

FEDERAL RESERVE BANK OF SAN FRANCISCO

BORROWER-IN-CUSTODY GUIDELINES

**CREDIT AND RISK MANAGEMENT DEPARTMENT
101 MARKET STREET - MAILSTOP 830
SAN FRANCISCO, CA 94105**

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I INTRODUCTION

In order to obtain discount window credit, a financial institution (FI) must complete the appropriate Operating Circular No. 10 (OC-10) lending documentation as well as pledge acceptable collateral in an amount sufficient to secure an advance and accrued interest. *Institutions should maintain a pre-determined amount of collateral pledged* at the Reserve Bank to ensure that sufficient collateral is available for ongoing programs such as the Seasonal Credit Program, or for contingency situations.

One available option is to maintain collateral in a Borrower-In-Custody (BIC) arrangement. Collateral held in such an arrangement may be used to secure advances from the discount window or for the Treasury, Tax, and Loan (TT&L) program. BIC arrangements allow healthy depository institutions to pledge various loan types, including, but not limited to: commercial real estate, commercial loans, one-to-four family real estate mortgage loans, consumer loans, and student loans as collateral to the Federal Reserve Bank (FRB). The participating institution maintains custody and servicing of the loans, thus avoiding the expense and burden of submitting loan documentation directly to the FRB.

II ELIGIBILITY

A financial institution must submit an application to the FRB to participate in the BIC program. At a minimum, the institution must satisfy the following criteria: :

- CAMELS composite rating of “1” or “2” (Composite ratings of “3” are generally acceptable¹)
- “Adequately” or “Well” capitalized as evidenced by most recent capital ratios
- Acceptable controls in place to ensure satisfactory compliance with the BIC Program

III APPLICATION PROCESS

PREREQUISITES

As noted above, BIC arrangements are only available to institutions with completed lending documents in the form of OC-10 (Lending), and/or are participating in the United States Treasury Department TT&L Program and have completed the required Treasury documentation.

REQUIRED FRB DOCUMENTATION

- 1. Application for Borrower-in-Custody of Collateral Arrangement**
http://www.frbdiscountwindow.org/12_bicappform.docx
- 2. Irrevocable Power of Attorney** – This document enables us to act on the institution’s behalf to negotiate the collateral under the provision of OC-10.
http://www.frbdiscountwindow.org/12_PowerofAttorney.doc.
- 3. Appendix A** - This document is subject to terms of the Letter of Agreement for OC-10 and indicates the physical location of the loan documents and the type of loans that are being pledged. Institutions are required to execute the Appendix A on their letterhead.
http://www.frbdiscountwindow.org/12_appainst.docx

¹ FBO and corresponding branches are in satisfactory condition.

4. **The institution's internal loan policy handbook and/or guidelines including the internal credit risk ratings definitions** - To determine underwriting methods used by the pledging institution in assessing credit risks and potential losses for commercial loans.
5. If the loans or any legal agreements are held by a third party custodian, including subsidiaries or affiliates, the **Form of Agreement for Third-Party Custodian to Hold Collateral** must be completed. Attach the most recent third party review by audit, if applicable.
<http://www.frbdiscowindow.org/letterscustodian.doc>.
6. If the institution images or destroys loan documentation, an **Imaging Questionnaire** needs to accompany the application. http://www.frbdiscowindow.org/12_imaging.docx
7. **Test BIC Pledge Listing:** A BIC pledge listing test file is required upon submission of the BIC application. The listing should be mailed with the application. (For further information and links to templates, refer to item IV below.) http://www.frbdiscowindow.org/12_LoanTemplate.xls

The completed Application for BIC and related required documents should be mailed to:

Credit and Risk Management
Federal Reserve Bank of San Francisco
101 Market Street, MS 760
San Francisco, CA 94105

PERFECTION OF SECURITY INTEREST - INTERCREDITOR (ICA) & SUBORDINATION AGREEMENTS

Upon receipt of all required documentation, FRBSF will file a UCC-1 Financing Statement with the following language in order to perfect security interest in the pledged collateral:

"All accounts, chattel paper, inventory, equipment, instruments, investment property, general intangibles, documents, and all assets, now owned or hereafter acquired, that are identified, from time to time, by Debtor to Secured Party in writing, by electronic means (including by CD-ROM) or by any other means agreed by the parties, as collateral securing the obligations of Debtor to Secured Party under a written agreement between the parties, and all proceeds thereof; and all collateral, guarantees, letters of credit, surety bonds and other supporting obligations pertaining to the foregoing, and all proceeds thereof."

There may be instances where the Reserve Bank is not in 1st lien position. In these cases the following may apply:

- Intercreditor Agreement – an agreement between other lien holders, the financial institution and Reserve Bank that details where certain assets are pledged.
- Release Agreement – the entity with the superior lien forgoes their security interest in the collateral in question with a formal writing to the Reserve Bank.
- Termination of Liens – the institution may request that the prior lien holder terminates its lien. Verification of termination is required.

An application will not be approved until such arrangements are finalized. The institution may want to initiate contact with the lien holder to expedite the process.

APPROVAL

FRBSF will review the application and the documents submitted for completeness and acceptability. Once deemed satisfactory, the approval letter will affirm acceptable loan types and risk ratings, if applicable. Normally, the Credit and Risk Management department (C&RM) provides written response to a BIC application within 30 days.

Two months after FRBSF has processed the first pledge, and annually thereafter, the institution **is required** to submit the **Audit Certification** and the **Collateral Schedule Confirmation**. The Audit Certification certifies compliance with BIC guidelines. In the Collateral Schedule Confirmation, the FI's executive management attests that controls are in place to give reasonable assurances about the accuracy of the data submitted. (See http://www.frbdiscountwindow.org/12_acert.docx).

IV COLLATERAL REPORTING

On a monthly basis, participating financial institutions are required to submit the following securely through the [Federal Reserve Secure Message Center Zix](#):

- BIC-1 Collateral Transmittal form (http://www.frbdiscountwindow.org/12_bictmpl.docx)
- Updated listing of pledged loans with current outstanding principal balances including terms (this may include new loans and/or the removal of loans that are ineligible, paid off, or matured).

REPORTING METHOD

All BIC-1 transmittal forms with the pledge listing must be submitted via email to sf.crm@sf.frb.org by an individual listed on the Official OC-10 Authorization List.

REPORTING FORMAT

Institutions are required to submit monthly collateral pledges using the **Standard Pledge Listing Template**. The template is a workbook with specific pre-formatting and field requirements. The template can be found on the FRBSF discount window website: http://www.frbdiscountwindow.org/12_LoanTemplate.xls

Email of confidential information should be encrypted through FRB Secure Email service provided by Zix Corporation².

Required Fields:

- I. Page Heading
 1. ABA Number
 2. Institution Name
 3. Site Address; City, State and ZIP
 4. Identified as "Loans pledged to the Federal Reserve Bank of San Francisco"
 5. Principal Balance As-Of Date

² If the institution is also a Zix client, it will receive the e-mail message directly. If the institution is not a Zix client, an email with instructions on how to retrieve the encrypted message with a link to a secure portal site called the FRSecure Message Center. When sending confidential information to Credit & Risk Management, secure e-mails should be sent via FRSecure Message. For further information on the FRSecure Message Center, click on the link, <https://secureemail.federalreserve.com/>.

6. Loan Type
 7. Category Code (Optional)
- II. Summary Information (completed by default)
1. Sum of Original Commitment Amounts
 2. Sum of Current Commitment Amounts
 3. Sum of Current Principal Amounts
 4. Weighted Average Maturity
 5. Weighted Average Interest Rate
 6. Total Number of Loans Pledged
- III. Loan Detail Record
1. Obligation (Loan) Number
 2. Subnote Reference Number, if applicable
 3. Origination Date (optional)
 4. Obligor (Borrower) Name
 5. Internal Risk Rating
 6. Original Commitment Amount
 7. Current Commitment Amount
 8. Current Principal Balance
 9. Maturity Date
 10. Interest Rate
 11. Last Payment Date
 12. Next Payment Due Date
 13. Payment Frequency
 14. Fixed (FX)/Floating (FL) Rate

Please email the attached BIC-1 transmittal and the detailed pledge listing to:

Email To: sf.crm@sf.frb.org

Subject line: <Name of financial institution>-BIC1, Month and Year

Example: Bank of the Community-BIC1, July 2013

REPORTING REQUIREMENTS

When a new BIC-1 transmittal and collateral listing is received and processed, collateral from the previous listing is released and new collateral is deposited. Newly originated loans may be included on the monthly listing and transmittal. Matured or in renewal state, paid, past due, or loans which are otherwise unacceptable must be removed promptly from the monthly listing and transmittal.

The outstanding loan balance reported on the pledge listing for each loan must represent the institution's interest in the principal balance. Amounts that are unearned, rebate-able, or have been sold or participated out must be subtracted from the reported balances on the pledge listing.

ACCELERATED REPORTING

If deemed appropriate, FRBSF may require an accelerated reporting schedule. In addition, if the pledged portfolio value decreases by more than 10% (**10 Percent Rule**) in any given reporting period, an interim report (in between the regular reporting periods) with a new BIC-1 and detail pledge listing must be submitted immediately to the FRB.

RELEASE OF COLLATERAL

An institution may request release of pledged loans by submitting an updated BIC-1 transmittal and pledge listing. This releases collateral from the previous deposit.

V ONGOING COLLATERAL MAINTENANCE REQUIREMENTS

Collateral documents must be sufficient to evidence an extension of credit. For pledged loans, documents must remain housed in the location designated on the Appendix A. FRBSF requires written notice 30 days prior to removal and relocation of collateral. The written notice must include the following:

- Date of relocation and estimated time in transit
- Method of relocation (i.e. third party, internal staff, etc.)
- Controls in place to ensure collateral is whole after relocation

Send correspondence to the C&RM Mailbox at sf.crmcco@sf.frb.org

Removal of collateral documentation in the normal course of business is acceptable (e.g. servicing, credit review, etc.) provided the documents are tracked and returned after use. The FI's internal procedures must clearly document this process.

All documents must be appropriately stored (e.g. in a fire-resistant environment with controlled access / security). Ideally, the collateral is maintained in a vault area, where access is restricted to specific individuals and use of files is recorded.

LEGAL DOCUMENTS

Original primary legal documents are required (see Table 1). Depending on circumstances (e.g. complex syndications, participations, and/or acquired loans), other documents may be acceptable. In that regard, please contact Credit and Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org.

For certain loans (e.g. auto loans) the original Certificate of Title must also be maintained unless prior arrangements have been made with the FRBSF. In certain states with electronic titles, this may not be applicable. If any other collateral documents are destroyed or maintained in electronic format, the institution should complete and submit an Imaging Questionnaire to sf.crmcco@sf.frb.org.

AVAILABILITY OF CREDIT AND SUPPORTING DOCUMENTS

The location and availability of certain credit and supporting documents are required. The documentation should be maintained at the location designated on the Appendix A. These documents must also be made available if requested by the FRB.

IMAGING AND DESTRUCTION OF LEGAL DOCUMENTS

If documents are imaged or will be imaged, the FRBSF Imaging Questionnaire must be completed, either with the application or prior to the conversion to imaging. The institution must have procedures in place, ensuring controls and authenticity of images. The Imaging Questionnaire can be found at: http://www.frbdiscountwindow.org/12_imaging.docx

TABLE 1: LEGAL, CREDIT, AND SUPPORTING DOCUMENTATION REQUIREMENT MATRIX

The matrix below shows minimum required documents (Y = Yes, N/A=Not Applicable, A = As Applicable):

	Personal Loans	Auto Loans	1-4 Family Mortgages	Home Equity	Coml. Loans	Coml. Real Estate	Location ³
Legal Documents							
Originals of:							<i>Required:</i> Centralized in designated location according to Appendix A
• Promissory Note	Y	Y	Y	Y	Y	Y	
• Modifications/ change	Y	Y	Y	Y	Y	Y	
• Certificate of Title	N/A	Y	N/A	N/A	N/A	N/A	
• Commercial Security Agreements; Business Loan Agreements	N/A	N/A	N/A	N/A	A	A	
Images/copies/originals of:							<i>Preferred:</i> Centralized in designated location according to Appendix A
• Deed of Trust or Mortgage	N/A	N/A	Y	Y	A	Y	
• Guarantor Agreements	A	A	A	A	A	A	
• Final Title Policy Search	N/A	N/A	Y	Y	A	Y	
• Credit/loan/participation /syndication agreement	N/A	N/A	N/A	N/A	Y	Y	
Supporting Documents							
Images/copies/originals of:							<i>Preferred:</i> Centralized in designated location according to Appendix A
• Appraisal	N/A	N/A	Y	Y	A	Y	
• UCC Filing	A	N/A	N/A	N/A	A	A	
• Corporate/partnership resolution to borrow	N/A	A	N/A	N/A	A	A	
Credit Documents							
Images/copies/originals of:							<i>Optional:</i> In Centralized Location or Branch Level
• Underwriting analysis and signed approvals	Y	Y	Y	Y	Y	Y	
• Internal credit review memorandum &/or write ups	A	N/A	N/A	N/A	A	A	
• Financial Statements	A	A	A	A	Y	Y	
• Credit Reports	Y	Y	Y	Y	A	A	
• Evidence of Insurance	N/A	Y	Y	Y	A	Y	
• Environmental Reports	N/A	N/A	N/A	N/A	A	Y	
• Tax Returns	A	A	A	A	A	A	
• Correspondence with Borrower	Y	Y	Y	Y	Y	Y	

³ Minimum requirements for a BIC arrangement are subject to change according to direction/instruction from FRB. FRB reserves the right to request relocation and/or delivery of documents as part of on-going requirements or during inspection. Additionally, your institution's policy on records/file management may exceed the Minimum requirements. Consult Credit and Risk Management directly for additional guidance.

COLLATERAL IDENTIFICATION REQUIREMENTS

Pledged loans must be clearly identified as collateral for the Federal Reserve Bank of San Francisco. This is accomplished by the following:

- Posting a highly visible sign in the area where the pledged loans are located, with wording such as "Some or all of these loans are pledged to the Federal Reserve Bank of San Francisco" and
- Placing an electronic notation to flag pledged loans on the institution's loan trial system. This notation may consist of a numerical or alpha code.

VI TYPES OF LOANS INELIGIBLE FOR PLEDGE

Loans must be readily negotiable, transferable, or assignable and not subject to any adverse legal, environmental, or other action (outstanding judgment, tax liens, bankruptcies or foreclosures). Loans must possess a "Pass" rating per institution's regulator approved internal guidelines.

Other types of ineligible loans include:

- Loans in origination or renewal state
- Loans classified (e.g. special mention, substandard, doubtful, loss) by internal/external auditors or by a supervisory agency
- Any loans receiving adverse comment by institution's loan review function
- Loans subject to any regulatory constraints impairing their liquidation, including, but not limited to, environmental law or other forms of lender liability
- Consumer loans (including Auto, 1-4 Mortgage, HELOC) in nonaccrual status (>60 days past due)
- Commercial loans (including CRE, Construction, Multi-Family) in nonaccrual status (>30 days past due)
- Loans to an affiliate of a financial institution (includes consumer finance companies).
- Loans collateralized by stock of an affiliate
- Loans issued to an Employee Stock Option Plan (ESOP) or secured by ESOP stock
- Loans already pledged under a specific or blanket lien unless expressly subordinated to the Federal Reserve Bank
- Loans to foreign or domestic entities that are not denominated in U.S. dollars⁴

For more information, please review our collateral guidelines:

<https://www.frbdiscowindow.org/~media/Documents/FRcollguidelines.ashx?la=en>

⁴ Foreign Obligor Loans - In general, foreign obligor loans are not accepted as collateral unless a legal opinion is submitted to and deemed satisfactory by the Reserve Bank. Foreign obligor loans are defined as commercial or commercial real estate loans to entities incorporated outside of the U.S. or whose principal place of business or main office is outside of the U.S. For loans that rely on the strength of guarantors, the domicile of the guarantor determines the classification (e.g., loans to U.S. shell companies that are guaranteed by foreign parents should be considered foreign).

VII INSPECTION AND ANNUAL REVIEW OF ELIGIBILITY

Within approximately six months of acceptance into the BIC program and periodically thereafter, FRBSF will conduct an inspection of pledged collateral. After the initial inspection, the BIC participant can expect periodic on-site or on-line inspections.

On-site inspections entail FRB staff reviewing the premises, inventorying pledged loans, establishing that the collateral is clearly and properly identified as pledged to the Federal Reserve Bank of San Francisco, and ensuring administration of the BIC program is sufficient. Written notice is provided approximately two weeks prior to the scheduled arrival date. Audit is welcome to attend the exit meeting.

On-line inspections entail FRB staff reviewing the same attributes as on-site inspections; however the inspection is conducted electronically. The institution will submit required documentation to a secure website, Zix (<https://secureemail.federalreserve.com/s/login?b=bqfrs>). FRBSF staff will provide written notice approximately two weeks prior to the scheduled inspection date.

The inspection serves to verify that pledged collateral is held in accordance with terms of the letter of agreement and BIC Guidelines. Generally, FRB staff expects:

- Loans should be properly housed, complete and in good order.
- Loans should be clearly identified on the premises and in loan trial system.
- Outstanding balance, maturity, risk rating, and other information should be accurate on the pledge listing.
- Personnel responsible for reporting and servicing of the pledged loans should exercise reasonable care and control.

Full credit reviews will be performed on the loans listed in the pre-inspection letter. An additional sample will be selected for a review of primary legal documents. Key personnel should be available throughout the inspection to address any questions or issues. FRB staff may identify loans with concerns to be unacceptable and request the institution de-pledge these loans.

Following the inspection, findings will be discussed with the official(s) responsible for the collateral, the institution's senior management and Audit during an exit meeting. This meeting will cover the results of the inspection(s), including any exceptions found, suggestions, and any course of action. Within 30 days of the review, a letter confirming the results of the review will be sent to the officer(s) responsible for the pledge of the collateral.

Should the review uncover severe breaches of BIC policy, participation in this program may be terminated.

VIII AUDIT CERTIFICATION AND COLLATERAL SCHEDULE CONFIRMATION

An Audit Certification confirms that the depository institution's internal audit function has reviewed compliance with the BIC Guidelines and reports issues identified, if any.

The Audit Certification can be found at: http://www.frbdiscountwindow.org/12_acert.docx

AUDIT CERTIFICATION SCOPE

The certification is intended to provide assurances that management at the depository institution is knowledgeable of the pledging arrangement and exercises effective controls in complying with the BIC arrangement. Each certification is intended to encompass all approved loan types and internal controls pertaining to the BIC program.

AUDIT CERTIFICATION AUTHORITY

Only an institution's internal or external auditor and/or responsible director of the Audit Function (appointed by the Board of Directors) is authorized to sign the certification. For smaller institutions (e.g. less than \$500 million in deposits), the certification may be signed by an executive officer. Contact FRB for any questions at sf.crmcco@sf.frb.org.

COLLATERAL SCHEDULE CONFIRMATION

The Collateral Schedule Confirmation needs to be prepared on the FI's letterhead and must be signed by a senior executive. The Confirmation serves as an attestation by senior management – to the best of his/her knowledge - that controls are in place and effective so as to give reasonable assurances that accurate pledge listings are generated. Additionally, the Confirmation seeks to inform senior management about the institution's more significant responsibilities as a participant in the BIC program.

The Collateral Schedule Confirmation can be found at:
http://www.frbdiscountwindow.org/12_collschedconf.docx

FREQUENCY

The Audit Certification and Collateral Schedule Confirmation must be received within 60 days of first submission of collateral and annually thereafter.

IX TERMINATION OF THE BIC AGREEMENT

The participating institution may terminate the BIC Agreement by giving written notice of termination. When given by the FRB, the notice is effective immediately. When notice is given by the participating institution, the notice is effective when received by the C&RM department. The rights and liabilities of the parties under the BIC arrangement survive any termination of the BIC arrangement until all Obligations of the Borrower to the FRB that arose before termination have been satisfied in full. FRB may inform the institution's primary regulator of the BIC Agreement termination.

It is the institution's responsibility to request in writing the termination of the FRBSF's lien.

X **ADDITIONAL INFORMATION AND CONTACTS**

Additional information on the BIC arrangement may be obtained by contacting Credit and Risk Management at (866) 974-7475 or emailing sf.crm@sf.frb.org .

Direct written correspondence:

Federal Reserve Bank of San Francisco
Credit and Risk Management Department
101 Market St., MS 830,
San Francisco, CA 94105

Additional information, forms, and updates are also available at the Federal Reserve Discount Window website at: www.frbdiscountwindow.org. Choose "Select Your FRB" -> "San Francisco" -> "Borrower-In-Custody Program."