

April 23, 2012

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

**AMAG Comments on 2012 Agency Information Collection Activities
Operational Risk Data Reporting FR Y-14A/Q/M – OMB Nos. 7100-0341 and 7100-0319**

Dear Ms. Johnson:

This letter and attachments comprise the Advanced Measurement Approaches Group's (AMAG)¹ response to proposed changes to the Operational Risk aspects of Agency Information Collection Activities under FR Y-14A.

Generally speaking, AMAG member firms understand and appreciate the regulatory community's interest and needs for collecting actual loss data more frequently than on an annual basis alone. The Federal Reserve has stated its goals for the change as (1) assessing BHC's operational loss exposures in relation to the risks faced by them, (2) ensuring safety and soundness, (3) developing and calibrating supervisory stress test models, (4) evaluating the projections that BHCs' submit as part of the FR Y-14A, and (5) supporting continuous monitoring and analysis of BHCs' operational loss activity and trends.

Despite its support in concept, AMAG has concerns about some of the details of implementing this new proposal relative to FR Y-14A/Q submission requirements. As such, and in the spirit of advancing the dialogue between the industry and regulatory community, AMAG offers a number of both general and specific observations and, where possible, suggestions for improving them. AMAG member institutions believe that many of these issues can be considered and addressed for improvement, without diminishing the stated objectives of the Federal Reserve System.

¹ The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The members of AMAG are listed in Attachment B to this letter. They are listed for identification purposes only. This letter and attachments do not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

Conceptually, some AMAG members have questioned the rationale for U.S. agencies to develop a new detailed industry data consortium. Recognizing the need for such data, however, they suggest the collection of summary level data, as is the practice in other jurisdictions, rather than reporting detailed events.

Specific AMAG comments follow:

- 1) Issue -- AMAG has significant concerns about the inclusion of Legal Reserve information² in quarterly loss data submissions and suggests that the Federal Reserve explore alternative approaches.

Member institutions believe that including legal reserve information in the submissions would be highly problematical. By definition they consist of loss events that have been reserved for, but have not been settled or fully adjudicated. In particular, AMAG firms' legal departments' concerns center around discoverability of the information once released in regulatory reports. Discovery of such information would quite possibly compromise an institution's legal position.

Most members have not submitted reserve details with their annual reporting to date, beyond aggregate reserve reporting. Such detailed reserve information is highly sensitive and most believe that it should not leave their bank. Some institutions would rather invite regulators to review such information when on site.

One AMAG member institution provided their legal department's response for regulators' consideration, explaining why it would be inappropriate to require legal reserves as part of the Comprehensive Capital Analysis and Review (CCAR) quarterly submission. In view of agreement on this point by AMAG members, the statement has been incorporated in this response (see Attachment A).

- 2) Issue – The approach toward providing NEWLY captured and / or amended loss data³ in isolation during the quarter is unnecessarily complicated and should be simplified.

The proposal requires reporting of newly captured data DURING the current reporting quarter AND also provides rules for loss events that were reported in prior reporting quarter but were amended during the current reporting quarter. In addition to the burden of isolating these events each quarter, there is no allowance for events that are deleted from the dataset. The proposal would need to include a process for submitting "deleted" events.

Most industry practitioners believe that it would be far less burdensome to provide their complete dataset each quarter. Most institutions' internal loss databases are highly "fluid" and change daily. AMAG requests, instead, that the proposal be amended to allow for a quarterly release of their entire internal loss data base each reporting period (i.e., quarterly,

² Section 1 of the Reporting Instructions requires that institutions report "all operational loss events ... captured in the institution's loss database..." In view of Interagency Guidance on AMA and other regulatory communications AMAG member institutions interpret this to mean that the proposal anticipates the inclusion of legal reserves.

³ See Section 1(a) of the Reporting Instructions.

per the proposal). In addition, assuming that institutions will be providing the detailed data, it would be most logical for this dataset to replace (i.e., since it provides the detail behind) the summary data that is currently submitted via Schedule S.

- 3) Issue -- The requirement to submit descriptions for losses over \$100K⁴ would be problematical for certain legal matters inasmuch as the descriptions of these events are generally confidential and restricted.

In view of this concern, AMAG requests flexibility in reporting such information in Section 5-R, Column O of the Reporting Instructions. As an example, AMAG believes that client information should be excluded from the description. Beyond concerns about confidentiality and discoverability, the required internal approval processes of gathering and vetting such information for release (i.e., senior management, business line leadership, legal departments and others to seek approval of language) would require a significant burden (i.e., increased hours) to complete.

- 4) Issue -- The reference to loss events that have multiple impacts across lines of business (LOBs)⁵ should be clarified.

The requirement states that the event should be reported based on the LOB that incurred largest loss amount. AMAG members believe that a more effective approach would be to capture events reported based on "responsible business". This does not necessarily equate to the LOB that incurred the largest impact, however there seems to be a range of practice in this regard. The best solution may be to allow flexibility in reporting here as well. That is, this reporting requirement could allow banks to submit the data according to their internal rules.

- 5) Issue -- The template field that requests institutions to identify whether a loss event was included in capital modeling dataset⁶ has implications for decisions about including certain events in the submission.

For one, some have suggested that the required submission be limited to the dataset that is used for capital only (rather than all losses above the collection threshold). Second, given that one of regulators' primary intended uses of the datasets is to create models for stress testing, then the data provided should only be those that are actually used in the capital model. That is, boundary events (e.g., credit-related losses) and timing differences may be excluded from the data set consistent with capital model data practices. Otherwise the agency results may vary significantly from an institution's results inasmuch as such losses would likely be double counted.

⁴ Section 5R of the Reporting Instructions.

⁵ Section 2 of the Reporting Instructions.

⁶ Section 5-O of the Reporting Instructions.

- 6) Issue – The proposed timing of the submission is also problematical inasmuch as it does not allow sufficient time to review it following the end of each quarter.

The proposal currently calls for submission within forty (40) days of quarter end⁷. AMAG members maintain that this timeframe is not reasonable or practical. In this scenario an institution would not yet have completed its capital modeling process for the preceding quarter. The data itself could be ready for release, but the institution's quantitative teams would not have had adequate time to update, review and evaluate their model results.

AMAG members believe that if the submission requirement stands at 40 days after quarter-end, then institutions should be permitted to limit their submissions to data on a one quarter lagged basis (i.e., for May 10th 2012 submission, the data would be as of 12/31/2011) in order to allow sufficient time for such analyses to be completed. This timeframe would be consistent with other data gathered by the agencies. An alternative approach would be to extend the submission window to a minimum of 120 days after quarter-end. This, too, would be more practicable than the proposed 40-day window in order for such analyses and reviews to be completed.

- 7) Issue – The requirement to provide the loss 'Accounting Date' as a required field⁸ in the submission template also presents challenges and likely confusion.

Because an Accounting Date is typically collected at many firms for each impact, it would not be unusual for an event to have multiple "accounting dates".

Some AMAG firms suggest that a rule might be constructed to standardize the determination of the "accounting date" for an event, or perhaps another date field should be used, such as the date of original loss.

Thank you, on behalf of AMAG, for the opportunity to comment on the Proposed Agency Information Collection Activities. The AMAG would be pleased to engage in a dialogue about our response. Please contact us should questions arise.

Sincerely,



Robin L. Phillips
Chairman,
Advanced Measurement Approaches Group

⁷ See Supporting Statement for Expanded Information, p. 17.

⁸ Section 5-E of the Reporting Instructions.

Legal Response on Requirement to Provide Reserves

AMAG submits that requiring banks to disclose their legal reserves for pending and probable litigation claims in connection with CCAR would be unwise, unsound and highly prejudicial, and should not be pursued. Legal reserves for litigation claims are established by banks in receiving legal advice from their legal counsel and often, if not always, entail the exercise of significant professional judgment by experienced legal counsel in weighing the relative strengths of claims and defenses in light of existing law and factual developments. Hence, legal reserves are both privileged and highly confidential. Any public disclosure of legal reserves would subject banks to significant prejudice, as it would both inform their adversaries of how the bank weighs the strengths/weaknesses of the subject claims and establish a floor for plaintiffs' settlement demands on those claims. Potential prejudice to the banks also looms in the risk that adversaries could seek to introduce the reserves as evidence in the litigation, as admissions of liability or the amount of damages. Furthermore, were the banks required to provide these data to the Federal Reserve as part of the CCAR exercise, there can be no assurance that it would remain confidential. CCAR requires massive efforts by the Federal Reserve, with a large number of staff devoted to analyzing all of the data provided by banks. Wide dissemination of reserve data, even within the Federal Reserve, necessarily reduces the ability to maintain strict confidentiality, and the prospect of inadvertent or erroneous disclosure is substantial. Along the same lines, it would be difficult, at best, for the Federal Reserve to resist any request by Congress to obtain these data, which would then be susceptible to broad public dissemination. The severe prejudice to banks that disclosure would entail, coupled with the substantial risk of that very result, militates strongly against requiring that banks disclose reserves data as part of their CCAR submissions.

About the AMA Group

The Advanced Measurement Approaches Group (AMAG) was formed in 2005 by the Risk Management Association (RMA) at the suggestion of the U.S. AMA-BQT (formerly the Inter-Agency Working Group on Operational Risk). The RMA is a member-driven professional association whose purpose is to advance the use of sound risk management principles in the financial services industry.

The purpose of the AMAG is to share industry views on aspects of Advanced Measurement Approaches (AMA) implementation with the U.S. financial services federal regulatory agencies. The Group consists of operational risk management professionals working at financial service organizations throughout the United States. The AMAG is open to any financial institution regulated in the United States that is either mandated, opting in, or considering opting in to AMA. A senior officer responsible for operational risk management serves as the primary representative of each member institution on the AMAG. Of the twenty or so US financial service institutions that are currently viewed as mandatory or opt-in AMA institutions; nineteen were members of the AMAG at the time of this writing.

The members of AMAG are listed below. They are provided for identification purposes only. This paper does not necessarily represent the views of RMA's institutional membership at large, or the views of the individual institutions whose staff have participated in the AMAG.

Bank of America / Merrill Lynch
BMO Financial
BNY Mellon
Capital One Bank
Citizens Bank
Deutsche Bank
Goldman Sachs
HSBC
JP Morgan Chase
Keycorp
Morgan Stanley
Northern Trust
PNC
State Street
SunTrust
TD Bank Financial Group
Union Bank
Wells Fargo / Wachovia Bank

Support for the AMAG is provided by RMA and Operational Risk Advisors LLC.