July 1, 2019

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
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Joint Notice of Proposed Rulemaking – Regulatory Capital Rule: Revisions to the Supplementary Leverage Ratio for Banking Organizations Predominantly Engaged in Custody, Safekeeping and Asset Servicing Activities

Dear Sir/ Madam:

State Street Corporation ("State Street"), the Bank of New York Mellon Corporation ("BNY Mellon") and the Northern Trust Corporation ("Northern Trust") (collectively the "custody banks") welcome the opportunity to comment on the joint notice of proposed rulemaking ("proposed rule") issued by the Board of Governors of the Federal Reserve System ("Board"),

the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation ("FDIC") (collectively the "federal banking agencies"), regarding the implementation of Section 402 of the Economic Growth, Regulatory Relief and Consumer Protection Act ("EGRRCPA").[1] Section 402 of EGRRCPA directs the federal banking agencies to amend the capital rule for United States ("US") banks by excluding from the calculation of the Supplementary Leverage Ratio ("SLR") certain deposits placed by custodial banking organizations at qualifying central banks. In turn, Section 402 of EGRRCPA defines a "custodial banking organization" as any bank holding company ("BHC"), including any insured depository institution subsidiary of such a BHC, "predominantly engaged in custody, safekeeping and asset servicing activities." As noted in the proposed rule, this includes each of State Street,[2] BNY Mellon[3] and Northern Trust.[4]

The custody banks support the federal banking agencies' proposed rule and their approach to implementation of Section 402 of EGRRCPA, which we believe accurately reflects legislative intent. We also welcome the development of a ruleset for Section 402 which broadly reflects existing industry metrics, reporting standards and regulatory definitions. Consistent with the federal banking agencies' approach, we offer below three targeted observations designed to further streamline the proposed rule and its accompanying compliance obligations.[5] Section 402 of EGRRCPA is intended to support the specialized role played by custody banks in the financial system, including their role as a safe store of value for client cash during periods of financial market uncertainty. We strongly endorse this policy goal and its attendant regulatory ruleset.

TARGETED OBSERVATIONS

Definition of a custodial banking organization

The federal banking agencies propose to define a banking organization that is "predominantly engaged in custodial, safekeeping and asset servicing activities" using a simple measure which compares the ratio of a banking organization's total assets under custody, as reported on Form FR Y-15, to its total consolidated assets, as reported on Form FR Y-9C. In order to reduce the

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[1] S.2155 – Economic Growth, Regulatory Relief and Consumer Protection Act (May 24, 2018); Public Law No. 115-174.

[2] Headquartered in Boston, Massachusetts, State Street specializes in the provision of financial services to institutional investor clients. This includes investment servicing, investment management, data and analytics, and investment research and trading. With $32.643 trillion in assets under custody and administration and $2.805 trillion in assets under management as of March 31, 2019, State Street operates in 30 countries and in more than 100 geographic markets.

[3] Headquartered in New York, New York, BNY Mellon is a global investment company that provides investment management and investment services to help individuals and institutions invest, conduct business and transact in markets all over the world. BNY Mellon operates in over 100 markets, with $34.5 trillion in assets under custody and/or administration and $1.8 trillion in assets under management as of March 31, 2019.

[4] Headquartered in Chicago, Illinois, Northern Trust is a leading provider of wealth management, asset servicing, asset management and banking services to corporations, affluent families and individuals. Founded in 1889, Northern Trust has offices in 20 states and Washington, DC, and 23 international locations. As of March 31, 2019, Northern Trust had assets under custody/administration of $10.9 trillion and assets under management of $1.2 trillion.

[5] As noted on page 4 of this comment letter, the third observation relating to Section 402 and the TLAC framework is inapplicable to Northern Trust and is therefore solely offered on behalf of State Street and BNY Mellon.

potential impact of any volatility in this measure, including in periods of financial market stress, the federal banking agencies also propose the averaging of a banking organization's total assets under custody and total consolidated assets over the four most recent calendar quarters.

Furthermore, the federal banking agencies note that they considered but rejected the use of an income-based measure in the proposed rule "because such an approach would increase the reporting burden for banking organizations subject to the SLR."[6] The custody banks strongly support this approach, which provides for a simple assessment of the scope of a banking organization's "custody, safekeeping and asset servicing activities" relative to other financial activities ineligible for Section 402, in a manner consistent with legislative intent.

Definition of the central bank exclusion limit

Section 402 of EGRRCPA limits the amount of qualifying central bank placements that a custodial banking organization can exclude from the SLR to the "total value of deposits of the custodial bank that are linked to fiduciary or custodial and safekeeping accounts." In keeping with the existing ruleset which applies to the custodial bank deduction in the FDIC deposit insurance assessment framework,[7] the federal banking agencies emphasize their intention to define the scope of "fiduciary or custodial and safekeeping accounts" for purposes of Section 402 in a manner that "does not deviate materially from the current scope of the fiduciary and custody and safekeeping accounts reported under (FDIC) Schedule RC-T of the Call Report."[8]

The custody banks support this approach, which by relying on an existing reporting requirement for US banking organizations helps to mitigate unnecessary and potentially duplicative compliance obligations for the purpose of Section 402. Likewise, we support using the existing FDIC exclusion limit and reporting instructions to Schedule RC-O of the Call Report to determine the linkage between a deposit account and a fiduciary, or custody and safekeeping account. Furthermore, we recommend that the federal banking agencies clarify in the final rule that the calculation of the central bank exclusion limit for custodial banking organizations must be undertaken on a quarterly basis, consistent with Schedule RC-T and RC-O requirements.

Section 402 and the total loss absorbing capacity framework

Under existing capital rules, the definition of "total leverage exposure" which applies to the SLR also applies to the total loss absorbing capacity ("TLAC") framework adopted by the Board for US global systemically important banks ("G-SIBs") in December 2016.[9] This reflects the

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[6] Joint Notice of Proposed Rulemaking, Federal Register Volume 84, number 83 (April 30, 2019); page 18178.
[7] See 12 CFR 327.5(c) (Assessment base for custodial banks) and FFIEC 031 and FFIEC 041 Instructions, Schedule RC-O, Item No. 11.b., Custodial bank deduction limit available at *www.ffiec.gov.*
[8] Joint Notice of Proposed Rulemaking, Federal Register Volume 84, number 83 (April 30, 2019); page 18181.
[9] 'Final Rule: Total Loss Absorbing Capacity, Long Term Debt and Clean Holding Company Requirements for Systemically Important US Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations', Board of Governors of the Federal Reserve System, Federal Register Volume 82, Number 14 (January 24, 2017).

fundamental basis of each of these two regulatory measures, which is to ensure the presence of sufficient capital resources, whether on a "going concern" or "gone concern" basis, to address underlying risk, and ensure resolvability of the banking organization in the event of insolvency without the need for taxpayer support or other extraordinary measures. More practically, the minimum requirements in the TLAC framework are defined and calibrated on the basis of the underlying capital rules. For instance, the existing minimum TLAC leverage ratio requirement of 9.5% is calibrated by combining the existing US G-SIB minimum SLR requirement of 5%, with an additional 5% "gone concern" buffer, minus a Board-specified balance sheet depletion allowance of 0.5%. The comments which follow below are offered by State Street and BNY Mellon, both of which are subject to the TLAC framework.[10]

State Street and BNY Mellon believe that "total leverage exposure" should apply consistently across the SLR and the TLAC frameworks. This reflects three considerations. First, including central bank placements in the denominator of a bank's TLAC requirement would be in tension with legislative intent behind the EGRRCPA. The rationale for excluding central bank placements from the SLR is to permit specialized custody banks to serve as a safe store of value for client cash, particularly in periods of financial market uncertainty, by recognizing the risk-free nature of central bank placements and the pro-cyclical effect of their inclusion in the SLR denominator. The same policy considerations also support excluding central bank placements from the TLAC denominator.

Second, since the underlying purpose of the TLAC framework is to ensure that a banking organization can refill its capital stack in the event of insolvency, there is no compelling policy reason to require a bank to hold TLAC against an asset for which there is no corresponding capital requirement. Third, the use of a different methodology to measure "total leverage exposure" for purposes of the SLR and the TLAC framework would further complicate the capital allocation process for banks, while offering limited benefit to the assessment of a banking entity's risk profile, since the difference between the two measures would simply reflect the amount of central bank placements held.

CONCLUSION

Thank you once again for the opportunity to offer comment on the proposed rule. To summarize, the custody banks welcome and support the federal banking agencies' approach to implementation of the requirements of Section 402 of EGRRCPA, which we believe accurately and consistently reflects legislative intent. We also welcome the emphasis which the federal banking agencies have placed on developing a streamlined ruleset for compliance with the proposed rule, and we offer three targeted observations to further strengthen the intended approach.

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[10] Northern Trust is not subject to the requirements of the Board's TLAC rule.

Specifically, (i) we support the use of a basic total asset under custody to total consolidated asset test to determine the scope of banking organizations eligible for Section 402; (ii) we welcome the federal banking agencies' commitment to using a definition of eligible "fiduciary or custodial and safekeeping accounts" for purposes of the central bank exclusion limit that is consistent with the definition found in FDIC Schedule RC-T and RC-O, and recommend that the calculation of the central bank exclusion limit be undertaken on a quarterly basis; and (iii) State Street and BNY Mellon support the use of a consistent measure of "total leverage exposure" for the purposes of the SLR and TLAC frameworks.

Should you have any questions or require any additional information, please contact:

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Respectfully submitted,

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