



*One Mission. Community Banks.®*

October 14, 2016

Legislative and Regulatory Activity Division  
Office of the Comptroller of the Currency  
Attention: "1557-0081, FFIEC 031, 041 and 051  
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Suite 3E-218, Mail Stop 9W-11  
Washington, D.C. 20219

Manuel E. Cabeza, Counsel  
Attn: Comments, Room MB-3105  
Federal Deposit Insurance Corporation  
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Robert deV. Frierson, Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue NW  
Washington, D.C. 20551

Submitted via – [prainfo@occ.treas.gov](mailto:prainfo@occ.treas.gov), [comments@fdic.gov](mailto:comments@fdic.gov), and  
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**Re: Proposed Agency Information Collection Activities; Comment Request, FFIEC 031, FFIEC 041, and FFIEC 051**

Dear Sirs:

The Community Bankers Association of Illinois ("CBAI"), which proudly represents nearly 340 Illinois community banks, appreciates the opportunity to provide our observations and recommendations regarding a comment request ("Proposal" or "Rule") by the Office of Comptroller of the Currency, Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively "Agencies") for a new Consolidated Reports of Condition and Income

CBAI is dedicated to exclusively representing the interests of Illinois community banks and thrifts through effective advocacy, outstanding education, and high quality products. CBAI's 340 members hold more than \$70 billion in assets, operate 860 locations statewide, and lend to consumers, small businesses, and agriculture. For more information, please visit [www.cbai.com](http://www.cbai.com)

("Call Report") for Eligible Small Institutions (FFIEC 051), which is a streamlined version of the existing Call Report (FFIEC 041).

CBAI understands that the Agencies use Call Report data in monitoring the condition, performance, and risk profile of individual institutions and the industry as a whole. In addition Call Report data serves a public policy purpose by assisting the Agencies in fulfilling their mission of ensuring the safety and soundness of financial institutions and the financial system, protection of consumer financial rights, and any agency-specific missions affecting national and state chartered institutions. Other uses by the Agencies of Call Report data include: the use of statistical data for identifying areas of focus for on-site and off-site examinations; evaluating an institution's application(s); and also to calculate institutions' deposit insurance and Financial Corporation assessments for national banks' and federal savings associations' semiannual assessment fees.

CBAI understands this formal Call Report initiative was launched in December of 2014, in response to industry concerns, to identify opportunities to reduce the burden associated with Call Report requirements for community banks. We are confident that the Independent Community Bankers of America's ("ICBA") August of 2014 petition, which was signed by 15,000 community bankers (over 1,000 from the state of Illinois), as well as many comment letters and testimony during the Economic Growth and Regulatory Paperwork Reduction Act ("EGRPRA") decennial review, have highlighted the need to address increased regulatory burden posed by the relentless expansion of Call Report requirements and informed the Agencies about reasonable relief measures.

CBAI took note of the Agencies statements during the EGRPRA hearings that if the Agencies go through this decennial review process and do not make substantive changes to the regulatory burden then the Agencies will have failed. Given the amount of time spent on Call Report regulatory relief in testimony during the EGRPRA hearings, this Proposal is a litmus test to determine whether the Agencies are indeed taking community banker concerns seriously and whether the EGRPRA process will be a success or a failure.

CBAI appreciates the Agencies statement in the Proposal that they recognized that financial institutions operate under widely varying business models which affects the nature and extent of their activities and translates into differences in the amount of information that needs to be reported in their Call Reports. This understanding is critical to furthering the goal of tiered regulation of community banks and avoiding a one-size-fits-all approach to rulemaking.

CBAI recognizes that a new proposed Call Report (FFIEC 051) is being created for Eligible Small Institutions, which is a streamlined version of the existing Call Report (FFIEC 041), and would generally be applicable to institutions with domestic offices only and with assets of less than \$1 billion. The Agencies estimate that this new streamlined version of the Call Report will be available for use by 90% of the current Call Report filers and has proposed an effective date of March 31, 2017.

### **Regulatory Burden Estimates**

CBAI feels compelled to again address and dispel the inexplicable regulator notion that not all regulatory proposals create a regulatory burden. Our position on this matter is clear and consistent – every proposed new or changed rule, even if it includes an exemption or carveout, represents a regulatory burden in that it must be thoroughly analyzed by community banks to assess its potential impact. Therein is a significant baseline regulatory burden which unfortunately is either being consistently discounted or completely ignored by regulators in their proposed rulemaking.

In addition, each of the Agencies must understand that their individual proposals are among many that community banks must contend with and result in an immense combined regulatory burden on community banks. The source of this burden extends beyond the banking regulators to include FinCEN, the Securities and Exchange Commission, Consumer Financial Protection Bureau (“CFPB”), Department of Labor, Department of Justice, and others. Also, the Agencies must acknowledge that their rulemaking is particularly burdensome on community banks that do not have the in-house resources needed to assess the impact of the numerous and increasing number of regulatory proposals.

As a result and by necessity, community bankers are consistently diverting valuable time away from serving the needs of their customers and communities to analyze proposed rules which may be hundreds or in some cases over a thousand pages in length. For example the CFPB recently released a 1,330+ page small-dollar lending rule which, while ostensibly directed at payday lenders, will still impact a community bank’s consumer lending. **CBAI recommends the Agencies revise the methodology for estimating burden hours to fully incorporate the impact of their individual rulemaking, and quantify the combined impact rulemaking regardless of exemptions or carveouts, in determining the true regulatory burden on community banks.**

The Agencies acknowledged the many comments they received during their outreach meetings in this rulemaking concerning the substantive burden arising from reviewing Call Report instructions even for those data items applicable to an institution for which there is no information to report. However, this Proposal fails to reflect the burden associated with an institution's instruction review time when there are no reportable amounts. **CBAI recommends the Agencies revise the methodology for estimating burden hours for preparing community bank Call Reports to include the time for complete instruction review regardless of reportable amounts.**

CBAI appreciates the acceleration of the start of the next statutorily mandated review of the existing Call Report data items (Full Review), which otherwise would have commenced in 2017, and incorporating three of the nine surveys results associated with the review into this Proposal. **CBAI encourages the review be conducted quickly and efficiently and additional meaningful changes be proposed which result in significant decreases in the Call Report regulatory burden that is currently being suffered by community banks.**

### **Eligible Small Institutions**

The Agencies define Eligible Small Institutions in the Proposal as institutions with total assets of less than \$1 billion and domestic offices only. We appreciate the Agencies commitment to exploring alternatives to the \$1 billion asset-size threshold that could extend the eligibility to file the FFIEC 051 to additional institutions. CBAI has a number of members which are true community banks that have assets in excess of \$1 billion and which are not engaged in businesses practices that should require significantly different or additional amounts of information to be reported on Call Reports.

CBAI appreciates that this Proposal will provide Call Report regulatory relief to 90% of filers but believes the Agencies should expand the asset exemption threshold to include all community banks. There are a number of asset thresholds in excess of \$1 billion that have been used by various agencies and which could be used as a precedent. For example the CFPB uses a \$10 billion threshold below which prudential regulators are responsible for examination and enforcement for consumer compliance; the Collins' Amendment in the Dodd-Frank Act used a threshold of \$15 billion below which TruPS would continue to be used for capital purposes; and the FSOC uses a \$50 billion threshold above which a bank is considered systemically important.

The CFPB has also exempted “small creditors” above \$1 billion in their Qualified Mortgage rulemaking.

**CBAI recommends the Agencies increase the asset threshold to qualify as an Eligible Small Institution to at least a minimum of \$10 billion.** This recommendation is particularly appropriate given the Agencies reservation of authority to require an institution to file the expanded Call Report in special situations. **CBAI also recommends that this asset threshold be indexed to inflation to maintains its appropriateness and so that it does not have to be revisited in the future.** The regulatory precedent here is the indexing of asset tiers for examination under the Community Reinvestment Act (CRA).

### **Additional Call Report Regulatory Relief**

CBAI, community bankers, and accounting professionals have all observed that this Proposal fails to address the Call Report burden and affect a reasonable solution. We and others have noted that the proposed relief is merely a reduction in the number of pages by removing data points for activities that are applicable only to large banks and schedules that are generally not applicable to community banks such as securitization activities, loans to foreign governments, and other non-existing lines of business. **This is certainly not what CBAI would consider meaningful regulatory relief and we urge the Agencies to do significantly more.**

There was no specific reference about how this proposed Call Report regulatory relief was meant to completely address the concerns highlighted by the ICBA in their 15,000 strong community banker petition for a short-form version of the Call Report for the first and third quarters of the year. If this Proposal was meant to completely address those issues and concerns we respectfully disagree that it has. **CBAI urges the Agencies to take the additional step to further streamline the Call Reports for Eligible Small Institutions, and urges the Agencies to implement a short-form Call report which would be available to well-capitalized and highly-rated community banks (both large and small) for the first and third quarters of the year and that the short-form Call Report should only consist of the balance sheet, income statement, and change in capital schedules.** This information will provide more than sufficient data to assist the regulators in monitoring the risk profile of individual community banks and their impact on the safety and soundness of the financial system.

## **Reservation of Authority**

The Proposal includes a caveat that the Agencies may require an institution otherwise eligible to file a FFIEC 051 to file a FFIEC 041 instead based on supervisory needs. This determination could be made if an eligible institution is significantly engaged in complex, specialized, or other high risk activities. The Proposal goes on to state that such determination would be made in a limited number of cases and jointly with the state chartering authority.

While CBAI appreciates the Agencies intentions to only invoke this reservation of authority in a limited number of cases, we find the language in the Proposal insufficiently restrictive to prevent the Agencies and their examiners from making the determination excessively and inconsistently. **CBAI urges the Agencies be more specific as to the limited number of factors that would trigger such a determination under the reservation of authority. CBAI also urges the Agencies to include a provision for an automatic appeal process once a positive determination is made, perhaps through the respective agency Ombudsman, so that the decision will have an additional and independent review and approval.**

## **Implementation**

CBAI appreciates the implementation flexibility contained in the Proposal which allows a bank to continue to file a FFIEC 041 if it so chooses. CBAI does have a concern that the March 31, 2017 implementation date may be too ambitious considering that the Rule has not been finalized, instructions published, and training sessions conducted. A change in regulation that is designed to provide regulatory relief must not actually create an additional regulatory burden because of faulty implementation.

**CBAI urges community banks be permitted, if they so choose, to continue to file a FFIEC 041, or file both the FFIEC 041 and 051 for one or more quarters as they transition to the new Call Report.** In the later case, where both are filed, allowing community banks to file Call Reports in parallel may more readily identify any issues or problems caused by either the Agencies or community banks and should greatly reduce the need to file an amended Call Report if there are indeed significant issues or problems in transitioning to the new version of the Call Report. **CBAI also urges the Agencies to waive any penalties and issue no formal**

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**criticisms if a community bank is having issues or problems transitioning to the new Call Report**

CBAI thanks you for this opportunity to provide our observations and recommendations regarding the proposed information collection activities. If you have any questions or need additional information please do not hesitate to contact me at (847) 909-8341 or [davids@cbai.com](mailto:davids@cbai.com) .

Sincerely,

/s/

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