REGULATORY CHANGES BLOWING IN THE WIND

by Steve Brown

The regulatory agencies have proposed more revisions to the Call Report that would take effect on March 31, 2010. Bankers have until October 19, 2009 to submit comments. Here are the proposed changes:

OTTI losses on debt securities - Regulators want to enhance their ability to evaluate the factors affecting bank earnings as a result of Other Than Temporary Impairment. Call Report modifications would include adding 3 new Memorandum items to the income statement to mirror the presentation requirements of FAS 115Ã¢Â€"2. Banks would report total OTTI losses on debt securities for the calendar year-to-date reporting period, the portion of these losses recognized in other comprehensive income, and the net losses recognized in earnings.

Unused commitments - Regulators want to clarify how banks should report commitments to issue future commitments when the bank has extended terms and the borrower has accepted the offered terms (even though the related loan agreement has not yet been signed). Regulators are clarifying this because they have found some banks have not reported commitments that they have entered into until they have signed the loan agreement for the financing that they have committed to provide. Banks would be permitted, however, to exclude commitments conveyed or participated to others that the bank is not legally obligated to fund even if the party to whom the commitment has been conveyed or participated fails to perform in accordance with the terms of the commitment. Commitments include: extensions of credit in the form of loans or participations in loans, lease financing receivables, or similar transactions; commitments for which the bank has charged a commitment fee; commitments that are legally binding; loan proceeds that the bank is obligated to advance (loan draws, construction progress payments and seasonal advances to farmers); and rotating, revolving, and open-end credit arrangements (credit card lines, home equity lines of credit).

Of particular note, banks would have to report unused portions of commitments even if they contain ''material adverse change'' clauses intended to relieve the issuer of its funding obligations under certain conditions and regardless of whether they are unconditionally cancelable at any time. Banks will also have to report overdraft protection on depositors' accounts offered under a program where the bank advises account holders of the available amount of overdraft protection.

Additional unused commitments - Regulators are interested in measuring the supply of credit by analyzing the change in total lending commitments and looking at both the amount of loans outstanding and the volume of unused credit lines. The proposal would split unused consumer credit card lines and other unused credit card lines and be required for institutions with $300mm or more in assets. The proposal would also split Schedule RC-L into three categories: Unused commitments to fund C&I loans, unused commitments to fund loans to financial institutions, which include not only depository institutions, but also nondepository financial institutions (real estate investment trusts, mortgage companies, holding companies of other depository institutions, insurance companies, finance companies, mortgage finance companies, factors and other financial intermediaries, short-term business credit institutions, personal finance companies, investment banks, the bank's own trust department, other domestic and foreign financial intermediaries and Small Business Investment

Companies), and all other unused commitments. Regulators are doing this to collect more information about lending exposure of the banking system to nondepository financial institutions as well.

These are only about half of the proposed changes, but suffice it to say the winds of change are blowing in the banking industry and we will all have to get used to much more granular regulatory reporting requirements. To learn more, go to the following link: http://www.fdic.gov/regulations/laws/federal/2009/09Notice819.pdf

BANK NEWS

Bernanke

The President has re-nominated Fed Chair Ben Bernanke for a 2nd 4Y term. The continuation of policy will help the market and may even help mask the release later this week of a $9T budget deficit ($2T higher than forecast).

Behind

A study by Fitch Ratings finds the rate at which delinquent prime loans returning to current status, or the cure rate, has dropped to 6.6% compared to 45% between 2000 and 2006. The rate for Alt-A loans fell to 4.3% compared to 30.2% and subprime down 5.3% compared to 19.4%. Fitch noted higher unemployment and higher number of homes underwater as potential drivers.

TRUPS

Analysis by the WSJ finds that in the 1H of 2009, 119 US banks deferred dividend payments on their TRUPs, while 26 defaulted altogether.

Bank Failures

The former Chairman of the FDIC, William Isaac, said he expects bank failures to continue for the next 2Ys, before eventually winding down.