By Electronic Submission January 16, 2024

Chief Counsel's Office
Office of the Comptroller of the Currency
Attn: Comment Processing
400 7th St. SW, Suite 3E-218
Washington, DC 20219

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, DC 20551

James P. Sheesley, Assistant Executive Secretary
Attention: Comments/Legal OES (RIN 3064–AF86)
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429

Re: Treatment of Uninsured Deposits in Long-Term Debt Requirement Proposal (OCC Docket ID OCC–2023–0011; Federal Reserve Docket No. R–1815 and RIN 7100–AG66; FDIC RIN 3064–AF86)

Dear Sirs and Madams:

We are writing as a coalition of Category III and Category IV firms[1] that would be subject to requirements to maintain minimum amounts of long-term debt ("LTD") under the above-captioned proposed rules (the "Proposed Rules") by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, and Federal Deposit Insurance Corporation (the "Agencies").[2]

We support the comment letter submitted by the Bank Policy Institute that argues for, among other things, a reduction in the "base" LTD requirement that applies to all covered firms, elimination of the internal bank-level LTD requirement, and giving firms the option to choose to comply with LTD requirements at the bank or holding company levels. Separate from those issues, the preamble to the Proposed Rules contains several questions that ask whether the Agencies should calibrate the proposed LTD requirements lower for firms that have relatively low levels of uninsured deposits at their insured depository institution ("IDI") subsidiaries.[3] In response to those questions from the Agencies, this letter explains why the final rules should, at a minimum, reduce the calibration of the LTD requirements for firms with lower levels of uninsured deposits by providing those firms a credit, set on a sliding scale, toward their LTD requirements.

Part I of this letter describes why providing firms that have lower levels of uninsured deposits a credit toward the LTD requirements would be consistent with the stated policy goals

---

[1] Our coalition includes Ally Financial Inc., The Charles Schwab Corporation, Discover Financial Services, and Synchrony Financial.

[2] 88 Fed. Reg. 64,524 (Sept. 19, 2023).

[3] See questions 3, 6, 21, and 23.

of the Proposed Rules. Part II sets forth our proposed approach to calibrating and scaling such a credit and explains why our simple and transparent approach would achieve the Agencies' goals.

I. Providing Firms with Lower Levels of Uninsured Deposits With a Credit Toward the LTD Requirements Would Be Consistent with the Proposed Rules' Stated Policy Goals

The Agencies have articulated several purposes of the LTD requirements. Providing firms with lower levels of uninsured deposits a credit toward their LTD requirements would be consistent with these purposes and other policy objectives of the Agencies, for the following reasons:

- ***Facilitate orderly resolution and minimize losses in resolution.*** The Proposed Rules are intended to facilitate the orderly resolution of a covered IDI and minimize losses to the Deposit Insurance Fund and uninsured depositors in the event of such a resolution. The preamble states that "the proposed rule would help improve the likelihood that, in the event a covered IDI fails, a sufficient amount of non-deposit liabilities will be available to absorb losses that otherwise might be imposed on uninsured depositors in resolution"[4] and that "the additional loss-absorbing capacity from LTD in resolution may increase the likelihood that some or all uninsured deposits are protected from losses, even under the least-cost test."[5] The preamble further states that the effectiveness of the LTD requirement in resolution "would depend on the extent of losses incurred by the failing institution and the extent of its reliance on uninsured deposits."[6] It follows that firms with lower levels of uninsured deposits would need a smaller cushion of LTD to absorb losses ahead of uninsured depositors in resolution.

- ***Promote* ex ante *resilience.*** The Proposed Rules also are intended to promote the resilience of covered firms so that their resolution is not required and the Agencies do not need to invoke the systemic risk exception to stop contagion. The preamble states that "high levels of uninsured deposit funding can pose an especially significant risk of bank runs when customers grow concerned over the solvency of their bank,"[7] and "the presence of a substantial layer of liabilities that absorbs losses ahead of uninsured depositors could have reduced the likelihood of those depositors running."[8] It follows that firms with lower levels of uninsured deposits would need a smaller layer of LTD that is available to refill their capital in order to reassure uninsured depositors that there is no need to withdraw their funds and contribute to a run on the bank that could cause contagion.[9]

---

4 88 Fed. Reg. at 64,550.

5 *Id.*

6 *Id.*

7 88 Fed. Reg. at 64,526.

8 88 Fed. Reg. at 64,527.

9 *See* Federal Reserve Vice Chair for Supervision Michael S. Barr, The Importance of Effective Liquidity Risk Management (Dec. 1, 2023), available at https://www.federalreserve.gov/newsevents/speech/barr20231201a.htm ("Despite their compliance with (continued...)

- ***Create beneficial incentives.*** Providing firms that have lower levels of uninsured deposits a credit toward their LTD requirements would give firms a financial incentive to reduce their levels of uninsured deposits. The preamble to the Proposed Rules acknowledges that "LTD is generally more expensive than the short-term funding banking organizations could otherwise use."[10] Thus, if the LTD requirement included a credit as we propose, firms may reduce their levels of uninsured deposits to reduce the amount of expensive LTD they must maintain and service. Agency principals have suggested that reducing levels of uninsured deposits is one of their policy goals following the bank failures of Spring 2023.[11]

- ***Tailor the LTD requirements as required by law.*** Finally, providing firms with lower levels of uninsured deposits a credit toward their LTD requirements would help tailor the LTD requirements in compliance with statutory requirements that apply to enhanced prudential standards.[12]

For all these reasons, providing firms with lower levels of uninsured deposits a credit toward their LTD requirements would be consistent with the Agencies' policy goals for the Proposed Rules.

II. The Agencies Should Adopt a Simple and Transparent Sliding Scale to Provide Firms That Have Relatively Lower Levels of Uninsured Deposits With a Credit Toward Their LTD Requirements

The Agencies should provide a credit toward LTD requirements according to the percentage of insured deposits that a firm maintains, using a simple and transparent sliding scale that provides a larger credit as a firm has relatively lower levels of uninsured deposits. We propose the following multipliers:

---

our capital rules, [banks that faced liquidity pressures in March 2023] lacked enough capital to reassure uninsured depositors that they had sufficient resources to weather this liquidity storm.").

10 88 Fed. Reg. at 64,552.

11 *See, e.g.*, Bank Reg Blog, FDIC Finalizes Special Assessment (Nov. 16, 2023), *available at* https://bankregblog.substack.com/p/fdic-finalizes-special-assessment (reporting comments of FDIC Chairman Martin Gruenberg stating that "I think the expectation is — assuming we move forward on a long-term debt rule in the regional bank space — long-term debt will take the place of some of the uninsured deposits on the balance sheets of these institutions, which would have multiple benefits."); *see also* 88 Fed. Reg. at 64,526, note 4 ("Data from Call Reports show that the proportion of uninsured deposits to total deposits at covered entities increased from about 31 percent to 43 percent from 2009 to 2022.").

12 12 U.S.C. § 5365(a)(2)(A). *See also The Federal Reserve's Semi-Annual Monetary Policy Report: Hearing Before the H. Comm. on Fin. Servs.*, 118th Cong. (Mar. 8, 2023) (testimony of Chair Powell in response to a question regarding a potential LTD requirement for Category II through IV banking organizations) ("We believe strongly and always have in tailoring to address the different size and risk characteristics of financial institutions and certainly nothing like that for the regionals. They won't have anything like what the very large, most systemically important banks have in terms of overall regulation . . . We're required by the law now and we're doing this [tailoring]. Dodd-Frank actually required us, suggested that we should tailor, and then S. 2155 required it. And anything that we do will reflect appropriate tailoring.").

Insured Deposits as a Percentage of Total Deposits	**LTD Credit Multiplier**
x ≥90%	80%
<90% x ≥80%	60%
<80% x ≥70%	40%
<70% x ≥60%	20%
x <60%	No credit

For these purposes, the Agencies should calculate insured deposits as a firm's Total Deposits minus Estimated Amount of Uninsured Deposits based on Call Report Schedule RC-O. These line items of the Call Report are widely used, publicly available, and consistently applied. The calculation should be performed using a four-quarter rolling average, which would avoid cliff effects based on a single quarter's change in levels of uninsured deposits. Firms should have at least six quarters to come into compliance after moving into a new category that provides less credit toward the LTD requirements, which would give firms appropriate time to raise funding even if macroeconomic conditions are unfavorable for several quarters.

The multipliers we have proposed would result in the following credits and residual LTD requirements expressed as a function of risk-weighted assets ("RWAs"), assuming the "base" LTD requirement remains 6.0% in the final rules:[13]

Insured Deposits as a Percentage of Total Deposits	**LTD Credit Multiplier**	**Illustrative LTD Requirements (Based on RWAs) Before Application of Credit**	**Illustrative Amount of Credit Applied Toward LTD Requirements (Based on RWAs)**	**Illustrative Residual LTD Requirements (Based on RWAs) After Application of Credit**
x ≥90%	80%	6.0% of RWAs	4.8% of RWAs	1.2% of RWAs
<90% x ≥80%	60%	6.0% of RWAs	3.6% of RWAs	2.4% of RWAs
<80% x ≥70%	40%	6.0% of RWAs	2.4% of RWAs	3.6% of RWAs
<70% x ≥60%	20%	6.0% of RWAs	1.2% of RWAs	4.8% of RWAs
x <60%	No credit	6.0% of RWAs	No credit	6.0% of RWAs

[13] If the Agencies adopt industry recommendations to reduce the "base" LTD requirement of 6.0% of RWAs, we propose that our credit multipliers be applied to that lower requirement.

Our proposed multipliers would result in the following credits and residual LTD requirements expressed as a function of average total consolidated assets, assuming the "base" LTD requirement remains 3.5% in the final rules:[14]

Insured Deposits as a Percentage of Total Deposits	**LTD Requirement Credit Multiplier**	**Illustrative LTD Requirements (Based on Total Consolidated Assets) Before Application of Credit**	**Illustrative Amount of Credit Applied Toward LTD Requirements (Based on Total Consolidated Assets)**	**Illustrative Residual LTD Requirements (Based on Total Consolidated Assets) After Application of Credit**
x ≥90%	80%	3.5% of total consolidated assets	2.8% of total consolidated assets	0.7% of total consolidated assets
<90% x ≥80%	60%	3.5% of total consolidated assets	2.1% of total consolidated assets	1.4% of total consolidated assets
<80% x ≥70%	40%	3.5% of total consolidated assets	1.4% of total consolidated assets	2.1% of total consolidated assets
<70% x ≥60%	20%	3.5% of total consolidated assets	0.7% of total consolidated assets	2.8% of total consolidated assets
x <60%	No credit	3.5% of total consolidated assets	No credit	3.5% of total consolidated assets

Several features of our proposal make it consistent with the Agencies' policy aims:

- ***First,*** in our proposal, a firm whose deposits are more than 40% uninsured would receive no credit toward its LTD requirements. The preamble to the Proposed Rules notes that the proportion of uninsured deposits to total deposits at covered entities was 43% in 2022.[15] Thus, based on current levels of uninsured deposits, a firm would need to

[14] If the Agencies adopt industry recommendations to reduce the "base" LTD requirement of 3.5% of total consolidated assets, we propose that our credit multipliers be applied to that lower requirement.

[15] *See* 88 Fed. Reg. at 64,526, n. 4.

have lower-than-average rates of uninsured deposits to receive any benefit, and the average firm would be subject to the full LTD requirements with no credit.

- ***Second,*** our proposal caps the maximum amount of credit available so that no firm subject to the LTD requirements receives full credit, and every firm maintains a layer of LTD that can absorb losses before uninsured deposits. This approach maintains market discipline and creates a cushion of LTD that is appropriately scaled to the level of runnable liabilities at a firm's IDI subsidiaries.

- ***Third,*** our proposal would provide the Agencies a targeted and appropriately risk-based manner in which to comply with their statutory mandate to tailor enhanced prudential standards.

III. Conclusion

Assuming the Agencies finalize the Proposed Rules and apply them to our firms, the final rules should provide firms that have lower levels of uninsured deposits a credit toward the LTD requirements, on a sliding scale as described above. Doing so would be consistent with the stated purposes of the Proposed Rules. We appreciate the Agencies' consideration of our proposed approach, and stand ready to answer any questions you may have. Individual members of our coalition can be contacted using the contact information set forth below.

Respectfully submitted,

Ally Financial Inc.
Attention: Bradley J. Brown, Corporate Treasurer
bradley.brown@ally.com

The Charles Schwab Corporation
Attention: Bill Quinn, Managing Director, Treasurer
bill.quinn@schwab.com

Discover Financial Services
Attention: Li Ma, SVP & Treasurer
lima@discover.com

Synchrony Financial
Attention: Eric Duenwald, Treasurer
eric.duenwald@syf.com