



BORROWER-IN-CUSTODY GUIDELINES

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I. INTRODUCTION

To obtain advances through the Discount Window, an institution must complete the appropriate Operating Circular No. 10 (OC-10) lending documentation as well as pledge acceptable collateral sufficient to secure advances and accrued interest. On an ongoing basis, institutions are encouraged to pledge a sufficient level of collateral to the Federal Reserve Bank of San Francisco (FRBSF) to cover their anticipated contingency liquidity needs.

One available option is to pledge collateral through the Borrower-In-Custody (BIC) arrangement. A BIC arrangement allows healthy institutions to pledge a variety of 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 FRBSF. The participating institution maintains custody and servicing of the loans, thus avoiding the need to send loan documentation directly to the FRBSF. Additional information on collateral eligibility, valuation and pledging can be found in the [Federal Reserve Bank Discount Window \(FRB Discount Window\)](#) website under [Collateral](#).

II. ELIGIBILITY

An institution must apply to FRBSF to participate in the BIC program. At a minimum, the institution must be eligible to borrow from the Discount Window under the Primary Credit program and have acceptable controls in place to ensure satisfactory compliance with the BIC Program.

Eligible loan collateral must be approved prior to pledging under the BIC Program. Information on [Collateral Eligibility](#) is located on the FRB Discount Window website.

III. APPLICATION PROCESS

PREREQUISITES

BIC arrangements are available to institutions with completed [OC-10](#) documents on file.

REQUIRED FRBSF DOCUMENTATION

- [Application for Borrower-in-Custody of Collateral Arrangement](#)
- **The institution's internal loan policy handbook and/or guidelines including the internal credit risk rating definitions:** To determine underwriting methods used by the pledging institution in assessing credit risks and potential losses of loans.

- If the primary legal documents, including Certificate of Titles, are held by a third party custodian, including subsidiaries or affiliates, the Appx 5 Form of Agreement for Third-Party Custodian to Hold Collateral (Agreement) must be completed and can be found in the [OC-10 Agreements](#) page. If the Agreement cannot be executed, the corresponding servicing agreement between the institution and custodian must be submitted for review.
- If the institution originates loans and leases that are digitally signed and stored electronically, and/or signed on paper and then imaged and stored electronically with the paper original destroyed, an [Electronic Collateral Attestation and Questionnaire](#) (Electronic Collateral Questionnaire) must be completed. It is expected that the institution has reasonable processes and procedures in place, governing the use of electronic collateral. Refer to **Attachment 1: Electronic Loan Collateral Guideline (Attachment 1)** for further details. **Prior approval is required to pledge electronic loan collateral.** Please contact Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org for more information.

The completed BIC Application and applicable required documents should be emailed to sf.crmcco@sf.frb.org.

- [Appendix A](#): This document is subject to terms of the Letter of Agreement for OC-10 and indicates the type of loans that are being pledged, the format of the loan documents, and physical location of where original hardcopy and/or electronic loan collateral can be accessed. This includes any legal documents held by third-party custodians. In the case of electronic Certificates of Title, the third-party service provider should be listed. Institutions are required to execute the Appendix A on their letterhead. This document can be submitted after the BIC Application is submitted for review.

PERFECTION OF SECURITY INTEREST

Upon receipt of the BIC Application, 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.”

If FRBSF is not in senior lien position, we may seek to perfect our security interest through one of the

following methods:

- Intercreditor Agreement – an agreement between other lien holders, the depository institution and FRBSF to provide FRBSF with a senior lien position on certain assets.
- Release Agreement – the entity with the superior lien forgoes their security interest in the collateral in question with a formal writing to FRBSF.
- Subordination Agreement – an agreement between the senior lienholders and FRBSF where the senior lienholder approves the subordination of the security interest to FRBSF.
- Termination of Liens – the institution may request that the senior lien holder terminate 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.

ELECTRONIC LOAN COLLATERAL

Electronic loan collateral is eligible to be pledged to the BIC Program. Electronic loan collateral refers to loans and leases where the primary document evidencing the payment obligation (Payment Document), usually the promissory note, loan agreement or lease agreement, is in electronic form. In order for an institution to pledge electronic loan collateral, the institution must be approved. See **Attachment 1** for further information.

APPROVAL

FRBSF will review the application and the documents submitted for completeness and acceptability. If applicable, the approval letter will state the loan types, type of legal documents, and risk ratings that are acceptable to be pledged. The Credit Risk Management department (CRM) will make a determination on a BIC application typically within 30 days subject to receipt of the complete and accurate information on the application, and perfection of security interest.

A [BIC pledge listing](#) test file is required upon approval of the BIC application. (For further information and links to templates, refer to section **IV. Collateral Reporting** below).

Within 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 institution's executive management attests that controls are in place to give reasonable assurances about the accuracy of the data submitted.

IV. COLLATERAL REPORTING

Generally, on a monthly basis, participating institutions are required to submit the following through encrypted email via the [Federal Reserve Secure Message Center Zix](#)¹:

- [Collateral Transmittal & Custody Receipt for Pledge of Loans \(BIC-1 Form\)](#).
- Updated listing of pledged loans with current principal balances and terms of the loan. (This may include new loans and/or the removal of loans that are ineligible, paid off, or matured.) The pledge listing should be segregated by collateral location, loan type, and/or loan documentation format (Original Hardcopy vs. Electronic if applicable) as summarized on the BIC-1 Transmittal.
- BIC-1 Form with the pledge listing must be sent to sf.crm@sf.frb.org by an individual listed on the Official OC-10 Authorization List.

REPORTING FORMAT

Beginning in 2019, BIC participants that have met/meet the following conditions will be considered to be “in- scope.”

- All depository institutions that are controlled (12 CFR 225.2(e)) by a Bank Holding Company (12 CFR 225.2(c)(1)) (including a Financial Holding Company (12 CFR 225.81)) or an Intermediate Holding Company (12 CFR 252.2(y)) with Fifty Billion Dollars (\$50,000,000,000) or more in total consolidated assets, defined as the average over the last four calendar quarters;
- All Foreign Banking Organizations (12 CFR 211.21(o)(1));
- All other domestic depository institutions with Fifty Billion Dollars (\$50,000,000,000) or more in total consolidated assets, defined as the average over the last four calendar quarters; or
- An institution that voluntarily becomes an in-scope institution.

In-scope institutions are required to report additional loan fields using defined file formats. Information regarding the requirements for in-scope institutions can be found in the Federal Reserve Bank’s Discount Window website under [Pledging Collateral](#). File formatting requirements can be found here: [In-Scope File Format Specifications and Definitions](#).

Institutions that do not meet the conditions for being in-scope can submit monthly collateral pledges using the [Pledge Listing Template](#) available on the FRB Discount Window website for the [San Francisco District](#). The pledge listing template is an Excel workbook with specific pre-formatting and field requirements. Out-of-Scope general reporting requirements are also found under [Pledging Collateral](#).

¹Email of confidential information should be encrypted through the FRB Secure Email service provided by Zix Corporation. 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. For additional information on the [FRSecure Message Center](#).

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

Email To: sf.crm@sf.frb.org
Subject line: <Name of depository institution>-BIC1, Month and Year
Example: Bank of ABC-BIC1, July 2020

REPORTING REQUIREMENTS

When a new BIC-1 Form and collateral listing is received and approved, collateral from the previous listing is released and additional collateral is deposited. Loans that are matured, paid off, past due, and loans which are otherwise unacceptable must be removed promptly from the monthly pledge listing and BIC-1 Form.

The current principal balance reported on the pledge listing for each loan must represent the institution's interest only. 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 the pledged portfolio value decreases by more than 10% (*10 Percent Rule*) at any given time **between** reporting periods, an interim report with a new BIC-1 Form and detailed pledge listing must be submitted immediately to FRBSF. Additionally, if necessary, FRBSF may request the institution to submit an accelerated BIC-1 Form and accompanying pledge listing.

RELEASE OF LOAN COLLATERAL

An institution may request release of pledged loans by submitting an updated BIC-1 Form and pledge listing if the loans are not encumbered due to an outstanding advance at the Discount Window. This releases collateral from the previous deposit.

V. ONGOING COLLATERAL MAINTENANCE REQUIREMENTS

Loan documents must sufficiently evidence an extension of credit. For pledged loans, documents must remain housed in the location designated on the institution's Appendix A.

STORAGE OF LOAN COLLATERAL

All loan documentation must be appropriately stored. Original hardcopy documents are to be stored in a fire-resistant environment with controlled access. Electronic loan documents are to be stored in

an environment with appropriate access controls and backup (for further details on Electronic Loan Collateral see **Attachment 1**). Loan documents are generally maintained in an area where access is restricted to specific individuals and use of files is recorded. For auto and other loans considered chattel paper (generally collateralized through a Certificate of Title) the location of titles must be maintained at the location designated on the Appendix A.

- **LEGAL DOCUMENTS**

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. Pledging institutions must possess the original or authoritative copy of the Payment Document. The original or authoritative copy of the Payment Document may be in original hardcopy/wet signature format, or if the institution is approved, in electronic loan collateral format.

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

- **ELECTRONIC LOAN COLLATERAL**

If the institution plans to image and destroy original hardcopy/wet signature payment documents and store these electronically in the future, refer to **Attachment 1** for further information and guidance. Approval is required prior to pledging alternate forms of payment documents. For further questions, contact Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org.

- **CREDIT AND COLLATERAL DOCUMENTS**

For loans secured by Certificates of Titles, the original hardcopy or electronic form held by an approved custodian must clearly indicate the security interest of the pledging institution.

The availability of credit and collateral documents, whether original hardcopies, images of, or copies of certain credit and collateral documents, are required. Credit and collateral documentation are not required to be in the same location as the payment documents as designated on the Appendix A, however, if requested by FRBSF, they must be readily available.

LOAN COLLATERAL IDENTIFICATION REQUIREMENTS

Pledged loans must be clearly identified as collateral for FRBSF. This is accomplished by the following:

- Posting a highly visible sign in the area where the pledged loans are physically located, with

wording such as “Some or all of these loans are pledged to the Federal Reserve Bank of San Francisco”.

- Placing an electronic notation to flag pledged loans on the institution’s loan trial system. This notation may consist of a numerical and/or alpha code.
- Placing an electronic indicator for loans that are stored in an eVault.² Institutions must clearly designate or label all electronic loan collateral as being pledged to FRBSF. For further information, see Attachment 1. Please contact Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org for further guidance.

RELOCATION OF COLLATERAL

FRBSF requires written notice minimally 30 days prior to removal and relocation of physical collateral. If electronic loan collateral is pledged, notification must be minimally provided 45 days prior to movement. The written notice must be emailed to sf.crmcco@sf.frb.org and should minimally include the following:

- Date of relocation and estimated time in transit.
- Method of relocation (e.g., third party or internal staff).
- Controls in place to ensure the safeguard of collateral during transit to the new collateral location.
- Description of the new collateral location and controls in place to ensure compliance of the BIC Program guidelines.

SERVICING OF COLLATERAL

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 institution’s internal procedures must clearly document this process.

VI. CREDIT CARD RECEIVABLES

Credit card receivables (CCR) are acceptable to be pledged as collateral. Please contact Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org for the application form.

APPLICATION PROCESS

- **Application for Credit Card Receivables:** Provide information such as the composition of the credit card portfolio, accurate legal description for pledged accounts, and credit card

² An Electronic Vault or 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 loan collateral in accordance with the Uniform Commercial Code (“UCC”), Uniform Electronic Transactions Act (“UETA”) or Electronic Signatures in Global and National Commerce Act (“E-Sign Act”).

performance statistics.

- **The institution’s internal policy handbook and/or guidelines including the internal credit risk rating definitions for CCRs:** To determine underwriting methods used by the pledging institution in assessing credit risks and potential losses.
- If the CCRs or any legal agreements are held by a third-party custodian, including subsidiaries or affiliates, the Appx 5 Form of Agreement for Third-Party Custodian to Hold Collateral must be completed and can be found in the [OC-10 Agreements](#) page. In addition, the corresponding servicing agreement between the institution and custodian must be submitted for review.
- If the institution originates CCRs that are digitally signed and stored electronically, and/or signed on paper and then imaged and stored electronically with the paper original destroyed, an [Electronic Collateral Attestation & Questionnaire](#) must be completed. It is expected that the institution has reasonable processes and procedures in place, governing the use of electronic credit documentation. Refer to **Attachment 1** for further details. **Prior approval is required to pledge electronic loan collateral.** Please contact Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org for more information.

The completed BIC Application and applicable required documents should be emailed to sf.crmcco@sf.frb.org.

- [Appendix A](#): This document is subject to terms of the Letter of Agreement for OC-10 and indicates the physical location where original hardcopy and electronic CCR documents can be accessed. This includes any legal documents held by third-party custodians. Institutions are required to execute the Appendix A on their letterhead. This document can be submitted after the BIC Application is submitted for review.

COLLATERAL REPORTING FOR CCR

An initial pledge file³ “Credit Card Receivables Transmittal Form (CCR-1)” with Summary of Accounts Pledged with the below required fields should be submitted upon approval of the BIC application.

Required Fields:

- I. Page Heading
 1. ABA Number
 2. Institution Name

³ For in-scope institutions, see submission requirements at [In-Scope File Format Specifications and Definitions](#).

3. Site Address; City, State and ZIP
 4. Identified as “Credit Card Receivables pledged to the Federal Reserve Bank of San Francisco”
 5. Principal Balance As-Of Date
 6. Loan Type
 7. Category Code (Optional)
- II. Summary Information (completed by default)
1. Sum of Credit Lines or Maximum Credit Limit
 2. Sum of Balances
 3. Total Number of Accounts Pledged
 4. Age of Accounts

On a monthly basis, participating institutions are required to submit a [CCR-1 Collateral Transmittal Form](#) for each pool of charged card receivables along with Summary of Accounts. Beginning in 2019, in-scope institutions⁴ are required to report CCR by pools segregated by the credit scores of the cardholder and submit a [CCR-2 Collateral Transmittal Form](#). Institutions that do not meet the conditions for being in-scope (and all institutions until 2019) can report CCR based on the credit classification of the cardholder.⁵

AUDIT CERTIFICATION AND COLLATERAL SCHEDULE CONFIRMATION FOR CCR

The Audit Certification for CCR and [Collateral Schedule Confirmation](#) must be received within two months of first submission of collateral, and annually thereafter along with a detailed listing of the pledged portfolio. The pledge listing⁶ must include the following detail record:

- Internal account number, not the credit card number
- Credit balance
- Credit limit
- Number of days past due

Additionally, at the discretion of FRBSF, the institution may be required to provide account level detail and other information for pledged collateral to the Discount Window.

The Audit Certification form for CCR can be obtained by contacting Credit Risk Management at (866) 974-7475 or sf.crmcco@sf.frb.org.

⁴ See Section IV. Collateral Reporting

⁵ Either Prime or Subprime.

⁶ For in scope institutions the detail listing requirements must also include APR, and Credit Scores of the records. See [In-Scope File Format Specifications and Definitions](#) for details of the listing requirements.

VII. TYPES OF LOANS INELIGIBLE FOR PLEDGE

Loans must be readily negotiable, transferable, or assignable⁷ and not subject to any adverse legal, environmental, or other action (outstanding judgment, tax liens, bankruptcies, or foreclosures). Loans must possess a “Pass” risk rating per the institution’s regulator approved internal guidelines.

Ineligible loans may include the following and are subject to change based on updates to the FRB Discount Window website. For a complete list of acceptance criteria for loans see [Collateral Eligibility](#).

- Loans not payable to the institution.
- Loans in the process of being originated.
- Loans classified as Special Mention, Substandard, Doubtful, or Loss, or that are otherwise deemed unacceptable following a review of the pledging institution’s internal risk rating policy.
- Loans subject to any regulatory constraints impairing their liquidation, including, but not limited to, environmental law or other forms of lender liability.
- Consumer loans in nonaccrual status or that are more than 60 days past due.
- Commercial loans in nonaccrual status or that are more than 30 days past due.
- Loans that are obligations of the institution, or an affiliate, subsidiary, or parent of the institution (includes consumer finance companies).
- Loans that are otherwise correlated with the financial condition of the institution.
- Loans collateralized by the stock of the institution or an affiliate, subsidiary, or parent of the institution.
- Loans to insiders, including loans to directors, officers, or principal shareholders.
- Loans issued to an Employee Stock Option Plan (ESOP) or secured by ESOP stock of the institution.
- Loans already pledged under a specific or blanket lien unless expressly subordinated to FRBSF.
- Loans to foreign entities.⁸
- Loans that are not denominated in U.S. dollars.
- Loans not readily negotiable, transferable, or assignable.

VIII. INSPECTION AND ANNUAL REVIEW OF ELIGIBILITY

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

⁷ Generally, loans that explicitly carve out Federal Reserve Banks from assignability restrictions are acceptable. Contact FRBSF for additional details.

⁸ 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 loans to entities or individuals that are incorporated or domiciled 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).

inspections.

On-site inspections entail FRBSF staff reviewing the premises and pledged loans, establishing that the collateral is clearly and properly identified as pledged to the Federal Reserve Bank of San Francisco, and ensuring that the administration of the BIC program meets program requirements. Written notice is provided approximately two weeks prior to the scheduled arrival date.

Online inspections entail the same process as on-site inspections; however, FRBSF staff will perform the inspection remotely. For online inspections, the institution will submit the required documentation via [Zix](#)⁹. Written notice is provided approximately two weeks prior to the scheduled inspection date.

Certification inspections are conducted remotely and require institutions to complete the BIC Program Compliance Certification questionnaire. Written notice and instructions are provided approximately two weeks prior to the due date of the questionnaire.

The inspection serves to verify that pledged collateral is held in accordance with the terms stated in the Letter of Agreement and BIC Guidelines. Generally, FRBSF staff expects:

- Loans to be properly housed, complete, and in good order.
- Loans be clearly identified on the premises, and in the loan trial system as pledged to FRBSF.
- Current principal balance, maturity, risk rating, and other information should be accurately reported on the monthly pledge listing.
- Personnel responsible for reporting and servicing of the pledged loans should be aware of the institution's participation in the BIC program and the associated requirements.

A sample of loans selected from the pledge listings will be reviewed during on-site or online inspections. It is expected that key personnel be available throughout the inspection to address any questions or issues.

An exit meeting will be conducted to discuss the findings with the officer(s) responsible for the administration of the BIC program, the institution's senior management, and internal audit or equivalent. This meeting will cover the results of the inspection(s), including any exceptions found, recommendations and any course of action.

Within 30 days of the review, a letter confirming the results of the review will be sent to the institution. Should the inspection uncover severe breaches of BIC policy, the institution's participation in this program may be terminated.

⁹ Documentation may need to be submitted through multiple emails due to file size limitation.

IX. CERTIFICATIONS AND COLLATERAL SCHEDULE CONFIRMATION

An Audit Certification must be completed to confirm that the institution's internal audit function has reviewed the BIC Guidelines for compliance, and if applicable, reports how the institution addressed any findings and/or observations. In the Collateral Schedule Confirmation, the institution attests that controls are in place to give reasonable assurances about the accuracy of the data submitted. A Third-Party Custodian (TPC) Certification is only required for institutions that utilize custodians to administer Certificates of Title.

FREQUENCY

The Audit Certification and Collateral Schedule Confirmation must be received within 60 days of first submission of collateral and annually thereafter. The TPC Certification is an annual requirement due by the end of the first quarter each year; FRBSF initiates the TPC Certification and will contact the custodians directly.

AUDIT CERTIFICATION

The certification is intended to provide assurances that the institution's management is knowledgeable of the pledging arrangement and exercises effective controls in complying with the BIC arrangement. Each certification is intended to encompass loans pledged at the time of the Audit Certification. Only an institution's internal or external auditor, Chair of the Board of Directors and/or Chair of the Audit Committee are authorized to sign the certification. For smaller institutions that are not required by their primary regulator to have an internal audit function, the Audit Certification can be signed by an executive officer. Contact Credit Risk Management for any questions at sf.crmcco@sf.frb.org.

COLLATERAL SCHEDULE CONFIRMATION

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

THIRD PARTY CUSTODIAN CERTIFICATION

If you have a TPC Agreement in place with custodians that administer your Certificates of Title, there will be an annual certification requirement by your custodian. The certification is intended to

provide assurances that the custodian's management is familiar with the terms agreed to in the TPC Agreement and attests that the institution is in compliance with all the terms and conditions therein. If your contact at the TPC changes, FRBSF must be notified immediately.

X. TERMINATION OF THE BIC AGREEMENT

The participating institution may terminate the BIC Agreement by giving written notice of termination. When notice is given by the participating institution, the notice is effective when received by the CRM department. FRBSF reserves the right to terminate the institution's participation in the BIC program without prior notice. 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 FRBSF prior to termination have been satisfied in full. FRBSF 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.

XI. ADDITIONAL INFORMATION AND CONTACTS

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

BIC information, forms, and updates are available at the [Federal Reserve Discount Window website](#).

Attachment 1: Electronic Loan Collateral Guidelines

I. Introduction

These electronic loan collateral guidelines (“Guidelines”), which are supplemental to the BIC Program Guidelines, are intended to provide institutions (“Institutions”) with information about the approval process and requirements to pledge electronic loan collateral to the Federal Reserve Bank of San Francisco (“FRBSF”). FRBSF accepts pledges of electronic loan collateral from Institutions participating in the Borrower-In-Custody (“BIC”) program that have received prior approval from FRBSF.

II. Electronic Loan Collateral

Electronic loan collateral consists of loans and leases with Payment Documents that are created and exist in the following manner:

- Signed with a digital signature and stored electronically and not on paper, or
- Signed on paper and then imaged and stored electronically with the paper original destroyed.

Loan and lease transactions oftentimes consist of several transaction documents. Loans and leases are considered electronic loan collateral if the transaction document with the promise to pay the Institution is in electronic form. This document is referred to as the “Payment Document” in these Guidelines. The Payment Document is usually the promissory note. If no promissory note exists, the Payment Document may be another document, such as the loan agreement or lease agreement. Loans and leases are not considered electronic loan collateral if the Payment Document is in paper form even if the other transaction documents, modifications, or extensions are in electronic form.

Electronic loan collateral does not include loans or leases with Payment Documents that are signed on paper and then imaged for convenience or contingency purposes with the paper original retained. Contact FRBSF with questions about whether loans or leases are considered electronic loan collateral.

III. Prior Reserve Bank Approval

Institutions interested in pledging electronic loan collateral first need approval from FRBSF. This section describes how the Institution receives approval.

Institutions interested in pledging electronic loan collateral should review these Guidelines and determine that they can comply with its requirements. The Institution should then complete and submit the documents required as noted in **Part III: Application Process** in the BIC Guidelines. If the Institution requires additional information or clarification, it should contact FRBSF. Upon review and analysis of the submitted documents, FRBSF will make a determination about whether to grant the Institution approval to pledge electronic loan collateral.

Institutions may only pledge electronic loan collateral consisting of the collateral categories marked on the Electronic Collateral Questionnaire and Attestation (“Questionnaire”) and approved by FRBSF. If an

Institution is interested in pledging electronic loan collateral categories that have not been previously approved, it will need to complete the documents required as noted in **Part III: Application Process** in the BIC Guidelines, including a new Questionnaire to account for the new electronic loan collateral categories.

IV. Safeguards and Procedures

This section describes policies, procedures and practices that Institutions must have in order to pledge electronic loan collateral to FRBSF.

- a. **General Procedures.** Institutions must have policies and procedures for the origination, processing, and storage of the electronic loan collateral records (“Records”). Records must be generated, processed and stored in a manner that ensures that each Record accurately reflects the final form of the agreement executed by the parties. Institutions must regularly review and test their procedures for managing Records. Institutions are responsible for ensuring that all Records originated by a third-party comply with the origination, processing, and storage requirements in these Guidelines.
- b. **Authorized Access.** Institutions must maintain appropriate software safeguards such as passwords and access rights to protect the integrity of Records. Such safeguards must include, among other features, controls to allow only authorized personnel to modify and delete Records.
- c. **Reserve Bank Access.** FRBSF may require Institutions to provide FRBSF with access to Records at any time. Institutions must have processes for transferring Records to FRBSF or otherwise making Records accessible to FRBSF if required.
- d. **Contingency Plan.** Institutions must have a contingency plan to prevent the loss of Records, including a regular schedule for replicating Records to serve as back-up copies. If servers storing Records or back-up copies are located offsite, Institutions must have sufficient physical security and other safeguards to protect the Records.
- e. **Authoritative Copies.** For each electronic loan or lease that is pledged, the Payment Document should only have one authoritative copy. An authoritative copy is the readily identifiable master copy of the agreement. Each non-authoritative copy of the Payment Documents should be readily identifiable as a copy.
- f. **Labeling.** Institutions must clearly designate or label all electronic loan collateral as being pledged to FRBSF. If possible, Institutions should segregate the electronic loan collateral from other loans and leases not pledged to FRBSF.
- g. **Licensing.** Records cannot have licensing conditions that would prohibit, limit, or inhibit FRBSF, any assignee of FRBSF, or the purchaser of a liquidated portfolio of collateral, from using the Records for any customary business purposes, including requirements to pay a fee for the Records’ use.

V. Storage Providers

This section describes requirements for pledging electronic loan collateral to FRBSF with Records that are stored on the platform of a cloud service provider or any other third-party storage provider (“Storage Provider”).

- a. **Approval.** Institutions must receive approval from FRBSF to store Records with a Storage Provider. FRBSF may require Storage Providers to execute and deliver a third-party custodian agreement.
- b. **Safeguards.** Storage Providers must have safeguards to protect Records from data loss. Storage Providers must maintain their servers in secure facilities and have a contingency plan to prevent data loss from physical damage, power failure and other physical and electronic threats.
- c. **E-Vault.** If an Institution stores Records in an electronic vault (“eVault”), the Institution may not grant any party, other than itself or FRBSF, control of the Records. 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 loan collateral in accordance with the Uniform Commercial Code (“UCC”), Uniform Electronic Transactions Act (“UETA”) or Electronic Signatures in Global and National Commerce Act (“E-Sign Act”). Institutions must have controls in place to ensure that no electronic loan collateral stored in an eVault is pledged, sold, or transferred to a third party and that no third party may establish control of the electronic loan collateral while it is pledged to FRBSF. FRBSF may require that Institutions grant FRBSF control of electronic loan collateral stored in an eVault.

All electronic loan collateral that is pledged to FRBSF and stored in an eVault must clearly indicate that it is pledged to FRBSF, such as including a legend on the Records.

VI. Signatures

This section describes requirements for Records that are signed with digital signatures and also Records that are originated and signed on paper but now only exist in electronic form.

- a. **Digital Signatures.** If Institutions intend to pledge electronic loan collateral with Records that are signed with digital signatures, the digital signatures must be attributable to the signers. Attribution may be achieved through any combination of technological methods, business processes, and surrounding circumstances that produce a level of attribution that is appropriate to the document in question, considering the nature of the document and the identities of the parties involved. A single digital signature cannot be applied to multiple electronic documents simultaneously.
- b. **Enforceability.** All digital signatures must be enforceable under the E-Sign Act and UETA adopted by the state in which the signature is applied, and all other applicable federal and state laws. Institutions are responsible for ensuring that all notarized signatures are performed in accordance with and are legally valid under the laws and regulations of the state in which the notarized signature is performed.
- c. **Imaged Records.** If Institutions intend to pledge electronic loan collateral with Records that are originated and signed on paper but now only exists in electronic form, the Institutions must have policies and procedures for the destruction of the paper copies in a timely and organized manner. If paper copies need to be retained for a period to validate the imaging process, such copies should not be retained any longer than necessary and should be labeled and operationally controlled in a manner consistent with the physical storage and labeling requirements for paper collateral described in the BIC Guidelines. Institutions must have processes to ensure the quality of the imaged documents.

VII. Electronic Chattel Paper

This section describes requirements for pledging electronic loan collateral that is 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 UCC for a definition of electronic chattel paper.

- a. **Safeguards.** Institutions must have sufficient safeguards to prevent the pledge, sale, or transfer of electronic chattel paper to third parties while it is pledged to FRBSF.

VIII. Electronic Mortgage Notes

This section describes requirements for pledging electronic loan collateral that is electronic mortgage notes. For purposes of these Guidelines, electronic mortgage notes are promissory notes in electronic form that are secured by real estate.

- a. **Digitally Signed Mortgage Notes.** If the Institution intends to pledge electronic mortgage notes that are signed with digital signatures, then the Institution must have sufficient safeguards to prevent the pledge, sale, or transfer of the electronic mortgage notes to third parties while they are pledged to FRBSF.
- b. **Imaged and Destroyed Mortgage Notes.** FRBSF accepts pledges of electronic mortgage notes that are originated and signed on paper and then imaged with the original destroyed on a case-by-case basis. In order to pledge these electronic mortgage notes, FRBSF must be able to enforce the electronic mortgage notes under applicable state law. FRBSF may request that the Institution provide an opinion or letter from legal counsel regarding the enforceability of the electronic mortgage notes under the applicable state laws.