RESPONSE TO CORONAVIRUS DISEASE 2019 (COVID-19)

In January 2020, a novel coronavirus, SARS-CoV-2, was identified as the cause of an outbreak of viral pneumonia in Wuhan, China. The disease, later named coronavirus disease 2019 (COVID-19), subsequently spread globally. The rapid spread of the virus disrupted the economy and increased volatility in global financial markets.

By March 11, 2020, the World Health Organization (WHO) declared COVID-19 a global pandemic. The FDIC implemented strategies to address challenges related to COVID-19 to maintain stability and public confidence in the nation's financial system. These actions have focused on providing necessary flexibility to both banks and their customers —particularly the most heavily affected individuals and businesses — while maintaining the overall safety and soundness of the banking system.

In February 2020, the FDIC established a Coronavirus Working Group and named a Pandemic Coordinator, shortly after credible information and reports from the Centers for Disease Control and Prevention and the WHO revealed the seriousness and widespread impact of COVID-19. The FDIC's pre-planning efforts and early decisions proved to be extremely helpful in positioning the agency to communicate information and guidance to the workforce, implement proactive measures, provide recommendations to senior leadership, and marshal resources where needed. Among several key actions, the FDIC:

- Restricted non-mission-essential travel;
- Created a Health and Safety Working Group;
- Created a COVID-19 webpage;
- Issued a mandatory telework policy for employees;
- Approved flexible telework arrangements;
- Provided global messaging, call-ins, and videos for employees;
- Approved the ability for employees to conduct examinations and supervisory functions off-site;
- Provided virtual training for bank examiners;
- Modified on-site contracts to accommodate remote work;
- Re-negotiated contracts for reduced services and prices;
- Hired a contractor specializing in preparedness, response, and recovery for public health emergencies to assist with health and safety issues and questions;
- Enhanced the use of Microsoft® Teams for collaboration;
- Instituted virtual hiring and onboarding;
- Developed a new approach to bank closings; and
- Created a Return to the Office Plan.

In March 2020, the FDIC created a page on our public website (www.fdic.gov) to help consumers and bankers to stay abreast of current events related to COVID-19 and to remind Americans that FDIC-insured banks remain the safest place to keep their money. The FDIC also warned consumers of scams involving imposters pretending to be agency representatives to perpetrate fraudulent schemes.

RULEMAKING AND GUIDANCE ISSUED

As it became clear that the public health emergency caused by COVID-19 would lead to a significant economic disruption, the FDIC worked to (1) encourage banks to work with affected customers and communities, (2) increase flexibility for banks to meet the needs of their customers, (3) foster small business lending, (4) protect consumers and increase financial options, and (5) actively monitor the financial system.

On March 9, 2020, the FDIC, Board of Governors of the Federal Reserve System (FRB), Office of the Comptroller of the Currency (OCC), Consumer Financial Protection Bureau (CFPB), National Credit Union Administration (NCUA), and the Conference of State Bank Supervisors (CSBS) issued a press release encouraging financial institutions to meet the financial needs of customers and members affected by the coronavirus. The agencies recognized the potential impact of the coronavirus on the customers, members, and operations of many

financial institutions and stated they would provide appropriate regulatory assistance to affected institutions subject to their supervision. The agencies noted that financial institutions should work constructively with borrowers and other customers in affected communities and prudent efforts that are consistent with safe and sound lending practices would not be subject to examiner criticism. The agencies further stated that they understand that many financial institutions may face staffing and other challenges. In cases in which operational challenges persisted, regulators would expedite, as appropriate, any request to provide more convenient availability of services in affected communities. The regulators also stated that they would work with affected financial institutions in scheduling examinations or inspections to minimize disruption and burden.

On March 13, 2020, the FDIC issued an FDIC-only statement encouraging institutions to take prudent steps to assist customers and communities affected by COVID-19. The FDIC acknowledged that this unique and evolving situation could pose significant temporary business disruptions and challenges, and encouraged financial institutions to work with all borrowers, especially borrowers from industry sectors particularly vulnerable to the volatility in the current economic environment and small businesses and independent contractors that are reliant on affected industries. The FDIC advised that a financial institution's prudent efforts to modify the terms on existing loans for affected customers will not be subject to examiner criticism, and committed to work with affected financial institutions to reduce burden when scheduling examinations, including making greater use of off-site reviews, consistent with applicable legal and regulatory requirements. The FDIC further stated it stood ready to work with financial institutions that may experience challenges fulfilling their regulatory reporting responsibilities and would act expeditiously if institutions needed to temporarily close facilities. The FDIC also announced that it had launched a COVID-19 webpage on its public website to provide useful information to bankers, consumers, and others. The website is located at https://www.fdic.gov/coronavirus/index.html.

On March 16, 2020, the FDIC, FRB, and OCC released a statement encouraging banks to use the Federal Reserve's "discount window" so that they can continue supporting households and businesses. By providing ready access to funding, the discount window helps banks manage their liquidity risks efficiently and avoid actions that have negative consequences for their customers. Thus, the discount window supports the smooth flow of credit to households and businesses.

On March 17, 2020, the FDIC, FRB, and OCC announced two actions to support the U.S. economy and allow banks to continue lending to households and businesses. The actions included:

- A statement encouraging banks to use their capital and liquidity buffers to support households and businesses; and
- An interim final rule that facilitates the use of a bank's capital buffers to promote lending activity to households and businesses.

The statement noted that banks have more than doubled their capital and liquidity levels over the past decade and are now substantially safer and stronger than they were previously. As a result, the agencies encouraged banks to use that strength to support households and businesses. The interim final rule was a technical change to the definition of eligible retained income in the capital conservation buffer. The revised definition of eligible retained income made any automatic limitations on capital distributions that could apply under the agencies' capital rules more gradual. On March 20, 2020, this interim final rule was published in the *Federal Register*. On October 8, 2020, a final rule was published that adopted the interim final rule without changes to the definition of eligible retained income, with an effective date of January 1, 2021.

On March 19, 2020, the FDIC, FRB, and OCC announced an interim final rule to ensure banks could effectively use the Money Market Mutual Fund Liquidity Facility (MMLF). The interim final rule modified the agencies' capital rules by permitting a bank to exclude exposures acquired as part of the MMLF from the bank's total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. On March 23, 2020, this interim final rule was published in the *Federal Register*. On October 28, 2020, a final rule was published that adopted the interim rule with no changes, with an effective date of December 28, 2020.

On March 19, 2020, Chairman McWilliams wrote a letter to the Financial Accounting Standards Board (FASB) advocating several actions in light of the unprecedented business conditions related to COVID-19. Specifically, Chairman McWilliams urged FASB to (1) exclude COVID-19 related modifications from being categorized as troubled debt restructurings (TDRs), (2) allow banks that are currently subject to current expected credit losses (CECL) the option to postpone implementation of CECL, and (3) impose a moratorium on the effective date for CECL for institutions not yet subject to CECL. Such actions would allow financial institutions to work with their borrowers, support lending in their communities, and focus on the immediate business challenges related to the pandemic.

On March 22, 2020, the FDIC, FRB, OCC, CFPB, NCUA, and the CSBS issued the *Interagency Statement on Loan Modifications and Reporting for Financial Institutions Working with Customers Affected by the Coronavirus.* The statement encouraged financial institutions to work constructively with borrowers affected by COVID-19 and provided additional information regarding loan modifications. The statement emphasized that not all modifications of loan terms result in a TDR. The agencies noted that they confirmed with FASB that short-term modifications made on a good faith basis in response to COVID-19 to borrowers who were current prior to any relief are not TDRs. This includes short-term (e.g., six months) modifications such as payment deferrals, fee waivers, extensions of repayment terms, or other delays in payment that are insignificant. The statement indicates that the agencies' examiners will exercise judgment in reviewing loan modifications, including TDRs, and will not automatically adversely risk rate credits that are affected, including those considered TDRs. Regardless of whether modifications are considered TDRs or are adversely classified, the statement makes clear that agency examiners will not criticize prudent efforts to modify terms on existing loans for affected customers.

On March 26, 2020, the FDIC, FRB, OCC, CFPB, and NCUA issued the *Joint Statement Encouraging Responsible Small-Dollar Lending in Response to COVID-19*. The statement recognizes that responsible small-dollar loans can play an important role in meeting customers' credit needs because of temporary cash-flow imbalances, unexpected expenses, or income disruptions during periods of economic stress or disaster recoveries. Such loans can be offered through a variety of structures including open-end lines of credit, closed-end installment loans, or appropriately structured single payment loans. The agencies stated that loans should be offered in a manner that provides fair treatment of consumers, complies with applicable laws and regulations, and is consistent with safe and sound practices. For borrowers who experience unexpected circumstances and cannot repay a loan as structured, financial institutions are further encouraged to consider workout strategies designed to help borrowers to repay the principal of the loan while mitigating the need to re-borrow. In May, the FDIC, FRB, OCC, and NCUA issued further guidance related to small-dollar lending, as described later in this report.

On March 27, 2020, the FDIC, FRB, and OCC announced two actions to support the U.S economy and allow banking organizations to continue lending to households and businesses. The actions included:

- Early adoption of the "standardized approach for measuring counterparty credit risk" rule, also known as SA-CCR.
- An interim final rule that allows banks to mitigate the effects of the "current expected credit loss," or CECL, accounting standard on their regulatory capital.

SA-CCR, was finalized by the agencies in November 2019, with an effective date of April 1, 2020. It reflects improvements made to the derivatives market since the 2007-2008 financial crisis, such as central clearing and margin requirements. To help improve current market liquidity and smooth disruptions, the agencies permitted banks to early adopt SA-CCR for the reporting period ending March 31, 2020.

The interim final rule allowed banks that are required under U.S. accounting standards to adopt CECL in 2020 to mitigate the estimated cumulative regulatory capital effects for up to two years. This is in addition to the three-year transition period already in place. On March 31, 2020, this interim final rule was published in the *Federal Register.* On September 30, 2020, the agencies adopted the final rule consistent with the interim final rule with some clarifications and adjustments related to the calculation of the transitions and the eligibility criteria for using the 2020 CECL transition provision.

On April 3, 2020, the FDIC, FRB, OCC, CFPB, NCUA, and CSBS issued the *Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act*. The statement informed servicers of the agencies' flexible supervisory and enforcement approach during the COVID-19 pandemic regarding certain communications to consumers required by the mortgage servicing rules. The statement facilitated mortgage servicers' ability to place consumers in short-term payment forbearance programs such as the one established by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act). The statement clarified that the agencies do not intend to take supervisory or enforcement action against mortgage servicers for delays in sending certain early intervention and loss mitigation notices and taking certain actions relating to loss mitigation set out in the mortgage servicing rules, provided that servicers are making good faith efforts to provide these notices and take these actions within a reasonable time. To further enable short-term payment forbearance programs or short-term repayment plans, mortgage servicers offering these programs or plans will not have to provide an acknowledgement notice within 5 days of receipt of an incomplete application, provided the servicer sends the acknowledgment notice before the end of the forbearance or repayment period. The guidance also reminds servicers that there is existing flexibility in the rules with respect to the content of certain notices. Finally, to assist servicers experiencing high call volumes from consumers seeking help, the statement also confirms that the agencies do not intend to take supervisory or enforcement action against mortgage servicers for delays in sending annual escrow statements, provided that servicers are making good faith efforts to provide these statements within a reasonable time.

On April 6, 2020, the FDIC, FRB, and OCC announced two interim final rules to provide temporary relief to community banking organizations. The two rules modified the community bank leverage ratio framework so that:

- Beginning in the second quarter 2020 and until the end of the year, a banking organization that has a leverage ratio of 8 percent or greater and meets certain other criteria may elect to use the community bank leverage ratio framework; and
- Community banking organizations will have until January 1, 2022, before the community bank leverage ratio requirement is re-established at greater than 9 percent.

Under these interim final rules, the community bank leverage ratio is 8 percent beginning in the second quarter and for the remainder of calendar year 2020, 8.5 percent for calendar year 2021, and 9 percent thereafter. These interim final rules also maintained a two-quarter grace period for a qualifying community banks whose leverage ratio falls no more than 1 percent below the applicable community bank leverage ratio. The agencies provided community banks with a clear and gradual transition back to the 9 percent leverage ratio requirement previously established by the agencies. This transition allowed community banks to focus on supporting lending to creditworthy households and businesses given strains on the U.S. economy caused by the coronavirus. On April 23, 2020, these interim final rules were published in the *Federal Register.* On October 9, 2020, a final rule was published in the *Federal Register* that adopted these interim rules with no changes, with an effective date of November 9, 2020.

On April 7, 2020, the FDIC, FRB, CFPB, NCUA, and OCC, in consultation with state financial regulators, issued the *Interagency Statement on Loan Modifications and Reporting for Financial Institutions with Customers Affected by the Coronavirus (Revised)*. The revised statement clarified the interaction between the interagency statement issued on March 22, 2020 and the temporary relief provided by Section 4013 of the CARES Act, which was signed into law on March 27, 2020. Section 4013 allowed financial institutions to suspend the requirements to classify loan modifications as TDRs if the loan modification is (1) related to COVID-19; (2) executed on a loan that was not more than 30 days past due as of December 31, 2019; and (3) executed between March 1, 2020, and the earlier of (A) 60 days after the date of termination of the National Emergency or (B) December 31, 2020. The revised statement also provided supervisory interpretations on past due and nonaccrual regulatory reporting of loan modification programs and regulatory capital.

On April 9, 2020 the FDIC, FRB, and OCC announced an interim final rule to neutralize the regulatory capital effect of participation in the Paycheck Protection Program Liquidity Facility (PPPLF). The interim final

rule permitted a bank to exclude exposures pledged as collateral to the PPPLF from the bank's total leverage exposure, average total consolidated assets, advanced approaches total risk-weighted assets, and standardized total risk-weighted assets, as applicable. Additionally, the interim final rule provided that a bank must apply a zero percent risk weight to PPP covered loans, as required by Section 1102 of the CARES Act. A bank must apply a zero percent risk weight to PPP covered loans regardless of whether they are pledged under the PPPLF. On April 13, 2020, this interim final rule was published in the *Federal Register*. On October 28, 2020, a final rule was published in the *Federal Register* that adopted the interim rule with no changes, with an effective date of December 28, 2020.

On April 14, 2020, the FDIC, FRB, OCC, NCUA, and CFPB announced an interim final rule to temporarily defer real estate-related appraisals and evaluations under the agencies' interagency appraisal regulations. The agencies provided this temporary relief to allow regulated institutions to extend financing to creditworthy households and businesses quickly in the wake of the national emergency declared in connection with COVID-19. The agencies deferred certain appraisals and evaluations for up to 120 days after closing of residential or commercial real estate loan transactions. Transactions involving acquisition, development, and construction of real estate were excluded from this interim rule. On April 17, 2020, this interim final rule was published in the *Federal Register*. On October 16, 2020, a final rule was published in the *Federal Register* that adopted the interim rule with one revision, with an effective date of October 16, 2020 through December 31, 2020. The agencies also issued the *Interagency Statement on Appraisals and Evaluations for Real Estate Related Financial Transactions Affected by the Coronavirus*. This statement outlined existing flexibilities provided by industry appraisal standards and the agencies' appraisal regulations – including that interior inspections are not required. An appraiser can determine the characteristics of a property through any combination of property inspection, asset records, photographs, property sketches and recorded media.

For consumers who were eligible to receive economic impact payments authorized by the CARES Act from the Internal Revenue Service (IRS), the FDIC provided information about how to open a bank account and provide that bank account information to the IRS. During the pandemic many banks offered ways to open accounts remotely — online or through a mobile app — without going to a bank branch. The FDIC developed a webpage to provide consumers with all the information needed to find a bank and open an account online. To increase the number of consumers with access to direct deposit, the IRS included a link to the FDIC's economic impact payment landing webpage (now #GetBanked). By year-end, the FDIC's resource pages on bank account access had received more than 800,000 page views.

On May 5, 2020, the FDIC, FRB, and OCC announced an interim final rule that modifies the agencies' Liquidity Coverage Ratio (LCR) rule to support banking organizations' participation in the Federal Reserve's Money Market Mutual Fund Liquidity Facility (MMLF) and the PPPLF. The interim final rule required a covered company to neutralize the LCR effects of the advances made by the MMLF and PPPLF together with the assets securing these advances. On May 6, 2020, this interim rule was published in the *Federal Register*. On October 28, 2020, a final rule was published in the *Federal Register* that adopted the interim rules with no changes, with an effective date of December 28, 2020.

On May 15, 2020, the FDIC, FRB, and OCC announced an interim final rule for temporary changes to their supplementary leverage ratio rule. The supplementary leverage ratio generally applies to subsidiaries of bank holding companies with more than $250 billion in total consolidated assets. In order to facilitate banks' significant increases in reserve balances resulting from the Federal Reserve's asset purchases and the establishment of various programs to support the flow of credit to the economy, as well as the continued need to accept exceptionally high levels of customer deposits, the interim final rule provided certain banks subject to the supplementary leverage ratio the option to elect to exclude temporarily Treasuries and deposits at Federal Reserve Banks from total leverage exposure through March 31, 2021. Under the interim final rule, a bank that opts into this treatment is required to obtain prior approval of distributions from its primary Federal banking regulator. The change is effective as of June 1, 2020 and will be in effect through March 31, 2021. On June 1, 2020, this interim final rule was published in the *Federal Register*.

On June 23, 2020, the FDIC, FRB, OCC, NCUA, and State Financial Regulators issued *Interagency Examiner*

Guidance for Assessing Safety and Soundness Considering the Effect of the COVID-19 Pandemic on Institutions. The interagency guidance instructed examiners to consider the unique, evolving, and potentially long-term nature of the issues confronting financial institutions due to the COVID-19 pandemic and to exercise appropriate flexibility in their supervisory response. The agencies also made clear that appropriate actions taken by institutions in good faith reliance on statements issued by the agencies during the pandemic, within applicable timeframes described in such statements, will not be subject to criticism or other supervisory action.

On August 3, 2020, the Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, issued a statement to provide prudent risk management and consumer protection principles for financial institutions to consider while working with borrowers as loans near the end of the initial loan accommodation periods provided during the COVID-19 pandemic. The statement also addressed issues relative to accounting and regulatory reporting and internal control systems. Specifically, FFIEC members encouraged financial institutions to consider prudent accommodation options that can ease cash flow pressures on affected borrowers, improve their capacity to service debt, and facilitate institutions' ability to collect loans, consistent with applicable laws and regulations. The statement advised that such arrangements may mitigate the long-term impact of a financial challenge on borrowers by helping to avoid delinquencies or other adverse consequences. Further, the agencies stated that effective risk management practices include providing clear, conspicuous, and accurate communications and disclosures to inform borrowers of affordable and sustainable accommodation options prior to the end of the accommodation period. The statement advised that in accordance with U.S. Generally Accepted Accounting Principles (GAAP), financial institution management should consider the effects of external events, such as the COVID-19 pandemic, in its allowance estimation processes. Finally, the statement noted that internal controls for initial and additional accommodation periods should include quality assurance, credit risk review, operational risk management, compliance risk management, and internal audit functions that are commensurate with the size, complexity, and risk of a financial institution's activities.

On October 20, 2020, the FDIC announced an interim final rule to provide temporary relief from Part 363 Audits and Reporting requirements for institutions experiencing growth due to participation in the PPP, PPPLF, or MMLF, or other factors, such as other stimulus activities. The interim final rule allowed institutions to determine the applicability of Part 363 for fiscal years ending in 2021 based on the lesser of the institution's (a) consolidated total assets as of December 31, 2019, or (b) consolidated total assets as of the beginning of their fiscal years ending in 2021. Notwithstanding any temporary relief provided by this interim final rule, an institution would continue to be subject to any otherwise applicable statutory and regulatory audit and reporting requirements. This interim final rule also reserved authority for the FDIC to require an institution to comply with one or more requirements of Part 363 if the FDIC determines that asset growth was related to a merger or acquisition. The interim final rule is effective through December 31, 2021, unless otherwise extended by the FDIC. On October 23, 2020, this interim final rule was published in the *Federal Register*.

On November 20, 2020, the FDIC, FRB, and OCC announced an interim final rule that provided similar temporary relief from several other regulations applicable to institutions with $10 billion or less in total consolidated assets. The interim final rule amended such rules by allowing institutions to calculate their asset size for applicable thresholds during calendar years 2020 and 2021 based on the lower of either total assets as of December 31, 2019 or total assets as of the normal measurement date. The temporary relief applied to the community bank leverage ratio, the FDIC's rule regarding management official interlocks, the FFIEC 051 Report of Condition and Income, and rules regarding examination frequency. On December 2, 2020, this interim final rule was published in the *Federal Register*. The interim final rule became effective as of December 2, 2020.

EXAMINATION PROCEDURES AND GUIDANCE

The FDIC maintained its supervisory programs for both safety and soundness and consumer protection by establishing temporary processes and adding flexibility that allowed examiners to continue conducting examinations despite the pandemic. These actions

— in addition to technological advancements and solutions adopted by the FDIC in the years leading up to the pandemic — were critical to the agency's ability to conduct examination activities off-site and fulfill our supervisory obligations uninterrupted.

Recognizing the challenges financial institution management faced in the early days of the pandemic, the FDIC provided institution management the option to temporarily delay examination activities, including examination planning. Although most financial institutions chose to continue with examinations as scheduled, a small number opted for a temporary delay due to operational considerations.

We will continue to conduct examination activities predominantly off-site, but have developed plans for resuming on-site examination work when public health guidelines permit.