BARCLAYS

February 19, 2016

Via Electronic Mail

Mr. Robert deV. Frierson
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551
Docket No. R-1523; RIN 7100 AE-37

Re: Notice of Proposed Rule Making - Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies

Ladies and Gentlemen:

Barclays appreciates the opportunity to comment on the Notice of Proposed Rulemaking ("the NPR") by the Board of Governors of the Federal Reserve System (the "Federal Reserve" or the "Board"), intended to implement internationally-agreed standards for total loss-absorbing capacity ("TLAC") for systemically-important U.S. bank holding companies ("covered BHCs") and U.S. intermediate holding companies ("covered IHCs") of systemically-important foreign banking organizations ("SI-FBOs").[1] In addition to this comment letter, Barclays has participated in the preparation of comment letters submitted by industry trade associations ("industry trade association letters")[2] and supports the recommendations made therein. We believe that the views and recommendations advanced in those letters collectively offer effective measures to implement the standards for covered IHCs in a safe, sound, and effective manner.

Barclays firmly supports the financial reform agenda established by the G-20 (the "reform agenda") and carried out by the Basel Committee on Banking Supervision, the International Organization of Securities Commissions, the Financial Stability Board ("FSB"), and the international community of banking supervisors as evidenced in our actions and reflected in prior comment letters to the Federal Reserve and other regulatory agencies. The NPR, along with the principles and term-sheet

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[1] 80 Fed. Reg. 74,926 (November 30, 2015).

[2] "Industry trade association letters" references the letter submitted by the Institute of International Bankers and the letter submitted jointly by The Clearing House Association, SIFMA, the American Bankers Association, the Financial Services Roundtable, and the Financial Services Forum.

released by the FSB on November 9, 2015 ("FSB term-sheet"), could constitute another important and complementary element of the reform agenda, subject to modifications that are discussed in more detail below. These efforts serve to substantially mitigate the risk that the failure of a covered BHC or SI-FBO would have serious adverse effects on global financial stability. They also support a coordinated approach to cross-border regulatory oversight of global systemically important financial institutions.

Under the terms of the NPR, Barclays' IHC would be subject to the proposed requirements since Barclays' IHC, once established, will be controlled by a SI-FBO and therefore be a covered IHC. Barclays' IHC will also be subject to the range of capital, liquidity, risk management, governance, stress testing and other standards applicable as a result of Regulation YY,[3] and Barclays' broader U.S. operations will continue to be collectively subject to the oversight of the Federal Reserve, while its regulated U.S. subsidiaries will continue to be subject to the direct oversight of their respective primary regulators. Barclays also is required to submit an annual U.S. resolution plan to the Federal Reserve.[4] Similar requirements apply to Barclays on a global basis, including, among other things, the submission of recovery and resolution plans to home country resolution authorities. This comment letter is informed by this perspective.

The proposed revisions to the NPR included below are intended to address the key concern that the NPR, in provisions applied to covered IHCs, does not in all cases "give due regard to the principle of national treatment and equality of competitive opportunity" or "take into account the extent to which the financial company is subject on a consolidated basis to home country standards that are comparable to those applied to financial institutions in the United States."[5] Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act requires the Board to consider both factors before applying enhanced prudential standards to SI-FBOs.

The NPR, however, does not recognize or otherwise fully consider how certain critical provisions proposed to apply to covered IHCs (but not covered BHCs) run counter to these requirements. To reduce the risk that a final rule results in reduced competitive opportunity for covered IHCs compared to covered BHCs, proposed revisions include:

I. **Elimination of the required contractual conversion feature for covered IHCs' internal long-term debt ("LTD").** This feature is not required for covered BHCs and imposes a material cost relative to covered BHCs. The NPR inaccurately concludes that the cost of a contractual conversion feature for covered IHCs' internal LTD is "likely to be less than the costs of imposing an identical requirement on eligible external LTD,"[6] since internal LTD must be priced on an arm's length basis, resulting in equivalent issuance costs for covered IHCs and covered BHCs. Moreover, and critically, the NPR fails to consider the tax consequences of the contractual conversion feature that would apply to covered IHCs, but not covered BHCs.

II. **Flexibility to meet subordination requirements for internal LTD by either contractual or structural subordination.** The NPR would require covered IHCs to meet a contractual subordination requirement not otherwise applied to covered BHCs. Covered IHCs should be permitted to use either contractual subordination or structural subordination and, where

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[3] 12 CFR Part 252, Regulation YY, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations.
[4] 12 CFR Part 243, Regulation QQ, Resolution Plans.
[5] Dodd-Frank Act, § 165(b)(2)(A) & (B).
[6] 80 Fed. Reg. 74,943.

structural subordination is applied, IHCs should benefit from an equivalent 5% limit on unrelated liabilities permitted to covered BHCs.

III. **Flexibility to issue internal LTD to a broader set of affiliated entities outside the U.S.** Such issuance would have no adverse implications for the resolvability of a covered IHC.

IV. **Elimination of the requirement for covered IHCs that are subject to the supplementary leverage ratio ("SLR") to also calibrate TLAC and internal LTD requirements to the Tier 1 leverage ratio.** This would align treatment of such covered IHCs with covered BHCs.

V. **Reduction in haircuts applied to covered IHCs' internal LTD with a remaining maturity of less than two years.** Required haircuts should be calibrated to reflect the significantly reduced rollover risk for internal LTD for covered IHCs compared to covered BHCs.

VI. **Elimination of the requirement for covered IHCs to obtain a certification from their home country resolution authorities indicating that the covered IHC's home country Parent Resolution Entity[7] is subject to a single point of entry ("SPOE") resolution strategy.** The Federal Reserve has ample access to information that should satisfy this requirement.

In addition, and while not specifically addressed in this letter given extensive discussion in industry trade association letters, we note the NPR's failure to provide reciprocal treatment for covered IHCs by giving covered BHCs an allowance for balance-sheet depletion in calculating LTD requirements[8] but not providing an equivalent allowance for covered IHCs.[9] Barclays respectfully submits that the requested clarifications and revisions in this letter and the industry trade association letters would effectively achieve the Board's goal of promoting financial stability in the U.S. by improving the resolvability of SI-FBOs' U.S. operations. Moreover, they do so by more fully taking into account the distinguishing attributes of covered IHCs relative to covered BHCs and eliminating the provisions that impose significantly higher costs on covered IHCs, thereby placing SI-FBOs and their associated covered IHCs at a substantial competitive disadvantage to covered BHCs, with little to no corresponding benefit to financial stability in the U.S.

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[7] Parent Resolution Entity refers to the top-tier home country SI-FBO parent of the covered IHC that would be subject to an SPOE resolution by the home regulator.

[8] 80 Fed. Reg. 74,932-33.

[9] If this disparate treatment in providing an allowance for balance-sheet depletion was not inadvertent, the Board did not provide a rationale in the NPR for treating covered IHCs differently than covered BHCs, and an opportunity for notice and comment should be provided before the LTD requirements are finalized based on unjustified disparate treatment.

I. Elimination of the required contractual conversion feature for covered IHCs' internal LTD

The NPR would require a contractual feature in covered IHCs' internal LTD that grants the Federal Reserve the ability to cancel or convert internal LTD to tier 1 common equity ("CET1") subject to certain specified conditions. The proposed contractual feature would result in a material disadvantage for covered IHCs compared to covered BHCs, which would not be subject to the contractual conversion feature. The competitive disadvantage is driven by two potential outcomes:

1. Increased price on eligible internal LTD on an absolute basis and relative to the eligible LTD of covered BHCs; and
2. Material adverse U.S. tax implications impacting covered IHCs' internal LTD but not the eligible LTD of covered BHCs.

These potential outcomes are discussed in more detail below.

1. Increased price on eligible internal LTD

The proposed contractual conversion feature would increase the price of a covered IHC's eligible internal LTD, which must be priced on an arm's length basis. By way of an illustrative example, Table 1 below demonstrates the pricing impact on capital instruments issued by banking institutions with contractual conversion features observed in the market.

Table 1: Estimated market premium for capital instruments issued externally with contractual conversion features

Instrument	Contractual Conversion Feature	Estimated Market Premium Relative to Similar Vanilla Instruments*
Additional Tier 1 Capital	CET1 trigger	~100-150bps
Lower T2 Capital	Point of Non-Viability trigger	~15-25bps

**Premium is estimated based on market and secondary trading data; Source: Bloomberg and Barclays*

Table 1 demonstrates that the market demands a premium when contractual conversion features are introduced in externally issued instruments by banking institutions. The first example has a contractual conversion feature tied to the CET1 level of the institution. The second example has a contractual conversion feature tied to the Tier 2 capital instrument triggered at the point of non-viability ("PONV") of the institution by its relevant resolution authority.

While the second example may more closely represent the proposed contractual conversion feature in the NPR, the two examples are included to demonstrate the fact that the market demands a premium whenever contractual conversion features are introduced. Given that a covered IHC's eligible internal LTD is priced at arm's length, it will have a pricing premium attached to it due to the presence of the proposed contractual conversion feature.

The estimated pre-tax cost of the feature is illustrated in Table 2, assuming that a hypothetical covered IHC has $100 billion in RWAs.

Table 2: Estimated increase in pre-tax cost of contractual conversion feature for a hypothetical covered IHC with RWAs of $100 billion

RWAs ($B)	100
LTD requirement ($B)	7
Assumed premium based on examples in Table 1 (bps)	15-150
Estimated increase in pre-tax cost ($MM)	10.5-105

Numbers are for illustration purposes only

The example illustrated in Table 2 suggests that a hypothetical covered IHC's pre-tax cost would increase by a range of $10.5 million to $105 million annually if the range of pricing premiums in Table 1 were to be applied to internal LTD. The increase in pre-tax cost will decrease the accretion of regulatory capital, therefore decreasing the covered IHCs' ability to accrue further loss absorbing capacity.

2. *Material Adverse U.S. Tax Implications*

The proposal could also have material adverse U.S. tax implications due to substantive U.S. tax issues and uncertainty arising primarily from the proposal's contractual conversion requirement and exacerbated by the prohibition on inclusion of any acceleration clauses. Under U.S. tax law, the presence of the contractual conversion and other features as proposed in the NPR might result in eligible internal LTD being characterized as equity, rather than debt, for tax purposes. A hallmark of true "indebtedness" for U.S. tax purposes is that a debt instrument represents an unconditional obligation of the borrower to repay the amount borrowed. Factors that support this determination include, among others, whether the contractual relationship between the creditor and the debtor provides adequate creditor remedies (*e.g.*, acceleration rights that are not merely illusory) and other terms intended to ensure that debt always maintains its priority over equity, on both a going-concern and a gone-concern basis. A purported debt instrument that by its terms can, or can be required to, bear losses prior to, or pari-passu with, an instrument that is treated as equity for tax purposes is therefore inconsistent with such purported debt instrument constituting true "indebtedness" for tax purposes.

The inclusion of a contractual conversion feature in a covered IHC's internal LTD that provides for the cancelation or mandatory conversion of internal LTD to CET1 at the discretion of the Board without the affirmative action of the holder in and of itself weighs heavily towards characterizing the instrument as equity for tax purposes. The determination whether such an instrument is debt and not equity is made even more problematic when the mandatory conversion or cancellation would occur outside of, and in the absence of, bankruptcy or other resolution proceedings, especially in a situation where, as contemplated by the NPR, the holder would be unable to accelerate repayment and the Board could compel the covered IHC's internal LTD to bear losses either before, or pari-passu with, the covered IHC's existing CET1 and additional Tier 1 capital. Such features effectively subvert the priority of such purported debt over equity and curtail any nominally available creditor's rights at the time when they would be most crucial, thereby compromising the essential "unconditionality" of the borrower's promise to repay the principal amount of the instrument. Consequently, internal LTD with a contractual conversion feature and other provisions as contemplated by the NPR bears a significant risk of being treated as equity, rather than debt, for U.S. tax purposes.

Characterizing a covered IHC's internal LTD as equity for U.S. tax purposes would render coupon payments on the internal LTD non-deductible, and, in some cases, potentially subject to U.S. withholding tax.[10] At the very least, the tax uncertainty created by the NPR's requirements if finalized without change may compel a covered IHC to treat its internal LTD as equity for U.S. tax purposes, even though the internal LTD constitutes debt in form. The U.S. Congress, the Treasury Department and the Internal Revenue Service, as well as the U.S. courts, have clearly acknowledged the propriety of capitalizing an entity with indebtedness (whether from related or unrelated persons), which has the effect of reducing the issuer's U.S. tax liability (by virtue of deductible interest payments). The proposal can therefore be expected to adversely affect this intended tax consequence for covered IHCs, disadvantaging them both as an absolute matter and relative to covered BHCs that issue such eligible LTD externally.

Because the NPR does not require the same contractual conversion feature or other features for eligible LTD issued by covered BHCs, and therefore does not adversely impact the debt vs. equity characterization of the covered BHCs' eligible LTD, covered BHCs will continue to benefit from the traditional tax treatment for such debt and the consequent deductibility of interest payments thereon. The restrictive features required exclusively for covered IHCs' internal LTD, therefore, are inequitable, as they competitively disadvantage the SI-FBOs and their respective covered IHCs relative to the covered BHCs and could materially increase the SI-FBOs' and their respective covered IHCs' costs of conducting business in the U.S., as illustrated in Table 3 below.

Table 3: Estimated annual cost of lost tax deductibility for a hypothetical covered IHC with RWAs of $100 billion

RWA ($B)	100		
LTD requirement ($B)	7		
U.S. federal income tax rate (%)	35		
Assumed coupon (%)	3	4	5
Annual cost of lost tax deductibility ($MM)	74	100	123

*Annual cost of lost tax deductibility is calculated as (Internal LTD requirement * U.S. Federal income tax rate* Assumed coupon)*
Annual cost of lost tax deductibility does not reflect the cost of lost state tax deductibility, which could be in the range of an additional 20-30% over the annual cost of lost tax deductibility
Assumes zero buffer due to internal LTD haircut requirements; numbers are for illustration purposes only

Table 3 above demonstrates the annual impact of the loss of tax deductibility for the hypothetical covered IHC where the proposed internal LTD is characterized as equity rather than debt as discussed above. The characterization of proposed internal LTD as equity rather than debt for a hypothetical covered IHC with RWAs of $100 billion could result in an additional cost as identified above relative to a similarly situated covered BHC with LTD that is not subject to the proposed contractual conversion feature applicable to covered IHCs' internal LTD under the NPR. The resulting additional cost imposed on the covered IHCs would negatively impact their ability to generate retained earnings. The negative earnings impact for covered IHCs will decrease the accretion of regulatory capital, therefore decreasing the covered IHCs' ability to accrue further loss absorbing capacity.

In summary, the proposed contractual conversion and other features required for covered IHCs' internal LTD, along with the resulting negative impacts discussed above, would materially disadvantage the SI-FBOs and their covered IHCs as compared to the covered BHCs by significantly

[10] Additionally, coupon payments on such LTD may not qualify for favorable tax treatment accorded to dividends on equity securities in some FBOs' jurisdictions.

raising the cost of doing business in the U.S. for SI-FBOs and contravening the principle of national treatment and equality of competitive opportunity as required under the Dodd-Frank Act.[11] In proposing to impose the contractual conversion feature on a covered IHC's internal LTD, the NPR did not address the material incremental costs this feature would potentially impose on the covered IHCs, either from the perspective of the increased arm's-length pricing or the effective after-tax cost.[12] As such, there is no evidence that the Board had the necessary information to conduct an assessment of the costs and benefits of the contractual conversion feature as proposed. Barclays submits that the contemplated benefits of the contractual conversion feature and the acceleration prohibition are outweighed by the significant costs it would impose, particularly in light of the discriminatory impact on SI-FBOs and their covered IHCs relative to covered BHCs. Barclays respectfully requests that the contractual conversion feature and the acceleration prohibition as required under the NPR be eliminated from the final rule.[13]

However, notwithstanding their limited utility, potentially substantial costs and discriminatory national treatment, in the event that the Board's final rule retains the contractual conversion feature or the acceleration prohibition for the covered IHCs' internal LTD, Barclays respectfully requests that, at a minimum, prior to imposing such a contractual conversion feature on the covered IHCs in the final rule, the Board should:

- Confirm with the IRS that internal LTD of the covered IHCs would be treated as debt for U.S. tax purposes notwithstanding the contractual conversion feature or the acceleration prohibition; and
- Work with the U.S. Treasury and the IRS to obtain narrowly tailored regulations or other guidance to ensure that internal LTD that contains such a contractual conversion feature or acceleration prohibition would be treated as debt for U.S. tax purposes.

II. Flexibility to meet subordination requirements for internal LTD by either contractual or structural subordination

The NPR requires the covered IHCs' internal LTD to be the most subordinated debt claim. Under the FSB term sheet, this can be achieved by either contractual or structural subordination. However, the NPR also explicitly requires the covered IHCs' internal LTD to be contractually subordinated to all TLAC ineligible liabilities of the covered IHCs.

This requirement is not only inconsistent with the FSB-term sheet but also with the principle of national treatment and equality of competitive opportunity as required under the Dodd-Frank Act, since covered BHCs are not subject to this contractual subordination requirement.
The NPR also gives covered BHCs a 5% allowance for unrelated liabilities at the covered BHC to permit structural subordination to be achieved without unduly hindering holding company operations.

Barclays respectfully requests that (i) the final rule allow covered IHCs to have the flexibility to implement either contractual or structural subordination consistent with the FSB term-sheet; and (ii) when structural subordination is implemented by the covered IHCs, the final rule provide a 5% allowance for unrelated liabilities for covered IHCs similar to the provision made for covered BHCs.

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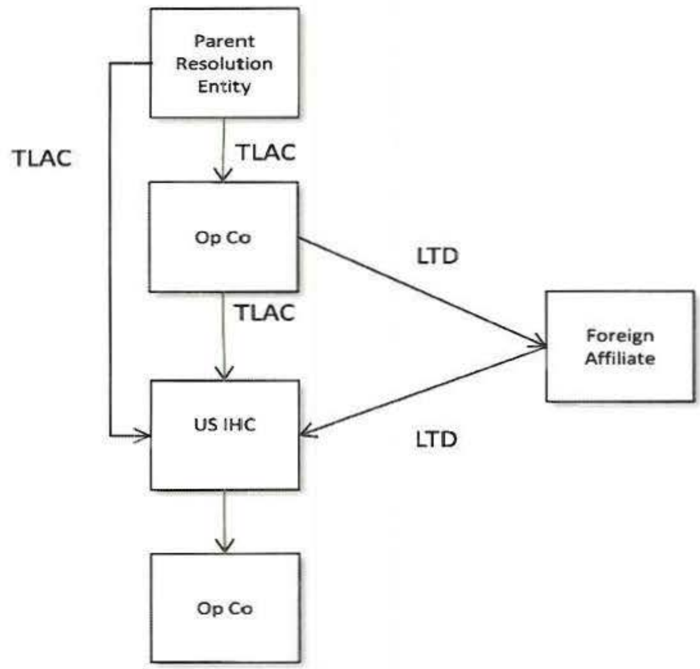
[11] Dodd Frank Act, § 165(b)(2).
[12] 80 Fed. Reg. 74,943.
[13] At the very least, with respect to the prohibition on acceleration, we request that the Board consider allowing limited acceleration rights based on an insolvency or material payment default.

III. Flexibility to issue internal LTD to a broader set of affiliated entities outside the U.S.

The NPR proposes that TLAC and internal LTD instruments of the covered IHCs are only considered "eligible" when issued from the covered IHCs to a *"foreign parent entity"* which is defined as *"a foreign entity that directly or indirectly controls the covered IHC."* Considering the rationale for this requirement as stated in the NPR is to *"prevent the covered IHC losses from being imposed on other U.S. entities and to minimize the risk that such losses pose to the financial stability of the U.S.,"* Barclays respectfully requests greater flexibility to accommodate internal LTD issuance to other foreign affiliates (controlled and funded directly or indirectly by the Parent Resolution Entity) that may not directly or indirectly control the covered IHC. Such an issuance would have no adverse implications for resolvability of the covered IHC or the transfer of losses to the Parent Resolution Entity in the event of a SPOE resolution by its home country resolution authority as discussed below.

Diagram A below depicts an example of this suggested alternative structure. In order to address potential change in control concerns, eligible internal LTD instruments could be structured in a way that upon cancelation or conversion to equity, the instruments are contractually transferred to the Parent Resolution Entity prior to the conversion.

Diagram A



Should the Board determine that this may not be an effective way to address change in control concerns, another possible solution could be that internal LTD instruments issued to any other affiliates could be limited to a certain percentage threshold which would prevent any such change in control concerns.

In the event that the final rule continues to prohibit the covered IHCs' internal LTD from being issued to foreign affiliates that do not directly or indirectly control the covered IHC, Barclays respectfully requests clarification from the Board that in accordance with the definition of foreign parent entity in the NPR, any foreign parent entity of the covered IHC, whether direct or indirect, would be eligible to satisfy the criteria proposed in the NPR with respect to issuance of internal LTD.

IV. Elimination of the requirement for covered IHCs that are subject to the SLR to also calibrate TLAC and internal LTD requirements to the Tier 1 leverage ratio

The NPR would require covered IHCs subject to the SLR to measure the quantum of required TLAC and internal LTD by reference to both total leverage exposure and average total consolidated assets. While not all covered IHCs may be subject to the SLR requirement, Barclays recommends that covered IHCs that are subject to the SLR requirement should measure the quantum of required TLAC and internal LTD similarly to covered BHCs rather than being subject to an additional average total consolidated asset test that is not required for covered BHCs. It appears from the preamble to the NPR that the Fed may have contemplated this outcome,[14] but the conjunctive test that is included in the proposed rule itself requires the covered IHCs that are subject to the SLR requirement to meet the greatest of certain required percentages of total RWAs, total leverage exposure, and average total consolidated assets, whereas covered BHCs are only subject to two measures including RWAs and total leverage exposure but not average total consolidated assets. The preamble to the NPR does not proffer any reason for this disparate treatment between the covered IHCs and the covered BHCs, but should have provided the rationale, if any, for such disparate treatment.

Barclays respectfully submits that the covered IHCs that are subject to the SLR requirement should not be subject to an additional test and burden of complying with TLAC and internal LTD requirements for average total consolidated assets that are not imposed on the covered BHCs. Barclays respectfully requests that the final rule, once issued, should be modified to clarify that only the covered IHCs that are not subject to the SLR requirement should be subject to the test with respect to average total consolidated assets, and that the covered IHCs that are subject to SLR should only be subject to the RWA and total leverage exposure requirements, which would achieve parity of treatment with covered BHCs.

V. Reduction in haircuts applied to covered IHCs' internal LTD with a remaining maturity of less than two years

The NPR proposes that covered IHCs must apply a 50 percent haircut to internal LTD with a remaining maturity of between one and two years and a 100 percent haircut to internal LTD with a remaining maturity of less than one year, similar to covered BHCs. Because a covered IHC's eligible LTD is restricted to internal LTD, the risk of lack of market access is significantly diminished or does not exist at all for covered IHCs as compared to covered BHCs. Therefore, Barclays believes that the cost of compliance with this requirement – the buffer of incremental internal LTD that must be held to account at any point in time for maturities within the next two years – is not commensurate with the risk that this requirement is designed to address. Table 4 below provides an illustrative example of the impact on cost for a hypothetical covered IHC with $100 billion in RWAs.

[14] *See* 80 Fed. Reg. 74,941-42 (noting the necessity of adding a third component based on the tier 1 leverage ratio to address the fact that not all IHCs are subject to the SLR).

Table 4: Impact on annual pre-tax cost due to internal LTD haircuts requirement for a hypothetical covered IHC with RWAS of $100 billion

RWAs ($B)	100		
Internal LTD requirement ($B)	7		
Assumed weighted average maturity in years	5		
Annual issuance ($B) *	2		
Buffer to meet haircut requirement **	3		
Assumed coupon (%)	3	4	5
Annual pre-tax cost of buffer ($MM)	90	120	150

** Annual issuance is calculated by solving the following equation: (Weighted average maturity)*(Annual issuance) = (Internal LTD requirement)+(1.5* Annual issuance)*
*** Buffer is equal to 1.5*Annual issuance to account for the haircuts*
Numbers are for illustration purposes only

Table 4 above demonstrates the impact on the annual pre-tax cost for a hypothetical covered IHC with RWAS of $100 billion resulting from the buffer that the covered IHC will need to hold to meet the haircuts described above. The buffer is assumed to be 1.5 times the annual internal LTD issuance volume in a steady state (a factor of 1.5 covers the 100 percent haircut for maturities less than one year and the 50 percent haircut for maturities between one and two years). This additional cost will decrease the accretion of regulatory capital, therefore decreasing the covered IHCs' ability to accrue further loss absorbing capacity.

Barclays respectfully requests that the Board eliminate the haircut requirements for internal LTD with a remaining maturity between one and two years and reduce the haircut for internal LTD with a remaining maturity of less than one year from 100 percent to 50 percent.

VI. Elimination of the requirement for covered IHCs to obtain a certification from their home country resolution authorities indicating that the covered IHC's home country Parent Resolution Entity is subject to a SPOE resolution strategy

The NPR proposes that for a covered IHC to qualify as a "non-resolution entity" (and therefore be subject to lower minimum TLAC requirements), the home country resolution authority of the Parent Resolution Entity of the covered IHC must provide a certification to the Board that the covered IHC is a non-resolution entity.[15] Barclays suggests that a covered IHC's submission of an annual resolution plan to the Board and Federal Deposit Insurance Corporation indicating that the IHC is a non-resolution entity combined with the Board's participation in the covered IHCs' Crisis Management Group (CMG) where the home country resolution strategy is discussed should provide sufficient information about the covered IHC's resolution strategy. An additional written certification from the home country resolution authority is therefore unnecessary.

Barclays respectfully submits that the annual submission of a covered IHC's U.S. resolution plan[16] should provide ample assurances with respect to its home country resolution authority's preferred resolution strategy, clearly indicating that it is a non-resolution entity and subject to an SPOE resolution strategy in its home country. In addition, the submission of a covered IHC's annual U.S.

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[15] The NPR provides that a *"covered IHC is a non-resolution entity . . . if the home country resolution authority for the top-tier foreign banking organization that controls the Covered IHC has certified to the Board that the authority's planned resolution strategy for the foreign banking organization does not involve the Covered IHC or the subsidiaries of the Covered IHC entering resolution, receivership, insolvency or similar proceedings in the United States."* 80 Fed. Reg. 74,963, Proposed Rule §252.164(d).
[16] *See* 12 CFR Part 243, Regulation QQ, Resolution Plans.

resolution plan should indicate whether it is subject to the Board's TLAC requirements for covered IHCs that are resolution or non-resolution entities. If the Board disagrees with a covered IHC's statement that it is a non-resolution entity in accordance with its annual U.S. resolution plan submission, we would expect this to be discussed with the Parent Resolution Entity and the home authority at the CMG.

Should the Board decide to retain the certification requirement notwithstanding the argument above, we would request that the Board to confirm the willingness of U.S. resolution authorities to provide an equivalent certification to non-U.S. regulators with respect to the resolution strategies of covered BHCs.

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We appreciate the Federal Reserve's consideration of the views set forth in this letter and welcome the opportunity to discuss any part of this letter in greater detail.

Yours sincerely,

Thomas J. McGuire

Thomas J. McGuire
Americas Treasurer
Barclays