

**Supporting Statement for the  
Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks  
(FFIEC 002; OMB No. 7100-0032)  
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; OMB No. 7100-0032)**

**Summary**

The Board of Governors of the Federal Reserve System (Board) requests approval from the Office of Management and Budget (OMB) to extend for three years, with revision, the Federal Financial Institutions Examination Council (FFIEC) Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002; OMB No. 7100-0032) and 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; OMB No. 7100-0032). The Board submits this request on behalf of the Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currency (OCC). No separate submission will be made by either of those agencies.

The FFIEC 002 is required and must be submitted quarterly by U.S. branches and agencies of foreign banks. All U.S. branches and agencies of foreign banks are required to file detailed schedules of assets and liabilities in the form of a condition report and a variety of supporting schedules. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978 (IBA). This report is mandated by the FFIEC for collection by the Board, the FDIC, and the OCC (collectively the agencies) in accordance with procedures under Title 10 of the Financial Institutions Regulatory Act. The FFIEC 002S is a mandatory supplement to the FFIEC 002 and 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 a foreign bank.<sup>1</sup> A separate supplement is completed for each applicable foreign branch. The FFIEC 002S data improve U.S. deposit and credit data and data on international indebtedness, and are of assistance to U.S. bank supervisors in determining the extent of assets managed or controlled by the U.S. agency or branch of the foreign bank.

The agencies made the following revisions to the FFIEC 002 for the June 30, 2011 report under the emergency clearance provisions of OMB's regulations: (1) delete existing data items for the total daily averages of deposit liabilities before exclusions, allowable exclusions, and foreign deposits and (2) add data items for reporting average consolidated total assets, average tangible equity, and the holdings of long-term unsecured debt issued by other FDIC-insured depository institutions. These revisions arose from a final rule approved by the FDIC Board of Directors on February 7, 2011, that implements the requirements of section 331(b) of the Dodd-Frank Act by amending part 327 of the FDIC's regulations, effective April 1, 2011. Section 331(b) required the FDIC to amend its regulations to redefine the assessment base used for

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<sup>1</sup> Managed or controlled means that 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.

calculating deposit insurance assessments as average consolidated total assets minus average tangible equity. Because OMB's approval of the agencies' emergency clearance request expires on December 31, 2011, the agencies are now proposing these revisions under OMB's normal clearance procedures. The annual burden for the FFIEC 002 is estimated to be 24,006 hours and would remain unchanged. The current annual burden for the FFIEC 002S is estimated to be 1,368 hours and would remain unchanged.

## **Background and Justification**

The agencies use the FFIEC 002 report for supervisory and regulatory purposes. The Board also uses the data for monetary policy purposes. The report is similar to the Consolidated Reports of Condition and Income (Call Report) (FFIEC 031 and FFIEC 041; OMB No. 7100-0036) required of all U.S. commercial banks, although the FFIEC 002 collects fewer data items of information. This information is used to fulfill the supervisory and regulatory requirements of the International Banking Act of 1978 (IBA).

Section 331(b) of the Dodd-Frank Act, which was signed into law on July 21, 2010, required the FDIC to amend its regulations to redefine the assessment base used for calculating deposit insurance assessments as average consolidated total assets minus average tangible equity. Under prior law, the assessment base has been defined as domestic deposits minus certain allowable exclusions, such as pass-through reserve balances. In general, the intent of Congress in changing the assessment base was to shift a greater percentage of overall total assessments away from community banks and toward the largest institutions, which rely less on domestic deposits for their funding than do smaller institutions.

In May 2010, prior to the enactment of the Dodd-Frank Act, the FDIC published a Notice of Proposed Rulemaking (NPR) to revise the assessment system applicable to large insured depository institutions.<sup>2</sup> The proposed amendments to the FDIC's assessment regulations were designed to better differentiate large institutions by taking a more forward-looking view of risk and better take into account the losses that the FDIC will incur if an institution fails. The comment period for the May 2010 NPR ended July 2, 2010, and most commenters requested that the FDIC delay the implementation of the rulemaking until the effects of the pending Dodd-Frank legislation were known.

On November 9, 2010, the FDIC Board approved the publication of two NPRs, one that proposed to redefine the assessment base as prescribed by the Dodd-Frank Act<sup>3</sup> and another that proposed revisions to the large institution assessment system while also factoring in the proposed redefinition of the assessment base as well as comments received on the May 2010 NPR.<sup>4</sup> After revising the proposals where appropriate in response to the comments received on the two November 2010 NPRs, the FDIC Board adopted a final rule on February 7, 2011, amending the FDIC's regulations to redefine the assessment base used for calculating deposit insurance assessments for all 7,500 insured depository institutions and revise the assessment system for

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<sup>2</sup> See 75 FR 23516, May 3, 2010.

<sup>3</sup> See 75 FR 72582, November 24, 2010.

<sup>4</sup> See 75 FR 72612, November 24, 2010.

approximately 110 large institutions.<sup>5</sup> The final rule took effect for the quarter beginning April 1, 2011, and was reflected for the first time in the invoices for deposit insurance assessments due September 30, 2011, using data reported in the Call Reports, Thrift Financial Reports (TFR) (OMB No. 1550-0023), and FFIEC 002 and FFIEC 002S reports for June 30, 2011.

On March 16, 2011, the agencies published an initial *Federal Register* notice in which they requested comment on proposed revisions to these regulatory reports that would provide the data needed by the FDIC to implement the provisions of the February 2011 final rule beginning with the June 30, 2011, report date.<sup>6</sup> The new data items proposed in the initial notice were linked to specific requirements in the FDIC's amended assessment regulations. The draft instructions for these proposed new items incorporated the definitions in and other provisions of these regulations. Accordingly, the FDIC did not anticipate receiving material comments on the reporting changes proposed in the March 2011 initial notice because the FDIC's February 2011 final rule on assessments had taken into account the comments received on the two November 2010 NPRs as well as the earlier May 2010 NPR. Thus, the agencies expected to follow normal clearance procedures and publish a final *Federal Register* notice for the proposed reporting changes and submit these changes to OMB for review soon after the May 16, 2011, close of the comment period for the initial notice.

The agencies collectively received 19 comments on their initial notice; 17 addressed the new data items for subprime and leveraged loans that are inputs to the revised assessment system for large institutions.<sup>7</sup> More specifically, these commenters stated that institutions generally do not maintain data on these loans in the manner in which these two loan categories are defined for assessment purposes in the FDIC's final rule or do not have the ability to capture the prescribed data to enable them to identify these loans in time to file their regulatory reports for the June 30, 2011, report date. These data availability concerns, particularly as they relate to institutions' existing loan portfolios, had not been raised as an issue during the rulemaking process for the revised large institution assessment system, which included the publication of two NPRs in 2010.<sup>8</sup>

This unanticipated outcome at the end of the public comment process for the agencies' March 2011 initial notice required the FDIC to consider possible reporting approaches that

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<sup>5</sup> See 76 FR 10672, February 25, 2011.

<sup>6</sup> See 76 FR 14460, March 16, 2011.

<sup>7</sup> In contrast, only four respondents commented on other aspects of the overall reporting proposal.

<sup>8</sup> In response to the November 2010 NPR on the revised large institution assessment system, the FDIC received a number of comments recommending changes to the definitions of subprime and leveraged loans, which the FDIC addressed in its February 2011 final rule amending its assessment regulations. For example, several commenters on the November 2010 NPR indicated that regular (quarterly) updating of data to evaluate loans for subprime or leveraged status would be burdensome and costly and, for certain types of retail loans, would not be possible because existing loan agreements do not require borrowers to routinely provide updated financial information. In response to these comments, the FDIC's February 2011 final rule stated that large institutions should evaluate loans for subprime or leveraged status upon origination, refinance, or renewal. However, no comments were received on the November 2010 NPR indicating that large institutions would not be able to identify and report subprime or leveraged loans in accordance with the definitions proposed for assessment purposes in their Call Reports and TFRs beginning as of June 30, 2011. These data availability concerns were first expressed in comments on the March 2011 initial PRA notice.

would address institutions' concerns about their ability to identify loans meeting the subprime and leveraged loan definitions in the FDIC's assessments final rule while also meeting the objectives of the revised large institution assessment system. However, the consequence of the unexpected need to develop and reach agreement on a workable transition approach for identifying loans that are to be reported as subprime or leveraged for assessment purposes<sup>9</sup> is that the agencies' use of normal clearance procedures for the assessment-related reporting changes to the Call Report, TFR, and FFIEC 002/002S reports was reasonably likely to prevent or disrupt the initial collection of these new assessment data as of the June 30, 2011, report date as called for under the FDIC's final rule. Absent OMB approval to implement these reporting changes as of June 30, 2011, community institutions would have experienced a delay in the shifting of a portion of the overall deposit insurance assessment burden away from them, which was the intent of Section 331(b) of the Dodd-Frank Act.

On June 17, OMB approved the agencies' emergency clearance requests to implement the assessment-related reporting revisions to the Call Report, the TFR, and the FFIEC 002/002S reports effective with the June 30, 2011, report date.

### **Description of Information Collection**

The reporting panel for the FFIEC 002 includes all U.S. branches and agencies (including their IBFs) of foreign banks, whether federally licensed or state chartered, insured or uninsured. The FFIEC 002 consists of a summary schedule of assets and liabilities (Schedule RAL) and several supporting schedules. Information is required in each schedule on balances of the entire reporting branch or agency. On the schedules for cash (Schedule A), loans (Schedule C), and deposits (Schedule E), separate detail is reported on balances of IBFs. Unlike the Call Report for domestic banks, the FFIEC 002 collects no income data.

The FFIEC 002S covers all of the foreign branch's assets and liabilities, regardless of the currency in which they are payable. The supplement also covers transactions with all entities, both related and nonrelated, regardless of location. All due from/due to relationships with related institutions, both depository and nondepository, are reported on a gross basis, that is, without netting due from and due to data items against each other.

### **Proposed Revisions**

The revisions discussed below were effective June 30, 2011 under the emergency clearance provisions of OMB's regulations. Because the assessment-related reporting revisions need to remain in effect beyond the limited approval period associated with an emergency clearance request, the agencies, under the auspices of the FFIEC are now proposing under OMB's normal clearance procedures the following revisions:

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<sup>9</sup> The FDIC presented this transition approach to large institutions during a conference call on June 7, 2011, that all large institutions had been invited to attend. Several institutions offered favorable comments about the transition approach during this call.

- The proposed deletion of the existing data items for the total daily averages of deposit liabilities before exclusions, allowable exclusions, and foreign deposits.<sup>10</sup>
- The proposed addition of a new data item for reporting average consolidated total assets, which should be calculated using the institution's total assets, as defined for Call Report balance sheet (Schedule RC) purposes, except that the calculation should incorporate all debt securities (not held for trading) at amortized cost, equity securities with readily determinable fair values at the lower of cost or fair value, and equity securities without readily determinable fair values at historical cost.<sup>11</sup>
- The proposed addition of a new data item for reporting average tangible equity, which is defined as Tier 1 capital.<sup>12</sup>
- The proposed addition of a new data item for holdings of long-term unsecured debt issued by other FDIC-insured depository institutions

### **Time Schedule for Information Collection**

The FFIEC 002 and FFIEC 002S are collected as of the end of the last calendar day of March, June, September, and December. U.S. branches and agencies of foreign banks must submit the FFIEC 002 and FFIEC 002S to the appropriate Federal Reserve Bank within 30 calendar days following the report date. After the processing and editing functions have been completed, the Board sends the data to the FDIC and OCC for their use in monitoring the U.S. activities of foreign banks under their supervision. Aggregate data for all U.S. branches and agencies that file the FFIEC 002 are published in the *Federal Reserve Bulletin* and are also used in developing flow of funds estimates and the estimates published in the Federal Reserve weekly H.8 statistical release, *Assets and Liabilities of Commercial Banks in the United States*. Aggregate data for the FFIEC 002S are available to the public upon request.

Individual respondent data, excluding confidential information, are available to the public from the National Technical Information Service in Springfield, Virginia, upon request. The information on file is provided on compact discs. In addition, individual respondent data are also available on the FFIEC public website at [www.ffiec.gov/nicpubweb/nicweb/nichome.aspx](http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx).

### **Legal Status**

The Board's Legal Division has determined that section 7(c)(2) of the IBA (12 U.S.C. § 3105(c)(2)) authorizes the agencies to require the FFIEC 002 and FFIEC 002S. In addition, section 4(b) of the IBA (12 U.S.C. § 3102(b)) authorizes the OCC to collect the information

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10 The specific items to be deleted are, in the Call Report, existing items 4, 5, and 6 in Schedule RC-O – Other Data for Deposit Insurance and FICO Assessments; in the TFR, existing line items DI540, DI550, and DI560 in Schedule DI – Consolidated Deposit Information; and in the FFIEC 002 report, existing items 4, 5, and 6 in Schedule O – Other Data for Deposit Insurance Assessments.

11 For an insured branch, average consolidated total assets would be calculated using the total assets of the branch (including net due from related depository institutions), as defined for purposes of Schedule RAL – Assets and Liabilities of the FFIEC 002 report, but with debt and equity securities measured in the same manner as for other insured institutions.

12 For an insured branch, tangible equity would be defined as eligible assets (determined in accordance with section 347.210 of the FDIC's regulations) less the book value of liabilities (exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries).

from Federal branches and Federal agencies of foreign banks. Further, section 7(a) of the Federal Deposit Insurance Act (12 U.S.C. § 1817(a)) authorizes the agencies to collect the information from insured branches of foreign banks. The Board's Legal Division has also determined that the individual respondent information on the FFIEC 002 contained in Schedule M (Due from/Due to Related Institutions in the U.S. and in Foreign Countries) and the FFIEC 002S is exempt from disclosure pursuant to the Freedom of Information Act (5 U.S.C. § 552(b)(4)). Information from all other schedules of the FFIEC 002 is available to the public on request. The proposed items would not be held confidential.

### **Consultation Outside the Agency and Discussion of Public Comments**

The agencies published a notice for comment in the *Federal Register* on July 27, 2011 (76 FR 44987). The comment period for this notice expired on September 26, 2011. Collectively the agencies received eight comments: four depository institutions, all of which are "large institutions" for deposit insurance assessment purposes and four bankers' organizations, three of which submitted a joint comment letter.<sup>13</sup> On December 12, 2011, the agencies published a final notice in the *Federal Register* (76 FR77315).

As required by section 331(b) of the Dodd-Frank Act, the FDIC's assessments final rule redefines the deposit insurance assessment base as average consolidated total assets minus average tangible equity. Under the final rule, tangible equity is defined as Tier 1 capital.<sup>14</sup> As one of the assessment-related reporting revisions applicable to all institutions that was included in OMB's approval of the agencies' emergency clearance requests and implemented in the Call Report, the TFR, and the FFIEC 002 report as of June 30, 2011, the agencies added a new data item for average tangible equity. The final rule requires average tangible equity to be calculated on a monthly average basis by institutions with \$1 billion or more in total assets, all newly insured institutions, and institutions with less than \$1 billion in total assets that elect to do so. For all other institutions, "average" tangible equity is based on quarter-end Tier 1 capital.

The three jointly commenting bankers' organizations and one institution stated that the requirement for certain institutions to estimate month-end Tier 1 capital numbers prior to quarter-end is problematic because they do not calculate their provision for loan and lease losses expense and deferred taxes on a monthly basis, which are two potentially significant drivers of Tier 1 capital. These commenters recommended that, for purposes of measuring average tangible equity on a monthly average basis, institutions that do not perform monthly loan loss provision or deferred tax calculations be allowed to use a "pro-rated, one-third estimate of the quarter-end reported" provision and deferred tax amounts for months other than quarter-end. These commenters argued that institutions are not required to update these calculations monthly in accordance with generally accepted accounting principles for external reporting purposes and the cost of doing so would outweigh the benefits.

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<sup>13</sup> The American Bankers Association (ABA), The Clearing House, and the Financial Services Roundtable jointly commented. The Risk Management Association submitted a separate comment letter.

<sup>14</sup> For an insured branch, tangible equity would be defined as eligible assets (determined in accordance with section 347.210 of the FDIC's regulations) less the book value of liabilities (exclusive of liabilities due to the foreign bank's head office, other branches, agencies, offices, or wholly owned subsidiaries).

The agencies believe the commenters' suggested approach has merit as a means to reduce institutions' compliance costs. Accordingly, for institutions required or electing to report average tangible equity on a monthly average basis that do not perform monthly loan loss provision or deferred tax calculations, the agencies will permit such institutions to use one third of the amount of provision for loan and lease losses and deferred tax expense (benefit) reported for the quarterly regulatory reporting period for purposes of estimating the retained earnings component of Tier 1 capital in each of the first two months of the quarter. As suggested by the institution commenting on this issue, the agencies will revise the instructions for the data item for average tangible equity to describe this permissible approach.

### Estimate of Respondent Burden

The current estimated annual reporting burden for the FFIEC 002 is 24,006 hours and would remain unchanged because burden was adjusted with the June 2011 emergency clearance submission. The current estimated annual reporting burden for the FFIEC 002S is 1,368 hours. These reporting requirements represent less than 1 percent of the total Federal Reserve System paperwork burden.

	<i>Number of respondents</i>	<i>Annual frequency</i>	<i>Estimated average hours per response</i>	<i>Estimated annual burden hours</i>
FFIEC 002	236	4	25.43	24,006
FFIEC 002S	57	4	6	<u>1,368</u>
<i>Total</i>				25,374

The total cost to the public is estimated to be \$1,101,232 for the FFIEC 002 and FFIEC 002S.<sup>15</sup>

### Sensitive Questions

This collection of information contains no questions of a sensitive nature, as defined by OMB guidelines.

### Estimate of Cost to the Federal Reserve System

The current annual cost to the Federal Reserve System for collecting and processing the FFIEC 002 and the FFIEC 002S is estimated to be \$221,900. The Federal Reserve System collects and processes the data for all three of the agencies.

<sup>15</sup> Total cost to the public was estimated using the following formula: percent of staff time, multiplied by annual burden hours, multiplied by hourly rate (30% Office & Administrative Support @ \$16, 45% Financial Managers @ \$50, 15% Legal Counsel @ \$54, and 10% Chief Executives @ \$80). Hourly rate for each occupational group are the median hourly wages (rounded up) from the Bureau of Labor and Statistics (BLS), Occupational Employment and Wages 2010, [www.bls.gov/news.release/ocwage.nr0.htm](http://www.bls.gov/news.release/ocwage.nr0.htm) Occupations are defined using the BLS Occupational Classification System, [www.bls.gov/soc/](http://www.bls.gov/soc/)