American Bankers Association.
Building Success. Together.

Beth Knickerbocker
Vice President & Senior Counsel
Office of Regulatory Policy
202-663-5042
bknicker@aba.com

February 26, 2014

VIA ELECTRONIC MAIL

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street SW
Suite 3E-218, Mail Stop 9W-11
Washington, D.C. 20219
Email: regs.comment@occ.treas.gov

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551
Email: regs.comments@federalreserve.gov

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20429
Email: Comments@fdic.gov

Re: Proposed Addendum to the Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure

Dear Ladies and Gentlemen:

The American Bankers Association (ABA) [1] appreciates the opportunity to provide comments on the implementation timing for the Proposed Addendum to the Interagency Policy Statement on Income Tax Allocation in a Holding Company Structure (Proposed Addendum).[2] The Proposed Addendum was published jointly by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System and Federal Deposit Insurance Corporation (Agencies). Under the Proposed Addendum, all bank holding companies and insured depository institutions (IDIs) that file consolidated tax returns would be required to review existing tax allocation agreements to ensure that the agreement: 1) acknowledges an agency relationship between the holding company and IDI with respect to tax refunds generated by the IDI; 2) does not contain language that could be interpreted as creating a holding company ownership interest in the tax refund; and 3) requires the holding company to promptly forward any payment due to the IDI under the tax allocation agreement. The Proposed Addendum also provides a specific paragraph the Agencies are requesting that institutions include in their tax allocation agreements

[1] The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $14 trillion banking industry and its 2 million employees. Learn more at www.aba.com.

[2] 78 Fed Reg. 76889 (December 19, 2013).

in order for those agreements to be deemed generally in compliance with the Proposed Addendum.[3]

As the Agencies state, the Proposed Addendum is "intended to clarify and supplement" the Interagency Policy Statement issued in 1998.[4] Generally, institutions are complying with the Agencies' original policy statement and review tax allocation agreements annually. Therefore, the ABA is not providing comments on the substance of the Proposed Addendum. However, we urge the Agencies to provide sufficient time for institutions to review existing tax allocation agreements and processes, and amend such agreements and processes as necessary in the normal course of their annual review of such agreements.

Tax allocation agreements can be complex, covering a number of refund and tax payment scenarios and, in many cases, multiple subsidiaries and affiliates. Amending such agreements and making changes to processes implementing such agreements will take time to complete. For example, any changes to tax allocation agreements require review and signature of all of the subsidiaries and affiliates in the tax group. For many ABA members, including midsize and regional institutions, this could entail several hundred sign offs. For countless institutions, particularly smaller banks, this review may also require hiring outside counsel to make such changes to ensure that there are no unintended tax consequences resulting from such clarifications. Further, several ABA members have also indicated that amendments to tax allocation agreements require board of director approval, both at the IDI and parent company level, adding further to the time needed to make even minor clarifying amendments.

The ABA respectfully requests that institutions be allowed until the end of calendar year 2014 to amend, if necessary, their tax allocation agreements and processes to ensure consistency with the clarifications contained in the Proposed Guidance. This proposed time frame will allow institutions to make such changes in the normal course of their annual tax allocation reviews and reduce the expense and time in making clarifying off cycle changes to these agreements.

The ABA thanks the Agencies for their consideration of our comments. If you have any questions or need further information, please contact Beth Knickerbocker, Vice President and Senior Counsel, at bknicker@aba.com or (202) 663-5042.

Sincerely,

Beth Knickerbocker

Beth Knickerbocker
Vice President and Senior Counsel

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[3] Id. at 76891. The Proposed Guidance permits institutions to draft their own language provided such language is "substantially similar" to the paragraph provided by the Agencies.
[4] Id. at 76890.

cc:

Office of the Comptroller of the Currency:
Steven Key, Assistant Director, Bank Activities and Structure
Gary Jeffers, Counsel, Bank Activities and Structure

Board of Governors of the Federal Reserve System:
Benjamin McDonough, Senior Counsel
Pamela Nardolili, Senior Counsel
Will Giles, Counsel
Matthew Kincaid, Sr. Accounting Policy Analyst

Federal Deposit Insurance Corporation:
Robert Storch, Chief Accountant
Mark G. Flanigan, Counsel, Legal Division
Jeffrey E. Schmitt, Counsel, Legal Division