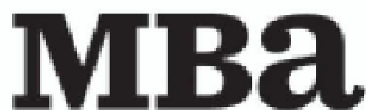


MORTGAGE BANKERS ASSOCIATION

August 4, 2016

Honorable Janet Yellen
Chairman
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
(RIN 7100-AE 51)

Honorable Thomas J. Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219
(RIN 1557-AD97)

Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
(RIN No. 3064-AE 44)

Re: Net Stable Funding Ratio: Risk Measurement and Disclosure Requirements

Dear Madam and Sirs:

The Mortgage Bankers Association[1] (MBA) appreciates the opportunity to comment on the proposal *Net Stable Funding Ratio: Risk Measurement and Disclosure Requirements* (Proposed Rule). The following contains background information and MBA's general comments and observations.

Background

The liquidity coverage ratio that was issued by the bank regulators several years ago is meant to be a short-term liquidity measure (30 day). The nets stable funding ratio is meant to be a longer term measure of liquidity (one year timeframe). The Proposed

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

Rule would be applicable to banks with $250 billion or more of consolidated assets or $10 billion or more of on-balance sheet foreign exposure. In addition, the regulators are proposing a modified NSF requirement for banks with $50 billion or more (but less than $250 billion) in consolidated assets (modified approach).

Under the Proposed Rule a covered company would measure its weighted equities and liabilities (Available Stable Funding or ASF) compared with its Required Stable Funding (RSF). For RSF, assets, derivative exposures, and commitments are weighted based on their liquidity characteristics over a one year timeframe. The proposed minimum NSF would be an ASF/RSF ratio of 1. Under the proposed rule, weights are applied to the "carrying value" – which could differ among companies based upon fair value election. Under the modified approach, the proposed minimum NSF would be an ASF/RSF ratio of 0.7.

General Comments

Possible Impact on Credit Availability

MBA notes that the Proposed Rule is yet another initiative that started with the Basel Committee overseas. Each country's economy and banking system is unique, and one size fits all does not always work. Further, the confluence of Basel III capital rules, the leverage ratio rules, liquidity coverage ratio, and now the net stable funding ratio rules could have the net impact of reducing credit availability to small businesses and consumers. In addition, the pending rule addressing the fundamental review of the trading book has the potential to greatly reduce the trading activity of banks for commercial mortgage-backed securities and asset-backed securities. Consequently, MBA highly recommends that, prior to implementing the Proposed Rule, bank regulators conduct a comprehensive study on the impact of the myriad of new rules and constraints on banks and the ultimate impact on credit availability. While each rule was intended to address a specific regulatory matter, taken as a whole, we are strongly concerned that unintended consequences have been created with the potential to have a chilling effect on capital formation across a variety of sectors including residential, commercial, and multifamily real estate.

Treatment of MSRs and Servicing Related Deposits – For Servicing Owned by Reporting Bank

The Proposed Rule would assign a 100 percent RSF factor for mortgage servicing rights (MSRs). Servicing related deposits would be treated as operational deposits under the Proposed Rule with an AFS of only 50 percent. Such deposits are linked to the MSR asset. They consist of principal and interest collected from borrowers and ultimately remitted to investors in the underlying mortgages or MBS and taxes and insurance collected monthly from borrowers and remitted periodically to insurers and state and local governments. MBA points out that such deposits have specific patterns

of inflows and outflows that are predictable and are directly associated with the underlying mortgage loans serviced. MBA believes that many banks view the MSR as an asset that is self-funded by the associated servicing related deposits. MBA recommends that bank regulators study this relationship between MSR assets and related servicing deposits further and recognize this linkage in the RSF and ASF weights ultimately assigned to them in the final rule.

Treatment of FAS 167 Residential and Commercial Mortgage-Backed Security Assets and Liabilities Included In Bank's Consolidated Balance Sheet

ASC 810 (formerly FAS 167) requires a reporting entity to include in its consolidated financial statements the assets and liabilities of a securitization if it has both a potentially significant financial interest in the securitization and control of the greatest power to direct those activities that impact the future economic results of the securitization. The assets of the securitization are not owned by the reporting entity and the liabilities are not owed by the reporting entity. However, they would be included in the consolidated financial statements of a reporting entity – like a bank subject to the Proposed Rule.

It would make sense that such assets and liabilities, including residential and commercial mortgage-backed securities, be carved out from consideration under the Proposed Rule. It appears that Page 125 does in fact have a carve-out, but then states, "Currently, it does not appear that U.S. banking organizations engage in transactions that would meet these conditions in the Basel III NSFR." Thus, MBA concludes that the carve-out on page 125 is designed for covered bonds that exist in the European market but not for ASC 810 assets and liabilities.

There appears to be a second possible carve-out on page 41, "... a covered company may include in its ASF amount the available stable funding of a consolidated subsidiary only to the extent that the funding of the subsidiary supports the RSF amount associated with the subsidiary's own assets or is readily available to support RSF amounts associated with the assets of the covered company outside the consolidated subsidiary."

This would appear to apply to ASC 810 assets and liabilities were it not for the use of the term "subsidiary." "Subsidiary" implies control through ownership. ASC 810 assets and liabilities are consolidated not because of ownership. Rather, they are consolidated because of potential material benefits and evaluation of who has the greatest power to direct the activities of the securitization trust.

MBA requests that the bank regulators make it clear that the carve-out on page 41 applies to all entities included in the consolidated financial statements of a bank that are subject to the rule including residential and commercial mortgage-backed securities.

Treatment of FHLB Advances and Related Collateral

Banks frequently grant a blanket lien to their local FHLB to fund short-term liquidity needs as well as funding a portion of the loan and investment securities portfolios. The table on page 94 of the Proposed Rule would heavily penalize those assets pledged for six months or longer. Since the FHLBs were chartered to provide liquidity to financial institutions, MBA recommends that bank regulators conduct a special study of the potential impact the Proposed Rule may have on FHLB and its role in providing liquidity to banks.

Treatment of Lines of Credit Collateralized by MSRs and Servicing Advances

Some banks loan money to independent mortgage bankers that are collateralized by a pledge of MSRs and/or servicing related advances. The commitment period of such lines of credit often exceeds one year. Thus the RSF for such lines are high. Independent mortgage bankers are not depositories and must deposit servicing related escrow deposits in an insured depository. They generally choose a bank who provides lines of credit to them for their loans held for sale, MSRs, or servicing related advances. The bank generally will provide match funding credit to those borrowers. MBA highly recommends that bank regulators give relief under the Proposed Rule for lines of credit to mortgage servicers to the extent that the servicer maintains servicing related deposits at the lending bank.

Treatment of Residential Mortgages

Page 85 of the Proposed Rule accords a 65 percent RSF factor to prudently underwritten residential mortgages as defined in the risk-based capital rules. Page 87 assigns an 85 percent RSF factor for all other residential mortgage exposures with risk weights greater than 50 percent. MBA notes that prudently underwritten residential mortgages can generally be pooled and securitized into Fannie Mae or Freddie Mac MBS or into private-label MBS. This affords such assets a higher level of liquidity than other assets with maturities greater than one year. Accordingly, MBA recommends that the regulators reduce the RSF for prudentially underwritten residential mortgages to no greater than 50 percent.

Treatment of Commercial Real Estate Mortgages

As part of the MBA's recommendation for a comprehensive study be performed on the cumulative impacts of current and pending regulations, we would strongly encourage the agencies review the 85 percent RSF factor for commercial mortgages. We are concerned that this high RSF factor could potentially have a chilling effect on commercial real estate lending, which is one of the safest lending categories for banks. Regulators should carefully weigh the RSF factor for commercial mortgages with its

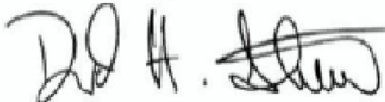
potential to reduce the amount of commercial real estate lending performed by banks, which is the largest source for commercial real estate capital.

Treatment of Derivatives

Section 107(f) of the proposed rule restricts netting of variation margin received by a covered company. The proposed rule would only recognize the netting of certain cash variation margin and specifically excludes securities variation margin even if it is in the form of highly liquid level 1 securities that qualify as High Quality Liquid Assets ("HQLA") under the Liquidity Coverage Ratio ("LCR") final rule. MBA notes that this is inconsistent with the treatment of level 1 securities under the LCR and in effect would require banks to hold significantly higher stable funding for derivative transactions used for the purposes of hedging. MBA recommends that the regulators allow for netting of level 1 securities variation margin collateral for the purpose of calculating its derivative asset value and applicable RSF.

MBA appreciates the opportunity to comment on the Proposed Rule. Any questions on MBA's response should be addressed to Jim Gross at 202-557-2860 or jgross@MBA.org.

Sincerely,



David H. Stevens, CMB
President and Chief Executive Officer