



C.W. & DBP  
**CHEROKEE NATION**  
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Office of the Chief  
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September 2, 2014

The Honorable Janet Yellen, Chair  
cc: Michael S. Gibson, Director  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue N.W.  
Washington, D.C. 20551  
Attention: Division of Banking Supervision and Regulation

The Honorable Thomas J. Curry, Comptroller  
Office of the Comptroller of the Currency  
Department of the Treasury  
400 7<sup>th</sup> Street, S.W., Suite 3E-218  
Mail Stop 9W-11  
Washington, D.C. 20219  
Attention: Legislation and Regulatory Activities Division

The Honorable Martin J. Gruenberg, Chairman  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429  
Attention: Robert E. Feldman, Executive Secretary

**Re: Comment of Cherokee Nation on the Notice of Proposed Rulemaking, 78 Fed Reg 71818, No 230 (November 29, 2013)**

Ladies and Gentlemen:

The Cherokee Nation (the "Nation") submits this letter in response to the above-referenced proposal (the "Proposed Rule") and addresses how this Proposed Rule will inflict harm to the Nation and its tribal members. In particular, we are addressing the proposal regarding the treatment of secured funding activities of municipal and other public sector entities, including federally recognized tribal governments, which typically require their secured deposits to be directly collateralized under tribal, federal, state or local laws ("Secured Governmental Deposits"). The Proposed Rule and the calculation of the liquidity coverage ratio (the "LCR") will harm the Nation and its tribal members

by significantly reducing its ability to utilize the current banking system and making it more expensive and riskier to manage the Nation's operational cash balances.

On behalf of the Nation, we respectfully request the proposed LCR rule be amended to provide a tribal exception to eliminate these substantial, and unjustified, fiscal threats to the sovereignty of the Nation.

The Cherokee Nation is the largest federally recognized tribal nation and one of the largest depositors in the country. My office has a significant concern about the Proposed Rule and its effects on the sovereignty of the Nation. The Proposed Rule treats Secured Governmental Deposits as "secured funding transactions" with no liquidity value to the banks and subjects such deposits to a 100 percent unwind requirement. We strongly believe the assumptions underlying these provisions would increase the costs and risks associated with managing the Nation's operational cash balances and negatively impact all tribal, state, and municipal governments that collateralize their balances as required by law.

Governmental entities currently have over \$400 billion of Secured Governmental Deposits with insured depository institutions. These deposits are a critical component of many governmental entities' cash management activities. In most cases, the deposits are required under tribal, federal, state or local laws, to be collateralized by the institution that holds them. In most cases, these Secured Governmental Deposits are collateralized by assets that would qualify as HQLAs, but these assets are specifically excluded from the calculation of the LCR under the current wording of the Proposed Rule. These deposits represent a stable source of funding for banks and are fundamentally different from the secured funding that banks use to finance securities inventory in the wholesale funding markets. The Proposed Rule fails to recognize the fundamental differences and classifies Secured Governmental Deposits as "secured funding transactions."

As my office understands it, the Proposed Rule would require banks to hold liquidity reserves equal to 100 percent of the amount of such deposits or cause a decline in the bank's LCR, while giving the bank no offset in the calculation of the LCR for the HQLAs collateralizing the deposits.

The treatment of Secured Governmental Deposits under the Proposed Rule has created a stronger incentive for banks to stop offering collateralized depository services because of decreased profitability resulting from the issues described above. As a result of the Proposed Rule, Secured Governmental Deposits are being forced "off balance sheet" by banking institutions into money-market funds in affiliated entities owned/operated by these banking institutions. These efforts to force the Nation's Secured Governmental Deposits "off balance sheet" are tied to the implementation of the Proposed Rule and in direct conflict with the tribal laws of the Nation applicable to the Nation's deposits and investments. The elimination of these depository services by banks will severely impair the Nation's ability to efficiently manage its cash deposit and payment service needs.

In addition to the Proposed Rule, please consider the harm that has come upon many tribal, state and local governments and municipalities resulting from the larger FDIC assessments that are now being assessed within the banking industry. It is increasingly difficult for depositors to understand the benefit that is derived from this FDIC Insurance ("Insurance") when, in many cases, the depositor or the depositor's financial institution are charged or assessed fees for that Insurance at a much greater cost than any apparent benefit to be derived from that Insurance. Consideration should be given to reduce the assessments to achieve a closer benefit relative to the cost.

In conclusion, the Proposed Rule has a laudable goal of strengthening banks' ability to withstand financial stress, but that objective can be achieved without inflicting undue harm on governmental entities like the Cherokee Nation and the tribal members we serve. As drafted the Proposed Rule will inflict such harm on the Cherokee Nation and all other governmental entities with collateralized deposits throughout the country. The Cherokee Nation seeks to amend the Proposed Rule by including a tribal and/or governmental exception to the definition of secured funding transactions, and/or include an offset for Secured Governmental Deposits collateralized by HQLAs held by the bank in the calculation of the LCR.

We appreciate your consideration of our comments and welcome any questions your agencies may have for the Cherokee Nation. Please contact Lacey Horn at 918-207-3902 or lacey-horn@cherokee.org.

Sincerely,



Bill John Baker  
Principal Chief, Cherokee Nation



Lacey A. Horn  
Treasurer, Cherokee Nation