

## Attachment

### QUESTIONS AND ANSWERS FOR FINANCIAL INSTITUTIONS IN RESPONSE TO HURRICANES KATRINA AND RITA October 13, 2005

#### Accounting and Regulatory Reporting Questions and Answers

##### Third Quarter 2005 Regulatory Report Filings

**Q1: Hurricanes Katrina and Rita (the Hurricanes) may affect the ability of financial institutions to submit timely and accurate regulatory reports for September 30, 2005. These reports include bank Reports of Condition and Income (Call Reports), Thrift Financial Reports, Thrift Holding Company Reports, credit union 5300 and 5310 Call Reports, and bank holding company Y reports. What approach do the member agencies of the Federal Financial Institutions Examination Council expect to take in situations where institutions affected by the Hurricanes expect to encounter difficulty completing their September 30, 2005, regulatory reports?**

**A1:** Institutions affected by the Hurricanes that expect to encounter difficulty submitting accurate and timely data for the September 30, 2005, report date should contact their primary federal regulatory agency, as shown below, to discuss their situation. The agencies do not expect to assess penalties or take other supervisory action against institutions that take reasonable and prudent steps to comply with regulatory reporting requirements if those institutions are unable to fully satisfy those requirements by the specified filing deadlines because of the effects of the Hurricanes. The agencies' staffs stand ready to work with affected institutions that may be experiencing problems fulfilling their reporting responsibilities, taking into account each institution's particular circumstances, including the status of its reporting and recordkeeping systems and the condition of its underlying financial records.

##### **Appropriate offices of federal regulatory agencies to contact:**

**Board:** For Call and Y Reports, contact the Federal Reserve Bank to which the bank or bank holding company submits its reports. Alternatively, banks and bank holding companies may contact Douglas Carpenter, Supervisory Financial Analyst, Federal Reserve Board, at (202) 452-2205.

**FDIC:** For Call Reports, contact Data Collection and Analysis Section, Washington, DC, at (800) 688-FDIC (3342).

**NCUA:** For 5300 Call Reports, contact the Atlanta Regional Office (Alabama, Mississippi) at (678) 443-3000, the Austin Regional Office (Louisiana, Texas) at (512) 342-5600, or Ashley Rowe, Department of Risk Management, at (703) 518-6360. For 5310 Call Reports, contact the Office of Corporate Credit Unions at (703) 518 6640.

**OCC:** For Call Reports, contact the FDIC's Data Collection and Analysis Section, Washington, DC, at (800) 688-FDIC (3342).

**OTS:** For Thrift Financial Reports and Thrift Holding Company Reports, contact Vikki Reynolds, Financial Reporting Division, Dallas, TX, at (972) 277-9595. For securities filings sent directly to the OTS: For accounting issues, contact Lynnwood Campbell, Director, Securities Filings, Washington, DC, at (202) 906-5713; for legal issues, contact Kevin Corcoran, Deputy Chief Counsel, Washington, DC, at (202) 906-6962.

### **Third Quarter 2005 Allowance for Loan and Lease Losses**

**Q1: How should financial institutions with borrowers affected by the Hurricanes determine the appropriate amount to report for their allowance for loan and lease losses (ALLL) in their third quarter regulatory reports (e.g., Call Report, Thrift Financial Report, 5300 and 5310 Call Reports, Y Reports)?**

**A1:** For financial institutions with loans to borrowers in the affected area, it may be difficult at this time to determine the overall effect that the Hurricanes will have on the collectibility of these loans. Many of these financial institutions will need time to evaluate their individual borrowers, assess the condition of underlying collateral, and determine potential insurance proceeds and other available recovery sources.

For its third quarter regulatory reports, management should consider all information available prior to filing this report about the collectibility of the financial institution's loan portfolio in order to make its best estimate of probable losses within a range of loss estimates, recognizing that there is a short time between the storms' occurrence and the required filing date for the third quarter regulatory report. Consistent with generally accepted accounting principles (GAAP), the amounts included in the ALLL in third quarter regulatory reports for estimated credit losses incurred as a result of the Hurricanes should include those amounts that represent probable losses that can be reasonably estimated. As financial institutions are able to obtain additional information about their loans to borrowers affected by the Hurricanes, the agencies would expect that estimates of the effect of the Hurricanes on loan losses could change over time and that the revised estimates of loan losses would be reflected in financial institutions' subsequent regulatory reports.

**Q2: Is there an ability for a financial institution to disclose additional information in its regulatory reports about the consequences of the hurricanes?**

**A2:** Yes, the agencies note that for banks, bank holding companies and thrifts that file Reports of Condition and Income (Call Report), financial statements for bank holding companies (Y-9 Report) or Statements of Condition and Operations (Thrift Financial Report), the management of such financial institutions may, if it wishes, submit a brief narrative statement on the amounts reported in the Call Report, Y-9 Report or Thrift Financial Report. This optional narrative statement will be made available to the public, along with the publicly available data in the Call Report, Y-9 Report or Thrift Financial Report. This statement has long been available for the use of financial institutions that are required to file a Call Report, Y-9 Report or Thrift Financial Report. Financial institutions may wish to comment on certain financial consequences to their institutions resulting from the effects of the Hurricanes in the optional narrative statement. Please refer to page RC-X-1 of the Call Report instructions for the “Optional Narrative Statement Concerning the Amounts Reported in the Reports of Condition and Income,” page BS notes 1 of the FR Y-9C instructions, page SP notes 1 of the FR Y-9SP instructions or to Schedule NS of the Thrift Financial Reporting Instructions for the “Optional Narrative Statement” for further guidance.

**Sales of Held-to-Maturity Securities**

**Q1: If a financial institution affected by major-category hurricanes (such as Hurricane Katrina and Hurricane Rita) sells investment securities that were classified as "held to maturity" (HTM) to meet its liquidity needs, will that financial institution's intent to hold other investment securities to maturity be questioned?**

**A1:** Under normal circumstances the sale of any HTM investment would call into question an institution's intent to hold its remaining HTM investments to maturity. However, paragraph 8 of FASB Statement No. 115, *Accounting for Certain Investments in Debt and Equity Securities*, indicates that events that are isolated, nonrecurring, and unusual for the reporting enterprise that could not be reasonably anticipated may cause an enterprise to sell or transfer an HTM security without necessarily calling into question its intent to hold other HTM debt securities to maturity. The FASB staff believes that the above provision encompasses the sales of HTM investment securities by a financial institution that are required to meet the abnormally increased liquidity needs of that financial institution that are directly related to a major-category hurricane (such as Hurricane Katrina and Hurricane Rita) that has caused extraordinary devastation over a wide area affecting a vast number of the financial institution's customers.

## **Past Due and Nonaccrual Reporting**

**Q1: Some financial institutions have engaged in programs to temporarily provide consumer borrowers affected by Hurricane Katrina or Rita (the Hurricanes) additional flexibility in repaying loans. For example, some institutions have encouraged borrowers that were affected by the Hurricanes to contact the institution to work out new repayment arrangements (e.g., waiving late fees and deferring interest and principal payments for a short period of time, such as 30 – 90 days). Other institutions have provided similar repayment arrangements across-the-board to all consumer borrowers in the affected area, unless a customer requests otherwise. How should financial institutions report such loans in regulatory reports (e.g., Call Report, Thrift Financial Report, 5300 and 5310 Call Reports, or Y Reports)?**

**A1:** Each financial institution should consider the specific facts and circumstances regarding its temporary payment deferral program for consumer borrowers affected by the Hurricanes in determining the appropriate reporting treatment in accordance with generally accepted accounting principles (GAAP) and regulatory reporting instructions.

**Past Due Reporting:** Past due reporting status in regulatory reports should be determined in accordance with the contractual terms of a loan as its terms have been revised under a temporary payment deferral program, either as agreed to with the individual customer or provided across-the-board to all affected customers. Accordingly, if all payments are current in accordance with the revised terms of the loan, the loan would not be reported as past due. Furthermore, for loans subject to a payment deferral program on which payments were past due prior to the Hurricanes, the agencies have determined that the delinquency status of the loan may be adjusted back to the status that existed at the date of the applicable hurricane (i.e., “frozen”) for the duration of the payment deferral period. For example, if a consumer loan subject to a payment deferral program was 60 days past due on the date of a hurricane, it would continue to be reported in its regulatory reports as 60 days past due during the deferral period (unless the loan is reported in nonaccrual status or charged off as discussed below).

**Nonaccrual Status, Allowance for Loan and Lease Losses, and Charge-offs:** Each financial institution should refer to the applicable regulatory reporting instructions, as well as its internal accounting policies, in determining whether to report loans to affected customers on which payments have been temporarily deferred as nonaccrual assets in regulatory reports. Furthermore, each institution should maintain an appropriate allowance for loan losses for these loans, considering all information available prior to filing its reports about their collectibility (for further information, see answer 1 to “Third Quarter 2005 Allowance for Loan and Lease Losses”). As information becomes available indicating a specific loan will not be repaid (e.g., information related to the likelihood of collection on a specific loan or the inability of the institution to contact the borrower within a reasonable period), the institution’s charge-off policies should be applied.

**Regulatory Reporting Disclosures:** Each banking organization or thrift institution is encouraged, but not required, to disclose information related to its deferral programs (e.g., amount and types of loans subject to the program) in the optional narrative statements in the Call Report, Y-9 Report, or Thrift Financial Report (for further information, see answer 2 to “Third Quarter 2005 Allowance for Loan and Lease Losses”).

## **Credit Questions and Answers**

### **Credit Card Temporary Hardship and Workout Programs**

The following Q&As provide additional guidance concerning the Account Management and Loss Allowance Guidance for Credit Card Lending, issued by the federal banking agencies on January 8, 2003 (“Credit Card Guidance”), and the Uniform Retail Credit Classification and Account Management Policy, issued by the federal banking agencies on June 6, 2000 (“Retail Credit Policy Statement”), that may be relevant for institutions that have customers affected by Hurricane Katrina and Hurricane Rita (“the hurricanes”).

**Note:** The timeframes for reestablishing communications with customers in the comments below may not be appropriate for institutions physically located in the disaster area. These institutions should work with their primary supervisor to determine appropriate timeframes.

**Q1: May an institution place an account in a temporary hardship program before contact with the customer occurs?**

**A1:** An institution may place a customer in a temporary hardship program before making contact with the customer. However, placing a customer in a long-term hardship program without communication with the customer generally would not be appropriate. Institutions should work to reestablish communications with customers within 90 days to determine if a temporary hardship program is appropriate for the customer’s circumstances. When contact is made, the elements of the hardship program can be modified based on the consumer’s situation.

**Q2: What should an institution do if communication with a customer isn’t reestablished within a reasonable timeframe, such as within 90 days?**

**A2:** Institutions should continue to assess their exposure to such customers. Lack of communication with a customer for an extended period heightens the level of risk for the account. Strategies should be developed to determine actions that will be taken if communication is not reestablished, including ensuring that interest and fee income is not overstated, appropriate loss allowances are established, and losses are recognized as appropriate for these accounts.

**Q3: May an institution extend the 12-month timeframe for temporary hardship programs or the 60-month timeframe for accounts in workout programs as set forth in the Credit Card Guidance?**

**A3:** Temporary hardship programs of up to 18 months may be appropriate for some customers in the affected areas. Institutions should reevaluate the account prior to granting extensions beyond 12 months to determine if an extension of the hardship program is necessary for the customer. For customers in the affected areas with accounts already enrolled in workout programs, an institution may extend repayment timeframes for 12 months beyond the 60-month repayment target set forth in the Credit Card Guidance to accommodate payment deferrals and the need to lower payment amounts. Institutions should maintain appropriate loss allowances for accounts needing the extended timeframes.

**Q4: The Retail Credit Policy Statement states that “open-end accounts should not be re-aged more than once within any twelve-month period and no more than twice within any five year period.” Does this policy continue to apply to accounts of customers located in the affected areas at the time of the hurricanes?**

**A4:** The policy statement, including the limits described above, would continue to apply to such accounts. However, if an institution has agreed to defer customer payments as a result of the hurricanes, the institution may make delinquency bucket adjustments back to the customer’s payment status at the time of the hurricanes, which may preclude the need to re-age the account.

### **Delinquency and Credit Bureau Reporting**

**Q1: Should an institution temporarily suspend reporting adverse information to the consumer reporting agencies for customers in the affected areas?**

**A1:** While financial institutions are not required to report information to consumer reporting agencies, those institutions that do furnish information are encouraged to avoid reporting adverse information to the consumer reporting agencies for customers located in the affected areas until conditions stabilize and borrowers can reasonably be expected to resume payment activity. For example, to prevent reporting adverse information to the consumer reporting agencies, some institutions have temporarily suspended reporting and/or maintained accounts in their payment status at the time of the event even though payments have not been received.

**Q2: If an institution cannot contact a customer due to the hurricanes, may an institution maintain the payment status of the customer's account at the time of the hurricanes until contact is reestablished?**

**A2:** Freezing an affected account's payment status as of the time of the hurricanes is an acceptable action to prevent the account from rolling through the delinquency buckets and to prevent fee assessments. If communication with the customer is not reestablished within 90 days of the event, the institution should evaluate whether this strategy remains appropriate, and should ensure that interest and fee income is not overstated, that appropriate allowances are established, and that losses are recognized as appropriate for this segment of the institution's accounts.