AMERICAN BANKERS ASSOCIATION ®

1120 Connecticut Avenue, NW
Washington, DC 20036

1-800-BANKERS
www.aba.com

World-Class Solutions, Leadership & Advocacy Since 1875

Kathleen P. McTighe
Senior Counsel
Office of Regulatory Policy
Phone: 202-663-5331
Fax: 202-828-5047
kmctighe@aba.com

October 19, 2009 **Submitted Via E-Mail**

Information Collection Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, D.C. 20552

Re: Proposed Agency Information Collection Activities; Comment Request – Thrift Financial Report: 74 Federal Register 41981; August 19, 2009; TFR Revisions-2010, OMB No. 1550-0023

To Whom It May Concern:

The American Bankers Association (ABA)[1] appreciates the opportunity to comment on the proposed revisions to the Thrift Financial Report (TFR),[2] as issued by the Office of Thrift Supervision (OTS). The OTS's proposed changes to the TFR include several changes and new items that are intended to provide additional information in the areas of credit risk, liquidity, and liabilities. The changes also respond to the recent increase in the deposit insurance limit and request new information on reverse mortgage products.

The proposed changes would be phased in during 2010, with all proposed revisions taking effect on March 31, 2010, except for the proposed new reverse mortgage reporting Schedule RM which would take effect on December 31, 2010.

The ABA members have expressed no concerns with many of the proposed changes. However, we urge the OTS to consider including in the final revisions to the TFR the several changes suggested below which the ABA believes would provide the OTS meaningful information, without creating undue burden on thrifts.

---

[1]The American Bankers Association brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $13.5 trillion in assets and employ over 2 million men and women.

[2] 74 *Fed. Reg.* 41981 (August 19, 2009).

Areas in which we believe revisions to the TFR could most benefit from changes are as follows:

- **<u>Time Deposits of $100,000 or Greater and Brokered Deposits</u>**: The ABA recommends replacing the proposed breakout of time deposits and brokered deposits based on stated dollar thresholds with a requirement that thrifts report such deposits based upon the then-current FDIC coverage limit in effect at the time of the report.
- **<u>Change in Reporting Frequency for Loans to Small Businesses and Small Farms</u>**: The ABA recommends that the reporting frequency be changed to semi-annual instead of the proposed quarterly reporting frequency for thrifts with over $1 billion in total assets and annually for all others.
- **<u>Reverse Mortgages</u>**: The ABA recommends that the OTS reconsider the need for reporting the proposed new annual referral fee income relating to reverse mortgages, and clarify that the information requested on the TFR would be consistent with whatever is required under the Real Estate Settlement Procedures Act (RESPA) legal requirements.
- **<u>Loss Share</u>**: The ABA requests the OTS to address an issue of increasing importance to thrifts that enter into loss-share agreements with the FDIC.

These points, as well as additional suggestions for improving the revisions to the TFR, are set forth below.

Discussion

The ABA supports the following items:

<u>Credit Card Loans and Commitments</u>.

The OTS proposes to revise the collection of data on unused credit card lines to consumers and add new lines for data on unused credit lines to other entities and the amount of business-related credit card loans outstanding. The ABA supports these proposed revisions.

<u>Interest expense and quarterly averages for brokered deposits</u>.

The OTS would require new items for the interest expense and quarterly averages, including total broker-originated deposits for fully insured brokered deposits and other brokered deposits; and average daily deposit totals for fully insured brokered time deposits and other brokered time deposits. The ABA supports these proposed revisions.

<u>Loss share</u>.

This is a new issue that has not been proposed by the OTS. The ABA requests the OTS to revise the TFR to address an issue of increasing importance to thrifts that enter into loss-share agreements with the FDIC as a result of an acquisition. Currently there is no guidance from the OTS on how the acquiring institution should report the loss-share agreement on the TFR. This can lead to the over-reporting of the amount of "troubled" assets by not providing the reader with a readily accessible summary of the bank's net exposures on assets that are subject to the loss-share agreements. It would be beneficial to the regulator, reporting institutions, investors, and the public to have uniform guidance on how thrifts should report the loss-share on the TFR. This issue is complex yet time-sensitive. This will be an increasingly important long-term and more common reporting issue as additional failed institutions are acquired from the FDIC under a loss-share agreement.

The ABA has concerns with the following items:

Time deposits of $100,000 or greater.

The OTS proposes to revise and add a line to split the levels of time deposits to reflect the increase in the standard maximum deposit insurance amount (SMDIA) to $250,000 through 2013. The OTS proposes to revise line DI350 to require reporting of time deposits of $100,000 through $250,000 (with the current exclusion language),[3] and to add a new line DI352 for time deposits greater than $250,000 (without the exclusion language).

The ABA recommends that the OTS remove the dollar limits and the additional breakout of time deposits of $100,000 to $250,000 and time deposits greater than $250,000 as proposed by the Agency. We recommend instead that the OTS require thrifts to report the time deposits information in excess of the amount of deposit insurance limits in effect on the report date as one line item, DI350, while retaining the exclusion language in the current TFR line DI350, modified as needed to automatically track the SMDIA.

Depositors now have certainty – at least through the end of 2013 – that up to $250,000 of FDIC insurance is available for any account that is maintained in a thrift in a separate right and capacity. We have heard from many institutions that a consequence of the increased coverage is that they already have seen an increase in deposits from many "core" customers who now maintain balances up to the $250,000 limit. Given that these deposits have the certainty of FDIC insurance, they are likely to be as stable as deposits below $100,000. Drawing a distinction as proposed, however, suggests that there is greater volatility in deposits between $100,000 and $250,000. We believe this will only reinforce a perception, reflected in conversations that several of our members have had with the Agencies, that an institution should not rely on deposits in that range. This can have the effect of discouraging a thrift from pursuing stable and comparatively inexpensive funding.

Brokered deposits.

[3] The "exclusion language" directs thrifts to exclude "Brokered Time Deposits Participated Out by the Broker … and Brokered Certificates of Deposit Issued … Under a Master Certificate of Deposit".

The OTS proposed changes would revise and add a line for fully insured total broker-originated deposits, and require thrifts to report brokered deposits up to $100,000 and between $100,000 and $250,000 to reflect the increase in the SMDIA. The proposal also would require reporting of brokered deposits based on their ***balances*** rather than the denominations in which they were issued. TFR instructions would be revised to state that the specific dollar amounts used as the basis for reporting fully insured brokered deposits in line DI100 and the proposed new line DI102 reflect the deposit insurance limits in effect on the report date. The OTS would also require reporting for brokered deposits, including time deposits issued to deposit brokers that were participated out by the broker, and retirement deposit accounts eligible for $250,000 in deposit insurance coverage issued in denominations of more than $250,000 and participated out by the broker.

The OTS's proposed reporting of brokered deposit **balances** rather than the denominations in which they were issued, and its proposed revisions to the instructions to ensure the reporting scope of the lines change automatically as a function of the deposit insurance limits in effect on the report dates, are acceptable to the ABA.

However, the ABA has concerns with the proposed new reporting revisions. For the same reasons stated in the discussion of the proposed changes to the reporting of time deposits, we recommend that the proposed breakout for brokered deposits up to $100,000 and then for brokered deposits between $100,000 and $250,000 be replaced with references to the deposit insurance limit in effect at the time of the report. We believe this will remove what can be an impediment to a thrift using the larger (but fully insured) deposits as a funding source.

<u>Change in reporting frequency for Schedule SB – consolidated loans to small businesses and small farms</u>.

The OTS proposes to require consolidated loans to small businesses and small farms to be reported quarterly instead of annually.

The ABA has concerns with the burden related to this proposed revision. We recommend instead that the reporting frequency be changed (1) to semi-annual for thrifts with total assets of $1 billion or more and (2) remain annual for thrifts having less than $1 billion in assets. We believe this would achieve a reasonable balance of providing the OTS with more frequent information on loans to small businesses and small farms without creating an undue burden on thrifts, especially small thrifts.

<u>Reverse mortgages (12/31/2010 commencement date)</u>.

The OTS's proposed changes would require annual reporting on reverse mortgages for: (1) proprietary products designed and originated by financial institutions, and (2) a federally-insured Home Equity Conversion Mortgage (HECM) product. Reverse mortgage data would be required on a new Schedule RM including: amount of loans outstanding; interest, referral fee, and origination fee income from loans; commitments outstanding to originate mortgages secured by loans; mortgage loans disbursed for permanent loans on reverse mortgage loans; loans and participations purchased secured by reverse mortgage loans; and loans and participations sold secured by reverse mortgage loans.

Overall, the ABA has no concerns with the proposed new reverse mortgage reporting requirements, except for the item relating to reporting of annual referral fee income during the year. The ABA requests the OTS to reconsider the need for this reporting requirement. As stated in the Notice and Request for Comment, these new line items may require reporting of items that are inconsistent with RESPA legal requirements. At a minimum, the TFR requirements should impose reporting requirements that are consistent with RESPA.

Conclusion

The ABA appreciates the opportunity to comment on the proposed revisions included in the TFR Request for Comment and the issue raised in our comments relating to the urgent need for the OTS to provide uniform guidance on the method of reporting loss-share information in the TFR.

Please contact the undersigned at (202) 663-5331 or kmctighe@aba.com, if you have any questions. Thank you for considering our comments and recommendations.

Sincerely,

K. P. McTighe

Kathleen P. McTighe
Senior Counsel