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December 12, 2007

Department of the Treasury
Office of Critical Infrastructure
Protection and Compliance Policy
Room 1327
Main Treasury Building
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220
Attention: Treas-DO

Re: Treasury Docket No. Treas-DO-2007-0015

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Attention: Jennifer J. Johnson, Esq., Secretary

Re: Docket No. R-1298

Dear Sirs and Mesdames:

The Clearing House Association L.L.C. (“Association”) and its affiliate, The Clearing House Payments Company L.L.C. (“PaymentsCo”) (collectively, “The Clearing House”) and their member banks¹ are pleased to comment on the notice of joint proposed rulemaking² by the Board of Governors of the Federal Reserve System (“Board”) and the Department of the Treasury (“Treasury”) (collectively, the “Agencies”) proposing rules to implement the Unlawful Internet Gambling Enforcement Act of 2006 (the “Act”).³

¹ The members of the Association and PaymentsCo are listed in the Appendix.

² 72 Fed. Reg. 56,680 (Oct. 4, 2007).

³ 31 U.S.C. §§ 5361–5367.

The proposed rules are in response to the Act's requirement that Treasury and the Board, in consultation with the Attorney General, "prescribe regulations . . . requiring each designated payment system, and all participants therein, to identify and block or otherwise prevent or prohibit restricted transactions through the establishment of policies and procedures reasonably designed to identify and block or otherwise prevent or prohibit the acceptance of restricted transactions" ⁴ The proposed regulations define a number of terms, designate the payment systems that could be used in connection with or to facilitate restricted transactions, exempt some participants of the designated payment systems from the regulations' requirements, and in general flesh out the Act's provisions.

The Association, PaymentsCo, and their member banks commend the Agencies for attempting to limit the burdens of the Act to those payment-system participants best suited to identify and interdict restricted transactions, and their efforts to address the difficulties payment-system participants will face in complying with the Act, by using the authority that the Act provides that allows them to "exempt certain restricted transactions and payment systems from any requirement imposed" under their regulations if they "find that it is not reasonably practical to identify and block, or otherwise prevent or prohibit the acceptance of, such transactions." ⁵

Nevertheless, the proposed regulations raise a number of concerns among our member banks. These concerns include (i) the regulations' failure to specifically define the transactions to which they apply, (ii) the need for additional time to implement the regulations, and (iii) a number of other issues that, taken together, leave banks and other participants in designated payment systems uncertain of how to implement the proposed regulations.

As a preliminary matter, our member banks are concerned about the increasing responsibility placed on financial institutions, particularly those financial institutions that participate in the operation of our payments system, to identify and prohibit illegal transactions. The Clearing House and its member banks have consistently shown their

⁴ *Id.* § 5364(a).

⁵ *Id.* § 5364(b)(3).

commitment to assisting the government in preventing money laundering and terrorist financing.⁶ Banks have implemented sophisticated due-diligence and transaction-monitoring systems to achieve that end. However, as the Agencies know, those systems are not perfect and their effectiveness is dependent on the amount of information available to banks about the nature of the transactions being processed. Our member banks have been focused on and believe it is in the national interest to remain focused on perfecting and honing these systems. Trying to place another layer of complexity on these systems, particularly a layer of complexity that is not capable of sound definition, could seriously undermine our monitoring systems from the uses for which they were initially designed.

The modern payments system was built to allow payments to be made anywhere in the world with great speed and accuracy, and the U.S. dollar's role as the world's reserve currency has meant that a large proportion of the world's funds transfers have been denominated in dollars. These very attributes have made the payments system attractive to the government as a gateway to be used to close off access for payments that are contrary to the national interest. We are concerned that the increasing pressure placed on the U.S. payments system may have a cumulative effect on the role of the dollar as the world's reserve currency. The primacy of the dollar affords the United States incomparable benefits, including the ability to buy essential commodities, like oil, and sell government debt in our own currency. If the dollar were to lose its role as the world's reserve currency, the United States would lose these advantages, and we as a nation would be subject to the vicissitudes of the foreign exchange markets in financing government operations and purchasing essential commodities. The government, most especially the Treasury and the Board, should continue to be sensitive to these trends and resist efforts to unduly burden the U.S. payments system.

⁶ See e.g., the joint statement of the Association and the Wolfsberg Group endorsing measures to enhance the transparency of international wire transfers to promote the effectiveness of global anti-money laundering and anti-terrorist financing programs (Apr. 19, 2007) available at http://www.theclearinghouse.org/press_releases/tch_2007/002952.php.

These concerns should not be taken lightly. We have heard from some of our member banks that concern about burdens imposed by the government on the U.S. payments system is among the reasons that some foreign banks and businesses have begun to shift payments away from the U.S. dollar. Over the past few months the value of dollar clearings processed at these banks has remained flat while euro clearings have grown 10%, and in Asia-Pacific markets, the Australian dollar appears to be gaining at the expense of the U.S. dollar. The weakness of the dollar against other currencies may be the leading reason for these trends, but the burdens on dollar-denominated payment systems certainly do not help, and the government should work to minimize these burdens in order to avoid accelerating this apparent flight from the dollar.

The U.S. banking industry has strongly supported and worked diligently to assist our nation's efforts to stop money laundering, terrorist financing, and other critical threats. We believe strongly that the use of payments-system controls for law-enforcement purposes should be reserved for the nation's most vital interests.

Regardless of what problems the government seeks to control through use of the payments system, this approach will work only as a partnership between payment systems, their participants, and the government, and as part of this partnership, it is the government's responsibility to inform the banks clearly about what is expected of them so that no bank will be in the least doubt about what its responsibility is with respect to each transaction it handles. As noted below, the Agencies have not provided a definition of the key term "unlawful Internet gambling" or other necessary tools that would allow banks to determine at the time that the transaction is being processed whether it is a "restricted transaction" under the proposed regulations. To expect payment-system participants to police the transactions as they are being processed and to hold the banks responsible for any restricted transactions on an after-the-fact basis is to put them in an untenable situation.

Definition of “Unlawful Internet Gambling”

The Clearing House and its member banks are very concerned that the definition of “unlawful Internet gambling” is so vague that participants in designated payment systems will be unable to determine how to comply with the regulations if they are adopted as proposed. Proposed section ____2(t) defines “unlawful Internet gambling” as placing, receiving, or transmitting a bet or wager by means that involves the use of the Internet “where such bet or wager is unlawful under any applicable Federal or State law in the State or Tribal lands in which the bet or wager is initiated, received, or otherwise made. . . .” The Federal Register notice states that the Agencies did not refine this definition because

[t]he Act focuses on payment transactions and relies on prohibitions on gambling contained in other statutes Further, application of some of the terms used in the Act may depend significantly on the facts of specific transactions and could vary according to the location of the particular parties to the transaction or based on other factors unique to an individual transaction.⁷

The result of the definition’s lack of specificity is that participants in designated payment systems are left to determine without adequate information whether state or federal anti-gambling laws apply to a particular transaction. If the proposed regulations are adopted, payment-system participants will have the very burdensome task of understanding all federal and state gambling laws and staying abreast of all changes to those laws, and even then they will often be uncertain as to whether a particular transaction is restricted, as the following simple example shows.

⁷ 72 Fed. Reg. at 56,682.

New York law prohibits gambling over the Internet,⁸ and if X, a New York resident, places a bet over the Internet from his home, that would constitute “unlawful Internet gambling” as defined in proposed section ____.2(t), and the payment of the bet to the gambling establishment would be a “restricted transaction” within the meaning of proposed section ____.2(r). But if X places a bet over the Internet while on vacation in Bermuda, the bet may not be illegal and therefore not unlawful Internet gambling, and the payment would not be a restricted transaction. A bank processing a payment transaction that X initiates to pay his bet, of course, cannot know where X was when the bet was placed, and in many instances may not know what laws are applicable in the relevant jurisdictions.⁹

Given situations like this, we are concerned that it is not possible to design policies and procedures to identify and block or otherwise prevent or prohibit restricted transactions. The formats used by most payment systems do not provide banks with the information (e.g., the location of the bettor, as opposed to his address) they would need in order to determine whether a transaction is related to “the participation of another person in unlawful Internet gambling” and is thus a restricted transaction within the meaning of proposed section ____.2(r).

Throughout the Federal Register notice, the Agencies use the term “unlawful Internet gambling businesses,” but because the definition of “unlawful Internet gambling” is so fact-and transaction-specific, we believe that there is unlikely to be any unlawful Internet gambling businesses; as a practical matter there are only unlawful Internet gambling transactions. Businesses that engage in unlawful Internet gambling transactions also will be likely to engage in lawful transactions that are not prohibited by

⁸ See *People v. World Interactive Gaming Corp.*, 185 Misc.2d 852, 714 N.Y.S.2d 844 (N.Y. Sup. Ct. 1999).

⁹ This difficulty is compounded because the bank that will be required to make this determination is not the bettor’s bank (i.e., the payor bank in a check transaction, the originator’s bank in a wire transfer, the originating depository financial institution in an ACH credit entry, or the receiving depository financial institution in an ACH debit entry, all of which are exempt under the proposed regulations); rather it is the bank that holds the account of the gambling establishment or an intermediary bank in a cross-border transaction that will have to determine which transactions are restricted.

the proposed regulations, and the refusal to process these latter transactions may not be protected by a reliable safe harbor, as we discuss in detail below.

The Agencies' decision not to further define unlawful Internet gambling places banks and other financial-transaction providers subject to the regulations in a very difficult position. They cannot know if a transaction is restricted unless they have in hand specifics of the transaction and relevant law that in almost all instances they do not receive in the ordinary course of business. We recognize that the Agencies generally attempted to address this concern by limiting the application of the regulations in most (but not all) cases to the participant in a designated payment system that has a relationship with the Internet gambling business and by limiting the obligation to having policies and procedures reasonably designed to prevent or prohibit restricted transactions in place. Nonetheless, given the difficulties in identifying whether a particular transaction constitutes a restricted transaction, we are very concerned that, despite having in place procedures believed to meet this standard.

In short, we believe that it is not possible to implement the regulations unless banks and other financial-transaction providers are given (i) bright-line rules identifying the types of transactions that must be identified or blocked to enable them to determine on a real-time basis with the information that they are likely to have which transactions involve unlawful Internet gambling, and (ii) a safe harbor for the blocking of any transaction for which this determination is not absolutely clear at the time the transaction takes place. Without a more definite concept of what constitutes unlawful Internet gambling, banks cannot reasonably identify and block or otherwise prevent or prohibit transactions that may involve unlawful Internet gambling. In this regard, if a U. S. bank is unable to give clear direction to its foreign correspondents regarding what constitutes a prohibited Internet gambling transaction, it will be impossible to effectively specify for the correspondents the transactions subject to the regulations' prohibition so that restricted transactions are not inadvertently sent through their accounts at U.S. banks.

The lack of clear regulatory guidance will also result in uneven enforcement by regulators and law-enforcement agencies and may lead to great expenditures by financial institutions that continue to implement procedures, processes, and monitoring either due to not knowing how much is enough or due to pressures from their regulators to do more.

We recommend that the Agencies minimize the burden on the payments system and reduce the possibility that participants will be subject to unfair after-the-fact reviews by exempting from the proposed regulation's coverage any institution that does not have a direct account relationship with a gambling establishment.

Rules Regarding Designated Payment Systems

Knowledge Standard

Proposed section ____.6 provides non-exclusive examples of policies and procedures to identify and block or otherwise prevent or prohibit restricted transactions for each type of non-exempt participant in a designated payment system. Each of the examples contains one of the following standards: either (i) the participant is required to have in place procedures to be followed if the participant “becomes aware” that a customer (or other relevant entity) has received a restricted transaction, or (ii) the participant must have procedures to be followed with respect to a foreign bank or other recipient (as applicable) that is “found to have” received payments or otherwise engaged in transactions (as applicable) that are restricted transactions.

The Clearing House and its member banks have significant concerns with these standards. It is not clear what it means to “become aware” of such a fact. The is-found-to-have standard is even more nebulous than the becomes-aware-of standard, and it is not clear if in using different language in these instances the Agencies intended to describe different standards of knowledge.

We recommend that the Agencies revise the standard in each case¹⁰ so that (i) the same standard applies to each participant, (ii) in all cases the standard is “actual

¹⁰ Proposed sections ____.6(b)(1)(ii), (b)(2)(ii), (b)(3), (c)(3), (d)(1)(ii), (d)(2)(ii), (e)(3), (f)(1)(ii), and (f)(2).

knowledge,” and (iii) a participant has knowledge of a fact regarding a transaction only when that fact is brought to the attention of an individual in the organization who is responsible for the organization’s compliance function with respect to that transaction.

Due Diligence Obligations

We suggest modifying the additional due diligence requirements included in the examples of policies and procedures in proposed section _____.6 to provide that notice to customers that the relevant system may not be used to engage in restricted transactions will be deemed to be a reasonably designed procedure. Requiring financial institutions to engage in another form of due diligence would be unduly burdensome and, we believe, unnecessary. Compliance with existing anti-money laundering, anti-terrorist financing, and suspicious-activity reporting requirements should be sufficient.

A related point is that any requirement to, in effect, amend current customer agreements should be deleted. Typical customer agreements already include provisions generally prohibiting use of the account for unlawful purposes so any such amendment would likely be duplicative and therefore unnecessary. Notice to customers that an account may be terminated if it is used to receive restricted transactions (or otherwise violate the Act or the regulations) should constitute a reasonably designed procedure. Moreover, including a term in agreements with foreign banks regarding restricted transactions is not practicable. Because of the uncertain definition of unlawful Internet gambling, even entities organized or domiciled in the United States as a general matter will not be able to ascertain when a transaction involves unlawful Internet gambling. It is therefore unrealistic to expect that foreign institutions to be willing or able to make specific representations with respect to compliance with these rules.

Monitoring Obligations

A related issue is the type of monitoring that the proposed regulations require. We recommend that the Agencies make clear, in the text of the final regulations and in the accompanying Federal Register notice, that the regulations do not create an additional

monitoring requirement for entities that are subject to anti-money laundering monitoring and reporting obligations, and that participants in designated payment systems will be deemed to have satisfied their monitoring obligations under the regulations if they comply with their existing policies and procedures with respect to their anti-money laundering, anti-terrorist financing, and suspicious-activity reporting obligations.

Banks also cannot be expected to search for specific names of gambling establishments unless the government provides a list of names, which the Agencies have made clear they are reluctant to do.¹¹ Payment systems and financial institutions are also unlikely to compile lists of unlawful Internet gambling businesses for the same reasons that the Agencies have given, together with the added considerations that they do not have the resources that the government has to do the investigations that would be necessary for compiling a list and because of concerns about possible legal liability to any entity that is mistakenly placed on a list. Given this reality, we believe that the Agencies should reconsider their position on creating a list. We acknowledge the problems that the Agencies point out in the Federal Register notice; nonetheless we believe that the advantages to having a government-sanctioned list that would provide payment systems and their participants with a tangible tool in achieving the regulations' purpose and a complementary safe harbor would outweigh the costs to the government that the compilation and maintenance of a list would entail.

In any event, the Agencies should recognize that no private entity is in any position to compile a list, and they should make it clear in the final regulation, in the accompanying Federal Register notice, and all relevant bank-examination manuals that neither the Act nor the regulations require payment systems or their participants to compile lists of businesses that engage in unlawful Internet gambling, and that no regulatory or law-enforcement action will be taken against a payment system or participant of a payment system solely on the basis of its not having or using such a list.

¹¹ See 72 Fed. Reg. at 56,690-91.

Imposition of Fines

Originating depository financial institutions in ACH debit entries and receiving depository financial institutions in ACH credit entries are considered to have reasonable policies and procedures if these policies and procedures include, among other things, “when fines should be imposed.”¹² But banks do not impose fines on their customers.¹³ We recommend that this provision be dropped or that the terminology be changed to refer to assessment of fees, which is more consistent with the relationship between financial institutions and their customers.

Cross-Border Transactions

The proposed regulations require banks to take “reasonable steps” to ensure that their cross-border relationships, such as correspondent banks and third-party senders, are not being used to process restricted transactions. Reasonable steps include the insertion in the contractual agreement with the foreign institution of a requirement that the foreign institution have policies and procedures in place to avoid sending restricted transactions to the U.S. participant.¹⁴ The difficulties presented by the proposed regulations’ requirements are compounded in the case of cross-border transactions because Internet gambling may be legal in the foreign institution’s jurisdiction and, as mentioned above, the proposed regulations fail to define what constitutes unlawful Internet gambling. Without a clear definition, banks will not be able to clearly articulate to foreign institutions what transactions are prohibited.

¹² Proposed § ___.6(b)(1)(ii)(A).

¹³ The Agencies may be confusing bank-imposed fines with the rules-enforcement procedures of the National Automated Clearing House Association (“NACHA”), which allow NACHA to impose fines on institutions that violate its rules. *See* National Automated Clearing House Assoc., *2007 ACH Rules*, Appendix XI. These fines are imposed on depository financial institutions, not on their customers. When NACHA fines a bank for a rules violation that results from the actions of the bank’s customer, the bank will normally pass the fine on to its customer, but banks do not impose their own fines on their customers.

¹⁴ See proposed §§ 6(b)(1)(i)(B), 6(d)(1)(i)(B), 6(f)(1)(i)(B).

Card System

The proposed regulations provide that policies and procedures of a card-system operator, merchant acquirer, or a card issuer would be reasonably designed to prevent or prohibit restricted transactions if, among other things, they establish transaction codes and merchant / business category codes that are required to accompany authorization requests and provide the means for the card system or issuer to identify and deny restricted transactions.¹⁵

While this system, if properly used, will allow systems, issuers, and merchant acquirers to identify a transaction as being initiated over the Internet and as involving a gambling establishment, it will not allow them to identify the transaction as one involving unlawful Internet gambling. This is because the definition of unlawful Internet gambling requires the person responsible for blocking the transaction to know not only that the transaction involves gambling and the Internet, but the laws governing both parties to the transaction at the time the transaction is initiated.¹⁶ In the example given above (a New York resident placing a bet with a gambling establishment while on vacation in Bermuda), it would require the merchant acquirer or issuer to know exactly where the two parties are located at the time of the transaction and whether the laws of those jurisdictions prohibit Internet gambling. Transaction codes and merchant / business codes do not provide this information, and it is not likely that there would be other information on the transaction record that would provide the necessary information.

Proposed section ___.6(c)(2)(ii) also provides that policies and procedures are deemed reasonably designed to prevent or prohibit restricted transactions if they provide for on-going “monitoring or testing to detect potential restricted transactions.” We recommend that the Agencies clarify that issuers and merchant acquirers are not required to monitor or test transactions to determine if the merchant has used the transaction codes or merchant / business codes properly if the card system performs this task. The Agencies should clarify that if the system does this testing or monitoring, the issuers and

¹⁵ Proposed § ___.6(c)(2)(i).

¹⁶ See proposed § ___.2(t).

merchant acquirers can rely on it and assume that such codes on any card transactions that they handle have been used properly.

Other Issues

Use of the Term “Block”

The proposed regulations, like the Act, consistently use the term “block” to describe the actions that banks and other transaction service providers must take with respect to restricted transactions.¹⁷ This use of the term, however, is confusing because of the way that it is used in the regulations of the Treasury’s Office of Foreign Assets Control (“OFAC”). When OFAC uses that term it means that a bank that receives a transaction involving a blocked party must cease processing the transaction and pay the amount of the transaction into a blocked account so the blocked party is denied the use of the funds.¹⁸ This does not appear to be the intent here, however.

We recommend that the final regulations contain a definition of “block” that makes it clear that a bank blocks a transaction when it rejects the transaction and returns any payment that the bank has received in respect of the transaction (e.g., as a funds-transfer system settlement or by debiting the sender’s account).¹⁹ In the alternative, the Agencies may drop the term block in favor of the term “reject.” In any event, the final regulation should make it clear that there is no requirement that a bank freeze the amount of a restricted transaction and pay the amount into a blocked account.

¹⁷ See, e.g., proposed §§ ____.5(a), ____.6(a); *see also* 31 U.S.C. § 5364(a).

¹⁸ See Office of Foreign Assets Control, U.S. Department of the Treasury, *Foreign Assets Control Regulations for the Financial Community* at 4 (2007).

¹⁹ See U.C.C. §§ 4A-210 (rejection of a payment order by a receiving bank), 4A-402(c) (obligation of a sender to pay the amount of a payment order to the receiving bank is excused if the funds transfer is not completed), and 4A-402(d) (if the sender has paid the order but payment was excused, the receiving bank is obliged to refund the payment).

Lead Time

The Agencies propose that the final rule take effect six months after the final rules are published.²⁰ This is not sufficient time.

Much of the safe harbor that financial institutions are expected to rely on depends on whether they will be in compliance with rules or procedures of a designated payment system.²¹ Yet payment systems cannot be expected to begin the process of adopting their own rules until the Agencies have adopted the final regulation. In some cases it can take a payment system as long as 18 months to change its rules. Moreover, banks are members of not just one payment system, but of several. Almost all banks belong to an ACH network, Fedwire, and at least one check-clearing arrangement. Large banks often belong to several check-clearing and image-presentment arrangements, one or more card systems, both ACH networks, and CHIPS.^{®22}

The Agencies must provide a reasonable time for the payment systems to propose their own rules, institutions that are members of multiple systems to try to obtain harmony among those systems, the systems to finalize their rules, and for the institutions to complete their compliance routines for the new payment-system rules and to put in place compliance practices for those transactions that may not be subject to the rules of any payment system. We suggest that the final regulation become effective no sooner than 24 months from its publication in the Federal Register.

It should also be recognized that payment systems may change their rules, and the final regulation should make it clear that participants in those systems will be given time to conform their behavior to the amended rules after the effective date of the final regulation.

²⁰ 72 Fed. Reg. at 56,682.

²¹ See proposed §§ __.5(c)(3); __.6.

²² CHIPS[®] (the Clearing House Interbank Payments System) is a service of PaymentsCo.

Overblocking

Given the vagueness of the proposed definition of “unlawful Internet gambling,” payment systems and their participants might consider rejecting all transactions involving particular gambling establishments on the theory that there is a danger that any transactions involving these businesses may be restricted. But if a bank took this course, do the proposed regulations establish a safe harbor? Such a general policy does not appear to fit within the safe harbor of proposed section ____.5(c)(1) (the bank would not be able to determine if any particular transaction is restricted on the basis of information it would have) or proposed section ____.5(c)(2) (the bank would not have information on which it could form a reasonable belief that any individual transaction is restricted). While the bank’s actions could be protected under the safe harbor of proposed section ____.5(c)(3) if there were a payment-system rule requiring such action, it does not seem likely that any payment system would ever adopt such a rule, especially given the insistence of both the proposed regulation and the Act that they are not intended to restrict any transaction that is not illegal under applicable law.²³ Perhaps the most likely action a bank would take would be to close the account of any customer that it suspects is involved in any activity that the Act defines as unlawful Internet gambling.²⁴

These questions raise the issue of whether the proposed regulations allow payment systems and their participants to “overblock” in order to comply with their requirements. Proposed section ____.5(d) provides that nothing in the regulation requires or is intended to suggest that payment systems or participants are required to block or otherwise prevent or prohibit transactions that are excluded from the definition of unlawful Internet gambling. In the Federal Register notice, the Agencies report that some payment-system operators have indicated that they will avoid processing any gambling transactions, even lawful ones, and the Agencies state that they do not believe that there is anything in the Act that would authorize them to require payment systems or their

²³ See proposed § ____.5(d); 31 U.S.C. §§ 5361(b), 5362(10)(A).

²⁴ See e.g., proposed §§ ____.6(b)(1)(ii)(C), (d)(1)(ii)(B), (f)(1)(ii)(B).

participants to process any gambling transactions, including those that are excluded from the definition of unlawful Internet gambling.²⁵

We agree that the Agencies have no authority under the Act to compel payment systems or their participants to process any gambling transactions, and we recommend that the notice accompanying the final regulations reiterate this position strongly and further state that the Act does not provide any penalties for any payment system or payment-system participant that refuses to process any gambling transactions, including those that are excluded from the definition of unlawful Internet gambling, or that does not provide services to any business that engages in gambling, even if the business's gambling operations are restricted to activities that are excluded from the Act's definition of unlawful Internet gambling.

* * * * *

We hope these comments are useful. If you have any questions regarding any issues raised by this letter, please contact Joseph R. Alexander, Senior Counsel, at joe.alexander@theclearinghouse.org or 212-612-9234.

Very truly yours,

A handwritten signature in dark ink, appearing to read "J. Alexander", with a horizontal line underneath the name.

²⁵ 72 Fed. Reg. at 56,688.

APPENDIX

MEMBERS OF THE CLEARING HOUSE ASSOCIATION L.L.C.

ABN AMRO Bank, N.V.
Bank of America, National Association
The Bank of New York
Citibank, National Association
Deutsche Bank Trust Company Americas
HSBC Bank USA, National Association
JPMorgan Chase Bank, National Association
UBS AG
U.S. Bank National Association
Wachovia Bank, National Association
Wells Fargo Bank, National Association

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JPMorgan Chase Bank, National Association
KeyBank National Association
National City Bank
PNC Bank, National Association
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