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AMERICAN BANKERS ASSOCIATION ®

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October 3, 2000

Manager, Dissemination Branch
Information Management and Securities Division
Office of Thrift Supervision
1700 G Street NW
Washington, D.C. 20552

RE: Proposed Agency Information Collection Activities: Revisions of the FFIEC Call Reports; OTS No. 1550-0023; 65 Fed. Reg. 48050 (August 4, 2000)

Dear Sir or Madam:

The American Bankers Association ("ABA") appreciates the opportunity to comment on the proposed revisions to the OTS Thrift Financial Report, a document substantially similar to the bank Call Report form. The American Bankers Association brings together all categories of banking institutions to best represent the interests of the rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest banking trade association in the country.

The OTS, as a member of the Federal Financial Institutions Examination Council "FFIEC"), is proposing to make many of the changes proposed by the other Council members earlier this year. ABA applauds efforts towards greater uniformity in reporting requirements between the agencies. However, the OTS proposal raises many of the same issues ABA identified in the earlier proposal by the other FFIEC agencies. For that reason, ABA respectfully requests that OTS consider the attached comments filed with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Board of Governors of the Federal Reserve System, and the Office of Management and Budget in its deliberations. The issues surrounding subprime lending and its importance to the communities that savings associations serve are too important to embed in a Thrift Financial Report ("TFR") modification.

Additionally, OTS proposes to make other changes to the TFR. Several, such as the change for reporting mortgage-backed securities, would increase the consistency of reporting between savings and commercial banks. ABA supports these changes. Other reporting between savings and commercial banks. ABA supports these changes. Other changes are more unique and are proposed with little explanation. These include the listing of outstanding home equity lines of credit and the holding company reporting requirements. In the case of the home equity lines, there is potential for confusion and over reporting. This is because home equity loans could also be classified as junior liens (another additional reporting item) and the requirement for reporting the entire line amount may substantially overstate the risk presented. Available credit does not necessarily equate with drawn credit. Many consumers have available lines and do not access them fully. The statistics drawn from this reporting item have the potential for unfairly increasing the risk profile of an institution without any regard for whether there is present a true increased risk of default. In addition, there is a substantial increase in the burden required in reporting all home equity lines of credit. ABA urges the OTS to reconsider imposition of this reporting item (Proposed Change 8).

OTS further proposes to make changes for holding company reporting. OTS correctly notes that there are increasingly complex corporate structures. OTS proposes to have its Regional Directors determine for each savings association in a holding company structure at what level of parent (assuming multiple levels) a holding company report must be filed in recognition of that complexity. However, there are no standards provided for use by the Regional Directors in making those determinations. This could lead to rather disparate results as applied on a national basis. In addition, the savings association is responsible for filing the holding company information. This could place the savings bank in an awkward position vis-à-vis, a higher (or even much higher) parent and subject the institution to penalties for failure to receive the required data on a timely basis from the selected parent. The penalties would be assessed against the savings association, not holding company.

The issue presented is that the OTS is looking to its regulated population to solve its issues with entities that it does not regulate fully. OTS does not impose a capital requirement on holding companies, yet OTS is interested in the assets and liabilities of the parent. The OTS does not know which holding companies file with the SEC, yet rather than address the issue with the SEC, it proposes that the savings association fill the void. This appears to place the savings bank in the middle with little benefit and greater risk. ABA urges the OTS to reconsider proposed change items 17 and 19 of the proposal and not finalize them at this point.

Proposed change number 23 would require additional reporting for certain Federal Home Loan Bank advances and other structured borrowings with embedded options. While it is incumbent on each member of the Federal Home Loan Bank System to understand the advance products it selects, ABA cautions the OTS to not be overly conservative and burdensome in its requirements. All advances, even those with embedded options, are secured by both pledged collateral and stock investments in their particular Federal Home Loan Bank. In addition, there are discounts or "haircuts" taken by the Federal Home Loan Bank on the value of the collateral pledged. This conservative approach to advances is the reason that there have been no losses on advances in the entire history of the Federal Home Loan Bank System. The purpose of the System, to provide liquidity, is key to the safe and sound operation of the regulated population of the OTS. It would be unfortunate if the increasing reporting requirements discourage savings associations from accessing this stable source of funding. ABA suggests that a better approach to concern over advances with embedded options is to review the policies and procedures of management of individual associations to assess the adequacy of their interest rate risk management. This would achieve the safety and soundness goal of the OTS more directly than increasing the reporting burden of savings institutions.

The ABA appreciates this opportunity to comment and stands willing to work with the agency to address the important issues raised by the TFR proposed changes. If there are any questions on the issues raised by this letter, please do not hesitate to contact Paul A. Smith, Sr. Federal Administrative Counsel at (202) 663-5331 or C. Dawn Causey, Director, Financial Institution Affairs and Counsel at (202) 663-5434.

Sincerely,

James D. McLaughlin

James D. McLaughlin, Director
Regulatory & Trust Affairs

Enclosure

Attached to 38

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2000 OCT -4 A 9:20

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July 31, 2000

Communications Division
Office of the Comptroller of the Currency
250 E Street, SW, Third Floor
Washington, DC 20219

Robert E. Feldman, Executive Secretary
Attention: Comments/OES
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

Mr. Alexander T. Hunt
Office of Information and Regulatory Affairs
Office of Management and Budget
New Executive Office Building, Room 3208
Washington, DC 20503

Re: Proposed Agency Information Collection Activities: Revisions of the FFIEC Call Reports: OCC OMB No. 1557–0081, FDIC OMB No. 3064–0052, FRB OMB No. 7100–0036

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively "the Agencies") have proposed significant revisions of the bank Call Report forms. All insured banks and savings associations file Call Reports and are affected by changes to them. The American Bankers Association ("ABA") brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and bank holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest bank trade association in the country.

The Agencies are eliminating a number of items but also proposing to add items, particularly on the reporting of subprime loans and of securitizations. These revisions are prompted by a mandate to the Agencies in Subsections 307(b) and (c) of the Riegle Community Development and Regulatory Improvement Act of 1994 (see 12 United States Code 4805[1]: Call Report Simplification). Because

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[1] Sec. 4805. Call report simplification

* * *

(b) Uniform reports and simplification of instructions
The Federal banking agencies shall, consistent with the principles of safety and soundness, work jointly--
(1) to adopt a single form for the filing of core information required to be submitted under Federal law to all such agencies in the reports and statements referred to in subsection (a) of this section; and

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the proposed changes are very extensive and because the new items will require extensive changes in some banks' reporting systems, ABA has already requested a comment period extension[2] and will be filing a comment letter later on the bulk of the proposed Call Report changes. However, ABA is submitting this comment on the proposed additional reporting items on subprime loans separately from other comments, because of the concerns that the Agencies have raised with bankers relating to this area of lending and the serious questions and concerns bankers have raised with the proposed reporting requirements.

General Comments

The Agencies state that subprime lending is a high-risk activity that poses increased risk to the institutions involved and to the deposit insurance funds if appropriate safeguards are not in place. The Agencies assert that insured institutions have increasingly entered the subprime lending market in recent years and that a disproportionate number of insured institutions that engage in subprime lending are problem institutions. "Accordingly, the agencies are proposing to add a number of new items to the Call Report on subprime lending. These proposed items would make possible the early detection and proper supervision of subprime lending programs through offsite monitoring procedures." [Emphasis added.]

Bankers are justifiably concerned that some banks may be engaging in significant levels of subprime lending without appropriate controls and management, because such practices could lead to significant losses to the Insurance funds, which were contributed by bankers in the first place. The Federal Deposit Insurance Corporation ("FDIC") has reported losses on subprime portfolios of failed banks as high as 80-100 percent compared to 10-20 percent on other loan assets of failed banks. In view of these risks, bankers believe that supervisory agencies should assure that appropriate levels of controls, reserves and practices are in place in all institutions engaging in subprime lending programs.

However, bankers also believe that a careful balance is needed, lest credit to those who need it most be unnecessarily reduced. Bankers have worked hard to increase access to credit. Many banks have lowered their underwriting standards in various ways to try to expand access to credit without experiencing a significant deterioration in the credit quality of their loan portfolios. An incorrect or unnecessarily narrow definition of "subprime loan" could increase the costs to lenders through capital and other requirements. Such increased costs would lead to tightened lending standards, which would not only constrict access to credit but also could disparately impact protected classes of borrowers and

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(2) to simplify instructions accompanying such reports and statements and to provide an index to the instructions that is adequate to meet the needs of both filers and users.

(c) Review of call report schedule
Each Federal banking agency shall--
(1) review the information required by schedules supplementing the core information referred to in subsection (b) of this section; and
(2) eliminate requirements that are not warranted for reasons of safety and soundness or other public purposes.

[2] See letter dated July 18, 2000, to the Agencies from Donna Fisher, Director, Tax and Accounting, Government Relations, American Bankers Association.

reduce CRA lending. Community bankers in particular have stated that their in-market loans made to individuals who may have less-than-perfect credit are essential to the well-being of their communities and should not be discouraged without good reason.

Finally, ABA and bankers believe that major new reporting burdens should not be imposed upon banks without careful assessment by the regulators of the potential benefits of the reporting. ABA believes that the Agencies' proposed definition of "subprime loan" would impose such unnecessary burdens on most banks, if not properly modified before being made part of the Call Report Instructions.

ABA believes that the agencies should not have embedded these complex questions about defining subprime loans in the middle of an extensive annual revision of the Call Reports under an OMB Paperwork Reduction Act review. Rather, the Agencies should have issued an Advance Notice of Proposed Rulemaking towards defining a policy about subprime lending, including an appropriate definition of "subprime loan." By using the Call Report approach, the agencies have not effectively given notice of these issues to bankers and thus will not get an adequate response from commenters. Additionally, from an OMB Paperwork Reduction Act viewpoint, it is impossible for bankers to adequately assess and comment on the value or burden of the proposed new Call Report items on subprime lending without knowing what the definitions and standards will be for the reporting in the first place. While we understand that the Agencies try not to make multiple changes to the Call Report during a year, the current proposal with its two pages of fine-print questions buried in the midst of a 19 page Federal Register notice on the proposed items is simply not sufficient solicitation of comment to be the basis of extended new reporting, much less the basis for a requirement of additional capital for subprime loans that may be following. The complexity of the issue may require the separation of the subprime loan reporting from the other changes proposed and the adoption of any subprime loan reporting items at a later time.

As evidence of the problems with the approach taken by the Agencies, ABA notes that the Agencies, in estimating the paperwork burden, state that the FDIC estimates there are only about 150 banks with significant subprime portfolios. Later in the proposal, the Agencies state that "[a]lthough this proposal would create several new Call Report items, the burden of reporting this information will fall only upon those institutions engaged in subprime lending as it will be defined. Even if the number of banks involved in this activity turns out to be, say, four times the current estimate, these proposed new reporting requirements would affect only 6 percent of the banks that file Call Reports." ABA finds it difficult to believe that the FDIC's estimate of 150 banks was based on the proposed definition of "subprime loans." Many community bankers have told the ABA that they could not be helping to meet the credit needs of their communities if they were not making some subprime loans, as that might be defined under the Agencies' proposal. Such an expansive definition would result in many, many more than 600 banks reporting on subprime loans. ABA believes that result is not necessary nor what the Agencies really want to address. Thus, our answers to the Agencies' questions about subprime loans are designed to exempt much of community bank lending from reporting as "subprime loans" in the belief that in-market, face-to-face lending by community banks is not the subprime lending that may have aggravated the losses to the insurance funds in the Best Bank, Keystone, and Pacific failures.

In fact, we had thought that the Agencies had already agreed that such was the case, and so were surprised by the breadth and inclusiveness of the Agencies' definition of subprime loans. Since late last year, it has been publicly known that the Agencies were considering defining subprime loans and requiring banks to hold additional capital against them. ABA had made bankers' concerns known to the Agencies, particularly the FDIC, earlier this year. FDIC Chairman Tanoue wrote to ABA's Executive Vice President, Don Ogilvie, on February 28, 2000, on this very issue to reassure our bankers that they "need not be concerned that the normal lending activities of the vast majority of community banks would be considered as subprime lending under [FDIC's] subprime capital discussion paper." Later in the letter, the Chairman states, "In addition, the draft paper exempts individual loans to local customers that might have imperfect credit histories, even when significant numbers of such loans are involved….Our paper also clearly excludes community development lending from the definition of subprime." She concludes her letter by saying that "public and industry comment will be critical in our deliberations." Thus ABA grows concerned when public comment was finally solicited on defining subprime loans and the proposal does not clearly provide the exemptions mentioned in the Chairman's letter. And, as noted above, ABA is also deeply concerned that public and industry comment was not deemed to be critical to the Agencies or else they would have more effectively sought such comments than to include such a request as just a small part of a major revision of the Call Reports.

Specific Comments

<u>The Additional Reporting Items:</u> Banks involved in subprime lending, as defined by the Agencies in the Call Report instructions, would report quarter-end data for the following eight categories of subprime loans in their loan portfolios:

(1) Revolving, open-end loans secured by 1–4 family residential properties extended under lines of credit,
(2) closed-end loans secured by first liens on 1–4 family residential properties,
(3) closed-end loans secured by junior liens on 1–4 family residential properties,
(4) loans secured by other properties,
(5) credit cards to individuals for household, family, and other personal expenditures,
(6) consumer loans secured by automobiles,
(7) other consumer loans, and
(8) other subprime loans.

This information would be reported in new Memorandum items in the loan schedule (Schedule RC–C, part I). Thus, for example, the proposed Memorandum item for subprime closed-end loans secured by first liens on 1–4 family residential properties should contain all subprime loans that are included in Schedule RC–C, part I, item 1.c.(2)(a). Banks involved in subprime lending would also report their past due and nonaccrual subprime loans and the year-to-date charge-offs and recoveries on these loans in new Memorandum items in Schedules RC–N and RI–B, part I. In these two areas, two broader loan categories would be used: loans secured by real estate and loans not secured by real estate.

The Definition of "Subprime Loan." The Agencies propose the following definition of "subprime loan": ***"[s]ubprime loans are extensions of credit to borrowers who, at the time of the loan's origination, exhibit characteristics indicating a significantly higher risk of default than traditional bank lending customers. ... Risk of default may be measured by traditional credit risk measures, e.g., credit/repayment history and debt-to-income levels, or by alternative measures such as credit scores. Subprime borrowers represent a broad spectrum of debtors ranging from those who have exhibited repayment problems prior to origination of their loans due to an adverse event, such as job loss or medical emergency, to those who persistently mismanage their finances and debt obligations. Subprime lending does not include loans to borrowers who have had minor, temporary credit difficulties since the origination of their loans but are now current. Subprime loans may take the form of direct extensions of credit; loans purchased from other lenders, including delinquent or credit impaired loans purchased at a discount; and automobile or other financing paper purchased from other lenders or dealers."***[3]

ABA is concerned that the Agencies' proposed definition is very broad, containing none of the exemptions suggested in the Chairman's letter. ABA is also concerned by an ambiguity in the definition with respect to "a significantly higher risk of default than traditional bank lending customers." It is unclear whether this is an individual bank standard, that is "each bank's" traditional bank lending customer, or this is a hypothetical "nationwide" traditional bank lending customer. From the subsequent questions, we believe that the Agencies are positing that there is a nationwide standard of creditworthiness of a traditional bank lending customer. Bankers tell us that their traditional lending customer is predicated on factors and conditions of the local market in which each bank operates, and they foresee endless arguments with examiners over what is the "traditional bank lending customer." Further, examiners tell bankers during fair lending examinations that if the bank uses a credit scoring model not derived from their local market, then the bankers must validate the credit score model based on lending in their market, which seems to contradict the position taken by the Agencies here.

If the Agencies do mean each bank's traditional lending customer, then ABA believes there is another concern with the proposed reporting: the comparability of the Call Report information. As the meaning of "traditional lending customer" will vary among banks, then the reported subprime loans will not be directly comparable, which raises serious questions about how useful the information will be, other than to identify banks with significant portfolios of subprime loans for further examination. Certainly, such a subjective standard would be a poor basis for the Agencies to require additional capital. Nonetheless, despite this problem, ABA believes that the definition must be clarified to say that the standard of creditworthiness in evaluating whether a bank's loans are subprime is that bank's traditional lending customer, because there is no national standard for a traditional lending customer.

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[3] This is the definition used by the Agencies in their Interagency Guidance on Subprime Lending, issued March 1, 1999.

With respect to the proposed definition, the Agencies ask the following questions:

(1) Should all individual subprime loans be reported in the proposed new Call Report items or should only those subprime loans that are held in a segregated portfolio or program be reported? Do you foresee any difficulties in reporting individual subprime loans or segregated groups of subprime loans?

While the total number of additional reporting items is not extremely large, the real burden comes in applying the regulatory definition of subprime loan. If the Agencies make the final definition one that has to be applied to each and every loan in the bank, the overall burden will be quite large, even if the total number of loans finally reported is relatively small. This is because the work of assessing each individual loan will have to be done, even if there are few subprime loans found. ABA does not believe that all individual subprime loans should be reported but only those subprime loans that are held in a segregated portfolio or program. First, requiring all banks to review all of their current loans to determine if they are "subprime" according to some "nationwide" standard of "traditional banking customers" is simply too burdensome. Community bankers making face-to-face loans in their immediate low- and moderate-income markets tell ABA that this could result in 40-50%, up to as much as 80%, of their bank's portfolios might be "subprime" under such a definition.

Second, it is not community-based lending that appears to be the target of the regulators concerns but rather out-of-market regional and nationwide lending programs, relying on mail and telemarketing and website solicitation instead of person-to-person banking. That being the case, a counting of all individual subprime loans makes no sense. Instead the agencies should focus on defining the targeted, programmatic out-of-market subprime lending activities of some banks. According to the Interagency Guidance on Subprime Lending, the Agencies did appear to be focusing on such programmatic lending. However, this proposal to require subprime loan reporting seems to have retreated from that approach towards a loan-by-loan approach, including community-based loans. ABA thinks that this is a mistake. As one banker put it, "Dealing with local customers in your own community gives a substantially different view of a potential subprime customer....From our viewpoint, however, the personal interview and local knowledge allows these loans to be made and made safely."

In answer to the second question, bankers indicated varying degrees of difficulty in reporting loans, depending on what characteristics are finally determinative of a subprime loan. However, bankers seemed in agreement that a loan-by-loan reporting would be significantly more onerous than a segregated loan portfolio reporting.

(2) Based on the proposed definition of subprime loans above, approximately what percentage of your bank's loan portfolio would currently be categorized as subprime? Using your bank's own internal definition of a subprime loan, what percentage of your loan portfolio does your bank currently classify as subprime? Please indicate whether these percentages are based on an

individual subprime loan approach or a segregated portfolio or program approach. To the extent possible, provide percentages for your bank's loan portfolio under both approaches.

This question is clearly directed at individual banks. After consulting a number of community bankers, ABA found that some community bankers have estimated that as much as 40% of their loans originated in LMI census tracts is to customers that could not qualify for the bank's prime rate. However, even in non-LMI tracts, community bankers report significant levels of subprime loans, depending upon their communities. One banker estimated that his subprime loans to customers in non-LMI tracts was as high as 25 percent. Nonetheless, the percentage of their portfolio that would fall into a "segregated subprime program or portfolio" would be zero percent, since these banks do not segregate these loans nor specially solicit them outside of their markets.

(3) What criteria does your bank use to determine which loans are subprime? Are the criteria the same for all types of loans, e.g., mortgage, automobile, and credit cards? If not, how do they differ?

Bankers used a variety of different indicia to identify higher credit risk. The criteria did not appear to be the same for all loans, particularly depending upon whether the loan was secured and the nature of the collateral. Some key indicators were high debt-to-income ratios, high loan-to–value ratios (greater than 100%), and low credit bureau scores (several bankers identified scores from below 650 to below 620).

(4) In defining subprime loans, which factor(s) listed below are the best indicators of a higher risk of default?
(a) Higher loan fees.
(b) Higher interest rates. For example, should all loans made at a contract rate 200 basis points above the rate that is offered to a traditional bank customer for the same type of loan be included as subprime loans?
(c) Debt-to-income ratios. For example, should a loan to a borrower with a specific debt-to-income ratio above a stipulated level automatically be a subprime loan?
(d) Delinquency history. For example, should a loan be categorized as subprime if the customer's credit history at the time of the loan's origination indicates that he or she had two or more payments that were 30 days past due in the last 12 months or had loans charged off in the last 12 months? When would your bank consider that a customer's delinquency history makes that customer a subprime borrower?
(e) Loan-to-value ratio. Is there a loan-to- value ratio above which a loan secured by real estate would be considered subprime?
(f) Credit scores or other ratings. If your bank uses credit scoring to determine whether a loan should be categorized as subprime, are the scores custom or generic bureau scores? If generic bureau scores were used, below what score cutoff would a loan be considered subprime? (2) Does the score cutoff differ by loan type?

(g) Bankruptcy status. For example, how far back in the customer's credit history would your bank go to determine whether a bankruptcy should affect your categorization of a loan?
(h) Lack of credit history.
(i) Other factors. Please identify any other factor that should be considered an indicator of a higher risk of default and explain why it should be considered.

See Answer No. 3, immediately above. Other factors mentioned by bankers were recent delinquencies over 30 days and charge-offs or bankruptcies. However, ABA requests that the Agencies note that a number of factors under consideration to help define subprime would require a loan-by-loan analysis, making accurate reporting far too burdensome. For example, if the agencies were to use a "debt-to-income ratio" as a determinative factor, most banks would not readily have this information available without doing a loan file search. The same would be true for the customer's credit history at time of origination. Higher fees and higher interest rates are much more likely to be easily available for reporting purposes. If the bank uses a credit score, that also might be more readily available. The agencies should focus on those factors that are easily checked and aggregated for reporting purposes by bankers, particularly if the purpose of the report items is just to identify banks with significant subprime portfolios for increased supervision.

(5) Should the definition of subprime be identical for all types of loans, or should it differ by type of loan, e.g., mortgage, automobile, and credit cards?

ABA does not believe that the agencies' definition of subprime should be the same for all products: mortgages, auto loans, credit cards, etc. However, the more definitions of subprime, the more burden for the banks in reviewing portfolios and reporting correctly and the less consistency among banks. Additionally, ABA is unclear what the Agencies mean by the question, since the agencies' definition is in fact the same for all, based on comparing loans to the bank's traditional customers. The question suggests that in fact the agencies intend to further define and specify the criteria for judging whether a loan is subprime rather than just use the initially proposed definition. If so, this provides even further reason for this definitional and standard setting rulemaking to be taken out of the Call Report proposal and be done in a separate rulemaking.

(6) Can your bank determine from its records whether borrowers with subprime characteristics have credit support (e.g., public or private guarantees, co-signers, and insurance) on specific loans? If yes, do you categorize loans with such credit support as subprime loans?

Bankers generally expressed their views that adequate credit support would remove a loan from the bank's own subprime category, since the risk of loss is reduced through the additional credit support.

(7) The proposed subprime loan definition relies on differences between traditional and "higher risk" borrowers. How should the agencies take into account shifts in that difference (e.g., what happens if "traditional" lending standards drop)?

Assuming the question envisions individual bank traditional lending standards rather than a "nationwide" traditional lending standard, ABA believes that if the agencies were to use an "all individual loans" approach to reporting, then the agencies must recognize that many banks' traditional customers have changed considerably in the last two decades. However, if the agencies use a programmatic approach to defining subprime loans, such recognition does not appear to be necessary just to identify banks with significant portfolios of subprime loans. But if the Agencies intend to use the definition of subprime loans as a basis for additional capital, whether on a loan-by-loan basis or by a special portfolio basis, then the Agencies would need to continually validate and redefine their definitions of "traditional lending standards", since most bankers believed that these standards do change over time.

(8) Should the subprime loan definition distinguish between institutions that target higher risk borrowers as opposed to those institutions that serve a community in an economically disadvantaged area where the repayment ability of area borrowers can be or has been adversely affected?

The agencies should recognize that there are significant differences between banks with programs that target high-risk borrowers (no matter where located) and those that serve economically disadvantaged communities in which they are located.

(9) Should there be a de minimus (sic) ***level of subprime loans below which reporting is not required?***

ABA believes that there should be a *de minimis* exemption from subprime loan reporting, particularly if there is a loan-by-loan approach. However, use of a programmatic definition appears to make a *de minimis* exception largely unnecessary, since such subprime lending programs aim at significant volume and economies of scale.

(10) Should smaller institutions be treated differently from larger institutions for reporting purposes?

If the Agencies adopt a programmatic definition of subprime loans and a de minimis exemption, then any institution, large or small, reporting subprime loans would have a significant portfolio of subprime loans. That being the case, there appears to be no reason to then differentiate between smaller and larger institutions.

(11) What types of loans or lending programs, if any, should be excluded from the definition of subprime loans or, if included in the definition, reported separately from other subprime loans? Please explain the reasons for the exclusion or separate reporting.

If the Agencies use a programmatic definition of subprime loans, reflective of the risk of the loans, there appears to be no reason to otherwise differentiate these loans.

(12) Should the proposed Call Report items on subprime loans be treated as confidential for a limited period of time in order to give banks time to resolve issues surrounding which loans should and should not be reported as subprime?

ABA recommends that any Call Report information on subprime loans should be treated as confidential for at least the first two quarters of reporting, but there are good reasons to provide a year of confidential treatment. A year would allow time for the Agencies to achieve consistency in reporting and to eliminate any glitches in reporting that might arise.

Conclusion

The American Bankers Association appreciates the opportunity afforded it to comment on the proposed additional Call Report items on subprime loans. If there are any questions about this letter, please call the undersigned.

Sincerely,

Paul A. Smith