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December 26, 2017

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Attn: Docket ID OCC-2017-0018
400 7th Street SW, Suite 3E-218, Mail Stop 9W-11
Washington, D.C. 20219

Ann E. Misback
Secretary
Attn: Docket No. R-1576
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

Robert E. Feldman
Executive Secretary
Attn: Comments/Legal ESS, RIN 3064-AE59
Federal Deposit Insurance Corporation
550 17th Street, N.W. Washington, D.C. 20429

Re: Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996

Ladies and Gentlemen,

Wells Fargo & Company (Wells Fargo) is a diversified financial services company with over $1.9 trillion in assets providing banking, insurance, trust and investments, mortgage banking, investment banking, retail banking, brokerage services and consumer and commercial financial services. We appreciate the opportunity to comment on the Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the Agencies) notice of proposed rulemaking: *Simplifications to the Capital Rule Pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996* (the Simplification Proposal).

We believe meaningful simplification of the regulatory capital framework is a laudable goal and can be achieved without hampering the important financial stability gains that have been achieved through implementation of the current suite of post-crisis regulatory reforms. We believe now is an appropriate time to conduct a more thorough examination of the post-crisis regulatory framework, including capital, leverage, liquidity and stress testing requirements coupled with a reassessment of the interaction of the regulatory framework and the U.S. GAAP accounting framework. The U.S. Department of the

Treasury's report on Banks and Credit Unions[1] (the Treasury Report) includes a number of recommendations that are consistent with these objectives and should be considered as the Agencies take a fresh look at the post-crisis regulatory framework.

Consistent with our comments on the earlier Transitions Proposal,[2] we support the Agencies' objective of strengthening the resiliency of banking organizations and echo the Agencies' concern regarding regulatory burden, complexity, and costs associated with particular aspects of the regulatory capital rules. However, we reiterate our concern that the Simplification Proposal, as currently drafted, could increase the overall complexity of the regulatory capital framework and reduce the comparability of regulatory capital ratios by separating the Standardized Approach from the Generally Applicable Risk-Based Capital Approach for Advanced Approaches banks. The need for a comprehensive vision of the future state of the regulatory framework is now even more evident with the recent finalization of the Basel IV package on December 7. We look forward to engaging with the Agencies on both refinements to the existing framework and integration of further reforms in a cohesive and efficient manner.

Details Regarding Our Primary Concerns with the Proposed Guidance

We believe there is ample room to simplify the regulatory capital framework to address aspects of the current framework's design and calibration that are unnecessarily complex, redundant, inconsistent with other regulations, have unintended consequences or are excessive relative to overarching financial stability objectives. We would characterize changes to the framework addressing these types of issues as simplifications, which are appropriate for banks of all sizes to improve the efficiency of the framework. Separately, we also support the concept of tailoring regulation for banks based business models to provide regulatory capital relief or ease operational burdens without materially increasing systemic risk.

- Changes to the capital numerator should be applied to all banks where possible: The proposed modifications to the calculation of the capital numerator are logical and would reduce unnecessary complexity. However, this simplification would not meaningfully increase systemic risk if applied to all banks, at a minimum under a unified Generally-Applicable Risk-Based Capital Approach. We reviewed bank Call Reports for institutions over $10 billion in total assets as of June 30, 2017 and only eleven institutions were subject to capital deductions for the items included in the Simplification Proposal. For all but two of these institutions, the deductions represented less than 1.0% of risk weighted assets. Five of the eleven are non-Advanced Approaches banks, meaning the proposed simplification would only provide a tailored capital treatment to five banks with total assets over $10 billion[3]. The increased complexity associated with introducing a new risk-based capital framework to the existing overall capital framework would seem to significantly outweigh the small potential benefit that would be provided to such a limited number of institutions. We also recommend the Agencies consider application of this simplification to the Advanced Approaches capital ratio and revisit the treatment with the Basel Committee if compliance with Basel rules gives the Agencies pause.

[1] A Financial System That Creates Economic Opportunities – Banks and Credit Unions at https://www.treasury.gov/press-center/press-releases/Documents/A%20Financial%20System.pdf

[2] Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to the Advanced Approaches Capital Rules; OCC Docket ID OCC-2017-0012, Federal Reserve Docket No. R-1571 and RIN 7100 AE 83, and FDIC RIN 3064-AE 63

[3] Because additional changes including a leverage-based opt-out are contemplated for banks with total assets below $10 billion in the bi-partisan Senate Banking Committee bill, this simplification may only be relevant to banks over $10 billion in total assets.

- To further simplify the regulatory capital framework, we recommend the Agencies reconsider the treatment of accumulated other comprehensive income (AOCI)[4]: In addition to the recommendations of the Department of Treasury noted above and consistent with our views on simplifying the Generally-Applicable Risk-Based Approach and limiting the number of risk-based capital approaches in the framework, we believe the Agencies should reconsider the appropriateness of the removal of the AOCI filter for Advanced Approaches banks. Many of the policy arguments presented by the industry in the development of Basel III have been observed since the implementation of the change to the treatment of AOCI in 2012, specifically:
  - *Banks have significantly increased their holdings of high quality liquid assets (HQLA) in order to comply with the liquidity coverage ratio (LCR), which exacerbates the volatility in capital resulting from the removal of the AOCI filter:* This change in the capital rules presents a clear inconsistency with the policy objectives of the LCR, which incents banks to hold greater amounts of the exact securities that generate AOCI volatility. This inconsistency has resulted in us holding vast quantities of securities to meet the LCR requirements and at the same time absorbing the volatility in capital due to changes in market interest rates by holding internal capital buffers above the minimum capital requirements.

  - *Changes to the accounting impairment model ensure credit losses are recognized in earnings separate from temporary changes in value due to changes in interest rates:* Changes to U.S. GAAP after the financial crisis to separate credit losses from temporary changes in fair value due to changes in interest rates,[5] which have been reaffirmed by the Financial Accounting Standards Board (FASB) in its impending change to the measurement of expected credit losses.[6] These accounting changes ensure expected credit losses for financial instruments, including HQLA, are recognized in earnings and thus regulatory capital. Non-credit fair value changes (i.e. changes due to fluctuations in interest rates) are recorded in AOCI. This change should alleviate any concern that banks are not recognizing credit losses in a timely manner and consequently has reduced the AOCI filter's value in achieving regulatory capital objectives.

  - *Including changes in AOCI in capital has reduced flexibility of balance sheet management activities by incenting banks to use held-to-maturity (HTM) accounting:* Under U.S. GAAP, debt securities classified as HTM are recognized at amortized cost and are not re-measured at fair value unless impaired. The HTM classification reduces exposure to AOCI volatility, but comes with restrictions imposed by U.S. GAAP that reduce our ability to use those securities to re-position our balance sheet. Beginning in

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[4] The inclusion of temporary changes in the fair value of available-for-sale debt securities due to changes in interest rates recognized in AOCI in capital has been referred to as removal of the AOCI filter.

[5] FASB ASC 320-10, *Investments – Debt and Equity Securities* (FSP FAS 115-2 and FAS 124-2, *Recognition and Presentation of Other-Than-Temporary Impairments)* effective in 2009.

[6] Accounting Standards Update (ASU or Update) 2016-13 – Financial Instruments – Credit Losses (Topic 326): *Measurement of Credit Losses on Financial Instruments*

2013, we, along with numerous other large banks, started allocating a limited portion of our banking book securities to HTM. Because of the significant increase in HQLA, we were able to accept the reduced flexibility associated with the use of HTM for a portion of our banking book securities, while balancing management of both capital volatility and liquidity requirements. While we do not feel the use of HTM reduces our ability to manage risk appropriately, we do feel it reduces flexibility to optimize certain balance sheet management actions from both cost and operational perspectives.

- *Including changes in AOCI in capital results in asymmetry between the treatment of deposit liabilities and the securities used to hedge those deposits:* During the development of post-crisis changes to the accounting for financial instruments, the accounting standard setters considered whether AFS accounting and consequently AOCI should continue. Ultimately, those standard setters recognized the unique nature and business purpose of banking book securities that are used to hedge interest rate risk generated from deposit liabilities by continuing the use of the AFS category as opposed to marking banking book assets to fair value on a recurring basis with the changes reflected in earnings. This conclusion reflects an understanding of the asymmetry that would be created by recognizing fair value changes for the asset side of the balance sheet without doing the same for the corresponding liabilities. Now that the accounting debate has been resolved and consistent with the recognition of the benefits to symmetrical treatment of both sides of the balance sheet, we believe it is appropriate for the Agencies to restore symmetry to the regulatory capital framework.

Reinstatement of the AOCI filter would bring consistency back to the definition of capital and align the capital and liquidity frameworks. We urge the Agencies to revisit this issue domestically under the Standardized Approach and if amended, raise the issue for reconsideration with the Basel Committee.

- <u>Proposed changes to the treatment of high volatility commercial real estate (HVCRE) and introduction of a new high volatility acquisition, development and construction (HVADC) category do not meet the primary objective of simplifying the regulatory capital framework:</u> The Simplification Proposal would replace the HVCRE definition with a new definition of HVADC in the Standardized and Generally-Applicable Risk-Based Capital Approaches while maintaining the existing HVCRE definition in the Advanced Approaches. Thus banking organizations that disclose their ratios under only the Generally-Applicable Risk-Based Capital Approach would use only the HVADC definition, while banking organizations that disclose their ratios under the Standardized Approach and the Advanced Approaches would apply both the HVADC and the HVCRE definition. The Simplification Proposal states that the "proposed HVADC exposure definition is intended to be substantially simpler to implement." This change is necessary because, "community banking organizations, in particular, have asserted that the definition is unclear, overly complex, burdensome to implement, and not applied consistently across banking organizations." We strongly agree with the community bank assertions; however, because the Simplification Proposal attempts to segregate a higher risk subset of ADC loans by replacing one complex definition of HVCRE with another slightly less complex definition of HVADC, we do not believe the proposed approach will be substantially simpler to implement than the existing approach or results in meaningful simplification. In addition, we believe the proposed approach adds significant complexity to the capital framework, fails to address inconsistent application of the HVCRE definition in the Advanced Approaches, and applies an arbitrary risk weight to HVADC exposures in the Standardized and Generally-Applicable Risk-Based Capital Approaches.

- *We recommend the agencies adopt a meaningful simplification by eliminating the HVCRE category altogether under the Standardized and Generally-Applicable Risk-Based Capital Approaches and clarifying the existing definition under the Advanced Approaches to ensure consistent application*. We believe that this suggestion is more consistent with the manner in which other types of loans are treated by the Standardized and Generally-Applicable Risk-Based Capital Approaches. We also believe that inconsistent application of the HVCRE definition is just as pronounced in the Advanced Approaches as it is in the Standardized Approach and therefore warrants remediation for the reasons articulated in the proposal.

  The new HVADC definition is still subjective and overly complex. In order to implement the new definition, banking organizations would, at a minimum, be required to ensure that their capital calculation systems could:
  - track and implement the new primary financing test, which requires banking organizations to track the intended use of loan proceeds;
  - implement a new definition of one-to-four family residential properties while maintaining the ability to identify and report loans based on a separate definition of one-to-four family residential properties for purposes of the Call Report and the FR Y-9C;
  - track two separate definitions of "permanent financing," one of which would apply only for Advanced Approaches banking organizations;
  - track multiple additional variables including borrower's other sources of income, revenues generated by the project, and on-going amortization levels; and
  - track the definition of "agricultural," which "would include, for example, timberland or fish farms" but not "a dairy processing plant."

  We acknowledge and appreciate that many of these items are relatively objective in comparison with variables that were required under the HVCRE definition. However, the proposed definition of HVADC is still overly complicated.

- *We support risk-sensitivity in the Standardized Approach when it can be applied efficiently, consistently and meaningfully differentiate risk; the proposed approach fails to meet any of those objectives:* HVCRE loans are currently subject to a risk weight of 150 percent, while other commercial real estate (CRE) loans and other acquisition, development and construction loans (ADC) are subject to a 100 percent risk weight. There are very few instances in the Standardized and Generally-Applicable Risk-Based Capital Approaches in which the same type of loan is subject to two different risk weights. In general, despite what may be very large differences in the risk of two loans of the same type, the loans are subject to the same risk weight. We don't believe there is justification for singling out CRE or ADC loans for a particularly punitive treatment in the Standardized and Generally-Applicable Risk-Based Capital Approaches. If such an approach is warranted, it would seem to be warranted for other types of loans and in both directions (i.e. low risk CRE and/or ADC loans should be subject to lower risk weights).

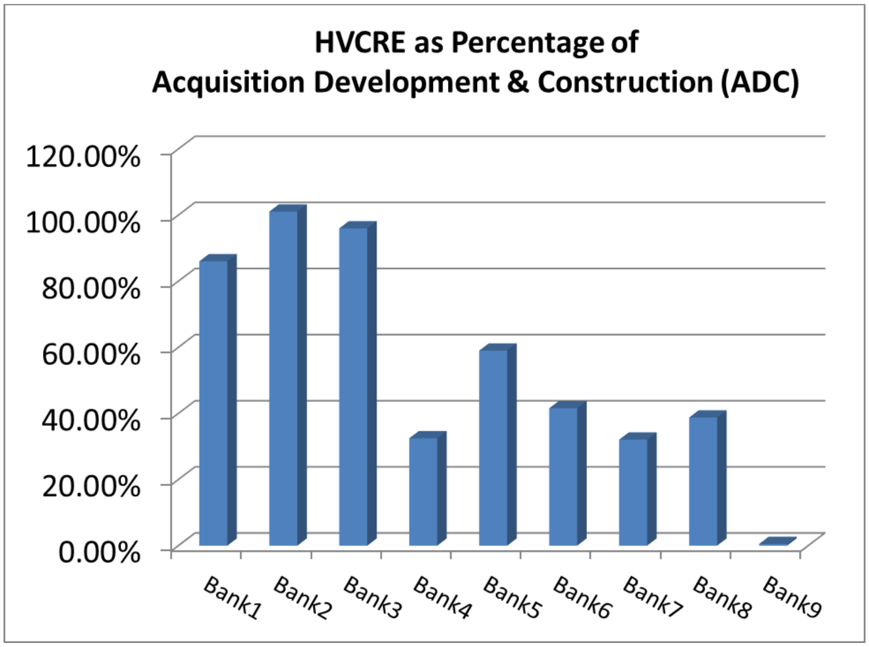
The Standardized and Generally-Applicable Risk-Based Capital Approaches have generally applied broad risk weights based on the type of loan and relied on the Agencies supervisory activities to ensure the stability of the banking industry by identifying undue risks and weak risk management practices regarding significant concentrations of risk at certain banking organizations. We believe that fundamental risk management practices, verified through the examination process, serve to safeguard the integrity of the banking system. The regulatory supervisory process should not be replaced by an increased risk-weight for an ambiguous population of loans. In short, our view is that the supervision process has generally worked well and is not broken with respect to the ADC and CRE lending.

HVCRE was a category that was originally introduced in the Basel II standards[7]. The retention of this Basel standard outside of the Advanced Approaches that apply to internationally-active banks is no longer necessary for purposes of maintaining consistency with Basel. The proposed approach of replacing the HVCRE definition with a new definition of HVADC in the Standardized and the Generally-Applicable Risk-Based Capital Approaches, while maintaining the existing HVCRE definition in the Advanced Approaches adds complexity to the overall capital framework for no readily apparent benefit, beyond providing minor simplification to the one of the three risk-based capital approaches. Advanced Approaches banks will have to develop systems that allow for any single given exposure to be classified as HVCRE but not HVADC, HVADC but not HVCRE, both HVCRE and HVADC and neither HVCRE nor HVADC. Given the inconsistent application of the HVCRE definition that the proposal does not address; the resulting potential for confusion and increased inconsistency in practice is enormous.

- *The reasons cited for modifying the HVCRE definition are equally applicable under the Advanced Approaches:* The proposal states that "because concerns expressed by banking organizations regarding the HVCRE exposure definition emanated primarily from its implementation in the standardized approach, the agencies do not believe it is necessary to make corresponding changes to the definition in the advanced approaches." This is inaccurate. The definition of HVCRE was not specific to the Standardized Approach – the same definition applied to both the Standardized Approach and the Advanced Approaches. The different approaches only subjected the identified HVCRE exposures to different risk weights. As the table below shows, there appears to be just as much inconsistency in the application of the HVCRE definition by banking organizations that

[7] https://www.bis.org/publ/bcbs128.htm

apply the Advanced Approaches. The table shows HVCRE loans as a percent of total ADC loans at select banking organizations that are subject to the Advanced Approaches and based on publicly available data[8]. Loans classified as HVCRE as a percent of ADC loans range from 0.5% to 101.1%. While there may be some variation in portfolio mix across these institutions, we are not aware of variation that would result in such pronounced differences.



As such, if the inconsistency in application and the ambiguity of certain terms of the HVCRE warrant clarification, as we believe they do and as the Simplification Proposal states they do, they warrant clarification in the Advanced Approaches as well as the Standardized Approach.

We believe the permanent financing standard and the contributed capital standard must be clarified in order to achieve consistent application of the HVCRE definition. The proposed clarification of permanent financing does help clarify that term and again should be extended to the Advanced Approaches. If it is not, we request clarity with regards to how Advanced Approaches banks should define "permanent financing" in the Advanced Approaches, since the proposed definition was not extended to the Advanced Approaches. The Simplification Proposal implies that Advanced Approaches banks should continue using inconsistent definitions of this term, while using a consistent definition for purposes of the Standardized Approach.

The Agencies decided to eliminate the contributed capital exception from the proposed rule because clarifying that exception was "comparably complex and inconsistent with the goal of simplifying the capital rule." Given the inconsistent application of the HVCRE definition across Advanced Approaches institutions, clarification of contributed

[8] See June 30, 2017 FR Y-9C, Schedule HC-R Line 5.b and Schedule HC-C Line 1.a.2

capital exception is necessary if that standard is to be implemented consistently. We suggest clarification in line with the comments from the trade associations[9], but reiterate our suggestion that such clarification apply only to the Advanced Approaches, as we believe HVCRE/HVADC should not be part of the Standardized or Generally Applicable Risk Based Capital Approaches.

- *The Simplification Proposal applies arbitrary risk weights without clear linkage to the inherent credit risk of the exposures:* The Simplification Proposal implies that the current "aggregate minimum capital required under the capital rule" for ADC loans is the correct amount. As such, since the new HVADC definition would capture more loans than the old HVCRE definition, "the agencies are proposing to apply a lower risk weight to the proposed HVADC exposure category."

  This standard appears arbitrary for two reasons. First, as noted above, the application of the HVCRE standard is inconsistent across banking organizations. The expectation that this apparently inconsistent application would result in an appropriate amount of "aggregate minimum capital required" for these exposures seems unlikely. Second, the application of different risk weights should reflect different levels of inherent risk. The Simplification Proposal abandons this concept of risk sensitivity and suggests that applying a lower risk weight to riskier loans is appropriate as long as a higher risk weight is applied to the correct amount of less-risky loans resulting in the same level of aggregate capital[10].

  Again, we believe that under this view, all ADC loans should receive a 100 percent risk weight and banking organizations' specific portfolios should be subject to rigorous examination, as is the case with all other exposure categories under the Standardized and Generally-Applicable Risk-Based Capital Approaches. Such an approach that is consistent with the manner in which other loans are treated under the Standardized and Generally-Applicable Risk-Based Capital Ratios is less arbitrary than using a new risk weight and calibrating a new definition to apply an aggregate amount of loans to achieve capital neutrality with an inconsistently implemented standard. If the Agencies do not wish to pursue this approach, it would be more risk sensitive and simple to risk weight ADC loans using an approach based on LTV bands with lower LTV loans receiving lower risk weights and higher LTV loans receiving a higher corresponding risk weights. We believe such an approach could be applied consistently with minimal definitional guidance to address the property valuation and the characteristics of contributed capital, while leveraging one of the primary risk drivers associated with ADC lending.

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[9] The Clearing House and American Bankers Association

[10] The "agencies believe the reduced risk weight for HVADC exposures is appropriate in recognition of the potentially broader scope of the definition, and that this change would not result in a significant change in the aggregate minimum capital required under the capital rule. Specifically, by including exposures regardless of the amount of the borrower's contributed equity, some exposures that would be included in the HVADC exposure category may, while remaining riskier than other commercial real estate loans, have risk-reducing qualities, such as lower LTV ratios and higher borrower-contributed capital relative to exposures currently in the HVCRE exposures category."

> We recommend the agencies totally eliminate the HVCRE category under the Standardized and Generally-Applicable Risk-Based Capital Approaches and consider an alternative approach to inserting consistent risk sensitivity into those approaches. We further recommend that the Agencies clarify the existing definition under the Advanced Approaches, with respect to permanent financing and the contributed capital exception, to ensure consistent application.

<u>Conclusion</u>
We encourage the Agencies to consider our comments and recommendations described in this letter. We understand the Simplification Proposal is only intended to be a first step in a longer term effort to simplify and tailor the regulatory capital framework and fully support this initiative. At the same time, we encourage the Agencies to truly question whether the current complexity is necessary to achieve the desired financial stability outcomes. We believe the aspects of the capital rule the Simplification Proposal attempts to address could be approached in a much simpler and more efficient manner. We also believe that our recommendations are consistent with the principles and objectives outlined by the Agencies and would provide greater consistency of capital levels in both the definition of regulatory capital and risk-weighting across banking organizations of all sizes.

In the Appendix we have provided a number of additional technical corrections to the regulatory capital rules, as requested by the Agencies.

Thank you for considering our comments. If you have any questions, please contact me.

Sincerely,

[redacted]

Neal Blinde
Executive Vice President and Treasurer

Appendix: Recommended Technical Corrections

Consistent with the Agencies' solicitation for technical amendments necessary to the Capital Rule, we have included the following items for consideration. We believe undertaking our recommended technical corrections will provide clarity and greater consistency in application of the capital rule.

- The definition of financial institution: The definition of a financial institution and variants of this term are used throughout various regulatory reports with conflicting and unclear definitions[11]. For example, the capital rules explicitly exclude entities registered with the SEC under the Investment Company Act of 1940, as compared to the FR Y-15 which explicitly includes mutual funds, and the FR Y-9C definition of nondepository financial institution which is silent to inclusion or exclusion. Furthermore, the capital rule expressly excludes Small Business Investment Companies (SBICs) while the FR Y-9C and Call Report specifically include SBICs. The burden of tracking the regulatory capital financial institution definition, as well as multiple alternate definitions for various regulatory reports creates unnecessary operational challenges and inefficiencies. Further complications arise when terms contained within the capital rule definition do not have a well-understood standardized meaning. As such, we respectfully suggest the Agencies provide technical clarification of certain terms used in the definition of financial institution that are themselves not defined or used in consistent ways across the industry. Specifically, the financial institution definition currently includes the following terms which are not clearly defined or consistently applied: Financial Instruments, Asset Management Activities, and Investment or Financial Advisory Activities.

  We believe that not only would a technical correction in this area provide clarity and promote consistency across industry participants; it would reduce regulatory burden through the reduction of the interpretive elements of the current definition. Additionally, we ask the Agencies to review the fundamental differences in the application of "financial institution" across the capital rule and regulatory reports that use the term and encourage the Agencies to unify the use and definition of the term "financial institution", or provide clarification of the distinct differences in the population of "financial institutions" for the purposes of regulatory capital and regulatory reporting.

- Removal of Restructuring as a Credit Event for Eligible Credit Derivatives: When the current Capital Rule was drafted, the inclusion of restructuring as a credit event in standard credit derivative contracts varied widely. Since then, the standard language in credit derivative contracts, and particularly in cleared credit derivatives, does not include restructuring as a credit event. The current capital rule provides that credit derivatives without restructuring as a credit event receive an adjustment to notional, effectively capping the amount of protection at 60 percent of the credit derivative notional. This provision is overly punitive and discourages the use of risk-reducing hedges. Eliminating the requirement to include restructuring as a credit event would recognize shifts in market practice, further the agencies stated goals to promote cleared transactions, and properly incentivize hedging.

- CVA Treatment for Agent Derivative Transactions ("T4"): The Capital Rule requires Advanced Approaches banking organizations to calculate a credit valuation adjustment (CVA) risk-

[11] FFIEC 009/009a "Non-Bank Financial Institution"; FR Y-9C and FFEIC 031, 041, and 051 "Nondepository Financial Institution"; FR Y-15 "Financial Institution"; FR 2436 "Financial Firm"; and additionally 12 CFR 50.3, 249.3, 329.3 uses the term "Financial Sector Entity"

weighted amount for its portfolio of over-the-counter (OTC) derivative transactions using the formulas articulated in §_.132(e). Certain agent derivative transactions for which a banking organization guarantees the performance of a clearing member client to a central counterparty (CCP) are treated as an OTC derivative under the Capital Rule.

Accounting guidelines would never require banking organizations to mark an asset on their balance sheets related to these agent derivative transactions. Accordingly, these transactions do not give rise to CVA and therefore cannot created CVA related losses. As such, we suggest the Agencies undertake a technical correction to remove these transactions from the scope of the CVA section of the rule (§_.132(e)).

- Forward Starting Repo Treatment: Commitments to enter into a reverse repurchase agreement represent a legally binding arrangement to extend credit or purchase assets upon the commencement of the repurchase agreement. As such, these commitments are treated akin to lending commitments under the Standardized Approach capital framework (§_.33) and would receive a credit conversion factor (CCF) of 20% or 50% based on the original maturity.

  Upon the commencement of the reverse repurchase transaction, our exposure would migrate from a commitment to a repo-style transaction which is marked to market daily and fully collateralized by liquid collateral. The capital requirement of the repo-style transaction would be determined under section §_.37(c) (Collateral Haircut Approach) of the rule whereby the exposure would, in most instances, be fully offset. Accordingly, the capital requirement for the repo-style transaction would be significantly less than the capital requirement of the commitment to enter into a forward starting repurchase agreement. Obviously, we have less risk before we extend credit. In that view, we suggest a technical correction that the capital held against any off-balance sheet commitment cannot be higher than the capital that would be required if the commitment was fully funded.

- Commitments to Securitization Vehicles: The supplementary leverage ratio (SLR) rule (§_. 10(c)(4)) and the reporting instructions that implement the SLR in the FFIEC 101 and the FR Y-15 appear to suggest three different treatments for lending commitments to securitization exposures. The rule would appear to subject such commitments to the credit conversion factors in §_.33(b). The FFIEC 101 would appear to require the full notional amount of such commitments to be included in the leverage ratio. Finally, the FR Y-15 would appear to exclude such commitments from the SLR, since they are not subject to a CCF in the risk-based framework

  We believe a clarification of the treatment of off-balance sheet securitization exposures in the form of a lending commitment would be an appropriate technical correction. The confusion around this issue is likely the result of the strangely punitive treatment of these commitments. In the extreme, such a commitment could be unconditionally cancellable, which §_.33 treats as riskless. At the same, such a commitment could receive a 1250% risk weight on the full notional amount. Such an outcome is incongruous. Clearly there is no reason not to subject commitments to securitization exposures to a commitment calculation in addition to the punitive risk weight calculation it is already subject to. Therefore, we suggest the Agencies provide for a technical correction of section §_.42(b)(3) that would subject an off-balance sheet securitization exposure in the form of a lending commitment to the CCFs of section §_.33 prior to risk-weighting the exposure under the securitization exposure section (§_.42).