2Q2020 COVID-19 Related Supplemental Instructions (FFIEC 002)

The Federal Reserve Board (Board), on behalf of the three federal banking agencies, has requested and received emergency approval from the U.S. Office of Management and Budget for certain revisions to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), effective as of the June 30, 2020, report date. These revisions resulted from an interim final rule (IFR) adopted by the Board and a notice of proposed rulemaking (NPR) issued by the Federal Deposit Insurance Corporation (FDIC) in response to the impact on the financial markets and the strains on the U.S. economy as a result of the Coronavirus Disease 2019 (COVID-19). The revisions also resulted from certain provisions of the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which was enacted on March 27, 2020. The IFR and the NPR were published in the Federal Register in April and May 2020.

The revisions include:

1) New items on FFIEC 002 Schedule C, Part I, Loans and Leases, to collect data on eligible loan modifications under Section 4013, Temporary Relief from Troubled Debt Restructurings, of the 2020 CARES Act, with these items collected on a confidential basis (5 U.S.C. § 552(b)(8)).

2) New items on FFIEC 002 Schedule O, Other Data for Deposit Insurance Assessments, to collect data from FDIC-insured U.S. branches only on:
    a. The quarterly average amount of U.S. Small Business Administration (SBA) Paycheck Protection Program (PPP) loans pledged to the Federal Reserve PPP Liquidity Facility (PPPLF); and
    b. The quarterly average amount of holdings of assets purchased from money market mutual funds under the Money Market Mutual Fund Liquidity Facility (MMLF).

    The agencies expect the collection of these new Schedule C and Schedule O items to be time-limited.

3) Revisions to the definitions of certain deposits reported on FFIEC 002 Schedule E, Deposit Liabilities and Credit Balances, in response to an IFR amending the Board's Regulation D (12 CFR 204).

The agencies will request public comment on these changes in reporting through the standard Paperwork Reduction Act process at a later date.

For further information on the IFR and the NPR, see the following *Federal Register* notices:

- Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the PPP, the PPPLF, and the MMLF;
- Regulation D: Reserve Requirements of Depository Institutions;

Table of Contents

Topic **Page**

I. Notice of Proposed Rulemaking for Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Liquidity Facility (PPPLF), and the Money Market Mutual Fund Liquidity Facility (MMLF).....3

II. CARES Act, Section 4013, Temporary Relief from Troubled Debt Restructurings (TDRs)....3

III. Interim Final Rule for Reserve Requirements of Depository Institutions (Regulation D) 4

I. Notice of Proposed Rulemaking, Assessments, Mitigating the Deposit Insurance Assessment Effect of Participation in the Paycheck Protection Program (PPP), the PPP Liquidity Facility (PPPLF), and the Money Market Mutual Fund Liquidity Facility (MMLF)

Background:

On May 12, 2020, the FDIC approved a notice of proposed rulemaking to mitigate the deposit insurance assessment effect of participation in the PPP, the PPPLF, and the MMLF. The proposed changes would (1) remove the effect of participation in the PPP and PPPLF on various risk measures used to calculate an insured depository institution's (IDI's) assessment rate; (2) remove the effect of participation in the PPPLF and MMLF programs on certain adjustments to an IDI's assessment rate; (3) provide an offset to an IDI's assessment for the increase to its assessment base attributable to participation in the MMLF and PPPLF; and (4) remove the effect of participation in the PPPLF and MMLF programs when classifying IDIs as small, large, or highly complex for assessment purposes. The FDIC has proposed an effective date by June 30, 2020, and an application date of April 1, 2020, in order to provide assessment relief starting with the second quarter of 2020.

Under the proposal, the FDIC, in calculating an IDI's deposit insurance assessment rate, would exclude PPP loans held by an IDI (including loans pledged to the PPPLF) from its loan portfolio. Also, under the proposal, in calculating an IDI's deposit insurance assessment rate, the FDIC would exclude PPP loans pledged to the PPPLF from total assets and would exclude borrowings from the Federal Reserve Banks under the PPPLF from total liabilities when calculating an IDI's deposit insurance assessment rate.

Further, because participation in the PPPLF and MMLF is expected to increase an IDI's assessment base, the FDIC would provide an offset to an IDI's total assessment amount attributable to the inclusion of (1) the quarterly average amount of PPP loans pledged to the PPPLF and (2) the quarterly average amount of holdings of assets purchased under the MMLF in its assessment base.

Accordingly, a PPP loan that has not been pledged as collateral in connection with an extension of credit under the PPPLF and an asset purchased from a money market mutual fund outside the auspices of the MMLF program would continue to be included in the calculation of the IDI's total assets. Therefore, the FDIC would continue to include the resulting loans and assets in the calculation of an IDI's deposit insurance assessment amount.

Reporting Needs for Deposit Insurance Assessments

Starting with the June 30, 2020, report date, FDIC-insured U.S. branches would separately report in FFIEC 002 Schedule O, Memorandum item 6, the quarterly average amount of PPP loans pledged to the PPPLF. FDIC-insured U.S. branches would also separately report in Schedule O, Memorandum item 7, the quarterly average amount of holdings of assets purchased under the MMLF. The FDIC would use the data reported in these items to make the proposed modifications to an institution's deposit insurance assessment.

II. Section 4013, Temporary Relief from Troubled Debt Restructurings (TDRs)

As provided for under the CARES Act, a financial institution may account for an eligible loan modification either under Section 4013 or in accordance with Accounting Standards Codification (ASC) Subtopic 310-40, Receivables–Troubled Debt Restructurings by Creditors. If a loan modification is not eligible under Section 4013, or if the institution elects not to account for the loan modification under Section 4013, the financial institution should evaluate whether the modified loan is a TDR under ASC Subtopic 310-40.

To be an eligible loan under Section 4013 (Section 4013 loan), a loan modification must be (1) related to COVID-19; (2) executed on a loan that was not more than 30 days past due as of December 31, 2019; and (3) executed between March 1, 2020, and the earlier of (A) 60 days after the date of termination of the national emergency concerning the COVID-19 outbreak declared by the President on March 13, 2020, under the National Emergencies Act or (B) December 31, 2020.

Financial institutions accounting for eligible loans under Section 4013 are not required to apply ASC Subtopic 310-40 to the Section 4013 loans for the term of the loan modification. Financial institutions do not have to report Section 4013 loans as TDRs in regulatory reports. However, consistent with the statute, the agencies are collecting information about the volume of loans modified under Section 4013. Financial institutions should report the total number of loans outstanding that have been modified under Section 4013 and the outstanding balance of these loans in FFIEC 002 Schedule C, Part I, Memorandum items 5.a and 5.b, respectively. These two items are being collected on a confidential basis at the individual U.S. branch-and-agency level.

U.S. branches and agencies should continue to follow reporting instructions and U.S. GAAP for Section 4013 loans, including:

- Appropriately reporting past due and nonaccrual status; and
- Maintaining an appropriate allowance for loan losses in accordance with ASC Subtopic 450-20 or ASC Subtopic 310-10, or an appropriate allowance for credit losses in accordance with ASC Subtopic 326-20, as applicable, if the reporting branch or agency chooses to establish a general allowance for loan losses on an office level.

U.S. branches and agencies are not required to report Section 4013 loans in FFIEC 002 Schedule N, column D, "Restructured and in Compliance with Modified Terms."

III. Interim Final Rule for Reserve Requirements of Depository Institutions (Regulation D)

On April 28, 2020, the Board published an Interim Final Rule amending its Regulation D (12 CFR 204) to delete the numeric limits on certain kinds of transfers and withdrawals that may be made each month from "savings deposits." In response to the changes to Regulation D, the definitions of certain deposits reported on FFIEC 002 Schedule E, Deposit Liabilities and Credit Balances, have been revised. The following pages (pages 5 to 12) contain the redlined instructions for these revisions.

stop payment, missing endorsement, post or stale date, or account closed), but which have been charged to the control accounts of the various deposit categories on the general ledger, should be credited to (added back to) the appropriate deposit control totals and reported in Schedule RAL, item 1(h) "Other assets."

The Monetary Control Act of 1980 and the resulting revision to Federal Reserve Regulation D, "Reserve Requirements of Depository Institutions," established, for purposes of federal reserve requirements on deposit liabilities, a category of deposits identified as "transaction accounts." The distinction between transaction and nontransaction accounts is discussed in detail in the Glossary entry for "deposits." In particular, money market deposit accounts (MMDAs) are regarded as savings deposits and are specifically excluded from the "transaction account" classification.

~~Summary of Transaction Account Classifications~~

~~(See the Glossary entry for "deposits" for detailed definitions and further information.)~~

~~***Always regarded as transaction accounts:***~~

~~(1) Demand deposits.~~

~~(2) NOW accounts.~~

~~(3) ATS accounts.~~

~~(4) Accounts (other than savings deposits) from which payments may be made to third parties by means of an automated teller machine (ATM), a remote service unit (RSU), or another electronic device, including by debit card.~~

~~(5) Accounts (other than savings deposits) that permit third party payments through use of checks, drafts, negotiable instruments, or other similar instruments.~~

~~***Deposits or accounts that are regarded as transaction accounts if the following specified conditions exist:***~~

~~(1) Accounts that otherwise meet the definition of savings deposits but that authorize or permit the depositor to *exceed* the transfer and withdrawal rules for a savings deposit.~~

~~(2) Any deposit or account that otherwise meets the definition of a time deposit but that allows withdrawals within the first six days after the date of deposit and that does *not* require an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within those first six days, *unless* the deposit or account meets the definition of a savings deposit. Any such deposit or account that meets the definition of a savings deposit shall be reported as a savings deposit, otherwise it shall be reported as a demand deposit, which is a transaction account.~~

~~(3) The *remaining balance* of a time deposit from which a partial early withdrawal is made, *unless* the remaining balance *either* (a) is subject to additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal (in which case the deposit or account continues to be reported as a time deposit) *or* (b) is placed in an account that meets the definition of a savings deposit (in which case the deposit or account shall be reported as a savings deposit). Otherwise, the deposit or account shall be reported as a demand deposit, which is a transaction account.~~

~~***Not regarded as transaction accounts (unless specified above):***~~

~~(1) Savings deposits (including accounts commonly known as money market deposit accounts (MMDAs)).~~

~~(2) Accounts that permit telephone or preauthorized transfers or transfers by ATMs or RSUs to repay loans made or serviced by the same depository institution.~~

~~(3) Accounts that permit telephone or preauthorized withdrawals where the proceeds are to be mailed to or picked up by the depositor.~~

~~(4) Accounts that permit transfers to other accounts of the depositor at the same institution through ATMs or RSUs.~~

Column Instructions

Deposits as summarized above are divided into two general categories, "Transaction Accounts" (columns A and B) and "Nontransaction Accounts" (column C).

DRAFT

of Depository Institutions," establish, for purposes of federal reserve requirements on deposit liabilities, a category of deposits designated as "transaction accounts." All deposits that are not transaction accounts are "nontransaction accounts."

(1) *Transaction accounts*—With the exceptions noted below, a "transaction account," as defined in Regulation D and in these instructions, is a deposit or account from which the depositor or account holder is permitted to make transfers or withdrawals by negotiable or transferable instruments, payment orders of withdrawal, telephone transfers, or other similar devices for the purpose of making payments or transfers to third persons or others or from which the depositor may make third party payments at an automated teller machine (ATM), a remote service unit (RSU), or another electronic device, including by debit card.

Excluded from transaction accounts are savings deposits (both money market deposit accounts (MMDAs) and other savings deposits) as defined below in the nontransaction account category~~, even though such deposits permit some third-party transfers. However, an account that otherwise meets the definition of a savings deposit but that authorizes or permits the depositor to exceed the transfer limitations specified for that account shall be reported as a transaction account. (Please refer to the definition of savings deposits for further detail.)~~

NOTE: Under the Federal Reserve's current Regulation D, no transaction account, regardless of its other characteristics, is classified either as a savings deposit or as a time deposit. Thus, those transaction accounts that are *not* demand deposits—NOW accounts, ATS (Automatic Transfer Service) accounts, and telephone and preauthorized transfer accounts—are *excluded* from Regulation D time and savings deposits.

Transaction accounts consist of the following types of deposits: (a) demand deposits; (b) NOW accounts (including accounts previously designated as "Super NOWs"); (c) ATS accounts; and (d) telephone and preauthorized transfer accounts, all as defined below. Interest that is paid by the crediting of transaction accounts is also included in transaction accounts.

(a) *Demand deposits* are deposits that are payable immediately on demand, or that are issued with an original maturity or required notice period of less than seven days, or that represent funds for which the depository institution does not reserve the right to require at least seven days' written notice of an intended withdrawal. Demand deposits include any matured time deposits without automatic renewal provisions, unless the deposit agreement provides for the funds to be transferred at maturity to another type of account. Effective July 21, 2011, demand deposits may be interest-bearing or noninterest-bearing. Demand deposits do *not* include: (i) money market deposit accounts (MMDAs) or (ii) NOW accounts, as defined below in this entry.

(b) *NOW accounts* are interest-bearing deposits (i) on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account *and* (ii) that can be withdrawn or transferred to third parties by insurance of a negotiable or transferable instrument. NOW accounts, as authorized by federal law, are limited to accounts held by:

(i) Individuals or sole proprietorships;

(ii) Organizations that are operated primarily for religious, philanthropic, charitable, educational, or other similar purposes and that are not operated for profit. These include organizations, partnerships, corporations, or associations that are not organized for profit *and* are described in section 501(c)(3) through (13) and (19) and section 528 of the Internal Revenue Code, such as church organizations; professional associations; trade associations; labor unions; fraternities, sororities and similar social organizations; and non-profit recreational clubs; or

(iii) Governmental units including the federal government and its agencies and

DRAFT

instrumentalities; state governments; county and municipal governments and their political subdivisions; the District of Columbia; the Commonwealth of Puerto Rico, American Samoa, Guam, and any territory or possession of the United States and their political subdivisions.

Also included are the balances of all NOW accounts of certain other nonprofit organizations that may not fall within the above description but that had established NOW accounts with the reporting institution prior to September 1, 1981.

NOTE: There are no regulatory requirements with respect to minimum balances to be maintained in a NOW account or to the amount of interest that may be paid on a NOW account.

(c) *ATS accounts* are deposits or accounts of individuals or sole proprietorships on which the depository institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account *and* from which, pursuant to written agreement arranged in advance between the reporting institution and the depositor, withdrawals may be made automatically through payment to the depository institution itself or through transfer of credit to a demand deposit or other account in order to cover checks or drafts drawn upon the institution or to maintain a specified balance in, or to make periodic transfers to, such other accounts. ~~Some institutions may have entered into agreements with their customers providing that in the event the customer should overdraw a demand deposit (checking) or NOW account, the institution will transfer from that customer's savings account an amount sufficient to cover the overdraft. The availability of the overdraft protection plan would not in and of itself require that such a savings account be regarded as a transaction account *provided that* the overall transfer and withdrawal restrictions of a savings deposit are not exceeded. Please refer to the definition of savings deposit for further detail.~~

(d) *Telephone or preauthorized transfer accounts* consist of deposits or accounts, other than savings deposits, (1) in which the entire beneficial interest is held by a party eligible to hold a NOW account~~,~~ and (2) on which the reporting institution has reserved the right to require at least seven days' written notice prior to withdrawal or transfer of any funds in the account, ~~and (3) under the terms of which, or by practice of the reporting institution, the depositor is permitted or authorized to make *more than six* withdrawals per month or statement cycle (or similar period) of at least four weeks for purposes of transferring funds to another account of the depositor at the same institution (including a transaction account) or for making payment to a third party by means of preauthorized transfer, or telephonic (including data transmission) agreement, order or instruction. An account that permits or authorizes more than six such withdrawals in a "month" (a calendar month or any period approximating a month that is at least four weeks long, such as a statement cycle) is a transaction account whether or not more than six such withdrawals actually are made in the "month."~~ A "preauthorized transfer" includes any arrangement by the reporting institution to pay a third party from the account of a depositor (1) upon written or oral instruction (including an order received through an automated clearing house (ACH), or (2) at a predetermined time or on a fixed schedule. Telephone and preauthorized transfer accounts also include:

(i) Deposits or accounts maintained in connection with an arrangement that permits the depositor to obtain credit directly or indirectly through the drawing of a negotiable or nonnegotiable check, draft, order or instruction or other similar device (including telephone or electronic order or instruction) on the issuing institution that can

DRAFT

be used for the purpose of making payments or transfers to third parties or others, or to another deposit account of the depositor.

(ii) The balance of deposits or accounts that otherwise meet the definition of time deposits, but from which payments may be made to *third parties* by means of a debit card, an automated teller machine, remote service unit or other electronic device, regardless of the number of payments made.

~~However, an account is *not* a transaction account merely by virtue of arrangements that permit the following types of transfer or withdrawals, regardless of the number:~~

~~(i) Transfers for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer).~~

~~(ii) Transfers of funds from this account to another account of the same depositor at the same depository institution when made by mail, messenger, automated teller machine, or in person.~~

~~(iii) Withdrawals for payment directly to the depositor when made by mail, messenger, automated teller machine, in person, or by telephone (via check mailed to the depositor).~~

(2) *Nontransaction accounts*—All deposits that are not transaction accounts (as defined above) are nontransaction accounts. Nontransaction accounts include: (a) savings deposits ((i) money market deposit accounts (MMDAs) and (ii) other savings deposits and (b) time deposits ((i) time certificates of deposit and (ii) time deposits, open account). Regulation D no longer distinguishes between money market deposit accounts (MMDAs) and other savings deposits. However, these two types of accounts are defined below for purposes of this report. *NOTE:* Under the Federal Reserve's current Regulation D, no transaction accounts, regardless of other characteristics, are defined as savings or time deposits. Thus, *savings deposits as defined here,* under the heading nontransaction accounts, *constitute the entire savings deposit category*. Likewise, time deposits, also defined here under nontransaction accounts, constitute the entire time deposits category.

(a) *Savings deposits* are deposits with respect to which the depositor is not required by the deposit contract but may at any time be required by the depository institution to give written notice of an intended withdrawal not less than seven days before withdrawal is made, and that is not payable on a specified date or at the expiration of a specified time after the date of deposit. ~~The term savings deposit also means a deposit or account, such as an account commonly known as a passbook savings account, a statement savings account, or a money market deposit account (MMDA), that otherwise meets the requirements of the preceding paragraph and from which, under the terms of the deposit contract or by practice of the depository institution, the depositor is permitted or authorized to make *no more than six transfers and withdrawals,* or a combination of such transfers and withdrawals, per calendar month or statement cycle (or similar period) of at least four weeks, to another account (including a transaction account) of the depositor at the same institution or to a third party by means of a preauthorized or automatic transfer, or telephonic (including data transmission) agreement, order, or instruction; or by check, draft, debit card, or similar order made by the depositor and payable to third parties. Transfers from savings deposits for purposes of covering overdrafts (overdraft protection plans) are included under the withdrawal limits specified for savings deposits. There are no regulatory restrictions on the following types of transfers or withdrawals from a savings deposit account, regardless of the number:~~

~~(i) Transfers for the purpose of repaying loans and associated expenses at the same depository institution (as originator or servicer).~~

DRAFT

~~(ii) Transfers of funds from this account to another account of the same depositor at the same institution when made by mail, messenger, automated teller machine, or in person.~~

~~(iii) Withdrawals for payment directly to the depositor when made by mail, messenger automated teller machine, in person, or by telephone (via check mailed to the depositor).~~

Further, for a savings deposit account, no minimum balance is required by regulation, there is no regulatory limitation on the amount of interest that may be paid, and no minimum maturity is required (although depository institutions must reserve the right to require at least seven days' written notice prior to withdrawal as stipulated above for a savings deposit).

Insert 1

Any depository institution may place restrictions and requirements on savings deposits in addition to those stipulated above. In the case of such further restrictions, the account would still be reported as a savings deposit. ~~On the other hand, an account that otherwise meets the definition of a savings deposit but that authorizes or permits the depositor to exceed the six-transfer/withdrawal rule shall be reported as a transaction account, as follows:~~

~~(i) If the depositor is ineligible to hold a NOW account, such an account is considered a demand deposit.~~

~~(ii) If the depositor is eligible to hold a NOW account, the account will be considered either a NOW account, a telephone or pre-authorized transfer account, or an ATS account:~~

~~(a) If withdrawals or transfers by check, draft, or similar instrument are permitted or authorized, the account is considered a NOW account.~~

~~(b) If withdrawals or transfers by check, draft, or similar instrument are *not* permitted or authorized, the account is considered either an ATS account or a telephone or pre-authorized transfer account.~~

Regulation D no longer distinguishes between money market deposit accounts (MMDAs) and other savings deposits. However, these two types of accounts are defined as follows for purposes of this report.

unlimited transfers

(i) *Money market deposit accounts (MMDAs)* are deposits or accounts that meet the above definition of a savings deposit and that permit ~~*up to (but no more than) six allowable transfers*~~ to be made by check, draft, debit card or similar order made by the depositor and payable to third parties.

(ii) *Other savings deposits* are deposits or accounts that meet the above definition of a savings deposit but that permit *no transfers* by check, draft, debit card, or similar order made by the depositor and payable to third parties. Other savings deposits are commonly known as passbook savings or statement savings accounts.

Examples illustrating distinctions between MMDAs and other savings deposits for purposes of this report are provided at the end of this Glossary entry.

(b) *Time deposits* are deposits that the depositor does not have a right, and is not permitted, to make withdrawals from within six days after the date of deposit unless the deposit is subject to an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within the first six days after deposit. A time deposit from which partial early withdrawals are permitted must impose additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal. If such additional early withdrawal penalties are not imposed, the account ceases to be a time deposit. The account may become a savings deposit if it

DRAFT

Insert 1

Treatment of Accounts where Reporting Institutions Have Suspended Enforcement of the Six Transfer Limit per Regulation D

Where the reporting institution has suspended the enforcement of the six transfer limit rule on an account that meets the definition of a savings deposit, the reporting institution may continue to report such deposits as a savings account, or may choose to report them as transaction accounts based on an assessment of the characteristics of the account as indicated below:

1) If the reporting institution does not retain the reservation of right to require at *least* seven days' written notice before an intended withdrawal, report the account as a demand deposit.

2) If the reporting institution does retain the reservation of right to require at *least* seven days' written notice before an intended withdrawal and the depositor is eligible to hold a NOW account, report the account as either an ATS account, NOW account, or a telephone and preauthorized transfer account.

3) If the reporting institution does retain the reservation of right to require at *least* seven days' written notice before an intended withdrawal and the depositor is ineligible to hold a NOW account, the account should continue to be reported as a savings deposit.

DRAFT

meets the requirements for a savings deposit; otherwise it becomes a demand deposit.

NOTE: The above prescribed penalties are the minimum required by Federal Reserve Regulation D. Institutions may choose to require penalties for early withdrawal in excess of the regulatory minimums.

Time deposits take two forms:

(i) *Time certificates of deposit* (including rollover certificates of deposit) are deposits evidenced by a negotiable or nonnegotiable instrument, or a deposit in book entry form evidenced by a receipt or similar acknowledgment issued by the branch or agency, that provides, on its face, that the amount of such deposit is payable to the bearer, to any specified person, or to the order of a specified person, as follows:

(a) on a certain date not less than seven days after the date of deposit,

(b) at the expiration of a specified period not less than seven days after the date of the deposit, or

(c) upon written notice to the branch or agency which is to be given not less than seven days before the date of withdrawal.

(ii) *Time deposits, open account* are deposits (other than time certificates of deposit) for which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn prior to:

(a) the date of maturity which shall be not less than seven days after the date of the deposit, or

(b) the expiration of a specified period of written notice of not less than seven days.

These deposits include those club accounts, such as Christmas club and vacation club accounts, that are made under written contracts that provide that no withdrawal shall be made until a certain number of periodic deposits has been made during a period of not less than three months, even though some of the deposits are made within six days of the end of such period.

Time deposits *do not include* the following categories of liabilities even if they have an original maturity of seven days or more:

(i) Any deposit or account that otherwise meets the definition of a time deposit but that allows withdrawals within the first six days after deposit and that does *not* require an early withdrawal penalty of at least seven days' simple interest on amounts withdrawn within those first six days. Such deposits or accounts that meet the definition of a savings deposit shall be reported as savings deposits; otherwise they shall be reported as demand deposits.

(ii) The remaining balance of a time deposit *if* a partial early withdrawal is made *and* the remaining balance is *not* subject to additional early withdrawal penalties of at least seven days' simple interest on amounts withdrawn within six days after each partial withdrawal. Such time deposits that meet the definition of a savings deposit shall be reported as savings deposits; otherwise they shall be reported as demand deposits.

Reporting of Retail Sweep Arrangements Affecting Transaction and Nontransaction Accounts

In an effort to reduce their reserve requirements, some branches and agencies have established sweep arrangements that involve transfers of retail customers' deposits between two subaccounts. In a typical arrangement, a branch or agency creates a master account and two subaccounts: a transaction subaccount (either a demand deposit account or a NOW account), ~~which is subject to reserve requirements,~~ and a nontransaction savings subaccount (a special-purpose money market deposit account (MMDA)), ~~which is not subject to~~

DRAFT

~~reserve requirements~~. Depending upon the balances in the two subaccounts on a particular day, the branch or agency will shift funds from the transaction subaccount to the MMDA subaccount or vice versa. On some days, the balance in the MMDA subaccount may be zero. (For purposes of the Federal Reserve's Regulation D, there is no distinction between an MMDA and any other form of savings account in terms of legally required restrictions on transfers.) For purposes of this report, the transaction subaccount and MMDA subaccount must be treated separately when a branch or agency reports its quarter-end deposit information in Schedules RAL, E, and O.

(III) Interest-bearing-noninterest-bearing deposit distinction

(1) *Interest-bearing deposit accounts* consist of deposit accounts on which the issuing depository institution makes any payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. Such compensation may be in the form of cash, merchandise, or property or as a credit to an account. An institution's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

Deposits with a zero percent interest rate that are *issued* on a *discount basis* are to be treated as interest-bearing. Deposit accounts on which the interest rate is periodically adjusted in response to changes in market interest rates and other factors should be reported as interest-bearing even if the rate has been reduced to zero, provided the interest rate on these accounts can be increased as market conditions change.

(2) *Noninterest-bearing deposit accounts* consist of deposit accounts on which the issuing depository institution makes no payment to or for the account of any depositor as compensation for the use of funds constituting a deposit. An institution's absorption of expenses incident to providing a normal banking function or its forbearance from charging a fee in connection with such a service is not considered a payment of interest.

Noninterest-bearing deposit accounts include (i) matured time deposits that are not automatically renewable (unless the deposit agreement provides for the funds to be transferred at maturity to another type of account) and (ii) deposits with a zero percent stated interest rate that are *issued* at *face value.*

See also "brokered deposits" and "hypothecated deposits."

Examples Illustrating Distinctions Between MONEY MARKET DEPOSIT ACCOUNTS (MMDAs) and OTHER SAVINGS DEPOSITS

Example 1

A savings deposit account permits *no* transfers of any type to other accounts or to third parties.

Report this account as an other savings deposit.

Example 2 unlimited

A savings deposit permits ~~*up to six, but no more than six*~~, "preauthorized, automatic, or telephonic" transfers to other accounts or to third parties. *None of the third-party payments* may be made by check, draft, or similar order (including debit card).

Report this account as an other savings deposit.

Example 3 unlimited

A savings deposit permits ~~*no more than six*~~ "preauthorized, automatic, or telephonic" transfers to other accounts or to third parties *any or all of which* may be made by check, draft, debit card or similar order made by the depositor and payable to third parties.

Report this account as an MMDA.

Derivative Contracts

Branches and agencies commonly use derivative instruments for managing (positioning or hedging) their exposure to market risk (including interest rate risk and foreign exchange risk), cash flow risk, and other risks in their operations and for trading. The accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities are set forth in ASC Topic 815, Derivatives and Hedging (formerly

DRAFT