ELECTRONIC COLLATERAL QUESTIONNAIRE AND ATTESTATION

Date:  / /

Name of Institution:

Routing (ABA) No.:

**PART I: ELECTRONIC LOAN COLLATERAL CATEGORIES**

Instructions for completing the table in this Part I:

**Step #1**: Mark the box next to the Reserve Bank Loan Categories for the loans that the Institution intends to pledge (for BIC Applications only) or is currently pledging (for Audit Certifications only).

**Step #2**: Indicate whether the Payment Documents are signed with a digital signature (**ES**), signed on paper, and then imaged and destroyed (**IM**) or both (**Both**). The **Payment Document** is the loan document where the underlying debtor promises to pay the Institution (i.e., the payment obligation), usually the promissory note, loan agreement or lease agreement.

**Step #3**:

* + - * 1. Check the box next to “**ECP**” if the electronic loan collateral in such Reserve Bank Loan Category contains electronic chattel paper. Electronic chattel paper consists of loans or leases secured by specific goods such as equipment, vehicles, and fixtures. See Section 9-102(a)(31) of the Uniform Commercial Code (UCC) for a definition of electronic chattel paper.
        2. Check the box next to “**EMN**” if the electronic loan collateral in such Reserve Bank Loan Category contains electronic mortgage notes. Electronic mortgage notes consist of promissory notes secured by real estate.

| **Step #1** | | **Step #2** | **Step #3** |
| --- | --- | --- | --- |
| **Reserve Bank Loan Category[[1]](#footnote-2)** | | **Form of Payment Document** | **Special Category** |
|  | Consumer Loans: Auto, Marine | Choose an item. | ECP |
|  | Consumer Leases—Other | Choose an item. | ECP |
|  | Consumer Unsecured Loans (revolving credit plans, single payment, and installment loans) | Choose an item. | ECP |
|  | Commercial Real Estate Loans (non-farm non-residential) | Choose an item. | EMN |
|  | Home Equity Loans or Lines secured by residential property | Choose an item. | EMN |
|  | Agricultural Loans Secured by Farmland | Choose an item. | EMN |
|  | Construction Loans (1-4 family construction, and other construction loans) | Choose an item. | EMN |
|  | 1-4 Family Residential Mortgage Loans | Choose an item. | EMN |
|  | 5+ Family Residential Mortgage Loans | Choose an item. | EMN |
|  | Owner Occupied Non-Farm Non-residential CRE | Choose an item. | EMN |
|  | Raw Land Loans (land development and other land loans) | Choose an item. | EMN |
|  | Guaranteed portion of U.S. Agency Loans | Choose an item. | ECP  EMN |
|  | Non-Guaranteed portion of U.S. Agency Loans | Choose an item. | ECP  EMN |
|  | Agricultural Production Loans | Choose an item. | ECP |
|  | Commercial and Industrial Loans and Leases | Choose an item. | ECP |
|  | Student Loans | Choose an item. |  |
|  | Obligations of states and political subdivisions (Municipalities) | Choose an item. | ECP  EMN |
|  | Credit Card Receivables | Choose an item. |  |

**PART II: QUESTIONS FOR ALL CATEGORIES OF ELECTRONIC LOAN COLLATERAL**

1. Are any of the Payment Documents signed with digital signatures (i.e., marked as “ES” in the table above)?

☐ Yes ☐ No

If **Yes**, describe how the Institution attributes the digital signatures to the signers?

(Mark all that apply)

|  |  |
| --- | --- |
|  | The Institution uses a digital signature service that collects data from the signer (i.e., DocuSign or similar program). What is the name of the service provider? |
|  | The Institution stores emails from the signer confirming the signature is authentic. |
|  | The Institution records call logs from the signer confirming the signature is authentic. |
|  | Other (explain): |

1. Are any of the Payment Documents imaged and destroyed (i.e., marked as “IM” in the table above).

☐ Yes ☐ No

If **Yes**, describe the process and timing of destroying the paper originals, including any controls for ensuring that destruction occurs (i.e. destruction log or receipts).

Is the process for destroying paper originals subject to your Institution’s existing internal or external auditing process?

☐ Yes ☐ No

If **No**, explain why.

1. Are any Payment Documents stored with a third-party storage provider (TSP)?

☐ Yes ☐ No

If **Yes**, what is the name of the TSP? . **Provide a copy of the Institution’s agreement with the TSP.**

Mark the box next to each statement that applies:

|  |  |
| --- | --- |
|  | The TSP controls who has access to the Payment Documents beyond the initial set-up of the storage service. |
|  | The TSP has a security interest in or lien on the files, loans or leases stored with the TSP. |
|  | If the Institution defaults on its agreement with the TSP, the TSP has the right to delete, take control or restrict access to the Payment Documents. |
|  | The TSP performs the typical duties that a custodian of financial assets would perform for the Institution (e.g., recordkeeping, payments or distributions of the assets, tax reporting and withholding, etc.) and/or the Institution’s agreement with the TSP refers to the TSP as a custodian or bailee of the Payment Documents or grants the TSP any similar custodial rights. |

**PART III: QUESTIONS CONCERNING ELECTRONIC VAULTS**

1. Will any Payment Documents be stored in an electronic vault (eVault)? An eVault is a system or tool, whether internal or provided by a third party, that enables a secured party or purchaser to establish control of electronic chattel paper under UCC 9-105 and electronic records under Section 16 of the Uniform Electronic Transactions Act (UETA) and Section 201 of the Electronic Signatures in Global and National Commerce Act (E-Sign Act). eVaults typically allow the user to securely store, manage and transfer the authoritative copies of electronic documents.

☐ Yes ☐ No

If **Yes**, continue to questions #2, 3, 4 and 5. If **No**, skip to Part IV.

1. Is the eVault provided by a third-party vendor?

☐ Yes ☐ No

If **Yes**, what is the name of the eVault vendor? . **Provide a copy of the Institution’s agreement with the eVault vendor.**

1. How does your Institution ensure that the collateral stored in an eVault clearly indicates that it is pledged to the Reserve Bank such that potential third-party creditors and/or purchasers would have knowledge of the Reserve Bank’s security interest?

(Mark all that apply)

|  |  |
| --- | --- |
|  | The file name of the Payment Document indicates that the loan or lease is pledged to the Reserve Bank. |
|  | A splash screen, pop-up message or some other clearly visible notation appears each time a user accesses the Payment Document that indicates that the loan or lease is pledged to the Reserve Bank. |
|  | The Payment Document contains a legend indicating that the loan or lease is pledged to the Reserve Bank. |
|  | Other (explain): |

1. Will any electronic chattel paper (i.e., Special Category of “ECP” is checked in Part I) pledged to the Reserve Bank be stored in an eVault?

☐ Yes ☐ No

1. Will any electronic mortgage notes (i.e., Special Category of “EMN” is checked in Part I) pledged to the Reserve Bank be stored in an eVault?

☐ Yes ☐ No

**PART IV: QUESTIONS FOR IMAGED AND DESTROYED MORTGAGE NOTES**

1. Will the Institution pledge any electronic mortgage notes (i.e., Special Category of “EMN” is checked in Part I) that are signed on paper and then imaged and destroyed (not signed with a digital signature)?

☐ Yes ☐ No

If **Yes**, continue to question #2. If **No**, skip to Part V.

1. Do any of the electronic mortgage notes qualify as “negotiable instruments” under Article 3 of the UCC if they were in paper form? Consult your Institution’s legal counsel for guidance in determining whether the pledged loans are considered “negotiable instruments”.

☐ Yes ☐ No

If **Yes**, continue to question #3. If **No**, skip to Part V.

1. What is the governing law of the imaged and destroyed mortgage notes? The governing law is usually stated in the transaction documents.

State(s) of

(The Reserve Bank may require the Institution to submit an opinion or letter from legal counsel, either internal or external, regarding the enforceability of the imaged and destroyed mortgage notes in the State(s) noted above.)

**PART V: ATTESTATION**

Each of the following statements must be true for the Institution to pledge electronic loan collateral to the Reserve Bank. Mark the box next to each statement to attest that it is true. Electronic loan collateral records are defined as the Payment Documents along with all relevant ancillary loan and lease documentation.

|  |  |
| --- | --- |
|  | The Institution has policies and procedures for the origination, processing, storage, and imaging/destruction (where applicable) of electronic loan collateral records. |
|  | The Institution’s processes and procedures for managing electronic loan collateral records are either (i) included as part of the scope of ongoing internal or external audits or other independent reviews or (ii) will be included upon the Reserve Bank’s approval of the Institution’s request to pledge electronic collateral. |
|  | The Institution has safeguards to protect electronic loan collateral records from unauthorized alterations or deletions. |
|  | The Institution has a contingency plan to prevent the loss of electronic loan collateral records, which includes a regular schedule for replicating/backing-up the records. |
|  | The Institution retains backed-up electronic loan collateral records for a period consistent with industry standards and in compliance with applicable federal and state laws. |
|  | All digitally signed (not imaged and destroyed) electronic loan collateral records are enforceable under the E-Sign Act, the UETA adopted by the state in which the signature is applied, and all other applicable federal, state, and local laws. |
|  | The Institution is compliant with the Reserve Bank’s existing Borrower-in-Custody program requirements as they generally pertain to electronic loan collateral records. |

By signing below, I attest that all responses to the questionnaire are accurate.

|  |  |
| --- | --- |
| **Authorized Officer**  (Must be identified by title in the Institution’s OC-10 Authorizing Resolutions)  By:  Name:  Title: | (If a second signatory is required in the Institution’s OC-10 Authorizing Resolutions)  **Second Authorized Officer**  (Must be identified by title in the Institution’s OC-10 Authorizing Resolutions)  By:  Name:  Title: |

**Return the completed and signed Questionnaire to:** [**sf.crmcco@sf.frb.org**](mailto:sf.crmcco@sf.frb.org)

1. Refer to the [Pledging Collateral Guidelines](https://www.frbdiscountwindow.org/pages/collateral/pledging_collateral) for additional information on the Reserve Bank Loan Categories and the corresponding call report codes. Contact the Reserve Bank with any questions. [↑](#footnote-ref-2)