August 5, 2016

Department of Treasury
Office of the Comptroller of the Currency
[Docket ID: OCC-2014-0029]
RIN: 1557-AD97

Delivered via electronic mail:
regs.comments@occ.treas.gov

Federal Deposit Insurance Corporation
RIN: 3064-AE 44

Delivered via electronic mail:
comments@FDIC.gov

Federal Reserve System
[Regulation WW; Docket No. R-1537]
RIN: 7100-AE 51

Delivered via electronic mail:
regs.comments@federalreserve.gov

Re: Proposed Net Stable Funding Ratio Requirement

Dear Sir or Madam:

The Structured Finance Industry Group (*"SFIG"*)[1] appreciates the opportunity to provide comments to the Office of the Comptroller of the Currency (the *"OCC"*), the Board of Governors of the Federal Reserve System (the *"Board"*) and the Federal Deposit Insurance Corporation (the *"FDIC"* and, together with the OCC and the Board, collectively, the *"Agencies"*) on the proposed net funding stable ratio (the "NSFR") entitled "*Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements"* (the *"Proposed NSFR Requirement"*), released on April 26, 2016.[2]

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1 SFIG is a member-based, trade industry advocacy group focused on improving and strengthening the broader structured finance and securitization market. SFIG provides an inclusive network for securitization professionals to collaborate and, as industry leaders, drive necessary changes, be advocates for the securitization community, share best practices and innovative ideas, and educate industry members through conferences and other programs. Members of SFIG represent all sectors of the securitization market including issuers, investors, financial intermediaries, law firms, accounting firms, technology firms, rating agencies, servicers, and trustees. Further information can be found at www.sfindustry.org.

2 See https://www.fdic.gov/news/board/2016/2016-04-26_notice_dis_c_fr.pdf

The recent financial crisis exposed the need to improve resilience in the liquidity risk profiles of banking organizations. To address this need, the Basel Committee on Banking Supervision (*"BCBS"*) developed two different standards. First, BCBS developed the liquidity coverage ratio (as revised, the *"Basel LCR"*) requirement to promote the short-term resilience of a bank's liquidity risk profile by ensuring that it has sufficient high quality liquid assets to survive a significant stress scenario lasting for 30 days. The Agencies adopted a liquidity coverage ratio requirement based on the Basel LCR in September 2014 (the *"LCR"*). Second, BCBS adopted a net stable funding ratio requirement (the *"Basel NSFR"*) as a tool to reduce funding risk over a longer time horizon by requiring banks to fund their activities with sufficiently stable sources of funding. Consistent with the international liquidity standards of the Basel NSFR, the Agencies are proposing to implement an NSFR requirement under which banks will be required to maintain an amount of available stable funding over a prospective one-year period (the *"numerator"*) equal to its amount of required stable funding (the *"denominator"*).

SFIG supports the Agencies' efforts to improve the banking sector's ability to absorb shocks from financial and economic stress and the Agencies' proposal to implement an NSFR requirement that is generally consistent with the Basel NSFR. However, SFIG believes that NSFR regulations should recognize that traditional securitization activities are an essential source of core funding to the real economy and an important part of a bank's liquidity management strategy. With the adjustments we propose, the Agencies could sufficiently recognize these realities while still meeting its stated goals and objectives for enhanced liquidity standards.

First, with respect to the denominator, we note that the amount of required stable funding (*"RSF"*) is measured based on the broad characteristics of the liquidity risk profile of a bank's assets, derivative exposures and commitments. In determining assets, we propose:

- Certain securities issued by government-sponsored enterprises should be assigned RSF factors of 5%, consistent with non-cash level 1 liquid assets under the Proposed NSFR Requirement;

- Certain high credit-quality private-label residential mortgage-backed securities and asset-backed securities, although not currently afforded treatment as high quality liquid assets (*"HQLA"*) under the LCR, should be treated as the equivalent of level 2B liquid assets under the NSFR and assigned an RSF factor of 50%.

- The Agencies should assign a 15% RSF factor to asset-backed commercial paper held by a bank that is fully supported by a credit or liquidity facility provided by another bank.

- The Agencies should not treat a securitization exposure issued by a financial institution as a loan to a financial institution if such securitization either (a) qualifies for an RSF factor of 50% as described above, or (b) meets the definition of a "traditional securitization" under the Agencies' risk-based capital rules and meets the operational requirements of risk transfer under those rules and certain other requirements.

We provide more detailed comments to the RSF factors assigned to assets in Part I of this comment letter.

Second, with respect to the numerator, the Available Stable Funding (*"ASF"*), we propose:

- So long as an on-balance sheet securitization meets the definition of "traditional securitization" under the Agencies' regulatory capital rules and meets the operational requirements of risk transfer under those rules and certain other requirements, it should be treated the same as an off-balance sheet securitization: the liabilities associated with such securitizations should not be assigned an ASF factor and the assets collateralizing such securitization should not be assigned an RSF factor.

- The assets and liabilities of asset-backed commercial paper conduits that are consolidated on the balance sheet of a sponsor bank should not be treated as assets and liabilities of the bank for purposes of the NSFR. Stable funding should be required only for the liquidity and credit facilities provided by the sponsor bank that support the asset-backed commercial paper of such conduits using the 5% RSF factor that applies to other off-balance sheet commitments under the NSFR.

- Rather than assuming that a bank will exercise a clean-up call option in connection with a securitization of its assets at the earliest possible date, the Agencies should require the bank to reasonably evaluate whether it will exercise the clean-up call.

We provide more detailed comments to the proposed numerator in Part II of this letter.

I. The Denominator: Assets

A. RSF Treatment of Securitization Exposures

Under the LCR, the Agencies have prescribed a small universe of HQLAs that are eligible for inclusion in calculating the numerator of the LCR requirement and, by extension, made eligible for the RSF factor assigned to the relevant category of HQLA in determining the denominator of its Proposed NSFR Requirement. After review of the Proposed NSFR Requirement, SFIG is concerned that the criteria set forth by the Agencies (1) do not assign the proper RSF factor to GSE Securities, (2) do not assign an appropriate RSF factor to high credit quality RMBS and ABS exposures, (3) overstate the RSF factor assigned to fully supported asset-backed commercial paper, and (4) improperly treat certain securitizations as the equivalent of loans.

In determining RSF factors for purposes of the Proposed NSFR Requirement, the Agencies have used the same definitions of HQLA as used in the LCR, except that, for purposes of the Proposed NSFR Requirement, HQLA is determined without regard to the LCR's operational requirements and caps on level 2A and level 2B liquid assets.

In assigning RSF factors to bank assets under the NSFR, the Agencies should not unnecessarily discriminate amongst various types of corporate assets that meet objective standards of creditworthiness and market liquidity. Given the importance of banks as investors in corporate securities, whether a liquid market will exist for corporate securities will depend, in some respects, upon the regulatory treatment of these assets. The Agencies should also recognize certain high quality securitization products as important long-term financing instruments that support the real economy. Banks are significant investors in these securities and any decrease in the willingness of banks to invest in these securities could have a significant adverse affect on the availability and cost of securitization financing. Research demonstrates that robust securitization markets contribute significantly to economic growth and recovery[3] and banks are among the largest investors in RMBS and ABS globally.[4] Given the importance of securitization as a source for financing consumer and commercial assets and the important role that banks play in the securitization markets, the Agencies should encourage prudent investment by banks in high quality securitizations.

The post-crisis implementation of various Dodd-Frank requirements, such as the implementation of risk retention requirements, disclosure changes under Regulation AB II, or changes to rating agency protocols, has created significant changes across practices of the entire securitization industry. These structural requirements have created safer structured finance securities and have increased investor confidence, thereby increasing liquidity, in the market for these securities. Therefore, we believe that these requirements, together with the specified liquidity criteria set forth below, should qualify certain high-quality securitization exposures for more favorable treatment under the NSFR.

1. More Favorable Treatment for GSE MBS

The LCR and the Proposed NSFR Requirement treat as level 2A liquid assets securities issued by, or guaranteed as to the timely payment of principal and interest by, a U.S. government-sponsored enterprise ("GSE")[5] that is (1) investment grade consistent with the OCC's investment regulation as of the calculation date and (2) senior to preferred stock ("GSE Securities"). Given the liquidity characteristics of GSE Securities, we propose that such securities be treated the same as non-cash level 1 liquid assets and be assigned an RSF factor of 5%.

Mortgage-backed securities issued by Fannie Mae and Freddie Mac ("GSE MBS") are among the highest quality and most liquid assets and they are one of the world's largest debt markets. Over $4 trillion of GSE MBS are currently outstanding[6] and the average trading volume of GSE MBS in 2015 was $11.6 billion per day with pricing nearly perfectly correlated to U.S. Treasury

3 According to Deutsche Bank, over the ten-year period from the beginning of 2003 to the end of 2012, the amount of cars sold in the U.S. exhibited nearly a perfect correlation to the balance of related ABS issuance. *See* Deutsche Bank, The Outlook in MBS and Securitized Products: Tougher Basel III Proposal Puts CMBS and ABS at Risk" (February 27, 2013).

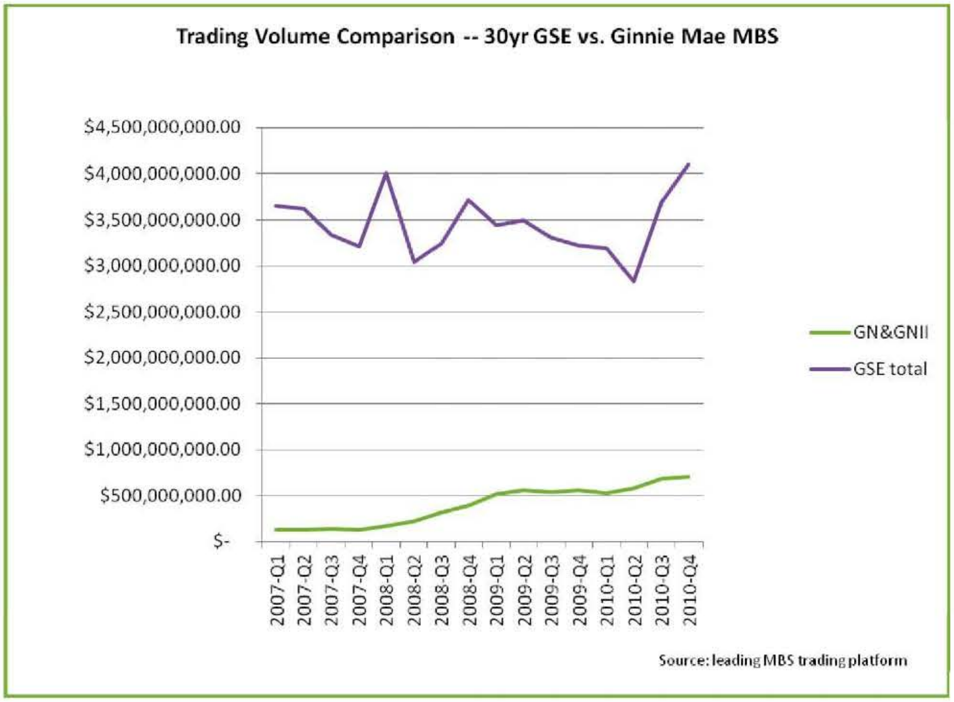
4 According to the Securities Industry and Financial Markets Association ("SIFMA"), banks held $61.4 billion of non-agency RMBS in 2015, for example. SIFMA, US Securitization Year in Review: 2015, http://www.sifma.org/WorkArea/DownloadAsset.aspx?id=8589959663.

5 As indicated in the LCR, GSEs include Freddie Mac, Fannie Mae and the Federal Home Loan Bank System.

6 Source: http://www.sifma.org/uploadedFiles/Research/Statistics/StatisticsFiles/SF-US-Mortgage-Related-SIFMA.xls?n=47424

securities.[7] Because of these qualities, GSE MBS should be treated the same as non-cash level 1 liquid assets for purposes of the NSFR.

GSE MBS are far more liquid than Ginnie Mae MBS, which are afforded level 1 treatment under the LCR and the Proposed NSFR Requirement. Liquidity in GSE MBS was multiples of Ginnie Mae MBS during the most stressful times of the 2007-2009 period. For example, GSE MBS trading volumes were 9.75 times higher than that of Ginnie Mae MBS in the second half of 2008 (see chart below).



Failure to treat GSE MBS as the equivalent of non-cash level 1 liquid assets under the NSFR could have negative consequences for both American homeowners and the broader U.S. economy. GSE MBS are a primary tool for liquidity and asset liquidity risk management in the United States, and currently comprise a significant portion of the liquid asset portfolios of U.S. banks. Not treating GSE MBS as the equivalent of non-cash level 1 liquid assets will discourage banks from purchasing GSE MBS. This could cause an increase in the interest rates on such securities, which, in turn, could result in an increase in mortgage interest rates charged to American homeowners.

Despite the demonstrated superior liquidity of GSE MBS and the negative impact of dis-incenting banks to own GSE MBS, the Agencies have treated GSE MBS as level 2A liquid assets. United States government guaranteed assets are level 1 liquid assets under the Proposed

7 Source: http://www.sifma.org/uploadedFiles/Research/Statistics/StatisticsFiles/SF-US-SF-Trading-Volume-SIFMA.xls?n=94958

NSFR Requirement[8] and the Agencies argue that GSEs remain privately owned companies and their obligations do not have the explicit guarantee of the full faith and credit of the United States. However, SFIG encourages the Agencies to permit level 1 equivalent treatment for GSE MBS at least for so long as Fannie Mae and Freddie Mac are operating under the conservatorship or receivership of the Federal Housing Finance Agency or are otherwise effectively guaranteed by the U.S. Government.

2. Level 2B Equivalent Treatment for RMBS

Private-label residential mortgage-backed securities ("RMBS") do not qualify as HQLA under the LCR or for the equivalent of level 2B liquid asset treatment under the Proposed NSFR Requirement. In contrast, the Basel LCR and Basel NSFR include RMBS rated AA or better as level 2B liquid assets.

We believe that, consistent with the Basel LCR and Basel NSFR, certain high credit quality RMBS should be afforded the equivalent of level 2B liquid asset treatment under the NSFR. More specifically, we propose that the Agencies provide this treatment to RMBS that meet the following criteria:

(1) is a security registered for offer and sale under the Securities Act of 1933 ("Act") or, if exempt from such registration, is eligible for resale in reliance on Rule 144A under the Act;

(2) is a senior security that has a risk-weight of 20 percent or less under the Agencies' standardized approach risk-based capital rules;

(3) the eligible primary underlying exposures consist solely of one-to-four family residential mortgage loans that are not higher-risk consumer loans or non-traditional mortgage loans (as such terms are defined in Appendix C to Subpart A of 12 C.F.R. pt. 357);

(4) constitutes a "traditional securitization" exposure under the Agencies' regulatory capital rules; and

(5) is sponsored by an entity whose obligations have a proven track record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, demonstrated by (A) the market price of the RMBS or equivalent securities of the sponsor declining by no more than 20 percent during a 30 calendar-day period of significant stress, or (B) the market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the RMBS or

8 Permitting level 1 equivalent treatment for GSE MBS for so long as Fannie Mae and Freddie Mac are in conservatorship would be consistent with the approach taken by the Agencies in the final Credit Risk Retention rules published in December of 2014, which recognized, from a practical, as well as a public policy, perspective, the inherent value in the Federal Housing Finance Agency's role as conservator and the benefits of the capital support being provided by the United States. *See* 79 FR 77601.

equivalent securities of the sponsor declining no more than 20 percentage points during a 30 calendar-day period of significant stress.

Under our proposal, RMBS would only qualify for level 2B equivalent treatment to the extent they meet specified liquidity criteria. In other words, before any RMBS would qualify for level 2B equivalent treatment, the private-label U.S. RMBS market would have to develop in a manner sufficient for any RMBS qualifying for level 2B equivalent treatment to have a proven track record as a reliable source of liquidity during stressed market conditions.

We would propose to restrict eligibility for level 2B liquid asset treatment to RMBS that is backed exclusively by "prime" quality residential mortgage loans. To promote consistency across regulations with respect to mortgage loans, we are proposing to impose this limitation by excluding mortgage loans that would be treated as "higher-risk consumer loans" or "non-traditional mortgage loans" under the FDIC's assessment regulations.

To qualify for the treatment we propose, an RMBS must be a "traditional securitization" exposure under the Agencies' regulatory capital rules. To constitute a traditional securitization under the Agencies' rules, (i) all or a portion of the credit risk of the exposures underlying the RMBS must be transferred to a third party and (ii) performance of the RMBS must depend on the performance of the exposures underlying the RMBS. As a result, neither a regulated financial company nor its affiliates that originate the securitized assets or act as depositors or issuers in the relevant securitization transaction should be treated as being obligated with respect to such securities for purposes of the NSFR.

Failing to afford level 2B equivalent treatment to RMBS could have negative consequences for the U.S. economy and for American homeowners. A liquid and efficient residential mortgage market benefits consumers. Specifically, as mortgage originators find the best execution for the sale of the mortgage loans they originate, they are able to offer mortgage loans to consumers at better prices. Historically, the RMBS market has provided the best execution for sale of mortgage loans by customizing investments for a wide base of investors.[9] However, failure to give banks "liquidity credit" in the NSFR for their purchases of RMBS could further impede the return of private capital to the residential mortgage market.[10] With U.S. banks serving as one of the top holders of RMBS, incentives that shift their portfolios away from U.S. RMBS could

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9 Securitization can fulfill the customized needs of different investors with different profiles with respect to credit risk and market risk. For example, mutual funds may prefer to invest in securities with a much shorter duration than what would be provided by a pool of whole mortgage loans and public employee retirement funds and pension funds may prefer to invest in securities that will mature years in the future, when the pension obligations are owed to retirees.

10 On August 6, 2013, President Obama announced a renewed effort to reform the housing finance system. The President stated that "private capital should take a bigger role in the mortgage market" and that this core principle should drive housing finance reform. In addition, the President espoused three other driving principles: ending the Fannie Mae and Freddie Mac business model as we know it, ensuring access to the 30-year fixed rate mortgage in all economic climates and preserving affordable homeownership for all. For additional information regarding the importance of the RMBS market for residential mortgage finance, see *Residential Mortgage Finance: An Introductory Framework* (September 11, 2013).

reduce funding for American homeowners.[11] We must take care that the European and U.S. markets do not diverge to the detriment of U.S. issuers and, ultimately, the U.S. economy and American homeowners.

3. Level 2B Equivalent Treatment for Asset-Backed Securities

Asset-backed securities ("ABS") are not afforded HQLA status under the LCR and, therefore, are not afforded level 2B equivalent treatment under the Proposed NSFR Requirement.[12] However, certain high quality ABS should be treated as the equivalent of level 2B liquid assets for purposes of the NSFR so long as their liquidity characteristics mirror those of corporate debt securities qualifying for level 2B liquid asset treatment. More specifically, we propose that the Agencies afford level 2B equivalent treatment to ABS that meet the following criteria:

(1) is a security registered for offer and sale under the Securities Act of 1933 (the "Act") or, if exempt from such registration, is eligible for resale in reliance on Rule 144A under the Act;

(2) is a senior security that has a risk-weight of 20 percent or less under the Agencies' standardized approach risk-based capital rules;

(3) constitutes a "traditional securitization" under the Agencies' regulatory capital rules;

(4) is backed by an asset pool that was not originated or otherwise owned by the bank or any of its affiliates prior to the relevant securitization transaction; and

(5) is sponsored by an entity whose obligations have a proven track record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, demonstrated by (A) the market price of the ABS or equivalent securities of the sponsor declining by no more than 20 percent during a 30 calendar-day period of significant stress, and (B) the market haircut demanded by counterparties to secured lending and secured financing transactions that are collateralized by the ABS or equivalent securities of the sponsor increasing no more than 20 percentage points during a 30 calendar-day period of significant stress.

ABS that meet the criteria set forth above demonstrate a high degree of liquidity consistent with the liquidity characteristics described by the Agencies in the LCR as characteristics supporting HQLA treatment. Further, these characteristics are consistent with the market for corporate debt securities that qualify for inclusion in level 2B liquid assets. In fact, as demonstrated by price movements illustrated in the chart below, publicly traded ABS rated "AAA" in select asset classes have historically performed on par with (or better than) investment grade publicly traded corporate debt securities.

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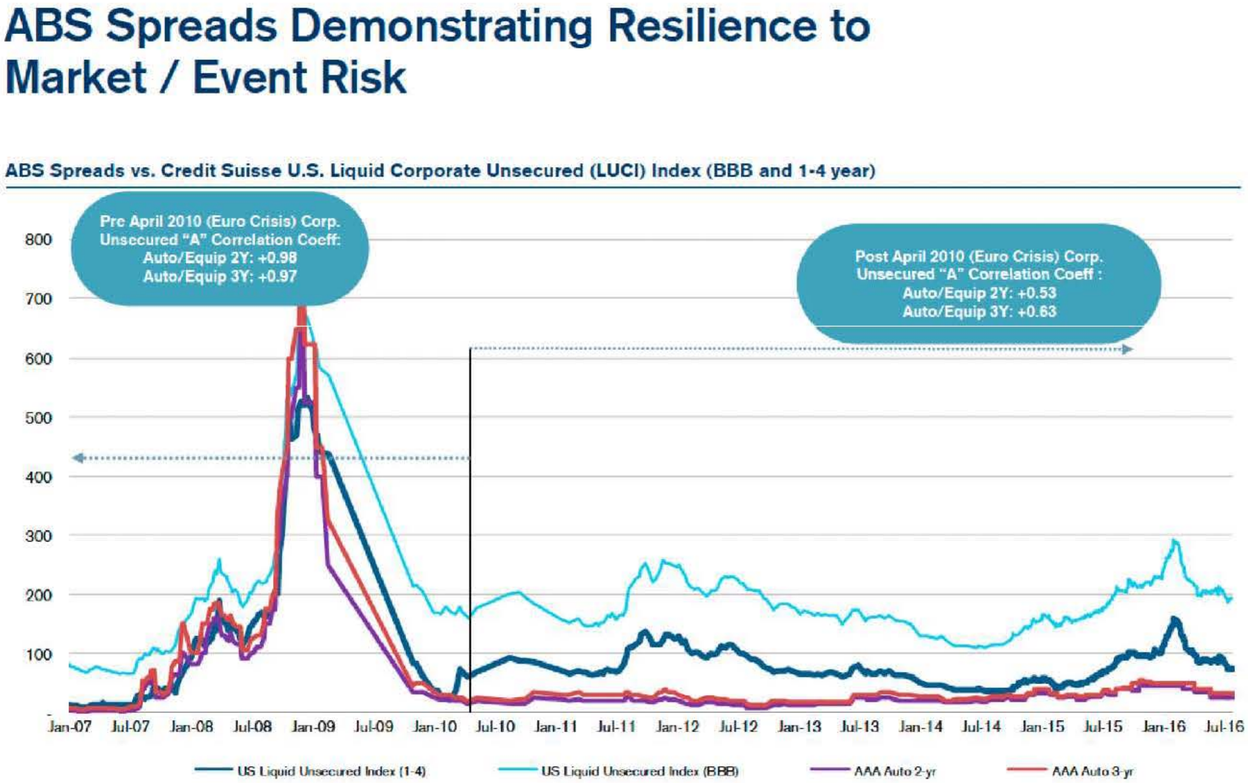
11 Such reduction would likely result in increased financing of the U.S. economy by foreign institutions.

12 ABS consists of securitization transactions backed by financial assets other than residential mortgage loans.

HISTORICAL BOND PRICES[13]



To qualify for level 2B equivalent treatment under our proposal, an ABS must be a "traditional securitization" exposure under the Agencies' regulatory capital rules. To constitute a traditional securitization, typically (i) all or a portion of the credit risk of the exposures underlying the ABS must be transferred to a third party and (ii) performance of the ABS must depend on the performance of the exposures underlying the ABS. As a result, neither a regulated financial company nor its affiliates that originate the securitized assets or act as depositors or issuers in the relevant securitization should be treated as being obligated with respect to such securities for purposes of the NSFR.

Affording level 2B equivalent treatment to these types of ABS will promote the financing of assets that are essential to the economy and will stimulate economic activity and job creation. As demonstrated in the charts below, the ABS market is supported by a broad base of investors, and banks play a significant role. Any increase in the willingness of banks to invest in these securities could increase the amount and decrease the cost of securitization financing available to bank customers. Conversely, failure to give banks "liquidity credit" in the NSFR for their purchases of ABS could reduce the appetite of U.S. banks for investment in the ABS market.[14]

13 Source: Credit Suisse/Locus (as of August 4, 2016).

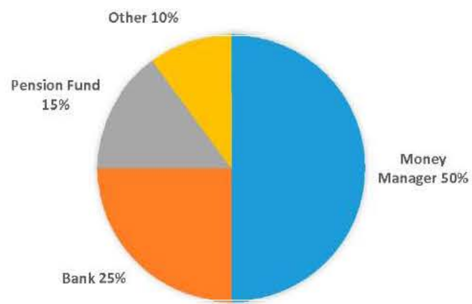
14 Such reduction would likely result in increased financing of the U.S. economy by foreign institutions.

In assigning RSF factors under the NSFR, the Agencies should be careful not to undermine existing markets or to preclude new markets for high quality liquid assets from developing. Further, the European Commission (the "EC") stipulated in a memorandum accompanying its liquidity coverage ratio legislation (the "EC LCR")[15] that many types of ABS performed well during the recent financial crisis and have good liquidity and credit track records. The EC stated that the inclusion of these assets as HQLA under the EC LCR is compatible with the overarching goals of liquidity coverage ratio regulation while avoiding a possibly negative impact on the funding for consumer and small business activities. Consistent with this view, the EC provided similar treatment for these assets to the treatment we are requesting in its implementation of its version of the NSFR.

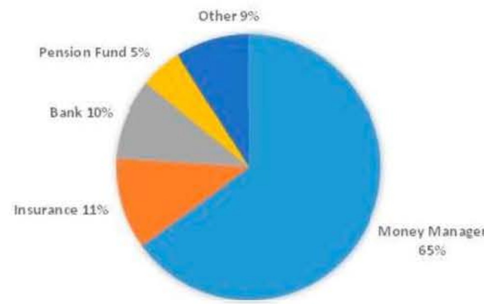
Specifically, U.S. market participants have seen an impact in the past few years since the implementation of the LCR. As illustrated in the charts on the following page, there has been a reduction in banks' participation in two of the most liquid ABS asset classes in the US market. The data shows that bank participation as investors in U.S. auto ABS transactions has decreased from 25% in December 2013 to 10% as of July 2016, and for U.S. credit card ABS bank participation has decreased from 23% to 16% over the same time period. If the disparity of treatment of ABS and MBS adopted under LCR continues under NSFR, we will inevitably see further reductions in bank participation in the U.S. ABS market.

15 Commission Delegated Regulation (EU) No. 2015/61 of 10 October 2014 to supplement Regulation (EU) No. 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions.

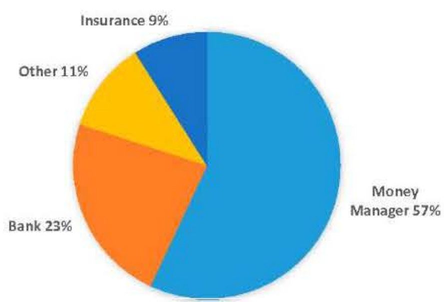
Auto ABS Investor Composition by Type as of Dec. 2013
U.S. Transactions[16]



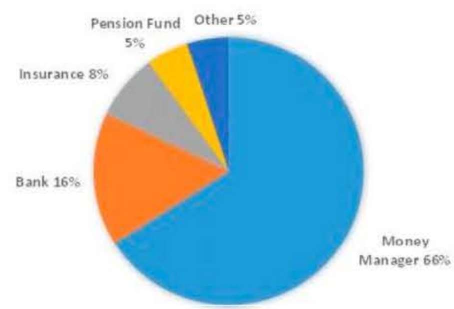
Auto ABS Investor Composition by Type as of July 2016
U.S. Transactions[18]



Credit Card ABS Investor Composition by Type as of Dec. 2013
U.S. Transactions[17]



Credit Card ABS Investor Composition by Type as of July 2016
U.S. Transactions[19]



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16 Source: Credit Suisse proprietary investor database (as of December 31, 2013).

17 Source: Credit Suisse proprietary investor database (as of December 31, 2013).

18 Source: Credit Suisse proprietary investor database (as of July 29, 2016).

19 Source: Credit Suisse proprietary investor database (as of July 29, 2016).

B. Assign a 15% RSF Factor to Asset-Backed Commercial Paper That Is Fully Supported

Under the Proposed NSFR Requirement, asset-backed commercial paper ("ABCP") issued by an asset-backed commercial paper conduit that is not a consolidated subsidiary of a U.S. bank with a maturity of six months or less is assigned a 50% RSF factor, while unencumbered loans to banks with maturities of less than six months are assigned a 15% RSF factor. The 50% RSF factor assigned to ABCP materially overstates the net stable funding risk of ABCP that is fully supported by a credit or liquidity facility provided by a bank. Fully supported ABCP programs are backed by liquidity facilities that cover 100% of the ABCP outstanding regardless of the quality of the underlying assets. In purchasing such ABCP, an investing bank would rely on the liquidity commitment from the liquidity provider bank in the same manner as it would rely on a direct obligation from that liquidity provider bank due in less than six months. As a result, there is no material difference in the net stable funding risk profile of ABCP that is fully supported by the liquidity provider bank, on the one hand, and an unencumbered loan to that liquidity provider bank, on the other hand. Therefore, SFIG proposes that ABCP with maturities of six months or less that is fully supported by a credit or liquidity facility provided by a bank should be assigned a 15% RSF factor.

C. Neither HQLA nor Traditional Securitizations Should Be Treated as Loans to Financial Institutions

For purposes of the Proposed NSFR Requirement, a securitization exposure purchased by a bank that was issued by a financial institution that either (a) qualifies for level 2B liquid asset equivalent treatment under our proposal above or (b) meets the definition of a "traditional securitization" and certain other requirements should not be assigned the same RSF factor assigned to a loan to the financial institution.

SFIG believes that any securitization exposure issued by a financial institution that meets our proposed requirements for treatment equivalent to level 2B liquid assets should be assigned the RSF factor applicable to its HQLA category. For example, if a private-label RMBS issued by a financial institution satisfies the criteria for level 2B equivalent treatment set forth in this letter, it should be assigned the 50% RSF factor applicable to all level 2B assets.

Further, to the extent that a securitization exposure issued by a financial institution does not qualify for level 2B equivalent treatment, it should be assigned the same RSF factor as a loan to an entity other than a financial institution, *provided* that the securitization meets the definition of "traditional securitization" under the Agencies' regulatory capital rules[20] and the operational

[20] For the Agencies' definition of "traditional securitization," see 12 C.F.R. Pt. 324, 55484 (September 10, 2013).

requirements of risk transfer under those rules[21] and the issuing bank does not provide credit or liquidity support to the transaction.

Securitization transactions are structured such that the issued securities have maturities that are dependent on the receipt of cash flows from underlying assets without credit recourse to the asset originator and are structured to be repaid on a timely basis from those cash flows. If the issuing entity has no legal obligation to make a payment on a security due to the lack of sufficient cash flows, then the sponsoring bank should not be required to assume that it will make such payments when calculating its Required Stable Funding. This is true irrespective of whether the sponsoring bank is required to consolidate the issuing entity onto its balance sheet.

A significant factor to consider in evaluating a sponsoring bank's obligation to repay a securitization exposure is whether the transaction meets the definition of "traditional securitization" under the Agencies' regulatory capital rules. If a transaction is structured such that it satisfies the criteria for a "traditional securitization," it is clear that the sponsoring bank is not obliged to repay the security unless the bank has agreed to provide credit or liquidity support to the transaction.[22] Therefore, a securitization exposure that meets the definition of "traditional securitization" should not be treated as a loan to the sponsoring bank.

II. The Numerator: Available Stable Funding

A. Treatment of On-Balance Sheet Securitizations

Under the Proposed NSFR Requirement, to the extent a bank treats the securitization of its assets as a liability for accounting purposes, such liabilities seem to be given a 100% ASF factor or a 50% ASF factor based on the effective maturities of the securitization. But, presumably, the Proposed NSFR Requirement would not treat off-balance sheet securitization liabilities of a bank securitizing its own assets as Available Stable Funding. SFIG believes that, so long as an on-balance sheet securitization meets the definition of "traditional securitization" under the Agencies' regulatory capital rules and the operational requirements of risk transfer under those rules, such securitization should not be treated as Available Stable Funding for the bank securitizing its assets, and the assets collateralizing such a securitization should not be assigned an RSF factor. Alternatively, recognizing that securitization provides stable funding for the securitized assets, another option is to match the RSF factor assigned to the securitization to the corresponding ASF factor, depending on the maturity of the securitization exposure.

Securitization transactions are structured such that the issued securities have maturities that are dependent on the receipt of cash flows from underlying assets. If the issuing entity has no legal obligation to make a payment on a security due to the lack of sufficient cash flows, then the sponsoring bank should not be required to assume that it will make such payments when calculating its Available Stable Funding.

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21 For the Agencies' operational requirements for traditional securitizations, see Appendix A to this letter.

22 The fact that a transaction does not meet the definition of "traditional securitization", however, does not, in and of itself, necessitate the conclusion that the bank is responsible for repayment of the security.

B. Treatment of Bank-Consolidated ABCP Conduits

As a result of changes in accounting rules, many banks that sponsor asset-backed commercial paper conduits ("ABCP conduits") are required to consolidate the assets and liabilities of such ABCP conduits on their balance sheets. The consolidated assets of these ABCP conduits would be assigned an RSF factor under the NSFR. The ABCP issued by such ABCP conduits with maturities of less than six months, however, generally would not count as available stable funding.[23] Without modification, the NSFR would therefore require a bank to maintain two sets of liabilities to fund such assets: shorter-term ABCP (consolidated on the bank's books but actually issued by an ABCP conduit) and the longer-term liabilities or other form of ASF borrowed by the bank not to fund the customer's assets but to meet NSFR requirements. We respectfully suggest that the accounting changes that require some banks to consolidate on their balance sheets the assets and liabilities of ABCP conduits are not an appropriate basis for establishing stable funding requirements.

Our request only relates to ABCP conduits sponsored by banks and that are supported by liquidity facilities issued by banks that are sized to cover the outstanding face amount of the ABCP of the ABCP conduit. ABCP has for nearly 30 years been a vital source of low-cost working capital for businesses of all kinds both in the United States and globally, from industrial companies to finance and service companies to governmental entities. Assets funded through these vehicles include auto loans, commercial loans, trade receivables, credit card receivables, student loans and many other types of financial assets. ABCP financing of corporate America and the global economy is substantial. For example, approximately $81 billion of automobile loans and leases, $13 billion of student loans, $18 billion of credit card charges, and $41 billion of trade receivables were financed by the U.S. ABCP market as of December 31, 2015.[24] The total outstanding amount of ABCP sold in the U.S. market stood at $250 billion as of June 30, 2016.[25] Asset-backed commercial paper conduits with liquidity support from financial institutions of the type described above have functioned well, even through the depths of the financial crisis. For purposes of the remainder of this letter, we refer to only such asset-backed commercial paper conduits as "ABCP conduits" and "ABCP" is intended to include only commercial paper notes issued by such ABCP conduits.

For as long as the commercial paper market continues to operate, the assets held by consolidated ABCP conduits will be funded by liabilities of such ABCP conduits that are not directly incurred by sponsor banks. The likelihood of a bank using its own assets, through credit and liquidity facilities that it provides to such conduits to fund these underlying assets, is no more (or less) than the likelihood that the same bank would fund such a facility provided to a conduit that is

23 ABCP typically matures in less than six months. ABCP with maturities of six months or less would only constitute ASF if purchased by non-financial customers of the bank and the ASF factor applied to such ABCP would be 50%. Most ABCP is purchased by money market mutual funds and other financial entities and such ABCP would not constitute ASF unless it matured in more than six months.

24 Source: Moody's ABCP Query Product.

25 Source: Federal Reserve Statistical Release.

sponsored by a third party or that the bank does not otherwise consolidate. Required stable funding for such facilities therefore should be treated the same as off-balance sheet commitments under the NSFR: with a 5% RSF factor. Once drawn, like any other bank commitment to fund a loan or other asset, the resulting assets held directly by the bank would require the amount of stable funding applicable to such loans under the NSFR.

Many if not most of the assets funded by ABCP conduits are revolving or warehouse loans to special purpose entities using securitization structures. The size of these transactions can fluctuate significantly from time to time as the funding needs of bank customers change or term securitizations of the warehoused assets occur. Financing these assets with relatively shorter term ABCP is both a prudent funding strategy and a liquidity risk management tool for the sponsoring bank.

Further, under the LCR, banks that sponsor ABCP conduits are required to maintain unencumbered high quality liquid assets against any ABCP that matures within a given 30-day measurement period. To the extent that a credit or liquidity facility provided by a bank were drawn due to a disruption in the ABCP market or otherwise, these liquid assets, which would no longer be needed to support outstanding ABCP under the LCR, would be readily available to secure the stable funding necessary for the bank to fund the assets formerly funded by the ABCP conduit. Requiring stable funding for these assets prior to the time that they are in fact funded by the bank is unnecessary and burdensome and would make the operation of ABCP conduits uneconomical for many banks.

The following example illustrates this issue:

Assumptions:

1. ABCP conduit holds a single asset: a $100 million auto loan securitization exposure with a maturity of greater than one year, supported by a sponsor bank liquidity facility.

2. ABCP (liabilities) issued to fund the asset in a face amount of $100 million, with $35 million maturing in 30 days, $60 million maturing in 90 days, and $5 million maturing in 270 days, all issued to money market mutual funds.

Under the LCR, the bank would be required to maintain HQLA equal to 100% of ABCP maturing in 30 days ($35 million).

Under the NSFR, only the $5 million of ABCP maturing in 270 days would constitute available stable funding, which at an ASF Factor of 50% would equal $2.5 million. The auto loan asset would require stable funding at an RSF Factor of 85% for a total required stable funding amount of $85 million.

The sponsor bank will always hold unencumbered HQLA in an amount sufficient to cover the ABCP of the ABCP conduit maturing within thirty days that acts to defease the potential liability of the bank to fund its credit and liquidity facilities to repay such ABCP. In this example, if the $35 million of ABCP maturing in 30 days could not be repaid from proceeds of newly issued ABCP due to a market disruption or otherwise, the bank would acquire $35 million of the ABCP conduit's securitization exposure through its liquidity facility. The $35 million of HQLA supporting such ABCP could then be used by the bank (if necessary) to obtain the resulting required stable funding. Requiring $85 million of stable funding for these assets while funded by the sponsored ABCP conduit is therefore unnecessary and excessive.

C. Permit Bank to Evaluate Whether it Would Exercise Clean-Up Call

When determining the maturity of an equity or liability instrument for purposes of the Proposed NSFR Requirement, investors are assumed to redeem a call option at the earliest possible date. For funding with options exercisable at the bank's discretion, banks are required to assume that they will be exercised at the earliest possible date unless the bank can demonstrate to its supervisor's satisfaction that the bank would not exercise this option under any circumstances.

In the case of a traditional securitization, an originating banking organization or servicer often has the option to exercise a clean-up call by repurchasing the remaining securitization exposures once the amount of the underlying asset exposures or outstanding securitization exposures falls below a specified level. Whether and when the originating banking organization or servicer will exercise its clean-up call option depends on a variety of factors, including, among other things, current market conditions and whether the transaction documents require the originator or servicer to repurchase the remaining securitization exposures at par value or at a premium.

Rather than assuming that a bank will exercise a clean-up call option in connection with a securitization of its assets at the earliest possible date, the Agencies should require the bank to identify the securitizations that are likely to have a clean-up call option maturing over the next year and to reasonably evaluate whether the bank intends to exercise that clean-up call.

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We are grateful for the opportunity to provide these comments on the Proposed NSFR Requirement. Please do not hesitate to contact us if there are questions arising from our comments or any other aspect of the Proposed NSFR Requirement. Please contact Richard Johns, Executive Director of the Structured Finance Industry Group at (202) 524-6301 or via e-mail at Richard.Johns@SFIndustry.org.

Respectfully Submitted,

Richard Johns
Executive Director
Structured Finance Industry Group

APPENDIX A

For operational requirements for traditional securitizations, an originating bank may exclude underlying exposures from the calculation of risk-weighted assets *only if* they meet all of the following conditions:

(1) Significant credit risk associated with the underlying exposures has been transferred to third parties (SRT).

(2) The transferor does not maintain effective or indirect control over the transferred exposures.

(3) The securities issued are not obligations of the transferor.

(4) The transferee is an SPE and the holders of the beneficial interests in that entity have the right to pledge or exchange them without restriction.

(5) Clean-up calls must satisfy the conditions set out in paragraph [28] of the revisions to the securitization framework.

(6) The securitization does not contain clauses that (i) require the originating bank to alter the underlying exposures such that the pool's credit quality is improved unless this is achieved by selling exposures to independent and unaffiliated third parties at market prices; (ii) allow for increases in a retained first-loss position or credit enhancement provided by the originating bank after the transaction's inception; or (iii) increase the yield payable to parties other than the originating bank, such as investors and third-party providers of credit enhancements, in response to a deterioration in the credit quality of the underlying pool.

(7) There must be no termination options/triggers except eligible clean-up calls, termination for specific changes in tax and regulation or early amortization provisions which according to paragraph [26] result in the securitization transaction failing the operational requirements set out.