M E M O R A N D U M

TO: Public File - Notice of Public Rulemaking: Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements (RIN 3064-AE44) (“NSFR NPR”)

FROM: Gregory S. Feder, Counsel, Legal Division

DATE: May 4, 2020

SUBJECT: Meeting with Representatives from Bank of America Corp. (“BAC”)

On January 10, 2020, FDIC Staff, along with staff of the Office of the Comptroller of the Currency and the Board of Governors of the Federal Reserve System, held a telephone meeting with representatives from BAC.

Representatives from BAC presented their concerns and views with regard to certain provisions of the NSFR NPR, which was issued in the Federal Register of 81 FR 35124 (June 1, 2016), including transferability of liquidity among affiliated entities.

The FDIC representatives who participated in the meeting were:

- Eric Schatten, Senior Policy Analyst, Division of Risk Management Supervision
- Gregory Feder, Counsel, Legal Division
- Andrew Williams, Counsel, Legal Division

Representatives from BAC who participated in the meeting were:

- Jonathan Blum – Managing Director, Treasury Policy & Advocacy
- Trent Brimhall – Director, Treasury Policy & Advocacy
- Nora Collins – Director, Global Liquidity Management
- Lori Reese – Managing Director, Global Liquidity Management
- Matthew Sparr – Director, Global Liquidity Management
- Ganesh Radhakrishnan – Director, Global Liquidity Management

A PowerPoint deck presented by BAC is attached.

Net Stable Funding Ratio

January 2020

NSFR Treatment of Inter-Affiliate Transactions

- The objective of the Net Stable Funding Ratio (“NSFR”) rule is to ensure that both bank holding companies and their bank subsidiaries have sufficient stable funding available, to fund their assets

- Consistent with the spirit of the rule, surplus Available Stable Funding (“ASF”) at bank subsidiaries is “disallowed” under the consolidated NSFR calculation, unless that ASF is free of transfer restrictions

- The proposed US NSFR rule includes language that directs preparers to exclude inter-affiliate transactions that eliminate in accounting consolidation when calculating a bank subsidiary’s surplus ASF:

  ASF amounts associated with a consolidated subsidiary, in this context, refer to those amounts that would be calculated from the perspective of the covered company (e.g., in calculating the ASF amount of a consolidated subsidiary that can be included in the covered company’s consolidated ASF amount, the covered company would not include certain transactions between consolidated subsidiaries that are netted under GAAP). For this reason, an ASF amount of a consolidated subsidiary that is included in a covered company’s consolidated NSFR calculation may not be equal to the ASF amount of the consolidated subsidiary when calculated on a standalone basis if the consolidated subsidiary is itself a covered company (NSFR NPR Footnote 89)

- This approach for excluding inter-affiliate transactions is consistent with the GAAP accounting treatment for intercompany assets, liabilities and equity, and thus aligns with NSFR’s overall balance-sheet-centric approach. It appropriately reflects the available and required stable funding from the perspective of the covered company, consistent with the statement below from the rule:

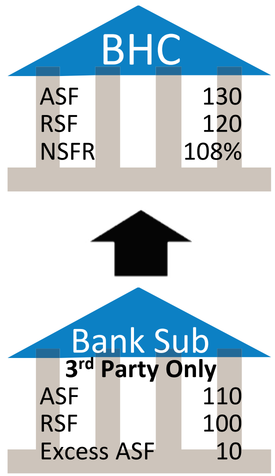
  The NSFR is a balance-sheet metric, and its calculations would generally be based on the carrying value, as determined under GAAP, of a covered company’s assets, liabilities, and equity (preamble to the US NSFR NPR)

- ***Thus, the final US NSFR rule should be consistent with the NPR in eliminating all inter-affiliate transactions that are netted under GAAP while calculating the amount of excess ASF***

Excess ASF at Subsidiaries – Illustrative Example

NSFR NPR Method

Only third party assets/liabilities considered for excess ASF calculation at the Bank Sub



BHC

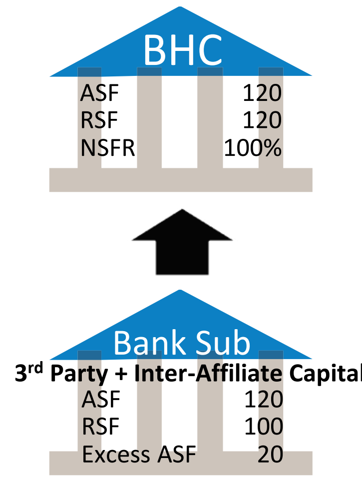
Beginning ASF	$140
Less Subsidiary Excess ASF	$ 10
Total ASF	$130
Total RSF	$120
NSFR	**108%**

Bank Entity

Assets (RSF)		**Liabilities & Capital (ASF)**	
Inter-Affiliate Assets	~~$ 4~~	Inter-Affiliate Liabilities	~~$ 3~~
3rd Party Assets	$100	3rd Party Liabilities	$110
		Inter-Affiliate Capital	~~$ 10~~
Total 3rd Party RSF	$100	Total 3rd Party ASF	$110
		Excess 3rd Party ASF	$ 10
Bank Standalone RSF	$104	Bank Standalone ASF	$123
		Bank Standalone NSFR	118%

Alternative Method

Third party and assets/liabilities and both third party and inter-affiliate capital considered in excess ASF calculation at the Bank Subsidiary



BHC

Beginning ASF	$140
Less Subsidiary Excess ASF	$ 20
Total ASF	$120
Total RSF	$120
NSFR	**100%**

Bank Entity

Assets (RSF)		**Liabilities & Capital (ASF)**	
Inter-Affiliate Assets	~~$ 4~~	Inter-Affiliate Liabilities	~~$ 3~~
3rd Party Assets	$100	3rd Party Liabilities	$110
		Inter-Affiliate Capital	$10
Total 3rd Party RSF	$100	Total 3rd Party ASF	$120
		Excess 3rd Party ASF	$ 20
Bank Standalone RSF	$104	Bank Standalone ASF	$123
		Bank Standalone NSFR	118%