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June 18, 2026

By Electronic Mail

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

Re: Notice of Proposed Rulemaking, Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), Federal Reserve Docket No. 1889 and RIN 7100-AH22

The Institute of International Bankers ("IIB") appreciates the opportunity to comment on the notice of proposed rulemaking issued by the Board of Governors of the Federal Reserve System ("Federal Reserve Board") regarding proposed revisions to the calculation of the capital surcharge ("GSIB Surcharge") for global systemically important bank holding companies ("GSIBs") and to the related data collection by the Federal Reserve Board.[1]

The IIB represents the U.S. operations of internationally headquartered financial institutions ("international banks") from more than 35 countries around the world. The membership consists principally of international financial institutions that operate branches, agencies, bank subsidiaries and broker-dealer subsidiaries in the United States. The IIB works to ensure a level playing field for these institutions, which are an important source of credit for U.S. borrowers. International banks comprise the majority of U.S. primary dealers, enhancing the depth and liquidity of U.S. financial markets, and also contribute significantly to the U.S. economy through the direct employment of U.S. citizens, as well as through other operating and capital expenditures.[2] The Federal Reserve Board has noted the contributions of international

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[1] Regulatory Capital Rule (Regulation Q): Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies; Systemic Risk Report (FR Y-15), 91 Fed. Reg. 14,908 (proposed Mar. 27, 2026) (the "GSIB Surcharge Proposal").

[2] Over the past four years, the U.S. operations of international banks underwrote more than $11 trillion in U.S. financing. This represents more than 40% of the $28 trillion in U.S. financing raised during this same time period, including 36% of the issuance done by U.S.-headquartered companies. In 2023 alone, the U.S. operations of international banks lent more than $1.3 trillion to U.S. companies, including over $100 billion each to the technology and manufacturing sectors, supported more than $2.3 trillion in trade finance volumes and managed over $115 trillion in payments for U.S.-based companies or subsidiaries. *See* IIB, *New IIB Study Shows Vital Role of International Banks in U.S. Economy* (Nov. 21, 2024), https://www.iib.org/news/687551/New-IIB-Study-Shows-Vital-Role-of-International-Banks-in-U.S.-Economy.htm. The study referenced in the press release is available here.

banks to U.S. lending and capital markets and the resulting economic gains in the United States.[3]

The IIB supports the Federal Reserve Board's efforts to streamline the U.S. capital framework while preserving the substantial progress that has been made since the Global Financial Crisis of 2007-2009 to enhance the safety and soundness of the U.S. financial system. This letter is intended to provide targeted feedback to support those efforts, to ensure the continued equality of opportunity and national treatment of international banks and to preserve the competitiveness of the U.S. banking system.

Furthermore, the IIB recognizes that the GSIB Surcharge Proposal was issued concurrently with two other proposed rulemakings to modify the U.S. capital framework.[4] In anticipation of the GSIB Surcharge Proposal and the Basel III Endgame Proposals, Vice Chair for Supervision Bowman indicated that while the Basel III Endgame Proposals would "result in a small increase in [capital] requirements for the largest banks," the GSIB Surcharge Proposal would result in a "modest decrease" in capital requirements for those largest banks, and therefore the GSIB Surcharge Proposal and the Basel III Endgame Proposals would collectively "decrease [capital] requirements by a small amount"[5] for the largest banks. In the adopting release to the ERBA Proposal, the Federal Reserve Board, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency (together the "Federal Banking Agencies") noted that "increases in risk weights [related to the market risk capital framework would be] *offset* by both reductions in the GSIB [S]urcharge [P]roposal and the proposed revision to stress test scenarios."[6]

However, the proposed market risk capital framework would apply not only to Category I banking organizations subject to the GSIB Surcharge, but also to Category II banking organizations and other banking organizations with significant trading activity.[7] The impact of the GSIB Surcharge Proposal and the Basel III Endgame Proposals should be considered according to the varying effects that they will have on banking organizations of different sizes.

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3 *See* Jerome H. Powell, Chair, Federal Reserve Board, *Opening Statements on Proposals to Modify Enhanced Prudential Standards for Foreign Banks and to Modify Resolution Plan Requirements for Domestic and Foreign Banks* (Apr. 8, 2019), https://www.federalreserve.gov/newsevents/pressreleases/powell-opening-statement-20190408.htm ("Foreign banks play an important role in our economy. They facilitate commerce, and provide credit and needed investment."); *see also* FEDERAL RESERVE BOARD, FINANCIAL STABILITY REPORT 64 (2023), https://www.federalreserve.gov/publications/files/financial-stability-report-20230508.pdf (noting the crucial role of international banks, including in providing dollar liquidity via U.S. dollar-denominated swaps).

4 Regulatory Capital Rule: Category I and II Banking Organizations, Banking Organizations With Significant Trading Activity, and Optional Adoption for Other Banking Organizations, 91 Fed. Reg. 14,952 (proposed Mar. 27, 2026) (the "ERBA Proposal"); Regulatory Capital Rules: Regulatory Capital and Standardized Approach for Risk-Weighted Assets, 91 Fed. Reg. 15,332 (proposed Mar. 27, 2026) (the "Standardized Approach Proposal" and, together with the ERBA Proposal, the "Basel III Endgame Proposals").

5 Michelle W. Bowman, Vice Chair for Supervision, Federal Reserve Board, *Capital Rules for the Real Economy* (Mar. 12, 2026), https://www.federalreserve.gov/newsevents/speech/bowman20260312a.htm.

6 ERBA Proposal at 15,117 (emphasis added); *see also* ERBA Proposal at 15,145 ("The agencies project the *combined* impact of this proposal and the GSIB [S]urcharge [P]roposal to yield lower required capital levels on average and for most individual banking organizations subject to the rules") (emphasis added).

7 *Id.* at 14,956; *see* GSIB Surcharge Proposal at 14,909.

Increases in capital requirements under the Basel III Endgame Proposals, including but not limited to this example under the market risk framework, cannot be offset by the proposed revisions to the GSIB Surcharge to the extent that these increases would apply to a broader set of banking organizations, including many international banks.

The IIB understands that any revisions to the U.S. capital framework applicable to banking organizations of different sizes and undertaking different activities will not have uniform effects on their respective capital requirements. However, we believe the Federal Reserve Board should calibrate revisions in the Basel III Endgame Proposals and revisions to the risk-based indicator ("RBI") calculations in the GSIB Surcharge Proposal, as well as any other anticipated or recently implemented revisions to the U.S. capital framework, in light of the fact that changes under those proposals will not be offset by reductions in the GSIB Surcharge for the large majority of banking organizations. The Federal Reserve Board should aim to avoid introducing meaningful competitive disadvantages for banking organizations that do not benefit from the anticipated capital relief of revisions to the GSIB Surcharge framework.

Vice Chair for Supervision Bowman has repeatedly emphasized the importance of both the text and spirit of the Economic Growth, Regulatory Relief, and Consumer Protection Act,[8] which empowered and required the Federal Reserve Board to tailor the applicability of the U.S. capital framework.[9] We agree with Vice Chair for Supervision Bowman, and accordingly we believe that the Federal Reserve Board should minimize, if not avoid altogether, any relative increase of capital requirements applicable to smaller banking organizations. To that end, we appreciate the consideration of our limited and targeted recommendations below, which we believe would address certain inconsistencies as well as uneven burdens on international banks.

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8 *See, e.g.,* Michelle W. Bowman, Vice Chair for Supervision, Federal Reserve Board, *Taking A Fresh Look at Supervision and Regulation* (June 6, 2025), https://www.federalreserve.gov/newsevents/speech/files/bowman20250606a.pdf.

9 *See* Economic Growth, Regulatory Relief, and Consumer Protection Act, Pub. L. No. 115-174, 132 Stat. 1296 (2018).

I. Executive Summary

The following summarizes our recommendations to the Federal Reserve Board with respect to the GSIB Surcharge Proposal:

- Exclude inter-affiliate derivatives exposures from the RBIs on the Form FR Y-15 to avoid uneven regulatory treatment for international banks.
- Allow banking organizations to recognize risk mitigation to calculate cross-jurisdictional derivatives exposures on the Form FR Y-15.
- Implement our prior recommendations to improve data collection related to Form FR Y-15 included in Appendix A attached hereto for ease of reference.
- Make additional technical enhancements to Form FR Y-15 included in Appendix B.
- Align the effective dates and transition periods under the GSIB Surcharge framework with the broader U.S. capital framework, including proposed or anticipated revisions.
- Provide for a one-time step up for the RBI thresholds, and index them thereafter.

II. If the Federal Reserve Board were to revise Form FR Y-15 to include cross-jurisdictional derivatives exposures in the CJA RBI, material modifications are required.

The GSIB Surcharge Proposal would amend Form FR Y-15 to require a banking organization to report cross-jurisdictional derivatives exposures as part of its cross-jurisdictional activity ("CJA") RBI.[10] This indicator already introduces an unjustified competitive disadvantage for international banks,[11] which have more extensive international connections with affiliates and their respective clients and counterparties. Therefore, we recommend that the Federal Reserve Board exclude inter-affiliate derivatives exposures from the CJA RBI in Form FR Y-15 for international banks and account for risk mitigation for purposes of including cross-jurisdictional derivatives exposures in the CJA RBI, as discussed in further detail below.

A. Form FR Y-15 should exclude inter-affiliate derivatives exposures from the RBIs to avoid uneven regulatory treatment for international banks.

Inter-affiliate derivatives transactions are integral to enterprise-wide risk management and should not be discouraged, especially where such treatment would apply unevenly to banking organizations without an accompanying policy rationale. Unlike international banks, domestic banking organizations eliminate inter-affiliate derivatives exposures in consolidation

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[10] GSIB Surcharge Proposal at 14,927.

[11] The Federal Reserve Board has previously acknowledged these biases. *See* Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies, 84 Fed. Reg. 21,988, 21,995 (proposed May 15, 2019) (noting that international banks "engage in substantial and regular transactions with non-U.S. affiliates" which "have increased [reported CJA] as a result of these activities").

even when such exposures are cross-jurisdictional in nature.[12] International banks should be afforded analogous substantive treatment in order to preserve competitive equality of opportunity and facilitate prudent risk management between international banks and their non-U.S. affiliates. Therefore, we recommend that, should derivatives be included in CJA, as proposed, all inter-affiliate derivatives should be excluded from CJA metrics. In addition, to the extent that derivatives are captured in the calculations of the other RBIs, inter-affiliate derivatives should be similarly excluded.

B. The Federal Reserve Board should permit banking organizations to recognize risk mitigation for purposes of calculating cross-jurisdictional derivatives exposures.

Under the GSIB Surcharge Proposal, a banking organization would report cross-jurisdictional derivative claims and liabilities gross of collateral for purposes of these respective components of cross-jurisdictional derivatives activity reporting on the Form FR Y-15.[13] The Federal Reserve Board indicated that the purpose of reporting gross derivatives exposures reflected the possibility that "a banking organization may be engaged in significant cross-jurisdictional derivatives business even if its cross-jurisdictional claims and liabilities are relatively small net of collateral."[14]

Nevertheless, consistent with Current Form FR Y-15 Instructions (defined below), a banking organization would be permitted to offset the positive and negative fair values of derivative transactions if the transactions are subject to a qualifying master netting agreement and the offset is in accordance with Accounting Standards Codification Subtopics 815-10 and 210-20.[15] We support this component of the GSIB Surcharge Proposal. However, in our view, the inability to net against financial collateral on cross-jurisdictional derivatives is not consistent with credit risk mitigation effected through appropriate netting arrangements. In the context of the CJA RBI, collateral over which a banking organization has a first priority perfected security interest should be recognized in the calculation of the CJA RBI as a material and effective means of reducing its systemic risk profile.

The GSIB Surcharge Proposal suggests that gross reporting of these exposures "would better measure the underlying scale of a banking organization's cross-jurisdictional derivatives activity," but does not explain why a banking organization's systemic *risk* profile should not take into account *risk mitigants* such as high-quality collateral.[16] Other RBIs already incorporate gross derivatives exposures,[17] and their inclusion in the CJA RBI without recognition of risk

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12 FFIEC, INSTRUCTIONS FOR THE PREPARATION OF COUNTRY EXPOSURE REPORT, REPORTING FORM FFIEC 009 (Dec. 2022) ("FFIEC 009 Instructions"), Section 2.E ("Since the reports are on a fully consolidated [entity] basis, cross-border claims exclude any claims against those branches or subsidiaries that are part of the consolidated [entity]. However, claims on unconsolidated subsidiaries or associated companies of the reporter should be reported. Thus, a banking subsidiary that submits an FFIEC 009 report should include claims on subsidiaries of the bank's parent holding company.").

13 GSIB Surcharge Proposal at 14,927.

14 *Id.* at 14,927-28.

15 *Id.* at 14,928 n.87.

16 *Id.* at 14,928.

17 FEDERAL RESERVE BOARD, INSTRUCTIONS FOR THE PREPARATION OF BANKING ORGANIZATION SYSTEM RISK REPORT: REPORTING FORM FR Y-15 (Sept. 2021) (the "Current Form FR Y-15 Instructions"),

mitigation would be duplicative and arbitrarily undermine the risk sensitivity of the GSIB Surcharge framework. The Federal Reserve Board has previously acknowledged the risk-mitigating benefits of high-quality collateral, including in Schedule B of Form FR Y-15.[18] Where cross-jurisdictional claims and liabilities have been effectively pre-paid with high-quality collateral, those claims and liabilities present limited cross-jurisdictional systemic risk.

The rationale for reporting cross-jurisdictional derivatives gross of collateral is even more attenuated in light of international efforts to harmonize and enhance central clearing and collateral standards for derivatives transactions, including cross-border derivatives transactions. We therefore recommend that the Federal Reserve Board permit a banking organization to net against financial collateral in the following ways:

- Cross-jurisdictional derivatives exposures should be included in CJA net of both cash[19] and non-cash[20] collateral.

- All cross-jurisdictional derivatives exposures that are centrally cleared, regardless of the location of central counterparty, should be excluded from the CJA RBI.

- As proposed, the fair value of derivatives executed pursuant to a qualifying master netting agreement and subject to applicable accounting standards should be subject to netting for purposes of the CJA RBI.[21]

Schedules A and D; FEDERAL RESERVE BOARD, INSTRUCTIONS FOR THE PREPARATION OF BANKING ORGANIZATION SYSTEM RISK REPORT: REPORTING FORM FR Y-15 (proposed 2026) (the "Proposed Form FR Y-15 Instructions"), Schedules A and D.

18 Current Form FR Y-15 Instructions, Schedule B.

19 This treatment would be consistent with the way in which claims are currently collected in the memorandum items of the Form FR Y-15 and FFIEC 009. *See id.*, Schedule L ("Report the positive fair value of all claims over all sectors from positions in derivative contracts that, on an ultimate-risk basis, are cross-border claims on non-local residents or foreign-office claims on local residents"); FFIEC 009 Instructions, Schedule D ("All claims reported on Schedule D are to be reported on a guarantor basis").

20 This treatment would be consistent with the proposed recognition of non-cash financial collateral to offset net fair value of derivatives for purposes of reporting intra-financial system assets and intra-financial system liabilities. *See* GSIB Surcharge Proposal at 14,925.

In the alternative, cross-jurisdictional derivatives claims and liabilities that are collateralized by non-cash collateral should assume the jurisdiction of the collateral for purposes of inclusion or exclusion of those exposures in the CJA RBI. For instance, a cross-border derivatives claim collateralized by a U.S. Treasury security should be excluded from the CJA RBI. *See* BASEL COMMITTEE ON BANKING SUPERVISION, INSTRUCTIONS FOR THE END-2025 G-SIB ASSESSMENT EXERCISE (2026) ("BCBS Instructions"), Paragraph 144 ("When the final risk lies with the guarantor, a derivative is considered foreign [only] if the guarantor is not in the bank's home jurisdiction ([e.g.], the collateral consists of government securities from other countries)," and therefore the converse is true (i.e., when the collateral consists of government securities from the United States, the derivative should not be considered foreign.)); s*ee also* BANK FOR INTERNATIONAL SETTLEMENTS, REPORTING GUIDELINES FOR THE BIS INTERNATIONAL BANKING STATISTICS (2019), Paragraph 4.39 ("Derivative assets should be reported against the guarantor.").

21 This is also consistent with the international standards promulgated by the Basel Committee on Banking Supervision. *See* BCBS Instructions, Paragraph 141 (providing for certain netting arrangements to offset assets and liabilities against the same counterparty, including for CJA RBI, subject to national prudential requirements and to the extent such netting is limited to indicators based on the Consolidated Banking

III. Other Form FR Y-15 Issues

A. The Federal Reserve Board should implement our prior recommendations to improve data collection related to Form FR Y-15.

The GSIB Surcharge Proposal would revise Form FR Y-15 and its instructions to improve clarity and consistency of data reporting related to systemic risk measurement. We appreciate the Federal Reserve Board's efforts to do so, and pursuant to these goals we urge the Federal Reserve Board to implement the recommendations to enhance the clarity and consistency of data reporting under Form FR Y-15 discussed in our September 2025 letter to the Federal Banking Agencies related to the extension of Federal Financial Institutions Examination Council ("FFIEC") Form 009 ("FFIEC 009"), included in Appendix A attached hereto for ease of reference.

B. Other Technical Form FR Y-15 Enhancements

In Appendix B, we have included several additional Form FR Y-15 enhancement recommendations.

IV. Interactions with the Broader U.S. Capital Framework

A. The effective dates and transition periods under the GSIB Surcharge framework should be aligned with the broader U.S. capital framework, including proposed or anticipated revisions.

The GSIB Surcharge Proposal coincides with comprehensive review of the broader U.S. capital framework by the Federal Banking Agencies. In addition to the jointly promulgated Basel III Endgame Proposals, the Federal Reserve Board also published for public comment several proposals to revise its supervisory stress testing framework in 2025.[22] As these and other revisions to the U.S. capital framework are considered and implemented by the Federal Banking Agencies, we encourage the Federal Reserve Board to consider comprehensively the timing of effectiveness of all these revisions in order to avoid unintended consequences or undue operational burden for covered banking organizations.

In our separate comment letter on the Basel III Endgame Proposals, submitted together with this comment letter, we included recommendations regarding the timing for transition to the new capital framework and regarding how such transition should work in relation to capital plan, stress testing and stress capital buffer rules.

With regard to the GSIB Surcharge Proposal, if the reporting requirements for several RBIs, including CJA, were finalized as proposed, the Federal Reserve Board noted that, based on recent data prior to the proposal, revisions to CJA reporting may cause one international bank's

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Statistics of the Bank for International Settlements and limited to certain exposures including derivatives).

[22] Enhanced Transparency and Public Accountability of the Supervisory Stress Test Models and Scenarios; Modifications to the Capital Planning and Stress Capital Buffer Requirement Rule, Enhanced Prudential Standards Rule, and Regulation LL, 90 Fed. Reg. 51,856 (proposed Nov. 18, 2025); Modifications to the Capital Plan Rule and Stress Capital Buffer Requirement, 90 Fed. Reg. 16,843 (proposed Apr. 22, 2025).

combined U.S. operations to become newly subject to Category II prudential standards.[23] Although the Federal Reserve Board indicated that this change would not affect the regulatory requirements for that banking organization,[24] it is possible that, when implemented many months from now, more international banks (and perhaps their intermediate holding companies) could be subject to a shift of Category.

The possibility of unintended effects is amplified by uncertainty related to the timing associated with concurrent revisions to the broader U.S. capital framework. For instance, as noted above, a banking organization may become newly subject to a different Category designation as a result of revisions to the RBI calculations in Form FR Y-15. However, the GSIB Surcharge Proposal would not modify the currently applicable two-quarter transition period for becoming subject to heightened prudential standards as the result of a change in Category.[25] To expand on this, if certain effective dates for changes to the risk-based capital framework contemplated in the Basel III Endgame Proposals were misaligned with others in the GSIB Surcharge Proposal, a banking organization could be required to implement data collection or compliance programs for a new Category but do so under the current rules.[26] Those programs could be irrelevant when the Basel III Endgame Proposals are finalized and effective, creating substantial and unjustified operational burden relative to any marginal benefits to the safety and soundness of the U.S. banking system.

B. The Federal Reserve Board should provide for a one-time step up for the RBI thresholds, and index them thereafter.

The GSIB Surcharge Proposal would update coefficients for the size, interconnectedness, complexity and CJA global indicators related to calculation of the method 2 score and subsequently index them to U.S. nominal gross domestic product ("GDP") growth.[27] The Federal Reserve Board explained that such updates would help ensure that method 2 scores are not "influenced over time by factors that do not represent changes in a firm's systemic risk."[28]

Under the tailoring framework, RBI thresholds can inform which prudential standards are applicable to a banking organization.[29] These thresholds have not been revised since they were

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23 GSIB Surcharge Proposal at 14,910.

24 *Id.*

25 *See* 12 CFR 252.31.

26 Similarly, indexing or an increase in one or more RBI thresholds in a subsequent proposal could impose similar compliance whipsaw effects in which a banking organization could move up a Category initially and then revert back to its prior Category. For instance, a banking organization could trigger the $75 billion threshold for CJA and become subject to Category II prudential standards, which could require that organization to implement operational risk capital requirements even if a rulemaking that has not yet become effective would, for instance, change the operational risk framework or raise that threshold such that the banking organization would not be subject to those requirements. 12 CFR 252.5(c)(2)(i)(B); *see* ERBA Proposal at 14,956.

27 GSIB Surcharge Proposal at 14,911, 14,914.

28 *Id.* at 14,911 (internal citation omitted).

29 *See* 12 CFR 252.2 (defining "combined U.S. assets," "cross-jurisdictional activity" and "off-balance sheet exposure"); 12 CFR 252.5 (providing dollar thresholds for RBIs).

introduced in 2019.[30] We strongly agree with the Federal Reserve Board's observation that static inputs in the U.S. capital framework create risks that a banking organization's capital requirements may increase over time in a way that is not related to changes in a firm's systemic risk profile.[31]

We urge the Federal Reserve Board to revisit the RBI thresholds to properly account for economic growth, inflation and other trends. Their fixed nature has already contributed to an application of the tailoring framework that was unintended and which has not been justified by increases in risk relative to the overall U.S. economy or financial system.

Therefore, we recommend that the Federal Reserve Board apply that logic to the RBI thresholds that inform a banking organization's prudential requirements by providing a one-time adjustment from $75 billion to a minimum of $100 billion for each of the RBI thresholds to reflect changes in the financial system and the U.S. economy since the introduction of the framework, and then index them to U.S. nominal GDP growth thereafter. In our view, RBI thresholds under the tailoring framework are closely related to the issues identified in the GSIB Surcharge Proposal, and should benefit from analogous enhancements.

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We appreciate your consideration of our comments on the GSIB Surcharge Proposal. If we can answer any questions or provide any further information, please contact me at 646-213-1147, bzorc@iib.org, or Stephanie Webster, General Counsel at 646-213-1149, swebster@iib.org.

Very truly yours,

Beth Zorc

Beth Zorc
Chief Executive Officer
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30 *See* Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 84 Fed. Reg. 59,230, 59,233 (Nov. 1, 2019).

31 *See* Christopher J. Waller, Governor, Federal Reserve Board, *Statement on Bank Capital Proposals* (Mar. 19, 2026) (noting that "it is critical to index bank size-related regulatory thresholds" and that failing to index such indicators in the past has "created distortions to the banking system"); *see also* ERBA Proposal at 14,960 (noting that indexing supports "align[ment] with intended policy objectives over time").

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Re: FFIEC 009 and FFIEC 009a / Joint Notice and Request for Comment (OCC OMB Number 1557-0100; Federal Reserve Board OMB Number 7100-0035; FDIC OMB Number 3064-0017)

The Institute of International Bankers ("IIB") appreciates the opportunity to comment on the Federal Financial Institutions Examination Council ("FFIEC") Form 009 ("FFIEC 009") and the related comment request and joint notice of proposed agency information collection activities.[1] The IIB represents internationally headquartered financial institutions from over 35 countries around the world doing business in the United States. The IIB's members consist principally of international banks that operate branches, agencies, bank subsidiaries and broker-dealer subsidiaries in the United States ("international banks").

[1] Office of the Comptroller of the Currency ("OCC"), Board of Governors of the Federal Reserve System ("Federal Reserve Board") and Federal Deposit Insurance Corporation ("FDIC", and together with the OCC and the Federal Reserve Board, the "Agencies"), *Proposed Agency Information Collection Activities: Comment Request*, 90 Fed. Reg. 40891 (Aug. 21, 2025) (the "Proposal").

We understand that the FFIEC 009 is to be extended, without revision, based on an information request earlier this year. We also understand that the Agencies received a comment letter which continues to be "under review by the [A]gencies."[2] We wish to supplement the submitted comment letter with our views on several flaws related to the information collected by the FFIEC 009 and to the use of the FFIEC 009 in determining the stringency of regulations applicable to U.S. banking organizations (as defined in the Proposal), including the intermediate holding companies ("IHCs") of international banks.

Prior to the enactment of the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018, data collected from banking organizations on the FFIEC 009 was used to determine the amount of "foreign exposure" a banking organization may have had. After the Federal Reserve Board finalized a categorization structure for differentiating among large banking organizations over $100 billion in assets,[3] the FFIEC 009 data feeds significantly into the "cross-jurisdictional activity" ("CJA") risk-based indicator for banking organizations determined through the Form FR Y-15.[4] In both time periods, the data collected on the FFIEC 009 has been incorporated into the determination of the stringency of regulations applied to banking organizations. Indeed, currently, a $75 billion CJA amount can cause a banking organization to leap over Category III from Category IV to Category II and to become subject to significantly more stringent and more operationally burdensome (as well as a greater number of) prudential standards. The CJA indicator is the only risk-based indicator that can cause such a leap, as other risk-based indicators generally cause a one category leap or may change the stringency of certain liquidity requirements within a category.

Therefore, in our view, careful attention must be paid to how the data in the FFIEC 009 is collected, how it is used, and how it is calibrated. The IIB has been commenting on all of these factors for over a decade. Yet, the FFIEC 009 continues to be approved and extended, as if it were just one of the administrative reporting forms from the Agencies, without taking into account its critical legal and substantive importance in the overall tailoring framework for banking organizations.[5] The FFIEC 009 and other forms that are incorporated into the Form FR Y-15 continue to drive regulatory outcomes, rather than serve their original role of data collection, and therefore it is critical that the Forms be clear and understandable *on an integrated basis*.

Through this comment letter, we urge either:

- revisions to be made to the FFIEC 009, consistent with our recommendations below, or

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2 Proposal at 40892.

3 Federal Reserve Board, *Prudential Standards for Large Bank Holding Companies, Savings and Loan Holding Companies, and Foreign Banking Organizations*, 84 Fed. Reg. 59032 (Nov. 1, 2019).

4 *See* Instructions for the Preparation of the Systemic Risk Report, Reporting Form FR Y-15 (effective September 2021) (the "Y-15 Instructions"), at Schedule L (Cross-Jurisdictional Activity Indicators for Foreign Banking Organizations) ("Schedule L").

5 *See* Y-15 Instructions at GEN-6 (certain FFIEC 009 data "will be populated [into the Form FR Y-15] automatically").

- for the tailoring framework and its data collection forms (e.g., Form FR Y-15) to be materially modified either to not incorporate, or to modify before incorporating, the flaws and inflated metrics from the FFIEC 009 into the categorization framework.

I. Recognizing True Exposure

a. *Collateral should be taken into account in securities financing transactions.*

Under the Instructions for the Preparation of Country Exposure Report, Reporting Form FFIEC 009 (effective Dec. 2022) (the "FFIEC 009 Instructions"), although collateralized loans and other credit exposure can be shifted away from being foreign exposure to a foreign counterparty and shifted to U.S. exposure if liquid U.S. collateral (e.g., U.S. treasuries) is received, without explanation the same does not apply for reverse repurchase agreements or securities borrowing transactions.[6]

And, yet, under the Y-15 Instructions the foreign claims included in Schedule L are supposed to be on an "ultimate-risk basis" and not on an "immediate-counterparty basis." The Form FR Y-15 pulls in data from the FFIEC 009, Schedule C, Part II (which is supposed to include claims on a "guarantor" or "ultimate-risk" basis (thereby taking into account the origin of the collateral, in contrast to Part I)), but because of the overriding FFIEC 009 instruction,[7] no reverse repurchase agreements or securities borrowing transactions with U.S.-denominated collateral can be shifted out of the definition of a foreign claim.[8]

This has been a long-standing concern for the IIB and its members, and the FFIEC 009 Instructions fail to provide a reason why securities financing transactions should be treated differently from a secured loan under this Form. The calculations should permit the U.S. operations of international banks to treat securities financing transactions under which the international bank receives U.S.-issued collateral (e.g., U.S. treasuries) as domestic activity.[9] Indeed, a repurchase transaction is treated better than secured loans in bankruptcy of the counterparty because the party that reverses in the collateral is deemed to own the collateral

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6 FFIEC 009 Instructions, Section II.F.5. at GEN-9.

7 Part II continues to follow the lack of risk transfer for these repurchase and securities borrowing transactions that is mandated in Section II.F of the FFIEC 009 Instructions, even though Part II is supposed to be on an ultimate risk or guarantor basis. In particular, *see* Examples (14), (15) and (16) of the FFIEC 009, Schedule C, Part II instructions where no transfer of the risk to the issuer of the collateral in securities financing transactions is contemplated, even under the "guarantor basis" section of the FFIEC 009. *See also* Schedule C. Part II, Column 18 where repurchase and securities borrowing information is collected by taking into account the country of the collateral; this Column *is not* incorporated into the Form FR Y-15.

8 The FFIEC 009, Schedule C, Part II, Columns 1 through 10 are pulled in automatically, without revision, to the Form FR Y-15. *See* Y-15 Instructions at GEN-6.

9 We note that the FFIEC 009, Schedule C, Part II, Columns 13 through 18 *already* collect information about the country of the collateral received in repurchase and securities borrowing/lending transactions, and therefore it would be a simple modification to incorporate appropriate columns for collateral when translating data into the Form FR Y-15 (such as column 14 for cash collateral and column 18 ("claims should be reported based on the issuing country of the collateral" in repurchase and securities financing transactions; FFIEC 009 Instructions at C-3)).

through title transfer; therefore an IHC owns the U.S. treasuries it receives under the repurchase agreement and should be deemed to have a U.S. domestic exposure.

Making such a change would be consistent with (i) the use of FFIEC 009, Schedule C, Part II (which requires reporting on a "guarantor basis"), (ii) the comparative treatment of secured loans and letters of credit, and (iii) the comparative treatment of securities financing transactions under the Agencies' capital rules (which calculate exposure by using the collateral haircut method, offsetting the collateral against the exposure to the counterparty), as well as under many international bankruptcy codes. Not making the change in either the FFIEC 009 or the FR Y-15 penalizes IHCs and domestic bank holding companies alike for engaging in prudent risk-mitigating collateral strategies, by ignoring those strategies and inflating an organization's systemic risk metrics.

b. ***The FFIEC 009 should collect information on <u>net</u> claims and liabilities with a counterparty.***

The FFIEC 009 Instructions generally require gross counterparty exposure calculations,[10] in contrast to the risk-based capital rules which apply a net exposure concept to transactions such as repurchase agreements, securities borrowing, margin loans and derivatives with a counterparty under netting agreements. This gross exposure capture also inflates the exposure numbers that are incorporated from the FFIEC 009 into the Form FR Y-15. It is not clear why information in the FFIEC 009 could not be collected on a net-of-collateral basis (even if it were in a separate column to be incorporated into the Form FR Y-15) for an understanding of the true exposure for systemic risk and for risk-based capital purposes.

A banking organization that receives an asset that may be liquidated in case of default of its counterparty should only have exposure that is measured by the difference between the amount the counterparty owed and the liquidation value of the assets received. Inclusion of the gross notional in the foreign exposure calculation vastly overestimates the risk and interconnectedness embedded in these transactions. Furthermore, a gross notional approach is contrary to the exposure calculations used for determining risk-weighted assets ("<u>RWA</u>") under the collateral haircut approach, which capture only the difference, if any, between the price of instruments/cash lent and the price of instruments/cash received, subject to a supervisory haircut.[11] Therefore, when such figures are incorporated into the Form FR Y-15, which is designed to measure risk, they are not being incorporated in a manner that recognizes appropriate risk mitigants.

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[10] FFIEC 009 Instructions, Section II.G, at GEN-9-10. Importantly, these instructions do not appear to permit netting for any Schedule C, Part II, Columns 1-10 exposures which are pulled directly into the Form FR Y-15.

[11] *See, e.g.*, 12 C.F.R. §§ 217.37(c) (collateral haircut approach), 217.132(b)(2) (collateral haircut approach), 217.132(b)(3) (VaR methodology using similar formula). The Federal Reserve Board has recognized this method of calculation in other contexts where determining the amount of exposure is critical. *See, e.g.*, letter, dated Oct. 31, 2001, from Jennifer J. Johnson, Secretary of the Board, to Marjorie E. Gross of J.P.Morgan Chase & Co. (agency securities lending exposures under Section 23A); letter, dated June 7, 2005, from Robert deV. Frierson, Deputy Secretary of the Board, to John H. Huffstutler of Bank of America Corporation (securities borrowing exposures under Section 23A).

c. *Other risk mitigation techniques should be recognized and not penalized through the Form FR Y-15's use of FFIEC 009 data.*

Risk mitigating guarantees provided by a non-U.S. parent of a U.S. counterparty or borrower,[12] and risk-mitigating insurance provided by non-U.S. firms for U.S. based credit exposures[13] are recorded as foreign exposures under FFIEC 009, because of the "ultimate risk" or "guarantor" basis metrics of the Form FR Y-15 and the FFIEC 009. Use of these risk-mitigation instruments thus penalizes prudent risk management by increasing a banking organization's foreign exposure and CJA metrics in the Form FR Y-15. By contrast, in calculating RWAs, firms are given the option, but are not required, to substitute the risk weight of an eligible guarantee or credit derivative covering the exposure for the risk weight of the exposure.[14]

The FFIEC 009 should collect information first without reallocating this exposure to the guarantor or insurance provider, so that, as a systemic risk matter, the Form FR Y-15 may pull the immediate-counterparty basis figures into the Form FR Y-15.

II. The treatment of exposure to U.S. branches of international banks should be modified.

All exposures to a U.S. branch of an international bank are deemed to be foreign exposures. This includes exposure of an IHC to its affiliate's U.S. branch, as well as exposure of any bank holding company or IHC to any U.S. branch of an international bank. The FFIEC 009 forces this result regardless of whether the branch's head office writes a separate guarantee and notwithstanding mechanisms in U.S. federal and state law to mitigate risk to counterparties of a U.S. branch.[15]

This result penalizes exposure of U.S. and non-U.S. institutions to a U.S. branch of an international bank because the FFIEC 009 is not just a reporting form, but is incorporated into Form FR Y-15 systemic risk calculations. This FFIEC 009 reporting rule discriminates against geographically domestic exposure simply because the counterparty is a branch of an international bank (affiliated or not) and, therefore, violates the principles of national treatment and equality of competitive opportunity. Any banking organization (U.S. or non-U.S.) that is monitoring and managing its CJA exposure under its Form FR Y-15 will be reluctant to transact with a U.S. branch of an international bank. In addition, this also inflates IHC FR Y-15 metrics because it includes IHC transactions with its own affiliated U.S. branch.[16]

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12 FFIEC 009 Instructions, Section II.F.1. at GEN-8.

13 FFIEC 009 Instructions, Section II.F.2. at GEN-8.

14 *See* 12 C.F.R. §§ 217.36, 217.134 -.135. *Cf.* 12 C.F.R. § 217.161 (allowing credit for insurance as a mitigant to operational risk capital charges).

15 FFIEC 009 Instructions, Section II.F.3. at GEN-8, Section II.C. at GEN-6, and Section III.B. at GEN-11-12.

16 Because this letter focuses on the FFIEC 009, we do not reiterate in this letter the support for IIB's position in other comment letters that affiliated exposures should be eliminated altogether when calculating

III. Exposures to international and regional organizations should be deemed riskless or as domestic exposure.

Under the FFIEC 009 Instructions, exposures to international and regional organizations are treated as foreign exposures regardless of whether the head office of the organization is located in the United States.[17] By contrast, such organizations are treated as riskless under the U.S. regulatory capital rules (i.e., with risk weights of 0%) regardless of where they are organized or their headquarters are located.[18] Exposure to international and regional organizations, such as multinational and development banks, should not be treated as foreign exposure regardless of where the organization is established or its head office is located.

IV. Multiple party issues

a. *Multiple guarantors or collateral.*

For reporting on an "ultimate risk" basis, certain claims with multiple guarantors or a mix of guarantors and collateral are required to be shifted to exposure to the country of the entity or collateral that bears the highest rating.[19] This shifting would occur regardless of the actual portion of the exposure to that specific entity or collateral in the overall transactions. For example, if a AA-rated foreign company guaranteed an exposure of a U.S. entity that had posted third-party A-rated bonds of a U.S. issuer as collateral, the entire exposure would be deemed foreign exposure because it would be shifted to the AA-rated foreign guarantor and would ignore the U.S. counterparty and the U.S. bond collateral.

In contrast, under RWA calculations, certain provisions permit a bank to calculate separate RWA for each portion of the covered exposure, thus more closely approximating the actual risk faced by the banking organization.[20]

The policy behind the FFIEC 009 Instructions on this point is unclear to us. We have included recommendations in relation to recognition of collateral in Section I above, and we recommend here that the Agencies seek to establish principles in the FFIEC 009 Instructions that are consistent with those proposals.

b. *CLO Co-issuers.*

CLO structures often have co-issuers – a U.S. entity that is treated as the issuer in the U.S., and is a subsidiary of a Cayman issuer that is treated as the issuer outside the United States. Primary exposure in a CLO structure is not to the entity, but to the underlying loans – the

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exposures under the Form FR Y-15. The IIB has also commented frequently that exposures to an international bank's home country sovereign should also be eliminated when calculating exposures under the Form FR Y-15.

17 FFIEC 009 Instructions, Section III.C. at GEN-12.

18 *See* 12 C.F.R. § 217.32(b).

19 FFIEC 009 Instructions, Section II.F. at GEN-8 and Section II.F.5. at GEN-9.

20 *See, e.g.,* 12 C.F.R. § 217.36(a)(4).

securities are limited recourse to the co-issuers, with primary recourse to the pool of loans. The vast majority of the loan pool is required to be U.S. obligors. Asset managers related to the structures are typically U.S. entities and U.S. registered investment advisers. Cash in the structure is maintained with the U.S. bank trustee in an account in the U.S. The debt securities are typically governed by U.S. (typically New York) law under New York law indentures. Yet, we understand that Federal Reserve Board examiners have advised that investments in co-issued structures are required to be counted as 50% foreign exposure, which overstates the actual foreign exposure.

A BHC or an IHC, as onshore entities, would expect to treat this exposure as U.S. credit exposure, both because of the underlying assets and cash as well as the U.S. co-issuer. Therefore, investments in co-issued CLOs should be treated as U.S. exposure.

c. ***Exposures transacted through agents*.**

Determining the ultimate obligor, and hence managing an organization's foreign exposures, is particularly challenging in the context of transacting with or through an agent for an undisclosed principal. A banking organization may find out late in the transaction or after the fact that it faces a foreign counterparty as principal, which raises a number of operational issues. Because of the "penalty" nature of "units" of additional foreign exposure, many firms have begun setting internal limits on the incurrence of foreign exposure, and operationally this can be very difficult to monitor, or can lead to inadvertent exceedances of allocations or limits, if the actual obligor is not informed to the banking institution prior to commitment.

One such example involves an investment manager for a fund complex that negotiates transactions on behalf of the complex, but may notify counterparties how certain transactions are allocated to the funds only after the fact.[21] Specifically, the information regarding the actual exposure can often be confidential at the outset of the transaction and hence would be impossible for the firm to uncover ahead of time. Therefore, in practice, the only way to avoid incurring additional foreign exposures through an agent would be to stop doing business with that agent, which would appear to be an unnecessary and impractical result.

As a matter of market realities, a banking organization would expect to have U.S. exposure when negotiating with a U.S. agent or manager. Therefore, to avoid the operational difficulties described, a practical approach should be adopted. Exposures created through negotiations with agents or managers should be presumed to create exposure based on the jurisdiction of location of the agent or manager for an undisclosed principal, unless, based on the exercise of reasonable diligence, the banking organization knew or should have known that it would have foreign exposure.

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[21] *See* FFIEC 009 Instructions, Section III.B at GEN-12 (investment funds not recorded based on location of fund managers); *see also* FFIEC 009 Instructions, Section II.F.1. at GEN-8 ("Ownership of fund shares in an unconsolidated investment entity should be reported on an immediate *and* guarantor basis according to the country and sector of the investment entity. The underlying assets of the investment fund do not provide an effective guarantee for purposes of the FFIEC 009 report" (emphasis in original).)

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We appreciate your consideration of our comments on the Proposal. If we can answer any questions or provide any further information, please contact me at 646-213-1147, bzorc@iib.org or Stephanie Webster, General Counsel at 646-213-1149, swebster@iib.org.

Very truly yours,

Beth Zorc
Chief Executive Officer
Institute of International Bankers

Appendix B: IIB Recommendations to Enhance Form FR Y-15

A. The Federal Reserve Board should clarify that international banks should report foreign net revenue from IBFs in Schedule B of Form FR Y-15.

Under Regulation D, an international banking facility ("IBF") is defined as a "set of asset and liability accounts segregated on the books and records of a depository institution, [U.S.] branch or agency of a foreign bank, or an Edge or Agreement Corporation that includes only [IBF] time deposits and [IBF] extensions of credit."[1] Schedule F of the Current Form FR Y-15 Instructions, which applies to domestic banking organizations, provides that foreign net revenue should be reported from "all foreign offices," clarifying that "[f]or purposes of this report, a foreign office of a reporting banking organization [includes] an [IBF]."[2] Schedule M of the Current Form FR Y-15 Instructions, which is the analog to Schedule F for international banks, likewise provides that foreign net revenue should be reported from "all foreign offices," noting that "[f]or purposes of this report, a foreign office is a branch or office of a U.S. entity that is located outside of the [United States]."[3] It does not, however, mention IBFs.

The GSIB Surcharge Proposal would consolidate reporting requirements under Form FR Y-15 by eliminating Schedules H through N to "reduce technical challenges and operational burden and improve administration and consistency of reporting[.]"[4] The information currently reported by international banks on Schedule M would therefore be reported on Schedule F of the Proposed Form FR Y-15 Instructions. The Proposed Form FR Y-15 Instructions revise the current instructions for Schedule F, providing that "a foreign office of a reporting *domestic* banking organization includes an [IBF]."[5]

We recommend that the Federal Reserve Board finalize any revisions to the Form FR Y-15 instructions to clarify that foreign net revenue for a reporting international bank likewise include net revenue from an IBF.

In our view, there is no meaningful rationale for treating IBFs inconsistently for purposes of Form FR Y-15, either as between IBFs of domestic banking organizations and international banks, respectively, or with respect to the Federal Reserve Board's own treatment of IBFs in other contexts. Regulation D generally applies the same requirements and restrictions to IBFs of domestic banking organizations and IBFs of international banks, subject to minor exceptions (such as the requirement that a foreign bank be specifically authorized to engage in IBF business for a particular location).[6] These exceptions are not relevant to the classification of foreign net revenue for purposes of Form FR Y-15, and therefore disparate treatment would be unwarranted. The Federal Reserve Board implicitly recognizes this in other contexts, such as Form FR Y-9C instructions, where IBFs of domestic banking organizations and international banks are treated

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1 12 CFR 204.8(a).

2 Current Form FR Y-15 Instructions, Schedule F.

3 *Id.*, Schedule M.

4 GSIB Surcharge Proposal at 14,929.

5 Proposed Form FR Y-15 Instructions, Schedule F (emphasis added).

6 *See* 12 CFR 204.8(e).

equally for a substantively similar reporting requirement to the one in Schedule F.[7] The Federal Reserve Board should ensure the same outcome for any final Form FR Y-15 instructions by providing explicitly that IBFs of an international bank should be included in foreign net revenue reporting in Schedule F.

B. The Federal Reserve Board should clarify what entities are included in a "reporting group" in Schedule B of Form FR Y-15 and whether the term is used consistently throughout the Proposed Form FR Y-15 Instructions.

Schedule B of the Current Form FR Y-15 Instructions direct banking organizations, "[i]n determining whether a transaction is with another financial institution (i.e., a financial institution outside of the consolidated holding company), [] not [to] adopt a look-through approach. Instead, report figures based on the immediate counterparty."[8] The Proposed Form FR Y-15 Instructions would introduce the concept of transactions with a "reporting group" such that the revised instructions would define "another financial institution" as "a financial institution outside of the consolidated holding company or the *reporting group*."[9] The Federal Reserve Board does not specify what entities are included in the definition of such a reporting group for the purpose of completing Schedule B accurately. Schedule A of the Proposed Form FR Y-15 Instructions notes that "[f]or an FBO, references to 'reporting group' … refer to the FBO's combined U.S. operations or IHC, as applicable."[10] The Federal Reserve Board should clarify whether the same definition of "reporting group" applies for Schedule B and which entities are included in such a definition.

C. The Proposed Form FR Y-15 Instructions should clarify the netting procedures used in Schedule A of Form FR Y-15.

The Proposed Form FR Y-15 Instructions revise the current "General Instructions" for Schedule A by adding that "[w]hen reporting for its combined U.S. operations, an FBO should utilize the following instructions, which are identical for line item 6 on the FR Y-7Q," directing that gross due from and gross due to balances with the same foreign affiliate are netted.[11] Furthermore, "[i]f the result of the netting equals a net due from balance, the net due from balance is added to the asset calculation. A net due to balance of a U.S. affiliate with a foreign affiliate is not subtracted from the combined assets reported. Refer to the example in the instructions of the FR Y-7Q for further clarification."[12]

Memorandum Item M4 of Schedule A of the Proposed Form FR Y-15 Instructions directs banking organizations to further "exclude intercompany balances and intercompany transactions

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7 FEDERAL RESERVE BOARD, INSTRUCTIONS FOR PREPARATION OF CONSOLIDATED FINANCIAL STATEMENTS FOR HOLDING COMPANIES: REPORTING FORM FR Y-9C (2026), Glossary (defining a "foreign office" to include "an IBF" for all reporting holding companies).

8 Current Form FR Y-15 Instructions, Schedule B.

9 Proposed Form FR Y-15 Instructions, Schedule B (emphasis added).

10 *Id.,* Schedule A.

11 *Id.,* Schedule A; FEDERAL RESERVE BOARD, INSTRUCTIONS FOR PREPARATION OF THE CAPITAL AND ASSET REPORT FOR FOREIGN BANKING ORGANIZATIONS REPORTING FORM FR Y-7Q (2025), at GEN-5.

12 Proposed Form FR Y-15 Instructions, Schedule A.

between the FBO's U.S. domiciled affiliates, branches, or agencies to the extent such items are not already eliminated in consolidation."[13] Using these methods to calculate Memorandum Item 5 may overstate banking organizations' positions because Item 5 from Schedule A may not have all of the netting that occurs in relation to the calculation of Memorandum Item 4. In other words, Item 5 may be made up of the total of individually netted line items, whereas Memorandum Item 4 may be further netted across line items. The Proposed Form FR Y-15 Instructions should re-clarify the netting procedures applicable to various calculations on Schedule A. Additionally, Memorandum Item 5 may be more accurate if it were an item for institutions to report, rather than an amount calculated from other items on Schedule A.

[13] *Id.*