



Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the OCC, the Board, and the FDIC (the agencies) may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of a proposal to revise and extend the Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051), which are currently approved collections of information. The FFIEC has also approved the Board's publication for public comment, on behalf of the agencies, of a proposal to revise and extend the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002) and the 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), which also are currently approved collections of information. The agencies are requesting comment on revisions to the reporting forms and instructions for the Call Reports and the FFIEC 002 related to the exclusion of sweep deposits and certain other deposits from reporting as brokered deposits, as indicated by the agencies in the Net Stable Funding Ratio (NSFR) final rule and by the FDIC in its Final Rule on Brokered Deposits and Interest Rate Restrictions (brokered deposits final rule), respectively. In addition, the agencies are proposing revisions to the Call Report and

FFIEC 002 instructions addressing brokered deposits to align them with the brokered deposits final rule. The changes to the Call Reports and the FFIEC 002 are proposed to take effect as of the June 30, 2021, report date.

DATES: Comments must be submitted on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the “Call Report and FFIEC 002 Deposit-Related Revisions,” will be shared among the agencies.

OCC: You may submit comments, by any of the following methods:

- Email: prainfo@occ.treas.gov.
- Mail: Chief Counsel’s Office, Office of the Comptroller of the Currency, Attention: 1557-0081, 400 7th Street, SW, suite 3E-218, Washington, DC 20219.
- Hand Delivery/Courier: 400 7th Street, SW, suite 3E-218, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and “1557-0081” in your comment.

In general, the OCC will publish comments on www.reginfo.gov without change, including any business or personal information provided, such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this information collection beginning on the date of publication of the second notice for this collection by the following method:

- Viewing Comments Electronically: Go to www.reginfo.gov. Click on the “Information Collection Review” tab. Underneath the “Currently under Review” section heading, from the drop-down menu select “Department of Treasury” and then click “submit.” This information

collection can be located by searching by OMB control number “1557-0081.” Upon finding the appropriate information collection, click on the related “ICR Reference Number.” On the next screen, select “View Supporting Statement and Other Documents” and then click on the link to any comment listed at the bottom of the screen.

- For assistance in navigating *www.reginfo.gov*, please contact the Regulatory Information Service Center at (202) 482-7340.

Board: You may submit comments, which should refer to “Call Report and FFIEC 002 Deposit-Related Revisions,” by any of the following methods:

- Agency website: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at: <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Email: regs.comments@federalreserve.gov. Include “Call Report and FFIEC 002 Deposit-Related Revisions” in the subject line of the message.
- Fax: (202) 395-6974.
- Mail: Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW, Washington, DC 20551.

All public comments are available on the Board’s website at <https://www.federalreserve.gov/apps/foia/proposedregs.aspx> as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information.

FDIC: You may submit comments, which should refer to “Call Report and FFIEC 002 Deposit-Related Revisions,” by any of the following methods:

- Agency Website: <https://www.fdic.gov/regulations/laws/federal/>. Follow the instructions for submitting comments on the FDIC’s website.
- Federal eRulemaking Portal: <https://www.regulations.gov>. Follow the instructions for submitting comments.

- Email: comments@FDIC.gov. Include “Call Report [and FFIEC 002] Deposit-Related Revisions” in the subject line of the message.
- Mail: Manuel E. Cabeza, Counsel, Attn: Comments, Room MB-3128, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.
- Public Inspection: All comments received will be posted without change to <https://www.fdic.gov/regulations/laws/federal/> including any personal information provided. Paper copies of public comments may be requested from the FDIC Public Information Center by telephone at (877) 275-3342 or (703) 562-2200.

Additionally, commenters may send a copy of their comments to the OMB desk officer for the agencies by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW, Washington, DC 20503; by fax to (202) 395-6974; or by email to oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the proposed revisions to the information collections discussed in this notice, please contact any of the agency staff whose names appear below. In addition, copies of the report forms for the Call Reports can be obtained at the FFIEC’s website (https://www.ffiec.gov/ffiec_report_forms.htm).

OCC: Kevin Korzeniewski, Counsel, Chief Counsel’s Office, (202) 649-5490.

Board: Nuha Elmaghrabi, Federal Reserve Board Clearance Officer, (202) 452-3884, Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may call (202) 263-4869.

FDIC: Manuel E. Cabeza, Counsel, (202) 898-3767, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Affected Reports

The proposed changes discussed below affect the Call Reports and the FFIEC 002.

A. Call Reports

The agencies propose to extend for three years, with revision, their information collections associated with the FFIEC 031, FFIEC 041, and FFIEC 051 Call Reports.

Report Title: Consolidated Reports of Condition and Income (Call Report).

Form Number: FFIEC 031 (Consolidated Reports of Condition and Income for a Bank with Domestic and Foreign Offices), FFIEC 041 (Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only), and FFIEC 051 (Consolidated Reports of Condition and Income for a Bank with Domestic Offices Only and Total Assets Less Than \$5 Billion).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

Type of Review: Revision and extension of currently approved collections.

OCC:

OMB Control No.: 1557-0081.

Estimated Number of Respondents: 1,111 national banks and federal savings associations.

Estimated Average Burden per Response: 42.09 burden hours per quarter to file.

Estimated Total Annual Burden: 187,048 burden hours to file.

Board:

OMB Control No.: 7100-0036.

Estimated Number of Respondents: 739 state member banks.

Estimated Average Burden per Response: 45.61 burden hours per quarter to file.

Estimated Total Annual Burden: 134,823 burden hours to file.

FDIC:

OMB Control No.: 3064-0052.

Estimated Number of Respondents: 3,263 insured state nonmember banks and state savings associations.

Estimated Average Burden per Response: 40.13 burden hours per quarter to file.

Estimated Total Annual Burden: 523,777 burden hours to file.

The estimated average burden hours collectively reflect the estimates for the FFIEC 031, the FFIEC 041, and the FFIEC 051 reports for each agency. When the estimates are calculated by type of report across the agencies, the estimated average burden hours per quarter are 86.45 (FFIEC 031), 55.52 (FFIEC 041), and 35.38 (FFIEC 051). The changes to the Call Report forms and instructions proposed in this notice result in an increase in estimated average burden hours per quarter by type of report of 0.64 (FFIEC 031), 0.32 (FFIEC 041) and 0.11 (FFIEC 051). The estimated burden per response for the quarterly filings of the Call Report is an average that varies by agency because of differences in the composition of the institutions under each agency's supervision (e.g., size distribution of institutions, types of activities in which they are engaged, and existence of foreign offices).

Type of Review: Extension and revision of currently approved collections.

Legal Basis and Need for Collections

The Call Report information collections are mandatory: 12 U.S.C. 161 (national banks), 12 U.S.C. 324 (state member banks), 12 U.S.C. 1817 (insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (federal and state savings associations). At present, except for selected data items and text, these information collections are not given confidential treatment.

Banks and savings associations submit Call Report data to the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of individual

institutions and the industry as a whole. Call Report data serve a regulatory or public policy purpose by assisting the agencies in fulfilling their shared missions of ensuring the safety and soundness of financial institutions and the financial system and protecting consumer financial rights, as well as agency-specific missions affecting federal and state-chartered institutions, such as conducting monetary policy, ensuring financial stability, and administering federal deposit insurance. Call Reports are the source of the most current statistical data available for identifying areas of focus for on-site and off-site examinations. Among other purposes, the agencies use Call Report data in evaluating institutions' corporate applications, including interstate merger and acquisition applications for which the agencies are required by law to determine whether the resulting institution would control more than 10 percent of the total amount of deposits of insured depository institutions in the United States. Call Report data also are used to calculate the risk-based assessments for insured depository institutions.

B. FFIEC 002 and 002S

The Board proposes to extend for three years, with revision, the FFIEC 002 and FFIEC 002S reports.

Report Titles: Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks; 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.

Form Numbers: FFIEC 002; FFIEC 002S.

OMB control number: 7100-0032.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

Respondents: All state-chartered or federally-licensed U.S. branches and agencies of foreign banking organizations, and all non-U.S. branches managed or controlled by a U.S. branch or agency of a foreign banking organization.

Estimated Number of Respondents: FFIEC 002 – 209; FFIEC 002S – 38.

Estimated Average Burden per Response: FFIEC 002 – 24.87 hours; FFIEC 002S – 6.0 hours.

Estimated Total Annual Burden: FFIEC 002 – 20,791 hours; FFIEC 002S – 912 hours.

Type of Review: Revision of currently approved collections.

Legal Basis and Need for Collection

On a quarterly basis, all U.S. branches and agencies of foreign banks are required to file the FFIEC 002, which is a detailed report of condition with a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978. The data also are used to augment the bank credit, loan, and deposit information needed for monetary policy and other public policy purposes. In addition, FFIEC 002 data are used to calculate the risk-based assessments for FDIC-insured U.S. branches of foreign banks.

The FFIEC 002S is a supplement to the FFIEC 002 that collects information on assets and liabilities of any non-U.S. branch that is managed or controlled by a U.S. branch or agency of the foreign bank. A non-U.S. branch is managed or controlled by a U.S. branch or agency if a majority of the responsibility for business decisions, including but not limited to decisions with regard to lending or asset management or funding or liability management, or the responsibility for recordkeeping in respect of assets or liabilities for that foreign branch resides at the U.S. branch or agency. A separate FFIEC 002S must be completed for each managed or controlled non-U.S. branch. The FFIEC 002S must be filed quarterly along with the U.S. branch or agency's FFIEC 002.

These information collections are mandatory (12 U.S.C. 3105(c)(2), 1817(a)(1) and (3), and 3102(b)). Except for select sensitive items, the FFIEC 002 is not given confidential treatment; the FFIEC 002S is given confidential treatment (5 U.S.C. 552(b)(4) and (8)). The data from both reports are used for (1) monitoring deposit and credit transactions of U.S. residents; (2) monitoring the impact of policy changes; (3) analyzing structural issues concerning foreign bank activity in U.S. markets; (4) understanding flows of banking funds and

indebtedness of developing countries in connection with data collected by the International Monetary Fund and the Bank for International Settlements that are used in economic analysis; and (5) assisting in the supervision of U.S. offices of foreign banks. The Federal Reserve System collects and processes these reports on behalf of all three agencies.

II. Current Actions

A. Background

1. Net Stable Funding Ratio Rulemaking

On October 20, 2020, the agencies announced the adoption of a final rule implementing the NSFR relevant for certain large U.S. banking institutions with \$100 billion or more in total consolidated assets.¹ The final rule assigned a 90 percent Available Stable Funding (ASF) factor to affiliate sweep deposits provided by a retail customer or counterparty. Also, a 95 percent ASF factor was assigned to affiliate sweep deposits provided by a retail customer or counterparty where the entire amount of the sweep deposit is covered by deposit insurance and where an institution subject to the NSFR final rule has demonstrated to the satisfaction of its appropriate Federal banking agency that withdrawal of the deposit is highly unlikely to occur during a liquidity stress event. Other sweep deposits (i.e., non-affiliate sweep deposits provided by a retail customer or counterparty and certain sweep deposits provided by wholesale, non-financial customers) were assigned a 50 percent ASF factor, irrespective of the level of deposit insurance. Additionally, in the Supplementary Information section to the NSFR final rule, the agencies indicated they will continue to review the treatment of sweep deposits under the Liquidity Coverage Ratio (LCR) and NSFR rules.² As part of this effort, the agencies are proposing to collect new data items in the Call Reports that would help evaluate funding stability of sweep deposits over time to determine their appropriate treatment under applicable liquidity regulations.

¹ See the NSFR final rule attached to OCC News Release 2020–138, Board Press Release, and FDIC Press Release 116-2020, all of which are dated October 20, 2020.

² 12 CFR part 50 (OCC); 12 CFR part 249 (Board); 12 CFR part 329 (FDIC) (referred to as the “liquidity regulations”).

This proposal to capture new Call Report data items for sweep deposits would provide the agencies with several benefits for its understanding of liquidity risks relevant to institutions of all sizes. First, the agencies would be able to better observe funding dynamics, between insured and partially insured sweep deposits, thereby providing data on the funding stability of partially insured sweep deposits. Second, by having institutions with \$100 billion or more in total assets report sweep deposits for different types of counterparties, any material differences in the stability of different types of counterparties that transact in sweep deposits would be more transparent for monitoring over time to determine their appropriate treatment under liquidity regulations.

Further, as noted in the NSFR final rule, sweep deposits received from affiliates have different stability characteristics than sweep deposits received from non-affiliates based on the varying priority and reliability of each affiliate and non-affiliate sweep deposits. The proposed new data items would provide the agencies with observations about the varying liquidity and other risk characteristics of these different types of sweep deposits.

2. Brokered Deposits Rulemaking

On December 15, 2020, the FDIC issued the brokered deposits final rule.³ This rule accomplished several objectives, including establishing a new framework for analyzing certain provisions of the “deposit broker” definition,⁴ including “facilitating” and “primary purpose.”⁵ The brokered deposits final rule also reaffirmed the intent stated in the interagency NSFR final rule to update the Call Report to collect information related to sweep deposits.⁶ The FDIC plans to monitor this data and could consider in the future whether modifications to deposit insurance assessment pricing are warranted, consistent with the statutory requirement that the assessments be risk-based.

³ 86 FR 6742 (Jan. 22, 2021).

⁴ See Section 29(g) of the Federal Deposit Insurance Act (FDI Act) (12 U.S.C. 1831f(g)).

⁵ The final rule also amended the FDIC’s methodology for calculating the national rate, the national rate cap, and the local market rate cap for the interest rate restrictions under Section 29 that apply to less than well-capitalized institutions.

⁶ 86 FR 6742 (Jan. 22, 2021).

Relevant for brokered deposits, Section 29 of the FDI Act provides that an agent or nominee meets the primary purpose exception to the “deposit broker” definition when the primary purpose of the agent or nominee is not the placement of funds with depository institutions. In the brokered deposits final rule, the FDIC adopted revised criteria for the primary purpose exception based on the relationship between the agent or nominee and its customers. Specifically, the primary purpose exception applies when the primary purpose of the agent’s or nominee’s business relationship with its customers is not the placement of funds with depository institutions. The following business relationships were identified in the brokered deposits final rule as “designated exceptions” from the deposit broker definition and are business relationships in which, with respect to a particular business line:

(1) less than 25 percent of the total assets that the agent or nominee has under administration for its customers is placed at depository institutions (25 percent test);

(2) 100 percent of depositors’ funds that the agent or nominee places, or assists in placing, at depository institutions are placed into transactional accounts that do not pay any fees, interest, or other remuneration to the depositor;

(3) a property management firm places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing property management services;

(4) the agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing cross-border clearing services to its customers;

(5) the agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of providing mortgage servicing;

(6) a title company places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating real estate transactions;

(7) a qualified intermediary places, or assists in placing, customer funds into deposit accounts for the primary purpose of facilitating exchanges of properties under

section 1031 of the Internal Revenue Code;

(8) a broker-dealer or futures commission merchant places, or assists in placing, customer funds into deposit accounts in compliance with 17 CFR 240.15c3-3(e) or 17 CFR 1.20(a);

(9) the agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of posting collateral for customers to secure credit-card loans;

(10) the agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of paying for or reimbursing qualified medical expenses under section 223 of the Internal Revenue Code;

(11) the agent or nominee places, or assists in placing, customer funds into deposit accounts for the primary purpose of investing in qualified tuition programs under section 529 of the Internal Revenue Code;

(12) the agent or nominee places, or assists in placing, customer funds into deposit accounts to enable participation in the following tax-advantaged programs: individual retirement accounts under section 408(a) of the Internal Revenue Code, Simple individual retirement accounts under section 408(p) of the Internal Revenue Code, and Roth individual retirement accounts under section 408A of the Internal Revenue Code;

(13) a Federal, State, or local agency places, or assists in placing, customer funds into deposit accounts to deliver funds to the beneficiaries of government programs;

and

(14) the agent or nominee places, or assists in placing, customer funds into deposit accounts pursuant to such other relationships as the FDIC specifically identifies as a designated business relationship that meets the primary purpose exception.

The brokered deposits final rule discussed the FDIC's consideration, as part of the rulemaking process, for requiring reporting of deposits that are excluded from being reported as

brokered deposits because of the application of the primary purpose exception, which may include sweep deposits placed at insured depository institutions. Supervision and deposit insurance assessments evaluate risk, in part, based on data institutions report on the Call Report. Institutions report total brokered deposits but generally do not distinguish between different types of deposits that are currently classified as brokered. As a result of the final rule, the FDIC expects that some sweep deposits that are currently brokered deposits placed by third parties will meet the revised primary purpose exception and therefore no longer be reported on the Call Report as brokered. Sweep deposits placed by a third party that meet the primary purpose exception may, in some cases, still pose varying levels of funding risk as well as elevated risk of loss to the deposit insurance fund in the event of an insured depository institution's failure.⁷ As such, FDIC plans to monitor sweep deposits that are not brokered due to the primary purpose exception over time to determine the supervisory and deposit insurance assessment implications of these deposits, if any. As such, the agencies are proposing including an additional Call Report item related to sweep deposits placed by third parties that meet the primary purpose exception.

Question 1: The agencies recognize that some deposits may no longer be considered brokered deposits because they are placed through third parties that meet one of the designated exceptions. Other than sweep deposits placed through third parties that meet one of the designated exceptions (e.g., the "25 percent test"), should the agencies collect information on the amount of deposits placed under any of the other designated exceptions? Similar to sweep deposits, the agencies would monitor this information to determine the supervisory and/or deposit insurance assessment implications of these deposits, if any.

Question 2: If the agencies collect data on designated exceptions other than deposit sweeps placed through a third party that meets a designated exception, are there alternative approaches

⁷ As described in the preamble to the brokered deposits final rule, "Nothing in the final rule is intended to limit the FDIC's ability to review or take supervisory action with respect to funding-related matters, including funding concentrations, that may affect the safety and soundness of individual banks or the industry generally. FDIC examiners will continue to review funding as part of safety and soundness examinations, regardless of whether or not the deposits used by the [insured depository institution] IDI are brokered."

that the agencies should consider for collecting data? For example, should the agencies consider reporting based upon certain material thresholds or concentrations in deposits gathered through any one or more of the designated exceptions?

Question 3: Do insured depository institutions intend, in the ordinary course of business, to internally maintain information on the amount of deposits placed under each designated exception?

B. Proposed Data Items to Capture Sweep Deposits and Deposits Categorized as Meeting the Primary Purpose Exception and Related Instructions

As noted above, under the NSFR Final Rule and the brokered deposits final rule, the agencies stated their intent to update the Call Report to obtain data that will assist in better evaluations of funding stability for sweep deposits over time to determine their appropriate treatment under applicable liquidity regulations and to assess the risk factors associated with sweep deposits for determining their deposit insurance assessment implications, if any.

Accordingly, the agencies propose to add the following data items applicable to all institutions that file the Call Report and all insured institutions that file the FFIEC 002. Specifically, the following five data items would be added to Schedule RC-E, Deposit Liabilities, on all three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051) and would be applicable to insured depository institutions of all sizes. These five data items would be collected quarterly on the FFIEC 031 and 041 Call Reports and semiannually on the FFIEC 051 Call Report.

- Memorandum item 1.h.(1) for fully insured, affiliate sweep deposits to capture sweep deposits that are deposited in accordance with a contract between a customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where the entire amount of the deposit is covered by deposit insurance;

- Memorandum item 1.h.(2) for not fully insured, affiliate sweep deposits to capture sweep deposits that are deposited in accordance with a contract between a customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where less than the entire amount of the deposit is covered by deposit insurance;
- Memorandum item 1.h.(3) for fully insured, non-affiliate sweep deposits to capture sweep deposits that are not deposited in accordance with a contract between a customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where the entire amount of the deposit is covered by deposit insurance;
- Memorandum item 1.h.(4) for not fully insured, non-affiliate sweep deposits to capture sweep deposits that are not deposited in accordance with a contract between a customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where less than the entire amount of the deposit is covered by deposit insurance;
- Memorandum item 1.i for total sweep deposits that are not brokered due to a primary purpose exception, which corresponds to the 25 percent test exception above.

In addition, the following four data items would be added to Schedule RC-E, Deposit Liabilities, on the FFIEC 031 Call Report only and would be completed quarterly only by institutions with \$100 billion or more in total assets.⁸

⁸ The \$100 billion asset-size test is based on the total assets reported as of June 30 each year to determine whether an institution not otherwise required to file the FFIEC 031 Call Report must file the FFIEC 031 report form beginning in March of the following year.

- Memorandum item 1.h.(1)(a) to capture the portion of fully insured, affiliate sweep deposits reported in Memorandum item 1.h.(1) that are deposited in accordance with a contract between a retail customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where the entire amount of the deposit is covered by deposit insurance;
- Memorandum item 1.h.(2)(a) to capture the portion of not fully insured, affiliate sweep deposits reported in Memorandum item 1.h.(2) that are deposited in accordance with a contract between a retail customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where less than the entire amount of the deposit is covered by deposit insurance;
- Memorandum item 1.h.(3)(a) to capture the portion of fully insured, non-affiliate sweep deposits reported in Memorandum item 1.h.(3) that are deposited by a retail customer or counterparty and not in accordance with a contract between the retail customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where the entire amount of the deposit is covered by deposit insurance; and
- Memorandum item 1.h.(4)(a) to capture the portion of not fully insured, non-affiliate sweep deposits reported in Memorandum item 1.h.(4) that are deposited by a retail customer or counterparty and not in accordance with a contract between the retail customer or counterparty and the reporting institution, a controlled subsidiary of the reporting institution, or a company that is a controlled subsidiary of the same top-tier company of which the reporting institution is a controlled subsidiary, where less than the entire amount of the deposit is covered by deposit insurance.

On the FFIEC 002, the first five data items identified above would be added to Schedule O, Other Data for Deposit Insurance Assessments, as Memorandum items 8.a through 8.d and 9 and would be reported quarterly by insured U.S. branches of foreign banks of all sizes.

C. Definitions

The agencies propose to revise the Call Report and FFIEC 002 instructions to add the following definition for “sweep deposit”: A sweep deposit means a deposit held at the reporting institution by a customer or counterparty through a contractual feature that automatically transfers to the reporting institution from another regulated financial company at the close of each business day amounts identified under the agreement governing the account from which the amount is being transferred.⁹ Note: This definition would be distinctly separate from the existing “retail sweep arrangements” and “retail sweep programs” definitions in the Glossary entry for “Deposits” in the Call Report and FFIEC 002 instructions.

Furthermore, consistent with the discussion of the data items proposed to be collected in the Call Report and the FFIEC 002 in section II.B. above, “affiliate sweep deposits” would be defined as sweep deposits that are deposited in accordance with a contract between a customer or counterparty and a reporting institution, a reporting institution’s consolidated subsidiary, or a company that is a consolidated subsidiary of the same top-tier company of which the reporting institution is a consolidated subsidiary. “Non-affiliate sweep deposits” would be defined as sweep deposits that are not deposited in accordance with a contract between a customer or counterparty and a reporting institution, a reporting institution’s consolidated subsidiary, or a company that is a consolidated subsidiary of the same top-tier company of which the reporting institution is a consolidated subsidiary.

⁹ See 79 FR 61524 for the LCR Rule’s definition of *brokered sweep deposit* which was renamed to “*sweep deposit*” when the NSFR rule was finalized in October 2020. <https://www.fdic.gov/news/board/2020/2020-10-20-notice-dis-b-fr.pdf>

The agencies also propose to revise the Call Report instructions to add the LCR rule's definition¹⁰ of "retail customer or counterparty," which reads, "A retail customer or counterparty means a customer or counterparty that is:

(1) An individual; or

(2) A business customer, but solely if and to the extent that: (i) The reporting institution manages its transactions with the business customer, including deposits, unsecured funding, and credit facility and liquidity facility transactions, in the same way it manages its transactions with individuals; (ii) Transactions with the business customer have liquidity risk characteristics that are similar to comparable transactions with individuals; and (iii) The total aggregate funding raised from the business customer is less than \$1.5 million."

In addition, the Call Report instructions would add the LCR rule's definition of "wholesale customer or counterparty," which reads, "A wholesale customer or counterparty means a customer or counterparty that is not a retail customer or counterparty."¹¹

Question 4: For institutions subject to the liquidity regulations, such rules delineate between retail and wholesale customers or counterparties. Is the proposal appropriate to require institutions with \$100 billion or more in total assets that are not subject to the LCR or NSFR rule to report sweep deposits in the Call Report based on whether they are received from a retail or wholesale customer? Would it also be beneficial for institutions with less than \$100 billion in total assets to report sweep deposits based on whether they are received from a retail or wholesale counterparty? Are these collections also appropriate for depository institutions already subject to the LCR and NSFR rules with total consolidated assets between \$10 and \$100 billion?

As such, would the LCR rule's definition of retail customer or counterparty be appropriate to apply to reporting by institutions with less than \$100 billion in total assets, including that (i) the

¹⁰ 79 FR 61439, 61527 (Oct. 10, 2014).

¹¹ 79 FR 61439, 61528 (Oct. 10, 2014).

reporting institution manages its transactions with a business customer, including deposits, unsecured funding, and credit facility and liquidity facility transactions, in the same way it manages its transactions with individuals; and (ii) transactions with the business customer have liquidity risk characteristics that are similar to comparable transactions with individuals?

D. Timing

Beginning with the June 30, 2021, report date, the agencies propose all institutions filing the FFIEC 031, FFIEC 041, and FFIEC 051 Call Reports would complete Schedule RC-E, Memorandum items 1.h.(1) through 1.h.(4) and 1.i, to report the deposit data discussed in section II.B. of this Supplementary Information section. Thereafter, as noted above, these data items would be collected quarterly on the FFIEC 031 and 041 Call Reports and semiannually on the FFIEC 051 Call Report. Beginning as of the same report date, all institutions filing the FFIEC 031 Call Report with \$100 billion or more in total assets would complete Schedule RC-E, Memorandum items 1.h.(1)(a), 1.h.(2)(a), 1.h.(3)(a), and 1.h.(4)(a) to report the additional deposit data discussed in section II.B.

Beginning with the June 30, 2021, report date, insured U.S. branches of foreign banks would complete the five Memorandum items applicable to all institutions filing Call Reports in FFIEC 002 Schedule O quarterly as discussed in section II.B. above.

The brokered deposits final rule takes effect April 1, 2021. Full compliance with this final rule is extended to January 1, 2022. The extended compliance date is intended to provide sufficient time for institutions to put in place systems to implement the new regulatory regime. The Call Report will provide two sets of instructions that will allow institutions to either (1) comply with the new regulation starting on the June 30, 2021, report date, or (2) continue to rely upon existing FDIC staff advisory opinions or other interpretations that predated the brokered deposits final rule in determining whether deposits placed by or through an agent or nominee are brokered deposits for purposes of reporting brokered deposit data in the Call Report through the December 31, 2021, report date.

The specific wording of the captions for the proposed new Call Report Schedule RC-E Memorandum items and FFIEC 002 Schedule O Memorandum items discussed in this proposal and the numbering of these Memorandum items should be regarded as preliminary.

III. Request for Comment

Public comment is requested on all aspects of this joint notice including the questions that were provided in the earlier sections. In addition to the questions included above comment is specifically invited on:

- (a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;
- (b) The accuracy of the agencies' estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;
- (c) Ways to enhance the quality, utility, and clarity of the information to be collected;
- (d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and
- (e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments submitted in response to this joint notice will be shared among the agencies.

Bao Nguyen,

Principal Deputy Chief Counsel,

Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System.

Michele Taylor Fennell,

Deputy Associate Secretary of the Board.

Dated at Washington, DC, on or about January 29, 2021.

Federal Deposit Insurance Corporation

James P. Sheesley,

Assistant Executive Secretary

Billing Codes

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