Federal Financial Institutions **Examination Council**

3501 Fairfax Drive • Room D8073a • Arlington, VA 22226-3550 • (703) 516-5588 • FAX (703) 562-6446 • http://www.ffiec.gov

May 5, 2008

Mr. Norman R. Nelson
General Counsel
The Clearing House Association L.L.C.
100 Broad Street
New York, New York 10004

Mr. Robert W. Strand
Senior Economist
American Bankers Association
1120 Connecticut Avenue, N.W.
Washington, D.C. 20036

Re: Response to Industry Comments Received on the Advanced Capital Adequacy Framework Reporting Requirements (FFIEC 101)

Gentlemen:

Thank you for submitting comments on the federal banking agencies' joint Paperwork Reduction Act Federal Register notice pertaining to the regulatory reporting requirements for U.S. institutions subject to the Advanced Capital Adequacy Framework. Please circulate this letter, and the detailed responses to your comments included in the attached Appendix, to interested members of your organizations. The agencies will also post this letter along with the Appendix on the Federal Financial Institutions Examination Council (FFIEC) website (see http://www.ffiec.gov/forms101.htm), thereby making it publicly available.

Background

On January 24, 2008, the agencies, under the auspices of the FFIEC, published a Joint Notice of Information Collections to be Submitted to OMB for Review and Approval under the Paperwork Reduction Act (referred to hereafter in this document as the final PRA notice). See 73 FR 4220. The final PRA notice requested comment on reporting requirements for banks, savings associations, and bank holding companies (referred to hereafter as banks) that qualify for and adopt the Advanced Capital Adequacy Framework (referred to hereafter as the Advanced Approaches) to calculate their risk-based capital requirements or are in the parallel run stage of qualifying to adopt this framework. The agencies' final rules implementing this new risk-based capital framework became effective April 1, 2008 (referred to hereafter as the final rule). See 72 FR 69288.

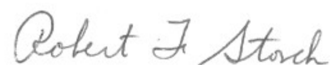
Summary of Comments and the Agencies' Responses

The agencies received four comment letters on the reporting requirements described in the final PRA notice. Most of the comments received are encapsulated within the letter submitted jointly by your organizations -- the Clearing House and American Bankers Association (referred to hereafter as the joint letter). Three additional letters were submitted by banking organizations. In brief, the comment letters sought clarification on, or made recommendations pertaining to, various technical aspects of the reporting requirements, including the application of the six percent scaling factor, reporting of the effects of credit risk mitigation on wholesale exposures, reporting of unfunded equity exposures, reporting of weighted average bureau scores for retail exposures, the calculation of weighted average age for mortgages, the frequency of reporting operational risk information, reporting due dates, and disclosure requirements pertaining to the publicly available schedules.

The agencies have evaluated each of the comments received and have made certain modifications to the reporting requirements as described in the attached Appendix. The agencies believe that these additional modifications will, on the whole, reduce reporting burden for banks subject to these reporting requirements. The Appendix also addresses responses to other comments where the agencies have decided not to alter the reporting requirements. The FFIEC has approved these reporting requirements as revised. The modified reporting requirements are contained within revised FFIEC 101 reporting schedules and reporting instructions that will be posted on the FFIEC's website.

With this new data series, the agencies have sought to balance the information needs of supervisors (and ultimately the public) against the costs to banks associated with meeting these reporting requirements. The agencies and the FFIEC intend to continually evaluate the FFIEC 101 reporting requirements as submissions are received.

Sincerely,



Robert F. Storch
Chairman, Task Force on Reports

Enclosure: Appendix – Banking Agencies' Responses to Comments Received on the FFIEC 101 Reporting Requirements

APPENDIX

Banking Agencies' Responses to Comments Received on the FFIEC 101 Reporting Requirements

Application of the 1.06 Multiplier to Other Assets

Each of the commenters indicated that the 1.06 multiplier applied to Total Credit Risk Weighted Assets on Schedule B, data item 28, of the FFIEC 101 should not include the Other Assets categories listed on data items 24 to 26 of this same schedule (that is, Unsettled Transactions, Assets Not Included in a Defined Exposure Category, and Non-material Portfolios of Exposures). The commenters argue that the risk weights for such exposures are not derived from internal models, but rather are based either on mandatory risk weights or conservative estimates.

For reporting purposes, the agencies believe they should not deviate from the final rule in the application of the 1.06 multiplier. As detailed in the Section 2 definitions of the final rule, the term *credit-risk-weighted assets* means 1.06 multiplied by the sum of total wholesale and retail risk-weighted assets, risk-weighted assets for securitization exposures, and risk-weighted assets for equity exposures. Further, Section 2 of the final rule defines the term *total wholesale and retail risk-weighted assets* to specifically include risk-weighted assets for unsettled transactions, risk-weighted assets for assets not defined by an exposure category; and risk-weighted assets for non-material portfolios. Accordingly, the agencies do not believe it would be appropriate to exclude the Other Assets categories listed on data items 24 to 26 of Schedule B from the derivation of total credit-risk-weighted assets and the application of the 1.06 multiplier.

Application of the 1.06 Multiplier to Exposures Subject to Merger and Acquisition Transitional Arrangements

The definition of *total wholesale and retail risk-weighted assets* contained in Section 2 of the final rule explicitly excludes amounts subject to the general risk-based capital rules. Under the merger and acquisition transitional arrangements described in Section 24 of the final rule, when a bank merges with or acquires a company that does not calculate its risk-based capital requirements using the Advanced Approaches, the bank may use the general risk-based capital rules to determine risk-weighted asset amounts for, and deductions from capital associated with, the merged or acquired company's exposures for a transitional period. During this transitional period, the risk-weighted assets of the merged or acquired company are not included in the bank's credit-risk-weighted assets determined under the Advanced Approaches but are included in total risk-weighted assets.

The agencies acknowledge the need to modify the reporting schedules and instructions to appropriately exclude such exposures when applying the multiplier to credit-risk-weighted assets. Accordingly, the agencies have added to Schedule B a data item for "Assets Subject to the General Risk-Based Capital Requirements" to capture risk-weighted assets subject to the merger and acquisition transitional arrangements (new data item 29 of Schedule B, column G). The agencies have also modified the data item representing total risk-weighted assets (renumbered data item 33) to include the sum of total credit-risk-weighted assets subject to the multiplier (data item 28), risk-weighted assets for assets subject to the general risk-based capital requirements (new data item 29), market risk equivalent assets (renumbered data item 31), and risk-weighted assets for operational risk (renumbered data item 32), less any excess eligible credit reserves not included in tier 2 capital (renumbered data item 30).

Reporting Requirements Pertaining to Credit Risk Mitigation on Wholesale Exposures

All four commenters requested either the elimination or modification of columns in the wholesale credit risk schedules pertaining to estimating the effects of credit risk mitigation (CRM) on the loss given default parameter (LGD) and risk-weighted assets (that is, columns G, I, and J of Schedules C, F, and G; and columns G and I of Schedules D and E). The commenters argued that such reporting would require overly burdensome changes to systems and risk analyses in order to develop the pre-CRM risk estimates required to be reported. The commenters also questioned the value of such information given the broad range of industry practice in the application of CRM. As noted in the joint letter, the industry appears especially concerned about the burdens associated with determining the effect of guarantees on risk weighted assets where only portions of an obligor's exposures are guaranteed.[1] Short of eliminating all reporting of CRM-related information, the joint letter suggested alternative approaches that would require reporting of the EAD amounts associated with exposures where risk is mitigated by eligible guarantees, or eliminating the eligible guarantees altogether from the estimation of CRM effects on risk weighted assets.

The agencies believe it is important to have the capability to evaluate banks' application of the CRM approaches provided in the final rule to mitigate risk and lower risk-based capital requirements. The agencies have balanced the desire to obtain such information against the potential burdens associated with these reporting requirements and have made various modifications to past reporting proposals for the Advanced Approaches, including the elimination of CRM reporting related to retail credit exposures. To further alleviate reporting burden, the agencies have now decided to modify the reporting instructions for column I in

[1] As indicated in 73 FR 4200, banks would not need to calculate and report the impact of guarantees and credit derivatives on risk-weighted assets where a bank extends credit based solely on the financial strength of the guarantor, provided the bank applies the PD substitution approach to all exposures of that obligor.

Schedules C through G to require information only on the estimated impact of credit derivatives on risk-weighted assets. That is, for reporting purposes, banks need not consider eligible guarantees when determining the effect of the PD substitution and LGD adjustment approaches on risk-weighted assets. All other reporting requirements pertaining to CRM (column G of Schedules C through G and column J of Schedules C, F, and G) remain unchanged from those disseminated with the final PRA notice. As indicated in the final PRA notice, the agencies will reevaluate the need for this information in view of actual data submissions.

Reporting of Unfunded Equity Exposures

Two commenters sought clarification for the reporting of unfunded equity commitments. These commenters noted that, for data items 21 to 23, column C of Schedule B in the FFIEC 101 ("Total Undrawn Amount") has been shaded out, but banks may have certain exposures to private equity and community development funds that are unconditional unfunded commitments. The agencies agree with the need to modify the reporting schedules and instructions to accommodate reporting of unfunded equity exposures. However, rather than increase reporting burden by "unshading" the analogous cells on Schedule B, the agencies have decided to eliminate all reporting of on- and off-balance sheet amounts for equity exposures on Schedule B (columns B and C). As a result, the agencies are modifying Schedule B so that data items 21 to 23 include only risk-weighted assets for equity exposures (column G). In addition, the agencies have modified the instructions to column A of Schedule R of the FFIEC 101 ("Exposure") to include both funded and unfunded amounts as these amounts are defined in the final rule.

Reporting Pertaining to Weighted Average Bureau Scores on Consumer Exposures

Three commenters recommended elimination of reporting of information pertaining to credit risk scores or bureau scores on the FFIEC 101 retail schedules (column O of Schedules K through M and column J of Schedules N and O). These commenters questioned the value of this information since it is required to be reported only if scores are available and because the scores may not be updated and therefore not reflect a current view of exposure risk.

The agencies have decided to retain the reporting of weighted average bureau scores in the FFIEC 101 retail schedules. As indicated in the final PRA notice, the agencies believe that bureau scores are an important risk driver for many types of retail exposures and will likely be used by a number of banks in their segmentation processes. To the extent such information is not used by institutions in their risk measurement processes and is therefore not available, no reporting is required.

Reporting Pertaining to Loan-to-Values on Mortgage Exposures

One commenter recommended the elimination of information pertaining to loan-to-values (LTVs) for loan exposures in the retail exposure schedules (columns J through N, and column P of Schedules K through M). The commenter argued that such information would be of little value when LTVs are available for only a portion of mortgage portfolios.

The agencies have decided to retain reporting of LTV information in the FFIEC 101 retail schedules. As indicated in the final PRA notice, the agencies believe that LTV information is likely to be an important risk driver for mortgage loan exposures and will likely be used by a number of banks in their segmentation processes. To the extent such information is not used by

institutions in their risk measurement processes and is therefore not available, no reporting is required.

The Calculation of Weighted Average Age for Mortgage Exposures

Two commenters indicated that it would be burdensome for banks to calculate the weighted average age of mortgage exposures based on the origination date of the mortgages. These commenters argue that such information is not used by banks to evaluate the risk of their mortgage portfolios. Based on these comments, the most burdensome aspect of determining a mortgage's age since origination appears to involve purchased mortgage exposures since such information is not necessarily maintained in the acquiring banks' data systems.

The agencies note that the requirement to calculate the weighted average age of mortgage exposures using months since origination is required only for closed-end mortgage exposures (that is, column F of Schedules K and L). The weighted average age of revolving mortgage exposures (column F of Schedule M) is calculated based on the number of months on the bank's books. For closed-end mortgage exposures, the agencies continue to believe that loan seasoning is likely to be an important risk driver and may be used by a number of banks in their segmentation processes. Accordingly, for purposes of reporting on Schedules K and L, banks should use the number of months since origination when calculating the weighted average of closed-end mortgage exposures.

Reporting Items Pertaining to Operational Risk

Two commenters requested that the completion of the operational risk schedule (Schedule S) be required only annually or only as frequently as operational risk model inputs are

updated. However, the agencies intended the FFIEC 101 report to represent a comprehensive view of a bank's risk-based capital position that could also be compared to other quarterly reported financial information. The agencies believe that quarterly reporting of operational risk information is necessary to achieve these objectives. Accordingly, less frequent reporting of information contained in the operational risk schedule will not be allowed.

One commenter asked for confirmation that it would be acceptable to report internal loss event data on Schedule S on a one quarter lag basis to align with the lagged availability of external data that may be used in conjunction with a bank's operational risk modeling. It is the responsibility of the bank to quantify its risk-based capital requirements for operational risk. Accordingly, a bank should report whatever loss event data is used to support its risk estimates.

Reporting Due Dates

Every data item on the FFIEC 101 report will be granted confidential treatment during a bank's parallel run period. For reports that a bank files after its parallel run period, all data items reported on Schedules A and B (and data items 1 and 2 only of the operational risk schedule) will be available to the public, but all other data items will be confidential.

All four commenters pointed out a potential timing issue after a bank's parallel run period with respect to the public dissemination of information in Schedules A and B (and the operational risk schedule) following a calendar year-end. Once a bank completes its parallel run period and enters the transitional floor period (as defined in the final rule), the bank is required to submit information in the FFIEC 101 report within the same timeframes set forth in the reporting instructions for the Call Report, the Thrift Financial Report, and the FR Y-9C report for banks, savings associations, and bank holding companies, respectively. Given the reporting deadlines

for these three reports, the commenters note that the timing of the agencies' public release of the information reported in Schedules A and B (and data items 1 and 2 of the operational risk schedule) may conflict with the timing of banks' publication of certain Pillar 3 disclosures referenced in their Form 10-K filings, which are not filed with the Securities and Exchange Commission (SEC) until 60 days after year-end. The commenters requested delaying the reporting due dates for submitting year-end FFIEC 101 information to correspond to SEC reporting due dates.

The agencies acknowledge the commenters' concerns about the potential timing issue between banks' public disclosure of Pillar 3 information contained in their SEC reports and the agencies' public disclosure of information contained in Schedules A and B of the FFIEC 101 (and data items 1 and 2 of the operational risk schedule). The agencies have decided to leave the proposed reporting due dates in place but have taken this issue under advisement and will evaluate different options during the coming initial parallel run reporting periods. The agencies will inform the industry if any changes are made to the proposed reporting due dates or the public release date for the information in Schedules A and B (and data items 1 and 2 of the operational risk schedule).

Scope of Reporting

The joint letter asked for confirmation that a small U.S. bank subsidiary of a U.S. bank holding company that is subject to the Advanced Capital Adequacy Framework, but that does not itself qualify to implement the Advanced Approaches, would be exempt from the publication of Schedules A and B of the FFIEC 101 report. The agencies note that each bank, regardless of its size in a banking organization, must apply the Advanced Approaches if it is a subsidiary of a

depository institution or bank holding company that is required to, or elects to, apply the Advanced Approaches. Thus, as indicated in the final PRA notice, each bank that qualifies for and adopts the Advanced Approaches to calculate its risk-based capital requirements or is in the parallel run stage of qualifying to adopt this framework, regardless of its size, must complete the FFIEC 101 report. For reports filed after the bank's parallel run period, even if the bank is a small subsidiary of a U.S. bank holding company that is subject to the Advanced Capital Adequacy Framework, Schedules A and B of the bank's report would be publicly available. However, the final rule states that a bank subsidiary may request an exemption from application of the Advanced Approaches. Only a small U.S. bank subsidiary of a U.S. bank holding company subject to the Advanced Capital Adequacy Framework that has received an exemption from application of the Advanced Approaches is not required to complete any portion of the FFIEC 101 report.

Portfolio Definitions

One commenter requested that the definitions for sovereign and residential mortgage exposures be aligned with other regulatory reporting definitions. The agencies do not wish to deviate from the final rule definitions for sovereign and residential mortgage exposures for FFIEC 101 reporting purposes.

Potential Additional Reporting Requirements

All four commenters indicated continued opposition to the possible collection of additional "lookback" portfolio information. As indicated in the final PRA notice, the agencies intend to publish and request comment on a data collection proposal that would facilitate

analyses of the reasons for changes in a bank's assessment of risk (for example, because of changes in the mix of exposures held or because of changes in risk perception). This notice will identify alternatives beyond formal reporting processes for obtaining this information and will specify safety and soundness issues that could be addressed by such analyses. Comments received on this proposal will be carefully considered by the agencies before determining whether any additional information is to be collected through a regulatory report.