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 instructions for the Consolidated Reports of Condition and Income (Call Report) and the Thrift Financial Report (TFR), 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 and the agencies should modify the proposed instructional revisions prior to giving final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before June 28, 2004.

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: Comments should be sent to the Public Information Room, Office of the Comptroller of the Currency, Mailstop 1-5, Attention: 1557-0081, 250 E Street, SW., Washington, DC 20219. Due to delays in paper mail delivery in the Washington area, commenters are encouraged to submit comments by fax or e-mail. Comments may be sent by fax to (202) 874-4448, or by e-mail to regs.comments@occ.treas.gov. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E

Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874-5043.

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, or by fax to the Office of the Secretary at 202-452-3819 or 202-452-3102. 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 Steven F. Hanft, Clearance Officer, Legal Division, Room MB-3046, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. All comments should refer to “Consolidated Reports of Condition and Income, 3064-0052.” Commenters are encouraged to submit comments by electronic mail to 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: Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: 1550-0023, Fax number (202) 906-6518, or e-mail to infocollection.comments@ots.treas.gov. Due to temporary disruptions in mail service in the Washington, DC, area, commenters are encouraged to send comments by fax or e-mail, if possible. OTS will post comments and the related index on the OTS Internet Site at www.ots.treas.gov. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906-5922, send an e-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906-7755.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Mark Menchik, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503, or electronic mail to mmenchik@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: For further information about the revisions discussed in this notice, please contact any of the agency clearance officers whose names appear below. In addition, copies of Call Report forms can be obtained at the FFIEC's web site (www.ffiec.gov/ffiec_report_forms.htm). Copies of the TFR can be obtained at the OTS's web site (www.ots.treas.gov).

OCC: John Ference, Acting 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: Cynthia M. Ayouch, Board Clearance Officer, (202) 452-2204, 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: Steven F. Hanft, Paperwork Clearance Officer, (202) 898-3907, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Marilyn K. Burton, OTS Paperwork Clearance Officer, (202) 906-6467, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by electronic mail at marilyn.burton@ots.treas.gov.

SUPPLEMENTARY INFORMATION: The agencies are proposing to revise the following currently approved collections of information:

The effect of the proposed revisions to the reporting requirements will vary from institution to institution depending on the institution's involvement with the types of activities or transactions to which the proposed instructional changes apply. The agencies estimate that since the proposed instructional revisions change how existing information is reported in the Call Report and TFR, implementation of these instructional changes will result in only a nominal change in the current reporting burden imposed by the Call Report and TFR. The following burden estimates include the proposed revisions.

Report Title: OCC, Board, and FDIC: Consolidated Reports of Condition and Income (Call Report). OTS: Thrift Financial Report (TFR).

Form Number: Call Report: FFIEC 031 (for banks with domestic and foreign offices) and FFIEC 041 (for banks with domestic offices only). TFR: OTS Form No. 1313.

Frequency of Response: Quarterly.

Affected Public: Business or other for-profit.

OCC:

OMB Number: 1557-0081.

Estimated Number of Respondents: 2,126 national banks.

Estimated Time per Response: 46.40 burden hours.

Estimated Total Annual Burden: 394,589 burden hours.

Board:

OMB Number: 7100-0036.

Estimated Number of Respondents: 952 state member banks.

Estimated Time per Response: 52.36 burden hours.

Estimated Total Annual Burden: 199,369 burden hours.

FDIC:

OMB Number: 3064-0052.

Estimated Number of Respondents: 5,332 insured state nonmember banks.

Estimated Time per Response: 37.04 burden hours.

Estimated Total Annual Burden: 790,085 burden hours.

OTS:

OMB Number: 1550-0023.

Estimated Number of Respondents: 925 insured savings associations.

Estimated Time per Response: 36.4 burden hours.

Estimated Total Annual Burden: 134,679 burden hours.

The estimated time per response for the Call Report 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). This average reporting burden includes the effect on burden during 2004 of the new Central Data Repository (CDR) system for processing Call Reports. For the Call Report, the time per response for a bank is estimated to range from 15 to 600 hours, depending on individual circumstances, before considering the effect of voluntary testing and global enrollment activities related to the CDR. The reporting burden for testing and enrollment activities for an individual institution is estimated to range from 16 to 69 hours in 2004, depending on the institution's level of participation. The proposed changes that are the subject of this notice will not affect all savings associations that file the TFR. Therefore, the burden hours reflected above for the TFR are an average and the time per response may vary from institution to institution.

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 CFR 563.180 (for savings associations). Except for selected items, these information collections are not given confidential treatment.

Abstract

Institutions file Call Reports and TFRs with 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. In addition, Call Reports and TFRs provide the most current statistical data available for evaluating institutions' corporate applications such as 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 are also used to calculate all institutions' deposit insurance and Financing Corporation assessments and national banks' and savings associations' semiannual assessment fees.

Current Action

I. Overview

This joint notice and request for comment addresses two proposed instructional changes that will affect how institutions report certain information in the Call Report and TFR. The agencies are not proposing to change the report forms themselves. First, the agencies are proposing to change and clarify the reporting requirements for certain securitized loans that are 90 days or more past due and subject to seller buy-back provisions. This first change will primarily affect institutions that originate or purchase and then securitize certain residential mortgage loans. Second, the agencies are proposing to change the reporting requirements for "when-issued" securities from settlement date accounting to trade date accounting. This change would affect institutions filing the Call Report that purchase or sell "when-issued" securities and will not affect institutions filing the TFR because the TFR instructions already require this reporting treatment.

Type of Review: Revision of currently approved collections.

The proposed instructional revisions to the Call Report and the TFR have been approved for publication by the FFIEC. The agencies intend to implement the proposed Call Report and TFR changes as of the September 30, 2004, report date. Nonetheless, as is customary for Call Report and TFR changes, if the information to be reported in accordance with the revised instructions is not readily available, institutions are advised that they may report reasonable estimates of this information for the report date as of which the proposed changes first take effect.

II. Discussion of Proposed Instructional Revisions

A. GNMA Buy-Back Option

Under the Government National Mortgage Association (GNMA) Mortgage-Backed Securities Guide, the issuer of GNMA securities has the option to repurchase individual Federal Housing Administration (FHA), Department of Veterans Affairs/Veterans Administration (VA), and Farmers Home Administration (FmHA) loans backing the securities when the loans meet certain delinquency criteria. Such a buy-back option is considered a conditional option under Financial Accounting Standards Board (FASB) Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities* (FAS 140), until the delinquency criteria are met, at which time the option becomes unconditional.

When the loans backing a GNMA security (GNMA loans) are initially securitized, the issuer of the security treats the transaction as a sale for accounting purposes under FAS 140 because the option is conditional and the issuer has surrendered control of the loans. Accordingly, the loans are removed from the issuer's balance sheet.

When individual loans later meet GNMA's specified delinquency criteria and are eligible for repurchase, the issuer is deemed to have regained control of these loans and, under FAS 140, the loans can no longer be reported as sold. These individual delinquent GNMA loans must be brought back onto the issuer's books as assets, along with an offsetting liability, regardless of whether the issuer intends to exercise the buy-back option.

Recently, the agencies became aware of several inconsistencies in the way issuers of GNMA securities have reported certain information in their Call Reports and TFRs relating to GNMA loans after they have become delinquent. In this regard, the agencies found that some institutions were reporting GNMA loans that were eligible for repurchase, as well as those that have actually been repurchased, as "Other assets" on the balance sheet. Other institutions were reporting these assets as "Loans." Based on discussions with representatives of the FASB, the Securities and Exchange Commission, and other industry personnel, the agencies concluded that "Loans" is the appropriate balance sheet classification for these assets and included such guidance in the December 2003 Call Report Supplemental Instructions and TFR Financial Reporting Bulletin.[1]

However, additional inconsistencies in practice still exist regarding:

- the appropriateness of reporting repurchased GNMA loans, and GNMA loans that are eligible for repurchase, as past due loans in Call Report Schedule RC-N and TFR Schedule PD, and

- the appropriate balance sheet classification of foreclosed real estate that had been the collateral for GNMA loans, i.e., whether the foreclosed real estate should be reported as "other real estate owned" or "other assets."

The agencies December 2003 guidance did not address these reporting issues.

The agencies' objective is to ensure consistent accounting and reporting for these loans and foreclosed real estate. However, achieving consistency will require changes to current practice for some institutions and changes and clarifications to existing regulatory reporting guidance. Accordingly, we are seeking comments on a number of proposed changes.

Delinquency Status

For delinquent GNMA loans that are repurchased when they are "in foreclosure status" at the time of repurchase, current Call Report and TFR instructions permit institutions not to report these loans as past due provided the government reimbursement process is proceeding normally. However, some institutions are applying this exception to their other rebooked delinquent GNMA loans, whether repurchased or eligible for repurchase, and not reporting them as past due in the Call Report and TFR. Other institutions report all rebooked delinquent GNMA loans, except those covered by the exception, as past due.

[1] The December 2003 Call Report Supplemental Instructions and TFR Financial Reporting Bulletin can be accessed at http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200312.pdf and

The exception from past due reporting for GNMA loans "in foreclosure status" predates FAS 140. More specifically, when this exception was added to the Call Report and TFR instructions, the accounting standards then in effect did not require the seller to rebook delinquent GNMA loans for which the repurchase option became unconditional unless the loans were actually repurchased. Institutions could choose to repurchase delinquent GNMA loans "in foreclosure status" from the loan pool backing a GNMA security rather than continuing to make monthly advances to the pool on these delinquent loans while initiating foreclosure action. Until the exception was added, an institution that repurchased delinquent loans in foreclosure status had to report the loans as past due in its regulatory reports whereas an institution making monthly advances on delinquent loans without repurchasing them did not have to report these loans as past due. The creation of the exception eliminated this reporting difference, which depended on how the institution chose to handle its servicing responsibilities. In contrast, under FAS 140, delinquent GNMA loans must be rebooked as assets as soon as the repurchase option becomes unconditional, whether or not the loans are repurchased. Consequently, the difference in balance sheet treatment for repurchased delinquent GNMA loans versus those eligible for repurchase that led the agencies to create the exception from past due reporting no longer exists.

Thus, the agencies are proposing that all delinquent rebooked GNMA loans (including those for which the institution is taking steps to foreclose on the real estate collateral at the time of repurchase, but for which the sheriff's sale has not yet taken place) should be treated consistently and reported as past due on Call Report

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http://www.ots.treas.gov/docs/78166.pdf, respectively.

Schedule RC-N and TFR Schedule PD in accordance with their contractual terms. Some institutions that are GNMA issuers have objected to the possibility of having to report delinquent GNMA loans as past due, so the agencies are now seeking industry comment on the reporting of all delinquent rebooked GNMA loans as past due residential mortgage loans. It should be noted that such delinquent GNMA loans would also be reported in the items for past due loans wholly or partially guaranteed by the U.S. Government on Call Report Schedule RC-N and TFR Schedule PD. These items provide a method for users of the Call Report and TFR to identify the amount of delinquent loans that are not guaranteed by the U.S. Government.

The agencies are seeking comment on whether this past due reporting approach is appropriate and whether there are alternative methods to ensure that all delinquent loans are treated consistently.

Foreclosed Real Estate

There are also inconsistencies in how institutions, for balance sheet purposes, report the real estate collateral backing delinquent GNMA loans on which they have foreclosed. Some institutions report the foreclosed real estate as "other real estate owned." Other institutions report it as "other assets" because they consider their asset to be a receivable from the U.S. Department of Housing and Urban Development (HUD), the federal entity that administers the GNMA program.

The agencies understand that in the case of FHA properties (which eventually go back to HUD), the institution forecloses on the real estate collateral for delinquent loans in its own name. The institution must then hold the property through the state-specified redemption, confirmation, or ratification periods. The length of these periods varies from state to state. The property is not conveyed to HUD until it is "clean" in terms of the completion of the redemption period and the eviction of any occupants of the property, which could be an extended period of time following foreclosure. HUD is not obligated to receive the property until the successful completion of the entire legal process.

In the case of VA loans, the institution also forecloses on the real estate collateral in its own name. If the institution wins the bid at the sheriff's sale, it instructs the sheriff to title the property in the name of the VA. However, as with FHA loans, title is not actually conveyed to the VA until the end of the redemption period, which may be several months after foreclosure.

The agencies understand that in both FHA and VA foreclosures, HUD cannot accept the property nor can the government guarantee or insurance be honored until all legal actions pursuant to foreclosure have been completed.

A rationale that institutions have given for reporting the foreclosed property as an "other asset" is that the financial institution essentially is acting as an agent for HUD. The institution makes arrangements for a sheriff's sale in its own name and bids for the property in its name. Institutions that follow this reporting treatment then record a receivable from HUD representing the amount due under the government guarantee or insurance. Following the completion of all legal proceedings and acceptance of the property, HUD is responsible for disposing of the real estate.

However, the process for resolving foreclosed properties that served as collateral for mortgage loans backing GNMA securities may result in an institution's involvement with the property for an extended period of time following the sheriff's sale. Accordingly, as with other real estate collateral on which an institution forecloses, an institution that forecloses on real estate backing delinquent GNMA loans it has rebooked as assets should report the property as "other real estate owned" on the balance sheet in the Call Report and TFR. The foreclosed property should be reported in this manner beginning at the time of foreclosure until it has been sold, transferred to HUD, or otherwise disposed of.

The agencies request comments on the appropriateness of this balance sheet treatment.

B. "When-issued" Securities

The agencies have identified a potential difference in the accounting for "when-issued" securities between the Call Report instructions and generally accepted accounting principles (GAAP). Specifically, the Call Report Glossary entry for "When-Issued Securities Transactions" indicates that "[p]urchases and sales of when-issued securities for which settlement date has not occurred as of the report date are not to be reflected in the balance sheet, Schedule RC, until settlement date." Accordingly, the Call Report instructions indicate that institutions should follow "settlement date accounting" for when-issued securities. Under GAAP, all securities are required to be reported on the balance sheet as of the "trade date." Specifically, paragraph 5.92 of the American Institute of Certified Public Accountants' (AICPA) Audit and Accounting Guide for Banks and Savings Institutions (May 2000 edition) indicates that purchases and sales of securities are recorded on the balance sheet as of the trade date ("trade date accounting").

The requirement that institutions account for when-issued securities at settlement date is a longstanding regulatory reporting practice. However, given that GAAP and industry practice seem to predominantly follow trade date accounting, the agencies are proposing to eliminate the Call Report instruction that indicates institutions should follow settlement date accounting for when-issued securities and replace it with one that calls for trade date accounting for such securities.

In addition, the agencies would remove the references to commitments to purchase and sell when-issued securities from the instructions for Schedule RC-L, item 9, "All other off-balance sheet liabilities," and item 10, "All other off-balance sheet assets," respectively. The instructions would instead indicate that, consistent with the reporting of other purchased securities under trade date accounting, an institution's purchases of when-issued securities should be reported on the balance sheet as "Held-to-maturity securities," "Available-for-sale securities," or "Trading assets," as appropriate, when recorded on the trade date. The selling of when-issued securities is considered a trading activity.

Furthermore, the agencies would revise the Call Report Glossary entry for "Trade Date and Settlement Date Accounting" to clarify that institutions should follow trade date accounting for all securities, including when-issued securities. In so doing, this Glossary entry's reference to the conditions under which settlement date accounting is acceptable would be eliminated.

The proposed change will improve regulatory reporting by eliminating a potential unnecessary difference between the Call Report instructions and GAAP. The agencies request comment on whether these instructional changes are appropriate and whether they would be consistent with institutions' current accounting practices. In this regard, the agencies request comment on whether there is justification for retaining the current settlement date accounting treatment for when-issued securities when the accounting for all other securities is based on trade date. The agencies also request comment on the appropriateness of reporting purchases of when-issued securities on the balance sheet as "Held-to-maturity securities," "Available-for-sale securities," or "Trading assets," as appropriate, on the trade date.

III. Request for Comment

Public comment is requested on all aspects of this joint notice. 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 joint 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: April 19, 2004

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,
April 22, 2004.

Jennifer J. Johnson
Secretary of the Board.

Dated at Washington, D.C., this 20th day of April, 2004.

FEDERAL DEPOSIT INSURANCE CORPORATION

Robert E. Feldman
Executive Secretary

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Dated: April 20, 2004

By the Office of Thrift Supervision

James E. Gilleran,
Director.