

Advocacy Panel Tax Forms and Publications Project Committee will be held Tuesday, March 08, 2011, at 2 p.m., Eastern Time via telephone conference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Marisa Knispel. For more information, please contact Ms. Knispel at 1-888-912-1227 or 718-488-3557, or write TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201, or post comments to the Web site: <http://www.improveirs.org>.

The agenda will include various IRS issues.

Dated: January 28, 2011.

Shawn Collins,

Director, Taxpayer Advocacy Panel.

[FR Doc. 2011-2342 Filed 2-2-11; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

Proposed Agency Information Collection Activities; Comment Request—Thrift Financial Report

AGENCY: Office of Thrift Supervision (OTS), Treasury.

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the OTS may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. On October 5, 2010, the OTS requested public comment for 60 days (75 FR 61563)¹ on a proposal to extend, with revisions, the Thrift Financial Report (TFR), which is currently an approved collection of information. On November 17, 2010, the OTS published an amended notice to correct an error in the initial notice (75 FR 70355).² These notices described regulatory reporting revisions proposed for the TFR. After considering the comments received on the proposal, the OTS will proceed with most, but not all, of the reporting changes that had been

proposed and will also revise two other TFR items in response to commenters' recommendations. For some of the reporting changes that the OTS plans to implement, limited modifications have been made to the original proposals in response to the comments. All proposed changes to the TFR for 2011 that would increase the differences between the TFR and the Call Report have been eliminated. Proposed changes to the TFR for 2011, announced on October 5, 2010 (75 FR 61563), included changes that parallel proposed changes to the Call Report as well as changes unique to the TFR. Proposed changes unique to the TFR included proposed data collections for classified assets by major loan category and loan loss allowances by major loan category. The OTS will curtail all proposed TFR changes that increase differences with the Call Report in an effort to reduce the initial burden of converting to the Call Report. The changes are proposed to become effective in March 2011.

DATES: Submit written comments on or before March 7, 2011. The regulatory reporting revisions described herein take effect on March 31, 2011.

ADDRESSES: Send comments, referring to the collection by "1550-0023 (TFR Revisions—2011)", to OMB and OTS at these addresses: Office of Information and Regulatory Affairs, *Attention:* Desk Officer for OTS, U.S. Office of Management and Budget, 725 17th Street, NW., Room 10235, Washington, DC 20503, or by fax to (202) 395-6974, and Information Collection Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, by fax to (202) 906-6518, or by e-mail to infocollection.comments@ots.treas.gov, or hand deliver comments to the Guard's Desk, east lobby entrance, 1700 G Street, NW., on business days between 9 a.m. and 4 p.m. All comments should refer to "TFR Revisions—2011, OMB No. 1550-0023." OTS will post comments and the related index on the OTS Internet Site at <http://www.ots.treas.gov>. In addition, interested persons may inspect comments at the Public Reading Room, 1700 G Street, NW., by appointment. To make an appointment, call (202) 906-5922, send an e-mail to publicinfo@ots.treas.gov, or send a facsimile transmission to (202) 906-7755.

FOR FURTHER INFORMATION CONTACT: For further information or to obtain a copy of the submission to OMB, please contact Ira L. Mills, OTS Clearance Officer, at ira.mills@ots.treas.gov, (202) 906-6531, or facsimile number (202)

906-6518, Litigation Division, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

You can obtain a copy of the 2011 Thrift Financial Report forms from the OTS Web site at <http://www.ots.treas.gov/?p=ThriftFinancialReports> or you may request it by electronic mail from tfr.instructions@ots.treas.gov. You can request additional information about this proposed information collection from James Caton, Managing Director, Economics and Industry Analysis Division, (202) 906-5680, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION:

Report Title: Thrift Financial Report.

OMB Number: 1550-0023.

Form Number: OTS 1313.

Statutory Requirement: 12 U.S.C.

1464(v) imposes reporting requirements for savings associations. Except for selected items, these information collections are not given confidential treatment.

Type of Review: Revision of currently approved collections.

Affected Public: Savings Associations.

Estimated Number of Respondents and Recordkeepers: 741.

Estimated Burden Hours per Respondent: 60.2 hours average for quarterly schedules and 2.0 hours average for schedules required only annually plus recordkeeping of an average of one hour per quarter.

Estimated Frequency of Response: Quarterly.

Estimated Total Annual Burden: 186,360 hours.

Abstract

OTS is proposing to revise and extend for three years the TFR, which is currently an approved collection of information.

All OTS-regulated savings associations must comply with the information collections described in this notice. Savings associations submit TFR data to the OTS each calendar quarter or less frequently if so stated. Except for selected items, these information collections are not given confidential treatment.

OTS uses TFR data in monitoring the condition, performance, and risk profile of individual institutions and systemic risk among groups of institutions and the industry as a whole. TFR data provide the most current statistical data available for evaluating institutions' corporate applications, for identifying areas of focus for both on-site and off-site examinations, and for monetary and other public policy purposes. The OTS

¹ Link to October 5, 2010 proposal published at 75 FR 61563: <http://edocket.access.gpo.gov/2010/pdf/2010-24883.pdf>.

² Link to November 17, 2010 proposal published at 75 FR 70355: <http://edocket.access.gpo.gov/2010/pdf/2010-29004.pdf>.

uses TFR data in evaluating interstate merger and acquisition applications to determine, as required by law, whether the resulting institution would control more than ten percent of the total amount of deposits of insured depository institutions in the United States. TFR data are also used to calculate institutions' deposit insurance and Financing Corporation assessments and semiannual assessment fees.

Current Actions

I. Overview

On October 5, 2010, the OTS requested comment on proposed revisions to the TFR (75 FR 61563). On November 17, 2010, the OTS published an amended notice to correct an error in the initial notice (75 FR 70355). The OTS proposed to implement certain changes to the TFR requirements as of March 31, 2011, to provide data needed for reasons of safety and soundness or other public purposes. The proposed revisions would assist the OTS in gaining a better understanding of savings associations' credit and liquidity risk exposures, primarily through enhanced data on lending and securitization activities and sources of deposits.

The OTS received comments from 3 respondents: A savings association, a bankers' association, and a U.S. government agency. Respondents tended to comment on one or more specific aspects of the proposal rather than addressing each individual proposed TFR revision. The bankers' association reported that its "members have expressed no concerns with many of the OTS's proposed revisions," but it suggested that the OTS make several changes to the revisions. The savings association was opposed to the OTS proposal to collect data on deposits obtained through deposit listing services. The U.S. government agency expressed support for the collection of data in TFR Schedules SO and DI which it uses for economic and statistical analysis.

The following section of this notice describes the proposed TFR changes and discusses the OTS's evaluation of the comments received on the proposed changes, including modifications that the OTS has decided to implement in response to those comments. The following section also addresses the OTS's response to the comments from the bankers' association concerning the definition of core deposits, which was not an element of the OTS's October 5, 2010, TFR proposal.

In summary, after considering the comments received on the proposed

TFR revisions, the OTS plans to move forward as of the March 31, 2011, report date with fewer of the proposed reporting changes after making certain modifications in response to the comments. All proposed changes to the TFR for 2011 that would increase the differences between the TFR and the Call Report have been eliminated. Accordingly, the OTS will not implement the items for automobile loans as had been proposed. The OTS will not add items to Schedule SC for additional detail on commercial mortgage-backed securities issued or guaranteed by U.S. government agencies and sponsored agencies. In addition, the OTS has decided not to add the proposed breakdown of deposits into deposits of individuals and deposits of partnerships and corporations. The proposed breakdown of life insurance assets into general and separate account assets will not be added to the TFR. The OTS will not add the additional items for trust preferred securities. The OTS will not implement the detailed breakdown of general, specific, and total valuation allowances by major loan type. The proposed breakdown of classified assets by major loan type will not be implemented.

Furthermore, the specific wording of the captions for the new or revised TFR data items and the numbering of these data items discussed in this notice should be regarded as preliminary.

Type of Review: Revision and extension of currently approved collections.

II. Discussion of Proposed TFR Revisions

The OTS received comments expressing support for, or no comments specifically addressing, the following revisions, and therefore these revisions will be implemented effective March 31, 2011, as proposed:

- Breakdowns of the existing items for loans and real estate owned (REO) covered by FDIC loss-sharing agreements by loan and REO category in Schedule SI—Consolidated Supplemental Information, along with a breakdown of the existing items in Schedule PD—Consolidated Past Due and Nonaccrual, for reporting past due and nonaccrual U.S. Government-guaranteed loans to segregate those covered by FDIC loss-sharing agreements (which would be reported by loan category) from other guaranteed loans. The categories of covered loans to be reported would be (1) 1–4 family residential construction loans, (2) Other construction loans and all land development and other land loans, (3) Loans secured by farmland, (4)

Revolving, open-end loans secured by 1–4 family residential properties and extended under lines of credit, (5) Closed-end loans secured by first liens on 1–4 family residential properties, (6) Closed-end loans secured by junior liens on 1–4 family residential properties, (7) Loans secured by multifamily (5 or more) residential properties, (8) Loans secured by owner-occupied nonfarm nonresidential properties, (9) Loans secured by other nonfarm nonresidential properties, (10) Commercial and industrial loans, (11) Consumer credit cards, (12) Consumer automobile loans, (13) Other consumer loans, and (14) All other loans and all leases (including loans to finance agricultural production and other loans to farmers).

- New items for the total assets of captive insurance and reinsurance subsidiaries in Schedule SI—Consolidated Supplemental Information;
 - A new item in Schedule SO for service charges on deposit accounts;
 - A new item in Schedule CCR for qualifying noncontrolling (minority) interests in consolidated subsidiaries; and
 - A change in reporting frequency from annual to quarterly for the data reported in Schedule FS, Fiduciary and Related Services, on collective investment funds and common trust funds for those banks that currently report fiduciary assets and income quarterly, *i.e.*, banks with fiduciary assets greater than \$250 million or gross fiduciary income greater than 10 percent of bank revenue.

The OTS received one or more comments specifically addressing or otherwise relating to each of the following proposed revisions:

- A breakdown by loan category of the existing items in TFR Schedule VA that are troubled debt restructurings with valuation allowances added during the quarter or that are in compliance with their modified terms as well as a breakdown by loan category of the existing items in TFR Schedule PD that are troubled debt restructurings and are past due 30–89 days, 90 days or more, or in nonaccrual status;
 - New items for the estimated amount and daily average of nonbrokered deposits obtained through the use of deposit listing service companies in Schedule DI;
 - A breakdown of the existing items for deposits of individuals, partnerships, and corporations between deposits of individuals and deposits of partnerships and corporations in Schedule DI;

- A breakdown of general, specific, and total valuation allowances by major loan type in Schedule VA;

- A new Schedule VIE, Variable Interest Entities, for reporting the categories of assets of consolidated variable interest entities (VIEs) that can be used only to settle the VIEs' obligations, the categories of liabilities of consolidated VIEs without recourse to the savings association's general credit, and the total assets and total liabilities of other consolidated VIEs included in the savings association's total assets and total liabilities, with these data reported separately for securitization trusts, asset-backed commercial paper conduits, and other VIEs.

The comments related to each of these proposed revisions are discussed in Sections II.A. through II.D. of this notice along with the OTS's response to these comments.

A. Troubled Debt Restructurings

The OTS proposed that savings association report additional detail on loans that have undergone troubled debt restructurings in Schedules VA and PD. More specifically, in Schedule VA total troubled debt restructured during the quarter and the amount of total troubled debt restructured in Schedule SC in compliance with modified terms, and in Schedule PD that is past due by 30 to 89 days or 90 days or more or in nonaccrual status, would be broken out to provide information on restructured troubled loans for many of the loan categories reported in Schedule SC.

In the aggregate, troubled debt restructurings for all insured institutions have grown from \$6.9 billion at year-end 2007, to \$24.0 billion at year-end 2008, to \$58.1 billion at year-end 2009, with a further increase to \$80.3 billion as of September 30, 2010. The proposed additional detail on troubled debt restructurings in Schedules VA and PD would enable the OTS to better understand the level of restructuring activity at savings associations, the categories of loans involved in this activity, and, therefore, whether savings associations are working with their borrowers to modify and restructure loans.

It is also anticipated that the various loan categories will experience continued workout activity in the coming months given that most asset classes have been adversely impacted by the recent recession. This impact is evidenced by the increase in past due and nonaccrual assets across virtually all asset classes during the past two to three years.

The TFR data for troubled debt restructurings are intended to capture

data on loans that have undergone troubled debt restructurings as that term is defined in U.S. generally accepted accounting principles (GAAP).

The OTS received comments from a bankers' association on the proposed additional detail on loans that have undergone troubled debt restructurings. The commenter recommended the OTS defer the proposed troubled debt restructuring revisions, including the new breakdowns by loan category, until the FASB finalizes proposed clarifications to its standards for accounting for troubled debt restructurings by creditors.³

The accounting standards for troubled debt restructurings are set forth in ASC Subtopic 310-40, Receivables—Troubled Debt Restructurings by Creditors (formerly FASB Statement No. 15, "Accounting by Debtors and Creditors for Troubled Debt Restructurings," as amended by FASB Statement No. 114, "Accounting by Creditors for Impairment of a Loan"). ASC Subtopic 310-40 is the accounting basis for the current reporting of restructured troubled loans in existing Schedules VA and PD. To the extent the clarifications emanating from the FASB proposed accounting standards update may result in savings associations having to report certain loans as troubled debt restructurings that had not previously been identified as such, this accounting outcome will arise irrespective of the proposed breakdown of the loan categories in Schedules VA and PD. Therefore, the OTS will implement the new breakdown for the reporting of troubled debt restructurings modified to reflect the breakdown to be added to the Call Report effective with the March 2011 reporting period.

Specifically, the OTS will add the breakdown by loan category in Schedule VA for loans restructured in troubled debt restructurings that are in compliance with their modified terms (included in Schedule SC and not reported as past due or nonaccrual in Schedule PD) for loans secured by (1) Construction, land development, and other land loans for 1-4 family residential construction loans, (2) Other construction loans and all land development and other land loans, (3) 1-4 family residential properties, (4) Multifamily (5 or more) residential properties, (5) Owner-occupied nonfarm residential properties, (6) Other nonfarm residential properties, (7) Commercial

³ FASB Proposed Accounting Standards Update (ASU): Receivables (Topic 310), Clarifications to Accounting for Troubled Debt Restructurings by Creditors.

and industrial loans, and (8) All other loans.

B. Nonbrokered Deposits Obtained Through the Use of Deposit Listing Service Companies

In its semiannual report to the Congress covering October 1, 2009, through March 31, 2010, the FDIC's Office of Inspector General addressed causes of bank failures and material losses and noted that "[f]ailed institutions often exhibited a growing dependence on volatile, non-core funding sources, such as brokered deposits, Federal Home Loan Bank advances, and Internet certificates of deposit."⁴ At present, savings associations report in Schedule DI information on their funding in the form of brokered deposits. Data on Federal Home Loan Bank advances are reported in Schedule SC. These data are an integral component of OTS's analyses of an individual institution's liquidity and funding, including the institution's reliance on non-core sources to fund its activities.

Deposit brokers have traditionally provided intermediary services for financial institutions and investors. However, the Internet, deposit listing services, and other automated services now enable investors who focus on yield to easily identify high-yielding deposit sources. Such customers are highly rate sensitive and can be a less stable source of funding than deposit customers with a more typical relationship to the institution. Because they often have no other relationship with the bank, these customers may rapidly transfer funds to other institutions if more attractive returns become available.

The OTS expects each institution to establish and adhere to a sound liquidity and funds management policy. The institution's board of directors, or a committee of the board, also should ensure that senior management takes the necessary steps to monitor and control liquidity risk. This process includes establishing procedures, guidelines, internal controls, and limits for managing and monitoring liquidity and reviewing the institution's liquidity position, including its deposit structure, on a regular basis. A necessary prerequisite to sound liquidity and funds management decisions is a sound management information system, which provides certain basic information including data on non-relationship funding programs, such as brokered deposits, deposits obtained through the

⁴ <http://www.fdicig.gov/semi-reports/sar2010mar/OIGSar2010.pdf>.

Internet or other types of advertising, and other similar rate sensitive deposits. Thus, an institution's management should be aware of the number and magnitude of such deposits.

To improve the OTS's ability to monitor potentially volatile funding sources, the OTS proposed to close a gap in the information currently available through the TFR by adding two new items to Schedule DI in which savings associations would report the estimated amount and average daily balances of deposits obtained through the use of deposit listing services that are not brokered deposits.

A deposit listing service is a company that compiles information about the interest rates offered on deposits, such as certificates of deposit, by insured depository institutions. A particular company could be a deposit listing service (compiling information about certificates of deposits) as well as a deposit broker (facilitating the placement of certificates of deposit). According to FDIC Advisory Opinion 04-04 dated July 28, 2004,⁵ a deposit listing service is not a deposit broker if all of the following four criteria are met:

(1) The person or entity providing the listing service is compensated solely by means of subscription fees (*i.e.*, the fees paid by subscribers as payment for their opportunity to see the rates gathered by the listing service) and/or listing fees (*i.e.*, the fees paid by depository institutions as payment for their opportunity to list or "post" their rates). The listing service does not require a depository institution to pay for other services offered by the listing service or its affiliates as a condition precedent to being listed.

(2) The fees paid by depository institutions are flat fees: They are not calculated on the basis of the number or dollar amount of deposits accepted by the depository institution as a result of the listing or "posting" of the depository institution's rates.

(3) In exchange for these fees, the listing service performs no services except (A) the gathering and transmission of information concerning the availability of deposits; and/or (B) the transmission of messages between depositors and depository institutions (including purchase orders and trade confirmations). In publishing or displaying information about depository institutions, the listing service must not attempt to steer funds toward particular institutions (except that the listing service may rank institutions according to interest rates and also may exclude

institutions that do not pay the listing fee). Similarly, in any communications with depositors or potential depositors, the listing service must not attempt to steer funds toward particular institutions.

(4) The listing service is not involved in placing deposits. Any funds to be invested in deposit accounts are remitted directly by the depositor to the insured depository institution and not, directly or indirectly, by or through the listing service.

The OTS received two comments (from one savings association and one bankers' association) that addressed the proposed collection of the estimated amount of deposits obtained through the use of deposit listing services that are not brokered deposits. Both commenters were opposed to the proposal. The savings association recommended the OTS withdraw this proposal because not all listing services serve the same types of customers; not all listing service deposits can be easily tracked and controlled; not all listing services represent a source of high-yield deposits; and the collection of the proposed items may dissuade bank examiners from appropriately evaluating the volatility and rate sensitivity of deposits reported in the items. The bankers' association that objected to the proposed item cited the difficulty in identifying and tracking deposits obtained from listing services.

The OTS acknowledges that, unless a deposit listing service offers deposit tracking to its savings association customers, the precise amount of deposits obtained through the use of listing services is not readily determinable. It was for this reason that the OTS specifically proposed that savings associations report the estimated amount of listing service deposits.

In its comment, the savings association expressed concern that the addition of the proposed items to the TFR may cause examiners to label all deposits reported in the new item as high-risk, high-volatility funding. OTS notes, however, that the estimated amounts of deposits obtained through deposit listing services, and how the estimated amounts change over time, will serve as additional data points for examiners as they begin their comprehensive fact-specific evaluations of the stability of savings associations' deposit bases. The collection of the proposed item is not intended to eliminate examiners' assessments of depositors' characteristics, and examiners will continue to make a thorough analysis of the risk factors associated with a savings association's

depositors and how savings association management identifies, measures, manages, and controls these risks. Information on the level and trend of an individual savings association's deposits obtained through the use of listing services also will assist examiners in planning how they will evaluate liquidity and funds management during examinations of the savings association. From a surveillance perspective, significant changes in a savings association's use of listing service deposits may trigger supervisory follow-up prior to the next planned examination.

After considering the comments on its proposal, the OTS has decided to proceed with the proposed new item for the estimated amount of deposits obtained through the use of deposit listing services, but will eliminate the proposed new line for the average daily deposits of deposits obtained through the use of deposit listing services. This is consistent with the new item to be added to the Call Report for banks effective as of the March 31, 2011 reporting period. As mentioned above, the new item is not intended to capture all deposits obtained through the Internet. For example, it would not capture deposits that a savings association receives because a person or entity has seen the rates the savings association has posted on its own Web site. It also would not capture deposits received because a person or entity has seen rates on a rate-advertising Web site that has picked up and posted the savings association's rates on its site without the savings association's authorization. Accordingly, the final instructions will state that the objective of the item is to collect the estimated amount of deposits obtained as a result of action taken by the savings association to have its deposit rates listed by a listing service, and the listing service is compensated for this listing either by the savings association whose rates are being listed or by the persons or entities who view the listed rates. However, the final instructions for the item also will indicate that the actual amount of nonbrokered listing service deposits, rather than an estimate, should be reported for those deposits acquired through the use of a service that offers deposit tracking. A savings association should establish a reasonable and supportable estimation process for identifying listing service deposits that meets these reporting parameters and apply this process consistently over time.

⁵ <http://www.fdic.gov/regulations/laws/rules/4000-10280.html>.

C. Deposits of Individuals, Partnerships, and Corporations

Savings associations reporting through the TFR do not currently report separate breakdowns of their transaction and nontransaction accounts by category of depositor. The recent crisis has demonstrated that business depositors' behavioral characteristics are significantly different than the behavioral characteristics of individuals. Thus, separate reporting of deposits of individuals versus deposits of partnerships and corporations would enable the OTS to better assess the liquidity risk profile of institutions given differences in the relative stability of deposits from these two sources.

As proposed, two items would be added to Schedule DI for deposits of individuals and deposits of partnerships and corporations. Under this proposal, a savings association should treat accounts currently reported in total deposits on Schedule SC as deposits of individuals if the depositor's taxpayer identification number, as maintained on the account in the savings association's records, is a Social Security number (or an Individual Taxpayer Identification number⁶) should be treated as deposits of individuals. In general, all other accounts should be treated as deposits of partnerships and corporations.

The OTS received one comment from a bankers' association on the proposal for separate reporting of deposits of individuals versus deposits of partnerships and corporations. The commenter suggested the proposed change would be too labor intensive for some savings associations and asked that the OTS not implement the change. The commenter indicated that if the new deposit breakdown were adopted, it should be deferred until March 31, 2012, to allow time for savings associations to make the necessary systems changes. The bankers' association also recommended that all certified and official checks be reported together in one of the two depositor categories.

The OTS has reconsidered its proposal for savings associations to report deposits of individuals separately from deposits of partnerships and corporations in Schedule DI. Although the OTS continues to believe that information distinguishing between deposits of individuals and deposits of partnerships and corporations would

⁶ An Individual Taxpayer Identification number is a tax processing number only available for certain nonresident and resident aliens, their spouses, and dependents who cannot get a Social Security number. It is a 9-digit number, beginning with the number "9," in a format similar to a Social Security number.

enhance the OTS's ability to assess the liquidity risk profile of institutions, it acknowledges the proposed reporting revision could necessitate extensive programming changes and impose significant reporting burden. As a result of this reevaluation, the OTS has decided not to implement this proposed TFR revision.

D. Variable Interest Entities

In June 2009, the FASB issued accounting standards that have changed the way entities account for securitizations and special purpose entities. ASU No. 2009-16 (formerly FAS 166) revised ASC Topic 860, Transfers and Servicing, by eliminating the concept of a "qualifying special-purpose entity" (QSPE) and changing the requirements for derecognizing financial assets. ASU No. 2009-17 (formerly FAS 167) revised ASC Topic 810, Consolidation, 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. For most banks and savings associations, ASU Nos. 2009-16 and 2009-17 took effect January 1, 2010.

Under ASC Topic 810, as amended, determining whether a savings association is required to consolidate a VIE depends on a qualitative analysis of whether that savings association has a "controlling financial interest" in the VIE and is therefore the primary beneficiary of the VIE. The analysis focuses on the savings association's power over and interest in the VIE. With the removal of the QSPE concept from generally accepted accounting principles that was brought about in amended ASC Topic 860, a savings association that transferred financial assets to an SPE that met the definition of a QSPE before the effective date of these amended accounting standards was required to evaluate whether, pursuant to amended ASC Topic 810, it must begin to consolidate the assets, liabilities, and equity of the SPE as of that effective date. Thus, when implementing amended ASC Topics 860 and 810 at the beginning of 2010, savings associations began to consolidate certain previously off-balance sheet securitization vehicles, asset-backed commercial paper conduits, and other structures. Going forward, savings associations with variable interests in new VIEs must evaluate whether they have a controlling financial interest in these entities and, if so, consolidate them. In addition, savings associations must continually reassess whether they are

the primary beneficiary of VIEs in which they have variable interests.

The OTS's TFR instructional guidance advises savings associations that must consolidate VIEs to report the assets and liabilities of these VIEs on the TFR balance sheet (Schedule SC) in the balance sheet category appropriate to the asset or liability. However, ASC paragraph 810-10-45-25⁷ requires a reporting entity to present "separately on the face of the statement of financial position: a. Assets of a consolidated variable interest entity (VIE) that can be used only to settle obligations of the consolidated VIE [and] b. Liabilities of a consolidated VIE for which creditors (or beneficial interest holders) do not have recourse to the general credit of the primary beneficiary." This requirement has been interpreted to mean that "each line item of the consolidated balance sheet should differentiate which portion of those amounts meet the separate presentation conditions."⁸ In requiring separate presentation for these assets and liabilities, the FASB agreed with commenters on its proposed accounting standard on consolidation that "separate presentation * * * would provide transparent and useful information about an enterprise's involvement and associated risks in a variable interest entity."⁹ The OTS concurs that separate presentation would provide similar benefits to it and other TFR users.

Consistent with the presentation requirements discussed above and with the proposal of the other Federal banking agencies for the Call Report, the OTS proposed to add a new Schedule VIE, Variable Interest Entities, to the TFR. In Schedule VIE savings associations would report a breakdown of the assets of consolidated VIEs that can be used only to settle obligations of the consolidated VIEs and liabilities of consolidated VIEs for which creditors do not have recourse to the general credit of the reporting savings association. The following proposed categories for these assets and liabilities would include some of the same categories presented on the TFR balance sheet (Schedule SC): Cash and balances due from depository institutions, Held-to-maturity securities; Available-for-sale securities; Securities purchased under agreements to resell, Loans and leases held for sale; Loans and leases, net of

⁷ Formerly paragraph 22A of FIN 46(R), as amended by FAS 167.

⁸ Deloitte & Touche LLP, "Back on-balance sheet: Observations from the adoption of FAS 167," May 2010, page 4 (http://www.deloitte.com/view/en_US/us/Services/audit-enterprise-risk-services/Financial-Accounting-Reporting/f3a70ca28d9f8210VgnVCM200000bb42f00aRCRD.htm).

⁹ See paragraphs A80 and A81 of FAS 167.

unearned income; Allowance for loan and lease losses; Trading assets (other than derivatives); Derivative trading assets; Other real estate owned; Other assets; Securities sold under agreements to repurchase; Derivative trading liabilities; Other borrowed money (other than commercial paper); Commercial paper; and Other liabilities. These assets and liabilities would be presented separately for securitization vehicles, asset-backed commercial paper conduits, and other VIEs.

In addition, the OTS proposed to include two separate items in new Schedule VIE in which savings associations would report the total amounts of all other assets and all other liabilities of consolidated VIEs (*i.e.*, all assets of consolidated VIEs that are not dedicated solely to settling obligations of the VIE and all liabilities of consolidated VIEs for which creditors have recourse to the general credit of the reporting savings association). The collection of this information would help the OTS understand the total magnitude of consolidated VIEs. These assets and liabilities also would be reported separately for securitization vehicles, asset-backed commercial paper conduits, and other VIEs.

The asset and liability information collected in Schedule VIE would represent amounts included in the reporting savings association's consolidated assets and liabilities reported on Schedule SC after eliminating intercompany transactions.

The OTS received one comment from a bankers' association that addressed proposed Schedule VIE. The bankers' association asked that the OTS consider the burden this new reporting schedule would impose on smaller savings associations and asked that the OTS consider some relief from compliance for smaller savings associations to lessen their burden.

Because the TFR balance sheet is completed on a consolidated basis, the VIE amounts that savings associations would report in new Schedule VIE are amounts that, through the consolidation process, already must be reported in the appropriate balance sheet asset and liability categories. These balance sheet categories, generally, have been carried over into Schedule VIE. Schedule VIE distinguishes between assets of consolidated VIEs that can be used only to settle obligations of the consolidated VIEs and assets not meeting this condition as well as liabilities of consolidated VIEs for which creditors do not have recourse to the general credit of the reporting bank and liabilities not meeting this condition. This distinction is based on existing

disclosure requirements applicable to financial statements prepared in accordance with U.S. GAAP. Savings associations likely to have material amounts of consolidated VIE assets and liabilities to report have been subject to these disclosure requirements for one year. Thus, these savings associations should have a process in place, even if manual, for segregating VIE assets and liabilities based on this distinction.

The OTS recognizes that the proposed separate reporting of consolidated VIE assets and liabilities by the type of VIE activity, *i.e.*, securitization vehicles, ABCP conduits, and other VIEs, goes beyond the disclosure requirements in U.S. GAAP. Otherwise, the proposed data requirements for Schedule VIE have been based purposely on the GAAP framework. Thus, the OTS has concluded that it would be appropriate to proceed with the introduction of a new Schedule VIE in March 2011. The new Schedule VIE will be consistent with the new Schedule RC-V proposed to be adopted in March 2011 by the other Federal banking agencies.

Request for Comment

Public comment is requested on all aspects of this notice. Comments are invited on:

(a) Whether the proposed revisions to the collections of information that are the subject of this notice are necessary for the proper performance of the OTS's functions, including whether the information has practical utility;

(b) The accuracy of the OTS's estimates of the burden of the information collections as they are proposed to be revised, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

All comments will become a matter of public record.

Dated: January 28, 2011.

Ira L. Mills,

*Clearance Officer, Office of Chief Counsel,
Office of Thrift Supervision.*

[FR Doc. 2011-2348 Filed 2-2-11; 8:45 am]

BILLING CODE 6720-01-P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Disability Compensation; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Advisory Committee on Disability Compensation will meet on Monday, February 14, 2011, at the Saint Regis Hotel, 923 16th Street, NW., Washington, DC from 8:30 a.m. to 3 p.m. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on the maintenance and periodic readjustment of the VA Schedule for Rating Disabilities. The Committee is to assemble and review relevant information relating to the nature and character of disabilities arising from service in the Armed Forces, provide an ongoing assessment of the effectiveness of the rating schedule, and give advice on the most appropriate means of responding to the needs of Veterans relating to disability compensation.

The Committee will receive briefings on issues related to compensation for Veterans with service-connected disabilities and other VA benefits programs. Time will be allocated for receiving public comments in the afternoon. Public comments will be limited to three minutes each. Individuals wishing to make oral statements before the Committee will be accommodated on a first-come, first-served basis. Individuals who speak are invited to submit 1-2 page summaries of their comments at the time of the meeting for inclusion in the official meeting record.

The public may submit written statements for the Committee's review to Robert Watkins, Designated Federal Officer, Department of Veterans Affairs, Veterans Benefits Administration, Compensation and Pension Service, Regulation Staff (211D), 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail at Robert.Watkins2@va.gov. Any member of the public wishing to attend the meeting or seeking additional information should contact Mr. Watkins at (202) 461-9214.

Dated: January 28, 2011.

By Direction of the Secretary.

William F. Russo,

Director of Regulations Management, Office of the General Counsel.

[FR Doc. 2011-2337 Filed 2-2-11; 8:45 am]

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