

# FEDERAL RESERVE BANK *of* NEW YORK

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**PATRICIA SELVAGGI**

STATISTICS OFFICER

April 7, 2011

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

The following report forms and instructions for the March 31, 2011 reporting date have been posted to the Federal Reserve Board's website at [www.federalreserve.gov](http://www.federalreserve.gov) under "Reporting Forms":

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

There are no changes to the FFIEC 002S reporting form and instructions. However, there are changes to the FFIEC 002 reporting form and instructions for the March 31, 2011 report date. Listed below is a summary of the significant report form and instruction changes:

## *Schedule RAL—Assets and Liabilities*

1. Trading assets was expanded to collect information on mortgage-backed securities, with a split into “Mortgage-backed securities issued or guaranteed by U.S. Government agencies” (item 1.f.(2)(a)), and “All other mortgage-backed securities” (item 1.f.(2)(b)). In addition, a new item was added to capture “Other asset-backed securities (other than mortgage-backed securities) held for trading” (item 1.f.(3)).

## *Schedule E—Deposit Liabilities and Credit Balances*

1. The reporting instructions for “Time deposits of \$100,000 or more” (Memorandum item 1.a) was revised to *exclude* all brokered deposits issued in amounts of \$100,000 or more that have been participated out by the broker in shares of less than \$100,000.
2. The caption for Memorandum item 1.c was revised to read “Time certificates of deposit of \$100,000 or more with remaining maturity of more than 12 months included in Memorandum item 1.a, ‘Time deposits of \$100,000 or more’, above” to include both

time certificates of deposits and open-account time deposits. In addition, the reporting instructions for Memorandum item 1.c was revised to include such deposits “with outstanding balances of \$100,000 or more” rather than “issued in denominations of \$100,000 or more” and to clarify that amounts reported in Memorandum item 1.c are included in Memorandum item 1.a.

*Schedule Q—Financial Assets and Liabilities Measured at Fair Value*

1. Schedule Q collects information on certain assets and liabilities measured at fair value for institutions with a significant level of trading activity or that have elected the fair value option. The reporting criteria for Schedule Q was revised to require institutions that have \$500 million or more in total assets as of the preceding December 31 to complete the schedule, regardless whether they have elected to apply a fair value option to financial or servicing assets and liabilities.
2. In addition, Schedule Q was expanded to collect information on all assets and liabilities measured at fair value on a recurring basis consistent with the asset and liability breakdowns on Schedule RAL.

New items were added for: “Available-for-sale securities” (item 1), “Federal funds sold and securities purchased under agreements to resell” (item 2), “Loan and leases held for sale” (item 3), “Loans and leases held for investment” (item 4), “All other assets” (item 6), “Total assets measured at fair value on a recurring basis” (item 7), “Federal funds purchased and securities sold under agreements to repurchase” (item 9), “Other borrowed money” (item 11), “Subordinated notes and debentures” (item 12), “All other liabilities” (item 13), “Total liabilities measured at fair value on a recurring basis” (item 14), “All other assets (itemize and describe amounts included in Schedule HC-Q, item 6 that are greater than \$25,000 and exceed 25% of item 6)” (Memoranda item 1), and “All other liabilities (itemize and describe amounts included in Schedule HC-Q, item 13 that are greater than \$25,000 and exceed 25% of item 13) (Memoranda item 2).

3. Trading assets was separated into “Trading derivative assets” (item 5.a) and “Other trading assets” (item 5.b).
4. Trading liabilities was separated into “Trading derivative liabilities” (item 10.a) and “Other trading liabilities” (item 10.b).
5. The reporting of “Loan commitments” was revised to include these instruments based on whether their fair values are positive or negative in “All other assets” (item 6) and “all other liabilities” (item 13) with separate disclosure of these commitments if significant.

**Reporting of Specific Reserves**

Once a loan is written-down through a specific reserve or charge-off, a new cost basis for the asset is established. Changing this cost basis by re-booking or writing-up the loan is not permitted. Under Accounting Standard Codification (ASC) 310-10-35-37, after the initial measurement of impairment, if there is a significant change in the amount or timing of an impaired loan's expected future cash flow, the change should be applied by adjusting the valuation allowance.

On the FFIEC 002, loans that are written down through the application of a specific reserve are treated in an identical manner as loans that are partially or wholly charged-off. Therefore, recoveries on loans for which there is a specific reserve should be accounted for on a cash basis by reducing the expense account (i.e. the provision for loan losses) for the amount of the recovery, and reported as part of the calculation for profit or loss, in Schedule M, Part I, Line 2.a, "Gross due from/to head office of parent bank".

**Accounting for Loan Participations**

Amendments to ASC Topic 860, Transfers and Servicing, resulting from Accounting Standards Update No. 2009-16 (formerly FASB Statement No. 166, "Accounting for Transfers of Financial Assets") modified the criteria that must be met in order for a transfer of a portion of a financial asset, such as a loan participation, to qualify for sale accounting. These changes apply to transfers of loan participations on or after the effective date of amended ASC Topic 860 (January 1, 2010, for branches and agencies with a calendar year fiscal year), including advances under lines of credit that are transferred on or after the effective date even if the line of credit agreements were entered into before the effective date. Branches and agencies with a calendar year fiscal year must account for transfers of loan participations on or after January 1, 2010, in accordance with amended ASC Topic 860. In general, loan participations transferred before the effective date of amended ASC Topic 860 are not affected by this new accounting standard.

A revised Glossary entry for "Transfers of Financial Assets" that incorporates the provisions of amended ASC Topic 860 and addresses related reporting issues, including a discussion of the reporting treatment of loan participations in accordance with amended ASC Topic 860, was included in the FFIEC 002 instruction book update for September 2010. In particular, the revised Glossary entry discusses the reporting of transfers of loans guaranteed by the Small Business Administration (SBA). It describes the SBA's longstanding requirement obligating the transferor of the guaranteed portion of an SBA loan at a premium to refund the premium to the transferee if the loan is repaid within 90 days of the transfer. The Glossary entry notes that this premium refund obligation is a form of recourse, which causes the transferred guaranteed portion of the loan to not meet the definition of a "participating interest" for this 90-day period. As a result, the transfer must be accounted for as a secured borrowing during this period. Thereafter, assuming the transferred guaranteed portion and the retained unguaranteed

portion of the SBA loan now meet the definition of a "participating interest," the transfer of the guaranteed portion can be accounted for as a sale if all of the conditions for sale accounting in amended ASC Topic 860 are met.

Branches and agencies should note that the SBA recently eliminated its premium refund requirement for transfers of guaranteed portions of SBA loans at a premium effective for loan transfers settled on or after February 15, 2011. The elimination of this obligation removes the key factor preventing the guaranteed and unguaranteed portions of an SBA loan from meeting the definition of a "participating interest" in a transfer of the guaranteed portion at a premium. With the elimination of this obligation from transfers at a premium on or after February 15, 2011, the transferred guaranteed portion and the retained unguaranteed portion of the SBA loan should now normally meet the definition of a "participating interest" on the transfer date. Assuming that is the case, the transfer of the guaranteed portion of an SBA loan should now be able to be accounted for as a sale on the transfer date, with immediate recognition of any gain or loss on the sale in earnings, if all of the conditions for sale accounting set forth in ASC Topic 860 are met.

Transfers of guaranteed portions of SBA loans at a premium before February 15, 2011, remain subject to the premium refund obligation and must continue to be accounted for in the manner described above.

### **Troubled Debt Restructurings and Current Market Interest Rates**

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

The TDR accounting and reporting standards are set forth in ASC Subtopic 310-40, Receivables - Troubled Debt Restructurings by Creditors (formerly FASB Statement No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings," as amended). This guidance specifies that a restructuring of a debt constitutes a TDR if, at the date of restructuring, the creditor for economic or legal reasons related to a debtor's financial difficulties grants a concession to the debtor that it would not otherwise consider. The creditor's concession may include a restructuring of the terms of a debt to alleviate the burden of the debtor's near-term cash requirements, such as a modification of terms to reduce or defer cash payments required of the debtor in the near future to help the debtor attempt to improve its financial condition and eventually be able to pay the creditor.

Because the stated interest rate charged the borrower after a loan restructuring may be greater than or equal to interest rates available in the marketplace for similar types of loans at the time of the restructuring, some institutions have concluded that these restructurings are not TDRs. In making this determination, these institutions may not have considered all of the facts and circumstances associated with the loan modification besides the interest rate. When evaluating a loan modification to a borrower experiencing financial difficulties, an analysis of all facts and circumstances is necessary to determine whether the branch or agency has made a concession to the borrower with respect to the market interest rate (or has made some other type of concession that could trigger TDR accounting and disclosure, for example, terms or conditions outside of the branch's or agency's policies or common market practices) and, if so, how the modified or restructured loan should be reported.

Generally, a restructured loan yields a current market interest rate if the restructuring agreement specifies an interest rate greater than or equal to the rate that the institution was willing to accept at the time of the restructuring for a new loan with comparable risk. A restructured loan does not yield a market interest rate simply because the interest rate charged under the restructuring agreement has not been reduced. In addition, when a modification results in an increase (either temporary or permanent) in the contractual interest rate, the increased interest rate cannot be presumed to be an interest rate that is at or above market. Therefore, in determining whether a loan has been modified at a market interest rate, an institution should analyze the borrower's current financial condition and compare the rate on the modified loan to rates the institution would charge customers with similar financial characteristics on similar types of loans. This determination requires the use of judgment and should include an analysis of credit history and scores, loan-to-value ratios or other collateral protection, the borrower's ability to generate cash flow sufficient to meet the repayment terms, and other factors normally considered when underwriting and pricing loans.

Likewise, a change in the interest rate on a modified or restructured loan does not necessarily mean that the modification is a TDR. For example, a creditor may lower the interest rate to maintain a relationship with a debtor that can readily obtain funds from other sources. To be a TDR, the borrower must also be experiencing financial difficulties. The evaluation of whether a borrower is experiencing financial difficulties is based upon individual facts and circumstances and requires the use of judgment when determining if a modification of the borrower's loan should be accounted for and reported as a TDR.

An institution that restructures a loan to a borrower experiencing financial difficulties at a rate below a market interest rate has granted a concession to the borrower that result in the restructured loan being a TDR. (As noted above, other types of concessions could also result in a TDR.) In the FFIEC 002 report, until a loan that is a TDR is paid in full or otherwise settled, sold, or charged off, the loan must be reported in the appropriate loan category in Schedule C, Part I, and in Schedule N, as necessary.

However, a loan that is a TDR (for example, because of a modification that includes a reduction in principal) that yields a market interest rate at the time of restructuring (and is in compliance with its modified terms) need not continue to be reported as a TDR in Schedule C, Part I, in calendar years after the year in which the restructuring took place. To be considered in compliance with its modified terms, a loan that is a TDR must not be in nonaccrual status and must be current or less than 30 days past due on its contractual principal and interest payments under the modified repayment terms.

A loan restructured in a TDR is an impaired loan. Thus, all TDRs must be measured for impairment in accordance with ASC Subtopic 310-10, Receivables – Overall (formerly FASB Statement No. 114, “Accounting by Creditors for Impairment of a Loan,” as amended), and the Glossary entry for “Loan Impairment.”

For further information, see the Glossary entry for "Troubled Debt Restructurings" and the instructions for Schedule C, Part I, and Schedule N.

### **Reporting Data for Term Deposits**

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

### **Reporting Purchased Subordinated Securities in Schedule S**

In Schedule S, Servicing, Securitization, and Asset Sale Activities, Line 9, the Federal Reserve collects data on the maximum amount of branches and agencies’ credit exposures arising from credit enhancements they provide to other institutions’ securitization structures, including those used in structured finance programs (other than asset-backed commercial paper programs, which are covered in Memorandum Line 1 of the schedule). The types of credit enhancements to be reported in Line 9 include purchased subordinated securities. Examples of purchased subordinated securities include, but are not limited to, the mezzanine and subordinate tranches of private-label mortgage-backed securities and collateralized debt obligations. A so-called senior tranche of a securitization or structured finance program is not a subordinated security provided it cannot absorb credit losses prior to another designated senior tranche. Branches and agencies’ should ensure they report in Schedule S, Line 9, the carrying value of their holdings of purchased subordinated securities issued in connection with other institutions’

securitization and structured finance transactions (other than asset-backed commercial paper programs). Holdings of purchased subordinated securities that serve as credit enhancements for asset-backed commercial paper programs should be reported in Memorandum Line 1 of Schedule S.

### **Prepaid Deposit Insurance Assessments**

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

The branch or agency should record the estimated expense for its bank subsidiary's regular quarterly risk-based assessment for each calendar quarter through a charge to expense during that quarter and a corresponding credit to its prepaid assessments asset (or to an accrued expense payable if it has no prepaid assessments asset). As a result of the interaction between the prepaid assessments and the regularly quarterly assessments, the amount of the prepaid assessments asset that a branch or agency should report as a prepaid expense in its March 31, 2011 FFIEC 002 report should be:

- The remaining balance of "Prepaid Assessments Credits" shown on the Summary Statement of Assessment Credits page of the bank subsidiary's Quarterly Certified Statement Invoice for the October 1 through December 31, 2010, Insurance Period, which was available on FDICconnect as of March 15, 2011;
- Less the estimated amount of the bank subsidiary's regular quarterly assessment for the first quarter of 2011 (which should have been accrued as a charge to expense during the first quarter of 2011).

This prepaid expense asset should be reported in Schedule RAL, Line 1.h, "Other assets". The year-to-date deposit insurance assessment expense for 2011 should be reported as a component of gross unremitted profits in Schedule M, Line 4, "Net due from head office and other related depository institutions".

For further information on the FDIC's prepaid assessments final rule, refer to FDIC Financial Institution Letter (FIL) 63-2009 at:

<http://www.fdic.gov/news/news/financial/2009/fil09063.html>

For further guidance on reporting regular quarterly deposit insurance assessments, refer to the Call Report Supplemental Instructions for September 30, 2009, at:  
[http://www.ffiec.gov/PDF/FFIEC\\_forms/FFIEC031\\_041\\_suppinst\\_200909.pdf](http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200909.pdf)

### **Accounting Standards Codification**

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

### **Other-Than-Temporary Impairment**

When the fair value of an investment is less than its cost basis, the impairment is either temporary or other-than-temporary. To determine whether the impairment is other-than-temporary, a branch or agency must apply other pertinent guidance such as paragraph 16 of FASB Statement No. 115, Accounting for Certain Investments in Debt and Equity Securities; FASB Staff Position (FSP) FAS 115-1 and FAS 124-1, The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments; FSP FAS 115 2 and FAS 124-2, Recognition and Presentation of Other-Than-Temporary Impairments; paragraph 6 of Accounting Principles Board Opinion No. 18, The Equity Method of Accounting for Investments in Common Stock; Emerging Issues Task Force (EITF) Issue No. 99-20, Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets; and FSP EITF 99-20-1, Amendments to the Impairment Guidance of EITF Issue No. 99-20. Guidance on recently issued accounting standards on other-than-temporary impairment was incorporated in a revised Glossary entry for “Securities Activities” that was included in the FFIEC 002 instruction book update for September 2010.

### **Subscription Service**

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

<http://service.govdelivery.com/service/subscribe.html?code=USFRBNEWYORK8>

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**Reports Monitoring**

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

An original and one copy of the completed FFIEC 002 and FFIEC 002S report(s) (if applicable) must be returned to this Bank, by mail or messenger, no later than May 2, 2011. Any FFIEC 002/002S report received after 5:00 p.m. on May 2, 2011 will be considered late unless postmarked by April 27 or sent overnight service by April 29.

Federal Reserve Bank of New York  
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We will also continue to monitor the accuracy of the periodic regulatory reports submitted for the March 31, 2011 report date. The staff of this Reserve Bank will monitor whether banking organizations are meeting their basic reporting requirements through the use of "validity edits." The current edits for the FFIEC 002/002S reports that were sent to you in a previous mailing.

**Electronic Submission Option**

Electronic submission of the FFIEC 002/002S reports is available to all U.S. branches and agencies. We encourage you to take advantage of this method of reporting submission. Vendors have developed a software package that provides the means to submit the FFIEC 002/002S electronically. Submitting reports electronically using the software package provides the following benefits:

- A timely and efficient alternative to sending the report forms by mail; and
- A printed report is generated that can serve as your institution's permanent record of the report.

For information on filing the FFIEC 002/002S report electronically, please contact Oscar Torres at (212) 720-6796 or Carolyn Polite at (212) 720-5415.

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**Website**

The FFIEC 002/002S forms and instructions are available on the FFIEC website at [www.ffiec.gov/ffiec reportforms.htm](http://www.ffiec.gov/ffiec%20reportforms.htm)

Questions regarding the FFIEC 002 and FFIEC 002S reports should be directed to Oscar Torres, Senior Reports Analyst in the Regulatory Reporting Division at (212) 720-6796, or Anthony Guglielmo, Team Leader in the Division at (212) 720-8002.

Sincerely,

- Signed by Patricia Selvaggi -

Patricia Selvaggi  
Statistics Officer