John F. Woods
Vice Chairman
Chief Financial Officer

January 31, 2014

By Electronic Mail

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency (OCC)
400 7th Street, SW.
Suite 3E-218, Mail Stop 9W-11
Washington, DC 20219
Docket ID OCC-2013-0016

Federal Reserve System
Mr. Robert deV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW.
Washington, DC 20551
Docket No. R-1466

Federal Deposit Insurance Corporation
Mr. Robert E. Feldman
Executive Secretary
Attention Comments/Legal ESS
Federal Deposit Insurance Corporation (FDIC)
550 17th Street, NW.
Washington, DC 20429
RIN 3064-AE04

Re Liquidity Coverage Ratio Liquidity Risk Measurement, Standards, and Monitoring; Proposed Rule

Ladies and Gentlemen

Union Bank, N.A. ("Union Bank", "we" or "us", as applicable), appreciates the opportunity to comment on the Notice of Proposed Rulemaking (the "NPR" or "Proposed Rule") by the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve System (the "Board"), and the Federal Deposit Insurance Corporation ("FDIC") (collectively referred to as the "Agencies") entitled Liquidity Coverage Ratio Liquidity Risk Measurement, Standards, and Monitoring that would implement a quantitative liquidity requirement consistent with the liquidity coverage ratio ("LCR") standard established by the Basel Committee on Banking Supervision ("BCBS").

Financial Management Group
400 California Street, 19th Floor
San Francisco, CA 94104

Tel. 415 765 3123
Fax 415 765 2242
john.woods@unionbank.com

A member of MUFG, a global financial group

In addition to this comment letter, Union Bank has participated in the preparation of the comment letters submitted by the regional banking organizations and the industry trade associations (The Clearing House Association L.L.C. ("The Association"), the American Bankers Association, the Institute of International Bankers, the Institute of International Finance, (the "Joint Trade Associations")). We support the comments and concerns raised by the regional banking organization letter (the "Regional Bank Letter"), The Clearing House Association L.L.C. ("The Association Letter") and the Joint Trade Associations. The comments and recommendations in this letter are intended to highlight the most specific concerns of Union Bank.

Union Bank supports the implementation in the United States of an internationally consistent LCR requirement, and the Proposed Rule represents an important step in that process. However, we are concerned that in certain instances the Proposed Rule deviates significantly from the Basel LCR. For example, with respect to the Agencies' proposed accelerated phase-in of the LCR for Covered Banks and daily reporting requirements. These deviations clearly detract from the goal of competitive equality across jurisdictions, and in some circumstances incorporate more stringent interpretations despite no significant differences in the relevant product or in market conditions to warrant such treatment. We discuss some of these differences and resulting concerns within this letter. We are in favor of internationally harmonized definitions and methodologies, where possible, as this would contribute to the comparability of the metric across firms.

Since 2009, when the BCBS first announced a proposed LCR standard, Covered Banks have been preparing for compliance and aligning business practices based on the broad principles of the Basel LCR. Covered Banks will now be challenged by having to prepare for the significant new and divergent requirements of the Proposed Rule within six to nine months to meet the January 2015 effective date.

The implications of the significant deviations from the Basel rule may be exacerbated because of the interplay among the host of new regulations relating to capital, leverage and other prudential standards. As with all areas of regulatory reform, the importance of analyzing the interplay between various proposed initiatives is critical to ensure final rules do not work at cross-purposes with each other. For Union Bank the constraints and challenges are compounded as we are subject to Dodd-Frank Section 154 as a Foreign Banking Organization ("FBO")[1]. Not only are the time lines set forth by both NPRs aggressive, but they are complex sets of rules to implement, both of which currently remain in draft form. The multiple requirements that will be imposed upon Union Bank, as both an FBO and a U.S. regional bank, are complex and in many cases inter-twined. We recommend an orderly transition period with enough time allotted to minimize operational risks and unintended consequences.

Executive Summary

While there are many aspects of the NPR which we endorse, we believe certain changes to the Proposed Rule as drafted are necessary in order to better align particular components of the LCR regulation with the risk profile of regional banks as they are less complex, rely less heavily on more volatile sources of funding, have simpler balance sheets and pose less risk to the U.S. and international financial systems. In addition, we believe the final U.S. LCR rule should not materially differ from Basel unless the deviation is warranted due to unique characteristics of the U.S. market or to more adequately protect the U.S.

[1] Union Bank is the primary subsidiary of UnionBanCal Corporation, which is wholly-owned by The Bank of Toyko -Mitsubishi UFJ, Ltd., which is a subsidiary of the Mitsubishi UFJ Financial Group, Inc.

financial system. Finally, we believe that the Agencies should consider changes to the final rule to allow more time for banks to prepare for compliance and to provide clarification on parts of the NPR that are ambiguous and difficult to apply.

Below are the key issues and concerns for Union Bank that are further elaborated upon in this letter

- Limited time to comply, by January 2015, with a new and complex regulation
- Proposed monthly versus daily reporting for regional banks
- Expanded definition of Level 1 HQLAs to include GSEs
- Concerns regarding impact of complex Adjusted HQLA calculation and unintended consequences - treatment of secured public service deposits and applicable unwind
- Overly complex and difficult to implement definition of operational deposit
- Unnecessarily punitive treatment of multi-purpose facilities
- Clarification of treatment of FHLB Letters of Credit ("LCs") and related run-off assumptions
- Recommended inclusion of access to FHLB funding, a proven source of liquidity, in the LCR calculation
- Simplification of Modified LCR calculation – 70% of 30 day versus 21 day calculation to more adequately reflect actual business cycles

Regional banks, as distinct from Global systemically important banks ("G-SIBs"), face particular challenges in preparing for daily reporting of the LCR. The LCR was originally introduced as a measure for internationally active banks of a certain size (the G-SIBs) which for several years have been required to provide daily liquidity reporting metrics. As regional banks have not been subject to similar requirements, adequate operational and systems investments and the progress necessary to meet daily calculation by January of 2015 have not been made and the associated costs have not been fully considered. The gap for us to begin calculating and complying with U.S. LCR on a daily basis is much wider than for banks that have already gone through multiple rounds of Quantitative Impact Study ("QIS") and fourth generation daily liquidity reporting ("4G reporting"). We believe that monthly reporting of LCR is appropriate and sufficient for regional banks as the funding and risk profiles are less complex. However, should daily reporting be required, we ask that regional banks subject to the new U.S. LCR be granted a transition period of at least 2 years to match the transition period that G-SIBs have effectively had during the 4G reporting and Basel LCR QIS process in order to fully comply.

Section I of the letter addresses our concerns regarding the logistical and operational issues of preparing for compliance as well as the need for daily calculations and reporting, particularly given our risk profile. Section II addresses the restrictive eligibility criteria for HQLAs and the classification of GSEs as Level 2 HQLAs. Section III discusses our concerns related to particular outflow assumptions. Finally, Section IV discusses other considerations, including practical modifications to the Modified LCR calculation to address the monthly payments cycle at regional banks, and the treatment of FHLB borrowing capacity.

I. EFFECTIVE DATE – COMPLEXITY & CHALLENGES FOR COMPLIANCE WITH DAILY REQUIREMENT

The proposed effective date, so close to the release of the final regulation, poses significant challenges for compliance with daily calculation and reporting requirements for several reasons

- First, we have major concerns about the required operational and logistical preparation given the lack of clarity until a final rule is published and the short time remaining until the January 2015 effective date. Many aspects of the rule as currently drafted remain unclear. For example, the definition of operational deposits requires working through many issues including data management and alignment of internal practices to standardize the classification across the bank's various business lines. Given the uncertainty, it is premature to significantly invest in upgrading internal systems and technology, both of which will need to be in place before we are able to produce a daily LCR that is materially accurate and backed by a robust process.

- Second, the significant effort and cost to address the operational complexities associated with daily reporting do not appear warranted given the low risk profile and simpler business models of regional banks. Through various regulation and reporting requirements, the Federal Reserve already recognizes the difference between regional banks and the G-SIBS and we therefore request that reporting requirements be harmonized with monthly liquidity reporting requirements such as those found in the FR 2052b framework applicable to regional banks. We believe that since regional banking organizations like Union Bank are less complex than larger G-SIBs and their funding profiles are simpler and less volatile (data that supports this conclusion can be found in the "Regional Bank Letter"), reporting LCR on a monthly basis should appropriately reflect the risk and address the needs and concerns of the Agencies. Additionally, we have not had the benefit of several years to prepare for daily reporting on liquidity related matters and to date have focused on compliance based solely on the Basel LCR requirements.

We strongly support the recommendation that monthly LCR reporting apply to regional banks as outlined in the Regional Bank Comment Letter dated January 31, 2014 which states the following:

> *...we recommend that the Agencies harmonize the required frequency of calculating the ratio with the reporting frequency the Federal Reserve already has proposed for its liquidity monitoring report. Using those criteria, the requirement to calculate the ratio on a daily basis would apply to G-SIBs, whereas our organizations and other regional banking organizations would be subject to a monthly calculation.*[2] *Applying the daily calculation requirement in this manner would appropriately reflect the differences between regional banking organizations and larger and more complex banking organizations in the context of the LCR. Monthly calculation frequency for regional banking organizations also would be consistent with the Federal Reserve's proposed rules to implement the enhanced liquidity standards required under section*

[2] The Agencies could leverage the supervisory process in situations where heightened monitoring of liquidity might be warranted for non-G-SIBs. The simpler liquidity risk profile of our organizations would make such monitoring effective. Adopting the monthly calculation approach we recommend also would necessitate conforming changes to the proposed notification procedures banking organizations would be required to adhere to if their ratio falls below the level required. As proposed, the remediation requirements are tied to the requirement to calculate the ratio on a daily basis. We believe that, for organizations that calculate and report the ratio monthly, the shortfall notification procedures should apply if the organization's monthly report indicates the organization fell below the required level. Similarly, the requirement for a mandatory corrective action plan should apply if the organization remains below the required level for 2 consecutive months, unless the Agencies determine that a corrective action plan is needed sooner.

165(b)(1)(A)(ii) of the Dodd-Frank Act, which would require covered companies to conduct internal liquidity stress tests at least monthly.[3]

- Finally, we remain concerned about unintended consequences which may arise due to the short transition period and lack of clarity in the NPR. One example is the treatment of secured public service deposits and the potential impact on that market, which we raise within this letter. Other issues which currently cannot be foreseen may crystallize down the line, especially considering the potential interplay of other regulatory reform that is being undertaken.

In summary, we urge the Agencies to reconsider the effective date and, for regional banks, the application of a monthly rather than daily requirement, taking into account the date at which the final rule will be published and the liquidity risk profile of the regional banks. The amount of time required for banks to upgrade their infrastructure and systems to calculate the LCR accurately on a regular (daily) basis, the data requirements to meet the new definitions, and the effort required to align business strategy with the new rule are significant. Budgeting adequate time and building in an appropriate transition period would help to minimize the likelihood of unintended consequences. Should the agencies decide to keep the effective date and daily reporting as currently proposed, we request that the frequency of reporting start on a monthly basis and build up to daily over at least a 2 year period.

II. HIGH QUALITY & ADJUSTED HIGH QUALITY ASSETS

Expanded definition of Level 1 HQLAs – inclusion of GSEs

We believe it critical for the Agencies to reconsider the proposed treatment of securities issued by U.S. GSEs as it is overly punitive and disregards the demonstrated liquidity characteristics of such securities in times of stress[4]. While U.S. GSEs do not have the "explicit guarantee of the full faith and credit of the U.S.," the market liquidity and acceptance of the securities has proven to be similar to U.S. Treasuries in times of stress. Therefore classifying them as Level 2 HQLAs and subjecting them to both a 15% haircut and a 40% cap is overly punitive. In fact, their liquidity value arguably equals – if not exceeds – certain sovereign and multilateral organization securities that are eligible for Level 1 status. Data that support this argument are provided in the "Association Letter". U.S. GSE debt and MBS were among the most reliable sources of secured funding during the financial crisis. During the fourth quarter of 2008 when most parties were not accepting corporate bonds as collateral at any level, haircuts in repurchase agreements generally did not exceed 3% on GSE MBS or 2% on GSE debt.

We would propose that the Agencies first and foremost refer to the liquidity characteristics of the securities in question in order to determine their eligibility. An explicit guarantee certainly adds to the perception of safety but, given that sovereign bonds are not immune to stress and downgrade, we believe that an explicit government guarantee should not be the determining factor for excluding U.S. GSE issued securities from being eligible for Level 1 status.

---

[3] *Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies; Proposed Rule*, 77 Fed. Reg. 594 (Jan. 5, 2012) (hereinafter *Enhanced Prudential Standards Proposal*).

[4] This discussion is in response to NPR question 10.

We are also concerned about the unintended consequences that may result by effectively putting a regulatory cap on the liquidity value of U.S. GSE securities. Covered companies may be incentivized to further lever their balance sheets and potentially pursue higher risk lending in order to offset the impact of significant levels of lower yielding assets. In addition, weakening the markets for U.S. GSE MBS which are currently deep and highly developed may bring about inefficiencies that will be negatively felt by the residential mortgage market and the economy at large.

We urge that the Agencies consider exempting securities issued by U.S. GSEs from the cap on Level 2 assets, and if necessary retain the 15% haircut for conservatism as well as to incentivize covered companies to hold a diversified mix of HQLA securities. At a minimum, securities issued by Fannie Mae and Freddie Mac should be eligible for Level 1 as long as the Agencies continue to operate under the conservatorship of the Federal Housing Finance Agency and the U.S. Treasury Department is obligated to maintain the net worth of each entity. Alternatively, the Agencies could consider providing some recognition of the liquidity value of GSEs held in excess of the 40% cap. GSEs obligations exceeding of the cap could receive credit and be eligible Level 2A HQLAs subject to incremental haircuts. (Please see example outlined in the Regional Bank Letter.)

Adjustment to HQLA buffer calculation

The NPR states that "[t]he calculation of adjusted HQLA would prevent a covered company from being able to "manipulate" its HQLA portfolio by engaging in transactions such as certain repurchase or reverse repurchase transactions because the HQLA amounts, including the caps and haircuts, would be calculated both before and after unwinding those transactions."[5]

It is not clear from the above reasoning why the proposed approach is materially preferable to calculating HQLA on the basis of an assumed unwind only. Calculating the caps on Level 2 liquid assets both before and after giving effect to an assumed unwind may add another layer of operational complexity.

Collateralized deposits from municipals and public sector entities ("PSEs") – products unique to the U.S. market – are unfairly subject to this adjusted HQLA approach. We outline our concerns in the next section (Change in Treatment of Secured Public Service Deposits).

III. NET CASH OUTFLOWS

Change in treatment of secured public service deposits

We emphatically believe that secured public service deposits should be treated differently from securities financing transactions such as repos.[6]

The adjusted HQLA calculation (referenced in the preceding section), which aims to prevent "manipulation" of the HQLA portfolio, does not distinguish between secured deposits and all other secured funding transactions. Therefore, the Proposed Rule seems to inadvertently capture secured deposits which should not raise the same concerns as repos might. While this concern with respect

[5] 78 *Federal Register* 230, pp. 71831

[6] This discussion is in response to NPR question 54.

to secured funding transactions may be valid, the associated requirement is inappropriately wide in its scope. In addition to secured funding transactions such as repos, the current wording of the NPR requires all secured deposits to be calculated both before and after unwind, including those from U.S. municipalities and public sector entities, trusts and private wealth clients. We propose narrowing the scope to securities financing transactions only.

Secured public service deposits are unique to the U.S. market and should be acknowledged accordingly. Often municipalities and other PSEs are limited in their placement options to highly rated banks and the deposits are accepted – and legally required collateral exchanged – for primarily operational and franchise purposes. It is a fundamentally different transaction than the intentional and active use of repo and the resulting short-term securities financing transactions.

We concur and support the recommendation as outlined in the Association Letter

> ***The treatment of secured deposits of U.S. municipalities and PSEs as secured funding transactions may impair the ability of Covered Banks to provide this critical service.* (Please see Association Letter.)**

In particular, we would like to bring to your attention the following

1. Secured deposits are significantly different in nature than other types of secured funding transactions where banks, at their discretion, seek to finance inventory. The financing of inventory might provide for the opportunity to "manipulate".
2. Discouraging banks from providing secured deposit services to public sector entities appears to contradict public policy goals and the unintended consequences could be significant.
3. The requirement for collateralization for these deposits clearly constitutes a Country-Specific Circumstance.

As currently drafted, the Proposed Rule could result in an "unjustified decrease in a Covered Bank's adjusted HQLA amount"[7] and in extreme cases could result in a negative HQLA for purposes of calculating the LCR. (Please see Association Letter Annex B.)

For the reasons outlined above, we request that the Agencies, at a minimum, exclude secured public service deposits from the unwind requirement of Section 21(f).

Should the Agencies nevertheless determine that secured public service deposits be subject to some unwind mechanism we support the following as outlined in the Association Letter

> *...we urge that the Final U.S. LCR permit the use of the applicable LCR outflow assumption under Section 32 of the Proposed Rules, subject to the proposed maximum of 15% and irrespective of the type of collateral being utilized as described in Part II.A.5.b below, when performing the unwind calculation. For example, when calculating the unwind amount, a Covered Bank should be permitted to assume that only up to 15% of the secured deposit is*

[7] The Association Letter page 24

withdrawn. We believe this treatment would be justified as a Country-Specific Circumstance because secured municipal deposits in the U.S. context are a fundamentally different type of secured funding due to the particular requirements of U.S. state law and an unwind of such deposits for purposes of the HQLA calculation would presumably only occur if and to the extent the deposit is withdrawn and a resulting outflow of cash and increase in HQLA, if any, occur. While imperfect, utilizing these outflow assumptions for purposes of the unwind calculation would serve to somewhat ameliorate the impact of this issue. Thus, applying the equivalent run-off factor to the HQLA secured funding transaction unwind calculation would provide for symmetry between the two calculations where each is logically predicated on an unwind or outflow, as applicable, occurring.

As noted in the Association letter, there is empirical evidence that suggests that secured public service deposits should be assigned a run-off rate of **no more than 15%**. (Please see Association Letter)

Another alternative approach for consideration would be to net the market value of the collateral pledged against the deposit placed, with any excess collateral included in the stock of HQLA subject to appropriate haircuts. This approach is in line with Basel LCR and the QIS approach, which recognizes that "[domestic sovereign, multilateral development banks and domestic PSEs] are unlikely to withdraw secured funding from banks in a time of market-wide stress."[8]

<u>Adjustments to the definition of operational deposits and services</u>

We agree conceptually with the idea that operational deposits are likely to experience very limited outflow and that in turn, non-operational deposits are likely to run-off by a higher proportion in a time of stress. However, we believe that the proposed definitional requirements for deposits to be treated as "operational" would be extremely challenging to apply and are inconsistent with how operational deposits function. The definition and measurement of operational deposits and balances has been the subject of much debate since 2009 and the final Basel regulation released in January of 2013 provides a much more manageable framework for determination.

The guidance around operational deposits in § 4(b) of the NPR is overly stringent and prescriptive. We would like to bring attention to the certain points in particular

- We question the language in § 4(b)(1) preventing a covered company from recognizing a deposit as operational "...if a majority of the deposit balance is withdrawn from the operational balance prior to the end of a 30-day notice." In practice, it would be challenging to accurately ascertain whether the funds were being withdrawn for operational or non-operational purposes. Also, this point seems to conflate 'termination costs' as levied by a covered company providing operational services with 'switching costs' inherent to moving such a relationship with significant legal and technological ties. We would like to refer to the language in BCBS 238

  "The termination of such agreements shall be subject either to a notice period of at least 30 days or significant switching costs (such as those related

[8] BCBS *Basel III The Liquidity Coverage Ratio and liquidity risk monitoring tools*, January 2013, Paragraph 114

to transaction, information technology, early termination or legal costs) to be borne by the customer if the operational deposits are moved before 30 days."[9]

Switching costs are not insignificant and the process of moving an operational relationship takes time, often much longer than 30 days. Aligning § 4(b)(1) to the language in BCBS 238 would ensure that the requirement can be fulfilled from a practical perspective, and still manage to uphold what we interpret to be the original intent of the prerequisite.

- The purpose of § 4(b)(2) which prohibits "significant volatility" in the average balance is unclear as operational balances are volatile by nature. Increased levels of volatility would simply imply use of the account and the 'average balance' could look very different depending on the timeframe used. For example, a build-up of funding versus levels from the previous month may appear to be a sign of "significant volatility" – and may even be mistaken for excess operational deposits – but an immediate outflow of that entire balance on the first day of the following month for purposes of a planned regularly occurring disbursement would confirm the deposit's use as operational in nature. We suggest that § 4(b)(2) be removed as a criterion altogether, as § 4(b)(6) requiring the identification of excess balances renders it redundant.

The onus is on covered companies to appropriately classify operational deposits per the NPR and to then develop a methodology for identifying excess funds in operational accounts. We find aspects of the criteria put forth for recognizing an operational account problematic, as outlined above. Moreover, we believe that it makes more sense for covered companies to develop individualized methodologies for identifying operating accounts and excess balances. Overall we would suggest that the Agencies align more closely to Basel LCR's wording around operational deposits as this approach would both reduce ambiguity and increase harmonization.

As is outlined in The Association Letter, we support recommendations with respect to changes in Section 4(b)'s requirements for operational deposits as well as clarification of the definition of operational deposits and operational services. (Please see Association Letter.)

The U.S. Proposal's treatment of operational deposits narrows the Basel LCR's approach in important respects and, as a consequence, fails to fully and adequately recognize the scope of operational deposits generated by clearing, custody, cash management and trustee activities.

Per the recommendation in the Association Letter, we urge the Agencies to revise 4(b)(1) – written agreement - as follows

"(b)(1). The operational services to which the deposit relates are provided pursuant to a legally binding written agreement, and either (i) termination of such agreement must be subject to a notice period of at least 30 days or (ii) significant switching costs (such as those related to transaction, information technology, early termination or legal costs) must be borne by the customer if the [BANK's] provision of operational services is terminated before 30 days."

[9] BCBS *Basel III The Liquidity Coverage Ratio and liquidity risk monitoring tools*, January 2013, Paragraph 94

We concur with the Association's recommendation to delete paragraph (b) (4) – primary purpose - and rely on (b) (6) or otherwise

...If the Agencies believe that the excess amount standard in paragraph (b)(6) is not sufficient, then we urge the Agencies to replace paragraph (b)(4) with language that uses the same terms that the Basel Committee used in paragraphs 93 and 94 of the Basel LCR, for example "(4) The customer is reliant on and has a substantive dependence on the [BANK] to perform the operational services and the deposit is necessary for the services."

With respect to excess amounts and Paragraph (b) (6) we support the following

...This paragraph, like paragraphs 96 and 97 of the Basel LCR (albeit with somewhat different language), disqualifies from operational deposit status "any excess amount" that the bank cannot demonstrate, using a "methodology" developed by the bank, is "empirically linked" to the operational services. The industry endorses this standard based on the reasonable presumption that this approach is not intended to require, as a supervisory matter, that this demonstration be made on a deposit-by-deposit or account-by-account basis. It is industry practice for banks that are significant providers of operational services to assess the composition and stability of their operational deposits on an aggregated basis, generally by customer type or service category. This reflects the normal day-to-day flow of operational activities within client accounts, which results in variability that can accurately be measured only on an aggregated basis. It would be useful, in this respect, if the Agencies were to confirm either in the Preamble or in other commentary accompanying the Final U.S. LCR that the empirical assessment of excess operational deposits is not intended to be applied on a deposit-by-deposit or account-by-account basis.

Per the Association Letter, clarification on the definition of operational deposits and operational services is critical (please see Association Letter)

<u>First</u>, with respect to the definition of "operational deposit," we recommend that the Agencies clarify the several capacities in which a bank may act as a service provider. This would involve the addition of the terms "agent or administrator" after the phrase "third-party intermediary" in the definition. We also suggest that the agencies replace the word "required" with the word "necessary" at the beginning of the definition of operational deposit in order to make clear that the deposits are functionally necessary as opposed to contractually required. Accordingly, the revised definition of "operational deposit" under the Final U.S. LCR should be

> *"'**Operational deposit**' means unsecured wholesale funding that is necessary for the [BANK] to provide operational services as an independent third-party intermediary, agent or administrator to the wholesale customer or counterparty providing the unsecured wholesale funding. In order to recognize a deposit as an operational deposit for purposes of this part, a [BANK] must comply with the requirements of § __.4(b) with respect to that deposit."*

<u>Second</u>, with respect to the definition of "operational services," we request that the Agencies clarify the scope of covered services to better reflect the day-to-day activities

performed by banks engaged in custodial activities not otherwise addressed in the Proposed Rules. This involves

- *including at the end of paragraph (6) the phrase "and foreign currency transactions";*
- *including in the lead in to the definition an explicit reference to "'trustee' services"; and*
- *adding four new sub-categories of enumerated services, namely "administration of investment assets", "collateral management services" and "corporate trust services".*

Accordingly, the revised definition of "operational services" under the Final U.S. LCR should be

> *"'**Operational services**' means the following services, provided they are performed as part of cash management, clearing, custody, or trustee services (1) Payment remittance; (2) Payroll administration and control over the disbursement of funds; (3) Transmission, reconciliation, and confirmation of payment orders; (4) Daylight overdraft; (5) Determination of intra-day and final settlement positions; (6) Settlement of securities transactions and foreign exchange transactions; (7) Transfer of recurring contractual payments; (8) Client subscriptions and redemptions; (9) Scheduled distribution of client funds; (10) Escrow, funds transfer, stock transfer, and agency services, including payment and settlement services, payment of fees, taxes, and other expenses; (11) Collection and aggregation of funds; (12) Administration of investment assets; (13) Collateral management services"; and (14) Corporate trust services.*

Modifications to treatment of multi-purpose facilities[10]

The NPR states that "[f]acilities that have aspects of both credit and liquidity facilities would be classified as liquidity facilities for the purposes of the Proposed Rule."[11] This is in contrast to the guidance under Basel LCR which requires covered companies to refer to the **fundamental** purpose of the facility in determining outflow factor. We believe that the NPR's approach is overly conservative and generally would result in higher outflow rates under U.S. rules than under the Basel LCR.

Both the wording within BCBS 238[12] and the NPR require banks to be able to clearly delineate between purely liquidity and purely credit facilities. Market convention, as well as covered companies' systems and reporting infrastructure, thus far have not been in line with this approach, although a shift towards bifurcation may be expected in response to regulation. Basel LCR sidesteps this disconnect by having covered companies consider the fundamental purpose of the facility whereas the NPR penalizes facilities that behave as working capital facilities but under existing terms and conditions, are technically multi-purpose facilities.

A significant portion of multi-purpose facilities currently extended by Union Bank fit the description of 'credit facilities' as described within the NPR. They are drawn on in a fairly predictable manner,

---

[10] This discussion is in response to NPR question 42.

[11] 78 *Federal Register* 230, pp.71838

[12] BCBS *Basel III The Liquidity Coverage Ratio and liquidity risk monitoring tools*, January 2013

maintain low utilization rates, and are not backing outstanding debt. A nuance for the Agencies' consideration is that these types of facilities extended to corporates are often extended as part of a syndicate. This makes it less likely that all banks within the syndicate would experience 100% outflow at the same time.

At a minimum, one acceptable approach would be to grandfather in any existing multi-purpose facilities prior to the implementation date. A delayed effective date, as discussed on page 3 of this response, would further aid in covered companies preparing for this market shift in how multi-purpose facilities may be treated under U.S. LCR going forward. An unintended consequence might be the negative impact that will be felt by corporates as they experience decreased flexibility.

Clarification of the treatment of FHLB Letters of Credit and the deposits they secure

The NPR does not explicitly address outflow rates for secured public deposits backed by FHLB issued LCs. We therefore ask that the Agencies consider the behavior of these deposits in times of stress. We do not believe that secured deposit outflows will differ dramatically based upon the type of support; however as written the NPR assumes a 15% run-off for GSE backed deposits and up to 40% for those supported by LCs. We recommend that in cases where deposits are secured by LCs issued by a FHLB, the LCs be ignored and the deposit treated as an unsecured wholesale deposit. The deposit would then be assigned a run-off percentage based on its nature as either operational or non-operational. We request that this guidance be confirmed and made explicit in the final rules.

The remaining question is around how the LC itself should be treated. We request that the Agencies confirm how the LC should be treated/classified prior to a drawing and if it ought to be treated as secured borrowing from the FHLB if a drawing were to occur.

IV. OTHER ISSUES FOR CONSIDERATION

✓ **Support for Modified LCR; suggestions for its refinement**

We welcome the proposal of a Modified LCR as it is a measure that acknowledges certain banks, such as Union Bank, as a U.S. regional bank with substantially less complex funding and risk profiles. Operating under the Modified LCR requirement will allow us to remain competitive without compromising our commitment to liquidity risk management or drastically limiting the amount of maturity transformation we undertake on behalf of our customers.

We agree with the NPR's rationale for proposing the Modified LCR. However we have some concerns with the details for calculating a meaningful Modified LCR as the NPR is currently written. The incorporation of a shorter 21-calendar day stress scenario is operationally challenging as banks typically manage and operate on a month-end or 30 day cycle. The fact that the Modified LCR is the only metric calculated and managed on a 21-calendar day basis will make it difficult to fully embed the calculation into internal processes including liquidity stress testing and balance sheet forecasts. As an alternative, we propose that the Modified LCR be based on a 30 day timeframe and the minimum regulatory threshold be set at a 70% outflow

rate when compared to Full (30 day) LCR. We believe this approach accomplishes the objective set forth in the Proposed Rule with the added benefit of practicality and simplicity.

Furthermore, we support widening the applicability of the Modified LCR for all regional banks. We believe that the risk and funding profile of regional banks with balance sheets greater than $250bn in total consolidated assets is more consistent with other regional banks subject to Modified LCR than with internationally active G-SIBs for which the LCR was originally intended.

✓ **Treatment of FHLB borrowing capacity**

The NPR is silent on the treatment of FHLB borrowing capacity, despite being a proven source of stable funding in times of market-wide liquidity stress[13]. We agree with the NPR's stance that central bank support should not be assumed for stress modeling purposes and that such support should only be considered and accessed as a last resort. The FHLB system, on the other hand, is not a lender of last resort and we believe FHLB borrowing capacity should therefore be recognized as an inflow or alternatively, be eligible for inclusion within the stock of HQLA.

The FHLB system is a significant stable source of funding that meets the regular funding needs of U.S. commercial and regional banks such as Union Bank. Each FHLB is a cooperative bank, privately owned entirely by the member banks which use them. The funding they provide is, and is intended to be, used to support the normal, ongoing lending operations of their member banks across the U.S.

Funding provided by the FHLB system proved to be reliably accessible for U.S. banks of all sizes during the liquidity crisis period of 2007-2009. When the private mortgage-backed securitization market collapsed in the third quarter of 2007, the FHLB system was the only stable source of balance sheet funding available to many banks. Advances from the FHLBs increased approximately 58% from $640 billion outstanding at June 30, 2007 to $1,012 billion outstanding at December 31, 2008.

During the crisis period of 2007-2009, the FHLBs responsibly addressed deteriorating collateral values and troubled counterparties by reducing advance rates (the percentage of funding per each dollar of collateral pledged). This lending discipline is a consistent theme for the FHLB system. To date, no FHLB has ever experienced a credit loss on a secured loan to a member bank. Accordingly we believe that the Agencies should consider the proven liquidity value of this off- balance sheet resource and allow, at a minimum, that a portion of unused capacity be included in the cash in-flow calculation

Alternatively, the Agencies could adopt a look-through approach and consider pledgeable loans, with the appropriate stress haircut, eligible as liquid assets.

✓ **Monetization of assets other than by sale**

We request clarification that an asset may be monetized other than by sale.

---

[13] This discussion is in response to NPR question 61.

The U.S. Proposal outlines the operational requirements for HQLA, which include a requirement that all HQLA be under the control of the liquidity management function. Section 20(d)(2) of the Proposed Rules states that satisfaction of the centralized liquidity management requirement may be evidenced by "[d]emonstrating the ability to monetize the assets and making the proceeds available to the liquidity management function without conflicting with a business risk or management strategy of the [BANK]." This text does not limit the means of monetizing an asset to its sale and, therefore, on its face would appear to allow monetization by other means including a repurchase agreement. In contrast, the Preamble provides as an example that liquid assets held as a hedge against a specific transaction may not be counted as HQLA because the *sale* of the liquid asset would disrupt the risk management strategy.[14] However, the sale of the liquid asset is not the only method of monetization, which the Agencies also recognize in the Preamble.[15] A bank can monetize an asset pursuant to a repurchase agreement. We request the Agencies clarify the language so that it is consistent throughout the Preamble that a Covered Bank can meet the operational requirements through channels of monetization other than a sale, including repurchase agreements.[16]

✓ **Clarity regarding requirements for LCR disclosures**

We appreciate that plans for LCR disclosure are forthcoming and look forward to engaging in the consultative process at that time. However, the concerns around LCR disclosure are compounded by divergent aspects of the U.S. LCR from Basel LCR. The NPR as currently written would exacerbate the lack of comparability between U.S. banks and all other banks, and neutralize one of the primary strengths of the LCR – being an internationally comparable standard. As such, we would request that plans for disclosure be released in step with the release of the final rule.

We appreciate your consideration of our comments on the NPR. Please contact Gwinneth Berexa at 415-765-3184 or at Gwinneth.Berexa@unionbank.com with any questions as we would appreciate the opportunity to discuss any part of this letter in greater detail.

Sincerely,

John F. Woods
Union Bank
Vice Chairman
Chief Financial Officer

---

[14] Preamble at 71829.

[15] Preamble at 71829. ("Several of these requirements relate to the monetization of the an asset, by which the agencies mean the receipt of funds from the outright sale of an asset or from the transfer of asset pursuant to a repurchase agreement.")

[16] The Association Letter page 70

Appendix: Union Bank's response to questions raised in the NPR, Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring

A. High-Quality Liquid Assets

1. What operational or other issues arise from requiring the calculation of the liquidity coverage ratio as of a set time selected by a covered company prior to the effective date of the rule? What significant operational costs, such as technological improvements, or other operational difficulties, if any, may arise from the requirement to calculate the liquidity coverage ratio on a daily basis? What alternatives to daily calculation should the agencies consider and why?

    UB: Operational costs not yet fully understood and technological improvements are expected, further compounded by the accelerated deadline proposed. However, it is difficult to properly assess the size of that challenge or quantify expected costs given the ambiguity of certain sections of the NPR (in particular with regard to operational deposits) and uncertainty of what the final rule will require. An LCR template should be released before banks are required to upgrade systems. Assuming capability to calculate LCR daily is the goal down the line, reporting should start on a monthly basis and ramp up gradually over time from issuance of the final rule.

2. The proposed rule would require a covered company to calculate its HQLA on a daily basis. Should the agencies impose any limits with regard to covered companies' ability to transfer HQLA on an intraday basis between entities? Why or why not? In particular, what appropriate limits should the agencies consider with regard to intraday movements of HQLA between domestic and foreign entities, including foreign branches?

    UB: Monitoring covered companies' ability to transfer HQLA should be handled on a supervisory basis (i.e. banks should be required to show evidence of policy and control over intraday and intragroup exposures, commensurate to complexity of operations). Limits or time lags as requests for exceptions are sought could aggravate liquidity stress situations and at a minimum, create inefficiencies.

3. What, if any, other characteristics should be considered by the agencies in analyzing the liquidity of an asset?

    UB: The NPR is relatively comprehensive in its consideration of liquidity characteristics. However we request that steps continue to be taken to coordinate globally to establish consistent parameters for liquidity. We also wish to note that while we understand why central bank eligibility alone is not considered a sufficient measure for assessing liquidity value, there is the reality that liquidity value is not determined entirely endogenously and that regulatory treatment can create distortions in the market.

4. What, if any, modifications should the agencies consider to the definition of "regulated financial company"? What, if any, entities should be added to, or removed from, the definition and why? What operational difficulties may be involved in identifying a "regulated financial company," including companies a depository institution holding company must report on the FR Y-6 organizational chart (or in identifying consolidated subsidiaries)? How should those operational difficulties be addressed? What alternatives for identifying companies reported on the FR Y-6 should be considered, and what difficulties may be associated with using the organizational hierarchy chart produced by the NIC Web site?

   UB: No comment.

5. What, if any, modifications should the agencies consider to the definition of "non-regulated funds"? Should hedge funds or private equity funds whose managers are not required to file Form PF be included in the definition? What operational or other difficulties may covered companies encounter in identifying "non-regulated" funds and their consolidated subsidiaries? What other definitions would generally capture hedge funds and private equity funds in an appropriate and clear manner? Provide detailed suggestions and justifications.

   UB: No comment.

6. What, if any, modifications should the agencies consider to the definitions of "investment company," "pension fund," "investment adviser," or "identified company"? Should investment companies or investment advisers not required to register with the SEC be included in the respective definitions?

   UB: No comment.

7. What risk or operational issues should the agencies consider regarding the definitions and the exclusion of securities issued by the companies described above from HQLA, as well as the higher outflow rates applied to such companies, as described below?

   UB: We agree with the underlying rationale as stated in the NPR for the higher outflow rates applied but the scope of such companies should be narrow and well-defined.

8. What additional factors or characteristics should the agencies consider with respect to identifying those companies whose securities should be excluded from HQLA and should be subject to the accompanying higher outflow rates for such companies?

   UB: No comment.

9. How well does the proposed definition of "liquid and readily-marketable" meet the agencies' goal of identifying HQLA that could be converted into cash in order to meet a covered company's liquidity needs during times of stress? What other characteristics, if any, of a traded security and relevant markets should the agencies consider? What other approaches for capturing this liquidity characteristic should the agencies consider? Provide detailed description of and justifications for any alternative approaches.

   UB: There is no disagreement with regard to the characteristics mentioned in the NPR. We support a qualitative approach as currently implied within the NPR, as a rigid "litmus test" could potentially exclude assets considered fundamentally liquid by the market, e.g. highly rated bonds which are typically held to maturity would not necessarily score well under the parameter of high trading volumes.

   As noted in the Regional Letter, the Proposed Rule states that eligible Level 1 HQLA includes both Treasury obligations and other obligations issued, or unconditionally guaranteed as to timely payment of principal and interest, by other U.S. government agencies (such as the Government National Mortgage Association) backed by the full faith and credit of the U.S. government ("Agency obligations"). However, Agency obligations (unlike Treasury securities) can be included in HQLA only if the banking organization demonstrates that the securities are "liquid and readily-marketable," meaning that they are traded in an active secondary market with (i) more than two committed market makers; (ii) a large number of non-market maker participants on the buying and selling side; (iii) timely and observable market prices; and (iv) a high trading volume.[1] GSE obligations also can be included in the stock of HQLA only if the banking organization can demonstrate that these assets meet the conditions to be deemed "liquid and readily-marketable."

   We believe the requirement for banking organizations to demonstrate that Agency and GSE obligations are "liquid and readily-marketable" is unnecessary because these obligations clearly meet these requirements. For example, Agency obligations—like Treasury securities—are backed by the full faith and credit of the United States, and we believe all obligations backed by the full faith and credit of the United States are, in fact, liquid and readily-marketable. (Please see the Association Letter for details of liquidity.)

10. What, if any, alternative factors should be considered in determining the assets that qualify as level 1 liquid assets? What, if any, additional assets should qualify as level 1 liquid assets based on the characteristics for HQLA that the agencies discussed above? Provide detailed justification based on the liquidity characteristics of any such assets, including historical data and observations.

   UB: U.S. GSE securities should be included in Level 1 as they fulfill many of the criteria currently listed in the NPR for Level 1 assets - refer to our response to NPR question 14 below.

[1] Section __.20(a)(4) of the *Proposal*.

11. Are there any assets that would qualify as level 1 liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets should not be included and why? Provide detailed justification based on the liquidity characteristics of an asset in question, including historical data and observations.

    UB: No.

12. What other assets, if any, should the agencies include in level 2A liquid assets? How should such assets be identified and what are the characteristics of those assets that would justify their inclusion in level 2A liquid assets?

    UB: The narrowness of eligible asset classes runs contrary to the principles of diversification. Municipal bonds and covered bonds should not be banned outright from eligibility but rather, considered with appropriate restrictions and haircuts. The NPR's treatment of covered bonds is particularly punitive compared to how they are regarded under Basel LCR. The European Banking Authority recently rated covered bonds similarly to government bonds against a range of criteria, including pricing impact, trading volume, turnover ratio, zero trading days, and 30-day price. We urge the agencies to not discount these results.

13. Are there any assets that would qualify as level 2A liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets and why? Provide a detailed justification based on the liquidity characteristics of the asset in question, including historical data and observations.

    UB: Securities issued by U.S. states and municipalities (collectively, "municipal bonds") and covered bonds should not be banned outright from eligibility in HQLAs but rather, considered as Level 2A (similar to the treatment under the Basel LCR Framework) with appropriate restrictions and haircuts.

    While municipal bonds may have low average daily trading volumes as purported in the NPR, they exhibit a number of other characteristics in line with HQLA eligibility criteria: a generally low risk profile with very low historical rates of default, diverse market participants, and transparent valuation, amongst others. Recently the European American Bank ("EAB") recommended including certain municipal bonds in HQLA bases upon external credit ratings, minimum issue size (liquidity) and maximum time to maturity. We believe such a Framework is appropriate for consideration.

    At a minimum, the liquidity value of general obligation bonds and revenue bonds should be acknowledged and considered as criteria for inclusion.

14. What alternative treatment, if any, should the agencies consider for obligations of U.S. GSEs and why? Provide justification and supporting data.

    UB: While U.S. GSEs do not have the "explicit guarantee of the full faith and credit of the U.S.," their securities are proven to behave similarly to Level 1 assets so subjecting them to both a 15% haircut and a 40% cap is overly punitive and untethered to how U.S. GSE securities are treated in reality. During the fourth quarter of 2008 when most parties were not accepting corporate bonds as collateral at any level, haircuts in repurchase agreements generally did not exceed 3% on GSE MBS or 2% on GSE debt.

15. What, if any, additional criteria should the agencies consider in determining the type of securities that should qualify as level 2B liquid assets? What alternatives to the S&P 500 should be considered in determining the liquidity of an equity security and why? In addition to an investment grade classification, what additional characteristics denote the liquidity quality of corporate debt that the agencies would be legally permitted to use in light of the Dodd-Frank Act prohibition against agencies' regulations referencing credit ratings? The agencies solicit detailed comment, with supporting data, on the advantages and disadvantages of the proposed investment grade criteria as well as recommended alternatives.

    UB: Highly rated corporate debt securities should be eligible for Level 2A and qualifying RMBS should be eligible for Level 2B in line with Basel LCR. Their proposed treatment is made further problematic by how punitively they are treated when they are used as collateral as part of secured funding transactions. The sharp drop-off in value is likely to incite market distortions.

16. Are there any assets that would qualify as level 2B liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets and why? Provide a detailed justification based on the liquidity characteristics of the asset in question, including historical data and observations.

    UB: No.

17. What other criteria, if any, should the agencies consider for establishing an adequate historical record during times of liquidity stress in order to meet the relevant criteria under the proposed rule? What operational burdens, if any, are associated with this requirement? What other standards, if any, should the agencies consider to achieve the same result?

    UB: No comment.

18. Is the proposed treatment for publicly traded common stock appropriate? Why or why not? Are there circumstances under which a depository institution may permissibly hold publicly traded common stock that the agencies should not prohibit from being included in level 2B liquid assets?

Please provide specific examples. Under what circumstances, if any, should DPC publicly traded common stock be included in a depository institution's level 2B liquid assets and why? What liquidity risks, if any, are introduced or mitigated if DPC publicly traded common stock are permitted in a depository institution's level 2B liquid assets?

UB: There should be no restrictions on currency of a covered company's publicly traded common stock unless it is less liquid e.g. non-G10, as the FX market - even in a time of stress, as was demonstrated in last financial crisis - will enable swaps to take place.

19. Are the proposed operational criteria sufficiently clear to determine whether an asset could be included in the pool of HQLA? Why or why not? If not, what requirements need clarification?

UB: It is not entirely clear whether HQLA needs to be under the control of the liquidity risk management function at all times or whether being under control in times of stress is sufficient.

20. What costs or other burdens would be incurred as a result of the proposed operational requirements? What modifications should the agencies consider to mitigate such costs or burdens, while establishing appropriate operational criteria for HQLA to ensure its liquidity? Please provide detailed explanations and justifications.

UB: No Comment

21. Given that, absent the requirement that a covered company develop and maintain policies and procedures to ensure sufficient HQLA is held domestically, a covered company could theoretically hold its entire HQLA in a foreign branch located in a jurisdiction that could impede its use to support U.S. operations, should the proposed rule be supplemented with quantitative restrictions on the amount of HQLA that can be held in foreign branches and included in the liquidity coverage ratio calculation? If so, how should the rule require a correlation between the geographic location of a covered company's HQLA and the location of the outflows the HQLA is intended to cover?

UB: A supervisory approach should be taken to ensure that banks have in place policies and procedures around intragroup liquidity risk and portability restrictions.

22. The agencies seek comment on all aspects of the criteria for HQLA, including issues of domestic and international competitive equity, and the adequacy of the proposed HQLA criteria in meeting the agencies' goal of requiring a covered company to maintain a buffer of liquid assets sufficient to withstand a 30-day stress period.

UB: Taking into account securities such as U.S. Agency MBS and municipal bonds with appropriate haircuts will allow for banks to maintain diversified liquidity buffers in the face of

potential sovereign stress, particularly for regional banks like UB that are likely to hold USTs in favor of non-US sovereign bonds.

In addition, covered bonds exhibit characteristics that reinforce their liquidity value. The NPR appropriately expresses concern around the potential for wrong-way risk but this can be limited, if not eliminated, by restricting covered bonds held in a bank's stock of HQLA to those that have not been originated by the bank itself or any of its affiliated entities. The European Banking Authority recently rated covered bonds similarly to government bonds against a range of criteria, including pricing impact, trading volume, turnover ratio, zero trading days, and 30-day price. We urge the agencies to not discount these results.

23. What effects may the provision in section 20(f) that a covered company is generally expected to maintain HQLA in the United States sufficient to meet its total net cash outflow amount in the United States have on a company's management of HQLA? Should the agencies be concerned about the transferability of liquidity between national jurisdictions during a time of financial distress and, if so, would such a requirement be sufficient to allay these concerns? Would holding HQLA in a foreign jurisdiction in an amount beyond such jurisdiction's estimated outflow limit the operational capacity of HQLA to meet liquidity needs in the United States; conversely, would the proposed general requirement unnecessarily disrupt overall banking operations? What changes, if any, to section 20(f) should the agencies consider to ensure that a covered company has sufficient HQLA readily available to meet its outflows in the United States? Should the agencies consider quantitative limits to ensure that a covered company has sufficient HQLA readily available in the United States to meet its net outflows in the United States and support its operations during periods of stress? Why or why not?

UB: No comment

24. The agencies seek comment on the proposed rule's description of an unencumbered asset. What, if any, additional criteria should be considered in determining whether an asset is unencumbered for purposes of consideration as HQLA?

UB: We request that 'encumbrance' be defined under §__.3 Definitions.

25. What difficulties or lack of clarity, if any, may arise from the proposed operational requirement that HQLA not be a client pool security be held in a segregated account? What, if any, terms could the agencies consider to clarify what securities are captured in this provision? For example, what characteristics should be included to describe the types of accounts that should cause client pool securities to be excluded from HQLA treatment?

UB: No comment.

26. What, if any, modifications should the agencies consider to the treatment of HQLA held by consolidated U.S. subsidiaries and why?

UB: See Regional and Association Letters

27. The agencies solicit comment on the proposed method for including the HQLA held at non-U.S. consolidated subsidiaries in a covered company's HQLA. Is it appropriate to include in HQLA some amount of HQLA that is held in non-U.S. consolidated subsidiaries? If not, why not? Should the proposed rule be supplemented with quantitative restrictions on the amount of HQLA that can be held in foreign branches and subsidiaries for the liquidity coverage ratio calculation of the consolidated U.S. entity? If so, how should the rule require a correlation between the geographic locations of a covered company's HQLA and the location of the outflows the HQLA is intended to cover? What portion of HQLA held by non-U.S. consolidated subsidiaries is freely available for use in connection with a covered company's U.S. operations during times of stress? In determining the amount of HQLA held at a non-U.S. consolidated subsidiary that a covered company can include in its HQLA, should a covered company be required to take into account any net cash outflows arising in connection with transactions between a non-U.S. entity and another affiliate? What challenges, if any, of the proposed methodology are not addressed? Please suggest specific solutions.

    UB: It is appropriate to include in HQLA some amount of HQLA that is held in non-US consolidated subsidiaries subject to the restrictions stated in the NPR. The proposed rule should not be supplemented with quantitative restrictions as it would be impossible to devise such a restriction that would be appropriate and applicable to all covered companies. Rather, this should be monitored on a supervisory basis so that covered companies can leverage their existing frameworks around intragroup funding, trapped liquidity, and portability restrictions.

B. Total Cash Outflow

28. Does the method the agencies are proposing for determining net cash outflows appropriately capture the potential mismatch between the timing of inflows and outflows under the 30-day stress period? Why or why not? Are there alternative methodologies for determining the net cumulative cash outflows that would more appropriately capture the maturity mismatch risk within 30 days about which the agencies are concerned? Provide specific suggestions and supporting data or other information.

    UB: No comment.

29. What costs or other burdens would be incurred as a result of the proposed method for calculating net cash outflows? What modifications should the agencies consider to mitigate such costs or burdens, while establishing appropriate means to capture potential mismatches between the timing of inflows and outflows within a 30-day stress period?

    UB: No comment.

30. The agencies solicit commenters' views on the proposed treatment for maturing instruments and for determining the date of transactions. Specifically, what are commenters' views on the proposed provisions that would require covered companies to apply the most conservative treatment with the respect to inflow and outflow dates and embedded options?

    UB: Date of transactions should be assumed to be at the earliest possible date for both inflows and outflows - this approach is symmetric and would better reflect actual behavior under stress. (Please see Association Letter.)

31. What notice requirements, if any, should a covered company be able to recognize for counterparties that have options to accelerate the maturity of transactions and instruments included as outflows? Should a distinction be drawn between wholesale and retail customers or counterparties? Provide justification and supporting information.

    UB: Assuming no regulatory restrictions, this requirement should apply only to wholesale counterparties. Even then, covered companies should be allowed to take into account notice periods for outflow instruments in line with their legal terms and conditions. Similarly, notice periods for inflow instruments should adhere to legal guidance. This approach acknowledges the extent to which covered companies under stress will claim any funds to which they have legal right, whereas the behavior described within the NPR is more representative of how a covered company behaves under BAU circumstances for reputational reasons.

32. What, if any, aggregate funding thresholds should the agencies consider for application to individuals, such as the $1.5 million aggregate funding threshold applicable to qualify as a small business under the proposed rule? Provide justification and supporting information.

    UB: None - this point is already addressed by being subject to uninsured outflow rates, among other factors (i.e. all the parameters for establishing a stable retail deposit).

33. The agencies solicit comments on the proposed rule's treatment of deposits that are insured in foreign jurisdictions, views on the stability of foreign-entity insured deposits in a stressed environment, and how to best determine if foreign deposit insurance system is similar to FDIC insurance.

    UB: The FDIC should release a list of foreign schemes deemed to be adequate based on considerations such as sovereign backing, length of time for reimbursement, and adherence to International Association of Deposit Insurers standards since a globally coordinated effort on this point seems unlikely.

34. The agencies solicit commenters' views on the proposed outflow rates associated with stable retail deposits (3 percent outflow) and less-stable retail deposits (10 percent outflow). What, if any, additional factors should be taken into consideration regarding the proposed outflow rates for these deposit types? Do the proposed outflow rates reflect industry experience? Why or why not? Please provide supporting data.

    UB: No comment.

35. Is it appropriate to treat certain small business customers like retail customers? Why or why not? What additional criteria, if any, would serve as more appropriate indicators?

    UB: We agree that it is appropriate to treat small business customers like retail customers for the reasons stated within the NPR.

36. The agencies solicit comment on the outflow rate for the insured portion of those deposits that are in excess of deposit insurance limit. Specifically, should the insured portion of a deposit that exceeds $250,000 (e.g., the portion of deposit balances up to and including $250,000) receive a different outflow rate than the uninsured portion of the deposit? Why or why not? Please provide supporting data.

    UB: We believe that it would be appropriate to apply a lower run-off rate to the portion of the balance of a deposit up to and including $250,000. This treatment would accurately reflect the very stable nature of deposits that benefit from insurance.

37. What, if any modifications to the structured transaction outflows should the agencies consider? In particular, what, if any, modifications to the definition of structured transaction should be considered? Please provide justifications and supporting data.

    UB: No comment.

38. What, if any, additional factors or aspects of derivatives transactions should be considered for the treatment of derivatives contracts under the proposed rule?

    UB: There is not necessarily an issue with the treatment of derivatives contracts as stated but the NPR requirements pose a very significant challenge from a systems perspective (e.g. integration across business lines, granular data with respect to netting agreements in place) so this is another instance where an extended deadline for compliance would be necessary.

39. Is it appropriate to exclude forward sales of mortgage loans from the treatment of derivatives contracts under the proposed rule? Why or why not?

    UB: No comment.

40. What, if any modifications, should the agencies make to the mortgage commitment outflow amount? Provide data and other supporting information.

    UB: No comment.

41. What effect may the treatment for retail mortgage funding under the proposed rule have on the banking system and the mortgage markets, including in combination with the effects of other regulations that apply to the mortgage market? What other treatments, if any, should the agencies consider? Provide data and other supporting information.

    UB: No comment.

42. What, if any, additional factors should be considered in determining the treatment of unfunded commitments under the proposal? What, if any, additional distinctions between different types of unfunded commitments should the agencies consider? If necessary, how might the definitions of credit facility and liquidity facility be further clarified or distinguished? Are the various proposed treatments for unfunded commitments consistent with industry experience? Provide detailed explanations and supporting information.

    UB: Factors such as the nature of utilization and being part of a syndicate should be allowed to be taken into account in determining treatment of unfunded commitments. Assuming all

undrawn portions of multi-purpose facilities behave similarly to liquidity facilities is not consistent with our experience.

43. Is the proposed rule's definition of SPE appropriate, under-inclusive, or over-inclusive? Why?

    UB: The NPR's current definition is over-inclusive and captures SPEs that provide financing for consumer purchases, which are arguably less sensitive to emergency cash and backstop needs. We advise that the agencies allow covered companies to apply an outflow factor on a look-through basis to the originator of the assets, so that outflow rates applied to SPEs are stratified the way unfunded commitments are by counterparty type.

44. What, if any, outflow rate should the agencies apply to outstanding credit card lines? What factors associated with these lines should the agencies consider?

    UB: An outflow rate of 0% would be most appropriate for the reasons stated in the NPR.

45. What are the operational difficulties in identifying the collateral outflows related to changes in financial condition? What, if any, additional factors should be considered?

    UB: No comment.

46. What, if any, additional factors or aspects for collateral outflow amounts should be considered under the proposal? For example, should the outflow include initial margin collateral flows in addition to variation margin collateral flows? Why or why not? Does the 24 month look back approach adequately capture mark to market valuation changes, or are there alternative treatments that would better capture this risk?

    UB: Additional consideration should be shown for excess collateral that, if not maintained, would have negative impact on funding received by the counterparty, e.g. mortgage REITs. Where there is a reasonable likelihood of that scenario, the excess collateral is unlikely to runoff at a rate of 100% as prescribed.

47. The agencies seek commenters' views on the proposed outflow rates for brokered deposits. Specifically, what are commenters' views on the range of outflow rates to brokered deposits? Where commenters disagree with the proposed treatment, please provide alternative proposals supported by sound analysis as well as the associated advantages and disadvantages for such alternative proposals.

    UB: Brokered FDIC insured deposits with a maturity greater than 30 days should be excluded from outflow consideration. With no customer relationship to preserve and limited reputation

risk at stake, there is no reason to assume that the market expects covered companies to waive terms and conditions, especially in a time of stress.

48. Is it appropriate to assign a particular outflow rate to brokered sweep deposits entirely covered by deposit insurance that originate with a consolidated subsidiary of a covered company, and different outflow rates to other brokered deposits entirely covered by deposit insurance? Why or why not? What different outflow rates, if any should the agencies consider for application to all brokered sweep deposits entirely covered by deposit insurance? Provide justification and supporting information.

    UB: We agree with the outflow rates in the NPR assigned by deposit insurance coverage and the affiliation of the broker sweeping the deposits.

49. The agencies solicit commenters' views on the criteria for, and treatment of, operational deposits. What, if any, of the identified operational services should not be included or what other services not identified should be included? What, if any, additional conditions should be considered with regard to the definition of operational deposits? Is the proposed outflow rate consistent with industry experience, particularly during the recent financial crisis? Why or why not?

    UB: We agree conceptually with the idea that operational deposits are likely to experience very limited outflow and that in turn, non-operational deposits are more likely to run-off by a higher proportion in a time of stress. However the scope of "operational services" as described in the NPR is very narrow – for example, it excludes core custody functions. Additionally, we find aspects of the criteria put forth for recognizing an operational account problematic, specifically § 4(b)(1-4), for the reasons stated in the body of the response letter.

50. What are commenters' views on the proposed treatment of excess operational deposits? What operational burdens or other issues may be associated with identifying excess amounts in operational deposits? What other factors, if any, should be considered in determining whether to classify an unsecured wholesale deposit as an operational deposit?

    UB: We agree with the approach of covered companies developing individualized methodologies for identifying excess balances. Although there is the risk of inconsistency and an uneven playing field, it would not be feasible to develop a formulaic approach to identifying excess balances that would be applicable and appropriate for a range of client types, industries, account structures, and so forth. We wish to note that it would be almost operationally impossible to isolate excess balances with any degree of certainty at an account level - either a portfolio approach or average over time would need to be referenced.

The desire to exclude surge inflows from receiving preferential treatment is understandable and valid but it should be acknowledged that over time, there is the potential that some or all of such funds can be converted into operational, or at least more stable, deposits.

51. Have the agencies appropriately identified prime brokerage services for the purposes of the exclusion of prime brokerage deposits from operational deposits? Should additional categories of customer be included, such as insurance companies or pension funds? What additional characteristics could identify prime brokerage deposits? Should the proposed rule include a definition of prime brokerage services or prime brokerage deposits and if so, how should those terms be defined? Is the higher outflow rate for prime brokerage deposits appropriate? Why or why not? What other treatments, if any, should the agencies consider?

    UB: No comment.

52. What, if any, other factors should the agencies consider in identifying structured securities and the treatment for such securities under the proposal?

    UB: No comment.

53. What additional criteria could be considered in determining whether certain unsecured wholesale funding activities should receive a 3 or 5 percent outflow rate associated with primary market maker activity?

    UB: No comment.

54. The agencies solicit commenters' views on the proposed treatment of secured funding activities. Do commenters agree with the proposed outflow rates as they relate to the collateral? Why or why not? Should municipal and other public sector entity deposits be treated as secured funding transactions? What, if any, additional secured-funding risk factors should be reflected in the rule?

    UB: Municipal and other PSE deposits should not be treated similarly to repos under the overly broad category of 'secured funding' since there are some significant differences. Repos are often used as a liquidity management tool whereas public deposits are relationship based deposits garnered on the strength of a covered company's perceived safety - and the collateral posted is required by law. This arrangement is unique to the U.S. market and should be reflected as such in the rules. As currently written, the NPR seems to inadvertently capture secured public deposits which would not seem to raise the same concerns or opportunity for manipulation as repos.

55. What, if any, alternative treatments should the agencies consider for borrowings from a Federal Reserve Bank? Provide justification and support.

UB: No comment.

56. The agencies solicit commenters' views on the proposed treatment of asset exchanges. Do commenters agree with the proposed outflow rates as they relate to the collateral? Why or why not? What, if any, additional asset exchange risk factors should be reflected in the rule?

    UB: No comment.

57. What, if any, alternative treatments should the agencies consider for foreign central bank borrowings? Should borrowings from foreign central banks be treated as borrowings from the Federal Reserve Bank? What effects on the behavior of covered companies may the difference in the treatment between Federal Reserve Bank borrowings and foreign central bank create? What unintended results may occur?

    UB: No comment.

58. The Basel III LCR standard suggests that national authorities provide outflow rates for stable value funds. Should the agencies do so? Why or why not? If so, please provide suggestions as to specific outflow rates for stable value funds. Please provide justification and supporting information.

    UB: The agencies should consider materiality level through a period of observation before assigning outflow rates for stable value funds.

59. The agencies solicit commenters' views on the proposed criteria for each of the categories discussed above, their proposed outflow rates, and the associated underlying assumptions for the proposed treatment. Are there specific outflow rates for other types of transactions that have not been included, but should be? If so, please specify the types of transactions and the applicable outflow rates that should be applied and the reasons for doing so. Alternatively, are there outflow rates that have been provided that should not be?

    UB: As mentioned in the letter we seek clarification on the treatment of LCs issued by the FHLB

C. Total Cash Inflow

60. What, if any, additional items the agencies should explicitly exclude from inflows? What, if any excluded items should the agencies consider including in inflows? Please provide justification and supporting information.

UB: We would like to point out the asymmetry of assuming 25% outflow as the depository institution of operational funds but 0% inflow when on the receiving end. We understand and agree with the NPR's rationale that these funds are earmarked for operational purposes and would therefore not be readily available as liquidity during a crisis, but we think that it is for this reason stable value funds should be assigned an outflow factor of 0%.

61. Should the agencies treat credit and liquidity facility inflows differently than proposed? For example, should credit and liquidity facilities extended by certain counterparties be counted as inflows while others are prohibited? If so, which entities and why?

    UB: Credit and liquidity facilities extended by the FHLB should be counted as inflows, given their historical reliability as a source of liquidity for member banks when compared to facilities from any other financial institution.

62. Is the proposed retail cash inflow rate reflective of industry experience? Why or why not? What, if any, additional funding activities could be included in this category? What, if any, inflow sources should be excluded from this category?

    UB: No comment.

63. What are commenters' views regarding the differing rates for unsecured wholesale inflows? What, if any, modifications should the agencies consider making to the proposed inflow rates? Provide justification and supporting data.

    UB: In line with CRD IV/CRR, inflow expected from trade finance instruments should receive a 100% inflow factor, as such instruments are self-liquidating and generally less sensitive to market stresses.

64. What, if any, modifications should the agencies consider for the proposed rate for securities inflows? Please provide justification and supporting data.

    UB: No comment.

65. The agencies solicit commenters' views on the treatment of secured lending transaction and asset exchange inflows. What, if any, modifications should the agencies consider? Specifically, what are commenters' perspectives on when an inflow should be reflected in the ratio's denominator as opposed to the HQLA amount? Provide justification and supporting data.

    UB: No comment.

D. Liquidity Coverage Ratio Shortfall

66. Is the current banking supervisory regime sufficient to address situations in which a covered company needs to utilize its stock of HQLA? Why or why not?

    UB: Yes, the supervisory regime allows for regular and close monitoring and the LCR will provide one more metric that helps measure a covered company's liquidity position and alert the regulatory body to any potential liquidity deterioration.

67. Are there additional supervisory tools that the agencies could rely on to address situations in which a covered company needs to utilize its stock of HQLA? If so, provide detailed examples and explanations.

    UB: Agencies should monitor LCR in conjunction with other information (internal liquidity metrics, cash-flow ladders, available countermeasures, internal stress testing, etc.) as found in banks' management reports to ensure a well-rounded view of a bank's liquidity position and stock of HQLA.

68. Should a de minimis exception to a liquidity coverage ratio shortfall be implemented, such that a covered company would not need to report such a shortfall, provided its liquidity coverage ratio returns to the required minimum within a short grace period? If so, what de minimis amount would be appropriate and why? What duration of grace period would be appropriate and why?

    UB: Yes, a de minimis exception should be implemented to avoid unnecessary alarm. However, it may be appropriate to establish a de minimis amount specific to the bank, taking into account their size (since a 1% movement in LCR could vary significantly in nominal amounts), business and funding profile, and LCR vulnerabilities. In general, a grace period of 2 days would seem appropriate as it would be enough time for a bank to take action but within the NPR's proposed three-day window.

69. Should a covered company be required to submit a separate remediation plan to address its liquidity coverage ratio shortfall or should a modification to existing plans, such as contingency funding plans that include provisions to address the liquidity shortfalls, be sufficient? Please provide justifications supporting such a view.

    UB: Banks should be required to submit a remediation plan containing details stated in the NPR depending on the severity of non-compliance. Agencies should be aware that such a remediation plan will, in most cases, be a modified version of existing contingency funding plans, as CFPs generally list a variety of management actions to take in a stress scenario.

70. Should the supervisory response differ depending on the cause of the stress event? Why or why not?

    UB: Yes, flexibility should be built in as each stress event will be different and have varying nuances, so a stock supervisory response would be inappropriate and might result in unintended consequences.

71. Should restrictions be imposed on the circumstances under which a covered company's liquidity coverage ratio may fall below 100 percent? If so, provide detailed examples and explanations.

    UB: No, any restrictions to using the liquidity buffer as needed will exacerbate stress conditions and will incentivize banks to operate with artificially high liquidity buffers, which would have negative impact on the wider economy. The supervisory approach suggested within the NPR would be sufficient in ensuring supervisory oversight as well as banks' operational efficiency.

E. Transition and Timing

72. What concerns, if any, do commenters have in meeting the proposed transitional arrangements?

    UB: The proposed timeline is concerning as compliance for a daily calculation is required by January 2015 with limited time to prepare once the final rule is released. In addition, preempting Basel's timeline (required full compliance 2 years earlier – 2017) puts U.S. banks at a disadvantage.

73. Are the proposed transition periods appropriate for all covered companies? Are there any situations that may prevent a covered company from achieving compliance within the proposed transition periods? Are there alternatives to the proposed transition periods that would better achieve the agencies' goal of establishing a quantitative liquidity requirement in a timely fashion while not disrupting lending and the real economy?

    UB: We urge the agencies to reconsider the effective date, taking into account the date at which the final rule will be published, the amount of time required for banks to upgrade their infrastructure and systems to calculate LCR accurately on a regular (daily) basis, and the amount of time required to align business strategy with the new regulatory environment, given the significant changes that the U.S. LCR proposes versus Basel (which has been the market's working assumption for the past few years). Budgeting adequate time would also minimize the likelihood of unintended consequences. We are supportive of implementing liquidity risk standards but not at the expense of regulatory risk or disruption of lending to our customers.

F. Modified Liquidity Coverage Ratio Applicable to Covered Depository Institution Holding Companies

74. What, if any, modifications to the modified liquidity coverage ratio should the Board consider? In particular, what, if any, modifications to incorporation of the 21-calendar day stress period should be considered? Please provide justification and supporting data.

    UB: While we support the concept of a Modified LCR, the 21 day stress period makes calculating and managing the ratio more challenging because most bank customer activity follows a 30 day cycle. This is especially true for customer activity at regional banking organizations, which primarily focus on providing traditional retail and commercial banking products.

75. What, if any, modifications to the calculation of total net cash outflow rate should the Board consider? What versions of the peak maximum cumulative outflow day might be appropriate for the modified liquidity coverage ratio? Please provide justification and supporting data.

    UB: UB agrees with the NPR's approach to calculating total net cash outflow and its underlying rationale.

76. What operational burdens may modified LCR holding companies face in complying with the proposal? What modifications to transition periods should the Board consider for modified LCR holding companies?

    UB: While we support the concept of a Modified LCR, the 21 day stress period makes calculating and managing the ratio more challenging because most bank customer activity follows a 30 cycle. This is especially true for customer activity at regional banking organizations, which primarily focus on providing traditional retail and commercial banking products. In addition, Modified LCR covered companies have not had the benefit of many years to prepare for daily liquidity requirement reporting furthering the challenges to compliance.