on contracts and availability of data. Also, requests for mortgage facility addresses appear to violate portions of the Bank Secrecy Act. We urge the Board to consider carefully privacy concerns and existing legal protections for certain data items in data collections.

Thank you for considering the concerns raised in this letter. We appreciate the opportunity to share our views. If you have any questions, please contact Rich Foster of FSR at (202) 589-2424 or Hugh Carney of the ABA at (202) 663-5324.



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## Appendix 1

Appendix 1 contains our detailed technical comments and questions for FR Y-14A.

<b>Comments and Questions on FR Y-14A</b>		
<b>Schedule</b>	<b>Worksheet</b>	<b>Comment / Questions</b>
Instructions		1. In the proposed FR Y-14A instructions (p 227), it states: "Supporting documentation for a given model should be submitted at the same time as the loss estimates derived from that model. For example, Trading IDR supporting documentation should be submitted along with the Trading piece of the FR_Y-14A schedule in December, rather than in January with the rest of the FR_Y-14A_CCR submission." However, the table on page 9 indicates that the 'Submission Date to Federal Reserve' for annual schedules is January 5th. Please clarify if additional FR Y-14A schedules and related supporting documentation is now required in December.
Summary	RWA Reporting Across Regimes	2. Can the FRB clarify whether BHCs are expected to report the same market risk on all three RWA tabs, as is indicated by the same Y9-C reference on all three tabs? We do not believe that market risk RWA can be the same across all three tabs due to differences in the calculations for items such as market risk securitization RWA across Basel 1, Basel 3 Advanced and Basel 3 Standardized.
	General RWA	1. Will BHCs be required to populate this template beyond 4Q 2014 for CCAR, even though they will no longer be required to report RWA based on the general rules on the Y9-C starting in 1Q 2015?  2. For the General RWA tab, can the FRB clarify whether BHCs are expected to report market risk consistent with the FRB FAQ SUM0075, which indicates that credit valuation adjustment (CVA) hedges should be included in market risk RWA; OR consistent with the Y9-C reporting, where credit valuation adjustment (CVA) hedges are excluded in market risk RWA?
	Standardized RWA	1. For Item 5c – Past due exposures: can the FRB confirm whether BHCs should report “past due exposures on residential mortgage” in Item 5a-Residential mortgage exposures or in Item 5d-All other exposures?

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>2. Line item 6 LESS: Allowance for loan and lease losses (ALLL) Item is shaded but does not contain a formula.</p> <p>3. Regarding line item 10 “trading assets that are securitization exposures that receive standardized charges,” can you clarify the term “trading assets”? An interpretation can represent securitization RWAs related to positions recorded within schedule HC-D on the Y9C (Y9C definition), OR securitization RWAs related to the counterparty credit risk on covered positions/ trading assets (regulatory definition) or some other definition?</p> <p>4. Line item 15 Trading assets (excluding securitizations that receive standardized charges) and 10 Trading assets that are securitization exposures that receive standardized charges: Can the FRB please confirm what should be included in this item? Should Firms be including only banking book assets?</p> <p>5. For Items 17, 18, &amp; 19 – Securitization exposures: Held-to-maturity and Securitization exposures: Available-for-sale: can the FRB clarify whether these two line items are comprehensive of all of the banking book securitization portfolio; for example, should the derivatives and credit hybrids population of securitization be included in these two items?</p> <p>6. For item 20 – Over the counter derivatives &amp; Item 21 – Centrally cleared derivatives:</p> <ol style="list-style-type: none"> <li>Could the FRB clarify whether BHCs are required to report credit equivalent amounts, instead of RWA? By reporting the credit equivalent amounts, we believe that the total RWA reported in Item 22 will be overstated.</li> <li>Could the FRB ensure that the instructions to “include the derivatives contracts that are subject to market risk capital rules” in this section</li> </ol>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>will not create a double count with the market risk section (Items 24-39)?</p> <p>c. Are BHCs expected to include Future and Options products in this section?</p> <p>d. For Item 20, can the FRB clarify whether “Over-the-counter derivatives” include both Bilateral and Client Facing Cleared transactions?</p> <p>e. For Item 21, can the FRB clarify the population included in “Centrally cleared derivatives”, e.g. 1)House-CCP, 2)Principal-CCP, 3)Agent-CCP, 4)Client Facing Cleared transactions (if not included in Item 20)</p> <p>7. Are BHCs expected to report Futures and Options in Items 44, 45 and 47? If yes, for Items 45 and 47 should they be reported in 46g and 47g?</p> <p>8. Are BHCs expected to include “Sold Options” in the Derivatives Notional section, because the instructions only reference “swaps, forwards, and purchased options”?</p> <p>9. For Item 44, can the FRB indicate whether “current credit exposure” mean Mark-to-Market?</p> <p>10. For Items 44 and 47, can the FRB clarify the population included in “Centrally cleared derivatives”, e.g. 1) House-CCP, 2)Principal-CCP, 3)Agent-CCP, 4)Client Facing Cleared transactions?</p> <p>11. For items 45/46:</p> <p>a. Can the FRB clarify whether “Over-the-counter derivatives” include both Bilateral and Client Facing Cleared transactions?</p>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>b. In the instructions for Section 45; where it states “report notional amounts and par values in the column corresponding to the contract’s remaining term to maturity from the report date”; it is not clear where maturity break-outs can be provided on the FR Y 14A Summary template, Standardized RWA tab. [Note this instruction is not included for section 47]</p> <p>12. The proposed schedule requires the bifurcation of securitization exposure risk-weighted assets into three types 1) “Held-to-maturity (HTM)”, 2) “Available-for-sale (AFS)” and 3) Trading assets. It appears that the current construct does not contemplate held-for-investment (HFI) loans which attract securitization charges, which would not properly fit within the first two categories as they are specific to securities and neither the third category as they may not be trading assets. Our recommendation is to revise the schedule to also include a fourth category 4) “All other securitization exposures” to allow for these instruments.</p>
	Capital – CCAR & DFAST	<p>1. Will Advanced Approaches BHCs be required to report Basel 1 Capital for CCAR (actuals and forecast) even though they are no longer required to report Basel 1 Capital actuals in the Y9-C, effective March, 31st 2014?</p> <p>2. References in the template instructions to line items from old instructions that are incorrect or refer to items that no longer exist on the Y-14A templates:</p> <ul style="list-style-type: none"> <li>- Line item 16 Other adjustments to equity capital: reference to Memoranda 1 (line 178) – doesn’t exist in template</li> <li>- Line item 31 Other additions to (deductions from) tier 1 capital: reference to Memoranda 2 (line 179) – doesn’t exist in template</li> <li>- Line item 58 Other deductions from (additions to) common equity tier 1</li> </ul>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>capital before threshold-based deductions After-tax gain-on-sale in connection with a securitization exposure, Defined benefit pension fund assets, net of associated DTLs, Investments in the holding company's own shares to the extent not excluded as part of treasury stock, Reciprocal cross-holdings in the capital of financial institutions in the form of common stock, Advanced approaches holding companies only that exit parallel run: reference to line item 71 is incorrect</p> <ul style="list-style-type: none"> <li>- Line item 59 Non-significant investments in the capital of unconsolidated financial institutions in the form of common stock that exceed the 10 percent threshold for non-significant investments: reference to line item 71 is incorrect</li> <li>- Line item 61 Significant investments in the capital of unconsolidated financial institutions in the form of common stock, net of associated DTLs, that exceed 10 percent common equity tier 1 capital deduction threshold: references to line item 71 is incorrect</li> <li>- Line item 62 MSAs, net of associated DTLs, that exceed the 10 percent common equity tier 1 capital deduction threshold: references to line items 71 and 73 are incorrect</li> <li>- Line item 63 DTAs arising from temporary differences that could not be realized through net operating loss carrybacks, net of related valuation allowances and net of DTLs, that exceed the 10 percent common equity tier 1 capital deduction threshold: references to line item 71 are incorrect</li> <li>- Line item 65 Deductions applied to common equity tier 1 capital due to insufficient amount of additional tier 1 capital and tier 2 capital to cover deductions: references to line items 84 and 94 are incorrect</li> </ul>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<ul style="list-style-type: none"> <li>- Line item 67 Common equity tier 1 capital: references to line items 71 and 77 are incorrect</li> <li>- Line item 72 Additional tier 1 capital deductions Investments in own additional tier 1 capital instruments, Reciprocal cross-holdings in the capital of financial institutions, Non-significant investments in additional tier 1 capital of unconsolidated financial institutions that exceed the 10 percent threshold for non-significant investments, Significant investments in the capital of unconsolidated financial institutions not in the form of common stock to be deducted from additional tier 1 capital, and Other adjustments and deductions: references to line items 70, 76, and 84 are incorrect</li> <li>- Line 83 Tier 2 capital deductions: references to line items 76 and 83 are incorrect</li> <li>- Line 83 Tier 2 capital deductions Non-significant investments in tier 2 capital of unconsolidated financial institutions that exceed the 10 percent threshold for non-significant investments: reference to line item 70 is incorrect</li> <li>- Line item 117 Total risk-weighted assets using general risk-based capital rules: reference to line item 49 – does not exist on either General or Standardized RWA tabs</li> <li>- Line item 118 Total risk-weighted assets using standardized approach: reference to line item 6 is incorrect</li> <li>- Line item 151 Enter the portion of (e) that the bank holding company could realize within the next 12 months based on its projected future taxable income: reference to line item 83 is incorrect</li> </ul>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<ul style="list-style-type: none"> <li>- Memoranda Line item 167 Itemized other adjustments to equity capital: reference to line item 16 is incorrect</li> <li>- Memoranda Line item 167 Itemized other additions to (deductions from) tier 1 capital: reference to line item 36 is incorrect</li> <li>- Memoranda Line item 172 Reconcile the Supplemental Capital Action and HI-A projections: reference to line items 170 – 178 are incorrect</li> </ul> <p>3. <i>Line items 32 and 41:</i> Given that Firms are only required to report and are assessed using the Tier 1 Common ratio from the Basel I+II.5 regime, is it necessary for Firms to fill out these lines items and the lines items from which they are derived?</p> <p>4. <i>Line item 32 Tier 1 Capital:</i> Tier 1 Capital total does not include line item 24 Qualifying restricted core capital elements (other than cumulative perpetual preferred stock).</p> <p>5. <i>Line item 58 Other deductions from (additions to) common equity tier 1 capital before threshold-based deductions</i></p> <ul style="list-style-type: none"> <li>- Instructions state to follow FR Y-9C Schedule HC-R, Part I.B., item 10b. The Y-9C instructions state to apply transitional provisions; however, the FR Y-14A instructions for each individual item 1 – 6 note not to apply transitional provisions. These sets of instructions are contradictory; please clarify which set of instructions should be used.</li> <li>- Individual item 6 instructions state that Advanced Approaches holding companies that have exited parallel run should include expected credit losses that exceed the eligible credit reserves; however, Firms have been directed not to apply advanced models in the 2015 CCAR submission</li> </ul>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>even if they have exited parallel run. In this case, should Firms include expected credit losses that exceed the eligible credit reserves if they have exited parallel run?</p> <p>6. <i>Line item 59 Non-significant investments in the capital of unconsolidated financial institutions in the form of common stock that exceed the 10 percent threshold for non-significant investments:</i> Instructions say not to apply transitional provisions for this item and note that they should be applied in line item 71. Line item 71 is qualifying Tier 1 capital and thus does not pick up Common Equity Tier 1 deductions. Where should the provisions be applied?</p> <p>7. <i>Line item 67 Common equity tier 1 capital:</i> Line item is not a shaded cell and does not contain a formula. Further, the instructions say it is line 71 less line 77 which are Tier 1 capital and Tier 2 capital lines items, respectively. How should line item 67 be calculated?</p> <p>8. <i>Line item 70 Tier 1 minority interest not included in common equity tier 1 capital:</i> References “For each consolidated subsidiary, perform the calculations in steps (1) through (10) of the worksheet below.” There is no worksheet below.</p> <p>9. <i>Line item 72 Additional tier 1 capital deductions Other adjustments and deductions:</i> Instructions note to follow FR Y-9C Schedule HC-R, Part I.B., item 24. The Y-9C instructions state to apply transitional provisions; however, the FR Y-14A instructions for each individual item a - e note not to apply transitional provisions. These sets of instructions are contradictory; please clarify which set of instructions should be used.</p> <p>10. <i>Line item 77 Total Capital minority interest that is now included in tier 1 capital:</i> References “steps (1) through (10) below.” There is nothing below.</p>



Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>11. <i>For Item 106 Average total consolidated assets:</i> The instructions on page 87 do not reflect the correct Y9-C reference.</p> <p>12. Similar to previous 14A filings, sections provided for RWAs do not correspond to the capital defined for the instructed ratio. Ratios could be segregated into two tabs for 1) B1.5 and; 2) Hybrid/Standardized, with links to the existing tab for shareholders' equity. This approach would resolve the individual line inconsistencies noted below:</p> <ul style="list-style-type: none"> <li>- Clarification needed on line item 121 (Tier 1 Common ratio (based upon generally applicable risk weighted assets)): Instructions reference the use of line item 117 for RWA (RWA using the general risk-based capital rules; reflective of Tier 1 Common capital deductions and adjustments), however, the form does not provide a space to fill in B1.5 RWAs although it is using B1.5 definition of capital. A clarification is needed as to what ratio is targeted for reporting (B1.5, B1.5 adjusted, etc). Current form is not a recognized ratio.</li> <li>- <i>The RWAs used in line item 122 will be dependent upon the outcome of line item 121 (above).</i> If line item 117 is defined as B1.5 adjusted RWAs, then this would be appropriate to use for Line 122. Furthermore, the instructions reference the use of RWAs as line item 117 (RWA using the general risk-based capital rules, reflective of Common Equity Tier 1 capital deductions and adjustments) <b>OR</b> line item 118 (Total risk weighted assets using standardized approach). The use of these RWAs should include the timeframe for when each would be appropriate (i.e. Line 117 for 3Q &amp; 4Q 2014 and Line 118 for 1Q 2015 – 4Q 2016).</li> </ul> <p>13. <i>Line item 118 Total risk-weighted assets using standardized approach:</i></p> <ul style="list-style-type: none"> <li>- Instructions state that these cells should be derived from the General RWA worksheet; however, the line item title instructs to use the</li> </ul>

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
		<p>standardized approach.</p> <ul style="list-style-type: none"> <li>- Further, since this cell is not shaded and requires a manual input, are Firms expected to account for their RWA under general risk-based capital rules and the standardized approach with planned and DFAST actions separately in the Capital – CCAR and Capital – DFAST tabs for the FRB scenarios?</li> </ul> <p>14. <i>Line item 126 Total risk-based capital ratio:</i> Instructions state that it is a shaded cell; it is not and formulas need to be entered manually.</p> <p>15. <i>Line item 128 Tier 1 Leverage Ratio:</i> Instructions state that line 112 or 113 should be divided by 117 or 118. 117 and 118 are RWA line items and should be replaced with line item 120.</p> <p>16. <i>Line item 149 Enter the amount of taxes previously paid that the bank holding company could recover through loss carrybacks if the bank holding company's temporary differences (both deductible and taxable) fully reverse at the report data:</i> Memorandums items references are crossed out from pervious instruction versions but no new reference items have been added. Should the Firm calculate this line item using memorandum items 169 – 171?</p>
	Retail Repurchase	1. What is the definition of “completed settlements”?
	Securities OTTI by Portfolio	1. The Column titled 'Accounting Intent (AFS, HTM)': How would a firm report the intent if a BHC holds securities in both AFS and HTM categories within a given asset class at Q0?
	Securities AFS OCI By Portfolio	<p>1. Should management assumptions on maintaining a targeted AFS portfolio size be included?</p> <p>2. Does the worksheet refer primarily to Unrealized Gain/Loss amounts v. Accumulated Other Comprehensive Income (AOCI)?</p>

<b>Comments and Questions on FR Y-14A</b>		
<b>Schedule</b>	<b>Worksheet</b>	<b>Comment / Questions</b>
		3. Should ending after-tax OCI amounts get reported instead of incremental rates of change?
	Trading Worksheet	1. CVA Hedge column should include an input option for cross asset terms amount.  2. Clarify if CVA hedge amounts include both interest rate and credit hedges.
Counterparty Credit Risk		<p>1. Need to distinguish requirements including reporting frequency, content, and materiality threshold for Y 14-A versus Y 14-Q templates to avoid redundancy.</p> <p>For example, information required in the second quarter as part of the Mid-year Monitoring Report and on the FR Y-14A during the third quarter appears in the proposal to now be required on the FR Y-14Q report in addition to these semi-annual requirements. This duplication results in reporting the same information a total of six times each year.</p> <p>We recommend:</p> <ul style="list-style-type: none"> <li>a. Eliminating the reporting of this information on the Mid-year Monitoring Report, since this requirement can be fulfilled by the second quarter FR Y-14Q submission; and</li> <li>b. Eliminating the reporting of this information on the third quarter FR Y-14Q, since this requirement can be fulfilled by the FR Y-14A submission during that quarter.</li> </ul> <p>2. Need to clarify if banks have to rank CCP by stressed scenario of internal metric.</p>
Regulatory Capital Transitions	Capital Composition	1. Can the FRB confirm that the regulatory capital transition template is not expected to tie to the Y9C where items are calculated differently on a fully phased-in (required for CCAR) versus the transitional view (required for the Y9-C)?

Comments and Questions on FR Y-14A		
Schedule	Worksheet	Comment / Questions
	Leverage Exposure	<ol style="list-style-type: none"> <li>1. As a general matter, we request that the instructions be revised to reflect Supplementary Leverage Ratio Final Rule (“Final Rule”) that was approved by the US Agencies on Sept 4, 2014. Due to system limitations, calculating the supplementary leverage exposure measure using a 90 day average is not currently feasible. Consistent with the rule change in the Final Rule, we request the option to use 3 month end averages for off balance sheet exposures.</li> <li>2. Line 8 - Replacement cost for derivative exposures (net of cash variation margin): Section (c)(4)(ii) of the Board’s Final Rule requires that banks start with the US GAAP balance sheet numbers, which are then adjusted for certain gross-ups for variation margin and for repo-style transactions, plus the potential future exposure for derivatives and other off-balance sheet items. However, the proposed FR Y-14 instructions for line 8 appear to conflict with the Final Rule by requiring the use of “replacement cost” instead of the balance sheet. We request that the Board clarify these instructions.</li> <li>3. Line 12 – LESS: Exempted CCP leg of client-cleared transaction (report as a positive value): Neither the risk-based capital rules nor the final rule on the enhanced supplementary leverage ratio requires banks to calculate this amount. We have therefore not developed our regulatory systems to capture and include this population of transactions and so this value would be operationally difficult to report. We request that this item be removed.</li> <li>4.</li> <li>5. For Item 19 - Exposure for Repo-Style Transactions where a banking organization acts as an agent: can the FRB indicate whether BHCs are expected to include on balance sheet repos in this line.</li> </ol>

## Appendix 2

Appendix 2 contains our detailed technical comments and questions for FR Y-14Q.

<b>Schedule</b>	<b>Comment/Questions</b>
<b>FR Y-14Q – Proposed Changes</b>	

Commercial real estate schedule	Need to clarify Original Date and Renewal Date field changes.
Commercial real estate schedule	<p>Modifying item 20 (Amortization) to capture non-standard amortization schedule by allowing banks to report ‘-1’; the following fields will require a longer term assessment as these fields are not readily available:</p> <ul style="list-style-type: none"> <li>- Lower of Cost or Market Flag</li> <li>- Prepayment Penalty Flag</li> <li>- Current Occupancy Date</li> <li>- Current Value Basis</li> </ul>
Commercial real estate schedule	The Federal Register provided (Vol. 79, No. 135 – Dated 7/15/14) advised a staggered implementation of new, required fields between 9/30/14 and 12/31/14. However, the proposed instructions did not note the effective date. For September 2014 submission, do we need to adhere to this proposed format and leave the proposed new fields for 12/31/14 as Blank?
Commercial real estate schedule	<p>Please provide clarity surrounding Field #12 (Renewal Date), specifically as it relates to Field #11 (Origination Date).</p> <p>Specifically, please provide examples of situations where “a credit facility has been renewed as part of a major modification such that the contractual date of the original loan is changed...”</p> <p>What is the definition of a “major modification”? A modification can include payment structure changes, rate changes, line of credit increase along with extension of maturity date and collateral modification. Are these considered major modifications? Please provide examples of situations where “a credit facility has been renewed as part of a major modification...”</p> <p>Additionally, please provide examples of “minor modifications” and other situations where a</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>renewal date should be provided in lieu of adjusting the origination date. Specifically, the intermixing of “true” origination date and renewal date information within the same field has been challenging, and the addition of a new renewal date field adds to the confusion.</p> <p>Specific to the new renewal date field, the instructions indicate that this data point should be provided: “If the credit facility has been renewed per the terms of the original loan agreement ...”</p> <p>The phrase “per the terms of the original loan agreement” is particularly confusing since it implies some sort of auto-renewal provision in the original loan document, in the same way that letters of credit can auto-renew if not canceled in a specified window of time. It could be rare to find such an auto-renewal provision in loan documents; it is much more common that the original loan agreement will not contain any provisions for renewal, but upon maturity the bank feels that a renewal of the current lending relationship, often with revised terms, is appropriate. There can be borrower-optional extension options, but that should not be considered the same as an auto-renewal. Is the Board requesting that all renewal dates be included in the Renewal Date field or only the limited population where the renewal provision is specifically included in the original loan agreement?</p> <p>Recommendations/proposals:</p> <ol style="list-style-type: none"><li>1. The origination information (date, amount) should really remain as the date the facility came on the books and its original amount; regardless of if/how often the facility has been renewed. Renewal information (date and, possibly, amount) should be captured as separate fields.</li><li>2. Provide a more specific definition of the term “renewal,” which the instructions already indicate includes “major modifications.” Assuming there is a need for information on events occurring during the life of a facility that could change the risk characteristics of that facility, such events could include:<ol style="list-style-type: none"><li>a. Extension of the maturity date of the facility, with or without new money. This is</li></ol></li></ol>
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**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>the traditional definition of a “renewal.” Short-term extensions granted while an existing facility is being re-negotiated or re-approved should not be included.</p> <p>b. Increase or decrease to the credit facility</p> <p>c. Permanent modification to repayment terms that change the amortization of the loan (excludes re-amortization triggered by base rate changes)</p> <p>d. Addition or removal of significant collateral or guarantors</p> <p>3. Exclude capturing a separate renewal date for minor modifications (e.g. covenant waivers; removal of immaterial guarantors or collateral) or renewals “per the terms of the original loan agreement.” This information may not be particularly meaningful and extremely difficult to capture.</p>
Commercial real estate schedule	Field # 14: Credit Facility Currency: The Fed instructions indicate “If payments are legally permitted or required in more than one currency, indicate the predominant currency for contractual credit facility payments.” Please clarify how the predominant currency should be selected. Should this be based on the largest outstanding loan amount within the facility?
Commercial real estate schedule	<p>Field #23 (Amortization) includes a new option to report obligations as “under non-standard amortization.” Please provide examples of what would be considered a non-standard amortization. Non-Standard amortization could comprise a number of things, including:</p> <ul style="list-style-type: none"><li>• Loans with up-front interest only periods followed by principal amortization (loans that are interest only for life should already be getting a value of “0”)</li><li>• Loans with non-standard billing frequencies (other than monthly or quarterly?), or where principal and interest bill at different frequencies</li><li>• Loans where principal repayment is something other than standard P&amp;I or P+I (e.g. % current balance, % original balance)</li><li>• Loans where principal repayment is based upon certain events taking place</li></ul> <p>Is the intent that where amortization does not follow “normal” P&amp;I or P+I amortization and it is</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	not practical or possible to compute an amortization term, “-1” should be reported?
Commercial real estate schedule	<p>Field #29 (Loan Purpose) includes a new option to report obligations as “Mini-Perm”. Please provide additional clarification as to what should be considered Mini-Perm, specifically as it relates to the timing surrounding the sale of the property after stabilized occupancy is established. Need a clearer definition of what should be considered a mini-perm loan with specific examples. Specific questions include:</p> <ol style="list-style-type: none"> <li>1. Would a mini-perm loan always follow and “take out” a construction loan? Is it always a separately documented and funded loan from the construction loan?</li> <li>2. Would construction loans with short-term (usually &lt; 1 year) extension options be considered mini-perm when those extension options are exercised?</li> <li>3. Does the constructed property have to be for sale? Could it be a “for lease” property where the borrower has obtained short-term financing post construction while more permanent financing is being arranged?</li> <li>4. Must mini-perm facilities include some sort of amortization?</li> <li>5. For non-construction financing, if business practice is to write short notes (3-5 years) with amortization periods of 15, 20, 30 years or more, would these be considered mini-perm?</li> <li>6. What would be the minimum and maximum maturity (number of months) to be considered mini-perm financing?</li> <li>7. Could an owner occupied property be considered a “mini-perm”?</li> </ol>
Commercial real estate schedule	If a single property secures more than one facility (e. g. a 1 <sup>st</sup> and 2 <sup>nd</sup> mortgage, do we report Field #43 (Property Size) the same for each facility?
Commercial real estate schedule	Field #57 (Prepayment Penalty Flag) – Please confirm that the value reported in this field should only apply to the current submission and should not look back to see if a Prepayment Penalty



**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>could have been applied in the past.</p> <p>Additionally, this field is not captured in the system and a significant manual effort will be needed to capture this information. We ask the Board to delay the effective date to 1q2015.</p>
Corporate loan schedule	<p>Need to clarify Original Date and Renewal Date field changes</p> <p>The following fields will require a longer term assessment as these fields are not readily available:</p> <ul style="list-style-type: none"><li>- Lower of Cost or Market Flag</li><li>- Prepayment Penalty Flag</li><li>- Collateral Market Value</li></ul>
Corporate loan schedule	<p>Need further clarification and delaying the reporting effective date. Not every security type collateral has a readily market value. Banks could use advance rate of value of an inventory as collateral. The FRB should provide examples for the applicable security type to help determine what to report. Need to clarify that this field is only applicable for certain types of security in the proposed field 43.</p>
Corporate loan schedule	<p>The Federal Register provided (Vol. 79, No. 135 – Dated 7/15/14) advised a staggered implementation of new, required fields between 9/30/14 and 12/31/14. However, the proposed instructions did not note the effective date. For September 2014 submission, do we need to adhere to this proposed format and leave the proposed new fields for 12/31/14 as Blank?</p>
Corporate loan schedule	<p>Please provide clarity surrounding Field #23 (Renewal Date), specifically as it relates to Field #22 (Origination Date).</p> <p>Specifically, please provide examples of situations where “a credit facility has been renewed as part of a major modification such that the contractual date of the original loan is changed.”</p> <p>Additionally, please provide examples of “minor modifications” and other situations where a renewal date should be provided in lieu of adjusting the origination date.</p> <p>In the proposed instructions regarding Renewal Date that indicates “If the credit facility has been renewed <u>per the terms of the original loan agreement</u>, report the date on which the renewal</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>notification became effective.” While occasionally the <u>original loan agreement</u> will contain provisions for renewal, it is much more common that the original loan agreement will not contain any provisions for renewal, but upon maturity the bank feels that a renewal of the current lending relationship, often with revised terms, is appropriate. Is the Board requesting that all renewal dates be included in the Renewal Date field or only the limited population where the renewal provision is specifically included in the <u>original loan agreement</u>?</p> <p>Recommendations/proposals:</p> <ol style="list-style-type: none"><li>1. The origination information (date, amount) should really remain as the date the facility came on the books and its original amount; regardless of if/how often the facility has been renewed. Renewal information (date and, possibly, amount) should be captured as separate fields</li><li>2. Provide a more specific definition of the term “renewal”</li></ol>
Corporate loan schedule	<p>Field #29 (Collateral Market Value) speaks to identifying the collateral being subjected to “margining and/or mark-to-market treatment.” Please provide clarification on the type of collateral that is subject to this treatment.</p> <p>Need clarification as to what is meant by “If the collateral reported in Field 43 (Security Type) is subject to margining.” Is this limited to marketable securities or other collateral that is traded on the open market? Besides marketable securities, what other type of collateral would be considered “subject to margining”? In practice, outside of marketable securities and Real Estate, most other types of collateral (fixed assets, accounts receivable and inventory) are generally not subject to a periodic revaluation.</p>
Corporate loan schedule	<p>Option #3 for Field #53 (Guarantor Flag) can be used only if “the credit facility is <b>fully</b> guaranteed by a U.S. government agency.” This option does not consider more typical situations where a substantial percentage of the obligation is backed by a U.S. Government Guarantee, which is considered to be the most substantive guarantee available. Therefore, we believe an option should be provided to include a partial government guarantee.</p>
Corporate loan schedule	<p>Field #52 (Prepayment Penalty Flag) – Please confirm that the value reported in this field should only apply to the current submission and should not look back to see if a Prepayment Penalty could have been applied in the past.</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	Additionally, this field is not captured in the system and a significant manual effort will be needed to capture this information. We ask the Board to delay the effective date to 1q2015.
Corporate loan schedule	Please expand on the guidance for the new field 17. SNC Internal Credit ID. What do firms report if an ID has not yet been assigned?
Corporate loan schedule	Additional exclusion for the Obligor Financial Section indicates to exclude financials for offices of Bank Holding companies (BHC). Please clarify if this also includes the subsidiaries of BHCs.
Corporate loan schedule	Please expand on the guidance for new field 17 – SNC Internal Credit ID. What do firms report if an ID has not yet been assigned?
C&I	<p>In general: Can you explain the decision to insert new elements in the middle of the element list. Therefore changing the majority of the Fed numbers? Our BHC refers to the elements by the Fed Field number for many of the reports and testing. The FAQ document refers to the elements by Field number as do the Edit checks. Will all of these documents be updated to reflect the new Field numbers, in the comments and descriptions? In the future can any new element(s) be inserted at the end on the element list. This inserting of elements in the middle of the element list will result in changes to the layout of the files, creating additional unnecessary work and testing for BHC. We also noted that the new elements for both September and December have been inserted into the layout. Does the Fed expect nulls be inserted on the data files for the December elements in the September submission? When will the MDRM values be provided for the new elements?</p> <p>C&amp;I field number 24 Credit Facility Type. The description refers to field number 21 to describe the ‘other’ credit facility types. Fields 21 is now “Origination Date” Should the description be updated to refer to field number 25 “Other Credit Facility Type Description”?</p> <p>C&amp;I field number 26 Credit Facility Purpose. The description refers to field number 23 to describe the ‘other’ credit facility types. Fields 23 is now “Renewal Date” Should the description be updated to refer to field number 27 “Other Credit Facility Purpose Description”?</p> <p>C&amp;I Field Number 27 “Other Credit Facility Purpose Description.” The description refers to both field numbers 22 and 26. Can we assume that field 26 should be referenced in both locations in the</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>description?</p> <p>C&amp;I Field Number 34 “Fair Value Committed Exposure.” This is a new element replacing FVA. Understanding that there was a change in the description should the MDRM number have been updated also?</p>
Securities schedule	<p>Clarification is needed regarding what to report in field 10- Hedge Horizon.</p> <p>When a portfolio based fair value hedge approach is used, the hedging instrument is constructed to have an equivalent duration of the hedged item when the duration is based on the most recent calculated duration estimate. Therefore, the related date associated with that duration would change throughout the life of the hedge. Should the <u>bond duration</u> (translated to YYYY-MM-DD) be reported in this field?</p> <p>In other cases, when a hedging relationships is constructed to swap fixed rate cash flows to floating rate over the life of the instrument and/or hedge foreign currency risk over the life of the instrument, should the <u>contractual maturity</u> of the hedged item, which would not change over time, be reported in this field?</p>
Securities schedule	<p>Duplicated data request for field 14 - Effective Portion of Cumulative Gains and Losses. Please note that effective portion of the hedge is already included in the amortized cost basis in Field #3 (Amortized Cost). The same information is asked to be populated in field 14 for the Effective Portion of Cumulative Gains and Losses.</p>
Securities schedule	<p>B.3-Securities 3 (“Investment Securities with Designated Accounting Hedges”) Attributes #14 (Effective Portion of Cumulative Gains and Losses) and Attribute #15 (Ineffective Portion of Cumulative Gains and Losses) as described are not relevant and would be difficult to provide.</p> <p>In both instances, the attribute description is requesting effective/ineffective portion of the cumulative gains and losses SINCE INCEPTION of the hedging instrument. While it may be nice to know how much P&amp;L has resulted from a hedge over its lifetime, the true measure should be based on the current performance of the hedge. Currently, systems do not track the life to date changes on an instrument and or hedge. The systems currently report the quarterly and yearly</p>

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

	<p>effective and ineffective balances.</p> <p>In addition, the lot-level data requested for those securities for which the qualifying hedging relationships exist are not available from the banking system, especially in relation to FX hedges. Therefore, if there is an option to provide the data at CUSIP level, it would significantly reduce the reporting firm's burden.</p>
Securities schedule	B.3-Securities 3 ("Investment Securities with Designated Accounting Hedges") Fed Number 11. "Hedged Cash Flow" The option number 4 is used for both "A Fixed Portion of Either Principal or Interest Cash Flows" and "Other." Are the values correct or should "Other" be 5 and this resulting in Not applicable to be 6?
Securities worksheets	Column titled 'Accounting Intent (AFS, HTM).' How would a firm report the intent if a BHC holds securities in both AFS and HTM categories within a given asset class at Q0?
Trading schedule	Are instructions related to FVA hedges going to change in conjunction with the proposed CVA hedge change?
Schedule E; Section E.8 Legal Reserving history of settled/closed legal events	<p>Cause of action field – What should be captured in this field if no statute or regulation was breached?</p> <p>Date of disclosure – If firms only capture a subset of reserves of regulatory filings, then what should be in this field if not disclosed?</p> <p>Date of payment – IS this the date the firm issued the payment, the date it is received by the other party, of the date the item clears the issuing firm?</p>
B.1 Securities 1 (Main Schedule), p. 51 of instructions	New private placement field – Should 144A securities be considered private placements?
Renumbered data fields	Recommend preserving the existing field number and ensure the sequence of the field aligns with the one in XSD, to minimize confusion with tracking issues and ensure data integrity.
Removal of Schedule K items	The consumer non-purpose loans are currently in Column H, which will be removed. All non-purpose loans will be reported on Schedule M. Does this mean that the non-purpose loans should not be reported in other Q schedules?

**Schedule**                      **Comment/Questions**

**FR Y-14Q – Proposed Changes**

Supplemental schedule	<p>The Federal Reserve proposes removing columns H through N and P through R.</p> <p>We propose that the FRB also consider removing columns F: Auto Leases and columns G: Non-Auto Leases since the information in those columns will be provided on the newly proposed balances schedule (Schedule M).</p> <p>Given the remaining data to be reported on this schedule is relatively small, the FRB should consider eliminating Schedule K and request the information as a sub-schedule in the new proposed balance schedule (Schedule M).</p>
Regulatory capital instruments schedule	Need to clarify the inclusion of non-capital instruments (e.g., noncapital sub debt).
All retail schedules	<p>The Federal Reserve is proposing to redefine items related to charge-offs and recoveries to be consistent with charge-offs and recoveries as defined in the FR Y-9C.</p> <p>The Board needs to clarify if firms need to apply retrospective treatment and resubmit prior submissions?</p>
All retail schedules	Does the clarification provided on the handling of charge-offs and recoveries to ensure consistency with the definitions in the FR Y-9C rescind the answer provided for FAQ – RTO0046?
U.S. Auto Loans	The Federal Register notice advised the proposal will be “Modifying the LTV segmentation variable to be based on the wholesale value of the vehicle instead of the retail value and adding the segmentation ‘N/A’ for any missing data,” however that information does not appear to be noted in the proposed changes published. Please confirm if details should be provided based on the Wholesale or Retail value of the vehicle.
U.S. Auto Loans	It appears the forth option for Product Type is incorrectly listed and should be under “Original LTV.”
U.S. Auto Loans	Please provide clarity on how Field #32 (\$ Unpaid Principal Balance at Charge-Off) is different between (\$ Gross Contractual Charge-offs), specifically as they relate to the proceeds from the disposition of the collateral.

**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

U.S. Auto Loans	Our understanding of field #33 Percent Loss Severity (3-month lagged) is that it is a ratio of Field 12 (\$ Gross Contractual C/O's) minus Field 14 (\$ Recoveries), with that result divided by Field #32 (\$ Unpaid Principal Balance at Charge Off) from three-months prior. Please confirm the expectations of this field.																																																	
U.S. Auto Loans	Please provide examples of how to calculate/report the following three fields: 12. \$ Gross contractual charge-offs; 32. \$ Unpaid principal balance at charge-off; and 33. Percent loss severity (3-month lagged)																																																	
U.S. Auto Loans	<p>On page 16 of the proposed instructions, the new N/A value for LTV is under the Product Type variable and not under Original LTV variable.</p> <p>The proposed changes suggested that the Wholesale price would be introduced as the basis for Original LTV. However, on page 16 of the Proposed instructions for Segment 3 – Original LTV, it states “calculated using the retail price of the vehicle.” The Original LTV based on the Wholesale price of the vehicle would be a major change to current industry practices that would require new processes to capture the wholesale price of the vehicle’s individual options from a service bureau to incorporate this concept into the bank policies and procedures. This is a major undertaking that cannot reasonably be implemented in time for a September 2014 filing date at most banks. Can we get clarity on whether the proposed change to Wholesale Price based LTV is required or if the proposed instruction draft is final using retail price based Original LTV?</p> <p>Please provide further guidance on how to apply the Percentage Loss Severity. Can you please provide the percentage loss severity related to the scenarios located in the following table?</p> <table><tr><th>Loan</th><th></th><th>5/31/2014</th><th>6/30/2014</th><th>7/31/2014</th><th>8/31/2014</th><th>9/30/2014</th></tr><tr><td>A</td><td>Segment</td><td>123</td><td>123</td><td>123</td><td>123</td><td>123</td></tr><tr><td></td><td>Principal Charge Off</td><td>0</td><td>10000</td><td>0</td><td>0</td><td>0</td></tr><tr><td></td><td>Recoveries</td><td>0</td><td>0</td><td>0</td><td>8000</td><td>0</td></tr><tr><td></td><td>Principal Balance</td><td>10000</td><td>0</td><td>0</td><td>0</td><td>0</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td></td></tr><tr><td>B</td><td>Segment</td><td>123</td><td>123</td><td>123</td><td>456</td><td>456</td></tr></table>	Loan		5/31/2014	6/30/2014	7/31/2014	8/31/2014	9/30/2014	A	Segment	123	123	123	123	123		Principal Charge Off	0	10000	0	0	0		Recoveries	0	0	0	8000	0		Principal Balance	10000	0	0	0	0								B	Segment	123	123	123	456	456
Loan		5/31/2014	6/30/2014	7/31/2014	8/31/2014	9/30/2014																																												
A	Segment	123	123	123	123	123																																												
	Principal Charge Off	0	10000	0	0	0																																												
	Recoveries	0	0	0	8000	0																																												
	Principal Balance	10000	0	0	0	0																																												
B	Segment	123	123	123	456	456																																												

**Schedule**

**Comment/Questions**

**FR Y-14Q – Proposed Changes**

		Principal Charge Off	0	0	0	0	0
		Recoveries	0	0	0	0	0
		Principal Balance	10000	9500	9000	8500	8000
	C	Segment	123	123	123	789	789
		Principal Charge Off	0	0	0	0	0
		Recoveries	0	0	0	0	0
		Principal Balance	5000	5000	5000	4500	4000
	D	Segment	789	789	789	789	789
		Principal Charge Off	0	0	0	0	0
		Recoveries	0	0	0	0	0
		Principal Balance	40000	39000	38000	37000	36000
	E	Segment	789	789	789	123	123
		Principal Charge Off	0	0	0	0	18000
		Recoveries	0	0	0	0	0
		Principal Balance	20000	19000	18000	18000	0
	<b>What would we report as Loss Severity for each segment for 9/30/2014?</b>						
Operational risk schedule	<p>Firms are concerned about the amount of legal information required and voluntary schedules; no formal schedule is provided.</p> <p>The newly requested information on historical reserves under the proposal would allow third parties, who may obtain access to this information, to gain unwarranted insights and understanding of a banking organization's reserving practices and related litigation strategies.</p> <p>The granularity of the information sought under the Proposal is both operationally difficult for banking organizations to provide and impractical at the requested level of disaggregation.</p>						
AFS and HTM Investment	There are instances where a CUSIP number does not exist for certain instruments included on the						



**Schedule****Comment/Questions****FR Y-14Q – Proposed Changes**

Securities Schedule	schedule. In December 2014 (after submission of the September 30, 2013 schedule), Federal Reserve personnel contacted one or more institutions requesting information regarding such securities without CUSIP numbers. Specifically, the institutions were asked to provide estimates of the bond rating for such instruments based upon internally available credit-related information about the issuer. The estimates were delivered via email in an Excel file. An alternative method for delivering such information could be accomplished by including an additional field in the submission for bond rating estimates for instruments with no CUSIP number. This information was only requested in December 2013 for CCAR 2014 purposes, thus the recommended new field should only be required to be completed for the September 30 submission each year (if the timing of the annual CCAR submission were to be changed, as is currently proposed, the quarterly submission for which the new field would be required would also change).
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**Question regarding FAQ guidance on “Facility for Wholesale” based on current instructions/FAQ’s:**

We have the concern the current proposal fundamentally changes the definition of “facility” for Wholesale Y14-Q reporting. Below is the basis for our current interpretation of “Facility.”

**BHC Question:**

Does the FRB intend reporting at the Facility level to apply preponderance rules which may result in combining both CRE and Corp loans into one Facility to be reported on the dominant Template?

**FRB FAQ Response:**

The preponderance rule should not be applied for determining on which schedule a credit facility should be reported. Loan populations for both the FR Y-14Q Corporate and CRE loan schedules are based on which line item a loan is reported on the FR Y-9C, and only loans which fall into one of the designated line items outlined in the instructions should be reported on a particular schedule. For credit facilities containing loans that are reported on separate line items on the FR Y-9C schedule, the underlying loans should be reported and aggregated at the FR Y-9C line item level on the respective FR Y-14Q schedule based on the FR Y-9C designation and schedule instructions. (emphasis added) For credit facilities containing only CRE or Corporate loans, information should be reported on the appropriate wholesale FR Y-14Q schedule at the credit facility level using the description instructions noted in the loan fields.

18-Oct-13

Proposed Y-14 Guidance (comment period ending September 15th 2014)

Credit facilities containing loans which fall under one or more of the FR Y-9C line items outlined above should be reported on the FR Y-14Q Corporate Loan Data schedule at the credit facility level. For credit facilities also containing loans reported on FR Y-9C line items not outlined above, the underlying loans should be aggregated and reported on the respective FR Y-14Q schedules based on the relevant schedule instructions. For example, consider a credit facility which has the following underlying loan commitments:

Loan 1: \$2 million committed balance reported on FR Y-9C, Schedule HC-C, item 4.a

Loan 2: \$1 million committed balance reported on FR Y-9C, Schedule HC-C, item 4.b

Loan 3: \$500,000 committed balance reported on FR Y-9C, Schedule HC-C, item 1.e(1)

Loan 4: \$ 500,000 committed balance reported on FR Y-9C, Schedule HC-C, item 1.d

The BHC should aggregate loans 1, 2, and 3 and report one **facility** with a \$3.5 million committed balance on the FR Y-14Q

Corporate Loan schedule and one facility with a \$500,000 committed balance on the FR Y-14Q Commercial Real Estate schedule.

Note that all loans within the facility are reported, including those under the credit facility threshold. In the above example, the \$500,000 committed balance is reported on the FR Y-14Q CRE schedule because of the overall facility commitment is greater than \$1 million.

Conclusion:

As the above appears as a departure from current practice, a change in approach will impact the basis of presentation for facility and likewise the data lineage associated with prior reporting. We want to ensure this is the intent of the proposal and understand the reasoning for the change in approach.

### Appendix 3

Appendix 3 contains our detailed technical comments and questions for FR Y-14M.

Schedule FR Y-14 M – Proposed Changes	Comment/Questions
Domestic First Lien closed-end 1-4 family residential loan schedule	Domestic First Mortgage Information proposed to be reported in the new FR Y-14Q Schedule M.1 (Loan and Lease Balances) includes two sub-products within Residential Real Estate, Closed-end First Liens: (a) First Mortgages, and (b) First Lien HELOANs. However, FR Y-9C Schedule HC-C, line 1.c.2.a does not break out loans at this level of detail. Implementing these changes in bank systems will require time and a significant effort. Furthermore, we are not aware of an industry standard definition for "First Lien HELOANs." We propose that the Board reconsider the requirement to report balances for these sub-products. If that will still be required additional guidance is needed to clarify the definition and more time needed before changes can be implemented.
Domestic First Lien closed-end 1-4 family residential loan and domestic home equity loans and home equity line of credit	Federal Reserve should provide qualitative and quantitative guidance on how missing data for each field, including those for which data is provided on an allowable "best efforts" basis or deemed "not critical," will impact supervisory stress testing modeling.
US Real Estate (First Mortgage and Home Equity schedules)	Third Party Lien Performance – there is an issue regarding how this data could be sourced/reported more fully. There is a 5% edit check threshold on "unknown" performance of first liens. Additional guidance is required.
US Real Estate (First Mortgage and Home Equity schedules)	Reporting of lagged data for loans serviced by others – SBO data is reported in 14M filings based on month-end availability, oftentimes on one month lagged basis. Deviation from current treatment would result in a gap between CCAR and Y9C reporting. Additional guidance is needed on how SBO information should be incorporated in 14M schedules.
US Real Estate (First Mortgage and Home Equity schedules)	Some FRB examination teams have indicated firms need to reclassify converted amortizing Home Equity Lines of Credit (HELOCs) and report these in Y-9C as Closed-End Loans (typically junior liens, but may be first liens) after they have entered into pay down status and are no longer revolving credits. CCAR 14M schedules do not seem to be set up to permit this type of reclassification of product types or movement between schedules. Additional guidance is required.
Reverse Mortgages	Are there plans to add thresholds or optionality to account for data not typically collected for a

**Schedule****Comment/Questions****FR Y-14 M – Proposed Changes**

	reverse mortgage that is collected for other mortgages? For example, some reverse mortgages may not require a FICO score from the borrower. There are several fields related to the FICO scores. There could be other data not required as well. Will these fields be made optional or will the thresholds be increased to allow for the data in these fields to be missing?
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## **Appendix 4**

### **Discussion Guide for FR Y-14 Data Submissions**

**April 2, 2014**



# Discussion Guide for FR Y-14 Data Submissions

## Process Improvement Initiative

Federal Reserve / FR Y-14 Data Working Group  
April 2, 2014

THE FINANCIAL SERVICES ROUNDTABLE

*Financing America's Economy*



# Agenda

<b>Progress-to-Date</b>	<b>3</b>
<b>Goals and Objectives</b>	<b>4</b>
<b>Current State FR Y-14 Process – Process View</b>	<b>5</b>
<b>Summary of Recommendations</b>	<b>21</b>
<b>Evaluation of Objectives and Next Steps</b>	<b>26</b>
<b>Appendix A: Current State FR Y-14 Process – Theme View</b>	<b>28</b>
<b>Appendix B: Data Change Request Process – Example</b>	<b>43</b>



# Progress-to-Date

Financial Services Roundtable (FSR) Member Financial Institutions (“FIs”) and members of the Federal Reserve Board and staff (“Federal Reserve” or “FRB”) met in April and August 2013 to discuss a variety of themes and issues regarding the FR Y-14 data submission (annual, quarterly, and monthly) process and recommendations for enhancements. Both the FIs and Federal Reserve agreed that an ongoing dialogue around process improvements to the reporting process would be beneficial.

Enhancements have been made to the process, including:

- Adding a seven day period between the FR Y-9C and FR Y-14Q submission deadlines
- Distribution of accurate and comprehensive redlined edit check definitions and instructions are greatly beneficial to firms’ development processes
- Communication with a designated (local) FRB analyst post FR Y-14Q submission
- FAQ responses have more clearly addressed questions from FIs, specifically by including examples





# Goals and Objectives

## Goals of this Initiative

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The goals of the member FIs and Federal Reserve are to enhance the quality of data submitted to the Federal Reserve and meet the evolving data needs in a responsive, efficient, and risk-sensitive way. Collection and reporting of accurate data is an ongoing, iterative, and evolving process among finance and treasury groups, risk management, and information technology groups at FIs. The benefits of enhancing the current process and working collaboratively through constructive engagement will yield benefits to both the FIs and the Federal Reserve.

## Objectives

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- Collaborative discussion regarding the issues identified in the current FR Y-14 data submission process and the recommended process improvements.
- Agree on acceptable recommendations and prioritize process improvements.
- Discuss next steps and agree on a collaborative approach to move forward with implementation.

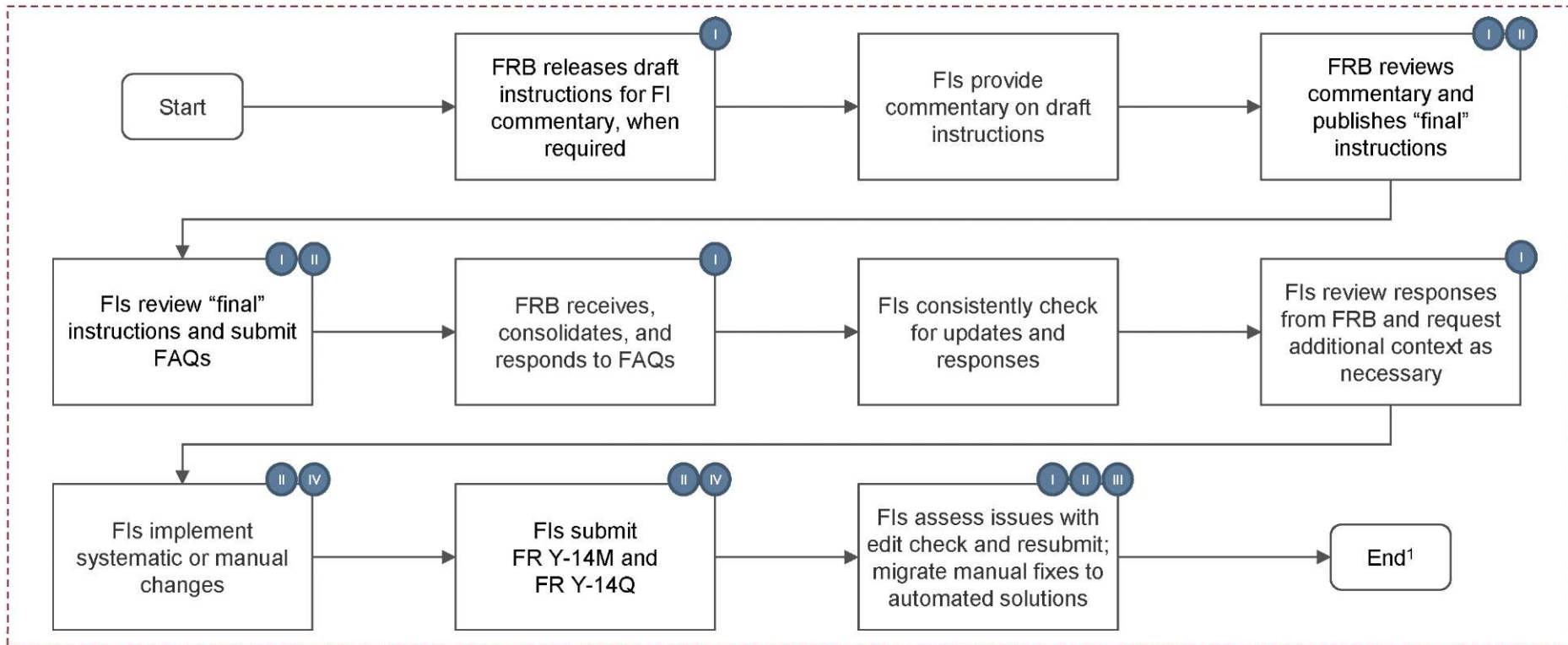


## Current State FR Y-14 Process – Process View



# FR Y-14 Process – Current State

*Below displays the high-level FR Y-14 new instruction process and highlights the themes identified by the FIs. Detailed issues aligned with each theme and recommendations are discussed in the following slides. It is important to note that the process differs for both the financial institution and the Federal Reserve based on the type of changes (e.g., new instructions, technical changes, edit check updates).*



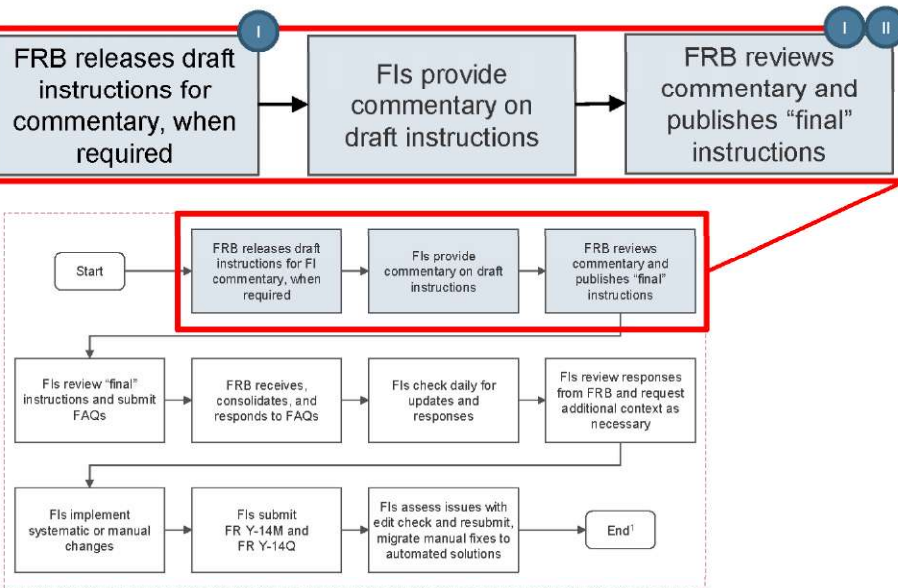
<sup>1</sup> Denotes the end of the process for one set of instruction changes and the data submission; the process repeats as instructions are released and updated.

## Theme Legend

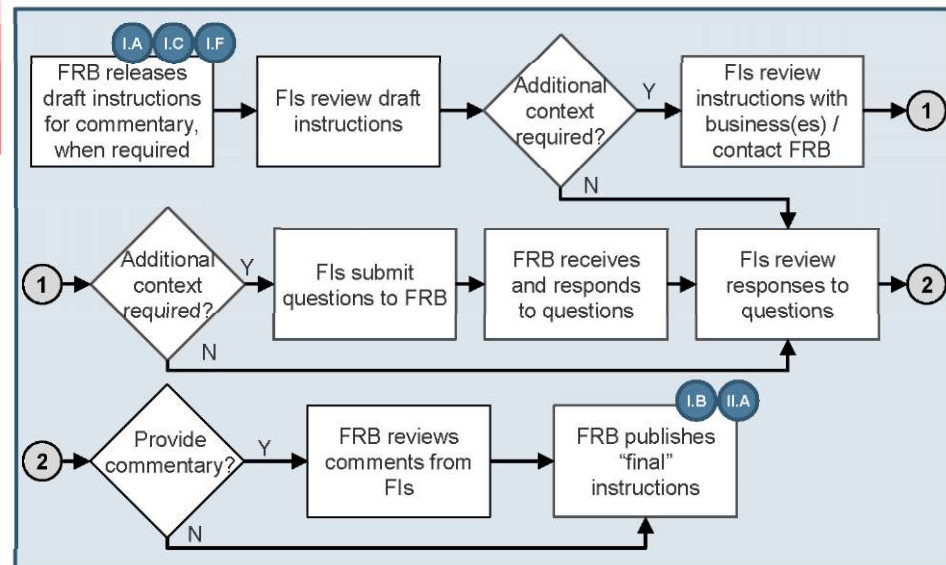
- I Communication
- II Timeline / SDLC Process
- III Edit Checks
- IV File Formats



# FR Y-14 Process – Current State



## Detailed Process



Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.A. New instructions are not consistently drafted and released for commentary from FIs; FIs are unaware of criteria for a required commentary period	<p>1. Output changes (submission format) for the Securities, PPNR, HFS/FVO and Supplemental schedules have been released without commentary.</p> <p>2. Draft technical instructions were provided to an FI on 2/10/2014. These instructions contained updated edit checks along with output instructions. These instructions were not released for commentary and no issuance date was communicated to FIs. The FI assumes that the issuance date was for 4Q 2013 – due on 2/21/2014, 11 days after receiving the “draft” instructions. To date, the FIs have not received a final instruction set as technical instructions are not posted to the FRB site.</p> <p>3. Technical submission instructions are included in the FR Y-14M published instructions, but are not included in the FR Y-14Q published instructions.</p>	Inability to ask questions and / or provide input (i.e., business justifications for data availability) on upcoming / new instructions	High volume of correspondence with FIs to provide clarification or additional information after instructions are published as “final”





# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.C. Draft instructions may not include the necessary level of detail for FIs to provide commentary	<p>Many FIs provide responses during the commentary period to request clarification on published instructions. Without this clarification, FIs cannot provide sufficient or meaningful commentary. For example, during the last set of changes to the FR Y-14M, one FI posted many questions requesting clarification on published instructions but did not receive a response to any of the questions posted. Here are two examples from the FR Y-14M First Lien instructions:</p> <ul style="list-style-type: none"> <li>• Interest Rate Reduced – This appears to be equivalent to field 71 in the Home Equity data collection of the FR Y-14M. However, the Home Equity definition refers to modification. Are these two fields intended to be the same?</li> <li>• Third Party Sale Flag – Could clarification be provided on whether this identifies only loans sold? How should conveyed loans be handled for this field?</li> </ul>	Additional resources required to obtain details, difficulty providing appropriate commentary, increased time required to interpret new instructions	Increased correspondence with FIs and additional resources required to provide details, questions are received from FIs rather than comments
I.F. New instructions, released for a comment period, do not indicate the estimated issuance date (standard process for FR Y-9C)	[Note this example relates to 1.A and 1.F as it discusses lack of commentary period and estimated issuance date.] Draft technical instructions were provided to an FI on 2/10/2014. These instructions contained updated edit checks along with output instructions. These instructions were not released for commentary and no issuance date was communicated to FIs. The FI assumes that the issuance date was for 4Q 2013 – due on 2/21/2014, 11 days after receiving the “draft” instructions. To date the FIs have not received a final instruction set as technical instructions are not posted to the FRB site.	New instructions may not be implemented timely, late identification of instructions decreases timeline and may require additional resources for manual fix	Increased potential for data integrity issues, additional effort to request and review revised data; increased potential for valid edit checks and rework

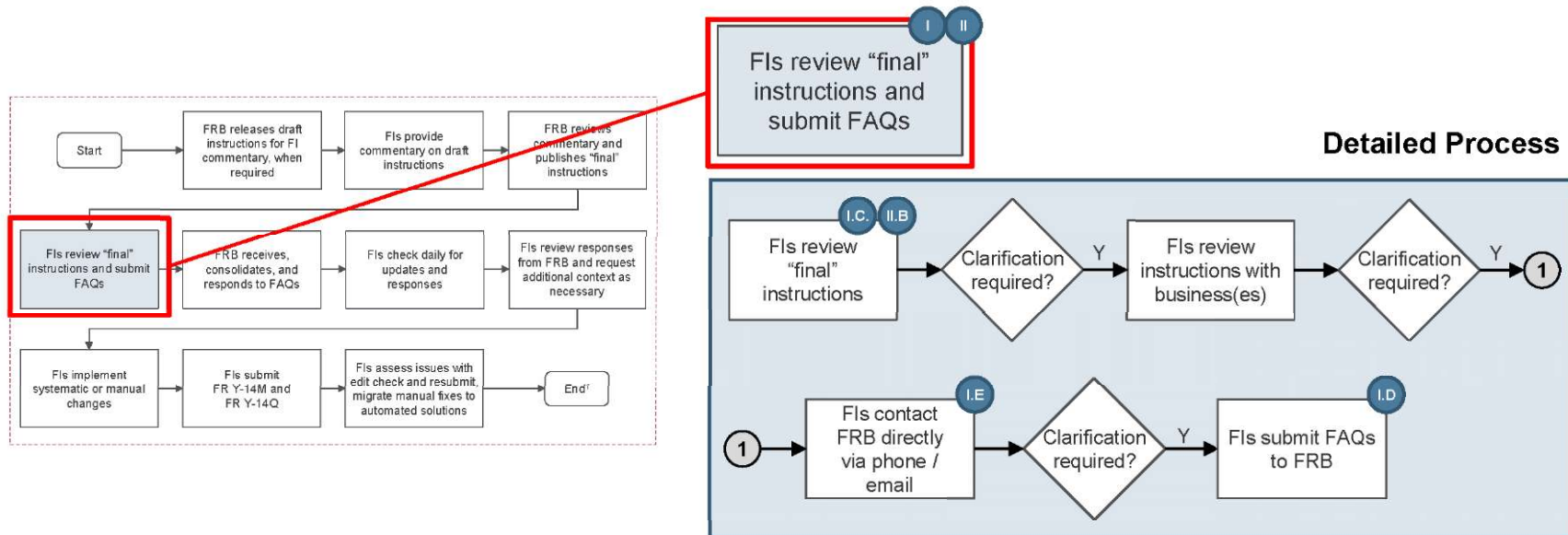


# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.B. Final instructions may not be formally communicated to FIs when published	<p>1. FIs are not notified – required to check website daily for updates.</p> <p>2. Clarification of what should be included in the Supplemental Schedule SME and Corporate Card loan population was included in the Proposed 3Q 2013 instructions, however it was not redlined as other changes were.</p>	New instructions may not be implemented timely, late identification of instructions decreases timeline and may require additional resources for manual fix	Increased potential for data integrity issues, additional effort to request and review revised data; increased potential for valid edit checks and rework
II.A. New (“final”) instructions may be issued close to filing deadline(s), without sufficient time to comply with policy mandated timeframes for IT changes	<p>1. On 2/10/2014, new instructions were provided for the submission of 12/31/2013 data due 2/21/2014. Significant time is required to review the schedules and determine changes from old instructions, submit FAQs for FRB’s consideration, receive response to FAQs, and obtain approvals to implement changes to the data process.</p> <p>2. Using the 9/30/13 instruction changes as an example, the instructions were released 7/24/2013 for comment until 8/26/2013 with changes to be implemented effective 9/30/2013. The instructions became final 9/30/13. This allows for a 40 day turnaround time for interpretation, discussion, coding, testing and implementation on data that has already been posted.</p>	Lack of time for IT to systematically execute technical changes in line with change management protocol which creates inconsistencies in compliance with internal risk management procedures and/or delays in implementing formal enterprise data solutions (manual process)	Increased potential for data integrity issues, increased potential for valid edit checks and rework; lack of valid data until corrections are processed; increased potential for re-submission



# FR Y-14 Process – Current State



Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.C. New instructions may not include the necessary level of detail for FIs to implement data change	Partial Charge Offs on the Quarterly Retail submissions required follow-up in order to implement data changes.	Additional resources required to obtain details, inability to define new process, difficulty in implementing system/data change process	Increased correspondence with FIs to provide clarification, additional resources required to provide and repost details of new instructions
II.B. "Final" instructions are often reposted multiple times with corrections or changes	This is a consistent issue with the FR Y-14Q/M/A. This specific example references how this occurred with the FR Y-14A for 3Q 2013. Final instructions were posted and downloaded on 9/30/2013. Changes to this final instruction set was posted on 12/06/2013.	As changes to the initial instructions occur further along in the SDLC process, impact on resources and other constraints increases exponentially	Increased potential for data integrity issues





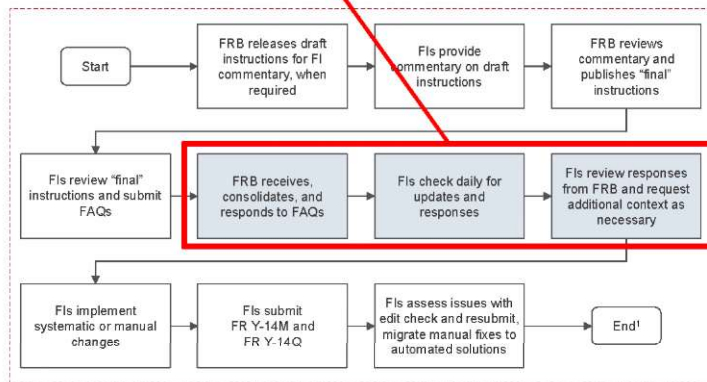
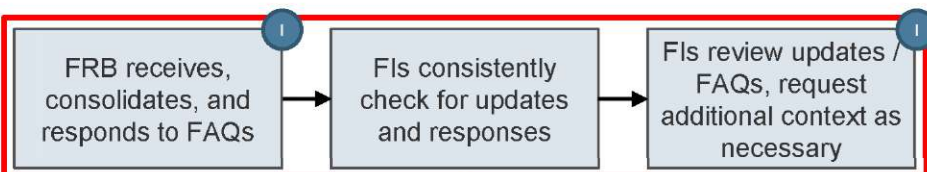
# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.E. Lack of communication between FIs and the Federal Reserve to obtain clarification / details	14M Home Equity Edit #84 was previously defined as “Remaining Term must be a number between 0 and 600 or 999”. When an FI submitted its 12/31/2013 14M submission, we received back from Black Knight an updated edit result failure for the same item, however the term floor was now 1. The very next day, Black Knight distributed updated edit check definitions in which the edit check floor was adjusted up to 12.	FIs may begin implementing “best guess” approach and responses may alter that; late responses may require additional resource deployment	Increased potential for data integrity issues
I.D. FIs are not provided with an estimated timeframe for when responses will be received for FAQs	An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.	FIs may begin implementing “best guess” approach and responses may alter that; late responses may require additional resource deployment	Increased potential for data integrity issues

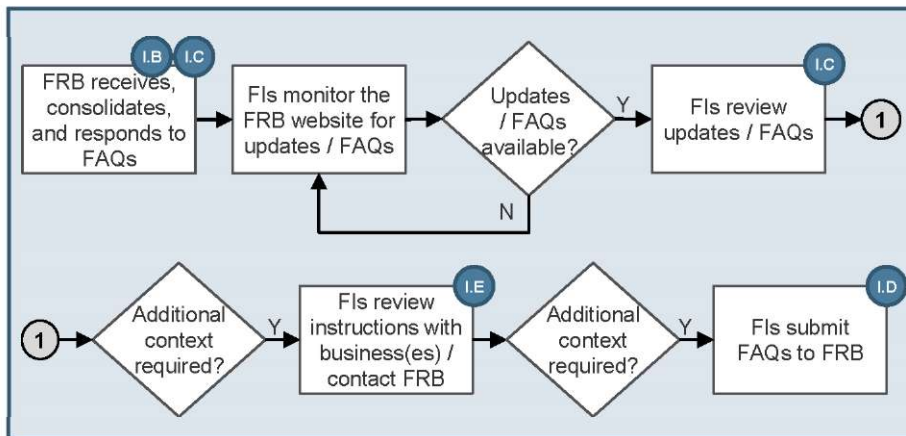




# FR Y-14 Process – Current State



## Detailed Process



Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.B. FIs may not receive notification of updates / responses to FAQs	<p>1. [Issue from I.D]: An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.</p> <p>2. Securities Schedule instructions and files received are different from the templates downloaded from the FRB website.</p>	FAQs / updates are missed or identified late, overall SDLC process cannot move forward until additional clarification is provided, time lost anticipating FAQ response when resources can be more efficiently allocated, inaccurate data submitted and additional resources required to correct / resubmit data	Increased potential for data integrity issues, high volume of correspondence with FIs

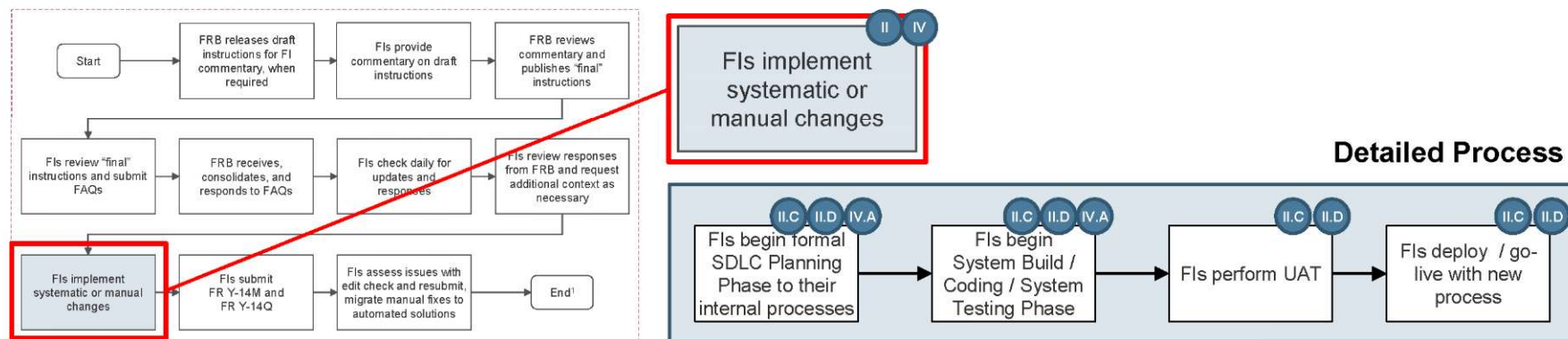


# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.C. Responses to new instructions FAQs may be unanswered or require additional context and responses are not always obtained	There have been FAQs submitted on the Partial Charge Offs (Quarterly Retail submissions), however, responses were not aligned with business practices; this process does not allow for a dialogue between the FIs and FRB to resolve issues/concerns.	“Best guess” approach taken when FAQ is not clear or not received, which challenges data integrity	High number of correspondence with FIs due to question volume from FIs, resource constraints to respond to FIs, increased potential for data integrity issues
I.E. Lack of communication between FIs and the Federal Reserve to obtain clarification / details	Example provided previously, however, impacts downstream process.	Unable to clarify new instructions quickly, delay in formal SDLC process	Increased potential for data integrity issues
I.D. FIs are not provided with an estimated timeframe for when responses will be received for FAQs	Example provided previously, however, impacts downstream process.	FIs may begin implementing “best guess” approach and responses may alter that; late responses may require additional resource deployment	Increased potential for data integrity issues



# FR Y-14 Process – Current State



Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.C. Additional FAQs may be outstanding, systematic or manual changes to the data process may be implemented based on limited understanding of new instructions and existing FAQs	An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.	Lack of time for IT to systematically execute technical changes in line with change management protocol, creating inconsistencies in compliance with internal risk management procedures and/or delays in implementing formal enterprise data solutions (manual process); data integrity challenges, increased number of edit checks, additional resources required to correct data	Increased potential for data integrity issues, resource constraints to obtain corrected data from FIs, delays in receiving data, increased potential for re-submissions





# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.D. SDLC process to systematically update reporting processes may take up to one year to fully implement depending on the request, system capabilities, and resource constraints	Example provided below (Gross Credit Exposure).	Inability to perform formal SDLC process, including analysis, requirements, system build, and UAT; updates to initial instructions impact SDLC process (higher impact when further along in implementation, increasing impact on time and resources, exponentially)	Increased potential for data integrity issues, data submission delays, increased number of correspondence with FIs to provide clarification

## Summary of Project:

- Produce a single counterparty gross credit exposure report using a specific data metric

## Challenges in SDLC:

- New configuration impacted current reports in production
- Configuration updates affected Risk Reporting Asset Category Codes
- Hard-coded logic had to be replaced with automatic configuration
- Configuration flags for all outbound processes had to be consolidated
- Facility Limits previously reported by Facility Owner Customer were updated to be reported by Primary Customer
- Configuration had to be updated to include data for Credit Default Reporting

## Gross Credit Exposure - SDLC Timeline

Phase / Objective	Time Required (Weeks)
Receive Request	
Planning Phase	4
Project definition	4
Write Business Requirements and Obtain Sign-off	6
Write Technical / Systems Requirements	10
System Build / Coding and Ongoing Clarification / System Testing	6
User Acceptance Testing	5
Approval and Deployment / Go-Live	5
Quality Control / Parallel Run	12
<b>Total</b>	<b>52</b>

Note: The SDLC process varies dramatically for less and more sophisticated changes; actual timelines may range from three months to one year or more.



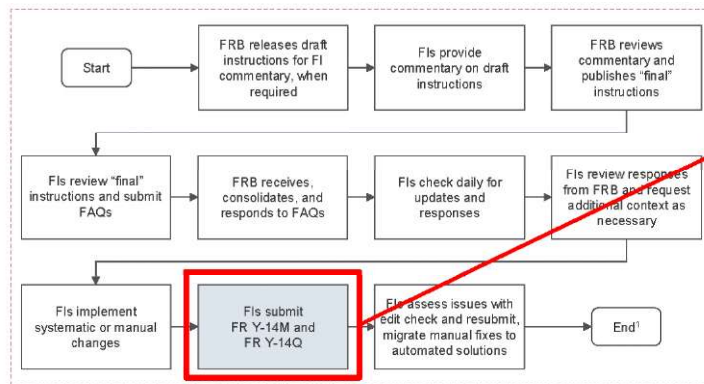
# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
IV.A. Data is requested in inconsistent file formats, including csv, xml, plain text, and excel templates	Example provided below.	Additional resources required to ensure conversion of data formats does not create further issues in the final submission to the Federal Reserve	Increased potential for data integrity issues

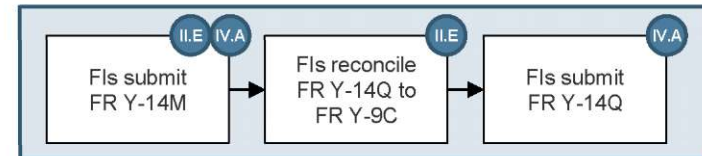
Collections	Schedule	Format	Comments
FR Y-14Q	Edit Respondent Reports	CSV	Comma Separated Values. First line contains column headers.
FR Y-14Q	FVO/HFS	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	OpRisk	CSV	Comma Separated Values. First line contains column headers. Text Qualifiers required. Double quotes should be escaped.
FR Y-14Q	PPNR	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	Retail	TXT	Text file. Tab delimited. First line contains column headers.
FR Y-14Q	Securities	CSV	Comma Separated Values. First line contains column headers. Text Qualifiers required. Double quotes should be escaped.
FR Y-14Q	Supplemental	TXT	Text file. Tab delimited. First line contains column headers.
FR Y-14Q	Wholesale	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	Regulatory Capital Instruments	Excel	Excel template
FR Y-14Q	Regulatory Capital Transitions	Excel	Excel template
FR Y-14Q	Trading	Excel	Excel template
FR Y-14Q	MSR Valuation Schedule	Excel	Excel template
FR Y-14M	All	TXT	Text file. Pipe " " delimited. No column headers. No quotation marks should be used as text identifiers.



# FR Y-14 Process – Current State



## Detailed Process

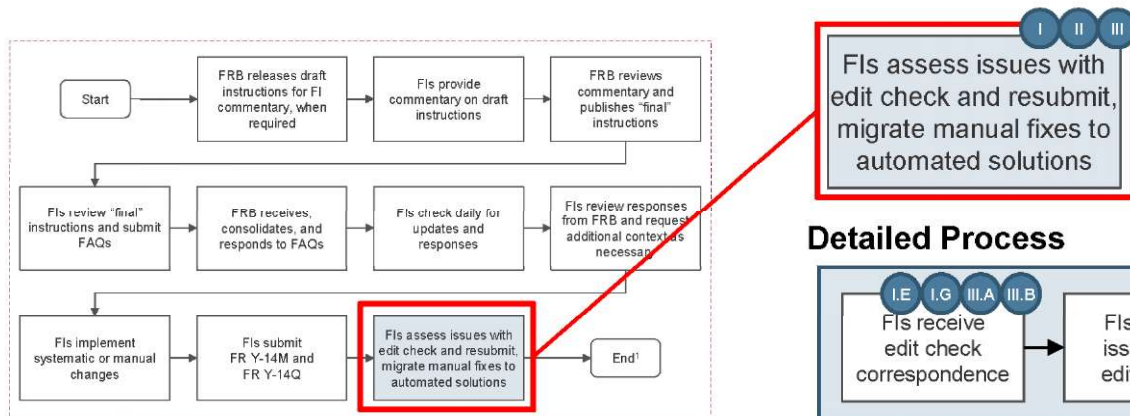


Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.E. Timelines for review and identification of data issues from FRB is unclear (feedback may come months after submission)	1. Input from May FR Y-14M data reviewed in June 2013 is not received until November 2013.  2. On 9/3/2013 an FI received questions from the FRB on our 3/31/2013 Supplemental submission which was uploaded to Intralinks on 5/23/2013. The FI was required to respond to the question within five days of receipt.	Feedback could impact multiple submissions since the identified issue from the Federal Reserve; requires resource dedication to make adjustments	Increased potential for data integrity issues, increased volume of correspondence with FIs
IV.A. Data is requested in inconsistent file formats, including csv, xml, plain text, and excel templates	Example provided previously, however, impacts downstream process.	Providing data in multiple formats requires excess capacity; challenging reconciliations of different file formats	Increased potential for data integrity issues

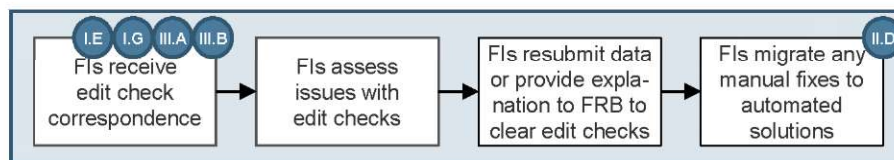




# FR Y-14 Process – Current State



## Detailed Process



Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.E. Lack of communication between FIs and the Federal Reserve to formally track and update invalid edit checks	1. Example provided previously, however impacts downstream process. 2. Communication from the Federal Reserve with unclear intent was received by FIs indicating potential for increased scrutiny on edit checks.	Redundancy in providing responses to repeatedly failed edit checks that are invalid, increased rework, inefficient allocation of resources to confirm data that was accurately submitted	Increased volume of correspondence with FIs to clear edit checks



# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.G. Communications received from the FRB via FRSecure Message Center do not identify whom else was included on the distribution	Communication via FRSecure Message Center varies by FI. Not all FIs are receiving communication via FRSecure Message Center. For FIs that are receiving communication via FRSecure Message Center, some are able to see the distribution of the messages, while others cannot. These communications may be delivered to many personnel in an FI without identifying them. Without the ability to see the distribution list, FIs are unable to prevent redundancy and confusion between departments of the FI.	Causes multiple, duplicative work efforts from various business units to answer a single question posed by the Federal Reserve	May receive various responses to questions posed
II.D. SDLC process to systematically report data may take up to one year to fully implement depending on the request, system capabilities, and resource constraints	<p>The effort when 40 additional data elements were added to the 14M schedule in June was significant and as a result, creates additional potential for edit check issues:</p> <ul style="list-style-type: none"> <li>• The tasks of analyzing and understanding data requirements and sourcing data from service providers took an estimated five months of effort.</li> <li>• To add the data to the systems (i.e. source systems and credit data warehouse) via the SDLC process is expected to take additional 4-8 months to implement, and will be longer depending on the source of data. The below effort is best case scenario for our data warehouse, additional time will be needed for the source systems and service providers to make changes to their systems as well. <ul style="list-style-type: none"> <li>○ System Requirements (2-4 weeks)</li> <li>○ Design (2-3 weeks)</li> <li>○ Construction/Development (5-6 weeks)</li> <li>○ Delivery (2-4 weeks)</li> <li>○ Testing (5-8 weeks)</li> <li>○ Implementation (1 week)</li> </ul> </li> </ul>	As updates and changes to the initial instructions occur further along in the SDLC process, the impact on time, resources, and other constraints increases exponentially	Increased potential for data integrity issues, high number of correspondence with FIs to provide clarification
III.B. FIs experience time constraints in clearing edit checks within five days	FIs are given five days to clear all failed edit checks, however, additional time is required to navigate through multiple loan systems and research the portfolio / deal, and the resource required to perform this function may be unavailable.	Additional resources required to research and clear edit checks timely	Additional resources required to follow up with FIs on outstanding failed edit checks





# FR Y-14 Process – Current State

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
III.A. Edit check failures occur although valid business reasons exist	See example provided below.	Increased rework, inefficient allocation of resources to confirm accurately submitted data	Increased volume of correspondence with FIs to clear edit checks

FSR, in August 2013, provided **103 edit check examples and 51 data gaps** where edit checks were triggered and business justification was provided. Examples were provided for the Corporate, CRE, USSB, USOtherCons, Auto, Home Equity, and First Lien schedules. Although certain edit checks were updated, a full listing of updated edit checks was not provided by the Federal Reserve. Specific examples from the **Corporate Schedule** are provided below:

Edit #	Edit Check Issue	Edit Test	Justification / Explanation
8	Data Gap	Original Internal Obligor ID must not be null or zero	Some core banking systems do not have an "ObligorID," therefore, this is a legitimate data gap.
55	Edit Check in Question	Committed Exposure must not be null or negative	Some transactions can have negative commitments (Syndications and/or Participations).
174	Edit Check in Question	TangibleAssets should be greater than or equal to the sum of Current Assets Current and Fixed Assets	Any edit that compares dollar amount fields should have a degree of rounding tolerance built in. Right now amounts that are off by even \$1 fail the edit checks.
189	Edit Check in Question	If NonAccrualDate is not equal to 9999-12-31, then NonAccrualDate should be prior to the MaturityDate	It is standard business practice for a loan to be placed on non accrual status after the maturity date. Non accrual date can be after maturity date if the borrower continues to pay interest after maturity or loan is in workout.

Additionally, a memo was sent from the FSR to the Federal Reserve in December 2013 indicating specific examples of “data gaps” that had business justification. Below is an example from the **Auto Schedule**:

Edit #	Issue Identified	Justification / Explanation
42	Immaterial amounts on individual loans need to be ignored	The last payment on an auto loan is often a few pennies or dollars smaller than the other monthly payments. With many customers making automatic payments and over 10,000 maturing auto loans each month it is common to have a number of loans with a small negative balance until these items are cleared.

Further, FSR can provide an additional excel spreadsheet of edit checks and provide business justification for each.



# Summary of Recommendations



# Summary of Recommendations

*Below summarizes the recommendations to enhance the FR Y-14 data submission process.*

## **Theme #1: Communication**

- Institute ongoing open forum and timely communication with a designated representative from the Federal Reserve to clarify questions regarding FAQs or requirement instructions on a real-time basis (all filing FIs invited to attend)
- Modify the process to notify affected FIs when newly issued FAQs or changes to FAQs are published
- Modify the current FAQ process ensuring that FAQs are incorporated into final instructions. Publish any needed FAQs in a central location (e.g., FRB website)
- Provide FAQ submission guidelines for FIs to standardize the information received by the Federal Reserve to most effectively address questions
- Include the version and / or release date for each FR Y-14 instruction documents so that FIs and the Federal Reserve can reference to a specific version of instructions when communicating with each other
- Enhance the distribution of redlined edit check definitions and instructions to include a summary of changes
- Prioritization of data: enhance detail in instructions, including the intended use and prioritization of data elements required for the Federal Reserve models



# Summary of Recommendations

*Below summarizes the recommendations to enhance the FR Y-14 data submission process.*

## **Theme #2: Timeline / SDLC Process**

- Establish an agreed upon timeline for change requests to allow FIs adequate time to update coding, mapping, and reporting structures (e.g., minimum of 6 months from a final rule or longer if changes affect multiple or complex fields, similar to instruction changes for the Y-9C submission)
- Establish a timeline for resolution for inquiries submitted to the Federal Reserve
- Provide adequate time for all filers to incorporate acquisition data into their current portfolios and reporting structures (1 year is suggested) to allow for more accurate and consistent reporting





# Summary of Recommendations

*Below summarizes the recommendations to enhance the FR Y-14 data submission process.*

## **Theme #3: File Formats**

- Adopt a single file format to be used through all FR Y-14 and other Federal Reserve requested data submissions
- Establish FR Y-14 data dictionary leveraging industry standards (e.g., MISMO / FHA)
- Collaborate with other regulators to determine standardized file formats for data submissions across the regulatory environment



# Summary of Recommendations

*Below summarizes the recommendations to enhance the FR Y-14 data submission process.*

## **Theme #4: Edit Checks**

- Establish process to discuss changes and additions to data elements prior to releasing formally, in order to obtain feedback from FIs on feasibility and decrease probability for edit check issues
- Update edit checks to be consistent with requirements per the most updated instructions / FAQs and remove invalid edit checks where business justifications have been identified
- Add a generic response section and / or change tolerance levels / acceptable data responses to mitigate subsequent questions and follow up from FRB
- Limit the requirement for providing historical data on acquired portfolios to data available in the acquired portfolio (maximum of five years prior to the acquisition date)



## Evaluation of Objectives and Next Steps



# Evaluation of Objectives and Next Steps

## Evaluation of Objectives

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- Collaborative discussion on identified issues
- Agree on recommendations and approach to resolve issues
- Prioritize process improvements to implement

## Next Steps

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- Schedule follow-up meeting with the Federal Reserve and Member FIs to discuss feedback and agree upon process improvements to implement
- Establish project plans and identify deliverables and milestone dates
- Establish future working sessions to work through issues in implementing process improvements and manage / track the overall execution progress

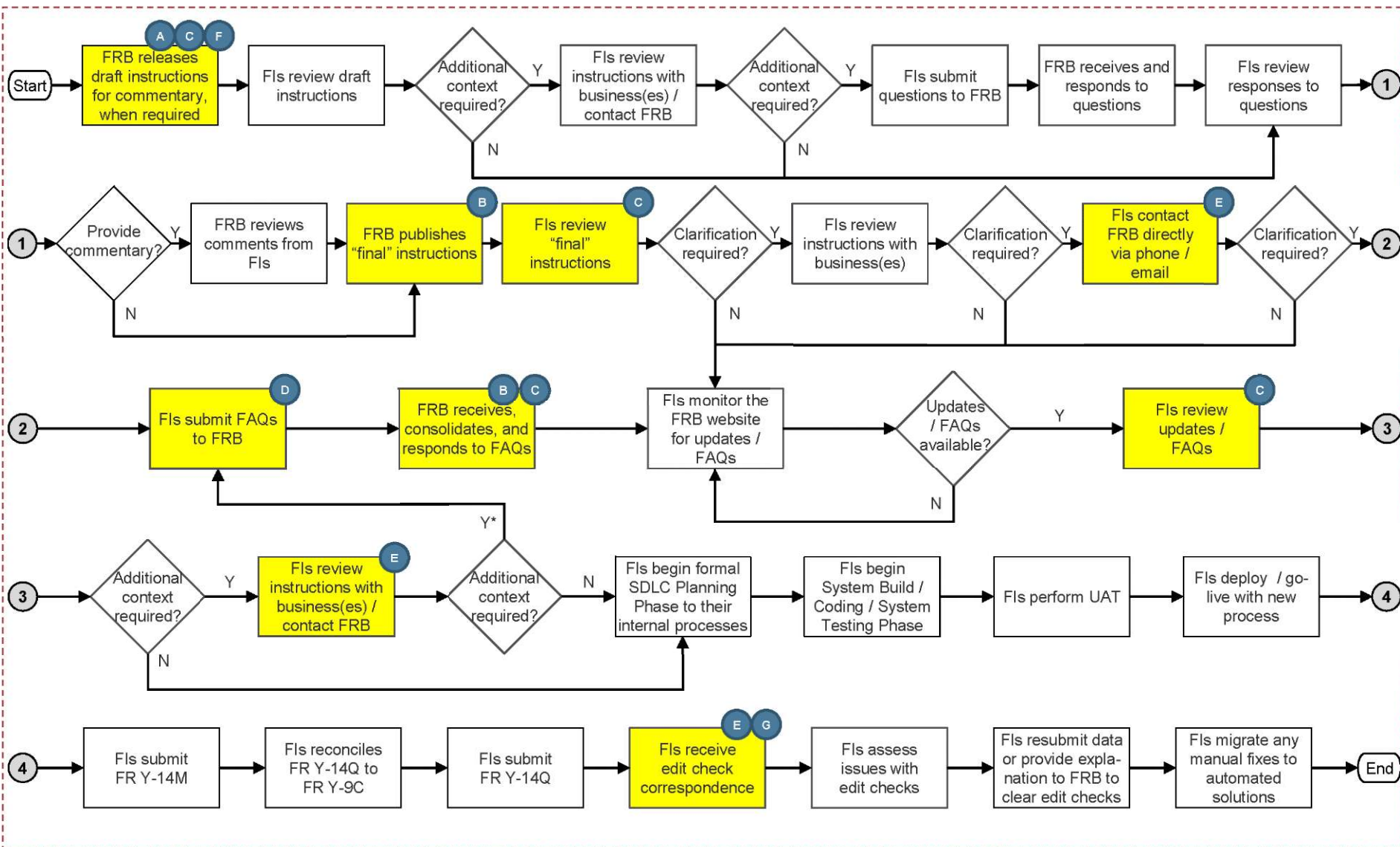




## Appendix A: Current State FR Y-14 Process: Theme View



# I. Communication



Y\* It should be assumed that FIs move on to begin formal SDLC process while waiting for additional response from the Federal Reserve.



# I. Communication

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.A. New instructions are not consistently drafted and released for commentary from FIs; FIs are unaware of criteria for a required commentary period	<p>1. Output changes (submission format) for the Securities, PPNR, HFS/FVO and Supplemental schedules have been released without commentary.</p> <p>2. Draft technical instructions were provided to an FI on 2/10/2014. These instructions contained updated edit checks along with output instructions. These instructions were not released for commentary and no issuance date was communicated to FIs. The FI assumes that the issuance date was for 4Q 2013 – due on 2/21/2014, 11 days after receiving the “draft” instructions. To date, the FIs have not received a final instruction set as technical instructions are not posted to the FRB site.</p> <p>3. Technical submission instructions are included in the FR Y-14M published instructions, but are not included in the FR Y-14Q published instructions.</p>	Inability to ask questions and / or provide input (i.e., business justifications for data availability) on upcoming / new instructions	High volume of correspondence with FIs to provide clarification or additional information after instructions are published as “final”
I.B. Final instructions may not be formally communicated to FIs when published, FIs may not receive notification of updates / responses to FAQs	<p>1. FIs are not notified – required to check website daily for updates.</p> <p>2. Clarification of what should be included in the Supplemental Schedule SME and Corporate Card loan population was included in the Proposed 3Q 2013 instructions, however it was not redlined as other changes were.</p> <p>3. [Issue from I.D]: An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.</p> <p>4. Securities Schedule instructions and files received are different from the templates downloaded from the FRB website.</p>	New instructions may not be implemented timely, late identification of instructions decreases timeline and may require additional resources for manual fix; FAQs / updates are missed or identified late	Increased potential for data integrity issues, additional effort to request and review revised data; increased potential for valid edit checks and rework





# I. Communication

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.C. Draft / New instructions may not include the necessary level of detail for FIs to provide commentary / implement data changes; responses to new instructions FAQs may be unanswered or require additional context and responses are not always obtained	<p>1. Many FIs provide responses during the commentary period to request clarification on published instructions. Without this clarification FIs cannot provide sufficient or meaningful commentary. For example, during the last set of changes to the FR Y-14M, one FI posted many questions requesting clarification on published instructions but did not receive a response to any of the questions posted. Here are two examples from the FR Y-14M First Lien instructions:</p> <ul style="list-style-type: none"> <li>Interest Rate Reduced – This appears to be equivalent to field 71 in the Home Equity data collection of the FR Y-14M. However, the Home Equity definition refers to modification. Are these two fields intended to be the same?</li> <li>Third Party Sale Flag – Could clarification be provided on whether this identifies only loans sold? How should conveyed loans be handled for this field?</li> </ul> <p>2. Partial Charge Offs on the Quarterly Retail submissions required follow-up in order to implement data changes.</p> <p>3. There have been FAQs submitted on the Partial Charge Offs (Quarterly Retail submissions), however, responses were not aligned with business practices; this process does not allow for a dialogue between the FIs and FRB to resolve issues/concerns.</p>	Additional resources required to obtain details, difficulty providing appropriate commentary, increased time required to interpret new instructions; inability to define new process, difficulty in implementing system/data change process; “best guess” approach taken when FAQ is not clear or not received, which challenges data integrity	Increased correspondence with FIs and additional resources required to provide details, questions are received from FIs rather than comments
I.D. FIs are not provided with an estimated timeframe for when responses will be received for FAQs	An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.	FIs may begin implementing “best guess” approach and responses may alter that; late responses may require additional resource deployment	Increased potential for data integrity issues



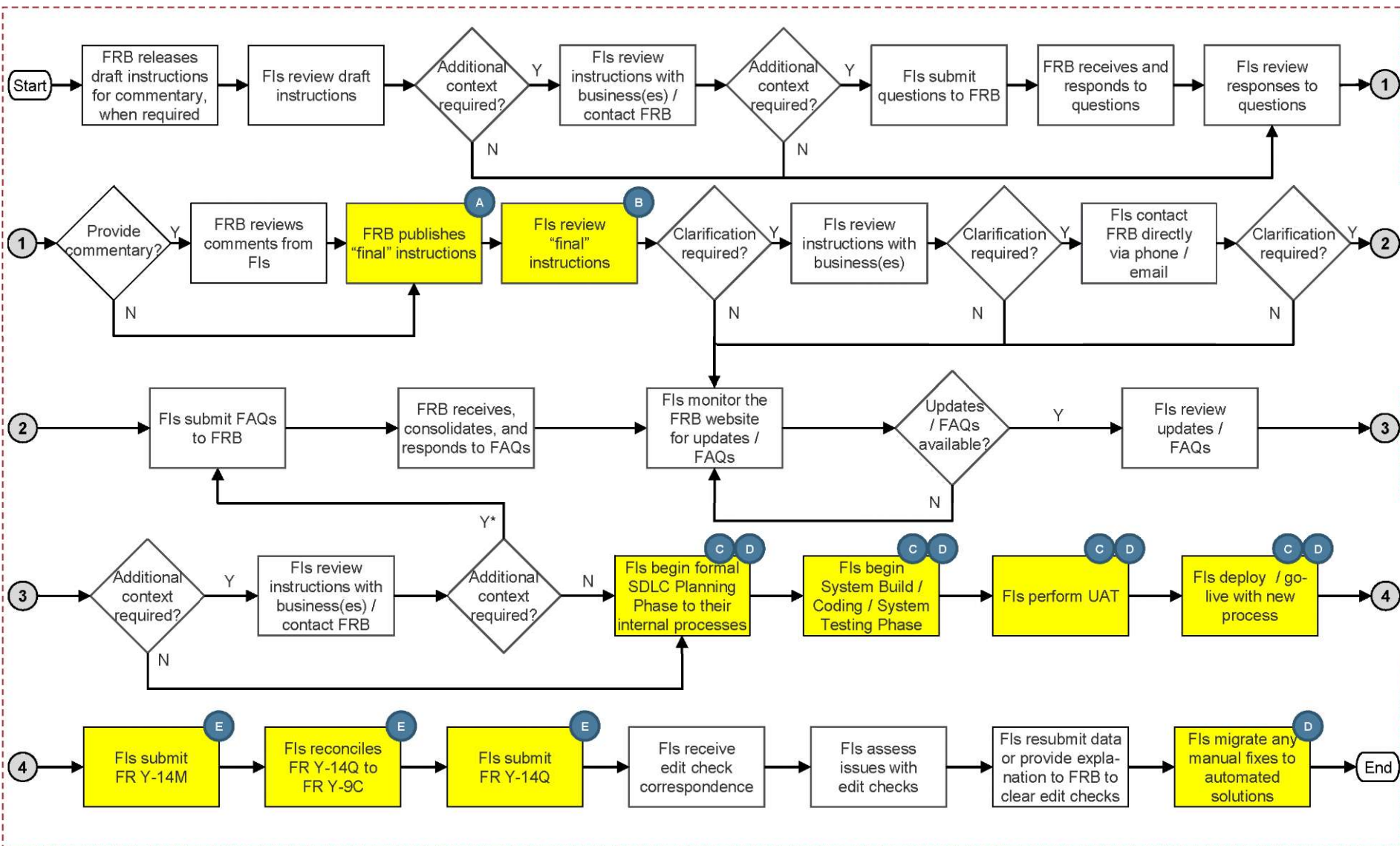
# I. Communication

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
I.E. Lack of communication between FIs and the Federal Reserve to obtain clarification / details / formally track and update invalid edit checks	<p>1. 14M Home Equity Edit #84 was previously defined as “Remaining Term must be a number between 0 and 600 or 999”. When an FI submitted its 12/31/2013 14M submission, we received back from Black Knight an updated edit result failure for the same item, however the term floor was now 1. The very next day, Black Knight distributed updated edit check definitions in which the edit check floor was adjusted up to 12.</p> <p>2. Communication from the Federal Reserve with unclear intent was received by FIs indicating potential for increased scrutiny on edit checks.</p>	FIs may begin implementing “best guess” approach and responses may alter that; late responses may require additional resource deployment; delay in formal SDLC process; increased rework and inefficient allocation of resources to confirm data that was accurately submitted	Increased potential for data integrity issues; increased volume of correspondence with FIs to clear edit checks
I.F. New instructions, released for a comment period, do not indicate the estimated issuance date (standard process for FR Y-9C)	[Note this example relates to 1.A and 1.F as it discusses lack of commentary period and estimated issuance date.] Draft technical instructions were provided to an FI on 2/10/2014. These instructions contained updated edit checks along with output instructions. These instructions were not released for commentary and no issuance date was communicated to FIs. The FI assumes that the issuance date was for 4Q 2013 – due on 2/21/2014, 11 days after receiving the “draft” instructions. To date the FIs have not received a final instruction set as technical instructions are not posted to the FRB site.	New instructions may not be implemented timely, late identification of instructions decreases timeline and may require additional resources for manual fix	Increased potential for data integrity issues, additional effort to request and review revised data; increased potential for valid edit checks and rework
I.G. Communications received from the FRB via FRSecure Message Center do not identify whom else was included on the distribution	Communication via FRSecure Message Center varies by FI. Not all FIs are receiving communication via FRSecure Message Center. For FIs that are receiving communication via FRSecure Message Center, some are able to see the distribution of the messages, while others cannot. These communications may be delivered to many personnel in an FI without identifying them. Without the ability to see the distribution list, FIs are unable to prevent redundancy and confusion between departments of the FI.	Causes multiple, duplicative work efforts from various business units to answer a single question posed by the Federal Reserve	May receive various responses to questions posed





## II. Timeline / SDLC Process



Y\* It should be assumed that FIs move on to begin formal SDLC process while waiting for additional response from the Federal Reserve.

## II. Timeline / SDLC Process

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.A. New ("final") instructions may be issued close to filing deadline(s), without sufficient time to comply with policy mandated timeframes for IT changes	<p>1. On 2/10/2014, new instructions were provided for the submission of 12/31/2013 data due 2/21/2014. Significant time is required to review the schedules and determine changes from old instructions, submit FAQs for FRB's consideration, receive response to FAQs, and obtain approvals to implement changes to the data process.</p> <p>2. Using the 9/30/13 instruction changes as an example, the instructions were released 7/24/2013 for comment until 8/26/2013 with changes to be implemented effective 9/30/2013. The instructions became final 9/30/13. This allows for a 40 day turnaround time for interpretation, discussion, coding, testing and implementation on data that has already been posted.</p>	Lack of time for IT to systematically execute technical changes in line with change management protocol which creates inconsistencies in compliance with internal risk management procedures and/or delays in implementing formal enterprise data solutions (manual process)	Increased potential for data integrity issues, increased potential for valid edit checks and rework; lack of valid data until corrections are processed; increased potential for re-submission
II.B. "Final" instructions are often reposted multiple times with corrections or changes	This is a consistent issue with the FR Y-14Q/M/A. Our specific example references how this occurred with the FR Y-14A for 3Q 2013. Final instructions were posted and downloaded on 9/30/2013. Changes to this final instruction set was posted on 12/06/2013.	As changes to the initial instructions occur further along in the SDLC process, impact on resources and other constraints increases exponentially	Increased potential for data integrity issues



## II. Timeline / SDLC Process

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.C. Additional FAQs may be outstanding, systematic or manual changes to the data process may be implemented based on limited understanding of new instructions and existing FAQs	An FI submitted a request to postpone the securities output changes to 1Q 2014 and never received a response.	Lack of time for IT to systematically execute technical changes in line with change management protocol which creates inconsistencies in compliance with internal risk management procedures and/or delays in implementing formal enterprise data solutions (manual process); data integrity challenges, increased number of edit checks, additional resources required to correct data	Increased potential for data integrity issues, resource constraints to obtain corrected data from FIs, delays in receiving data, increased number of data re-submissions





## II. Timeline / SDLC Process

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
II.D. SDLC process to systematically update reporting processes may take up to one year to fully implement depending on the request, system capabilities, and resource constraints	<p>1. Please see following slide for example (Gross Credit Exposure).</p> <p>2. The effort when 40 additional data elements were added to the 14M schedule in June was significant and as a result, creates additional potential for edit check issues:</p> <ul style="list-style-type: none"> <li>• The tasks of analyzing and understanding data requirements and sourcing data from service providers took an estimated five months of effort.</li> <li>• To add the data to the systems (i.e. source systems and credit data warehouse) via the SDLC process is expected to take additional 4-8 months to implement, and will be longer depending on the source of data. The below effort is best case scenario for our data warehouse, additional time will be needed for the source systems and service providers to make changes to their systems as well. <ul style="list-style-type: none"> <li>○ System Requirements (2-4 weeks)</li> <li>○ Design (2-3 weeks)</li> <li>○ Construction/Development (5-6 weeks)</li> <li>○ Delivery (2-4 weeks)</li> <li>○ Testing (5-8 weeks)</li> <li>○ Implementation (1 week)</li> </ul> </li> </ul>	Inability to perform formal SDLC process, including analysis, requirements, system build, and UAT; updates to initial instructions impact SDLC process. As updates and changes to the initial instructions occur further along in the SDLC process, the impact on time, resources, and other constraints increases exponentially	Increased potential for data integrity issues, data submission delays, increased number of correspondence with FIs to provide clarification
II.E. Timelines for review and identification of data issues from FRB is unclear (feedback may come months after submission)	<p>1. Input from May FR Y-14M data reviewed in June 2013 is not received until November 2013.</p> <p>2. On 9/3/2013 an FI received questions from the FRB on our 3/31/2013 Supplemental submission which was uploaded to Intralinks on 5/23/2013. The FI was required to respond to the question within five days of receipt.</p>	Feedback could impact multiple submissions since the identified issue from the Federal Reserve; requires resource dedication to make adjustments	Increased potential for data integrity issues, increased volume of correspondence with FIs



## II. Timeline / SDLC Process

### II.D Example: Change Request – Gross Credit Exposure

#### Summary of Project:

- Produce a single counterparty gross credit exposure report using a specific data metric

#### Challenges in SDLC:

- New configuration impacted current reports in production
- Configuration updates affected Risk Reporting Asset Category Codes
- Hard-coded logic had to be replaced with automatic configuration
- Configuration flags for all outbound processes had to be consolidated
- Facility Limits previously reported by Facility Owner Customer were updated to be reported by Primary Customer
- Configuration had to be updated to include data for Credit Default Reporting

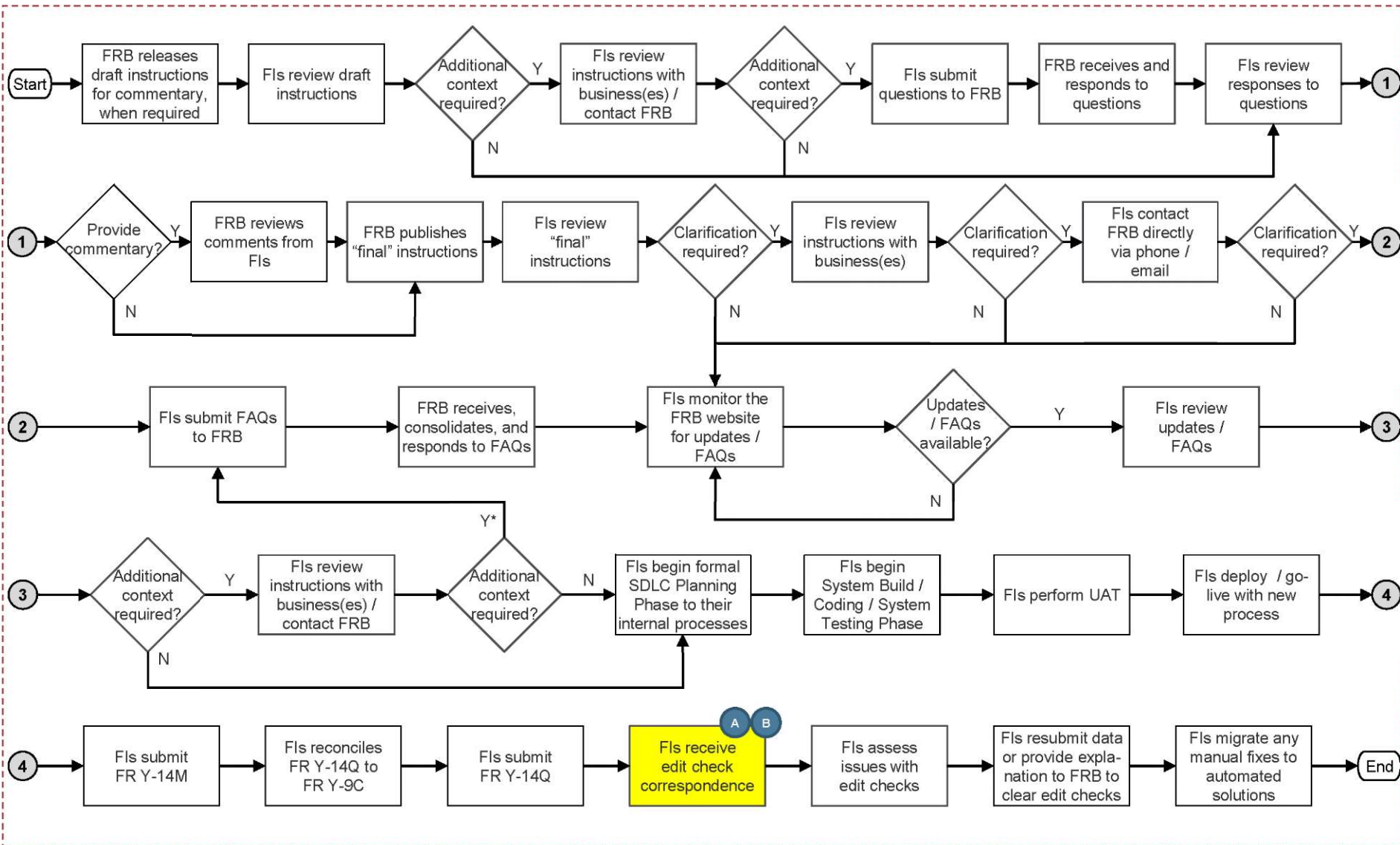
#### Gross Credit Exposure - SDLC Timeline

Phase / Objective	Time Required (Weeks)
Receive Request	
Planning Phase	4
Project definition	4
Write Business Requirements and Obtain Sign-off	6
Write Technical / Systems Requirements	10
System Build / Coding and Ongoing Clarification / System Testing	6
User Acceptance Testing	5
Approval and Deployment / Go-Live	5
Quality Control / Parallel Run	12
<b>Total</b>	<b>52</b>

Note: The SDLC process varies dramatically for less and more sophisticated changes; actual timelines may range from three months to one year or more.



### III. Edit Checks



Y\* It should be assumed that FIs move on to begin formal SDLC process while waiting for additional response from the Federal Reserve.



### III. Edit Checks

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
III.A. Edit check failures occur although valid business reasons exist	Please see detail on the following slide.	Increased rework, inefficient allocation of resources to confirm accurately submitted data	Increased volume of correspondence with FIs to clear edit checks
III.B. FIs experience time constraints in clearing edit checks within five days	FIs are given five days to clear all failed edit checks, however, additional time is required to navigate through multiple loan systems and research the portfolio / deal, and the resource required to perform this function may be unavailable.	Additional resources required to research and clear edit checks timely	Additional resources required to follow up with FIs on outstanding failed edit checks



# III. Edit Checks

## III.A. Example: Edit Check Failures

FSR, in August 2013, provided **103 edit check examples and 51 data gaps** where edit checks were triggered and business justification was provided. Examples were provided for the Corporate, CRE, USSB, USOtherCons, Auto, Home Equity, and First Lien schedules. Although certain edit checks were updated, a full listing of updated edit checks was not provided by the Federal Reserve. Specific examples from the **Corporate Schedule** are provided below:

Edit #	Edit Check Issue	Edit Test	Justification / Explanation
8	Data Gap	Original Internal Obligor ID must not be null or zero	Some core banking systems do not have an "ObligorID," therefore, this is a legitimate data gap.
55	Edit Check in Question	Committed Exposure must not be null or negative	Some transactions can have negative commitments (Syndications and/or Participations).
174	Edit Check in Question	TangibleAssets should be greater than or equal to the sum of Current Assets Current and Fixed Assets	Any edit that compares dollar amount fields should have a degree of rounding tolerance built in. Right now amounts that are off by even \$1 fail the edit checks.
189	Edit Check in Question	If NonAccrualDate is not equal to 9999-12-31, then NonAccrualDate should be prior to the MaturityDate	It is standard business practice for a loan to be placed on non accrual status after the maturity date. Non accrual date can be after maturity date if the borrower continues to pay interest after maturity or loan is in workout.

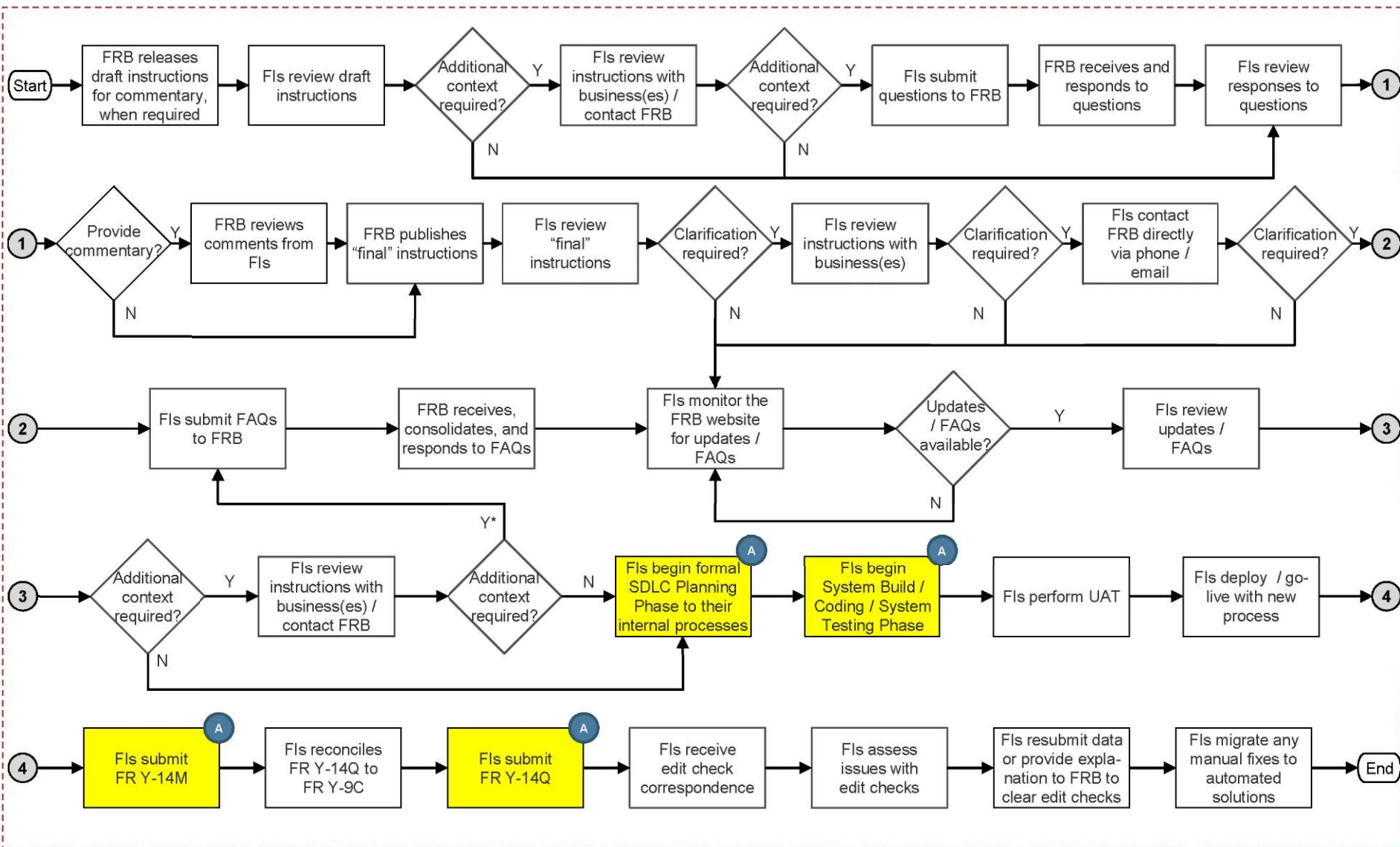
Additionally, a memo was sent from the FSR to the Federal Reserve in December 2013 indicating specific examples of "data gaps" that had business justification. Below is an example from the **Auto Schedule**:

Edit #	Issue Identified	Justification / Explanation
42	Immaterial amounts on individual loans need to be ignored	The last payment on an auto loan is often a few pennies or dollars smaller than the other monthly payments. With many customers making automatic payments and over 10,000 maturing auto loans each month it is common to have a number of loans with a small negative balance until these items are cleared.

Further, FSR can provide an additional excel spreadsheet of edit checks and provide business justification for each.



## IV. Data Formats



Y\* It should be assumed that FIs move on to begin formal SDLC process while waiting for additional response from the Federal Reserve.



## IV. Data Formats

Issue	Example(s)	Impact	
		Reporting FIs	Federal Reserve
IV.A. Data is requested in inconsistent file formats, including csv, xml, plain text, and excel templates	Example provided below.	Additional resources required to ensure conversion of data formats does not create further issues in the final submission to the Federal Reserve	Increased potential for data integrity issues

Collections	Schedule	Format	Comments
FR Y-14Q	Edit Respondent Reports	CSV	Comma Separated Values. First line contains column headers.
FR Y-14Q	FVO/HFS	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	OpRisk	CSV	Comma Separated Values. First line contains column headers. Text Qualifiers required. Double quotes should be escaped.
FR Y-14Q	PPNR	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	Retail	TXT	Text file. Tab delimited. First line contains column headers.
FR Y-14Q	Securities	CSV	Comma Separated Values. First line contains column headers. Text Qualifiers required. Double quotes should be escaped.
FR Y-14Q	Supplemental	TXT	Text file. Tab delimited. First line contains column headers.
FR Y-14Q	Wholesale	XML	Data records are required to be notated with a I, U, or D for "insert", "updated", or "delete." This logic is flawed as FIs are unaware of what resides in FRB systems and must assume the correct notation based on previously sent data.
FR Y-14Q	Regulatory Capital Instruments	Excel	Excel template
FR Y-14Q	Regulatory Capital Transitions	Excel	Excel template
FR Y-14Q	Trading	Excel	Excel template
FR Y-14Q	MSR Valuation Schedule	Excel	Excel template
FR Y-14M	All	TXT	Text file. Pipe " " delimited. No column headers. No quotation marks should be used as text identifiers.



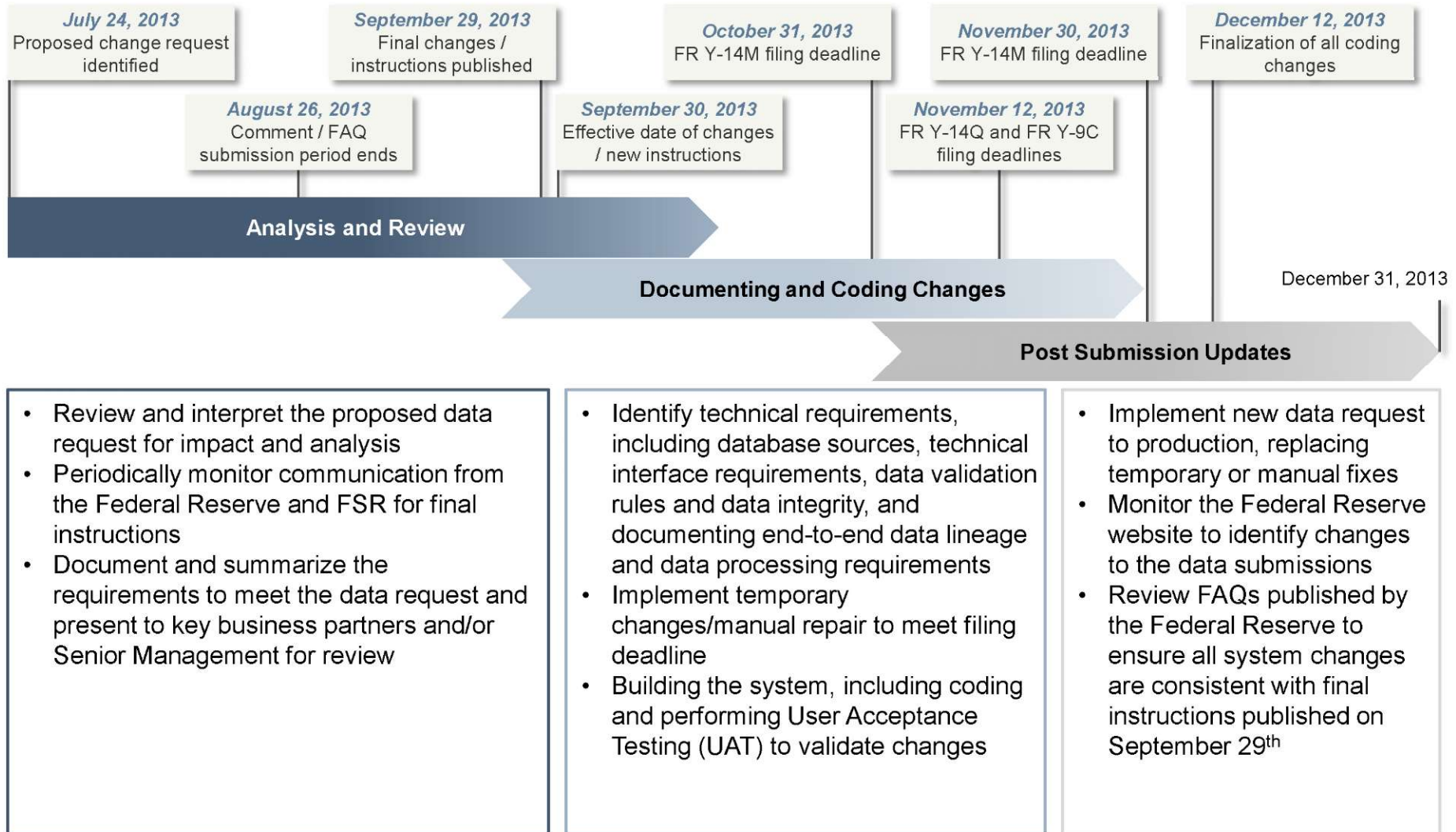


## Appendix B: Data Change Request Example



# Appendix B: Data Change Request Process – Example

*Below outlines the September 30<sup>th</sup> FR Y-14 data change process.*





**Richard W. Coffman**  
General Counsel  
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## INSTITUTE OF INTERNATIONAL BANKERS

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September 12, 2014

[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551

Re: Proposed Revisions To Forms FR Y-14A/Q/M (OMB control number 7100-0341)

Dear Mr. Frierson:

The Institute of International Bankers (“IIB”) appreciates the opportunity to comment on the revisions proposed by the Board of Governors of the Federal Reserve System (the “Board”) to the FR Y-14 series of reports (“Capital Assessments and Stress Testing”).<sup>1</sup> The FR Y-14 reports play a critical role in connection with the Board’s Comprehensive Capital Analysis and Review (“CCAR”) program and the implementation of the capital stress testing required under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”). CCAR and the Dodd-Frank Act’s capital stress testing requirements (“DFAST”) are integral components of the broader efforts undertaken in the wake of the financial crisis to strengthen bank safety and soundness and enhance financial stability. Strong data collection and reporting systems and practices provide key supports for robust and dynamic capital planning and stress testing.

The U.S. bank holding company (“BHC”) subsidiaries of several foreign banking organizations (“FBOs”) currently are subject to FR Y-14 reporting requirements.<sup>2</sup> In addition, the Proposal contemplates that the FR Y-14 reporting panel will be expanded, effective September 30, 2014, to include those FBO BHC subsidiaries that currently rely upon Supervision and Regulation Letter SR 01-01 (Jan. 5, 2001) (“SR 01-01”), notwithstanding that,

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<sup>1</sup> 79 Fed. Reg. 41276 (July 15, 2014) (the “Proposal”).

<sup>2</sup> FR Y-14 reporting requirements will apply to the U.S. intermediate holding companies (“IHCs”) that certain FBOs will be required to establish pursuant to the final rules adopted by the Board implementing the requirements of Section 165 of the Dodd-Frank Act (the “Final FBO 165 Rules”) (79 Fed. Reg. 17240 (March 27, 2014)).





as discussed below, due to the Collins Amendment provisions of the Dodd-Frank Act such “SR 01-01 BHCs” will not become subject to CCAR and DFAST requirements until 2016.

We have addressed this aspect of the Proposal in Part IV of our August 11, 2014 comment letter on the Board’s proposed revisions to its capital plan and stress test rules (the “Capital Plan and Stress Test Proposal”),<sup>3</sup> and those same comments are set forth herein to ensure their inclusion in the administrative record for the Proposal.<sup>4</sup>

Overall, the Board’s timing and process for its proposed change to the FR Y-14 reporting panel to include SR 01-01 BHCs evidences a lack of appreciation for the resources required for FBOs to adjust to the Board’s new requirements for the U.S. operations of FBOs.

The Board’s proposed expansion of the FR Y-14 reporting panel to include SR 01-01 BHCs effective September 30, 2014 would significantly accelerate the timeframe for such BHCs to begin reporting capital planning information. We assume the Board reached a judgment that it would be helpful to begin receiving data from SR 01-01 BHCs in advance of their participation in the CCAR and DFAST process, although the Board’s reasoning or weighing of costs and benefits behind this judgment is not included in the Proposal.

While we understand the possible rationale for requesting data in advance of the formal participation of the SR 01-01 BHCs in the CCAR process, the possibility of this request was made known to the affected FBOs only through the publication of a proposed change to a reporting form (*i.e.*, the Proposal), an event that few if any FBOs monitor in practice, particularly when the reporting form was not heretofore applicable to SR 01-01 BHCs. Moreover, a mere one sentence, without further explanation, is devoted to subjecting the SR 01-01 BHCs to the reporting requirement as of September 30, 2014. The Board could have advised the affected FBOs directly of this significant event, which was not foreshadowed in the Final FBO 165 Rules, but it did not. In addition, the request for comments on the Proposal by September 15, 2014, a mere 15 days before this part of the Proposal is scheduled to be effective, suggests that the request for public comment is at best a pro forma exercise.

By accelerating the reporting requirements for SR 01-01 BHCs without warning or effective communication to the affected FBOs and BHCs, the Board has adopted an approach that is arguably inconsistent with the Dodd-Frank Act, as the provisions for application of the generally applicable capital requirements to SR 01-01 BHCs do not even become effective until July 2015.<sup>5</sup> In addition, assuming adoption of the Capital Plan and Stress Test Proposal, this

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<sup>3</sup> 79 Fed. Reg. 37420 (July 1, 2014).

<sup>4</sup> Regarding the other aspects of the Proposal, we agree with the views and recommendations expressed in the letter, dated August 21, 2014, submitted jointly by The Clearing House Association L.L.C. and The Risk Management Association.

<sup>5</sup> See Dodd-Frank Act § 171(b)(4)(E).



## INSTITUTE OF INTERNATIONAL BANKERS

reporting requirement would precede the application of the capital plan and DFAST requirements to SR 01-01 BHCs by 15 months.<sup>6</sup> Moreover, this accelerated deadline is inconsistent with the approach adopted by the Board, through notice and comment rulemaking, in the Final FBO 165 Rules, with respect to expanding the FR Y-14 reporting panel to include IHCs.<sup>7</sup>

We urge the Board to conform the commencement of FR Y-14 reporting requirements for SR 01-01 BHCs to the revised timing for the capital planning and stress testing cycle beginning January 2016 (assuming adoption of the Capital Plan and Stress Test Proposal), or at least to give affected FBOs the option of delaying the submission of data on FR Y-14 report forms until closer to the implementation deadline for the related regulatory requirements.<sup>8</sup>

We appreciate the Board's consideration of our comments on the Proposal. Please contact the undersigned if we can be of further assistance.

Sincerely,

Richard Coffman  
General Counsel

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<sup>6</sup> See proposed 12 C.F.R. § 225.8(c)(2)(i)(A), 79 Fed. Reg. 37430, and proposed 12 C.F.R. § 252.13(b)(1)(iii), 79 Fed. Reg. 37436. We also note that proposed 12 C.F.R. § 225.8(c)(2)(i)(B), 79 Fed. Reg. 37430, reserves authority for the Board (or a Reserve Bank with concurrence by the Board) to accelerate compliance with these requirements only in the case of individual companies for which the Board “determines that the requirement is appropriate on a different date based on the company’s risk profile, scope of operation, or financial condition.” Whether such an acceleration provision would be within the authority of the Federal Reserve given the effective date of the Dodd-Frank Act provision is questionable, but we note that, even if such a standard were applicable, the Board certainly neither has made such a determination with regard to all of the SR 01-01 BHCs nor has it provided “prior notice to the company of the determination” as also required by the Capital Plan and Stress Test Proposal.

<sup>7</sup> See 79 Fed. Reg. at 17304 (the trigger for commencing FR Y-14 reporting is linked to the reporting cycle that follows the IHC’s formation).

<sup>8</sup> While we firmly believe that FR Y-14 reporting should not commence until after the SR 01-01 BHCs are subject to the capital rules after July 2015, at least the effective date of September 30, 2014 for SR 01-01 BHCs should be pushed back so that these BHCs can prepare for their first filing of monthly, quarterly and semi-annual FR Y-14 series forms in an orderly and efficient manner. A mere 3½ months from the proposal to the first filing of an FR Y-14M is not sufficient time to prepare for this extensive series of reports.

Proposal: FR Y-14A/Q/M and FR Y-16 Capital Assessments & Annual Company-Run Stress Testing(pub. 7/15)

Description: Initial Board review of proposals to extend for three year with revision: (1) FR Y-14A/Q/M, Capital Assessments and Stress Testing; and (2) FR Y-16, Annual Company-Run Stress Test for \$10-50 billion companies.

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Comment ID: 129569

From: John Hallman

Proposal:

Subject: Information Collection Proposals

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Comments:

Please refer to the attached file.

[p]Public Comments on Agency Information Collection Activities; Proposals, Submissions, and Approvals:[/p]

[p]Title: Agency Information Collection Activities; Proposals, Submissions, and Approvals

FR Document Number: 2014-16443

RIN:

Publish Date: 7/15/2014 12:00:00 AM[/p]

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Comment: One of the newly proposed fields on the CRE schedule is Fair Value Committed Exposure. The instructions state that "for held for sale loans and loans accounted for under a fair value option, report the dollar amount adjustment (positive or negative) from the Committed Exposure par balance." However, a commitment is an obligation to lend. It is not an interest earning asset. If there was a committed but undrawn amount of a facility with drawn amounts accounted for under fair value, when it was drawn, that drawn amount would be subject to the adjustment used to calculate Fair Value Adjustment Drawn. What is Fair Value Committed Exposure asking for? The committed but undrawn amount with no adjustment?

Comment: One of the new field requirements for the Corporate Loan and CRE Schedule is the SNC Internal Credit ID described as "...the reporting entity's Internal Credit ID as reported in the SNC collection for this credit facility as of the most recent filing date." Please clarify if the request is for the SNC ID assigned by the regulators or the ID assigned from the Bank's internal systems.[/p]





September 12, 2014

Mr. Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitutional Avenue, NW  
Washington, DC 20551

**Re: Proposed Agency Information Collection Activities; Comment Request**

Dear Mr. Frierson:

The Mortgage Bankers Association<sup>1</sup> (MBA) appreciates the opportunity to provide comments on the proposed changes to the Board of Governors of the Federal Reserve System (Federal Reserve) reporting requirements for bank holding companies (BHCs) with consolidated assets in excess of \$50 billion (the Proposal).<sup>2</sup> Among other things, the Proposal requires changes to the FR Y-14A (Y-14A), FR Y-14Q (Y-14Q), and FR Y-14M (Y-14M) forms (collectively, Y-14 forms). These forms are used by the Federal Reserve for their Capital Assessment and Stress Testing information collection for a wide variety of bank assets, including commercial and multifamily (collectively, commercial) real estate loans. While we will be primarily addressing the Proposal from the commercial real estate finance perspective, we will also draw upon some broader concerns that illustrate the challenges with the Proposal's September 30, 2014 implementation date for certain changes to the forms.<sup>3</sup>

While we have specific concerns regarding some of the additions and modifications for commercial real estate loan reporting on the Y-14Q form, MBA's most pressing concern is that the Proposal's September 30, 2014 implementation date is highly problematic for some BHCs.

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org)

<sup>2</sup> 79 Fed. Reg. 41276 (July 15, 2014).

<sup>3</sup> For some changes to the Y-14Q form the implementation date is September 30, 2014 while other changes have an implementation date of December 31, 2014. The letter at the end of each form denotes the reporting frequency: A for annual; Q for quarterly; and, M for monthly.



This implementation date provides a narrow 15-day timeframe between the close of comments on September 15, 2014 and the implementation of some of the proposed changes to the forms. Accordingly, MBA strongly recommends that all changes to the Y-14 forms be synchronized to be implemented on December 31, 2014.<sup>4</sup> Such an implementation timeframe will provide the Federal Reserve the ability to thoughtfully consider comments and potential modifications prior to finalizing the Proposal. Given the complexity of existing bank reporting systems and the significant scope of the potential reporting changes, a longer implementation timeframe would provide the requisite time for BHCs to modify all of their Y-14 forms. Described below are MBA's concerns with the broad-based changes to the Y-14 reporting and specific concerns about some of the changes impacting the Commercial Real Estate Schedule for the Y-14Q report.

### **The Proposal Requires Broad-Based Changes to Y-14 Reporting**

In total, the Proposal requires BHCs to modify 18 Y-14 forms. These changes address all of the Y-14 reporting periods, many asset categories, including commercial and residential real estate, as well as regulatory compliance schedules. The sweeping breadth of these changes impact many areas of a BHC's operations that require close interdepartmental coordination to ensure that the required changes to the BHC's operating and reporting systems are carefully implemented and rigorously tested. Such modifications require meticulous planning, coordination, execution, and testing that typically require months to complete. We are concerned that given the time and resources required to make significant modifications to the reporting systems of BHCs, any changes or adjustments made to the final forms from the Proposal could not be implemented in such a narrow timeframe, no more than 15 days for some schedules. This implementation bottleneck can be remedied by extending the required implementation for all changes to the Y-14 forms to December 31, 2014. The Schedules with required changes are listed in the table below:

<b>Y-14 Reports Subject to Changes By Reporting Frequency</b>		
<b>Annual (A)</b>	<b>Quarterly (Q)</b>	<b>Monthly (M)</b>
Summary Schedule <sup>5</sup>	Commercial Real Estate Schedule	Domestic First Lien Closed-end 1-4 Family Residential Loan Schedule
Regulatory Capital Instruments	Corporate Loan Scheduled	Domestic Home Equity Loan and

<sup>4</sup> Implicit in this recommendation is for the September 30, 2014 Comprehensive Capital Analysis and Review (CCAR) Y-14Q reporting to continue as scheduled, but without the proposed new and modified fields that MBA recommends being added to the Y-14 forms for December 31, 2014 reporting purposes.

<sup>5</sup> Includes changes to the following Summary Subschedules: Income Statement Subschedule; RWA and Capital Subschedule; Retail Repurchase Subschedule; Securities Subschedule; Trading Subschedule; and Counterparty Risk Subschedule.

Y-14 Reports Subject to Changes By Reporting Frequency		
Annual (A)	Quarterly (Q)	Monthly (M)
Schedule		Home Equity Line Schedule
Regulatory Capital Transitions Schedule	All Retail Schedules (A.1 to A.10)	
Operational Risk Schedule	International Credit Card Schedule	
Counterparty Credit Risk Schedule	International Auto Schedule	
	U.S. Auto Schedule	
	Trading Schedule	
	Securities Schedule	
	Operational Risk Schedule	
	Regulatory Capital Transition Schedule	

### Commercial Real Estate Y-14Q Reporting Changes

For commercial real estate loans, the Proposal adds seven new fields and modifies eight fields of the FR Y-14Q report and is shown below:

New and Revised Data Fields for FR Y-14Q		
New or Revised	Field Name	Implementation Date
New	SNC Internal Credit ID	12/31/2014
New	Renewal Date for Credit Facilities	12/31/2014
New	Credit Facility Currency	9/30/2014
New	Current Occupancy	9/30/2014
New	Current Value Basis	9/30/2014
New	Lower Cost or Market Flag	9/30/2014
New	Prepayment Penalty Flag	12/31/2014
Revised	Amortization – Designate if Non-Standard Amortization	9/30/2014
Revised	Recourse – Full, Partial, None	9/30/2014
Revised	Loan Purpose - Mini Perm	9/30/2014
Revised	Property Size – One Property Type	9/30/2014
Revised	Fair Value Adjustment - Remove Fair Value Adjustment and	9/30/2014

New and Revised Data Fields for FR Y-14Q		
New or Revised	Field Name	Implementation Date
	Replace with Fair Value Commitment Exposure	
Revised	Probability of Default – Expanded to Non Advanced Approach Bank Holding Companies	12/31/2014
Revised	Loss Given Default – Expanded to Non Advanced Approach Bank Holding Companies	12/31/2014
Revised	Exposure at Default – Expanded to Non Advanced Approach Bank Holding Companies	12/31/2014

For the new fields, four will be required to be implemented on September 30, 2014. For the revised fields, five fields will be required to be implemented by this timeframe. Addressed below are specific issues/concerns regarding certain new data fields and changes to existing data fields:<sup>6</sup>

#### Renewal Date for Credit Facilities (New Field)

Read together with the requirements for field 11 (Origination Date), the instructions are ambiguous. Generally, banks view loans that have maturity dates extended as being a "renewal" or "extension". However, reading the instructions for fields 11 and 12 (Renewal Date), an existing credit that has its maturity extended would have a new "Origination Date" added to field 11, but a dummy value in the new field 12. If the goal was to learn if the action reported in field 11 was to a previously existing credit facility, we recommend that the instructions should be "Yes" or "No" as to whether the action in field 11 was a renewal.

#### Recourse (Revised Field)

This revision requires that recourse be classified as either full, partial, or none, which is closer to the already existing C&I recourse reporting. However, the condition of recourse is not static and is subject to change based upon the terms and conditions of the loan document. Guarantees on CRE loans often reduce or fall away based on project completion, economic performance or the passage of time. It is not clear what is being sought - the guarantee package at origination or

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<sup>6</sup> See pages 230 to 259 of Instructions for the *Capital Assessments and Stress Testing Information Collection (Reporting Form FR Y-14Q)* for changes to the commercial real estate Y-14Q form at: [http://www.federalreserve.gov/reportforms/formsreview/FRY14Q\\_20140711\\_i.pdf](http://www.federalreserve.gov/reportforms/formsreview/FRY14Q_20140711_i.pdf).

what supports the credit at the current reporting date. The instructions should provide this clarification.

#### Loan Purpose (Revised Field)

For the Loan Purpose field a new category was added – Mini Perm. It is described in the proposed modification to the Y-14Q form as “A form of short-term financing for completed construction projects. Typically this type of loan is used when the developer or builder plans to sell the property after stabilized occupancy is established.” We recommend that the second sentence be dropped from the description because the owner’s intent to either sell or hold the property is not factored into the classification of a loan as a Mini Perm. More typical of a Mini Perm loan is that payoff of the loan is due primarily to refinancing or property sale, not significant amortization, which is a characteristic of permanent financing. Since the Mini Perm field is not present in other banking reporting, such as the Y-9C form, some banks will have to revise their reporting systems to extract this information, which could entail significant modifications to their reporting systems. The field should also signify if the prior construction loan that was converted into a Mini Perm was or was not originated by the BHC.

The Y-14Q instructions require reconciliation with Y-9C reporting. We are concerned that the reconciliation process may not be possible because of different reporting requirements between the two forms. Y-9C instructions allow for a construction loan that had term options after completion in the original commitment to change the purpose reporting from a construction loan to a permanent loan when the permanent conditions are met. If no such term provision existed in the original commitment, it must be reported as a construction loan as long as it is on the bank’s books, which can far exceed the construction and stabilization period. For Y-14Q reporting, once the project has reached stabilized cash flow it can be classified as a Mini Perm loan without regard to if it had term options upon the completion of the project. This difference can result in different reporting classification between Y-9C and Y-14Q reporting. MBA would strongly encourage the Federal Reserve to conform the Y-9C form to the Y-14Q form regarding the Construction and Mini Perm reporting categories. This is an especially important consideration given that the Y-9C reporting is used to determine High Volatility Commercial Real Estate, which has a 50 percent higher risk-based capital charge.

#### Prepayment Penalty Flag (New Field)

Prepayment penalty terms can vary significantly from bank to bank and may include items such as yield maintenance to mitigate a bank’s potential losses. Consequently, a binary response regarding if the loan has an existing or expired prepayment penalty should be expanded to include additional descriptors such as yield maintenance or other loan terms that can substitute for a prepayment penalty. Because the Prepayment Penalty Flag is not coded or

tracked in the reporting system of some BHCs, this will require significant modifications to reporting systems.

#### Other New Fields

The primary concern for BHCs adding the Currency, Current Occupancy Fields, Current Value Basis, and Lower Cost or Market Flag fields to the Y-14Q form is the September 30, 2014 implementation date, which is only 15 days from the Proposal's close of comments. For the Current Occupancy Date, MBA recommends that this date be determined by the Certification of Occupancy. This provides a less subjective characterization for when the building was occupied.

#### **Conclusion**

Given the proximity of the implementation of certain required real estate Y-14Q reporting changes with the close of the comment period (no more than 15 days), many BHCs will be severely challenged to modify their reporting system in time to implement many of the required changes.<sup>7</sup> This concern is magnified when taking into consideration that the BHCs are also required to modify 17 other Y-14 schedules simultaneously. Accordingly, we reiterate our strong recommendation that the implementation of all Y-14 reporting additions and modifications, including commercial and residential real estate forms, be required no earlier than December 31, 2014.

MBA greatly appreciates the opportunity to comment on the Proposal. Please contact George Green, MBA Associate Vice President (at [ggreen@mba.org](mailto:ggreen@mba.org)), should you have any questions.

Sincerely,

David H. Stevens  
President and Chief Executive Officer

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<sup>7</sup> This includes designing, modifying, implementing, and testing changes to reporting systems of BHCs.

September 10, 2014

**VIA EMAIL AND U.S. MAIL**

Robert deV. Frierson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551

Re: Supplemental AMAG Comment on 2014 Agency Information Collection Proposals  
Operational Risk Data Reporting FR Y-14A/Q/M – OMB No. 7100-0341

Ladies and Gentlemen:

The AMA Group of The Risk Management Association is writing this letter to supplement its letter submitted August 19, 2014 (the “August 19 Letter”), to request that the Board of Governors of the Federal Reserve System (“Federal Reserve”) reconsider the Federal Reserve’s proposed changes to the Operational Risk aspects of Agency Information Collection Proposals under FR Y-14A (Notice dated July 15, 2014), which would require large bank holding companies to provide litigation reserve information to the Federal Reserve as part of the Comprehensive Capital Analysis and Review (“CCAR”) process (the “Proposal”).

The August 19 letter reflects the AMA Group’s reasoned and considered judgment regarding the Proposal, which the AMA Group continues to stress would erode the attorney-client privilege and attorney work product doctrine, and, accordingly, would be unsound and potentially highly prejudicial. In addition, the AMA Group respectfully requests that the Federal Reserve consider the following additional comments to the Proposal in order to avoid any unintended consequence or potential prejudice to large bank holding companies in connection with the CCAR process.

**Setting of Legal Reserves**

The purpose of such Proposal is to “provide the Federal Reserve with the additional information *and perspective* needed to help ensure that large BHC’s have strong, firm-wide risk measurement and management processes support in their internal assessment of capital adequacy and that their capital resource are sufficient given their business focus.” (Emphasis added). The use of the word “perspective” in the Proposal goes to the very heart of the matter – with respect to litigation reserves, the Federal Reserve is undertaking to learn not only the amounts of reserves but also,



and perhaps most importantly, how a bank's legal counsel thinks about litigation generally and individual cases in particular, which would clearly violate the attorney-client privilege and the attorney work product doctrine. *See* the August 19 Letter.

Under Accounting Standards Codification, Topic 450-20, "Loss Contingencies" formerly and more commonly known as FAS 5 ("ASC 450-20), an institution is required to set a litigation loss reserve for a particular case *if* (a) a loss is probable, and (b) the amount of the expected loss is both material and reasonably estimable. The determination of whether a reserve is required to be set requires the exercise of considerable judgment on the part of legal counsel (which, as stated in the August 19 Letter, is subject to the attorney-client privilege and the attorney work product doctrine).

Under ASC 450-20, an adverse result in litigation may be probable (which requires setting a reserve); reasonably possible; or remote. A result would be characterized as "probable" if the result is *likely* to occur. Determining whether a result may be probable is a question of judgment given that ASC 450-20 does not define the term "likely."

In the event that counsel determines, in the exercise of his or her professional judgment, that an adverse result is likely or probable, counsel would then need to determine whether any resulting loss is material and, if so, whether it is reasonably estimable. It is important to note the role that legal counsel's considered judgment plays in the reserving process. Under ASC 450-20 an institution may not delay setting legal reserve for a matter if a single amount cannot be readily estimated. Instead, ASC 450-20 requires that an institution estimate the range of possible losses, and, if there is no best estimate, then the institution may reserve an amount at the low end of the range while disclosing the high end of the range as a "reasonably possible loss."

Thus, both prongs of the ASC 450-20 determination of litigation reserves for a matter are subject to the exercise of profound judgment and experience. In that regard, the AMA Group respectfully suggests that the Proposal could lead to a significant unintended consequence, namely, that the Federal Reserve could substitute its judgment for that of a bank's legal counsel and require the bank to either revise its previously stated legal reserves or revise its reserve methodology altogether based upon the Federal Reserve's own model, which itself would be fraught with subjectivity and judgment. In either instance, the utilization of mere data points by the Federal Reserve would not be sufficient or proper to substitute for the knowledge, judgment and experience of sophisticated legal counsel nor for counsel's intimate knowledge of the facts or strategy giving rise to the amount reserved.

### **Practical Problems Concerning the Proposal**

Another major concern is that the current FR Y-14 Q submission request is for reserve frequency by quarter, event type. And business line each quarter. For institutions with comparatively few

legal reserves, this granular request results in frequency tables with several single reserves noted in a given combination of quarter, event type and business line. Accordingly, changes in the submission from quarter to quarter are few such that the addition of a single new reserve is easily identifiable. The only protection afforded a smaller institution in such an event is the annual submission of the total amount of reserves. The change of the frequency of this submission of the total amount to quarterly would have the unintended consequence of exposing institutions with few legal reserves to the risk of a breach of client-attorney privilege (See the August 19 letter) in the situation that from one quarter to the next, only one new reserve is taken. This situation is not uncommon to some of the respondent institutions. The proposed addition of gross increase and decrease of reserves by quarter increases the risk further and affects all respondent institutions equally. Additionally, the request for 20 previous quarters of this type of submission is highly burdensome and largely impractical. Furthermore, it exposes the institutions to a very high level of the risk of a breach of client-attorney privilege in a very short time span (time of submission).

The AMA Group has noted several other practical problems associated with the Proposal, which are enumerated in Appendix A attached.

In conclusion, AMAG members have very serious concerns about the details of this new proposal relative to FR Y-14A/Q submission requirements and requests that the Federal Reserve Board reconsider its adoption. The broad reach and increased frequency of data collection is untenable for the industry. In the spirit of preserving regulatory objectives of safety and soundness in the industry, however, AMAG welcomes a dialogue about the subject between the industry and regulatory community.

Should there be any questions concerning the comments reflected above, kindly contact Edward J. DeMarco, Jr., General Counsel and Director of Operational Risk and Regulatory Relations at (215) 446-4052 or [edemarco@rmahq.org](mailto:edemarco@rmahq.org).

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward J. DeMarco, Jr.", followed by a long horizontal line.

Edward J. DeMarco, Jr.,  
General Counsel and  
Director of Operational Risk & Regulatory Relations



## APPENDIX A

1. The Federal Reserve has proposed (1) adding a Unique Identifier item for each row in order to clearly identify record submissions with the same information that are unique records; and, effective December 31, 2014 (2) for each closed/ settled legal event above \$250,000 adding (i) date of awareness, (ii) date on which a claim was filed, proceedings were instituted, or settlement negotiations began, (iii) date of settlement, fine, or final judgment, (iv) cause of action, (v) the reserve history, and (vi) terminal outcome, which would all provide greater insight into reserving practices and changes in reserves. *See* (Federal Register, Vol. 79, No. 135, July 15, 2014 Notices, p. 41281); *See also* the August 19 Letter.

Adding a Unique Identifier item for each row of the Operational Risk Schedule is impracticable given that the historical information may not be readily available in respect of historical losses and would require the expenditure of significant resources to retrieve and/or ascertain. We would note that certain items of information may not be available because they were not captured at the relevant point in time, for example, where the underlying litigation involves an acquired institution. In such cases, the applicable records may well not have been kept in a form that would allow for simple compliance, and instead would require significant manual intervention.

2. The concept of “date of awareness” is not clearly defined in the Proposal nor is a concept generally recognized by legal counsel specifically or operational risk practitioners generally. The usage of this or any other ambiguous term could lead to conflicting results when applied across business lines in a bank and would certainly lead to inconsistent results across institutions. Moreover, this concept of date of awareness could prove to be incompatible with an institution’s reporting obligations under ASC 450-20, which recognizes that loss contingencies are by their very nature vague and difficult to estimate.

## **VIA EMAIL AND U.S. MAIL**

Robert deV. Frierson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551

Re: AMAG Comment on 2014 Agency Information Collection Proposals Operational Risk  
Data Reporting FR Y-14A/Q/M – OMB No. 7100-0341

Ladies and Gentlemen:

The AMA Group of The Risk Management Association is writing to request that the Board of Governors of the Federal Reserve System (“Federal Reserve”) reconsider the Federal Reserve’s proposed changes to the Operational Risk aspects of Agency Information Collection Proposals under FR Y-14A (Notice dated July 15, 2014), which would require large bank holding companies to provide litigation reserve information to the Federal Reserve as part of the Comprehensive Capital Analysis and Review (“CCAR”) process (the “Proposal”).

RMA is a 501(c)(6) not for-profit, member-driven professional association whose sole purpose is to advance the use of sound risk principles in the financial services industry. RMA helps its members use sound risk principles to improve institutional performance and financial stability and enhance the risk competency of individuals through information, education, peer-sharing and networking. RMA has 2,600 institutional members that include banks of all sizes as well as nonbank financial institutions. They are represented in the Association by more than 16,000 risk management professionals who are chapter members in financial centers throughout North America, Europe, and Asia/Pacific.

The AMAG was formed by RMA in 2005 at the suggestion of the U.S. AMA-BQT (formerly the Inter-Agency Working Group on Operational Risk). The purpose of the AMAG is to share industry views on aspects of Advanced Measurement Approaches (“AMA”) implementation with the U.S. financial services federal regulatory agencies. The Group consists of operational risk management professionals working at financial service organizations throughout the United States. The AMAG is open to any financial institution regulated in the United States that is either mandated, opting in, or considering opting in to AMA. A senior officer responsible for operational risk management serves as the primary representative of each member institution on the AMAG. Of the US financial service institutions that are currently viewed as mandatory or opt-in AMA institutions; twenty-two were members of the AMAG at the time of this writing.



The members of AMAG are listed on Exhibit A attached. They are provided for identification purposes only. This letter does not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

## Introduction

The purpose of such Proposal is to “provide the Federal Reserve with the additional information *and perspective* needed to help ensure that large BHC's have strong, firm-wide risk measurement and management processes support in their internal assessment of capital adequacy and that their capital resource are sufficient given their business focus.” (Emphasis added). The use of the word “perspective” in the Proposal goes to the very heart of the matter – with respect to litigation reserves, the Federal Reserve is undertaking to learn not only the amounts of reserves but also, and perhaps most importantly, how a bank's legal counsel thinks about litigation generally and individual cases in particular.

For the reasons set out below, the AMA Group respectfully submits that any requirement for banks to disclose reserves for concluded (whether by verdict or settlement), pending and/or probable litigation in connection with CCAR would erode the attorney-client privilege and attorney work product doctrine, and, accordingly, would be unwise, unsound and potentially highly prejudicial.

It is important to note that the Federal Reserve adopted this reasoning propounded by the AMA Group in 2012, when the Federal Reserve first contemplated requiring disclosure of litigation reserve information. *See attachments* (i) Letter from the RMA AMAG to the Federal Reserve dated April 23, 2012, AMAG Comments on 2012 Agency Information Collection Activities Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319; (ii) Letter from the RMA AMAG to the Federal Reserve dated May 24, 2012, AMAG Supplemental Response 2012 Agency Information Collection Activities Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319; (iii) Letter from the RMA AMAG dated August 6, 2012, AMAG 2nd Supplemental Response 2012 Agency Information Collection Activities Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341; and (iv) Letter to the Federal Reserve dated August 6, 2012 from The Clearing House Association L.L.C., The Risk Management Association/the Advanced Measurement Approaches Group, the Financial Services Roundtable, and the American Bankers Association Joint Comment Letter re: FR Y-14A/Q/M OMB Control Number: 7100-0341. (Capital Plans; Proposed Agency Information Collection Activities).

## Overview of the Proposal

The purpose of the Proposal is to revise “several schedules of the FR Y-14A/Q/M reports as well as expanding the reporting panel” in order:

- That “proposed changes to the Operational Risk schedule would provide greater insight into the types and frequency of operational risk expenses incurred by respondents, which would improve both supervisory modeling and ongoing supervisory activities;” and
- To “provide greater insight into reserving practices and changes in reserve”.

In addition, effective December 31, 2014, the Federal Reserve proposes (Federal Register, Vol. 79, No. 135, July 15, 2014 Notices, p.41280):

- changing the collection of the annual Legal Reserve information to be part of the quarterly Operational Risk collection as a separate sub-schedule;
- adding columns to collect Gross Increase and Decrease to Reserves to better track the flow of legal reserves; and
- requiring that the 20 previous quarters of data be submitted upon initial submission and four quarters of data thereafter.

It appears to the AMAG that these objectives are in furtherance of the Federal Reserve’s expectation that banks estimate expected and stressed outcomes on “current, pending, threatened, or otherwise possible [legal] claims of all types.” *See* FRB supervisory report, Appendix 1: CCAR 2014 Common Themes, p. 18. It would appear that the Federal Reserve needs to build the same into their supervisory modeling approach, and the current information the banks submit does not support this assessment well.

In addition, the Federal Reserve has proposed (1) adding a Unique Identifier item for each row in order to clearly identify record submissions with the same information that are unique records; and, effective December 31, 2014 (2) for each closed/ settled legal event above \$250,000 adding (i) date of awareness, (ii) date on which a claim was filed, proceedings were instituted, or settlement negotiations began, (iii) date of settlement, fine, or final judgment, (iv) cause of action, (v) the reserve history, and (vi) terminal outcome, which would all provide greater insight into reserving practices and changes in reserves. *See* (Federal Register, Vol. 79, No. 135, July 15, 2014 Notices, p. 41281).

### **AMAG Objections to the Proposal**

The recording of a reserve for pending or probable litigation is a matter of attorney-client privilege and is an important manifestation of attorney work product and should not be subject to disclosure, *except* in the most exigent circumstances. This is equally true of concluded litigation. The importance and sanctity of the attorney-client privilege and the attorney work product doctrine simply cannot be overstated. It is the attorney-client privilege which enables lawyers to consult with a bank’s employees and to render advice to the bank. Obviously, one key piece of advice is the amount which should be reserved for a particular piece of litigation, which advice



may change from time to time. Moreover, with respect to concluded litigation, disclosure of reserves shows the evolution in counsel's thinking, which may be indicative of counsel's thinking in similar, related or future matters.

A bank will record a reserve for an individual case following legal counsel's completion of a litigation assessment, which will include opinion regarding a number of factors, including, but not limited to:

- (a) The nature of the case (e.g., contract, securities, infringement, etc.);
- (b) The known facts;
- (c) Key issues, on which the outcome of the case may turn;
- (d) The named defendants; i.e., parent company, subsidiaries/affiliates, officers, directors, vendors;
- (e) The nature of the plaintiff and whether the bank has an ongoing relationship with the plaintiff;
- (f) Opposing counsel;
- (g) Venue;
- (h) The settlement value of the case;
- (i) The worst case scenario;
- (j) The overall disposition strategy for the case; i.e., whether the primary objective is trying or settling the case;
- (k) Whether the case is one of a series of similar cases involving the bank; and
- (l) Whether the case is particular to the bank or is of a type brought against banks generally, such as patent infringement suits brought by non-practicing entities.

These factors are not outcome determinative, but together with counsel's judgment and experience, form the basis of a recommendation regarding reserves in a given litigation matter. Moreover, the relative weight given to such factors may change over the course of litigation as counsel's thinking about the litigation evolves. As such, the amount recorded as a reserve is the manifestation or embodiment of counsel's *perspective* about a case.

The attorney work product doctrine forms the basis of the U.S. legal system, permitting lawyers to prepare for litigation, including settlement discussions, without fear that their work product

and mental impressions will be revealed to the government or to opposing parties. In short, legal counsel's assessment of a case, which may evolve over time, will determine the bank's litigation strategy, budget and reserves.

AMAG member institutions believe that including legal reserve information in the CCAR submissions would be highly problematic. In particular, AMAG firms' legal departments' concerns center upon discoverability of the information once released in regulatory reports. Discovery of such information would quite possibly compromise an institution's legal position.

The AMAG respectfully submits that requiring banks to disclose their legal reserves for closed, pending and/or probable litigation claims in connection with CCAR would be unwise, unsound and highly prejudicial, and should not be pursued because no exigency exists. Legal reserves for litigation claims are established by banks in receiving legal advice from their legal counsel and often, if not always, entail the exercise of significant professional judgment by experienced legal counsel in weighing the relative strengths of claims and defenses in light of existing law and factual developments.

Hence, as stated above, legal reserves are both privileged and highly confidential. Any public disclosure of legal reserves would subject banks to significant prejudice, as it would both inform their adversaries of how the bank weighs the strengths/weaknesses of the subject claims and establish a floor for plaintiffs' settlement demands on those claims. Potential prejudice to the banks also looms in the risk that adversaries could seek to introduce the reserves as evidence in the litigation, as admissions of liability or the amount of damages. Furthermore, were the banks required to provide these data to the Federal Reserve as part of the CCAR exercise, there can be no assurance that it would remain confidential. CCAR requires massive efforts by the Federal Reserve, with a large number of staff devoted to analyzing all of the data provided by banks. Wide dissemination of reserve data, even within the Federal Reserve, necessarily reduces the ability to maintain strict confidentiality, and the prospect of inadvertent or erroneous disclosure is substantial. Along the same lines, it would be difficult, at best, for the Federal Reserve to resist any request by Congress to obtain these data, which would then be susceptible to broad public dissemination. The severe prejudice to banks that disclosure would entail, coupled with the substantial risk of that very result, militates strongly against requiring that banks disclose reserves data as part of their CCAR submissions. The risk of inadvertent disclosure or legal discovery by other U.S. agencies, governmental bodies, or third parties, including plaintiffs, is simply too real. This risk is even more untenable, of course, in view of the fact that bodies of the U.S. government may be plaintiffs in cases against the very banks in question.

In conclusion, AMAG members have very serious concerns about the details of this new proposal relative to FR Y-14A/Q submission requirements and requests that the Federal Reserve Board reconsider its adoption. The broad reach and increased frequency of data collection is untenable for the industry. In the spirit of preserving regulatory objectives of safety and soundness in the industry, however, AMAG welcomes a dialogue about the subject between the industry and regulatory community.



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Should there be any questions concerning the comments reflected above, kindly contact Edward J. DeMarco, Jr., General Counsel and Director of Operational Risk and Regulatory Relations at (215) 446-4052 or [edemarco@rmahq.org](mailto:edemarco@rmahq.org).

Very truly yours,

Edward J. DeMarco, Jr.,  
General Counsel and  
Director of Operational Risk & Regulatory Relations



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215-446-4000 • Fax: 215-446-4101 • [www.rmahq.org](http://www.rmahq.org)

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Attachment

### **The AMA Group**

Bank of America  
Bank of the West  
BMO Financial  
BNY Mellon  
Capital One Bank  
Citizens Bank  
Comerica  
Deutsche Bank

GE Capital  
Goldman Sachs  
HSBC  
JP Morgan Chase  
KeyCorp  
Morgan Stanley  
Northern Trust  
PNC Financial

Santander Bank  
State Street Corporation  
SunTrust  
TD Bank Group  
Union Bank  
US Bank  
Wells Fargo

Support for the AMAG is provided by RMA and Operational Risk Advisors LLC  
August 2014

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**ATTACHMENT (i)**

**Letter from the RMA AMAG to the Federal Reserve dated April 23, 2012, AMAG  
Comments on 2012 Agency Information Collection Activities Operational Risk Data  
Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319**



April 23, 2012

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D.C. 20551

**AMAG Comments on 2012 Agency Information Collection Activities  
Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319**

Dear Ms. Johnson:

This letter and attachments comprise the Advanced Measurement Approaches Group's (AMAG)<sup>1</sup> response to proposed changes to the Operational Risk aspects of Agency Information Collection Activities under FR Y-14A.

Generally speaking, AMAG member firms understand and appreciate the regulatory community's interest and needs for collecting actual loss data more frequently than on an annual basis alone. The Federal Reserve has stated its goals for the change as (1) assessing BHC's operational loss exposures in relation to the risks faced by them, (2) ensuring safety and soundness, (3) developing and calibrating supervisory stress test models, (4) evaluating the projections that BHCs' submit as part of the FR Y-14A, and (5) supporting continuous monitoring and analysis of BHCs' operational loss activity and trends.

Despite its support in concept, AMAG has concerns about some of the details of implementing this new proposal relative to FR Y-14A/Q submission requirements. As such, and in the spirit of advancing the dialogue between the industry and regulatory community, AMAG offers a number of both general and specific observations and, where possible, suggestions for improving them. AMAG member institutions believe that many of these issues can be considered and addressed for improvement, without diminishing the stated objectives of the Federal Reserve System.

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<sup>1</sup> The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The members of AMAG are listed in Attachment B to this letter. They are listed for identification purposes only. This letter and attachments do not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

Conceptually, some AMAG members have questioned the rationale for U.S. agencies to develop a new detailed industry data consortium. Recognizing the need for such data, however, they suggest the collection of summary level data, as is the practice in other jurisdictions, rather than reporting detailed events.

Specific AMAG comments follow:

- 1) Issue -- AMAG has significant concerns about the inclusion of Legal Reserve information<sup>2</sup> in quarterly loss data submissions and suggests that the Federal Reserve explore alternative approaches.

Member institutions believe that including legal reserve information in the submissions would be highly problematical. By definition they consist of loss events that have been reserved for, but have not been settled or fully adjudicated. In particular, AMAG firms' legal departments' concerns center around discoverability of the information once released in regulatory reports. Discovery of such information would quite possibly compromise an institution's legal position.

Most members have not submitted reserve details with their annual reporting to date, beyond aggregate reserve reporting. Such detailed reserve information is highly sensitive and most believe that it should not leave their bank. Some institutions would rather invite regulators to review such information when on site.

One AMAG member institution provided their legal department's response for regulators' consideration, explaining why it would be inappropriate to require legal reserves as part of the Comprehensive Capital Analysis and Review (CCAR) quarterly submission. In view of agreement on this point by AMAG members, the statement has been incorporated in this response (see Attachment A).

- 2) Issue – The approach toward providing NEWLY captured and / or amended loss data<sup>3</sup> in isolation during the quarter is unnecessarily complicated and should be simplified.

The proposal requires reporting of newly captured data DURING the current reporting quarter AND also provides rules for loss events that were reported in prior reporting quarter but were amended during the current reporting quarter. In addition to the burden of isolating these events each quarter, there is no allowance for events that are deleted from the dataset. The proposal would need to include a process for submitting "deleted" events.

Most industry practitioners believe that it would be far less burdensome to provide their complete dataset each quarter. Most institutions' internal loss databases are highly "fluid" and change daily. AMAG requests, instead, that the proposal be amended to allow for a quarterly release of their entire internal loss data base each reporting period (i.e., quarterly,

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<sup>2</sup> Section 1 of the Reporting Instructions requires that institutions report "all operational loss events ... captured in the institution's loss database...." In view of Interagency Guidance on AMA and other regulatory communications AMAG member institutions interpret this to mean that the proposal anticipates the inclusion of legal reserves.

<sup>3</sup> See Section 1(a) of the Reporting Instructions.

per the proposal). In addition, assuming that institutions will be providing the detailed data, it would be most logical for this dataset to replace (i.e., since it provides the detail behind) the summary data that is currently submitted via Schedule S.

- 3) Issue -- The requirement to submit descriptions for losses over \$100K<sup>4</sup> would be problematical for certain legal matters inasmuch as the descriptions of these events are generally confidential and restricted.

In view of this concern, AMAG requests flexibility in reporting such information in Section 5-R, Column O of the Reporting Instructions. As an example, AMAG believes that client information should be excluded from the description. Beyond concerns about confidentiality and discoverability, the required internal approval processes of gathering and vetting such information for release (i.e., senior management, business line leadership, legal departments and others to seek approval of language) would require a significant burden (i.e., increased hours) to complete.

- 4) Issue -- The reference to loss events that have multiple impacts across lines of business (LOBs)<sup>5</sup> should be clarified.

The requirement states that the event should be reported based on the LOB that incurred largest loss amount. AMAG members believe that a more effective approach would be to capture events reported based on "responsible business". This does not necessarily equate to the LOB that incurred the largest impact, however there seems to be a range of practice in this regard. The best solution may be to allow flexibility in reporting here as well. That is, this reporting requirement could allow banks to submit the data according to their internal rules.

- 5) Issue -- The template field that requests institutions to identify whether a loss event was included in capital modeling dataset<sup>6</sup> has implications for decisions about including certain events in the submission.

For one, some have suggested that the required submission be limited to the dataset that is used for capital only (rather than all losses above the collection threshold). Second, given that one of regulators' primary intended uses of the datasets is to create models for stress testing, then the data provided should only be those that are actually used in the capital model. That is, boundary events (e.g., credit-related losses) and timing differences may be excluded from the data set consistent with capital model data practices. Otherwise the agency results may vary significantly from an institution's results inasmuch as such losses would likely be double counted.

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<sup>4</sup> Section 5R of the Reporting Instructions.

<sup>5</sup> Section 2 of the Reporting Instructions.

<sup>6</sup> Section 5-O of the Reporting Instructions.

- 6) Issue – The proposed timing of the submission is also problematical inasmuch as it does not allow sufficient time to review it following the end of each quarter.

The proposal currently calls for submission within forty (40) days of quarter end<sup>7</sup>. AMAG members maintain that this timeframe is not reasonable or practical. In this scenario an institution would not yet have completed its capital modeling process for the preceding quarter. The data itself could be ready for release, but the institution's quantitative teams would not have had adequate time to update, review and evaluate their model results.

AMAG members believe that if the submission requirement stands at 40 days after quarter-end, then institutions should be permitted to limit their submissions to data on a one quarter lagged basis (i.e., for May 10<sup>th</sup> 2012 submission, the data would be as of 12/31/2011) in order to allow sufficient time for such analyses to be completed. This timeframe would be consistent with other data gathered by the agencies. An alternative approach would be to extend the submission window to a minimum of 120 days after quarter-end. This, too, would be more practicable than the proposed 40-day window in order for such analyses and reviews to be completed.

- 7) Issue – The requirement to provide the loss 'Accounting Date' as a required field<sup>8</sup> in the submission template also presents challenges and likely confusion.

Because an Accounting Date is typically collected at many firms for each impact, it would not be unusual for an event to have multiple "accounting dates".

Some AMAG firms suggest that a rule might be constructed to standardize the determination of the "accounting date" for an event, or perhaps another date field should be used, such as the date of original loss.

Thank you, on behalf of AMAG, for the opportunity to comment on the Proposed Agency Information Collection Activities. The AMAG would be pleased to engage in a dialogue about our response. Please contact us should questions arise.

Sincerely,



Robin L. Phillips  
Chairman,  
Advanced Measurement Approaches Group

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<sup>7</sup> See Supporting Statement for Expanded Information, p. 17.

<sup>8</sup> Section 5-E of the Reporting Instructions.

## Attachment A

### **Legal Response on Requirement to Provide Reserves**

AMAG submits that requiring banks to disclose their legal reserves for pending and probable litigation claims in connection with CCAR would be unwise, unsound and highly prejudicial, and should not be pursued. Legal reserves for litigation claims are established by banks in receiving legal advice from their legal counsel and often, if not always, entail the exercise of significant professional judgment by experienced legal counsel in weighing the relative strengths of claims and defenses in light of existing law and factual developments. Hence, legal reserves are both privileged and highly confidential. Any public disclosure of legal reserves would subject banks to significant prejudice, as it would both inform their adversaries of how the bank weighs the strengths/weaknesses of the subject claims and establish a floor for plaintiffs' settlement demands on those claims. Potential prejudice to the banks also looms in the risk that adversaries could seek to introduce the reserves as evidence in the litigation, as admissions of liability or the amount of damages. Furthermore, were the banks required to provide these data to the Federal Reserve as part of the CCAR exercise, there can be no assurance that it would remain confidential. CCAR requires massive efforts by the Federal Reserve, with a large number of staff devoted to analyzing all of the data provided by banks. Wide dissemination of reserve data, even within the Federal Reserve, necessarily reduces the ability to maintain strict confidentiality, and the prospect of inadvertent or erroneous disclosure is substantial. Along the same lines, it would be difficult, at best, for the Federal Reserve to resist any request by Congress to obtain these data, which would then be susceptible to broad public dissemination. The severe prejudice to banks that disclosure would entail, coupled with the substantial risk of that very result, militates strongly against requiring that banks disclose reserves data as part of their CCAR submissions.



## Attachment B

### About the AMA Group

The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) at the suggestion of the U.S. AMA-BQT (formerly the Inter-Agency Working Group on Operational Risk). The RMA is a member-driven professional association whose purpose is to advance the use of sound risk management principles in the financial services industry.

The purpose of the AMAG is to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The Group consists of operational risk management professionals working at financial service organizations throughout the United States. The AMAG is open to any financial institution regulated in the United States that is either mandated, opting in, or considering opting in to AMA. A senior officer responsible for operational risk management serves as the primary representative of each member institution on the AMAG. Of the twenty or so US financial service institutions that are currently viewed as mandatory or opt-in AMA institutions; nineteen were members of the AMAG at the time of this writing.

The members of AMAG are listed below. They are provided for identification purposes only. This paper does not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

Bank of America / Merrill Lynch  
BMO Financial  
BNY Mellon  
Capital One Bank  
Citizens Bank  
Deutsche Bank  
Goldman Sachs  
HSBC  
JP Morgan Chase  
Keycorp  
Morgan Stanley  
Northern Trust  
PNC  
State Street  
SunTrust  
TD Bank Financial Group  
Union Bank  
Wells Fargo / Wachovia Bank

Support for the AMAG is provided by RMA and Operational Risk Advisors LLC.



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**ATTACHMENT (ii)**

**Letter from the RMA AMAG to the Federal Reserve dated May 24, 2012, AMAG  
Supplemental Response 2012 Agency Information Collection Activities Operational Risk  
Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319**

May 24, 2012

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D.C. 20551

**AMAG Supplemental Response  
2012 Agency Information Collection Activities  
Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319**

Dear Ms. Johnson:

This letter and attachments comprise a Supplemental Response from the Advanced Measurement Approaches Group (AMAG)<sup>1</sup> on proposed changes to the Operational Risk aspects of Agency Information Collection Activities under FR Y-14A<sup>2</sup>.

To be clear, *the AMAG stands by its original response of April 23, 2012 and objection to providing legal reserve data as part of the FR Y-14A/Q/M.*

**Background**

The Federal Reserve Board (FRB) is requesting that AMA banks submit operational risk loss data based on a new quarterly operational risk loss data collection template. The FRB's request encompasses all operational risk loss data, including reserves for pending litigation, because the reserves tend to have a significant impact on the measurement of operational risk. Among other concerns in our April 23, 2012 letter, AMAG highlighted the extremely confidential and sensitive nature of the legal reserve

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<sup>1</sup> The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The members of AMAG are listed in the Attachment to this letter. They are listed for identification purposes only. This letter and attachment do not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

<sup>2</sup> Generally speaking, AMAG member firms understand and appreciate the regulatory community's interest and needs for collecting actual loss data. The Federal Reserve has stated its goals for the change as (1) assessing BHC's operational loss exposures in relation to the risks faced by them, (2) ensuring safety and soundness, (3) developing and calibrating supervisory stress test models, (4) evaluating the projections that BHCs' submit as part of the FR Y-14A, and (5) supporting continuous monitoring and analysis of BHCs' operational loss activity and trends. Despite its support in concept, AMAG has concerns about some of the details of implementing this new proposal relative to FR Y-14A/Q submission requirements.

data that would be required as part of quarterly submissions of operational risk loss data sets on the collection template, and explained why it would be inappropriate to include such information in these data sets.

**Excerpt from AMAG April 23, 2012 Response**

“AMAG submits that requiring banks to disclose their legal reserves for pending and probable litigation claims in connection with CCAR would be unwise, unsound and highly prejudicial, and should not be pursued. Legal reserves for litigation claims are established by banks in receiving legal advice from their legal counsel and often, if not always, entail the exercise of significant professional judgment by experienced legal counsel in weighing the relative strengths of claims and defenses in light of existing law and factual developments. Hence, legal reserves are both privileged and highly confidential. Any public disclosure of legal reserves would subject banks to significant prejudice, as it would both inform their adversaries of how the bank weighs the strengths/weaknesses of the subject claims and establish a floor for plaintiffs’ settlement demands on those claims. Potential prejudice to the banks also looms in the risk that adversaries could seek to introduce the reserves as evidence in the litigation, as admissions of liability or the amount of damages. Furthermore, were the banks required to provide these data to the Federal Reserve as part of the CCAR exercise, there can be no assurance that it would remain confidential. CCAR requires massive efforts by the Federal Reserve, with a large number of staff devoted to analyzing all of the data provided by banks. Wide dissemination of reserve data, even within the Federal Reserve, necessarily reduces the ability to maintain strict confidentiality, and the prospect of inadvertent or erroneous disclosure is substantial. Along the same lines, it would be difficult, at best, for the Federal Reserve to resist any request by Congress to obtain these data, which would then be susceptible to broad public dissemination. The severe prejudice to banks that disclosure would entail, coupled with the substantial risk of that very result, militates strongly against requiring that banks disclose reserves data as part of their CCAR submissions.”

**Subsequent Dialogue**

Consistent with AMAG’s mission, the Group appreciates and welcomes the opportunity to engage in a dialogue with the regulatory community about the successful implementation of the Advanced Measurement Approaches under Basel and the safety and soundness of the U.S. banking system.

Following AMAG’s April 23<sup>rd</sup> response, the Federal Reserve contacted The Risk Management Association (RMA), sponsor of AMAG, for clarification of the Group’s response on the question of including legal reserves in CCAR submissions.

As part of a subsequent dialogue, the Federal Reserve made two requests. First, AMAG was asked to consider whether a reduced scope of legal reserve data (i.e., three data fields, namely amount, business line / event type, and a “rough” date) would satisfy member banks’ sufficiently in order to revise its response. Second, the Federal Reserve asked whether less frequent reporting would lessen banks’ concerns. Unfortunately neither of these options would provide the assurance of confidentiality. The risk of inadvertent disclosure or legal discovery by other U.S. agencies, governmental bodies, or third parties, including plaintiffs, is simply too real. This risk is even more

untenable, of course, in view of the fact that bodies of the U.S. government may be plaintiffs in cases against the very banks in question.

### Analytic Alternatives

Although these suggestions remain untenable, AMAG member institutions believe that a solution may be possible that protects these critical data sets in the interest of their stakeholders – depositors, other customers, shareholders, bondholders, and employees among them – without diminishing the stated objectives of the Federal Reserve System. In the spirit of continuing a dialogue and seeking potential solutions to this apparent impasse, AMAG offers two possible analytical alternatives that have been developed by several of the AMAG banks.

AMAG recognizes that these options are not without challenges for both banks and regulators alike. We trust that industry and FRB can work toward an alternative that satisfies the sensitivities of both parties with respect to proprietary information. Specifically, AMAG is prepared to work with the FRB to assess the merits and feasibility of the following proposals in the spirit of satisfying U.S. banking agencies' need for insight into banks' operational risk exposures, while respecting the banks' and their stakeholders' own need for confidentiality of these critical data sets.

Following are high-level descriptions of the suggested alternatives for further exploration:

#### **Alternative #1 – Provide “processed” rather than highly confidential “raw” loss reserve data**

Rather than provide the “raw” loss data to the FRB, the AMAG banks could provide “processed” data. Undoubtedly, the FRB has plans to use the raw loss event data within some sort of modeling process. We assume that the end-to-end modeling process includes a series of analytical / quantitative tasks. Our proposal would be for the AMAG banks to perform some of the initial analytical / quantitative tasks and submit the output to the FRB. Then, the FRB could take this output and perform the remaining tasks to complete the modeling process and produce the final results.

It is difficult to determine the exact nature of the tasks to be performed by the AMAG banks without knowledge of the FRB's modeling process. However, here are some examples on how this alternative approach could work based on some typical operational risk modeling processes.

*Example A: LDA-type modeling which focuses on determining parametric frequency and severity distributions using the empirical loss data*

- Determining Frequency distribution parameters: Loss amount information is not necessary for frequency modeling; therefore the AMAG banks could provide the number of loss event for each unit of measure without providing loss amount. This information would not compromise the confidentiality of the reserve data and would not impede the FRB in modeling frequency of loss.
- Determining Severity Distribution parameters: Loss amount information is critical to determining severity distribution parameters. Therefore, the proposal would be for the FRB to provide the AMAG banks with the specifications on how the loss data should be fitted. The AMAG banks would be responsible for running the fitting process and submitting the results (fitted distribution parameters for each UOM). The loss amount for individual events would not be submitted and the



confidentiality of the reserve data would not be jeopardized. In addition, AMAG banks could provide other statistics such as goodness-of-fit test results and other statistical properties of the empirical distribution (mean mode, median, variance, etc.)

*Example B: Panel Regression analysis between Frequency of loss and macroeconomic factors (in line with the model used by the FRB for the recent CCAR analysis)*

- This type of analysis would not require loss amount information as the regression analysis is performed against the frequency of loss. Therefore, AMAG banks could submit the loss data without loss amounts.
- Once the number of losses for a given stress period is determined, the FRB would need some estimate of severity. In the recent CCAR analysis, the FRB used "sample averages by event type for each BHC" as the estimate of severity. The AMAG banks could provide these statistics (along with other statistics) for each UOM without compromising the confidentiality of the reserve information.

**Alternative #2 – IT Solution – Data sets are not submitted, rather they remain hosted by the individual banks and accessed by the FRB remotely**

In this alternative, AMAG banks would create a secure environment within their own networks and authorized FRB personnel would access the data to perform the quantitative analysis. FRB personnel could perform the desired analysis but would not be able to extract the raw data. They would be able to extract the results of the analysis.

AMAG banks would have a significant amount of control over who accesses the information and an audit trail / log of the activity. That is, reserve loss amounts would be disclosed to FRB personnel, but the information would not leave the AMAG bank's network

Once again, these options are provided in the spirit of continuing a dialogue between the industry and regulatory community, and in seeking a solution to the data collection problem.

Thank you, on behalf of AMAG, for the opportunity to clarify our previous response and offer possible solutions. The AMAG would be pleased to continue a dialogue about these issues.

Please contact us accordingly.

Sincerely,



Robin L. Phillips  
Chairman,  
Advanced Measurement Approaches Group

Attachment  
About the AMA Group

## About the AMA Group

The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) at the suggestion of the U.S. AMA-BQT (formerly the Inter-Agency Working Group on Operational Risk). The RMA is a member-driven professional association whose purpose is to advance the use of sound risk management principles in the financial services industry.

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The members of AMAG are listed below. They are provided for identification purposes only. This paper does not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

Bank of America / Merrill Lynch  
Bank of the West  
BMO Financial Group  
BNY Mellon  
Capital One Bank  
Citizens Bank  
Deutsche Bank  
Goldman Sachs  
HSBC  
JP Morgan Chase  
Keycorp  
Morgan Stanley  
Northern Trust  
PNC  
State Street Corporation  
SunTrust  
TD Bank Financial Group  
Union Bank  
Wells Fargo

Support for the AMAG is provided by RMA and Operational Risk Advisors LLC.



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**ATTACHMENT (iii)**

**Letter from the RMA AMAG dated August 6, 2012, AMAG 2nd Supplemental Response  
2012 Agency Information Collection Activities Operational Risk Data Reporting FR Y-  
14A/Q/M – OMB Nos. 7100-0341**



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August 6, 2012

Ms. Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D.C. 20551

**AMAG 2<sup>nd</sup> Supplemental Response  
2012 Agency Information Collection Activities  
Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341**

Dear Ms. Johnson:

This letter and attachments comprise the second Supplemental Response from RMA's Advanced Measurement Approaches Group (AMAG)<sup>1</sup> on proposed changes to the operational risk aspects of Agency Information Collection Activities under FR Y-14A<sup>2</sup>. It should be read in conjunction with the AMAG's earlier responses dated April 23, 2012 and May 24, 2012, respectively.

*The AMAG reiterates the positions and recommendations outlined in its April 23, 2012 and May 24, 2012, letters including, but not limited to, the members' objection to providing legal reserve data as part of the FR Y-14A/Q/M.*

In its original proposal the Federal Reserve Board (FRB) requested that AMA banks submit operational risk loss data based on a new quarterly operational risk loss data collection template. The FRB's request encompassed all operational risk loss data, including reserves for **pending** litigation, because the reserves tend to have a significant impact on the measurement of operational risk. Among other concerns in our previous April 23, 2012 and May 24, 2012 letters, the AMAG highlighted the extremely

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<sup>1</sup> The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The members of AMAG are listed in Attachment B to this letter. They are listed for identification purposes only. This letter and attachment do not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

<sup>2</sup> Generally speaking, AMAG member firms understand and appreciate the regulatory community's interest and needs for collecting actual loss data. The Federal Reserve has stated its goals for the change as (1) assessing BHC's operational loss exposures in relation to the risks faced by them, (2) ensuring safety and soundness, (3) developing and calibrating supervisory stress test models, (4) evaluating the projections that BHCs submit as part of the FR Y-14A, and (5) supporting continuous monitoring and analysis of BHCs' operational loss activity and trends. Despite its support in concept, AMAG has concerns about some of the details of implementing this new proposal relative to FR Y-14A/Q submission requirements.

confidential and sensitive nature of the legal reserve data that would be required as part of quarterly submissions of operational risk loss data sets on the collection template, and explained why it would be inappropriate and potentially prejudicial, in the context of pending litigation, to include such information in these data sets.

### **Recent Dialogue with Regulators**

Notwithstanding its objection to reporting such highly confidential and sensitive legal reserve information, the AMAG appreciates the opportunity to have engaged in a dialogue with the regulatory community about addressing this topic of reporting extremely sensitive information. Following the AMAG's April 23<sup>rd</sup> response, the Federal Reserve contacted The Risk Management Association (RMA), sponsor of the AMAG, for clarification of the Group's response on the question of including legal reserves in CCAR submissions.

The AMAG has also since participated with certain trade associations in teleconferences and meetings with the FRB. Notably, on July 16, 2012 representatives of the AMAG attended in person and participated by telephone in a meeting at the FRB in which three (3) FRB alternative Methods for reporting were discussed. At that meeting, the AMAG also had an opportunity to describe more fully its own two analytic alternative approaches outlined in our May 24, 2012 letter that should meet both the needs of the FRB and protect the confidentiality of these critical bank data. In light of that discussion, the AMAG believes that, in particular, one of the two approaches that we outlined in our May 24, 2012 has potential for further discussion and careful consideration as it would alleviate the AMAG members' concerns and further the interests of the FRB.

### **Analytic Alternatives**

Following the July 16, 2012 meeting, the AMAG has also received brief descriptions of reporting Methods 4 and 5 as proposed by the FRB. Of these, Method 4 holds potential, subject to some modifications. For one, a reduction of the number of matrix cells (i.e., less granularity) would enhance protection of confidentiality (e.g., possibly collapsing the entire matrix to the aggregate bank level and submitting both legal reserve and all other data using this method). Also, reporting frequency data for periods in which reserves are established and increased would be a preferred approach, as opposed to reporting only one frequency entry when the reserve is first established.<sup>3</sup>

In the absence of these enhancements, however, the AMAG is using this Comment period to reiterate one of our two reporting alternatives outlined in our letter of May 24, 2012 (See Attachment A). The AMAG recognizes that these options are not without challenges for both banks and regulators. The AMAG stands ready, however, to work with the FRB to assess the merits and feasibility of its proposals in the spirit of satisfying U.S. banking agencies' need for insight into banks' operational risk exposures, while respecting the banks' and their stakeholders' own need for confidentiality of these critical data sets.

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<sup>3</sup> Note that the AMAG has participated with certain trade associations in developing detailed response commentary on the five reporting Methods offered by the FRB. See separate joint letter dated August 6, 2012.



Ms. Jennifer J. Johnson

- 3 -

August 6, 2012

Lastly, some AMAG members believe that banks should also be given the option of reporting such sensitive data either under one of the confidential reporting methods referenced herein, or reporting such data as it would all other operational risk data, if it so chooses.

Thank you, on behalf of AMAG, for the opportunity to continue a dialogue on possible solutions. The AMAG would be pleased to continue this discussion at your convenience.

Please contact us as appropriate.

Sincerely,

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

Robin L. Phillips  
Chairman,  
Advanced Measurement Approaches Group

Attachments

A -- AMA Group Alternative Reporting Proposal  
B -- About the AMA Group

## Attachment A

### AMA Group Alternative Reporting Proposal

Following is a restatement and elaboration of one of the two possible alternatives offered by AMAG in May 2012. It is included herein for further consideration and discussion.

#### **AMAG Processed Data Alternative – Provide “processed” rather than highly confidential “raw” loss reserve data**

Rather than provide the “raw” loss data to the FRB, AMA banks could provide “processed” data. Undoubtedly, the FRB has plans to use the raw loss event data within a modeling process. We assume that its end-to-end modeling process will include a series of analytical / quantitative tasks. Our proposal would be for AMA banks to perform some of the initial analytical / quantitative tasks and submit the output to the FRB. Then, the FRB could take this output and perform the remaining tasks to complete the modeling process and produce the final results.

It is difficult to determine the exact nature of the tasks to be performed by the AMA banks without knowledge of the FRB’s modeling process. However, following are some examples on how this alternative approach could work based on some typical operational risk modeling processes.

*Example A: LDA-type modeling, which focuses on determining parametric frequency and severity distributions using the empirical loss data.*

- **Determining Frequency distribution parameters:** Loss amount information is not necessary for frequency modeling; therefore AMA banks could provide the number of loss event for each unit of measure without providing the loss amount. This information would not compromise the confidentiality of the reserve data and would not impede the FRB in modeling frequency of loss.
- **Determining Severity Distribution parameters:** Loss amount information is critical to determining severity distribution parameters. Therefore, the proposal would be for the FRB to provide the AMA banks with the specifications on how the loss data should be fitted. The AMA banks would be responsible for conducting the fitting process and submitting the results [i.e., fitted distribution parameters for each Unit of Measure (UOM)]. The loss amounts for individual events would not be submitted and the confidentiality of the reserve data would not be jeopardized. In addition, AMA banks could provide other statistics such as goodness-of-fit test results and other statistical properties of the empirical distribution (e.g., mean mode, median, variance).

*Example B: Panel Regression analysis between Frequency of loss and macroeconomic factors (in line with the model used by the FRB for the recent CCAR analysis)*

- This type of analysis would not require loss amount information as the regression analysis is performed against the frequency of loss. Therefore, AMA banks could submit the loss data without loss amounts.
- Once the number of losses for a given stress period is determined, the FRB would need some estimate of severity. In the recent CCAR analysis, the FRB used "sample averages by event type for each BHC" as the estimate of severity. The AMA banks could provide these statistics (along with other statistics) for each UOM without compromising the confidentiality of the reserve information.

This "Processed Data option" is similar in some respects to the FRB's Method 4 but with some additional important benefits. In fact, one could interpret the FRB's Method 4 as one example of "process data". A key difference, however, is that in the AMA bank-processed data alternative, the institutions could submit the Frequency matrix and the Total Loss Amount for a given period for all of the data (non-reserve losses and reserve losses). A second difference is that the level of "processing" would be less granular than that of FRB Method 4 (e.g., possibly collapsing the entire matrix to the aggregate bank level).

The benefits of submitting the information for all combined events would:

- Completely eliminate any potential for compromising the confidentiality of reserve information; and
- Remove the potential concern about "double counting" of losses when current reserves turn into actual settlements over time.

Furthermore, the AMAG alternative would allow the FRB to change the nature of the requested "processed data" over time. In this alternative, it is envisioned that the FRB would establish a set of processed data to be submitted, which could change over time (i.e., with appropriate amount of lead time, of course) as the FRB determines the need for a different set of information.

Notwithstanding members' objection to reporting any Legal Reserve data, and although the AMAG banks are conceptually supportive Method 4 as a possible option, banks are left to make a number of assumptions about FRB Method 4. Because of the difficulty of making such assumptions AMAG continues to believe that "the processed data" alternative should be given due consideration because it affords more long-term flexibility, is more protective of confidential nature of reserves, and potential less problematic to use in the FRB models.

## **About the AMA Group**

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The purpose of the AMAG is to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The Group consists of operational risk management professionals working at financial service organizations throughout the United States. The AMAG is open to any financial institution regulated in the United States that is either mandated, opting in, or considering opting in to AMA. A senior officer responsible for operational risk management serves as the primary representative of each member institution on the AMAG. Of the US financial service institutions that are currently viewed as mandatory or opt-in AMA institutions; nineteen were members of the AMAG at the time of this writing.

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Bank of the West  
BMO Financial Group  
BNY Mellon  
Capital One Bank  
Citizens Bank  
Deutsche Bank  
Goldman Sachs  
HSBC  
JP Morgan Chase  
Keycorp  
Morgan Stanley  
Northern Trust  
PNC  
State Street Corporation  
SunTrust  
TD Bank Financial Group  
Union Bank  
Wells Fargo

Support for the AMAG is provided by RMA and Operational Risk Advisors LLC.



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**ATTACHMENT (iv)**

**Letter to the Federal Reserve dated August 6, 2012 from The Clearing House Association L.L.C., The Risk Management Association/the Advanced Measurement Approaches Group, the Financial Services Roundtable, and the American Bankers Association Joint Comment Letter re: FR Y-14A/Q/M OMB Control Number: 7100-0341. (Capital Plans; Proposed Agency Information Collection Activities.**





THE FINANCIAL  
SERVICES  
ROUNDTABLE



American  
Bankers  
Association

August 6, 2012

Jennifer J. Johnson  
Secretary  
Board of Governors of the Federal Reserve System  
20th Street & Constitution Avenue, NW Washington, DC 20551

**Re: FR Y-14A/Q/M OMB Control Number: 7100-0341. (Capital Plans;  
Proposed Agency Information Collection Activities)**

Dear Ms. Johnson:

The Clearing House Association L.L.C., ("The Clearing House"), The Risk Management Association / The Advanced Measurement Approaches Group ("The RMA / AMAG"), The Financial Services Roundtable ("The Roundtable") and the American Bankers Association (the "ABA" and, together with The Clearing House, The RMA / AMAG and The Roundtable, the "Associations")<sup>1</sup> are writing to request reconsideration of the proposal (the "Original Proposal") by the Board of Governors of the Federal Reserve System (the "Federal Reserve") to require large bank holding companies to provide confidential, highly sensitive information relating to banks' individual litigation reserves to the Federal Reserve as part of the Comprehensive Capital Analysis and Review ("CCAR") process. For the reasons discussed below, disclosure of this information would be potentially very damaging to banks whenever they are defendants in litigation, irrespective of the merits of the claim, and thus inimical to the safety and soundness of banking institutions. Disclosure would also create fundamental unfairness for bank defendants, most clearly in the case of claims by the Federal Reserve itself and claims of other Governmental agencies, but also more broadly.

We are appreciative that the Federal Reserve has been willing to consider alternatives to the disclosure of individual litigation reserves. Following a discussion of the reasons why the Associations are so concerned about the Original Proposal, we set

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<sup>1</sup> The Associations collectively represent financial institutions accounting for a substantial majority of banking and financial assets in the United States. Descriptions of the Associations are provided immediately following the signature page of this letter.

forth our views of the alternatives and, in particular, our preference for Method 4 proposed by the Federal Reserve, subject to resolution of certain issues and concerns, as outlined herein.

#### Concerns about the Original Proposal

We assume it is beyond dispute that an adverse party's knowledge of the amounts of a bank's reserves for individual litigation matters would be extremely detrimental to the bank's position in settlement negotiations. If a bank has reserved \$X for a litigation matter, and that becomes known to the plaintiff, a settlement below \$X becomes highly improbable. Indeed, if a plaintiff is made aware of a bank's reserve, that plaintiff may argue that it is a statement against interest or an admission of a party opponent and attempt to have the reserve amount introduced at trial (or at least before the court to influence its views). In short, once a reserve is known, the bank's ability to argue for damages below \$X would be severely compromised. Accordingly, a bank that establishes its litigation reserves conscientiously and conservatively would place itself at a serious financial and competitive disadvantage if the amounts of the reserves became known.

This fundamental point can be illustrated by considering the imposition of a similar requirement on plaintiffs. Is it even imaginable that plaintiffs or their counsel would be required to provide their estimate of the anticipated value of a settlement? The obvious negative answer would be for the same reason as should apply to a defendant bank. The plaintiff's position would be severely compromised. How, then, can it possibly be reasonable to require that defendant banks alone provide this information?

We understand, of course, that the litigation information would be provided to the Federal Reserve on a confidential basis, and we are deeply appreciative of the Federal Reserve's strong record of maintaining the confidentiality of information that has been provided to it.<sup>2</sup> The problem, however, is that the Federal Reserve might be obligated to, or feel itself obligated to, release the litigation reserve information to others that have demonstrated less care in protecting confidential bank information. As just one recent, but telling, example, a Congressionally appointed commission, the Financial Crisis Inquiry Commission, included portions of confidential bank examination reports on its website.

We further understand that the Federal Reserve can give banks no assurance that it will not provide the litigation reserve information to Congress or other

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<sup>2</sup> We are, however, concerned by a recent Federal Reserve determination to make disclosure of certain mortgage foreclosure information filed confidentially on the basis that it was "in the public interest".

Government authorities. In the absence of such assurance, banks would be placed at great risk.

A further significant concern arises from the necessarily substantial attorney input into the determination of litigation reserves. Without attempting to debate here the question of the banking agencies' authority to obtain from banks information protected by the attorney-client privilege, work product doctrine or similar protection, the banking agencies should proceed with caution in seeking such information and infringing upon those rights.<sup>3</sup> The agencies should not seek such information unless there is a compelling "need to know" and no available substitute.

The request for litigation reserves becomes particularly troubling when the reserves relate to litigation between the bank and the Federal Reserve itself or a potential enforcement action by the Federal Reserve against the bank. The bank would then be providing the Federal Reserve with the bank's own assessment of its vulnerability, thereby virtually destroying the bank's ability to defend itself. We submit that such a situation is profoundly unfair. This special problem is not limited to the Federal Reserve. If the bank is in litigation with, or under investigation by, another Government agency, and that agency obtains the bank's litigation reserve information from the Federal Reserve, the bank will be severely disadvantaged.

As we stated at the outset, we believe that disclosure of confidential litigation reserve information will threaten the safety and soundness of banking institutions. Litigation against banks has exploded in the wake of the financial crisis and government enforcement actions have multiplied. If banks are significantly handicapped in their ability to defend themselves, their additional losses could amount to billions of dollars. Perhaps even more damagingly, banks' reputation and credibility would be severely damaged as they are forced to settle claims far above their legitimate settlement value. In this respect, banks would be unique among all American businesses in their Government-imposed vulnerability to litigation.

#### Concerns about the Original Proposal

The remaining question is whether the potentially devastating impact of disclosure of individual litigation reserves is offset by a compelling "need to know". We recognize that the adequacy of litigation reserves may be relevant to the assessment of a bank's capital position in stressed circumstances. Nonetheless, we question whether there is a compelling need for the Federal Reserve to review the individual litigation

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<sup>3</sup> The attorney-client privilege is a bedrock common law protection, long regarded by the courts as a fundamental legal principle. See *Upjohn v. United States*, 449 U.S. 383, 389 (1981). Further, in *U.S. v. Deloitte*, 610 F.3d 129 (2010), the D.C. Circuit affirmed that work product protection extends to documents prepared in the course of determining appropriate litigation reserves, including audit documents where those documents contain the legal advice of counsel to the audit client.

reserves to make a capital adequacy determination. The bank examination process should provide the Federal Reserve with deep insight into the individual banks' processes for establishing litigation reserves. If those processes are unsatisfactory the Federal Reserve can model additional reserves to account for that inadequacy.

We also question the value of the information that the Federal Reserve would obtain from individual litigation reserves. That value is dependent on the Federal Reserve's ability to assess the adequacy of the individual reserves and substitute its own judgment for that of the bank. Not only is the judgment as to the appropriate litigation reserve level highly subjective, but it requires extensive knowledge of the case. With due respect, we believe that the Federal Reserve would not be in a position to make informed judgments about the adequacy of individual reserves. We also understand that the Federal Reserve may be seeking this information to be able to make judgments on a "horizontal" basis, comparing the levels of multiple banks' litigation reserves in seemingly similar cases. We believe that such a horizontal comparison is potentially highly misleading, as nominal similarities may mask profound differences in individual litigation matters. Even if the underlying claims are similar, there will inevitably be different facts and different levels of capacity and appetite to contest the claim.

#### Alternatives

As mentioned above, the Associations appreciate the Federal Reserve's efforts to develop alternatives that would reduce risk to the banks and we believe Method 4 has promise for the reasons set forth below. We also highlight below what we believe to be the critical deficiencies in the other Methods proposed by the Federal Reserve. Finally, we propose an additional method for your consideration that we believe may address the Federal Reserve's information collection needs while affording greater confidentiality protection for the legal reserve information.

#### Methods 1 & 5

These methods are similar in that they would require submission of legal reserve information on an event level basis with the actual amount of the reserve being part of the submission. Regardless of which method is employed to limit the disclosure of detailed descriptive information, providing reserve information with the actual loss amount would significantly jeopardize the bank's position. Therefore, we do not think that either of these two alternatives is acceptable.

#### Method 2

With this method, the Federal Reserve proposes to aggregate the information into a matrix by business line, event type, and time period. Although reserves are not submitted at the event level, there is a strong likelihood that the confidentiality of large individual reserves, or even small reserves, would be

jeopardized. For many units within the matrix, firms would often have few, if any, legal reserve events. Even for firms with a number of reserve events in a particular unit, a series of data submissions over time would enable specific reserves to be calculated.

### Method 3

In this method, the Federal Reserve attempts to limit disclosure of the actual amount of individual reserves through a randomization process, but we fail to understand the value that this information would provide to the Federal Reserve for its stated purposes. Short of attempting to reverse the randomization method, the only actual information is the number of the legal reserve events and the total amount at the time of submission. Given that, we think that Method 4 below is superior to Method 3.

### Method 4

Of all the methods presented by the Federal Reserve, we believe this method is the most viable. However, some instruction details are missing which causes the concerns laid out below. We look forward to further clarification of the details of this method to address these concerns.

#### Method 4 : Quarterly submission of the frequency data

The Federal Reserve's instructions are detailed and clear. The example table lays out the structure in a transparent manner; however, the example data create the appearance of the existence of numerous legal reserve events at a single institution, which does not reflect the reality for most banks. Some institutions are concerned about the fact that at some point in time a given cell within the table could have a value of "1" and hence indicate that a reserve has been established for a given legal matter which – together with other information submitted and addressed below – could jeopardize the position of the bank as a defendant in litigation. Therefore, the combination of the frequency data submission with a specific method for submitting reserve amount information is critical to the viability of Method 4.

#### Method 4 : Yearly submission of the Total Reserve Amount

The details for the methodology to submit the total reserve amount are not clear. We assume that, in this method, if a reserve is established in one year and increased in a subsequent year, then the initial reserve amount would be reported for the year the reserve was established, and the amount of the increase would be attributed to the year the increase was recognized in the financial statements. For example, a bank may have established two reserves in 2010, Reserve 1 for \$100 and Reserve 2 for \$900. The legal reserve balance submitted pursuant to Method 4 would be \$1,000. In 2011, Reserve 1 is increased by \$100, while Reserve 2 remains unchanged. The legal reserve balance submitted for 2011 would be \$1,100.



The following are our concerns with this method:

> By way of continuing submissions subsequent to the original data submission, if a bank has only very few reserves established in a given year, then the amount for a given reserve can be inferred from the total amount. This concern is most relevant if only a single reserve is established for a given year, or if very few reserves are established and this data set contains one significant reserve.

> Some banks voiced the concern that it would be difficult and sometimes impossible for a financial institution to provide precise historical data on legal reserves that may have been made many years ago. To those banks, it does not seem reasonable for the Federal Reserve to request that all legal events since the oldest reserve, potentially even those that were settled in the interim, be included in the initial report.

The following alternative is proposed: In the initial report submitted by a financial institution (using as a form the Example for Method 4), the first column under Number of Legal Events would be entitled "Total Events 2010" and would include a total figure (i.e., frequency) of all legal events for which a reserve had been established by, and was still in place at the end of 2010, regardless of the date of the establishment of the reserve. The remaining columns would reflect actual events that take place during the listed quarters, starting from Q1 2011. This would establish a baseline for the Federal Reserve of almost two years of data.

Another alternative would be for financial institutions to submit a report just like the Example of Method 4, and not include legal event numbers where the initial reserve occurred before 2010 and is still outstanding. In this approach the Legal Reserve Balance would include reserve dollars but the year when the reserve initially occurred would not be reflected in the form because it occurred before 2010.

> As legal cases get settled over time, the loss amount would become part of the "non-reserve" dataset for which the Federal Reserve has finalized the instructions earlier. This could result in the amount for a given event present in both the "non-reserve" data set (after settlement) as well as the previously submitted and not updated total reserve amounts for multiple years (before settlement).

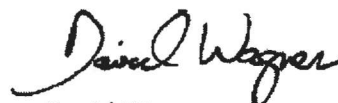
Additional Proposal

In view of the issues presented by each of the five Federal Reserve alternatives (even Method 4), we suggest that the Federal Reserve give further consideration to the "processed data option" that is described by the Risk Management Association and its AMA Group in their May 24, 2012 Supplemental Response and elaborated upon in a separate August 6, 2012 2nd Supplemental Response. In essence, it appears similar to Method 4 (based on industry assumptions about the characteristics of Method 4), but would provide the industry added confidentiality benefits because it would apply to all data - reserve and non-reserve data - combined.

\*\*\*\*\*

We thank you for this opportunity to comment and for consideration of our views. If you have any questions or need further information, please contact (i) at The Clearing House, David Wagner, its Senior Vice President Finance Affairs (e-mail – [david.wagner@theclearinghouse.org](mailto:david.wagner@theclearinghouse.org), telephone number – (212) 613-9883; (ii) at RMA / AMAG, Edward J. DeMarco, Jr., its General Counsel and Director of Operational Risk and Regulatory Relations (e-mail – [edemarco@rmahq.org](mailto:edemarco@rmahq.org), telephone number – (215) 446-4052); (iii) at The Roundtable, Richard M. Whiting, its Executive Director and General Counsel (e-mail – [Rich@fsround.org](mailto:Rich@fsround.org), telephone number – (202) 589-2413); and (iv) at ABA, Hugh Carney, its Senior Counsel (e-mail - [hcarney@aba.com](mailto:hcarney@aba.com), telephone number – (202) 663-5324).

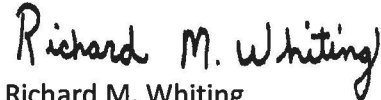
Respectfully submitted,



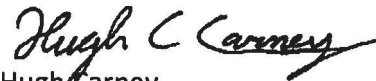
David Wagner  
Senior Vice President  
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The Clearing House Association L.L.C.



Edward J. DeMarco, Jr.  
General Counsel and  
Director of Operational Risk and  
Regulatory Relations  
RMA / AMAG



Richard M. Whiting  
Executive Director and General Counsel  
Financial Services Roundtable



Hugh Carney  
Senior Counsel  
The American Bankers Association

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## **The Associations**

### *The Clearing House Association*

Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world's largest commercial banks, which collectively employ over 2 million people and hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing—through regulatory comment letters, amicus briefs and white papers—the interests of its owner banks on a variety of systemically important banking issues. Its affiliate, The Clearing House Payments Company L.L.C., provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated-clearing-house, funds-transfer, and check-image payments made in the U.S. See The Clearing House's web page at [www.theclearinghouse.org](http://www.theclearinghouse.org).

### *The Risk Management Association / The Advanced Measurement Approaches Group*

The Risk Management Association (RMA), a 501(c)(6) not-for-profit corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, is a member-driven professional association serving the financial services industry. Its sole purpose is to advance the use of sound risk principles in the financial services industry. RMA promotes an enterprise approach to risk management that focuses on credit risk, market risk, operational risk, securities lending, and regulatory issues.

The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by RMA at the suggestion of the U.S. AMA-BQT (formerly the Inter-Agency Working Group on Operational Risk). The purpose of the AMAG is to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies and promote the successful implementation of AMA. The Group consists of operational risk management professionals working at financial service organizations throughout the U.S.

### *The Financial Services Roundtable*

The Roundtable represents 100 of the largest integrated financial services companies providing banking, insurance, and investment products to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. Roundtable member companies provide fuel for America's economic engine and account directly for \$92.7 trillion in managed assets, \$1.1 trillion in revenue, and 2.3 million jobs.

*American Bankers Association*

The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's \$14 trillion banking industry and its 2 million employees.