

September 24, 2015

Robert deV. Frierson, Esq.
Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Notice of Proposed Rulemaking with Request for Comment: Amendments to Capital Plan and Stress Test Rules (80 Fed. Reg. 43,637, July 23, 2015) – Docket No. R-1517

Mr. Frierson:

The Clearing House Association L.L.C. (“**The Clearing House**”)¹ appreciates the opportunity to comment on the notice of proposed rulemaking (the “**Proposal**”) by the Board of Governors of the Federal Reserve System (the “**Federal Reserve**”) that would amend certain aspects of the U.S. capital planning and stress testing regime, including as to the supervisory Comprehensive Capital Planning and Review (“**CCAR**”) program conducted pursuant to the Federal Reserve’s capital plan rule.²

The Clearing House generally supports the Proposal and welcomes the Federal Reserve’s efforts to make targeted adjustments and technical amendments to the capital planning and stress testing framework. In particular, we believe that various elements of the Proposal, including the (i) indefinite suspension of the incorporation of the advanced approaches for capital planning and stress test purposes, (ii) elimination of the Tier 1 common ratio calculation and minimum requirement in line with the Federal Reserve’s final revised capital rules,³ and (iii) modification of capital action assumptions to better align with the October 2014 amendments to the capital plan and stress testing rules (the

¹ Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world’s largest commercial banks, which collectively hold more than half of all U.S. deposits and which employ over one million people in the United States and more than two million people worldwide. The Clearing House Association L.L.C. is a nonpartisan advocacy organization that represents the interests of its owner banks by developing and promoting policies to support a safe, sound and competitive banking system that serves customers and communities. Its affiliate, The Clearing House Payments Company L.L.C., which is regulated as a systemically important financial market utility, owns and operates payments technology infrastructure that provides safe and efficient payment, clearing and settlement services to financial institutions, and leads innovation and thought leadership activities for the next generation of payments. It clears almost \$2 trillion each day, representing nearly half of all automated clearing house, funds transfer and check-image payments made in the United States. See The Clearing House’s web page at www.theclearinghouse.org.

² 12 C.F.R. §225.8.

³ 12 C.F.R. Part 217.

“October 2014 Amendments”),⁴ will collectively serve to enhance the efficiency of the entire process. Moreover, we greatly appreciate the Federal Reserve’s affirmative statement that it does not anticipate making any further changes that would impact the 2016 capital plan and stress test cycle beyond those set forth in the Proposal as this will permit all banking organizations subject to CCAR, the capital plan rule and the Dodd-Frank Act company-run stress test requirements to better focus their efforts between now and mid-2016.

The Proposal also would delay for one year the incorporation into the capital plan and stress testing framework of the supplementary leverage ratio (“SLR”) requirements⁵ applicable to advanced approaches banking organizations. The preamble to the Proposal indicates that this is meant to provide additional time for such banking organizations to develop the systems necessary to project the SLR in light of the October 2014 Amendments which changed the commencement date of the capital plan and stress test cycles and would otherwise have required the inclusion of SLR estimates for the ninth quarter of the 2016 capital planning and stress testing horizon.

The Clearing House continues to support⁶ the fundamental notion of a leverage capital ratio that is intended and functions as a backstop floor to a risk-based approach to capital.⁷ A leverage ratio requirement that acts as a backstop helps ensure that in times of economic stress, banking organizations will have significant resources available to absorb unexpected losses that may not be adequately captured by exclusive utilization of the risk-based regulatory capital regime.

We remain deeply concerned that the incorporation of the SLR into CCAR will only serve to make it more certain that these leverage measures will improperly become *the* binding capital related constraint for many U.S. banking organizations – contrary to the Basel Committee’s international agreed-upon objective that the SLR should act as a “simple non-risk based ‘backstop’ [emphasis added]” to risk-based capital measures.⁸ The conceptual flaws inherent in any leverage ratio make it particularly unsuited to be the binding constraint under CCAR, or otherwise, because, under a leverage ratio like the SLR, assets require the same amount of capital regardless of risk and therefore sound risk management distinctions cannot be made based on the actual need for capital. Ignoring risk runs counter not only to the fundamental purpose of CCAR and the capital plan rule (that is, to measure and quantify potential *risks* to banking organizations due to severe macroeconomic conditions), but also to decades of progress in the regulation, supervision, and internal management of banking organizations. The incorporation of the SLR into CCAR and the effective resulting binding constraint will distort incentives around risk-taking, risk management, and the allocation of capital, including by treating higher-yielding risky and lower-

⁴ 79 Fed. Reg. 64026 (Oct. 27, 2014).

⁵ See 12 CFR §217.10(c)(4).

⁶ See The Clearing House comment letter, dated September 20, 2013, to the Basel Committee on the revisions to the Basel Leverage Ratio Framework; The Clearing House comment letter, dated October 21, 2013, to the U.S. Federal banking agencies regarding Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions; The Clearing House Comment Letter, dated June 13, 2014, to the U.S. Federal banking agencies with respect to the Proposed Revisions to the Supplementary Leverage Ratio.

⁷ See Basel Committee on Banking Supervision (the “Basel Committee”), “Basel III: a global regulatory framework for more resilient banks and banking systems” (June 2011).

⁸ Basel Committee, Revised Basel III Leverage Framework and Disclosure Requirements (June 2013) at ¶12.

yielding non-risky assets alike and by effectively taxing, and thereby discouraging, the holding of low-yield, low-risk assets – often at cross purposes with other regulatory frameworks such as the liquidity coverage ratio.⁹

In addition, the SLR becoming a more binding constraint through CCAR could serve to undermine rather than promote financial stability and increase systemic risk by, *inter alia*, (i) discouraging banking organizations from holding excess reserves that facilitate global payment and settlements systems, (ii) effectively limiting low-risk business activities that are liability driven—for example, trust, custody, and safekeeping activities—including those that attract and act as a safe haven for deposit inflows during times of general financial stress, and (iii) making it more costly for banking organizations to comply with systemically beneficial increased margin requirements.

While delaying its application to CCAR and the capital plan rule for one year is a positive aspect of the Proposal, it does not permanently resolve the underlying problem that such incorporation would further the likelihood of the SLR of becoming the binding capital constraint for many advanced approaches banking organizations. We are cognizant, of course, that the Federal Reserve and the other U.S. Federal banking agencies have now issued final rules calibrating the SLR. Nevertheless, we respectfully urge the Federal Reserve to reconsider the incorporation of the SLR into the CCAR and capital planning processes in order to avoid exacerbating the negative consequences of a binding leverage ratio.

Finally, we note that the Proposal would amend various stress testing related capital ratio definitions in order to incorporate the deduction of aggregate investments in covered funds from Tier 1 capital as required under Section 619 of the Dodd-Frank Act and the Federal Reserve's regulations promulgated thereunder.¹⁰ We respectfully submit that incorporation of the covered fund deduction remains premature and should not be finalized until such time as the Federal Reserve (in coordination with the other U.S. Federal banking agencies) provides definitive guidance regarding the operation and calculation of the covered fund deduction for purposes of the capital rules.

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⁹ See 12 C.F.R. Part 249; see also Basel Committee, *Basel III: The Liquidity Coverage Ratio and Liquidity Risk Monitoring Tools* (January 2013).

¹⁰ See 12 C.F.R. §248.12(d).

If you have any questions or need further information, please contact me at 212.613.9883 (email: david.wagner@theclearinghouse.org).

Respectfully submitted,

A handwritten signature in black ink that reads "David Wagner". The signature is written in a cursive style and is positioned to the left of a vertical line.

David Wagner
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