FFIEC
Federal Financial Institutions Examination Council
Arlington, VA 22226 CALL REPORT DATE: December 31, 2009
FOURTH 2009 CALL, NUMBER 250

SUPPLEMENTAL INSTRUCTIONS

December 2009 Call Report Forms

Sample Call Report forms for December 2009 are available on the FFIEC's Web site (http://www.ffiec.gov/ffiec_report_forms.htm) and on the FDIC's Web site (http://www.fdic.gov/callreports). An instruction book update for December 2009 is expected to be available on these Web sites by January 4, 2010. Call Report forms, including the cover (signature) page, and instructional materials can be both printed and downloaded from the FFIEC's Web site. In addition, banks that use Call Report software generally can print paper copies of blank forms from their software. Please ensure that the person responsible for preparing Call Reports at your bank has been notified about the electronic availability of the December 2009 report forms and instruction book update as well as these Supplemental Instructions.

Submission of Completed Reports

Each bank's Call Report data must be submitted to the FFIEC's Central Data Repository (CDR), an Internet-based system for data collection (https://cdr.ffiec.gov/cdr/), using one of the two methods described in the banking agencies' cover letter for the December 31, 2009, report date. For technical assistance with submissions to the CDR, please contact the CDR Help Desk by telephone at (888) CDR-3111, by fax at (703) 774-3946, or by e-mail at CDR.Help@ffiec.gov.

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

Currently, Call Report preparation software products marketed by DBI Financial Systems, Inc.; Fed Reporter, Inc.; Fidelity Regulatory Solutions; FinArch US, Inc.; FiServ, Inc.; FRSGlobal; Jack Henry & Associates, Inc.; and SOFGEN Americas, Inc., meet the technical specifications for producing Call Report data files that are able to be processed by the CDR. The addresses and telephone numbers of these vendors are listed at the end of these Supplemental Instructions.

Prepaid Deposit Insurance Assessments

On November 12, 2009, the FDIC Board of Directors adopted a final rule requiring insured depository institutions (except those that are exempted) to prepay their quarterly risk-based deposit insurance assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012, on December 30, 2009. Each institution's regular risk-based deposit insurance assessment for the third quarter of 2009, which is paid in arrears, also is payable on December 30, 2009. The amount of the prepaid assessment was included on the certified statement invoices for the third quarter of 2009, which were available on FDIC*connect*, the FDIC's e-business portal, as of December 15, 2009.

Notwithstanding the prepaid assessments, each bank should record the estimated expense for its regular quarterly risk-based assessment for the fourth quarter of 2009 through a charge to expense during the fourth quarter. As a result of the interaction between the prepaid assessments and the accrual of the fourth quarter assessment, each bank should report the amount of its prepaid assessments less the estimated amount of its regular quarterly assessment for the fourth quarter of 2009 as a prepaid expense asset in its December 31, 2009, Call Report. This prepaid expense asset should be reported in Schedule RC-F, item 6, "All other assets," and, if it is greater than $25,000 and exceeds 25 percent of the amount reported in item 6, it also should be reported in Schedule RC-F, item 6.f, "Prepaid deposit insurance assessments." Deposit insurance assessment expense for 2009, which includes the regular quarterly assessment expense for the four quarters of 2009 and the special assessment imposed on June 30, 2009, should be reported in Schedule RI, item 7.d, “Other noninterest expense.”

The banking agencies' risk-based capital standards permit an institution to apply a zero-percent risk weight to claims on U.S. Government agencies. When completing Schedule RC-R, Regulatory Capital, a bank may assign a zero-percent risk weight to the amount of its prepaid deposit insurance assessments asset in item 42 of this schedule.

For further information on the FDIC’s prepaid assessments final rule, banks should refer to FDIC Financial Institution Letter (FIL) 63-2009 at http://www.fdic.gov/news/news/financial/2009/fil09063.html. For further guidance on reporting regular quarterly deposit insurance assessments, banks should refer to the Call Report Supplemental Instructions for September 30, 2009, at http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200909.pdf.

Extended Net Operating Loss Carryback Period

The Worker, Homeownership, and Business Assistance Act of 2009, which was enacted on November 6, 2009, permits banks and other businesses, excluding those banking organizations that received capital from the U.S. Treasury under the Troubled Asset Relief Program, to elect a net operating loss carryback period of three, four, or five years instead of the usual carryback period of two years for any one tax year ending after December 31, 2007, and beginning before January 1, 2010. For calendar year banks, this extended carryback period applies to either the 2008 or 2009 tax year. The amount of the net operating loss that can be carried back to the fifth carryback year is limited to 50 percent of the available taxable income for that fifth year, but this limit does not apply to other carryback years.

Under generally accepted accounting principles, banks may not record the effects of this tax change in their balance sheets and income statements for financial and regulatory reporting purposes until the period in which the law was enacted, i.e., the fourth quarter of 2009. Therefore, banks should recognize the effects of this fourth quarter 2009 tax law change on their current and deferred tax assets and liabilities, including valuation allowances for deferred tax assets, in their Call Reports for December 31, 2009. Banks should not amend their Call Reports for prior quarters for the effects of the extended net operating loss carryback period.

The banking agencies’ regulatory capital standards limit the amount of deferred tax assets that are dependent upon future taxable income that can be included in regulatory capital. Deferred tax assets that are dependent upon future taxable income are (a) deferred tax assets arising from deductible temporary differences that exceed the amount of taxes previously paid that a bank could recover through loss carrybacks if the bank's temporary differences (both deductible and taxable) fully reverse at the report date and (b) deferred tax assets arising from operating loss and tax credit carryforwards. A bank may consider the recoverability of taxes paid during the extended carryback period when determining the amount of its deferred tax assets that are dependent upon future taxable income as of December 31, 2009. To the extent that the extended carryback period enables a bank to recognize an income tax refund receivable for either the 2008 or 2009 tax year in its year-end 2009 Call Report, the bank should appropriately reduce the recoverable amount of taxes previously paid that are used in the computation of disallowed deferred tax assets. In addition, any recognized income tax refund receivable resulting from a net operating loss carryback should be reported in Schedule RC-F, item 6, “All other assets,” not in Schedule RC-F, item 2, “Net deferred tax assets.”

FASB Statements No. 166 and 167

In June 2009, the FASB issued Statement No. 166, *Accounting for Transfers of Financial Assets* (FAS 166), and Statement No. 167, *Amendments to FASB Interpretation No. 46(R)* (FAS 167), which change the way entities account for securitizations and special purpose entities. FAS 166 revises FASB Statement No. 140, *Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities*, by eliminating the concept of a “qualifying special-purpose entity,” creating the concept of a “participating interest” (which is discussed more fully in the following section), changing the requirements for derecognizing financial assets, and requiring additional disclosures. FAS 167 revises FASB Interpretation No. 46(R), *Consolidation of Variable Interest Entities*, by changing how a bank or other company determines when an entity that is insufficiently capitalized or is not controlled through voting or similar rights, i.e., a “variable interest entity” (VIE), should be consolidated. Under FAS 167, a bank must perform a qualitative assessment to determine whether its variable interest or interests give it a controlling financial interest in a VIE. If a bank's variable interest or interests provide it with the power to direct the most significant activities of the VIE, and the right to receive benefits or the obligation to absorb losses that could potentially be significant to the VIE, the bank is the primary beneficiary of, and therefore must consolidate, the VIE.

Both FAS 166 and FAS 167 take effect as of the beginning of each bank's first annual reporting period that begins after November 15, 2009, for interim periods therein, and for interim and annual reporting periods thereafter (i.e., as of January 1, 2010, for banks with a calendar year fiscal year). Earlier application is prohibited. Banks are expected to adopt FAS 166 and FAS 167 for Call Report purposes in accordance with the effective date of these two standards.

Accounting for Loan Participations under FAS 166

FAS 166 has modified the criteria that must be met in order for a transfer of a portion of a financial asset, such as a loan participation, to qualify for sale accounting. These changes apply to transfers of loan participations on or after the effective date of FAS 166, which is discussed above. Therefore, banks with a calendar year fiscal year must account for transfers of loan participations on or after January 1, 2010, in accordance with FAS 166. In general, loan participations transferred before the effective date of FAS 166 (January 1, 2010, for calendar year banks) are not affected by this new accounting standard and pre-FAS 166 participations that were properly accounted for as sales under FASB Statement No. 140 will continue to be reported as having been sold.

Under FAS 166, if a transfer of a portion of an entire financial asset meets the definition of a "participating interest," then the transferor (normally the lead lender) must evaluate whether the transfer meets all of the conditions in this accounting standard to qualify for sale accounting. (In summary, these conditions are the isolation of the transferred assets from the transferor, the transferee's right to pledge or exchange the assets received, and the transferor's lack of effective control over the transferred assets.) In general, in order for a loan participation, whether retained by the lead lender or transferred to another party, to meet the definition of a participating interest in FAS 166, it must have all of the following characteristics:

- It must represent a proportionate (pro rata) ownership interest in an entire financial asset;
- All cash flows received from the entire financial asset, except any cash flows allocated as compensation for servicing or other services performed (which must not be subordinated and must not significantly exceed an amount that would fairly compensate a substitute service provider should one be required), must be divided proportionately among the participating interest holders in an amount equal to their share of ownership;
- The rights of each participating interest holder (including the lead lender) must have the same priority, no interest is subordinated to another interest, and no participating interest holder has recourse to the lead lender or another participating interest holder other than standard representations and warranties and ongoing contractual servicing and administration obligations; and
- No party has the right to pledge or exchange the entire financial asset unless all participating interest holders agree to do so.

If a transfer of a portion of a financial asset does not meet the definition of a participating interest, both the lead lender transferring the participation and the party acquiring the participation must account for the transaction as a secured borrowing with a pledge of collateral.

Thus, under FAS 166, so-called "last-in, first-out" (LIFO) participations in which all principal cash flows collected on the loan are paid first to the party acquiring the participation do not meet the definition of a participating interest. Similarly, so-called "first-in, first-out" (FIFO) participations in which all principal cash flows collected on the loan are paid first to the lead lender do not meet the definition of a participation interest. As a result, neither LIFO nor FIFO participations transferred after the effective date of FAS 166 will qualify for sale accounting and instead must be reported as secured borrowings.

The participating interest definition in FAS 166 also applies to transfers of government-guaranteed portions of loans, such as those guaranteed by the Small Business Administration (SBA). In this regard, if a bank transfers the guaranteed portion of an SBA loan at a premium, the "seller" is obligated by the SBA to refund the premium to the "purchaser" if the loan is repaid within 90 days of the transfer. Under FAS 166, this premium refund obligation is a form of recourse, which means that the transferred guaranteed portion of the loan does not meet the definition of a "participating interest" for the 90-day period that the premium refund obligation exists. As a result, the transfer must be accounted for as a secured borrowing during this period. After the 90-day period, assuming the transferred guaranteed portion and the retained unguaranteed portion of the SBA loan now meet the definition of a "participating interest," the transfer of the guaranteed portion can be accounted for as a sale if all of the conditions for sale accounting in FAS 166 area met. In contrast, if the guaranteed portion of the SBA loan is transferred at par in a so-called “par sale” in which the “seller” agrees to pass interest through to the “purchaser” at less than the contractual interest rate and the spread between the contractual rate and the pass-through interest rate significantly exceeds an amount that would fairly compensate a substitute servicer, the excess spread is viewed as an interest-only strip. The existence of this interest-only strip results in a disproportionate sharing of the cash flows on the entire SBA loan, which means that the transferred guaranteed portion and the retained unguaranteed portion of the SBA loan do not meet the definition of a "participating interest," which precludes sale accounting. Instead, the transfer of the guaranteed portion must be accounted for as a secured borrowing.

Upon the completion of a transfer of a participating interest that satisfies the conditions to be accounted for as a sale, the transferor (seller) must allocate the previous carrying amount of the entire financial asset between the participating interests sold and any that are retained based on their relative fair values at the transfer date, derecognize the participating interests sold, recognize and initially measure at fair value servicing assets (or servicing liabilities) and any other assets obtained and liabilities incurred in the sale, recognize in earnings any gain or loss on the sale, and report any retained participating interests as the difference between the previous carrying amount of the entire financial asset and the amount derecognized.

Accounting Standards Codification™

In June 2009, the FASB issued Statement No. 168, *The FASB Accounting Standards Codification™ and the Hierarchy of Generally Accepted Accounting Principles* (FAS 168), to establish the FASB Codification as the single source of authoritative nongovernmental U.S. generally accepted accounting principles (U.S. GAAP). The FASB Codification reorganizes existing U.S. accounting and reporting standards issued by the FASB and other related private-sector standard setters, and all guidance contained in the FASB Codification carries an equal level of authority. All previously existing accounting standards documents are superseded as described in FAS 168. All other accounting literature not included in the FASB Codification is nonauthoritative. The FASB Codification can be accessed at http://asc.fasb.org/.

The FASB Codification is effective for interim and annual periods ending after September 15, 2009. Therefore, effective for the September 30, 2009, and subsequent Call Reports, references in the Call Report instructions to specific pre-Codification standards under U.S. GAAP (e.g., FASB Statements of Financial Accounting Standards, FASB Interpretations, Emerging Issues Task Force Issues, and Accounting Principles Board Opinions) should be understood to mean the corresponding reference in the FASB’s Accounting Standards Codification.

Other-Than-Temporary Impairment

When the fair value of an investment is less than its cost basis, the impairment is either temporary or other-than-temporary. To determine whether the impairment is other-than-temporary, a bank must apply other pertinent guidance such as paragraph 16 of FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*; FASB Staff Position (FSP) FAS 115-1 and FAS 124-1, *The Meaning of Other-Than-Temporary Impairment and Its Application to Certain Investments*; FSP FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments*; paragraph 6 of Accounting Principles Board Opinion No. 18, *The Equity Method of Accounting for Investments in Common Stock*; Emerging Issues Task Force (EITF) Issue No. 99-20, *Recognition of Interest Income and Impairment on Purchased Beneficial Interests and Beneficial Interests That Continue to Be Held by a Transferor in Securitized Financial Assets*; and FSP EITF 99-20-1, *Amendments to the Impairment Guidance of EITF Issue No. 99-20*.

On January 12, 2009, the FASB issued FSP EITF 99-20-1, *Amendments to the Impairment Guidance of EITF Issue No. 99-20*. This FSP amended EITF Issue No. 99-20 to align its impairment guidance with the guidance in paragraph 16 of FASB Statement No. 115 and related implementation guidance. The FSP is effective for “interim and annual reporting periods ending after December 15, 2008, and shall be applied prospectively. Retrospective application to a prior interim or annual reporting period is not permitted.” All banks, both public *and* nonpublic, that hold beneficial interests that fall within the scope of EITF Issue No. 99-20 must adopt FSP EITF 99-20-1 for

Call Report purposes in accordance with the FSP's effective date. Thus, both public and nonpublic banks should have applied this FSP beginning in their December 31, 2008, Call Reports. Banks should not apply the guidance in this FSP to the September 30, 2008, or earlier reporting periods.

On April 9, 2009, the FASB issued FSP FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments* (FSP FAS 115-2). This FSP amended the other-than-temporary impairment guidance in several standards (including FASB Statement No. 115, FSP FAS 115-1 and FAS 124-1, and EITF Issue No. 99-20) that applies to investments in debt securities. FSP FAS 115-2 does not apply to investments in securities that meet the definition of an equity security in FASB Statement No. 115. Under FSP FAS 115-2, if a bank intends to sell a debt security or it is more likely than not that it will be required to sell the debt security before recovery of its amortized cost basis, an other-than-temporary impairment has occurred and the entire difference between the security's amortized cost basis and its fair value at the balance sheet date must be recognized in earnings. In these cases, the fair value of the debt security would become its new amortized cost basis. The FSP also provides that if the present value of cash flows expected to be collected on a debt security is less than its amortized cost basis, a credit loss exists. In this situation, if a bank does not intend to sell the security and it is not more likely than not that the bank will be required to sell the debt security before recovery of its amortized cost basis less any current-period credit loss, an other-than-temporary impairment has occurred. The amount of the total other-than-temporary impairment related to the credit loss must be recognized in earnings, but the amount of the total impairment related to other factors must be recognized in other comprehensive income, net of applicable taxes.

FSP FAS 115-2 is effective for interim and annual reporting periods ending after June 15, 2009. Early adoption of this FSP is permitted for periods ending after March 15, 2009, in accordance with the FSP's effective date and transition provisions. Banks were expected to adopt FSP FAS 115-2 for Call Report purposes in accordance with the FSP's effective date.

In addition, banks should have reviewed any debt securities held at the beginning of the interim period in which the FSP was adopted (e.g., as of April 1, 2009, if the FSP was adopted for the period ending June 30, 2009; as of January 1, 2009, if the FSP was adopted for the period ending March 31, 2009) for which other-than-temporary impairment losses have been previously recognized. If a bank does not intend to sell such a debt security and it is not more likely than not that the bank will be required to sell the debt security before recovery of its amortized cost basis, the bank should have recognized the cumulative effect of initially applying FSP FAS 115-2 as an adjustment to the interim period's opening balance of retained earnings, net of applicable taxes, with a corresponding adjustment to accumulated other comprehensive income. The cumulative effect on retained earnings must be calculated by comparing the present value of the cash flows expected to be collected on the debt security with the security's amortized cost basis as of the beginning of the interim period of adoption. This calculation should be made in accordance with the guidance in the FSP. In order to disclose the cumulative effect, if any, of initially applying FSP FAS 115-2 in its Call Reports through year-end 2009 (regardless of whether the FSP was adopted in the first or second quarter of 2009), a bank should report the amount of any net-of-tax adjustment to the opening balance of retained earnings as of the beginning of the interim period of adoption in Schedule RI-A, item 2, "Restatements due to corrections of material accounting errors and changes in accounting principles," and in Schedule RI-E, item 4.a, "Cumulative effect of the initial application of FSP FAS 115-2 on other-than-temporary impairment," and include an offsetting adjustment in Schedule RI-A, item 10, "Other comprehensive income."

For other-than-temporary impairment losses on held-to-maturity and available-for-sale debt securities that occur after the beginning of the interim period in which FSP FAS 115-2 is adopted, banks should report the amount of such losses that must be recognized in earnings in items 6.a and 6.b, of the Call Report income statement (Schedule RI), respectively. Other-than-temporary impairment losses that are to be recognized in other comprehensive income, net of applicable taxes, should be reported in item 10 of Schedule RI-A, Changes in Bank Equity Capital, and included in item 26.b, "Accumulated other comprehensive income," on the Call Report balance sheet (Schedule RC). For a held-to-maturity debt security on which the bank has recognized an other-than-temporary impairment loss related to factors other than credit loss in other comprehensive income, the bank should report the carrying value of the debt security, as defined in FSP FAS 115-2, in item 2.a of Schedule RC and in column A of Schedule RC-B, Securities. Under the FSP, this carrying value should be the fair value of the debt security as of the date of the most recently recognized other-than-temporary impairment loss adjusted for subsequent accretion of the impairment loss related to factors other than credit loss.

In addition, for regulatory capital purposes, any other-than-temporary impairment losses on both held-to-maturity and available-for-sale debt securities related to factors other than credit loss that are reported, net of applicable taxes, in Schedule RC, item 26.b, "Accumulated other comprehensive income," should be included in Schedule RC-R, item 2, together with the net unrealized gains (losses) on available-for-sale securities that are reported in item 2. Furthermore, when risk-weighting a held-to-maturity debt security for which an other-than-temporary impairment loss related to factors other than credit loss was previously recognized in other comprehensive income, include the carrying value of the debt security, as described above, in column A of Schedule RC-R, item 35. Then, include the pre-tax amount of this impairment loss that has not yet been accreted from accumulated other comprehensive income to the carrying value of the security as a negative number in column B of Schedule RC-R, item 35, and include the amortized cost of the security, as defined in FSP FAS 115-2, in the appropriate risk-weight category column of item 35 (provided the security is not a purchased subordinated security that is not eligible for the ratings-based approach). Under FSP 115-2, amortized cost is the security's previous amortized cost as of the date of the most recently recognized other-than-temporary impairment loss less the amount of impairment loss recognized in earnings adjusted for subsequent accretion of interest income and payments received on the security.

Treasury Department's Capital Purchase Program

On October 14, 2008, the U.S. Treasury Department announced a Capital Purchase Program (CPP) under the Troubled Asset Relief Program mandated by the Emergency Economic Stabilization Act of 2008 (http://www.treas.gov/press/releases/hp1207.htm). The CPP is designed to encourage U.S. financial institutions to build capital to buttress the financial strength of the banking system, increase the flow of financing to U.S. businesses and consumers, and support the U.S. economy. Under this program, the Treasury will purchase up to $250 billion of securities issued by qualifying financial institutions.

For banks (other than those that are Subchapter S or mutual institutions) that are not subsidiaries of holding companies that are approved for participation in the CPP, the Treasury Department will purchase noncumulative perpetual preferred stock and warrants to purchase common stock or noncumulative perpetual preferred stock, depending on whether the bank's common stock is "publicly traded." For such banks that are not publicly traded, the Treasury Department intends to immediately exercise the warrants for noncumulative perpetual preferred stock ("warrant preferred stock"). The noncumulative perpetual preferred stock issued to the Treasury Department, including warrant preferred stock, should be reported on the Call Report balance sheet (Schedule RC) in item 23, "Perpetual preferred stock and related surplus." For regulatory capital purposes, the noncumulative perpetual preferred stock issued to the Treasury Department qualifies as a component of Tier 1 capital and will be included in the amount reported for "Total equity capital" in item 1 of Schedule RC-R, Regulatory Capital.

Warrants issued by a publicly traded bank should be included in equity capital on the Call Report balance sheet provided the bank has sufficient authorized but unissued shares of the common stock to allow exercise of the warrants and any other necessary shareholder approvals have been obtained. If the bank does not have required shareholder approval, including shareholder approval for sufficient authorized but unissued shares of the common stock subject to the warrants that may be required for settlement, the warrants may be included in equity capital on the Call Report balance sheet provided that the bank takes the necessary action to secure sufficient approvals prior to the end of the fiscal quarter in which the warrants are issued. The amount assigned to warrants classified as equity capital should be included in Schedule RC, item 25, "Surplus." Warrants that are not eligible to be classified as equity capital should be reported on the Call Report balance sheet in item 20, "Other liabilities."

Proceeds from a bank's issuance to the Treasury Department of noncumulative perpetual preferred stock and warrants eligible to be classified as equity capital during the calendar year-to-date reporting period should be included in Schedule RI-A, item 5, "Sale, conversion, acquisition, or retirement of capital stock, net."

For banks that have elected to be taxed under Subchapter S or are organized in mutual form, the full amount of all subordinated debt securities issued to the Treasury Department under the CPP should be reported in Schedule RC, item 19, "Subordinated notes and debentures." For regulatory capital purposes, report in

Schedule RC-R, item 12, “Qualifying subordinated debt and redeemable preferred stock,” the portion of such subordinated debt securities that qualify for inclusion in Tier 2 capital based on the capital guidelines of the reporting bank’s primary federal supervisory authority.

Measurement of Fair Values in Stressed Market Conditions

The valuation of various assets and liabilities on the balance sheet – including trading assets and liabilities, available-for-sale securities, loans held for sale, assets and liabilities accounted for under the fair value option (which is discussed in the following section), and foreclosed assets – involves the use of fair values. During periods of market stress, the fair values of some financial instruments and nonfinancial assets may decline.

Institutions are reminded that the objective of a fair value measurement is to determine the price that would be received to sell an asset or transfer a liability in an orderly transaction between market participants at the balance sheet date under current market conditions. An orderly transaction is a transaction that assumes exposure to the market for a period prior to the measurement date to allow for marketing activities that are usual and customary for transactions involving such assets or liabilities; it is not a forced transaction (e.g., a forced liquidation or distress sale). This fair value objective is applicable to all fair value measurements and is consistent with FASB Statement No. 157, *Fair Value Measurements* (FAS 157), which is discussed in the Glossary entry for “Fair Value” in the Call Report instruction book.

On September 30, 2008, the SEC’s Office of the Chief Accountant and the FASB staff jointly issued clarifications that address several fair value measurement questions that have arisen in the current market environment (http://www.fasb.org/news/2008-FairValue.pdf). These clarifications are based on the fair value measurement guidance in FAS 157. Banks should consider these clarifications when measuring fair value for Call Report purposes.

On April 9, 2009, the FASB issued FASB Staff Position No. FAS 157-4, *Determining Fair Value When the Volume and Level of Activity for the Asset or Liability Have Significantly Decreased and Identifying Transactions That Are Not Orderly* (FSP FAS 157-4). This FSP provides additional guidance on determining fair value in accordance with FAS 157 when the volume and level of activity have significantly decreased when compared with normal market activity for an asset or liability (or similar assets or liabilities). According to FSP FAS 157-4, a significant decrease in the volume and level of activity for the asset or liability is an indication that transactions or quoted prices may not be determinative of fair value because in such market conditions there may be increased instances of transactions that are not orderly. In those circumstances, further analysis of transactions or quoted prices is needed, and a significant adjustment to the transactions or quoted prices may be necessary to estimate fair value in accordance with Statement 157.

FSP FAS 157-4 is effective for interim and annual reporting periods ending after June 15, 2009, and shall be applied prospectively. Early adoption of this FSP is permitted for periods ending after March 15, 2009, in accordance with the FSP’s effective date and transition provisions. Banks were expected to adopt FSP FAS 157-4 for Call Report purposes in accordance with the FSP’s effective date.

FASB Interpretation No. 48 on Uncertain Tax Positions

FASB Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* (FIN 48), was issued in June 2006 as an interpretation of FASB Statement No. 109, *Accounting for Income Taxes.* Under FIN 48, the term “tax position” refers to “a position in a previously filed tax return or a position expected to be taken in a future tax return that is reflected in measuring current or deferred income tax assets and liabilities.” The term “tax position” also encompasses an entity’s status as a pass-through entity, such as a Subchapter S Corporation for federal income tax purposes. FIN 48 further states that a “tax position can result in a permanent reduction of income taxes payable, a deferral of income taxes otherwise currently payable to future years, or a change in the expected realizability of deferred tax assets.”

According to FIN 48, a bank should initially recognize the effects of a tax position in its financial statements when, based on the technical merits, it is more likely than not (i.e., a likelihood of more than 50 percent) that the position will be sustained upon examination by the taxing authority, including the resolution of any related appeals or litigation. The more-likely-than-not evaluation must consider the facts, circumstances, and information available at the report date. When a tax position meets the more-likely-than-not recognition threshold, it should initially and subsequently be measured as the largest amount of tax benefit greater than 50 percent likely of being realized upon ultimate settlement with a taxing authority that has full knowledge of all relevant information. FIN 48 also provides guidance on subsequent recognition, derecognition, and measurement of tax positions, including the effect of changes in judgment, and on the recognition of interest and penalties. The June 2007 Call Report instruction book update included a revised Glossary entry for "Income Taxes" that includes guidance on FIN 48.

Banks must adopt FIN 48 for Call Report purposes in accordance with the interpretation's effective date. As originally issued, FIN 48 was effective for fiscal years beginning after December 15, 2006. However, for eligible nonpublic enterprises, the FASB Board deferred the effective date of FIN 48 to the annual financial statements for fiscal years beginning after December 15, 2008. A nonpublic enterprise is eligible for this deferral provided it (a) has not issued a full set of annual financial statements incorporating the recognition, measurement, and disclosure requirements of FIN 48 and (b) is not a subsidiary of a public enterprise. A nonpublic enterprise that meets these conditions is eligible for the deferral even if it issued interim or quarterly financial information in 2007 that reflected the adoption of FIN 48.

Thus, eligible nonpublic banks must adopt FIN 48 for Call Report purposes for annual periods beginning after December 15, 2008, based on their respective fiscal years. For example, an eligible nonpublic bank with a calendar year fiscal year must adopt FIN 48 as of January 1, 2009, but is not required to reflect the effect of its adoption of FIN 48 for Call Report purposes until it prepares its Call Report for the December 31, 2009, report date. An eligible nonpublic bank that applied the recognition and measurement provisions of FIN 48 in its Call Reports for 2007 report dates can either: (a) choose not to adopt the effective date deferral and continue to apply FIN 48 in its Call Reports going forward; or (b) choose to adopt the effective date deferral and its December 2007 Call Report should have been prepared without reflecting the application of FIN 48. As noted above, a nonpublic bank that is a subsidiary of a public company does not meet the eligibility conditions for the deferral of the effective date of FIN 48 and at present should be preparing its Call Reports in accordance with FIN 48.

FASB Statement No. 158 on Defined Benefit Postretirement Plans

FASB Statement No. 158, *Employers' Accounting for Defined Benefit Pension and Other Postretirement Plans* (FAS 158), issued in September 2006, requires a bank that sponsors a single-employer defined benefit postretirement plan, such as a pension plan or health care plan, to recognize the funded status of each such plan on its balance sheet. An overfunded plan is recognized as an asset while an underfunded plan is recognized as a liability. As of the end of the fiscal year when a bank initially applies FAS 158, the postretirement plan amounts recognized on the bank's balance sheet before applying FAS 158 must be adjusted to recognize gains or losses, prior service costs or credits, and transition assets or obligations that have not yet been included in the net periodic benefit cost of its plans. These adjustment amounts are recognized directly in equity capital as components of the ending balance of accumulated other comprehensive income (AOCI), net of tax. Thereafter, a bank must recognize certain gains and losses and prior service costs or credits that arise during each reporting period, net of tax, as a component of other comprehensive income (OCI) and, hence, AOCI. Postretirement plan amounts carried in AOCI are adjusted as they are subsequently recognized in earnings as components of the plans' net periodic benefit cost. For further information on accounting for defined benefit postretirement plans, banks should refer to FAS 158; FASB Statement No. 87, *Employers' Accounting for Pensions* (FAS 87); and FASB Statement No. 106, *Employers' Accounting for Postretirement Benefits Other Than Pensions* (FAS 106).

Currently, FAS 87 and FAS 106 permit banks that sponsor single-employer defined benefit postretirement plans to choose to measure plan assets and obligations either as of the end of the fiscal year or as of a date not more than three months before the end of the fiscal year. FAS 158 eliminates this choice by generally requiring that, for fiscal years ending after December 15, 2008, plan assets and obligations must be measured as of the end of the fiscal year.

Banks that sponsor single-employer defined benefit postretirement plans must adopt FAS 158 for Call Report purposes in accordance with the standard's effective date and transition provisions with respect to both funded status and measurement date. In the fiscal year that the measurement date provisions of FAS 158 are initially applied, banks should report the adjustment of the opening balance of retained earnings and any adjustment of the opening balance of AOCI in Schedule RI-A, item 2, “Restatements due to corrections of material accounting errors and changes in accounting principles,” and should disclose this total amount in Schedule RI-E, item 4.

In addition, according to an interim decision announced by the banking agencies on December 14, 2006, banks should reverse the effects on AOCI of FAS 158 for regulatory capital purposes, including for purposes of reporting and measuring the numerators and denominators for the leverage and risk-based capital ratios. The intent of the reversal is to neutralize the effect on AOCI of the application of FAS 158 on regulatory capital. Banks should exclude from regulatory capital any amounts recorded in AOCI resulting from the initial and subsequent application of both the funded status and measurement date provisions of FAS 158. For Call Report purposes, these excluded amounts should be reported in item 4 of Schedule RC-R, Regulatory Capital, together with the accumulated net gains (losses) on cash flow hedges. If the sum of the amounts included in AOCI (Schedule RC, item 26.b) for defined benefit postretirement plans under FAS 158 and for cash flow hedges represents a net gain (i.e., a net increase) in reported equity capital, this sum should be reported as a positive value in item 4 of Schedule RC-R. If the sum represents a net loss (i.e., a decrease) in reported equity capital, it should be reported as a negative number in item 4 of Schedule RC-R.

In addition, when determining the regulatory capital limit for deferred tax assets, a bank may, but is not required to, adjust the amount of its deferred tax assets for any deferred tax assets or liabilities associated with any amounts recorded in AOCI resulting from the application of FAS 158 that are excluded from regulatory capital (and reported in Schedule RC-R, item 4) in accordance with the preceding guidance. A bank must follow a consistent approach over time with respect to such adjustments.

For purposes of reporting and measuring the denominators for the risk-based and leverage ratios, banks should also adjust their assets for any amounts recorded in AOCI affecting assets resulting from the initial and subsequent application of the funded status and measurement date provisions of FAS 158. Specifically, assets recognized or derecognized as an adjustment to AOCI as part of the incremental effect of applying FAS 158 should be reported as an adjustment to assets in item 42 of Schedule RC-R, column B, and should also be reported in item 26 of Schedule RC-R. For example, derecognition of an asset recorded as an offset to AOCI as part of the initial incremental effect of applying FAS 158 should be recorded as a negative amount in item 42, column B, of Schedule RC-R and as a positive amount in item 42, column F. This amount should also be added back to average total assets for leverage capital purposes by reporting it as a negative number in item 26 of Schedule RC-R. As another example, the portion of a benefit plan surplus asset that is included in Schedule RC, item 26.b as an increase to AOCI and is included in item 42, column A, of Schedule RC-R should be excluded from risk-weighted assets by reporting the amount as a positive number in item 42, column B. This amount should also be deducted from average total assets for leverage capital purposes by reporting the amount as a positive number in item 26 of Schedule RC-R. In addition, the adjustments for purposes of calculating risk-based capital and the leverage ratio described above should be adjusted for subsequent amortization of such amounts from AOCI into earnings.

Amending Previously Submitted Report Data

Should your bank find that it needs to revise previously submitted Call Report data for quarters beginning September 30, 2005, please make the appropriate changes to the data, ensure that the revised data passes the FFIEC-published validation criteria, and submit the revised data file to the CDR using one of the two methods described in the banking agencies' cover letter for the December 31, 2009, report date. Should your bank need to amend its Call Report data for June 30, 2005, or an earlier date, please contact your Call Report analyst at the FDIC (for national banks and FDIC-supervised banks) or your Federal Reserve District Bank (for state member banks) for instructions on how to submit amendments to prior period data.

Other Reporting Matters

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

- FDIC special assessment – Supplemental Instructions for September 30, 2009 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200909.pdf)

- Accounting for business combinations and noncontrolling (minority) interests under FASB Statements Nos. 141(R) and 160 – Supplemental Instructions for June 30, 2009 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200906.pdf)

- Fair value measurement under FASB Statement No. 157 and the fair value option under FASB Statement No. 159 – Supplemental Instructions for June 30, 2009 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200906.pdf)

- Accounting for share-based payments under FASB Statement No. 123 (Revised 2004), *Share-Based Payment* – Supplemental Instructions for December 31, 2006 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200612.pdf)

- Tobacco Transition Payment (Buyout) Program **–** Supplemental Instructions for March 31, 2006 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200603.pdf)

- Commitments to originate and sell mortgage loans **–** Supplemental Instructions for March 31, 2006 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200603.pdf) and June 30, 2005 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200506.pdf)

- FASB Interpretation No. 46 (Revised), *Consolidation of Variable Interest Entities* – Supplemental Instructions for June 30, 2005 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst_200506.pdf)

- Reporting of funds invested through Bentley Financial Services, Inc. – Supplemental Instructions for June 30, 2003 (http://www.ffiec.gov/PDF/FFIEC_forms/FFIEC031_041_suppinst0603.pdf)

Call Report Software Vendors

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

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

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

Fidelity Regulatory Solutions
27200 Agoura Road, Suite 100
Calabasas, California 91301
Telephone: (800) 825-3772
www.callreporter.com

FinArch US, Inc.
Burlington Center, 4th Floor
35 Corporate Drive
Burlington, Massachusetts 01803
Telephone: (800) 763-7070
www.finarch.com

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

FRSGlobal
119 Russell Street
Littleton, Massachusetts 01460
Telephone: (978) 698-7200
www.frsglobal.com

Jack Henry & Associates, Inc.
Regulatory Filing Group
7600B North Capital of Texas Highway, Suite 320
Austin, Texas 78731
Telephone: (800) 688-9191
filing.jackhenry.com

SOFGEN Americas, Inc.
One Gateway Center, 26th Floor
Newark, New Jersey 07102
Telephone: (973) 648-0900
www.sofgen.com