RESCINDED

Office of Thrift Supervision **July 22, 2002**

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The attached joint notice and request for comment regarding Proposed Agency Information Collection Activities was published in the Federal Register on July 12, 2002.

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request

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

ACTION: Joint notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, the FDIC, and the OTS (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 proposed revisions to the Consolidated Reports of Condition and Income (Call Report) for banks and the Thrift Financial Report (TFR) for savings associations, which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before September 10, 2002.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1–5, Attention: 1557–0081, Washington, DC 20219. Due to temporary disruptions in the OCC's mail service, commenters are encouraged to submit comments by fax or electronic mail. Comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov.* Comments will be available for inspection and photocopying at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. Call (202) 874–5043 to make appointments for inspection of comments.

Board: Written comments, which should refer to ''Consolidated Reports of Condition and Income, 7100–0036,'' may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551. Due to temporary disruptions in the Board's mail service, commenters are encouraged to submit comments by electronic mail to *regs.comments@federalreserve.gov.* Comments addressed to Ms. Johnson also may be delivered to the Board's mailroom between 8:45 a.m. and 5:15 p.m. weekdays, and to the security control room outside of those hours. Both the mailroom and the security control room are accessible from the Eccles Building courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments received may be inspected in room M–P–500 between 9 a.m. and 5 p.m. on weekdays pursuant to sections 261.12 and 261.14 of the Board's Rules Regarding Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to ''Consolidated Reports of Condition and Income, 3064–0052.'' Due to temporary disruptions in the FDIC's mail service, commenters are encouraged to submit comments by fax or electronic mail [Fax number: (202) 898–3838; Internet address: *comments@fdic.gov*]. Comments also 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 a.m. and 5 p.m. Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

OTS: Submit comments by mail to: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552; by hand delivery to the Guard's Desk, east lobby entrance 1700 G Street, NW., Washington, DC 20552, on business days between 9 a.m. and 4 p.m.; by facsimile transmission: (202) 906–6518; or by electronic mail to: *infocollection.comments@ots.treas.gov.* All comments should refer to ''TFR Revisions, OMB No. 1550–0023,'' and include your name and phone number. Comments submitted to OTS and the related TFR schedules will be posted on the OTS Internet site at: *http://www.ots.treas.gov.* In addition, interested persons may inspect comments at the Public Reference Room, 1700 G Street, NW., Washington, DC 20552, by appointment. To make an appointment, call 202–906–5922. Appointments will be scheduled on business days between 10 a.m. and 4 p.m.

Acopy of the comments may also be submitted to the OMB desk officer for the agencies: Joseph F. Lackey, Jr., Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503 or electronic mail to *jlackeyj@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Sample copies of the proposed new schedule for the Call Report for March 31, 2003, can be obtained at the FFIEC's web site (*www.ffiec.gov*) or may be requested from the agency clearance officers listed below for the OCC, the Board, and the FDIC. Sample copies of the proposed new schedule for the TFR for March 31, 2003, can be obtained at the OTS' web site (*www.ots.treas.gov*) or may be requested from the agency clearance officer listed below for the OTS.

OCC: Jessie Dunaway, OCC Clearance Officer, or Camille Dixon, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: Mary M. West, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, 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: Tamara R. Manly, Management Analyst, (202) 898–7453, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

OTS: William Magrini, Senior Project Manager, Supervision Policy, at (202) 906–5744 or by electronic mail *william.magrini@ots.treas.gov,* or Marilyn K. Burton, OTS Paperwork Clearance Officer, at (202) 906–6467 or by electronic mail *marilyn.burton@ots.treas.gov,* Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: Request for OMB approval to extend, with revisions, the following currently approved collections of information for banks and savings associations.

The agencies estimate that only approximately 130 banks and savings associations (banking institutions) have significant subprime lending programs and would have to complete the entire proposed subprime lending schedule. The agencies further estimate that each of these institutions would need approximately 1 to 1.5 hours to complete this schedule. In addition, other banking institutions with any subprime lending programs would have to complete only a single item on the schedule. Although the agencies do not have an estimate of the number of such banking institutions, they believe that this item would add only a negligible amount of burden. The following burden estimates include the proposed revisions.

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

Form Number: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only).

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

For OCC:

OMB Number: 1557–0081.

Estimated Number of Respondents: 2,200 national banks.

Estimated Time per Response: 42.05 burden hours.

Estimated Total Annual Burden: 370,076 burden hours.

For Board:

OMB Number: 7100–0036.

Estimated Number of Respondents: 978 state member banks.

Estimated Time per Response: 48.25 burden hours.

Estimated Total Annual Burden: 188,754 burden hours.

For FDIC:

OMB Number: 3064–0052.

Estimated Number of Respondents: 5,480 insured state nonmember banks.

Estimated Time per Response: 32.66 burden hours.

Estimated Total Annual Burden: 715,993 burden hours.

The estimated time per response is an average, which varies by agency because of differences in the composition of the banks under each agency's supervision (e.g., size distribution of institutions, types of activities in which they are engaged, and number of banks with foreign offices). The time per response for a bank is estimated to range from 15 to 550 hours, depending on individual circumstances.

2. *Report Title:* Thrift Financial Report (TFR).

Form Number: OTS 1313 (for savings associations).

Frequency of Response: Quarterly.

Affected public: Business or other for profit.

For OTS:

OMB Number: 1550–0023.

Estimated Number of Respondents: 1,000 savings associations.

Estimated Time per Response: 33.8 burden hours.

Estimated Total Annual Burden: 135,200 burden hours.

General Description of Reports

These information collections are mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks), and 12 U.S.C. 1464 (for savings associations). Except for the items covered in this proposal and a limited number of other items, these information collections are not given confidential treatment. Small businesses (i.e., small banks and savings associations) are affected.

Abstract

Banks file Call Reports and savings associations file the TFR with the agencies each quarter for the agencies' use in monitoring the condition, performance, and risk profile of reporting individual banking institutions and the industry as a whole. In addition, Call Reports and TFRs provide the most current statistical data available for evaluating banking institutions' corporate applications such as those for mergers, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. Call Reports and TFRs also are used to calculate all banking institutions' deposit insurance and Financing Corporation assessments, national banks' semiannual assessment fees, and OTS' assessments on savings associations.

Current Action

I. Overview

The agencies are requesting comment on a proposed revision to the Call Report and the TFR that will enable the agencies to better plan their examinations of banking institutions and to monitor off-site the extent of, changes in, and performance of subprime lending programs at banking institutions. Subprime lending refers to loans to borrowers who have weakened credit histories. The characteristics of a subprime borrower typically include a history of paying debts late, personal bankruptcy filings, or a high debt service-to-income ratio. These borrowers, therefore, pose a higher risk of default than do traditional borrowers at banking institutions. A subprime lending program is the regular or targeted acquisition, through origination or purchase, of loans to subprime borrowers that will be held in portfolio or accumulated for resale.

In May 2000, the OCC, the Board, and the FDIC [1] and, in August 2000, the OTS [2] proposed to collect information on subprime lending in the Call Report and TFR to make possible the early detection and proper supervision of subprime lending through off-site monitoring procedures. Banks involved in subprime lending would have reported quarter-end data for eight categories of subprime loans as well as past due and nonaccrual information and year-to-date charge-offs and recoveries for two broader categories of subprime loans. The agencies recognized that the quality and validity of the proposed Call Report and TFR information depended on a workable definition of subprime lending, which was still in the process of development at that time. The definition of subprime included in the 2000 proposals was based on the definition of the term in the agencies' March 1999 guidance on subprime lending. The agencies also asked for comment on whether information should be collected based on loan portfolios or programs that possess subprime characteristics or individual loans with these characteristics.

The comments received in 2000 on the proposed collections of information on subprime lending in the Call Report and TFR were generally unfavorable, particularly with respect to the agencies' then proposed definition. Furthermore, the commenters overwhelmingly stated that if the agencies did collect subprime lending information, the information should only be collected from banks with subprime lending programs. In addition, the commenters suggested that future requests for comment on a subprime information collection for the Call Report and TFR should be

[1] 65 FR 34801, May 31, 2000.

[2] 65 FR 48049, August 4, 2000.

addressed in a separate proposal dealing only with the subprime information collection issues.

Over the last two years, the agencies have conducted examinations that have confirmed the agencies' contentions that subprime lending programs continue to pose an increased risk to those institutions involved and to the deposit insurance funds. A disproportionate number of the banking institutions on the FDIC's "problem institution" list during the past two years have been engaged in subprime lending programs and the volume of loans in these programs has exceeded 25 percent of the institutions' Tier 1 capital.[3] The exact number of institutions involved in subprime lending programs is not known with certainty. However, the agencies estimate that approximately 130 banking institutions currently have significant exposures in the subprime lending business.

The actual extent of banking institutions' involvement in subprime lending programs is not fully known because there is no regular periodic reporting of this activity to the banking agencies. The estimates that have been made come from examination data, but the quality and timeliness of the subprime lending data derived from examination reports is constrained by the lack of standard industry-wide definitions of the terms "subprime" and "program" and by the length of the examination cycle. The issue of timeliness is particularly troublesome from a safety and soundness perspective because subprime lending programs tend to be a volume-oriented business that encourages rapid portfolio growth. Consequently, there is no reliable way to regularly monitor individual institutions' subprime lending programs between examinations.

II. Current Proposal

This proposal addresses solely the agencies' planned collection of information on subprime consumer lending programs each quarter in the Call Report and TFR beginning March 31, 2003. The agencies continue to believe that a need exists to collect information on subprime lending programs. This information would be the agencies' sole source of off-site data on subprime lending programs. One purpose for which the agencies intend to use these data is to enhance the examination planning process. In addition, the data would provide the agencies with a timely and regular source of information from institutions with subprime consumer lending programs that can be used to monitor the extent of banking institutions' involvement in such programs, including the level of growth in this activity, and the performance of subprime portfolios.

Definitions

Subsequent to the 2000 proposals, the agencies issued Expanded Guidance for Subprime Lending Programs on January 31, 2001. This guidance contains definitions that describe the characteristics of the terms "program" and "subprime." Examiners have been using these characteristics during the examination process to determine which institutions have subprime lending programs that, in the aggregate, are greater than or equal to 25 percent of an institution's Tier 1 capital. The agencies propose to use the characteristics described in the Expanded Guidance in the proposed subprime lending program information collection in the Call Report and TFR. These two terms would be defined as follows for purposes of the proposed new schedule:

The term "program" refers to the process of acquiring on a regular or targeted basis, through either origination or purchase, loans to subprime borrowers that are to be held in the institution's own portfolio or accumulated and packaged for sale. The average credit risk profile of such programs or portfolios will likely display significantly higher delinquency and/or loss rates than prime portfolios.

Subprime programs include loan products that attract a disproportionate number of borrowers with weakened credit histories, including payday loan and credit repair products. A subprime program also may include cases where an institution regularly purchases loans, such as indirect auto paper, of which disproportionate amounts qualify as loans to subprime borrowers. In addition, an institution should include any program determined to be a subprime lending program by its primary federal regulator. If a reporting institution has a question as to whether it has a subprime lending program, it should contact its primary federal regulator.

The term "subprime" refers to the credit characteristics of individual borrowers. Subprime borrowers typically have weakened credit histories that include payment delinquencies, and possibly more severe problems such as charge-offs, judgments, and bankruptcies. The borrowers may also display reduced repayment capacity as measured by credit scores, debt-to-income ratios, or other criteria that may encompass borrowers with incomplete credit histories. Subprime loans are loans to borrowers displaying one or more of these characteristics at the time of *origination* or *purchase.* Such loans have a higher risk of default than loans to prime borrowers. Generally, subprime borrowers will display a range of credit risk characteristics that may include one or more of the following:

- Two or more 30-day delinquencies in the last 12 months, or one or more 60-day delinquencies in the last 24 months;
- Judgment, foreclosure, repossession, or charge-off in the prior 24 months;
- Bankruptcy in the last 5 years;
- Relatively high default probability as evidenced by, for example, a credit bureau risk score (FICO) of 660 or below (depending on the product/collateral), or other bureau or proprietary scores with an equivalent default probability likelihood; and/or
- Debt service-to-income ratio of 50% or greater, or otherwise limited ability to cover family living expenses after deducting total monthly debt-service requirements from monthly income.

This list is illustrative rather than exhaustive and does not define specific parameters for all subprime borrowers. Institutions that have identified borrowers as "subprime" based on their own internal rating systems should be reported as such.

For purposes of reporting on the proposed schedule, subprime lending does not refer to individual subprime loans originated and managed, in the ordinary course of business, as occasional exceptions to prime risk selection standards. Additionally, this definition generally does not apply to the following:

- Prime loans that develop credit problems after acquisition.
- Loans initially extended in subprime programs that are later upgraded, because of their performance, to programs targeted to prime borrowers.
- Community development loans as defined in the Community Reinvestment Act regulations that may have some higher risk characteristics, but are otherwise mitigated by guarantees from government programs,

[3] In general, Tier 1 capital is the sum of a banking institution's common stockholders' equity (as defined in the agencies' regulatory capital standards), noncumulative perpetual preferred stock, and minority interests in consolidated subsidiaries, less goodwill and other intangible assets (other than limited amounts of servicing assets and purchased credit card relationships) and less disallowed deferred tax assets and disallowed credit-enhancing interest-only strips. For banks, see Schedule RC–R of the Call Report to calculate Tier 1 capital. For savings associations, see Schedule CCR of the TFR to calculate Tier 1 capital.

private credit enhancements, or other appropriate risk mitigation techniques.

- Institutions that extend credit to subprime borrowers as part of their standard community lending process or make loans to subprime borrowers as an occasional exception.

Scope of Schedule

Subprime lending, by the nature of the definition, is concentrated in the consumer-lending arena. Thus, the proposed schedule covers only information on consumer loans. Furthermore, the agencies are proposing that only banking institutions that are programmatic lenders of subprime consumer loans should complete some or all of this schedule. Banking institutions that do not have any subprime consumer lending programs will not be required to provide any information on this schedule.

All banking institutions that have any subprime consumer lending programs would be required to report the total dollar amount outstanding of loans in those programs as of the quarter-end report date in Part I, item 1. However, only those banking institutions where the total dollar amount outstanding is greater than or equal to 25 percent of the reporting institution's Tier 1 capital as of the report date would be required to complete the detailed items in Parts II, III, and IV of the schedule discussed below. Once an institution reaches the 25 percent of Tier 1 capital threshold, it must continue to complete Parts II, III, and IV of the schedule until it fails to meet the Tier 1 capital threshold for two consecutive quarter-end report dates or for the remainder of the calendar year, whichever is longer.

Detailed Items

The proposed detailed items in Parts II, III, and IV of the schedule would allow the agencies to perform off-site monitoring of the performance of banking institutions with significant exposures to subprime lending. Because these parts of the schedule would be completed only by banking institutions with subprime lending programs of at least 25 percent of Tier 1 capital, the schedule would minimize the information collected from banking institutions with small volumes of loans in subprime lending programs.

Part II collects a breakdown of the total dollar amount of loans in subprime consumer lending programs as of the report date into the following consumer loan categories: open-end and closed-end loans secured by 1–4 family residential properties (with first and junior lien closed-end loans reported separately), credit card loans, loans extended under other revolving credit plans, and other consumer loans. The sum of the amounts outstanding by loan category must equal the total dollar amount reported in Part I.

Part III requires the same breakout of past due and nonaccrual loans as required in Schedule RC–N of the Call Report and Schedule PD of the TFR (i.e., loans past due 30–89 days and still accruing, loans past due 90 days or more and still accruing, and nonaccrual loans) for each category of loans reported in Part II of this schedule. However, loans extended under revolving credit plans other than credit cards and other consumer loans are combined rather than reported separately.

Part IV requires the separate reporting of charge-offs and recoveries as in Schedule RI–B of the Call Report and Schedule VA of the TFR for the same loan categories as in Part III.

III. Confidentiality

The agencies are proposing that the information reported in this schedule be accorded confidential treatment on an individual institution basis. The information requested will provide the agencies with sensitive business data that is needed to aid examiners and supervisory analysts in better evaluating the risk profiles and performance of banking institutions with concentrations of subprime lending programs. This information also will be used to plan the detail and timing of examinations and to provide the agencies with a timely and regular source of information on subprime lending programs, which is not currently available.

The agencies believe that confidential treatment initially should be accorded this information collection because, notwithstanding the Examiner Guidance on Subprime Lending, there is no standard industry-wide approach to the definitions of either ''subprime'' or ''program,'' which means that the meanings of these terms are institution-specific. Thus, the reported information will not be entirely comparable from one institution to the next, leading to potential misinterpretation of the data by the public.

The proposal will not result in the collection of data on all loans to subprime borrowers, but only on subprime lending programs. This outcome occurs because of the supervisory and examination, rather than statistical, focus of the proposed schedule. Moreover, because the focus is also on programs rather than individual loans, attempts to aggregate the reported data across institutions will not provide users with statistics on the overall volume of subprime loans held by banking institutions. For this same reason, the reported data will not reveal whether an individual institution does or does not have loans to subprime borrowers, nor will it reveal the entire amount of the institution's loans to subprime borrowers. As a consequence, care must be taken in interpreting the reported data to avoid reaching improper conclusions.

Furthermore, different institutions may reach different conclusions as to whether one or more of their consumer lending programs are subprime programs and, accordingly, whether their subprime lending programs aggregate 25 percent or more of their Tier 1 capital. The agencies therefore believe that some period of time is needed to ensure that banking institutions understand the proposed definitions and how they may apply to their various lending programs. This will also enable examiners to determine whether institutions are properly applying these definitions and correctly reporting the data.

The agencies also have some concern, due to the sensitive nature of these data, that the release of the subprime lending information before banking institutions and the agencies have adequate experience with it could inhibit the collection of accurate and complete data in the future. Until any potential problems with the newly reported data have been addressed, the agencies believe there is a risk that the data will be misinterpreted and that their release at this time could cause potential harm to an institution or an increased risk to deposit insurance funds. The agencies are initially proposing confidential treatment for the proposed new schedule. However, after experience has been gained with the data, e.g., after six or eight quarters, the agencies will reevaluate whether this treatment should be retained.

IV. Request for Comment

Public comment is requested on all aspects of this proposal. In addition, comments are invited on:

(a) Whether the proposed revisions to the Call Report and TFR collections of information 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 Notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information collection request.

Dated: July 3, 2002.

Mark J. Tenhundfeld,

Assistant Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, July 5, 2002.

Robert deV. Frierson,

Secretary of the Board.

Dated at Washington, DC, this 8th day of July, 2002.

Federal Deposit Insurance Corporation

Valerie Best,

Assistant Executive Secretary.

Deborah Dakin,

Deputy Chief Counsel, Regulations and Legislation Division, Office of Thrift Supervision.

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