FFIEC

Federal Financial Institutions Examination Council
Arlington, VA 22226 CALL REPORT DATE: September 30, 2018
THIRD 2018 CALL, NUMBER 285

SUPPLEMENTAL INSTRUCTIONS

September 2018 Call Report Materials

The three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051) for September 30, 2018, include two new data items this quarter pertaining to reciprocal deposits in Schedule RC-E, Deposit Liabilities. Institutions will report their "Total reciprocal deposits (as of the report date)" in new Memorandum item 1.g. On a one-time-only basis this quarter, institutions will report their "Total reciprocal deposits as of June 30, 2018" in Memorandum item 1.h of Schedule RC-E. No new topics have been added to the Supplemental Instructions for September 2018.

Separate updates to the instruction book for the FFIEC 051 Call Report and the instruction book for the FFIEC 031 and FFIEC 041 Call Reports for September 2018 are available for printing and downloading from the FFIEC's website (https://www.ffiec.gov/ffiec_report_forms.htm) and the FDIC's website (https://www.fdic.gov/callreports). Sample FFIEC 051, FFIEC 041, and FFIEC 031 Call Report forms, including the cover (signature) page, for September 2018 can be printed and downloaded from these websites. In addition, institutions that use Call Report software generally can print paper copies of blank forms from their software. Please ensure that the individual responsible for preparing the Call Report at your institution has been notified about the electronic availability of the September 2018 report forms, instruction book updates, and these Supplemental Instructions. The locations of changes to the text of the previous quarter's Supplemental Instructions (except references to the quarter-end report date) are identified by a vertical line in the right margin.

Submission of Completed Reports

Each institution's Call Report data must be submitted to the FFIEC's Central Data Repository (CDR), an Internet-based system for data collection (https://cdr.ffiec.gov/cdr/), using one of the two methods described in the banking agencies' Financial Institution Letter (FIL) for the September 30, 2018, report date. The CDR Help Desk is available from 9:00 a.m. until 8:00 p.m., Eastern Time, Monday through Friday, to provide assistance with user accounts, passwords, and other CDR system-related issues. The CDR Help Desk can be reached by telephone at (888) CDR-3111, by fax at (703) 774-3946, or by e-mail at CDR.Help@ffiec.gov.

Institutions are required to maintain in their files a signed and attested hard-copy record of the Call Report data file submitted to the CDR. The appearance of this hard-copy record of the submitted data file need not match exactly the appearance of the sample report forms on the FFIEC's website, but the hard-copy record should show at least the caption of each Call Report item and the reported amount. A copy of the cover page printed from Call Report software or from the FFIEC's website should be used to fulfill the signature and attestation requirement. The signed cover page should be attached to the hard-copy record of the Call Report data file that must be placed in the institution's files.

Currently, Call Report preparation software products marketed by (in alphabetical order) Axiom Software Laboratories, Inc.; DBI Financial Systems, Inc.; Fed Reporter, Inc.; FIS Compliance Solutions; FiServ, Inc.; KPMG LLP; Lombard Risk; SHAZAM Core Services; and Wolters Kluwer Financial Services meet the technical specifications for producing Call Report data files that are able to be processed by the CDR. Contact information for these vendors is provided on the final page of these Supplemental Instructions.

Reporting High Volatility Commercial Real Estate (HVCRE) Exposures

Section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), which was enacted on May 24, 2018, adds a new Section 51 to the Federal Deposit Insurance Act (FDI Act) governing the risk-based capital requirements for certain acquisition, development, or construction (ADC) loans. EGRRCPA provides that, effective upon enactment, the banking agencies may only require a depository institution to assign a heightened risk weight to an HVCRE exposure if such exposure is an "HVCRE ADC Loan," as defined in this new law. Accordingly, an institution is permitted to risk weight at

150 percent only those commercial real estate exposures it believes meet the statutory definition of an "HVCRE ADC Loan." When reporting HVCRE exposures in the Call Report regulatory capital schedule (Schedule RC-R) as of June 30, 2018, and subsequent report dates, institutions may use available information to reasonably estimate and report only "HVCRE ADC Loans" held for sale and held for investment in Schedule RC-R, Part II, items 4.b and 5.b, respectively. Any "HVCRE ADC Loans" held for trading would be reported in Schedule RC-R, Part II, item 7. The portion of any "HVCRE ADC Loan" that is secured by collateral or has a guarantee that qualifies for a risk weight lower than 150 percent may continue to be assigned a lower risk weight when completing Schedule RC-R, Part II. Institutions may refine their estimates of "HVCRE ADC Loans" in good faith as they obtain additional information, but they will not be required to amend Call Reports previously filed for report dates on or after June 30, 2018, as these estimates are adjusted.

Alternatively, institutions may continue to report and risk weight HVCRE exposures in a manner consistent with the current Call Report instructions for Schedule RC-R, Part II, until the agencies take further action. For more detail, see the agencies' proposal to amend their regulatory capital rules to revise the definition of an HVCRE exposure to conform to the statutory definition of an "HVCRE ADC loan," which was published on September 28, 2018.

Section 214 of EGRRCPA, which includes the definition of "HVCRE ADC Loan," is provided in the Appendix to these Supplemental Instructions for your reference.

Reporting Reciprocal Deposits

Section 202 of EGRRCPA amends Section 29 of the FDI Act to exclude a capped amount of reciprocal deposits from treatment as brokered deposits for qualifying institutions, effective upon enactment. The current Call Report instructions, consistent with the law prior to the enactment of EGRRCPA, treat all reciprocal deposits as brokered deposits. Institutions that wish to report pursuant to the new law for the September 30, 2018, Call Report should apply the newly defined terms and other provisions of Section 202 of EGRRCPA (provided in the Appendix to these Supplemental Instructions for your reference) to determine whether an institution and its reciprocal deposits are eligible for the statutory exclusion. Qualifying institutions may use available information to then reasonably estimate and report as brokered deposits (in Schedule RC-E, Memorandum items 1.b through 1.d), and reciprocal brokered deposits (in Schedule RC-O, item 9 and, if applicable, item 9.a), only those reciprocal deposits that are still considered brokered deposits under the new law.

Alternatively, when reporting as of September 30, 2018, institutions may continue to report reciprocal deposits in Schedule RC-E, Memorandum items 1.b through 1.d, and Schedule RC-O, item 9 and, if applicable, item 9.a, consistent with the Call Report instructions for these items currently included in the Call Report instruction books (i.e., the instructions in effect prior to passage of EGRRCPA).

Institutions should complete new Schedule RC-E, Memorandum items 1.g, "Total reciprocal deposits (as of the report date)," and 1.h, "Total reciprocal deposits as of June 30, 2018," in accordance with the instructions for these items included in the Call Report instruction book updates for September 30, 2018.

On September 26, 2018, the FDIC published proposed amendments to its regulations to conform to the treatment of reciprocal deposits set forth in Section 202 of EGRRCPA. If the FDIC adopts a final rule amending its regulations, the FFIEC anticipates issuing additional instructions regarding the application of Section 202 to reciprocal deposits for purposes of reporting in the Call Report. Institutions that wish to amend their reporting of reciprocal deposits still considered brokered deposits in their reports as originally filed for June 30, 2018, and subsequent report dates before these additional instructions are issued may use the additional instructions as the basis for their amended reports.

Accounting and Reporting Implications of the New Tax Law

On January 18, 2018, the banking agencies issued an Interagency Statement on Accounting and Reporting Implications of the New Tax Law. The tax law was enacted on December 22, 2017, and is commonly known as the Tax Cuts and Jobs Act (the Act). U.S. GAAP requires the effect of changes in tax laws or rates to be recognized in the period in which the legislation is enacted. Thus, in accordance with Accounting Standards

Codification (ASC) Topic 740, Income Taxes, the effects of the Act were to be recorded in an institution's Call Report for December 31, 2017, because the Act was enacted before year-end 2017. Changes in deferred tax assets (DTAs) and deferred tax liabilities (DTLs) resulting from the Act's lower corporate income tax rate and other applicable provisions of the Act were to be reflected in an institution's income tax expense in the period of enactment, i.e., the year-end 2017 Call Report. Institutions should refer to the Interagency Statement for guidance on the remeasurement of DTAs and DTLs, assessing the need for valuation allowances for DTAs, the effect of the remeasurement of DTAs and DTLs on amounts recognized in accumulated other comprehensive income (AOCI), the use for Call Report purposes of the measurement period approach described in the Securities and Exchange Commission's Staff Accounting Bulletin No. 118 and a related FASB Staff Q&A, and regulatory capital effects of the new tax law.

The Interagency Statement notes that the remeasurement of the DTA or DTL associated with an item reported in AOCI, such as unrealized gains (losses) on available-for-sale (AFS) securities, results in a disparity between the tax effect of the item included in AOCI and the amount recorded as a DTA or DTL for the tax effect of this item. However, when the new tax law was enacted, ASC Topic 740 did not specify how this disproportionate, or "stranded," tax effect should be resolved. The Interagency Statement reported that the Financial Accounting Standards Board (FASB) had approved issuing an Exposure Draft of a proposed Accounting Standards Update (ASU) that would allow reclassification of the disproportionate tax effect from AOCI to retained earnings in financial statements that had not yet been issued. The Interagency Statement advised institutions that they were permitted to apply the guidance proposed in the ASU to remedy the disproportionate tax effects of items reported in AOCI when they prepared their Call Reports for December 31, 2017.

On February 18, 2018, the FASB issued ASU No. 2018-02, "Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income," which allows institutions to eliminate the stranded tax effects resulting from the Act by electing to reclassify these tax effects from AOCI to retained earnings. Thus, this reclassification is permitted, but not required. ASU 2018-02 is effective for all entities for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption of the ASU is permitted, including in any interim period, as specified in the ASU. An institution electing to reclassify its stranded tax effects for U.S. GAAP financial reporting purposes should also reclassify these stranded tax effects in the same period for Call Report purposes. For additional information, institutions should refer to ASU 2018-02, which is available at
http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176170041017&acceptedDisclaimer=true.

An institution that elects to reclassify the disproportionate, or stranded, tax effects of items within AOCI to retained earnings should not report any amounts associated with this reclassification in Call Report Schedule RI-A, Changes in Bank Equity Capital, because the reclassification is between two accounts within the equity capital section of Schedule RC, Balance Sheet, and does not result in any change in the total amount of equity capital.

When discussing the regulatory capital effects of the new tax law, the Interagency Statement explains that temporary difference DTAs that could be realized through net operating loss (NOL) carrybacks are treated differently from those that could not be realized through NOL carrybacks (i.e., those for which realization depends on future taxable income) under the agencies' regulatory capital rules. These latter temporary difference DTAs are deducted from common equity tier 1 (CET1) capital if they exceed certain CET1 capital deduction thresholds. However, for tax years beginning on or after January 1, 2018, the Act generally removes the ability to use NOL carrybacks to recover federal income taxes paid in prior tax years. Thus, except as noted in the following sentence, for such tax years, the realization of all federal temporary difference DTAs will be dependent on future taxable income and these DTAs would be subject to the CET1 capital deduction thresholds. Nevertheless, consistent with current practice under the regulatory capital rules, when an institution has paid federal income taxes for the current tax year, if all federal temporary differences were to fully reverse as of the report date during the current tax year and create a hypothetical federal tax loss that would enable the institution to recover federal income taxes paid in the current tax year, the federal temporary difference DTAs that could be realized from this source may be treated as temporary difference DTAs realizable through NOL carrybacks as of the regulatory capital calculation date.

Presentation of Net Benefit Cost in the Income Statement

In March 2017, the FASB issued ASU No. 2017-07, "Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost," which requires an employer to disaggregate the service cost component from the other components of the net benefit cost of defined benefit plans. In addition, the ASU requires these other cost components to be presented in the income statement separately from the service cost component, which must be reported with the other compensation costs arising during the reporting period.

For institutions that are public business entities, as defined under U.S. GAAP, ASU 2017-07 is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. For institutions that are not public business entities (i.e., that are private companies), the ASU is effective for fiscal years beginning after December 15, 2018, and interim periods beginning after December 15, 2019. Early adoption is permitted as described in the ASU. Refer to the Glossary entries for "public business entity" and "private company" in the Call Report instructions for further information on these terms.

For Call Report purposes, an institution should apply the new standard prospectively to the cost components of net benefit cost as of the beginning of the fiscal year of adoption. The service cost component of net benefit cost should be reported in Schedule RI, item 7.a, "Salaries and employee benefits." The other cost components of net benefit cost should be reported in Schedule RI, item 7.d, "Other noninterest expense."

For additional information, institutions should refer to ASU 2017-07, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176168888120&acceptedDisclaimer=true.

Credit Losses on Financial Instruments

In June 2016, the FASB issued ASU No. 2016-13, "Measurement of Credit Losses on Financial Instruments," which introduces the current expected credit losses methodology (CECL) for estimating allowances for credit losses. Under CECL, an allowance for credit losses is a valuation account, measured as the difference between the financial assets' amortized cost basis and the net amount expected to be collected on the financial assets (i.e., lifetime credit losses). To estimate expected credit losses under CECL, institutions will use a broader range of data than under existing U.S. GAAP. These data include information about past events, current conditions, and reasonable and supportable forecasts relevant to assessing the collectability of the cash flows of financial assets.

The ASU is applicable to all financial instruments measured at amortized cost (including loans held for investment, net investments in leases, and held-to-maturity debt securities, as well as trade and reinsurance receivables and receivables that relate to repurchase agreements and securities lending agreements) and off-balance-sheet credit exposures not accounted for as insurance, including loan commitments, standby letters of credit, and financial guarantees. The new standard does not apply to trading assets, loans held for sale, financial assets for which the fair value option has been elected, or loans and receivables between entities under common control.

The ASU also modifies the treatment of credit impairment on AFS debt securities. Under the new standard, institutions will recognize a credit loss on an AFS debt security through an allowance for credit losses, rather than the current practice required by U.S. GAAP of write-downs of individual securities for other-than-temporary impairment.

For institutions that are public business entities and are also U.S. Securities and Exchange Commission (SEC) filers, as both terms are defined in U.S. GAAP, the ASU is effective for fiscal years beginning after December 15, 2019, including interim periods within those fiscal years. For public business entities that are not SEC filers, the ASU is effective for fiscal years beginning after December 15, 2020, including interim periods within those fiscal years. For institutions that are not public business entities (i.e., that are private companies), the ASU is, at present, effective for fiscal years beginning after December 15, 2020, and for interim periods of fiscal years beginning after December 15, 2021. However, on August 20, 2018, the FASB proposed to amend the transition and effective date provisions in ASU 2016-13 for entities that are not public business entities so that this ASU would be effective for such entities for fiscal years beginning after December 15, 2021, including interim periods within those fiscal years. For all institutions, early application of the new standard is permitted for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. Institutions must apply ASU 2016-13 for Call Report purposes in accordance with the effective dates set forth in the ASU as these dates may be amended. An institution that early adopts ASU 2016-13 for U.S. GAAP financial reporting purposes should also early adopt the ASU in the same period for Call Report purposes.

On September 28, 2018, the agencies issued a Federal Register notice requesting public comment on proposed revisions to the Call Report to address the revised accounting for credit losses under ASU 2016-13. The proposal also includes reporting changes to Call Report Schedule RC-R, Regulatory Capital, to align the schedule with the agencies' May 14, 2018, notice of proposed rulemaking, which would revise the regulatory capital rules for the implementation of and capital transition for CECL. These Call Report revisions are proposed to take effect as of the March 31, 2019, report date.

For additional information, institutions should refer to the agencies' Frequently Asked Questions on the New Accounting Standard on Financial Instruments – Credit Losses, which were most recently updated on September 6, 2017, the agencies' June 17, 2016, Joint Statement on the New Accounting Standard on Financial Instruments – Credit Losses, and ASU 2016-13, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176168232528&acceptedDisclaimer=true.

Accounting for Hedging Activities

In August 2017, the FASB issued ASU No. 2017-12, "Targeted Improvements to Accounting for Hedging Activities." This ASU amends ASC Topic 815, Derivatives and Hedging, to "better align an entity's risk management activities and financial reporting for hedging relationships through changes to both the designation and measurement guidance for qualifying hedging relationships and the presentation of hedge results."

For institutions that are public business entities, as defined under U.S. GAAP, the ASU is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. For institutions that are not public business entities (i.e., that are private companies), the ASU is effective for fiscal years beginning after December 15, 2019, and interim periods beginning after December 15, 2020.

Early application of the ASU is permitted for all institutions in any interim period or fiscal year before the effective date of the ASU. Further, the ASU specifies transition requirements and offers transition elections for hedging relationships existing on the date of adoption (i.e., hedging relationships in which the hedging instrument has not expired, been sold, terminated, or exercised or for which the institution has not removed the designation of the hedging relationship). These transition requirements and elections should be applied on the date of adoption of the ASU and the effect of adoption should be reflected as of the beginning of the fiscal year of adoption (i.e., the initial application date). Thus, if an institution early adopts the ASU in an interim period, any adjustments shall be reflected as of the beginning of the fiscal year that includes the interim period of adoption, e.g., as of January 1 for a calendar year institution. An institution that early adopts ASU 2017-12 in an interim period for U.S. GAAP financial reporting purposes should also early adopt the ASU in the same period for Call Report purposes.

The Call Report instructions, including the Glossary entry for "Derivative Contracts," will be revised to conform to the ASU at a future date.

For additional information, institutions should refer to ASU 2017-12, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176169282347&acceptedDisclaimer=true.

Regulatory Capital Treatment of Certain Centrally-Cleared Derivative Contracts

On August 14, 2017, the banking agencies issued supervisory guidance on the regulatory capital treatment of certain centrally-cleared derivative contracts in light of recent changes to the rulebooks of certain central counterparties. Under the previous requirements of these central counterparties' rulebooks, variation margin transferred to cover the exposure that arises from marking cleared derivative contracts, and netting sets of such contracts, to fair value was considered collateral pledged by one party to the other, with title to the collateral remaining with the posting party. These derivative contracts are referred to as collateralized-to-market contracts. Under the revised rulebooks of certain central counterparties, variation margin for certain centrally-cleared derivative contracts, and certain netting sets of such contracts, is considered a settlement payment for the exposure that arises from marking these derivative contracts and netting sets to fair value, with title to the payment transferring to the receiving party. In these circumstances, the derivative contracts and netting sets are referred to as settled-to-market contracts.

Under the agencies' regulatory capital rules, in general, an institution must calculate the trade exposure amount for a cleared derivative contract, or a netting set of such contracts, by using the methodology described in section 34 of the rules to determine (i) the current credit exposure and (ii) the potential future exposure of the derivative contract or netting set of such contracts for purposes of the standardized approach risk-based capital calculation and the supplementary leverage ratio calculation. The risk-weighted asset calculations under the advanced approaches capital framework have similar requirements. Current credit exposure is determined by reference to the fair value of each derivative contract as measured under U.S. GAAP. Potential future exposure is determined, in part, by multiplying each derivative contract's notional principal amount by a conversion factor. The conversion factors vary by the category (for example, interest rate, equity) and remaining maturity of the derivative contract. The regulatory capital rules provide that, for a derivative contract that is structured such that on specified dates any outstanding exposure is settled and the terms are reset so that the fair value of the contract is zero, the remaining maturity equals the time until the next reset date.

For the purpose of the regulatory capital rules, the August 2017 supervisory guidance states that if, after accounting and legal analysis, an institution determines that (i) the variation margin payment on a centrally cleared settled-to-market contract settles any outstanding exposure on the contract, and (ii) the terms are reset so that the fair value of the contract is zero, the remaining maturity on such a contract would equal the time until the next exchange of variation margin on the contract. In conducting its legal analysis to determine whether variation margin may be considered settlement of outstanding exposure under the regulatory capital rules, an institution should evaluate whether the transferor of the variation margin has relinquished all legal claims to the variation margin and whether the payment of variation margin constitutes settlement under the central counterparty's rulebook, any other applicable agreements governing the derivative contract, and applicable law. Among other requirements, a central counterparty's rulebook may require an institution to satisfy additional obligations, such as payment of other expenses and fees, in order to recognize payment of variation margin as satisfying settlement under the rulebook. The legal and accounting analysis performed by the institution should take all such requirements into account.

Institutions should refer to the supervisory guidance in its entirety for purposes of determining the appropriate regulatory capital treatment of settled-to-market contracts under the regulatory capital rules. This guidance is available at https://www.fdic.gov/news/news/financial/2017/fil17033a.pdf.

Premium Amortization on Purchased Callable Debt Securities

In March 2017, the FASB issued ASU No. 2017-08, "Premium Amortization on Purchased Callable Debt Securities." This ASU amends ASC Subtopic 310-20, Receivables – Nonrefundable Fees and Other Costs (formerly FASB Statement No. 91, "Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases"), by shortening the amortization period for premiums on callable debt securities that have explicit, non-contingent call features and are callable at fixed prices and on preset dates. Under existing U.S. GAAP, the premium on such a callable debt security generally is required to be amortized as an adjustment of yield over the contractual life of the debt security. Under the ASU, the excess of the amortized cost basis of such a callable debt security over the amount repayable by the issuer at the earliest call date (i.e., the premium) must be amortized to the earliest call date (unless the institution applies the guidance in ASC Subtopic 310-20 that allows estimates of future principal prepayments to be considered in the effective yield calculation when the institution holds a large number of similar debt securities for which prepayments are probable and the timing and amount of the prepayments can be reasonably estimated). If the call option is not exercised at its earliest call date, the institution must reset the effective yield using the payment terms of the debt security.

The ASU does not change the accounting for debt securities held at a discount. The discount on such debt securities continues to be amortized to maturity (unless the Subtopic 310-20 guidance mentioned above is applied).

For institutions that are public business entities, as defined under U.S. GAAP, the new standard is effective for fiscal years beginning after December 15, 2018, including interim periods within those fiscal years. For institutions that are not public business entities (i.e., that are private companies), the new standard is effective for fiscal years beginning after December 15, 2019, and interim periods within fiscal years beginning after December 15, 2020.

Early application of the new standard is permitted for all institutions, including adoption in an interim period of 2018 or a subsequent year before the applicable effective date for an institution. If an institution early adopts the ASU in an interim period, the cumulative-effect adjustment shall be reflected as of the beginning of the fiscal year of adoption.

An institution must apply the new standard on a modified retrospective basis as of the beginning of the period of adoption. Under the modified retrospective method, an institution should apply a cumulative-effect adjustment to affected accounts existing as of the beginning of the fiscal year the new standard is adopted. The cumulative-effect adjustment to retained earnings for this change in accounting principle should be reported in Call Report Schedule RI-A, item 2.

For additional information, institutions should refer to ASU 2017-08, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176168934053&acceptedDisclaimer=true.

Recognition and Measurement of Financial Instruments: Investments in Equity Securities

In January 2016, the FASB issued ASU 2016-01, "Recognition and Measurement of Financial Assets and Financial Liabilities." This ASU makes targeted improvements to U.S. GAAP. As one of its main provisions, the ASU requires investments in equity securities, except those accounted for under the equity method and those that result in consolidation, to be measured at fair value with changes in fair value recognized in net income. Thus, the ASU eliminates the existing concept of AFS equity securities, which are measured at fair value with changes in fair value generally recognized in other comprehensive income. To be classified as AFS under current U.S. GAAP, an equity security must have a readily determinable fair value and not be held for trading. In addition, for an equity security that does not have a readily determinable fair value, the ASU permits an entity to elect to measure the security at cost minus impairment, if any, plus or minus changes resulting from observable price changes in orderly transactions for the identical or a similar investment of the same issuer. When this election is made for an equity security without a readily determinable fair value, the ASU simplifies the impairment assessment of such an investment by requiring a qualitative assessment to identify impairment.

The ASU's measurement guidance for investments in equity securities also applies to other ownership interests, such as interests in partnerships, unincorporated joint ventures, and limited liability companies. However, the measurement guidance does not apply to Federal Home Loan Bank stock and Federal Reserve Bank stock.

For institutions that are public business entities, as defined under U.S. GAAP, ASU 2016-01 is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. For all other entities, the ASU is effective for fiscal years beginning after December 15, 2018, and interim periods within fiscal years beginning after December 15, 2019. Early application of the ASU is permitted for all institutions that are not public business entities as of the fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Institutions must apply ASU 2016-01 for Call Report purposes in accordance with the effective dates set forth in the ASU.

With the elimination of AFS equity securities upon an institution's adoption of ASU 2016-01, the amount of net unrealized gains (losses) on these securities, net of tax effect, that is included in AOCI on the Call Report balance sheet (Schedule RC, item 26.b) as of the adoption date will be reclassified (transferred) from AOCI into the retained earnings component of equity capital on the balance sheet (Schedule RC, item 26.a). Thereafter, changes in the fair value of (i.e., the unrealized gains and losses on) an institution's equity securities that would have been classified as AFS under existing U.S. GAAP will be recognized through net income rather than other comprehensive income (OCI). For an institution's holdings of equity securities without readily determinable fair values as of the adoption date for which the measurement alternative is elected, the measurement provisions of the ASU are to be applied prospectively to these securities.

For additional information, institutions should refer to ASU 2016-01, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176167762170&acceptedDisclaimer=true.

Recognition and Measurement of Financial Instruments: Fair Value Option Liabilities

In addition to the changes in the accounting for equity securities discussed in the preceding section of these Supplemental Instructions, ASU 2016-01 requires an institution to present separately in OCI the portion of the total change in the fair value of a liability resulting from a change in the instrument-specific credit risk ("own credit risk") when the institution has elected to measure the liability at fair value in accordance with the fair value option for financial instruments. Until an institution adopts the own credit risk provisions of the ASU, U.S. GAAP requires the institution to report the entire change in the fair value of a fair value option liability in earnings. The ASU does not apply to other financial liabilities measured at fair value, including derivatives. For these other financial liabilities, the effect of a change in an entity's own credit risk will continue to be reported in net income.

The change due to own credit risk, as described above, is the difference between the total change in fair value and the amount resulting from a change in a base market rate (e.g., a risk-free interest rate). An institution may use another method that it believes results in a faithful measurement of the fair value change attributable to instrument-specific credit risk. However, it will have to apply the method consistently to each financial liability from period to period.

The effective dates of ASU 2016-01 are described in the preceding section of these Supplemental Instructions. Notwithstanding these effective dates, early application of the ASU's provisions regarding the presentation in OCI of changes due to own credit risk on fair value option liabilities is permitted for all entities for financial statements of fiscal years or interim periods that have not yet been issued or made available for issuance, and in the same period for Call Report purposes.

When an institution with a calendar year fiscal year adopts the own credit risk provisions of ASU 2016-01, the accumulated gains and losses as of the beginning of the fiscal year due to changes in the instrument-specific credit risk of fair value option liabilities, net of tax effect, are reclassified from Schedule RC, item 26.a, "Retained earnings," to Schedule RC, item 26.b, "Accumulated other comprehensive income." If an institution with a calendar year fiscal year chooses to early apply the ASU's provisions for fair value option liabilities in an interim period after the first interim period of its fiscal year, any unrealized gains and losses due to changes in own credit risk and the related tax effects recognized in the Call Report income statement during the interim period(s) before the interim period of adoption should be reclassified from earnings to OCI. In the Call Report, this reclassification would be from Schedule RI, item 5.l, "Other noninterest income," and Schedule RI, item 9, "Applicable income taxes," to Schedule RI-A, item 10, "Other comprehensive income," with a corresponding reclassification from Schedule RC, item 26.a, to Schedule RC, item 26.b.

Additionally, for purposes of reporting on Schedule RC-R, Part I, institutions should report in item 10.a, "Less: Unrealized net gain (loss) related to changes in the fair value of liabilities that are due to changes in own credit risk," the amount included in AOCI attributable to changes in the fair value of fair value option liabilities that are due to changes in the institution's own credit risk. Institutions should note that this AOCI amount is included in the amount reported in Schedule RC-R, Part I, item 3, "Accumulated other comprehensive income (AOCI)."

For additional information, institutions should refer to ASU 2016-01, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176167762170&acceptedDisclaimer=true.

New Revenue Recognition Accounting Standard

In May 2014, the FASB issued ASU No. 2014-09, "Revenue from Contracts with Customers," which added ASC Topic 606, Revenue from Contracts with Customers. The core principle of Topic 606 is that an entity should recognize revenue at an amount that reflects the consideration to which it expects to be entitled in exchange for transferring goods or services to a customer as part of the entity's ordinary activities. ASU 2014-09 also added Topic 610, Other Income, to the ASC. Topic 610 applies to income recognition that is not within the scope of Topic 606, other Topics (such as Topic 840 on leases), or other revenue or income guidance. As discussed in the following section of these Supplemental Instructions, Topic 610 applies to an institution's sales of repossessed nonfinancial assets, such as other real estate owned (OREO). The sale of repossessed nonfinancial assets is not considered an "ordinary activity" because institutions do not typically invest in nonfinancial assets. ASU 2014-09 and subsequent amendments are collectively referred to herein as the "new standard." For additional information on this accounting standard and the revenue streams to which it does and does not apply, please refer to the Glossary entry for "Revenue from Contracts with Customers," which has been added to the Call Report instruction books this quarter.

For institutions that are public business entities, as defined under U.S. GAAP, the new standard is effective for fiscal years beginning after December 15, 2017, including interim reporting periods within those fiscal years. For institutions that are not public business entities (i.e., that are private companies), the new standard is effective for fiscal years beginning after December 15, 2018, and interim reporting periods within fiscal years beginning after December 15, 2019. Early application of the new standard is permitted. If an institution chooses to early adopt the new standard for financial reporting purposes, the institution should implement the new standard in its Call Report for the same quarter-end report date.

For Call Report purposes, an institution must apply the new standard on a modified retrospective basis as of the effective date of the standard. Under the modified retrospective method, an institution should apply a cumulative-effect adjustment to affected accounts existing as of the beginning of the fiscal year the new standard is adopted. The cumulative-effect adjustment to retained earnings for this change in accounting principle should be reported in Call Report Schedule RI-A, item 2. An institution that early adopts the new standard must apply it in its entirety. The institution cannot choose to apply the guidance to some revenue streams and not to others that are within the scope of the new standard.

For additional information, institutions should refer to the new standard, which is available at http://www.fasb.org/jsp/FASB/Page/SectionPage&cid=1176156316498.

Revenue Recognition: Accounting for Sales of OREO

As stated in the preceding section, Topic 610 applies to an institution's sale of repossessed nonfinancial assets, such as OREO. When the new standard becomes effective at the dates discussed above, Topic 610 will eliminate the prescriptive criteria and methods for sale accounting and gain recognition for dispositions of OREO currently set forth in Subtopic 360-20, Property, Plant, and Equipment – Real Estate Sales. Under the new standard, an institution will recognize the entire gain or loss, if any, and derecognize the OREO at the time of sale if the transaction meets certain requirements of Topic 606. Otherwise, an institution will generally record any payments received as a deposit liability to the buyer and continue reporting the OREO as an asset at the time of the transaction.

The following paragraphs highlight key aspects of Topic 610 that will apply to seller-financed sales of OREO once the new standard takes effect. When implementing the new standard, an institution will need to exercise judgment in determining whether a contract (within the meaning of Topic 606) exists for the sale or transfer of OREO, whether the institution has performed its obligations identified in the contract, and what the transaction price is for calculation of the amount of gain or loss. For additional information, please refer to the Glossary entry for "Foreclosed Assets" in the Call Report instruction books, which was updated in March 2017 to incorporate guidance on the application of the new standard to sales of OREO.

Under Topic 610, when an institution does not have a controlling financial interest in the OREO buyer under Topic 810, Consolidation, the institution's first step in assessing whether it can derecognize an OREO asset and recognize revenue upon the sale or transfer of the OREO is to determine whether a contract exists under the provisions of Topic 606. In order for a transaction to be a contract under Topic 606, it must meet five criteria. Although all five criteria require careful analysis for seller-financed sales of OREO, two criteria in particular may require significant judgment. These criteria are the commitment of the parties to the transaction to perform their respective obligations and the collectability of the transaction price. To evaluate whether a transaction meets the collectability criterion, a selling institution must determine whether it is probable that it will collect substantially all of the consideration to which it is entitled in exchange for the transfer of the OREO, i.e., the transaction price. To make this determination, as well as the determination that the buyer of the OREO is committed to perform its obligations, a selling institution should consider all facts and circumstances related to the buyer's ability and intent to pay the transaction price. As with the current accounting standards governing seller-financed sales of OREO, the amount and character of a buyer's initial equity in the property (typically the cash down payment) and recourse provisions remain important factors to evaluate. Other factors to consider may include, but are not limited to, the financing terms of the loan (including amortization and any balloon payment), the credit standing of the buyer, the cash flow from the property, and the selling institution's continuing involvement with the property following the transaction.

If the five contract criteria in Topic 606 have not been met, the institution generally may not derecognize the OREO asset or recognize revenue (gain or loss) as an accounting sale has not occurred. In contrast, if an institution determines the contract criteria in Topic 606 have been met, it must then determine whether it has satisfied its performance obligations as identified in the contract by transferring control of the asset to the buyer. For seller-financed sales of OREO, the transfer of control generally occurs on the closing date of the sale when the institution obtains the right to receive payment for the property and transfers legal title to the buyer. However, an institution must consider all relevant facts and circumstances to determine whether control of the OREO has transferred.

When a contract exists and an institution has transferred control of the asset, the institution should derecognize the OREO asset and recognize a gain or loss for the difference between the transaction price and the carrying amount of the OREO asset. Generally, the transaction price in a sale of OREO will be the contract amount in the purchase/sale agreement, including for a seller-financed sale at market terms. However, the transaction price may differ from the amount stated in the contract due to the existence of off-market terms on the financing. In this situation, to determine the transaction price, the contract amount should be adjusted for the time value of money by using as the discount rate a market rate of interest considering the credit characteristics of the buyer and the terms of the financing.

As stated in the preceding section on the new revenue recognition accounting standard, for Call Report purposes, an institution must apply the new standard on a modified retrospective basis. To determine the cumulative-effect adjustment for the change in accounting for seller-financed OREO sales, an institution should measure the impact of applying Topic 610 to the outstanding seller-financed sales of OREO currently accounted for under Subtopic 360-20 using the installment, cost recovery, reduced-profit, or deposit method as of the beginning of the fiscal year the new standard is adopted. The cumulative-effect adjustment to retained earnings for this change in accounting principle should be reported in Call Report Schedule RI-A, item 2.

Accounting for Leases

In February 2016, the FASB issued ASU No. 2016-02, "Leases," which added ASC Topic 842, Leases. This guidance, once effective, supersedes ASC Topic 840, Leases.

Topic 842 does not fundamentally change lessor accounting; however, it aligns terminology between lessee and lessor accounting and brings key aspects of lessor accounting into alignment with the FASB's new revenue recognition guidance in Topic 606. As a result, the classification difference between direct financing leases and sales-type leases for lessors moves from a risk-and-rewards principle to a transfer of control principle. Additionally, there is no longer a distinction in the treatment of real estate and non-real estate leases by lessors.

The most significant change that Topic 842 makes is to lessee accounting. Under existing accounting standards, lessees recognize lease assets and lease liabilities on the balance sheet for capital leases, but do not recognize operating leases on the balance sheet. The lessee accounting model under Topic 842 retains the distinction between operating leases and capital leases, which the new standard labels finance leases. However, the new standard requires lessees to record a right-of-use (ROU) asset and a lease liability on the balance sheet for operating leases. (For finance leases, a lessee's lease asset also is designated an ROU asset.) In general, the new standard permits a lessee to make an accounting policy election to exempt leases with a term of one year or less at their commencement date from on-balance sheet recognition. The lease term generally includes the noncancellable period of a lease as well as purchase options and renewal options reasonably certain to be exercised by the lessee, renewal options controlled by the lessor, and any other economic incentive for the lessee to extend the lease. An economic incentive may include a related-party commitment. When preparing to implement Topic 842, lessees will need to analyze their existing lease contracts to determine the entries to record on adoption of this new standard.

For a sale-leaseback transaction to qualify for sales treatment, Topic 842 requires certain criteria within Topic 606 to be met. Topic 606 focuses on the transfer of control of the leased asset from the seller/lessee to the buyer/lessor. A sale-leaseback transaction that does not transfer control is accounted for as a financing arrangement. For a transaction currently accounted for as a sale-leaseback under existing U.S. GAAP, an entity is not required to reassess whether the transaction would have qualified as a sale and a leaseback under Topic 842 when it adopts the new standard.

Leases classified as leveraged leases prior to the adoption of Topic 842 may continue to be accounted for under Topic 840 unless subsequently modified. Topic 842 eliminates leveraged lease accounting for leases that commence after an institution adopts the new accounting standard.

For institutions that are public business entities, as defined under U.S. GAAP, ASU 2016-02 is effective for fiscal years beginning after December 15, 2018, including interim reporting periods within those fiscal years. For institutions that are not public business entities, the new standard is effective for fiscal years beginning after December 15, 2019, and interim reporting periods within fiscal years beginning after December 15, 2020. Early application of the new standard is permitted for all institutions. An institution that early adopts the new standard must apply it in its entirety to all lease-related transactions. If an institution chooses to early adopt the new standard for financial reporting purposes, the institution should implement the new standard in its Call Report for the same quarter-end report date.

For Call Report purposes, an institution must apply the new standard on a modified retrospective basis. Under the modified retrospective method, an institution should apply a cumulative-effect adjustment to affected accounts existing as of the beginning of the fiscal year the new standard is adopted. The cumulative-effect adjustment to retained earnings for this change in accounting principle should be reported in Schedule RI-A, item 2. The ROU asset recorded upon adoption should be reflected in Schedule RC, item 6, "Premises and fixed assets" and the related lease liability recorded upon adoption should be reflected in Schedule RC-M, item 5.b, "Other borrowings." These classifications are consistent with the current Call Report instructions for reporting a lessee's capital leases. The agencies do not plan to add any new items to the Call Report for reporting leases under the new lease accounting standard.

The agencies have received questions regarding how lessee institutions should treat ROU assets under the agencies' regulatory capital rules (12 CFR Part 3 (OCC); 12 CFR Part 217 (Board); and 12 CFR Part 324 (FDIC)). Those rules require that most intangible assets be deducted from regulatory capital. However, some institutions are uncertain whether ROU assets are intangible assets. The agencies are clarifying that, to the extent an ROU asset arises due to a lease of a tangible asset (e.g., building or equipment), the ROU asset should be treated as a tangible asset not subject to deduction from regulatory capital. An ROU asset not subject to deduction must be risk weighted at 100 percent under Section 32(l)(5) of the agencies' regulatory capital rules and included in a lessee institution's calculations of total risk-weighted assets. In addition, such an asset must be included in a lessee institution's total assets for leverage capital purposes. The agencies believe this treatment is consistent with the current treatment of capital leases under the rules, whereby a lessee's lease assets under capital leases of tangible assets are treated as tangible assets, receive a 100 percent risk weight, and are included in the leverage ratio denominator. This treatment is also consistent with the approach taken by the Basel Committee on Banking Supervision (https://www.bis.org/press/p170406a.htm).

For additional information on ASU 2016-02, institutions should refer to the FASB's website at: http://www.fasb.org/cs/ContentServer?c=FASBContent_C&pagename=FASB%2FFASBContent_C%2FCompletedProjectPage&cid=1176167904031, which includes a link to the new accounting standard.

Accounting for Measurement-Period Adjustments Related to a Business Combination

In September 2015, the FASB issued ASU No. 2015-16, "Simplifying the Accounting for Measurement-Period Adjustments." Under ASC Topic 805, Business Combinations (formerly FASB Statement No. 141(R), "Business Combinations"), if the initial accounting for a business combination is incomplete by the end of the reporting period in which the combination occurs, the acquirer reports provisional amounts in its financial statements for the items for which the accounting is incomplete. During the measurement period, the acquirer is required to adjust the provisional amounts recognized at the acquisition date, with a corresponding adjustment to goodwill, to reflect new information obtained about facts and circumstances that existed as of the acquisition date that, if known, would have affected the measurement of the amounts recognized as of that date. At present under Topic 805, an acquirer is required to retrospectively adjust the provisional amounts recognized at the acquisition date to reflect the new information. To simplify the accounting for the adjustments made to provisional amounts, ASU 2015-16 eliminates the requirement to retrospectively account for the adjustments. Accordingly, the ASU amends Topic 805 to require an acquirer to recognize adjustments to provisional amounts that are identified during the measurement period in the reporting period in which adjustment amounts are determined. Under the ASU, the acquirer also must recognize in the financial statements for the same reporting period the effect on earnings, if any, resulting from the adjustments to the provisional amounts as if the accounting for the business combination had been completed as of the acquisition date.

In general, the measurement period in a business combination is the period after the acquisition date during which the acquirer may adjust provisional amounts reported for identifiable assets acquired, liabilities assumed, and consideration transferred for the acquiree for which the initial accounting for the business combination is incomplete at the end of the reporting period in which the combination occurs. Topic 805 provides additional guidance on the measurement period, which shall not exceed one year from the acquisition date, and adjustments to provisional amounts during this period.

The ASU's amendments to Topic 805 should be applied prospectively to adjustments to provisional amounts that occur after the effective date of the ASU. For institutions that are public business entities, as defined under U.S. GAAP, ASU 2015-16 is currently in effect. For institutions that are not public business entities (i.e., that are private companies), the ASU is effective for fiscal years beginning after December 15, 2016, and interim periods within fiscal years beginning after December 15, 2017. Thus, institutions with a calendar year fiscal year that are private companies must apply the ASU to any adjustments to provisional amounts that occur after January 1, 2017, beginning with their Call Reports for December 31, 2017. Early application of ASU 2015-16 is permitted in Call Reports that have not been submitted.

For additional information, institutions should refer to ASU 2015-16, which is available at http://www.fasb.org/jsp/FASB/Document_C/DocumentPage?cid=1176166411212&acceptedDisclaimer=true.

Amending Previously Submitted Report Data

Should your institution find that it needs to revise previously submitted Call Report data, please make the appropriate changes to the data, ensure that the revised data passes the FFIEC-published validation criteria, and submit the revised data file to the CDR using one of the two methods described in the banking agencies' FIL for the September 30, 2018, report date. For technical assistance with the submission of amendments to the CDR, please contact the CDR Help Desk by telephone at (888) CDR-3111, by fax at (703) 774-3946, or by e-mail at CDR.Help@ffiec.gov.

Other Reporting Matters

For the following topics, institutions should continue to follow the guidance in the specified Call Report Supplemental Instructions:

- "Purchased" Loans Originated By Others – Supplemental Instructions for September 30, 2015 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201509.pdf)
- True-up Liability under an FDIC Loss-Sharing Agreement – Supplemental Instructions for June 30, 2015 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201506.pdf)
- Troubled Debt Restructurings, Current Market Interest Rates, and ASU No. 2011-02 – Supplemental Instructions for December 31, 2014 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201412.pdf)
- Determining the Fair Value of Derivatives – Supplemental Instructions for June 30, 2014 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201406.pdf)
- Indemnification Assets and ASU No. 2012-06 – Supplemental Instructions for June 30, 2014 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201406.pdf)
- Other-Than-Temporary Impairment of Debt Securities – Supplemental Instructions for June 30, 2014 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201406.pdf)

- Small Business Lending Fund – Supplemental Instructions for March 31, 2013 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201303.pdf)
- Reporting Purchased Subordinated Securities in Schedule RC-S – Supplemental Instructions for September 30, 2011 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201109.pdf)
- Treasury Department's Capital Purchase Program – Supplemental Instructions for September 30, 2011 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_FFIEC041_suppinst_201109.pdf)
- Deposit insurance assessments – Supplemental Instructions for September 30, 2009 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200909.pdf)
- Accounting for share-based payments under FASB Statement No. 123 (Revised 2004), *Share-Based Payment* – Supplemental Instructions for December 31, 2006 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200612.pdf)
- Commitments to originate and sell mortgage loans – Supplemental Instructions for March 31, 2006 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200603.pdf) and June 30, 2005 (https://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200506.pdf)

Call Report Software Vendors

For information on available Call Report preparation software products, institutions should contact:

Axiom Software Laboratories, Inc.
67 Wall Street, 17th Floor
New York, New York 10005
Telephone: (212) 248-4188
http://www.axiomsl.com

DBI Financial Systems, Inc.
P.O. Box 14027
Bradenton, Florida 34280
Telephone: (800) 774-3279
http://www.e-dbi.com

Fed Reporter, Inc.
28118 Agoura Road, Suite 202
Agoura Hills, California 91301
Telephone: (888) 972-3772
http://www.fedreporter.net

FIS Compliance Solutions
16855 West Bernardo Drive, Suite 270
San Diego, California 92127
Telephone: (800) 825-3772
http://www.callreporter.com

FiServ, Inc.
1345 Old Cheney Road
Lincoln, Nebraska 68512
Telephone: (402) 423-2682
http://www.premier.fiserv.com

KPMG LLP
303 Peachtree Street, Suite 2000
Atlanta, Georgia 30308
Telephone: (404) 221-2355
https://advisory.kpmg.us/risk-consulting/frm/capital-management.html

Lombard Risk
One Gateway Center, 26th Floor
Newark, New Jersey 07102
Telephone: (973) 648-0900
http://www.lombardrisk.com

SHAZAM Core Services
6700 Pioneer Parkway
Johnston, Iowa 50131
Telephone: (888) 262-3348
http://www.cardinal400.com

Wolters Kluwer Financial Services
130 Turner Street, Building 3, 4th Floor
Waltham, Massachusetts 02453
Telephone (800) 261-3111
http://www.wolterskluwer.com

APPENDIX

Section 214 of EGRRCPA, which includes the definition of “HVCRE ADC Loan,” is as follows:

SEC. 214. PROMOTING CONSTRUCTION AND DEVELOPMENT ON MAIN STREET.

The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end the following new section:

‘‘SEC. 51. CAPITAL REQUIREMENTS FOR CERTAIN ACQUISITION, DEVELOPMENT, OR CONSTRUCTION LOANS.

‘‘(a) IN GENERAL.—The appropriate Federal banking agencies may only require a depository institution to assign a heightened risk weight to a high volatility commercial real estate (HVCRE) exposure (as such term is defined under section 324.2 of title 12, Code of Federal Regulations, as of October 11, 2017, or if a successor regulation is in effect as of the date of the enactment of this section, such term or any successor term contained in such successor regulation) under any risk-based capital requirement if such exposure is an HVCRE ADC loan.

‘‘(b) HVCRE ADC LOAN DEFINED.—For purposes of this section and with respect to a depository institution, the term ‘HVCRE ADC loan’—

‘‘(1) means a credit facility secured by land or improved real property that, prior to being reclassified by the depository institution as a non-HVCRE ADC loan pursuant to subsection (d)—

‘‘(A) primarily finances, has financed, or refinances the acquisition, development, or construction of real property;

‘‘(B) has the purpose of providing financing to acquire, develop, or improve such real property into income-producing real property; and

‘‘(C) is dependent upon future income or sales proceeds from, or refinancing of, such real property for the repayment of such credit facility;

‘‘(2) does not include a credit facility financing—

‘‘(A) the acquisition, development, or construction of properties that are—

‘‘(i) one- to four-family residential properties;

‘‘(ii) real property that would qualify as an investment in community development; or

‘‘(iii) agricultural land;

‘‘(B) the acquisition or refinance of existing income-producing real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings;

‘‘(C) improvements to existing income-producing improved real property secured by a mortgage on such property, if the cash flow being generated by the real property is sufficient to support the debt service and expenses of the real property, in accordance with the institution’s applicable loan underwriting criteria for permanent financings; or

‘‘(D) commercial real property projects in which—

‘‘(i) the loan-to-value ratio is less than or equal to the applicable maximum supervisory loan-to-value ratio as determined by the appropriate Federal banking agency;

‘‘(ii) the borrower has contributed capital of at least 15 percent of the real property’s appraised, ‘as completed’ value to the project in the form of—

‘‘(I) cash;

‘‘(II) unencumbered readily marketable assets;

‘‘(III) paid development expenses out-of-pocket; or

‘‘(IV) contributed real property or improvements; and

‘‘(iii) the borrower contributed the minimum amount of capital described under clause (ii) before the depository institution advances funds (other than the advance of a nominal sum made in order to secure the depository institution’s lien against the real property) under the credit facility, and such minimum amount of capital contributed by the borrower is contractually required to remain in the project until the credit facility has been reclassified by the depository institution as a non-HVCRE ADC loan under subsection (d);

''(3) does not include any loan made prior to January 1, 2015; and

''(4) does not include a credit facility reclassified as a non-HVCRE ADC loan under subsection (d).

''(c) VALUE OF CONTRIBUTED REAL PROPERTY.—For purposes of this section, the value of any real property contributed by a borrower as a capital contribution shall be the appraised value of the property as determined under standards prescribed pursuant to section 1110 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3339), in connection with the extension of the credit facility or loan to such borrower.

''(d) RECLASSIFICATION AS A NON-HVRCE ADC LOAN.—For purposes of this section and with respect to a credit facility and a depository institution, upon—

''(1) the substantial completion of the development or construction of the real property being financed by the credit facility; and

''(2) cash flow being generated by the real property being sufficient to support the debt service and expenses of the real property, in accordance with the institution's applicable loan underwriting criteria for permanent financings, the credit facility may be reclassified by the depository institution as a Non-HVCRE ADC loan.

''(e) EXISTING AUTHORITIES.—Nothing in this section shall limit the supervisory, regulatory, or enforcement authority of an appropriate Federal banking agency to further the safe and sound operation of an institution under the supervision of the appropriate Federal banking agency.''.

* * * * * * * * * * *

Section 202 of EGRRCPA, which creates a limited exception for certain reciprocal deposits, is as follows:

SEC. 202. LIMITED EXCEPTION FOR RECIPROCAL DEPOSITS.

(a) IN GENERAL.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by adding at the end the following:

''(i) LIMITED EXCEPTION FOR RECIPROCAL DEPOSITS.—

''(1) IN GENERAL.—Reciprocal deposits of an agent institution shall not be considered to be funds obtained, directly or indirectly, by or through a deposit broker to the extent that the total amount of such reciprocal deposits does not exceed the lesser of—

''(A) $5,000,000,000; or

''(B) an amount equal to 20 percent of the total liabilities of the agent institution.

''(2) DEFINITIONS.—In this subsection:

''(A) AGENT INSTITUTION.—The term 'agent institution' means an insured depository institution that places a covered deposit through a deposit placement network at other insured depository institutions in amounts that are less than or equal to the standard maximum deposit insurance amount, specifying the interest rate to be paid for such amounts, if the insured depository institution—

''(i)(I) when most recently examined under section 10(d) was found to have a composite condition of outstanding or good; and

''(II) is well capitalized;

''(ii) has obtained a waiver pursuant to subsection (c); or

''(iii) does not receive an amount of reciprocal deposits that causes the total amount of reciprocal deposits held by the agent institution to be greater than the average of the total amount of reciprocal deposits held by the agent institution on the last day of each of the 4 calendar quarters preceding the calendar quarter in which the agent institution was found not to have a composite condition of outstanding or good or was determined to be not well capitalized.

''(B) COVERED DEPOSIT.—The term 'covered deposit' means a deposit that—

''(i) is submitted for placement through a deposit placement network by an agent institution; and ''(ii) does not consist of funds that were obtained for the agent institution, directly or indirectly, by or through a deposit broker before submission for placement through a deposit placement network.

''(C) DEPOSIT PLACEMENT NETWORK.—The term 'deposit placement network' means a network in which an insured depository institution participates, together with other insured depository institutions, for the processing and receipt of reciprocal deposits.

''(D) NETWORK MEMBER BANK.—The term 'network member bank' means an insured depository institution that is a member of a deposit placement network.

''(E) RECIPROCAL DEPOSITS.—The term 'reciprocal deposits' means deposits received by an agent institution through a deposit placement network with the same maturity (if any) and in the same aggregate amount as covered deposits placed by the agent institution in other network member banks.

''(F) WELL CAPITALIZED.—The term 'well capitalized' has the meaning given the term in section 38(b)(1).''.

(b) INTEREST RATE RESTRICTION.—Section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f) is amended by striking subsection (e) and inserting the following:

''(e) RESTRICTION ON INTEREST RATE PAID.—

''(1) DEFINITIONS.—In this subsection—

''(A) the terms 'agent institution', 'reciprocal deposits', and 'well capitalized' have the meanings given those terms in subsection (i); and

''(B) the term 'covered insured depository institution' means an insured depository institution that—

''(i) under subsection (c) or (d), accepts funds obtained, directly or indirectly, by or through a deposit broker; or

''(ii) while acting as an agent institution under subsection (i), accepts reciprocal deposits while not well capitalized.

''(2) PROHIBITION.—A covered insured depository institution may not pay a rate of interest on funds or reciprocal deposits described in paragraph (1) that, at the time that the funds or reciprocal deposits are accepted, significantly exceeds the limit set forth in paragraph (3).

''(3) LIMIT ON INTEREST RATES.—The limit on the rate of interest referred to in paragraph (2) shall be—

''(A) the rate paid on deposits of similar maturity in the normal market area of the covered insured depository institution for deposits accepted in the normal market area of the covered insured depository institution; or

''(B) the national rate paid on deposits of comparable maturity, as established by the Corporation, for deposits accepted outside the normal market area of the covered insured depository institution.''.