December 28, 2016

Via Electronic Mail

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Robert deV. Frierson, Secretary
Docket No. R—1537; RIN 7100 AE-51

Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219
Attention: Legislative and Regulatory Activities Division
Docket ID OCC—2104—0029; RIN 1557—AD97

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: Robert E. Feldman, Executive Secretary
RIN 3064—AE 44

Re: Notice of Proposed Rulemaking – *Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements*

Ladies and Gentlemen:

The Clearing House Association L.LC., the Securities Industry and Financial Markets Association, the Financial Services Roundtable, the American Bankers Association, the Institute of International Bankers and the CRE Finance Council[1] submitted a comment letter on August 5, 2016 in response to the joint notice of proposed rulemaking of the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit

[1] *See* Annex A for descriptions of the undersigned associations.

Insurance Corporation (together, the "Agencies") to establish a net stable funding ratio requirement in the United States (the "U.S. Proposal").[2] The undersigned associations[3] appreciate the Agencies' consideration of the previously submitted comment letters on this important rulemaking.

Subsequent to the submission of the initial comment letters on the U.S. NSFR Proposal, the European Commission released draft legislation to amend certain banking regulations, including to implement the NSFR, in the European Union (the "EU Proposal"),[4] which differs in a variety of areas from the U.S. Proposal. Attached as Annex B to this letter from the undersigned associations is a table summarizing our interpretation of the areas of difference identified to date.

Annex B is divided into two categories which we have labeled as primary differences and other technical and potential differences. The "primary differences", of which we have identified ten, each involve a clear and meaningful divergence between the EU Proposal and the U.S. Proposal. For example, while the U.S. Proposal would assign a 5 percent required stable funding ("RSF") factor to unencumbered Level 1 securities, the EU Proposal would generally assign a 0 percent RSF factor to these assets.[5] Moreover, we note that the U.S. Proposal would become effective on January 1, 2018, while the EU Proposal is expected to enter into force beginning in 2019 at the earliest.

The "other technical and potential differences", of which we have identified fifteen, each involve either an area of technical divergence between the U.S. Proposal and EU Proposal or a potential difference between the U.S. Proposal and the EU Proposal that could exist depending on how certain terms are interpreted in practice, which may result in different outcomes in some cases. For example, while the EU Proposal would apply an 85 percent RSF factor to all commodities, the U.S. Proposal would apply an 85 percent RSF only to commodities that meet certain trading market criteria, and would apply a 100 percent RSF factor to the remainder.

For ease of presentation, some information in Annex B is provided in summary form based on our interpretations of the proposals without quoting full technical standards, but references to the underlying citations in the EU and U.S. proposals are provided for each identified area of difference.

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2 81 Fed. Reg. 35,124 (June 1, 2016).

3 The International Swaps and Derivatives Association, Inc. also submitted a comment letter on August 5, 2016 in response to the U.S. Proposal, which supported and elaborated on the derivatives-related issues in the letter submitted by the other associations.

4 The European Commission released a Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 575/2013 (the Capital Requirements Regulation adopted in 2013) and amendments to Directive 2013/36/EU (CRD IV)

5 The Draft EU NSFR Rules include exceptions from the 0 percent treatment for covered bonds that may otherwise qualify as Level 1 assets.

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If the Agencies would like additional information regarding this submission, please contact Brett Waxman at (212) 612-9211 (brett.waxman@theclearinghouse.org).

Respectfully submitted,

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cc: Scott Alvarez
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Amy Friend
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Patrick T. Tierney
(Office of the Comptroller of the Currency)

William Coen
(Basel Committee on Banking Supervision)

The Clearing House. The Clearing House is a banking association and payments company that is owned by the largest commercial banks and dates back to 1853. The Clearing House Association L.L.C is a nonpartisan organization that engages in research, analysis, advocacy and litigation focused on financial regulation that supports a safe, sound and competitive banking system. Its affiliate, The Clearing House Payments Company L.L.C., owns and operates core payments system infrastructure in the United States and is currently working to modernize that infrastructure by building a new, ubiquitous, real-time payment system. The Payments Company is the only private-sector ACH and wire operator in the United States, clearing and settling nearly $2 trillion in U.S. dollar payments each day, representing half of all commercial ACH and wire volume.

The Securities Industry & Financial Markets Association. SIFMA is the voice of the U.S. securities industry. We represent the broker-dealers, banks and asset managers whose nearly 1 million employees provide access to the capital markets, raising over $2.5 trillion for businesses and municipalities in the U.S., serving clients with over $20 trillion in assets and managing more than $67 trillion in assets for individual and institutional clients including mutual funds and retirement plans. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA). For more information, visit http://www.sifma.org.

The Financial Services Roundtable. As advocates for a strong financial future™, FSR represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. Member companies participate through the Chief Executive Officer and other senior executives nominated by the CEO. FSR member companies provide fuel for America's economic engine, accounting directly for $98.4 trillion in managed assets, $1.1 trillion in revenue, and 2.4 million jobs.

The American Bankers Association. The American Bankers Association is the voice of the nation's $16 trillion banking industry, which is composed of small, regional and large banks that together employ more than 2 million people, safeguard $12 trillion in deposits and extend more than $8 trillion in loans.

The Institute of International Bankers. IIB is the only national association devoted exclusively to representing and advancing the interests of the international banking community in the United States. Its membership is comprised of internationally headquartered banking and financial institutions from over 35 countries around the world doing business in the United States. The IIB's mission is to help resolve the many special legislative, regulatory, tax and compliance issues confronting internationally headquartered institutions that engage in banking, securities and other financial activities in the United States. Through its advocacy efforts the IIB seeks results that are consistent with the U.S. policy of national treatment and appropriately limit the extraterritorial application of U.S. laws to the global operations of its member institutions. Further information is available at www.iib.org.

The CRE Finance Council. The CRE Finance Council (CREFC) is the collective voice of the more than $3.5 trillion commercial real estate finance market, and our members include all of the significant portfolio, multifamily, and commercial mortgage-backed securities lenders and issuers; loan and bond investors such as insurance companies, pension funds and money managers; servicers; rating agencies; accounting firms; law firms; and other service providers. CREFC's membership consists of more than 300 companies and 8,000 individuals. Our industry plays a critical role in the financing of office buildings, industrial complexes, multifamily housing, retail facilities, hotels, and other types of commercial real estate that help form the backbone of the American economy. In addition to its sector specific member forums, committees and working groups, CREFC acts as a legislative and regulatory advocate for the industry, plays a vital role in setting market standards and provides education for market participants in this key sector of the global economy. For more information visit www.crefc.org.

International Swaps and Derivatives Association. Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 850 member institutions from 66 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on the Association's website: www.isda.org.

Differences in U.S. NSFR Proposal / EU NSFR Proposal

Primary Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
P1	RSF applicable to unencumbered Level 1 securities	5%[1]	0% (excluding certain covered bonds subject to a 7% RSF)[2]
P2	RSF applicable to secured lending collateralized by Level 1 securities (financial counterparty, <6 months maturity)	10%[3]	5% (excluding lending transactions secured by the same covered bonds excluded from 0% RSF treatment)[4]
P3	RSF applicable to secured lending collateralized by non-Level 1 securities (financial counterparty, <6 months maturity)	15%[5]	10%[6]
P4	RSF applicable to unsecured wholesale lending (financial counterparty, <6 months maturity)	15%[7]	10%[8]
P5	Netting criteria for net derivative assets	Supplementary Leverage Ratio criteria[9]	All Level 1 assets received as variation margin may reduce derivative assets (excluding the covered bonds excluded from 0% RSF treatment).[10]

1 §_.106(a)(2)(i).

2 Article 428r(1)(a); Article 428t.

3 §_.106(a)(3).

4 Article 428s(b).

5 §_.106(a)(4)(ii).

6 Article 428u(1)(a).

7 §_.106(a)(4)(ii).

8 Article 428u(1)(b).

9 §_.107(f)(1).

10 Article 428k(3)(a).

Primary Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
P6	20% gross derivatives liability add-on	20% of the sum of the gross derivative values of the [BANK] that are liabilities, multiplied by 100%[11]	For all netting sets not subject to margin arrangements, 10% RSF factor multiplied by the absolute market value of those derivative netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative value (gross derivatives liabilities).[12] For all netting sets subject to margin arrangements, a choice between either: • 20% RSF factor multiplied by the absolute market value of those derivative netting sets of derivative contracts, gross of any collateral posted, where those netting sets have a negative value (gross derivatives liabilities); or • 100% RSF factor applied to the absolute difference between: (1) The SA-CCR Potential Future Exposure (PFE) amount for netting sets with negative market value; and (2) The SA-CCR PFE amount for netting sets with positive market value.[13,14]

11 §_.107(b)(5)(i).

12 Article 428u(2).

13 Article 428x(3), Article 428ag(3).

14 The SA-CCR PFE is modified so that the alpha factor is excluded, and for both netting sets with positive and negative market values, institutions shall replace the maturity factor by either (i) maturity factors for transactions in netting sets not subject to margin agreements, or (ii) by the value of 1.

<table>
<tr><th colspan="4">Primary Differences</th></tr>
<tr><th>No.</th><th>Issue</th><th>U.S. NSFR Proposal</th><th>EU NSFR Proposal</th></tr>
<tr><td>P7</td><td>Trade date receivables</td><td>0% RSF, if (i) the sale is required to settle within the lesser of the market standard settlement period and five days and (ii) the sale has not failed to settle; otherwise, 100%.[15]</td><td>0% RSF, for “trade date receivables . . . that have failed to, but are still expected to, settle” (within the standard settlement cycle or period for the relevant exchange or type of transaction).[16]</td></tr>
<tr><td>P8</td><td>Interdependent asset and liability criteria</td><td>N/A</td><td>The EU standard modifies the Basel NSFR criteria in the following ways:
The EU standard requires that “[t]he asset and liability have substantially matched maturities with a maximum delay of 20 days between the maturity of the asset and the maturity of the liability” as opposed to “[t]he maturity . . . of both the liability and its interdependent asset should be the same .”[17]
The EU standard does not incorporate the Basel NSFR framework criterion that the “the liability cannot fall due while the asset remains on the balance sheet.”[18]
The EU standard requires that “the liability . . . is not used to fund other assets” as opposed to “the liability cannot be used to fund other assets.”[19]</td></tr>
</table>

15 §§_.106(a)(1)(v), (a)(8).

16 Article 428r(1)(e).

17 Article 428f(c); Basel NSFR Framework ¶ 45.

18 Basel NSFR Framework ¶ 45.

19 Article 428f(d); Basel NSFR Framework ¶ 45.

Primary Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
P9	Interdependent asset and transactions	None recognized.[20]	The following transaction categories are recognized as meeting the interdependent asset and liability criteria: (a) centralised regulated savings, where institutions are legally required to transfer regulated deposits to a centralised fund which is set up and controlled by the central government of a Member State and which provides loans to promote public interest objectives, provided that the transfer of deposits to the centralised fund occurs on at least a monthly basis; (b) promotional loans and credit and liquidity facilities that fulfil the criteria set out in Article 31(9) of Delegated Regulation (EU) 2015/61 for institutions acting as simple intermediaries that do not support any funding risk; (c) covered bonds as referred to in Article 52(4) of Directive 2009/65/EC; (d) covered bonds that meet the eligibility requirements for the treatment set out in Article 129(4) or (5), as appropriate, where the underlying loans are fully matched funded with the covered bonds issued or where there exist non-discretionary extendable maturity triggers on the covered bonds of one year or more until the term of the underlying loans in the event of refinancing failure at the maturity

[20] 81 Fed. Reg. at 35,156.

Primary Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
			date of the covered bond; (e) derivatives client clearing activities, provided that the institution does not guarantee the performance of the CCP to its clients and, as a result, does not incur any funding risk.[21]
P10	Effective date	January 1, 2018[22]	The proposed amendment to Regulation (EU) No 575/2013, Part 10, Title IIa, Article 3 states that the regulation (i.e., CRR2) will apply two years after it has been published in the *Official Journal of the European Union*.[23]

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
O1	Client clearing	RSF applied to the value of derivatives transactions of a customer with respect to which the [BANK] is acting as agent for the customer if such derivatives transactions are included on the [BANK]'s balance sheet under GAAP as a derivative asset or liability.[24] No RSF applied to initial margin provided by the [BANK] for cleared derivative	"Derivatives client clearing activities" are deemed interdependent assets and liabilities, "provided that the institution does not guarantee the performance of the CCP to its clients and, as a result, does not incur any funding risk."[25]

21 Article 428f.

22 §_.100(a).

23 It is expected that the proposed amendments will start entering into force in 2019 at the earliest. EU Proposal at 8.

24 §_.107(a).

25 Article 428f.

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
		transactions with respect to which the [BANK] is acting as agent for a customer and the [BANK] does not guarantee the obligations of the customer's counterparty to the customer under the derivative transactions, provided that the initial margin is not included on the [BANK]'s balance sheet. Initial margin included on the [BANK]'s balance sheet receives an RSF as determined in accordance with the RSF factors for balance sheet assets that are not derivatives.[26] The covered company's NSFR derivatives asset amount or NSFR derivatives liability amount would not include the value of a cleared derivative transaction that the covered company, acting as agent, has submitted to the CCP on behalf of the covered company's customer, including when the covered company has provided a guarantee to the CCP for the performance of the customer. A covered company's NSFR derivatives asset amount or NSFR derivatives liability amount would include the asset or liability values of derivative transactions between a CCP and a covered company where the covered company has entered into an offsetting	

26 §_.107(b)(7).

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
		transaction (commonly known as a "back-to-back" transaction).[27]	
O2	RSF factors applied to certain off-balance sheet arrangements	When off-balance sheet assets that originated from lending transactions or asset exchanges are reused to collateralize liabilities, an additional RSF factor may apply to the lending asset or asset exchange to reflect the period of encumbrance of the off-balance sheet asset. In addition, off-balance sheet assets originated in other transactions may be treated as balance sheet assets subject to RSF factors.[28]	Where an institution re-uses or re-pledges an asset that was borrowed, including in secured lending transactions and capital market-driven transactions as defined in Article 192(2) and (3), and that is accounted for off-balance sheet, the residual maturity of the transaction through which that asset has been borrowed and which is used to determine the required stable funding factor to be applied under Section 2 of this Chapter, shall be the residual maturity of the transaction through which the asset is re-used or re-pledged.[29]
O3	Consolidation principles	A parent company subject to the NSFR requirement may include ASF of a consolidated subsidiary up to the RSF amount of the subsidiary, plus any excess ASF of the subsidiary, in both cases as calculated by the parent company for purposes of the parent's company NSFR, taking into account any statutory, regulatory, or contractual restrictions on the transfer of assets from the subsidiary to the parent.[30]	No specific provisions regarding consolidation of ASF amounts. In addition, competent authorities may modify the ASF and RSF factors applicable to certain inter-company transactions (to grant preferential treatment).[31]

27 81 Fed. Reg. 35,152.

28 § _.106(d).

29 Article 428q(3).

30 §_.108.

31 Article 428h.

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
O4	RSF applicable to certain Collective Investment Units (CIUs)	N/A	0%, 12%, 20%, 30%, 35%, 40%, 55%[32]
O5	Certain trade finance arrangements	N/A	5%, 10%, 15%, 50%, 85%[33]
O6	Certain unencumbered covered bonds	N/A	7%, 30%[34]
O7	Certain securitizations	N/A	25%, 35%[35]
O8	High quality retail/residential mortgages	65% RSF for retail mortgages, where such mortgages receive a risk-weight of no greater than 50% under U.S. Basel III, Subpart D (the Standardized Approach).[36]	65% RSF for residential mortgages, where such mortgages receive a risk-weight of no greater than 35% under EU capital rules.[37]
O9	Unencumbered loans to certain non-financial customers with a remaining	65%, 85%[38]	65%, where such loans receive a risk weight of no greater than 35% under EU capital rules.[39]

32 Article 428r(1)(b) (CIUs subject to a 0% haircut under EU LCR regulations), Article 428v (CIUs subject to a 12% haircut under EU LCR regulations), Article 428x(1) (CIUs subject to a 20% haircut under EU LCR regulations), Article 428z(b) (CIUs subject to a 30% haircut under EU LCR regulations), Article 428aa(b) (CIUs subject to a 35% haircut under EU LCR regulations), Article 428ab (CIUs subject to a 40% haircut under EU LCR regulations), Article 428ad (CIUs subject to a 55% haircut under EU LCR regulations).

33 Article 428s(d) (certain trade finance off-balance sheet related products); Article 428u(c) (certain trade finance arrangements with maturities of less than six months or between six months and one year); Article 428w(b) (certain trade finance arrangements with maturities of greater than one year); Article 428ac(e) (certain trade finance on-balance sheet related products with a residual maturity of minimum six months and less than one year); Article 428af(d) (certain trade finance on-balance sheet related products with a residual maturity of one year or more).

34 Article 428t, Article 428z(a).

35 Article 428y; Article 428aa(a).

36 §_.106(a)(6)(i).

37 Article 428ae(a).

38 The U.S. Proposal contemplates that a 65% RSF factor may apply to lending to a retail customer or counterparty when such lending asset is assigned a risk weight of no greater than 20% under U.S. Basel III, Subpart D (the Standardized Approach). §_.106(a)(6)(ii). However, lending to a retail customer or counterparty is always subject to a greater than 20% risk weight under U.S. Basel III, Subpart D. *See* U.S. Basel III §_.32. As a result, these lending assets would appear to be always subject to the 85% RSF factor in §_.106(a)(7)(ii).

39 Article 428ae(b).

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
	maturity of greater than one year		
O10	Commodities	85% RSF for a "commodity for which derivative transactions are traded on a U.S. board of trade or trading facility designated as a contract market under sections 5 and 6 of the Commodity Exchange Act (7 U.S.C. 7 and 8) or on a U.S. swap execution facility registered under section 5h of the Commodity Exchange Act (7 U.S.C. 7b-3)"; otherwise, 100%.[40]	85% RSF for "physical traded commodities, including gold by excluding commodity derivatives."[41]
O11	Short-dated derivatives executed with central banks	N/A	Excluded from NSFR requirements at the discretion of competent authorities.[42]
O12	Initial margin provided	85% RSF factor applies to any initial margin provided (other than off-balance sheet initial margin provided for cleared derivative transactions with respect to which the [BANK] is acting as agent for a customer and the [BANK] does not guarantee the obligations of the customer's counterparty to the customer under the derivative transaction), regardless of whether the initial margin is included on the [BANK]'s balance sheet.[43]	Unclear if off-balance sheet assets provided as initial margin are subject to 85% RSF factor.[44]

40 §§ _.106(a)(7)(v), _.106(a)(8).

41 Article 428af(g).

42 Article 428d(6).

43 § _.107(b)(7).

44 Article 428af(a); 428p(5).

Other Technical and Potential Differences			
No.	**Issue**	**U.S. NSFR Proposal**	**EU NSFR Proposal**
O13	Default fund contributions	85% RSF factor applies to asset contributed to a CCP default fund, regardless of whether the asset is included on the [BANK]'s balance sheet.[45]	Unclear if off-balance sheet assets contributed to a CCP default fund are subject to 85% RSF factor.[46]
O14	Segregated assets	All assets in a "segregated account," without restriction to a defined segregation regime, are not deemed to be encumbered solely because they are held in a segregated account.[47]	Only assets segregated in accordance with Article 11(3) of Regulation (EU) 648/2012, which is specific to OTC derivatives, central counterparties and trade repositories, receive an RSF based on the underlying exposure.[48]
O15	Differences in definitions and categories set forth in liquidity and other regulations that are incorporated into the NSFR	Both of the proposals incorporate certain provisions from the respective jurisdictions' liquidity and other regulations to describe the categories to which certain ASF and RSF factors apply. Differences in other provisions, therefore, also create differences in the application of the ASF and RSF factors under these NSFR proposals. Such differences include, for example, the high quality liquid asset criteria under each jurisdiction's respective liquidity rules[49] and deposit classifications under the respective liquidity rules.[50]	

45 § _.107(b)(6).

46 Article 428af(b); 428p(5).

47 § _.106(c)(3).

48 Article 428q(4).

49 *See*, *e.g.*, § _.106(a)(2)(ii); Article 428s(c).

50 § _.104(b); Article 428n.