March 26, 2024

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Manuel E. Cabeza
Counsel,
Attention: Comments, Room MB–3128
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218
Washington, DC 20219

Re: Proposed Agency Information Collection Activities; Comment Request

Dear Sir/Madam,

The International Swaps and Derivatives Association, Inc. ("**ISDA**") and the Securities Industry and Financial Markets Association ("**SIFMA**" and, together with ISDA, the "**Associations**") welcome the opportunity to comment on the proposal referenced above (the "**Reporting Proposal**")[1] issued by the Board of Governors of the Federal Reserve System (the "**Federal Reserve**"), the Federal Deposit Insurance Corporation (the "**FDIC**"), the Office of the Comptroller of the Currency (the "**OCC**"), and, collectively with the FDIC and the Federal Reserve, the "**Agencies**").

The Associations appreciate the opportunity to comment on the proposed FFIEC 101, 102, 102a and 031 reporting forms and instructions, which are designed to reflect the implementation of the Basel III Endgame proposal[2] (the "**B3E Proposal**"). The Associations note, however, that the Reporting Proposal seeks to implement a proposed rule that is not yet finalized. As such, it is important that the reporting requirements reflect the final rules. Also, the Associations' provided feedback on the Basel III Endgame proposal (the "**B3E Comment Letter**")[3]. These comments should be reviewed and considered when finalizing the reporting requirements.

[1] 89 Fed. Reg. at 5297 (Jan. 26, 2024).
[2] 88 Fed. Reg. at 64,028 (Sept. 18, 2023).
[3] *ISDA and SIFMA Response to US Basel III NPR* (Jan. 2024), *available at* https://www.isda.org/a/1ElgE/ISDA-and-SIFMA-Response-to-US-Basel-III-NPR.pdf.

Additionally, as many of the proposed reporting requirements require significant effort to implement, it is essential that reporting forms and instructions, once final, are published with sufficient lead time for banking organizations to make the necessary changes to their systems and calculations.

Conclusion

The Associations appreciate the opportunity to submit our comments on the Proposal of the Consolidated Reports of Condition and Income (Call Report), the Regulatory Capital Reporting for Institutions Subject to the Advanced Capital Adequacy Framework, and the Market Risk Regulatory Report for Institutions Subject to the Market Risk Capital Rule. We are strongly committed to maintaining the safety and efficiency of U.S. financial markets and hope the Agencies consider our recommendations, which reflect the extensive knowledge and experience of market professionals within the Associations and our members. Please contact Lisa Galletta at lgalletta@isda.org or (917) 624-3411 and Carter McDowell at Mcmcdowell@sifma.org or (202) 962-7327 if you wish to discuss the points raised in this letter further.

Very truly yours,

Lisa Galletta
Head of U.S. Prudential Risk

International Swaps and Derivatives Association, Inc.

Carter McDowell
Managing Director and Associate General Counsel
Securities Industry Financial Markets Association

About the associations

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 77 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org.

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association ("**GFMA**").

Section A-D below present concerns the Associations have identified with respect to each of the regulatory reporting forms and instructions. Section E lists a set of items that the Associations believe further clarification is needed.

A. Reporting Form FFIEC 101

1. Schedule RCCR – SLR Table 2

SLR Table 2 for derivatives requires a banking organization to report supplementary leverage exposures (SLR) for over-the-counter (OTC) derivatives and cleared derivative transactions. The instructions are materially aligned to the current instructions with the notable exception that a banking organization is required to separately report each item based on whether the counterparties are commercial end-users (CEUs).

The Associations would like to highlight several drafting issues in the existing instructions for Table 2 that are also reflected in the Reporting Proposal. Some of these drafting issues can potentially lead to SLR reporting that is materially inconsistent with what is required under the SLR rule[4].

Subsection I below presents the Associations' feedback on the new requirement to split all items in Table 2 by counterparties that are CEUs versus counterparties that are non-CEUs.

Subsections II to V discuss general issues in the SLR reporting instructions for the current FFIEC 101 that have also been reflected in the Reporting Proposal:

a) (Subsections II, III, V): The instructions for Table 2 generally refer to the SA-CCR methodology for risk-based capital as opposed to the SA-CCR methodology for SLR; and
b) (Subsection IV): The content has changed significantly, but the line-item captions are unchanged and hence, are no longer representative of the economic substance of these line items.

Subsection VI highlights a drafting issue with respect to the reporting instructions that, if implemented, would lead to reported SLR results inconsistent with the SLR rule.

I. General comments on the reporting requirements for CEUs

Under the SA-CCR final rule, the alpha multiplier for replacement cost (RC) and potential future exposure (PFE) depend on whether the counterparty is a CEU. The alpha multiplier is equal to 1 for a CEU counterparty and 1.4 for a non-CEU counterparty. It does not impact other components of the leverage exposure or risk-based capital (including expanded-risk based capital) except for RC and PFE.

The Associations understand the need for additional transparency with respect to leverage exposures attributed to CEU derivative transactions. As such, we are supportive of delineating

[4] §__.10 of the U.S. regulatory capital framework

between CEUs and non-CEUs for RC and PFE reported in Items 2.4 and 2.5. However, the requirement to delineate CEUs in Items 2.6 through 2.11 is unnecessary and below we outline the reasons:

- Item 2.6 reports the amount of non-cash collateral that the banking organization has posted to a counterparty in a derivative transaction that has reduced the banking organization's on-balance sheet assets. It also reports the amount of the recognized client collateral in RC and PFE used for calculating total leverage exposure under certain circumstances. The CEU designation is only relevant for the collateral used in the determination of RC and PFE. This is already reflected in Items 2.4 and 2.5.
- Item 2.7 reports certain qualified cash variation margin posted to the counterparty and certain recognized client collateral from client-facing derivatives[5]. Like Item 2.6, the CEU determination only matters when the collateral is used in the determination of RC and PFE. This is already reflected in Items 2.4 and 2.5.
- Item 2.8 reports exempted exposures to central counterparties (CCPs) in cleared transactions. CCPs are financial institutions; therefore, they are, by definition, non-CEUs. Hence, breaking this item into CEU versus non-CEU counterparties will not introduce new information.
- Items 2.9 and 2.10 report the adjusted notional of sold credit protection and the adjusted notional of purchased credit protection that a banking organization is permitted under the SLR rule to offset the exposures to the entities under sold protection. The adjusted notional amounts of sold and purchased protection are not affected by whether the counterparty is a CEU. Items 2.9 and 2.10 capture issuer risk of the credit protection, and the counterparty risk of the credit protection is captured in Items 2.4 and 2.5.
- Additionally, even though the alpha factor in the calculation of PFE in SLR is dependent on CEU delineation, to the best of our knowledge, the adoption of the PFE deduction described in Item 2.10 goes against common practice. Hence, the permission to potentially deduct PFE of sold protection should not be a reason for requesting the CEU delineation in Item 2.10.

The Associations would highlight that requiring a banking organization to delineate between CEU and non-CEU exposures may add complexity and unnecessary operational burden where it is not adding any information (i.e., in Items 2.6 through 2.11).

Recommendation:

The impact of CEU identification is exclusively confined to the RC and PFE calculations reported in Items 2.4 and 2.5. Thus, the Associations recommend that the requirement to delineate between CEU and non-CEU for Items 2.6 through 2.11 be removed.

II. Replacement cost methodology description in the instructions for Item 2.4 – Replacement cost for all derivatives transactions

[5] These function as offsetting exposures to the amount reported in Item 2.6

The instructions for Item 2.4 contain a description of the SA-CCR methodology as outlined in the SA-CCR final rule[6], which is appropriate for risk-based capital purposes. The reporting instructions state:

> *Under §__.113(f)(2) of the rule, the replacement cost of a netting set that is not subject to a variation margin agreement is the greater of (1) the sum of the fair values (after excluding any valuation adjustments) of the derivative contracts within the netting set, less the net independent collateral amount applicable to such derivative contracts, or (2) zero. This can be represented as follows: replacement cost=max{V-C;0},where V is the fair value (after excluding any valuation adjustments) of the derivative contracts within the netting set; and C is the net independent collateral amount applicable to such derivative contracts.*

However, under the SA-CCR final rule, for SLR purposes, a banking organization must follow the SA-CCR methodology as defined in the SLR rule[7] instead of the methodology defined in the SA-CCR final rule[8]. Under the SA-CCR final rule, the RC for risk-based capital and for SLR are different. The key differences are:

- For risk-based capital purposes, the collateral amount (C) can include both cash and non-cash collateral (i.e., financial collateral exchanged between the counterparties and that is subject to a collateral agreement).
- For SLR purposes, only cash variation margin meeting SLR qualifying conditions can be included in the collateral amount, unless the transactions are client-facing derivatives.

Recommendation:

The Associations recommend that the reporting instructions for Item 2.4 be updated to reflect the SA-CCR methodology for SLR purposes as opposed to the SA-CCR methodology for risk-based capital purposes.

III. PFE methodology description in the instructions for Item 2.5 - Add-on amounts for PFE for all derivative transactions.

The instructions for Item 2.5 generally refer to the PFE methodology defined in the SA-CCR final rule[9], which is appropriate for risk-based capital purposes. Under the SA-CCR final rule, a banking organization must follow the instructions for the PFE methodology as defined in the SLR rule[10], which is different from the SA-CCR final rule[11] in that the term C in the PFE multiplier must be set to zero except for client-facing derivatives.

Recommendation:

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[6] §__.113 of the U.S. regulatory capital framework
[7] §__.10(c)(2)(iii) of the U.S. regulatory capital framework
[8] §__.113 of the U.S. regulatory capital framework
[9] §__.113(g) of the U.S. regulatory capital framework
[10] §__.10(c)(2)(ii) of the U.S. regulatory capital framework
[11] §__.113(g) of the U.S. regulatory capital framework

The Associations recommend that the reporting instructions for Item 2.5 be updated to reflect the SA-CCR methodology for SLR purposes as opposed to the SA-CCR methodology for expanded risk-based capital purposes.

IV. Accuracy of the captions for Items 2.6 and 2.7

Following the adoption of SA-CCR for SLR, the Agencies have changed the reporting instructions for Item 2.6 to include received collateral for client-facing derivatives:

> *The amount of the recognized client collateral in replacement cost and PFE used for purposes of calculating total leverage exposure under certain circumstances. This treatment applies to a banking organization's exposure to its client-facing derivative transactions. For such exposures, the banking organization would use SA-CCR, as applied for risk-based capital purposes, which permits recognition of both cash and non-cash margin received from a client in replacement cost and PFE.*

The same amount is then included in Item 2.7 as an offsetting amount. Therefore, it is presumed that the intent of this disclosure is for informational purposes only.

For a banking organization that is a clearing member, the amount of received client collateral can be substantial. Thus, given the significant changes in what must be reported in these two items, the captions for Items 2.6 and 2.7 (displayed below) in the SLR Table 2 are no longer reflective of the economic substance of the collateral. This should be changed as it can potentially lead to misinterpretation.

- *2.6. Gross-up for collateral posted in derivative transactions if collateral is deducted from on-balance sheet assets*
- *2.7. Deduction of receivable assets for qualifying cash variation margin posted in derivative transactions (report as a positive amount)*

Separately, the Associations also note that the instructions for Items 2.6 and 2.7 require the reported number to represent the mean of the amounts calculated as of each day of the quarter. A banking organization generally computes SA-CCR for SLR purposes on a monthly basis as required under the SLR rule. Changing this requirement to a daily frequency would add complexity and unnecessary operational burden.

Recommendation:

The Associations recommend that the captions for Items 2.6 and 2.7 be updated to reflect the economic substance of the collateral, particularly the requirement to report client collateral received for client-facing derivatives.

To address the unnecessary operational burden, we recommend the amounts for Items 2.6 and 2.7 be calculated as the mean of the amounts as of each month-end during the quarter that will also ensure reported numbers are vetted through the internal review process for the month-end results used in the SA-CCR calculation.

V. Treatment of Alpha Multiplier of 1.4 in the instructions for Item 2.4 - Replacement cost for all derivatives transactions and Item 2.5 - Add-on amounts for PFE for all derivative transactions

The instructions for Items 2.4 and 2.5 do not clearly specify whether the RC and PFE should be inclusive of the alpha multiplier. However, the RC and PFE formula as displayed in the instructions for Items 2.4 and 2.5 suggest that the alpha multiplier should not be included. The Associations would like to highlight that not including the alpha multiplier in RC and PFE would be inconsistent with the definition of RC and PFE for SLR in the SA-CCR final rule:

> *§__.10(c)(2)(iii)(A) The replacement cost of each derivative contract or single product netting set of derivative contracts to which the national bank or Federal savings association is a counterparty, calculated according to the following formula, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:*
>
> *§__.10(c)(2)(ii)(A) The potential future credit exposure (PFE) for each netting set to which the national bank or Federal savings association is a counterparty (including cleared transactions except as provided in paragraph (c)(2)(viii) of this section and, at the discretion of the national bank or Federal savings association, excluding an agreement treated as a derivative contract that is part of a repurchase or reverse repurchase or a securities borrowing or lending transaction that qualifies for sales treatment under GAAP), as determined under §3__.113(g), in which the term C in §3__.113(g)(1) equals zero, and, for any counterparty that is not a commercial end-user, multiplied by 1.4:*

Recommendation:

The Associations request clarification that the reported RC and PFE amounts should be consistent with the requirements under the SLR rule. The Associations recommend that the reporting instructions be updated so that the description of RC and PFE is consistent with the SA-CCR final rule, which states that the alpha multiplier should be included in the RC and PFE.

VI. SA-CCR related changes in the instructions for Item 2.11 - Total derivative exposure

The instructions for Item 2.11 states:

> *A banking institution would report 1.4 times the sum of SLR Table 2, items 2.4, 2.5, 2.6, and 2.9, minus items 2.7, 2.8, and 2.10.*

The calculation described above is inconsistent with the total derivatives leverage exposure requirements under the SLR rule for the following reasons:

- The RC and PFE for transactions facing CEUs are not subject to the alpha multiplier of 1.4 in the SLR rule[12]. This should be the same for reporting (i.e., the RC and PFE should not be subject to the alpha multiplier of 1.4 in the FFIEC 101).
- In the SLR rule[13], the notional of sold credit protection in Item 2.9 is not subject to the alpha multiplier of 1.4. Multiplying the amount of sold protection on Item 2.9 by 1.4 will lead to incorrect issuer risk in the offsetting calculation using purchased protection since Item 2.10 should not be subject to the alpha multiplier.

Additionally, multiplying the client collateral for client-facing derivatives in Item 2.6 by 1.4, but not doing so for the same client collateral in Item 2.7 will create an artificial leverage exposure that is does not exist in the SLR rule.

Recommendation:

The reporting instructions should be updated in the following manner (consistent with the caption on Schedule RCCR SLR Table 2 Item 11) by removing the phrase "1.4 times":

> *A banking organization would report ~~**1.4 times**~~ the sum of SLR Table 2, items 2.4, 2.5, 2.6, and 2.9, minus items 2.7, 2.8, and 2.10.*

VII. Repo-style transaction instructions for Items 2.12 and 2.13 – Gross Assets for repo-style transactions and reduction of the gross value of receivables.

Item 2.12 says to report "*The gross value of receivables for reverse repurchase transactions*". However, the title is "*Gross assets for repo{style transactions, with no recognition of netting*", which indicates that this item should include all repo-style transactions. The definition in the capital rule delineates between reverse repurchase transactions and securities borrowing transactions. Similar to a reverse repurchase transaction, when a banking organization posts cash, it will have a similar receivable as with a security borrowing transaction. In addition, the on-balance Item 2.1 explicitly excludes repo-style transactions.

Recommendation:

The Associations recommend that the Agencies clarify that both receivables of securities borrowing transactions and reverse repurchase transactions should be included in Items 2.12 and 2.13. This could be achieved by confirming that the gross receivables of securities borrowing transactions is included in Item 2.12. Alternatively, it could be clarified that securities borrowing transactions in Item 2.12 be reported net of payables in securities borrowing transactions to the extent the criteria for netting in the SLR rule are met.

2. Schedule CR1

[12] §__.10(c)(2)(ii) and §__.10(c)(2)(iii) of the U.S. regulatory capital framework
[13] §__.10(c)(2)(iv) of the U.S. regulatory capital framework

Schedule CR1 reports the impact of credit risk mitigation (CRM) on the exposures and RWAs for general credit risk.

I. Reporting of repo-style transactions and eligible margin loans in CR1

The Associations note potential ambiguities with respect to the reporting of repo-style transactions and eligible margin loans:

Split of on-balance sheet and off-balance sheet amounts for repo-style transactions and eligible margin loans

Under the expanded-risk based approach, a banking organization can determine the exposure amount of repo-style transactions and eligible margin loans (or netting sets of such transactions if the netting sets have a qualified master netting agreement) using the non-linear with respect to collateral and exposure inputs collateral haircut approach. The exposure amount is meaningful as a metric only for the entire transaction or for a netting set of transactions. There is no natural bifurcation into "on-balance sheet amount" and "off-balance sheet amount".

The Associations request clarification that the instructions for Schedule CR1 Columns A and C (i.e., on-balance sheet amounts) and Schedule CR3 intended that exposure amounts for repo-style transactions and eligible margin loans be excluded.

The instructions for Schedule CR1 Column C state: "*report the on-balance sheet exposure amount after recognition of any CRM benefits that reduce the applicable exposure amount (such as financial collateral that collateralizes repo-style transactions and eligible margin loans), as described in § __.121*". This statement can be interpreted to mean that a banking organization should calculate the "on-balance sheet" portion of the exposure amount for repo-style transactions and eligible margin loans and report them in Column C. The Associations request clarification that exposure amounts for repo-style transactions and eligible margin loans should not be reported in Columns A and C.

Amounts to be reported for repo-style transactions and eligible margin loans

For OTC derivatives, instructions for Columns B and D refer to "*over-the-counter derivative contracts as described in §__.113*". Thus, the amount of OTC derivatives to be reported in Columns B and D should be the exposure amount calculated according to the SA-CCR final rule[14] inclusive of financial collateral.

The Agencies should clarify that for both Columns B and D, the amount of repo-style transactions and eligible margin loans be reported using the exposure amount consistent with the U.S. regulatory capital framework[15] (i.e., inclusive of financial collateral, consistent with the reporting requirements for OTC derivatives).

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[14] §__.113 of the U.S. regulatory capital framework
[15] §__.121 of the U.S. regulatory capital framework

Recommendation:

The Associations recommend that the instructions for Schedule CR1 be updated to clarify that repo-style transactions and eligible margin loans be reported in Columns B and D (along with other off-balance sheet exposures and OTC derivatives).

The Associations also recommend that the reported amount of repo-style transactions and eligible margin loans in Columns B and D be the exposure amounts calculated according to the requirements in the U.S. regulatory capital framework[16], which is inclusive of financial collateral.

3. Schedule CR3

Schedule CR3 reports the credit exposures by exposure category and risk weights under the expanded risk-based approach. The Associations note potential ambiguities with respect to the reporting of credit transaction exposures, as noted below:

I. Reporting of exposure amount in Columns C and D (risk weights 2% and 4%)

A banking organization may purchase credit protection on an exposure in the form of a credit derivative that is cleared through a qualifying central counterparty (QCCP) or through a non-QCCP. If the credit derivative meets the eligible credit derivatives conditions under the U.S. regulatory capital framework[17], the banking organization would be permitted to apply the risk weight of the protection provider for the portion of the exposure that is protected by the eligible credit derivative, subject to conditions in the B3E Proposal[18]. If the eligible credit derivative meets the conditions for cleared transactions and is cleared through a QCCP, the QCCP can be considered a protection provider. Under the B3E Proposal[19], the appropriate risk weight for a QCCP-cleared transaction protected by the eligible credit derivative is 2% or 4%. Thus, a banking organization should be permitted to report the portion of the exposure (as per the B3E Proposal[20]) protected by the eligible credit derivative cleared through a QCCP in Columns C and D (with risk weights 2% or 4%). This would be consistent with the reporting approach permitted under the existing Y9C instructions[21]:

> *If a clearing member holding company or clearing member client holding company has obtained full or partial protection for an on-balance sheet asset or off-balance sheet item using a cleared eligible credit derivative cleared through a QCCP, the holding company may, but is not required to, recognize the benefits of this eligible credit derivative in determining the risk-weighted asset amount for the hedged exposure in Schedule HC-R Part II, by reporting the protected exposure amounts and credit equivalent amounts in*

[16] §__.121 of the U.S. regulatory capital framework
[17] §__.2 of the U.S. regulatory capital framework
[18] §__.120 of the B3E Proposal
[19] §__.114 of the B3E Proposal
[20] §__.120 of the B3E Proposal
[21] Current Y9C Instruction – page HC-R-72

the 2 percent or 4 percent risk-weight category, as appropriate under the regulatory capital rules.

The Associations note that Columns C and D in Schedule CR3 are greyed out in Part 1 (On-balance sheet exposures). However, Item 8 (Corporate exposures) appears to require the submission of exposures. Thus, a banking organization will not be able to reflect the appropriate risk weights of 2% or 4% for the portion of exposures protected by an eligible and cleared credit derivative, except for corporate exposures in Item 8. Consistent with what is already provided under the current Y9C, the Agencies should update Schedule CR3 and the relevant instructions so that a banking organization can report exposure amounts protected by an eligible credit derivative that is a cleared transaction in Columns C and D (i.e., to un-grey Columns C and D).

Separately, Schedule CR3 Part 1 Item 8 (Corporate exposures) and Schedule CR1 Item 8 (Corporate exposures) require a banking organization to include the amount of QCCP exposures arising from posting cash collateral to the QCCP in connection with a cleared transaction that meets the requirements in the B3E Proposal[22]. If these conditions are met, the value of the collateral would be included in the trade exposure RWA calculation for cleared transactions under the B3E Proposal[23]. Since the value of collateral would be reported in Schedule CCR Part 5 and OV1 1.b, the requirement to report the RWA for the same collateral again in Schedule CR3 Item 8 would double-count exposure and RWA. Additionally, the Schedule CR3 table is designed for general credit risk, which according to the definition in the B3E Proposal[24] should exclude exposures from that of a cleared transaction.

Recommendation:

- The Associations recommend an update to Schedule CR3 Part 1 to permit a banking organization to report exposure amounts in Columns C and D for all rows (i.e., to un-grey Columns C and D).
- The Associations recommend an update to the instructions for Schedule CR3 Part 1 Item 8 and Schedule CR1 Item 8 to specify that Item 8 should exclude cash collateral posted to the QCCP, which is already reported in Schedule CCR Part 5 as part of trade exposure RWA required under the B3E Proposal[25].

II. Reporting scope of Schedule CR3 Part 2 Lines 19 through 25

The B3E Proposal[26] lists 100 percent credit conversion factors (CCF) for off-balance sheet items, which are reflected in Schedule CR3 Part 2 Lines 19 through 25. However, the B3E Proposal[27] also refers to "*other similar transactions*" which are not covered by Schedule CR3 Part 2 Lines 19 through 25 such as margin loan transactions that do not meet the definition of eligible margin

[22] See §__.114(b)(3)(i)(A), §__.114(b)(3)(i)(B), §__.114(c)(3)(i), and §__.111(h)(3) of the B3E Proposal
[23] §__.114(b) and §__.114(c) of the B3E Proposal
[24] §__.110 of the B3E Proposal
[25] §__.114 of the B3E Proposal
[26] §__.112(b)(5) of the B3E Proposal
[27] §__.112(b)(5) of the B3E Proposal

loans. The Associations believe that Schedule CR3 Part 2 Line 20, which states "*Repurchase agreements that are not repo-style transactions*", captures margin loan transactions that do not meet the definition of eligible margin loans. This is due to the fact that Line 20 would be consistent with the B3E Proposal[28] in that Line 20 reflects credit exposures for both repurchase agreements and margin loan transactions which do not qualify as financial collateral. This treatment is consistent with the reporting instructions in Line 26 in which repo-style transactions and eligible margin loan transactions are reported together as off-balance sheet exposures.

Recommendation:

The Associations recommend that the Schedule CR3 Part 2 Line 20 be updated to state "*Repurchase agreements that are not repo-style transactions and margin loan transactions that do not meet the definition of eligible margin loan*".

4. Schedule CCR

Schedule CCR reports on the exposure amounts and RWAs for OTC derivatives, repo-style transactions, eligible margin loans, and cleared transactions.

The Associations identified potential ambiguities with respect to the reporting of OTC derivatives, repo-style transactions, eligible margin loans, and cleared transactions, as noted below:

I. Reporting of RC, PFE, and exposure amount in Schedule CCR Part 1A (Counterparty credit risk exposure for OTC derivative transactions)

Due to the reduction in exposure after accounting for credit valuation adjustments (CVA) that a banking organization recognizes on the balance sheet, the exposure amounts in Column C may not equal alpha times the sum of RC and PFE (as reported in Columns A and B).

Recommendation:

Forcing a mathematical relationship where none exists is incorrect and therefore, the Associations recommend that the control check be removed between Column C and Columns A / B. Such a control check can potentially reject a filing that is otherwise accurate and consistent with the B3E Proposal.

II. Reporting of exposure for Part 2A (CCR exposure for derivatives by risk weight) and Part 2B (CCR exposure for eligible margin loans and repo-style transactions by risk weight)

The Schedule CCR Parts 2A and 2B do not include the 75% risk weight bucket for reporting exposures to Grade B Bank Exposures.

[28] §__.121 of the B3E Proposal

Recommendation:

The Associations recommend that Schedule CCR Parts 2A and 2B be updated to include the 75% risk weight bucket for reporting exposures to Grade B Bank Exposures.

III. Reporting of collateral on Schedule CCR Part 3 (Counterparty credit risk by financial collateral)

Reporting scope

Given that Schedule CCR Part 5 has detailed reporting requirements for exposures, RWAs, and collateral amounts for transactions facing CCPs (e.g., Items 2, 3, 6, 7 requires the reporting of initial margined posted to the CCPs), the intended scope in Schedule CCR Part 3 appears to be collateral in support of transactions with counterparties that are *not* cleared transactions.

Bankruptcy remoteness

The Associations note that bankruptcy remoteness for collateral received from a counterparty is not relevant to calculating exposure under the B3E Proposal. With respect to collateral received from a counterparty, the relevance to exposures and RWA is whether the collateral meets the conditions required under the definition of collateral agreement[29] in the case of derivatives or the conditions required under the definitions for repo-style transactions and eligible margin loans. These requirements are not necessarily identical to the definition of bankruptcy remoteness in the B3E Proposal. Given that the B3E Proposal does not require an assessment of bankruptcy remoteness for received collateral, there should not be a requirement to report such amounts.

Recommendation:

The Associations recommend the following changes to Schedule CCR Part 3:

- **Scope** - Update the instructions for Schedule CCR Part 3 to clarify that the scope of this table is collateral in support of transactions that are not cleared transactions.
- **Bankruptcy remoteness** - Combine Columns A and B into a single column for collateral received for derivatives. Combine Columns G and H into a single column for collateral received for repo-style transactions and eligible margin loans. Remove the reference to bankruptcy remoteness for received collateral in the instructions given such an assessment is not required in the B3E Proposal.

Separately, the Associations note that there is a typographical error in the heading of Column F. It states: "*<u>Received</u> from affiliates (posted)*". However, it should state: "*<u>Posted</u> to affiliates (posted)*".

IV. Reporting of defund fund contributions in Schedule CCR Part 5 (Transactions involving central counterparties)

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[29] §__.2 of the U.S. regulatory capital framework

The instructions for Schedule CCR Part 5 utilizes different terminology for the default fund contribution amounts in Items 4 and 8:

- For Item 4, the instructions state: "*report the **exposure amount** of default fund contributions to QCCPs*"
- For Item 8, the instructions state: "*report **total amount** default fund contributions to CCPs that are not QCCPs*"

The Associations believe the intent is to report the pre-funded default contributions (i.e., DF^{pref}) as defined in the cleared transactions section in the B3E Proposal[30].

Recommendation:

The Associations recommend that the instructions be updated for Items 4 and 8 in Schedule CCR Part 5 to clarify that the amount to be reported on these items are pre-funded default fund contributions as defined in the B3E Proposal[31].

5. Confidentiality of 101 Schedules

The Associations believe that, of the 14 new schedules in the proposed FFIEC 101, a subset should be confidential due to the request for commercially sensitive information and in order to align with existing disclosure guidelines. As a reporting matter, the additional level of detail is consistent with regulatory objectives. However, the additional transparency around public disclosure could risk the release of proprietary information or put a banking organization at an informational disadvantage.

Recommendation:

Below is a recommendation for each schedule in the subset where confidentiality is an issue:

Schedule OR1: Due to the level of granularity in reporting historical operational losses, Schedule OR1 should be confidential. The release of such data may risk the disclosure of proprietary information including information about legal reserves.

Schedule CR2: Disclosing exposures with CRM benefits, exposures without CRM benefits, exposures secured by financial collateral, exposures with eligible guarantees, and exposures with eligible credit derivatives across asset categories may reveal a firm's risk mitigation approach and hedging strategy. Therefore, Schedule CR2 should be confidential.

Schedule SEC1, SEC2, SEC3, SEC4: The proposed revisions to the securitization schedules would add an undue burden versus what is currently disclosed on a quarterly basis. The stratified RWA requirements (i.e., SEC3 and SEC4) and detailed breakdown of exposures by

[30] §__.114(d)(4) of the B3E Proposal
[31] §__.114(d)(4) of the B3E Proposal

collateral type (i.e., SEC1 and SEC2) are coupled with a disclosure revealing the banking organization involvement as an investor or originator. The frequency and granularity of these disclosures, as proposed, could lead to situations where a banking organization is hampered in its ability to provide liquidity in the markets. In turn, this may hinder the ability for a banking organization to seek liquidity in the financial markets. Moreover, existing public reporting (e.g., SEC Form 10-K) already provides investors with detailed information on a banking organization's securitization activities.

B. Reporting Form FFIEC 102

1. Part I - Standardized capital requirements for Market Risk

The Associations are concerned about the granularity of disclosure requirements for the standardized components of market risk. The components require a banking organization to disclose individual sensitivity-level capital requirements (i.e., delta, vega, and curvature) at risk factor-level for model-ineligible and all trading desks. This may pose a heightened risk as the disclosure will reveal the positions the banking organization holds, thereby making the banking organization vulnerable to anti-competitive strategies by other market participants. For example, the curvature capital is primarily driven by losses from higher order risks. A material general interest rate risk (GIRR) curvature capital increase between two quarters may indicate a huge increase in a banking organization's positioning with respect to short IR gamma (for which the sensitivity comes from short IR options.

Recommendation:

The Associations propose that the disclosure in FFIEC 102 should apply only to the total capital charge (i.e., the sum of delta, vega, and curvature) for each risk factor class-level (i.e., Column D). The full breakdown of delta, vega and curvature per risk factor class could be provided in the confidential FFIEC 102a report. This would also ensure that the sensitivities-based method (SBM) reporting is similar to the internally modelled capital charge (IMCC) disclosure requirements (where only an overall capital by asset class is disclosed).

2. Part IV Memorandum - Section 2. Total Notional Amount of Market Risk Covered Positions

The Associations are concerned about the disclosure requirements of total notional amounts in relation to Sections 2a and 2b (i.e., foreign exchange and commodity positions) given three interrelated issues described below:

I. Utility of notional amounts

Disclosures should provide information that can be used to assess a banking organization's exposure. Notional amounts, particularly in relation to banking book instruments for which only the foreign exchange and commodity exposures are included, do not provide useful information for the following reasons:

- A derivative such as a credit default swap (CDS) may have foreign exchange risk because it is denominated in a currency that is different from the reporting currency. However, the foreign exchange exposure of the CDS would be based on its fair value instead of the notional amount. A similar but less extreme example is a bond trading above or below its face value (i.e., notional amount) while the foreign exchange exposure would be related to the fair value of the bond. Therefore, the notional amount is unrelated to the foreign exchange risk. A similar issue arises in the context of commodity exposures. For example, a banking organization could provide financing to a counterparty in advance of the counterparty purchasing certain commodities or commodity-linked derivatives. This financing could be recorded and capitalized as a loan where the banking organization would also include underlying commodity risk as a market risk covered position. The notional amount of the loan would be unrelated to the commodity exposure that the banking organization faces.

- The Associations acknowledge that a banking organization is required to provide notional information on certain foreign exchange and commodity derivatives (e.g., Schedule HC-R in the FR Y-9C). However, this schedule is related to products with intrinsic foreign exchange and commodity exposures where there is a greater degree of homogeneity. In contrast, the requirement in Sections 2a and 2b relates to any instrument including those with peripheral commodity or foreign exchange exposure.

As these examples demonstrate, simple notional aggregation across positions would not provide any useful information to the investing public regarding the foreign exchange or commodity risks that a banking organization faces. The notional amount would not only be incorrect, but it would also include banking book positions that would not be treated as market risk covered positions (except for any foreign exchange or commodity risk).

II. Comparability of notional amounts

In light of the previous examples, it should be clear that the notional amount is likely to be incomparable across banking organizations. Furthermore, the notional amount is a number unrelated to the level of risk or magnitude of exposures. Efforts to make the notional amounts better aligned to the underlying foreign exchange or commodity risk would fail to solve this fundamental issue given that it is likely to lead to different interpretations across banking organizations.

III. Cost / benefit analysis

When a banking organization has foreign exchange and commodity positions on its balance sheet, it generates risk sensitivities to assess the level of risk. A banking organization does not report the notional amount of these instruments including those with embedded foreign exchange or commodity risk. Including the notional amount would require vertical system updates without a tangible benefit. The current FFIEC 102 (which is VaR-based) and the proposed FFIEC 102 report (which is expected shortfall-based and SBM-based) would require a banking organization to disclose commodity and foreign exchange risk in an aggregate manner. This should provide sufficient information for the public to assess the risks a banking organization faces associated with foreign exchange and commodity market risk. This applies to the notional amount disclosed for other market risk covered positions (e.g., Item 2.f). The notional amount does not provide useful information for the public to assess the banking organization's exposure. A more useful measure is the population of trading assets and liabilities in a banking organization's financial disclosures, which drives the market risk covered position population.

Recommendation:

The Associations recommend removing the requirements to disclose notional amounts for Items 2a, 2b and 2f.

In addition, the Associations do not see a benefit to publicly disclose Items 2c and 2d (i.e., net short credit and equity positions). While a banking organization must determine net short credit and equity positions to determine its market risk covered positions and therefore, there is no incremental effort to produce them, it is unclear how this information would be useful to the broader public. At worst, it could be misinterpreted given the nuances in the market risk capital rule. The net short credit and net short equity positions do not provide information on overall credit and equity positions as this strictly relates to positions in the banking book. From a market risk perspective, it will be treated identically to other market risk covered positions. Furthermore, the net short credit and equity positions are determined based on capital standards. A banking organization may view the net short positions as an effective hedge against existing long positions in the banking book. However, net short positions are reported in a manner that includes them as market risk covered positions. In conclusion, the Associations do not believe that the notional amount provides any meaningful information to the public and, in fact, has the risk of being misinterpreted. Therefore, the Associations recommend removing the requirement to disclose this information or at a minimum, make it part of a supervisory submission.

Furthermore, the Associations believe that Item 2.e (i.e., customer and proprietary broker-dealer reserve bank accounts) should not be reported publicly given that it does not provide meaningful information regarding the market risk exposure a banking organization faces. Firstly, this information is not relevant for the Category I to IV banking organizations' applicability of the market risk capital rule. Secondly, a public disclosure requirement is inconsistent with current practice where this data is reported as supervisory information to the SEC / CFTC.

C. Reporting Form FFIEC 102a

The Associations would like to take this opportunity to address concerns with the proposed reporting forms and instructions for the following aspects of the FFIEC 102a:

Clarification on applicability of FFIEC 102a report.

The FFIEC Form 102a is required to be filed 20 days after quarter-end to allow the Agencies sufficient time to review the data to determine whether a trading desk is eligible to use the internal models approach (IMA). It is unclear if the Agencies intend to use the data for the desks' IMA eligibility review on a retroactive basis or on a go-forward basis for the next quarter.

If the Agencies' intention is to use the data for the prior quarter, this approach would introduce a level of supervisory oversight that is unnecessary given that the continued ability to use IMA hinges on the desk continuing to satisfy prescribed quantitative tests and thresholds through desk-level back-testing requirements and desk-level profit and attribution (PLA) testing requirements. The criteria that the Agencies would utilize to disqualify a banking organization from using internal models is unclear, but it appears to go beyond the B3E Proposal and will introduce a further element of supervisory uncertainty. Furthermore, given the prescriptive nature of IMA eligibility failures, if the intended purpose is to allow a banking organization to raise an exception for failed model eligibility, it will be helpful to understand the type of instances that qualify as an exception.

Additionally, a banking organization publicly disclose their ratios to investors as part of their quarterly earnings (typically, 10-20 days after quarter-end). This is before the submission of its FFIEC 102 and Call Report or FR Y-9C. Thus, the Associations are concerned that the process described by the Agencies in the B3E Proposal would introduce significant volatility to a banking organization's RWAs. Any material changes to the disclosed RWAs that may arise because of this review process would change the numbers already reported to the public.

Furthermore, the reduced timeline for reporting would exacerbate the risk of 'springing capital' inherent in the new market risk calculation (i.e., the risk of trading desks being unexpectedly demoted to Standardized Approach because of poorly calibrated model qualification standards).

Recommendation:

The Associations request clarity that the purpose of FFIEC 102a is to capture PLA testing results for each desk to decide whether they remain under IMA. Thus, the Associations propose that upon the submission of FFIEC 102a for a given quarter (e.g., Q1 with a submission date on the last day of Q1 plus 20 days), any regulatory feedback resulting in a change to the modelled desk scope should only apply to the following quarter (e.g., Q2). This is because:

a) It will be operationally challenging for a banking organization to recompute and review all FRTB capital measures (which are inputs to the calculation of quarterly average) and the associated back-testing results for each day of the previous quarter based on the updated modelled scope. Further, it will be challenging to submit the final FFIEC 102 report by day 40.

b) The banking organization would have already published its key quarterly results to the investors in the earnings release and any significant deviation in the results could cause undesired market volatility.

In addition, the Associations recommend that the FFIEC 102a be amended to include a section where banks can indicate the desks that will need an exception as well as a commentary section to provide rationale. This will help to make the desk reviewing process more efficient. Furthermore, the Associations request clarity from the Agencies on the instances that would qualify as an exception to a desk's model eligibility.

D. Instructions for Call Report FFIEC 031

RC-R Part II - Definition clarifications

The Associations identified a few inconsistencies between the general instructions for Schedule RC-R Part II and the B3E Proposal. These inconsistencies could result in unintended confusion in reporting the correct population. For example, the definition in the B3E Proposal specifies that Paragraph 2 of the definition of market risk covered position[32] takes precedence over Paragraph 1. The same specification does not exist in the RC-R Part II definition. Additionally, the B3E Proposal refers to a publicly traded equity position with restrictions on "*tradability*" while the RC-R Part II definition refers to a publicly traded equity position with restrictions on "*transferability*".

Recommendation:

The Associations recommend the definition of "market risk covered position" in the RC-R Part II instructions align with the language in the B3E Proposal.

[32] Note the definition of market risk covered positions lists the type of exposures that are out of scope for market risk covered positions.

E. Clarification Questions

The Agencies should consider revising the instructions and form guidelines to provide clarity on the items below.

Form FFIEC 101

Schedule SEC2 – Scope Clarification for Securitization Exposures Subject to Subpart F of the Capital Rule: Given that Subpart F of the B3E Proposal pertains to market risk, the Agencies should consider clarifying whether this should be covered under FFIEC 102.

Schedule SEC2: The Agencies should clarify whether Schedule SEC2 is intended to include only non-correlation trading portfolio instruments. If correlation trading instruments are meant to be included, the Agencies should clarify which bucket these instruments[33] should be mapped to.

Schedule CR2 – Credit Risk Mitigation Techniques: With respect to Column D (i.e., exposures with eligible guarantees), should eligible guarantees include eligible credit derivatives? With respect to Column B (i.e., exposures with CRM benefits), Column C (i.e., exposures secured by financial collateral), Column D (i.e., exposures with eligible guarantees), and Column E (i.e., exposures with eligible credit derivatives), should column B be mutually exclusive with respect to Columns C, D and E? Should Column D be mutually exclusive with respect to Column E?

Schedule CCR – Counterparty Credit Risk and Risk Weights – Part 1A (Counterparty credit risk exposure for OTC derivative transactions): With respect to Item 1a (i.e., where the counterparty is required to post variation margin), Item 1b (i.e., where the counterparty is not required to post variation margin), Item 2a (i.e., where the counterparty is required to post variation margin), and Item 2b (i.e., where the counterparty is not required to post variation margin), does the requirement to post margin include current margin or future margin?

Schedule CCR – Counterparty Credit Risk and Risk Weights – Part 3 (Counterparty credit risk exposures by financial collateral):
It is not clear whether firms are required to track any bankruptcy remote exposures. Should bankruptcy remote exposures be segmented from non-bankruptcy remote exposures?

Schedule CCR – Counterparty Credit Risk and Risk Weights – Part 5 (Transactions involving central counterparties):
With respect to Items 1a and 5a (i.e., exchange-traded derivatives), Item 1b and 5b (i.e., other derivatives), should Items 1a and 1b be separate categories? Should Items 5a and 5b be separate categories?[34] With respect to Item 2 (i.e., bankruptcy remote initial margin), Item 3 (i.e., non-bankruptcy remote initial margin), Item 6 (i.e., bankruptcy remote initial margin), and Item 7

[33] These instruments typically include credit index tranches.
[34] Note that these items are not required for RWA calculations.

(i.e., non-bankruptcy remote initial margin), should Items 2 and 3 be separate categories? Should Items 6 and 7 be separate categories[35]?

Form FFIEC 102

Part 2 – Models-based capital requirement for market risk: Does Column E refer to actual backtesting at the firm-level or does it refer to PLA backtesting?

Part 4 – Memoranda: Does Item 2 include banking book positions? What is the definition of "notional"? How should firms separate foreign exchange positions and commodity positions?

Form FFIEC 102a

Part 1 – General Information: Does FFIEC 102a and in particular line item 3 apply only to trading desks receiving regulatory approval (i.e., trading desks subject to backtesting and PLA testing)?

Part 1 – General information: For items relating to trading assets / liabilities, are covered positions in scope? Is there a distinction between trading assets and covered positions?[36]

Part 2 – Aggregate Trading Portfolio Backtesting: Is the market value of total trading assets at the top-of-the house limited to IMA-approved desks or should it include all desks?

Part 2 – Aggregate Trading Portfolio Backtesting – Item: 5 (Aggregate daily trading portfolio data): What is the required historic period (i.e., should a banking organization assume 60 days in a quarter)?

Part 3 – Backtesting and PLA Testing for Model-Eligible Trading Desks – Item 10 (Main product types): How are each of the main product types defined in question 10? Will these definitions be maintained by supervisors or will they be at the discretion of each firm? What is the threshold exposure to a particular product for inputting "x" in the qualitative survey?

Part 3 – Backtesting and PLA Testing for Model-Eligible Trading Desks – Item 11 (Major geographic regions): Why are region-specific details requested? Is the interpretation of region based on the location of the exchange of the underlying products, on the location of the trader, or on the location of the legal entity in which the products are booked?[37] What is the definition of "*substantial amount of trading assets or trading liabilities*" as it pertains to major geographic regions in question 11? Will these definitions be maintained by supervisors, or will they be at the discretion of each firm? What is the threshold exposure to a particular region for inputting "x" in the qualitative survey?

[35] Note that these items are not required for RWA calculations.
[36] For example, there can be non-trading assets that are covered positions. Should those be included?
[37] For example, suppose an EMEA Trader within an EMEA Credit Trading desk and legal entity buys credit protection on a North American OTR Credit Index Swap. Would this be considered an exposure to North America or EMEA?

Part 3 - Backtesting and PLA Testing for Model-Eligible Trading Desks – Item 22 (Daily Trading Desk Level Data): What is the required historic period (i.e., should a banking organization assume 60 days in a quarter)?

The Associations thank the Agencies in advance for their attention to this important matter. The Associations welcome the opportunity to discuss the issues noted in this further.