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June 21, 2019

Ann E. Misback
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket Nos. R-1628, R-1658
RINs 7100-AF21, 7100-AF45

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
RIN 3064-AE96

Chief Counsel's Office
Attention: Comment Processing
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218
Washington, DC 20219
Docket ID OCC-2019-0009
RIN 1557-AE63

Re: Proposed Revisions to Prudential Standards for Large Foreign Banking Organizations and Proposed Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements to Foreign Banking Organizations (the "Proposals")

HSBC North America Holdings Inc. ("HNAH"), on behalf of itself and its affiliates worldwide (collectively, "HSBC"), welcomes the opportunity to provide the Agencies¹ with comments on the Proposals.² HSBC appreciates the Agencies' efforts in the Proposals to tailor prudential standards and capital and liquidity requirements to the risk profile of foreign banking

¹ Specifically, the Board of Governors of the Federal Reserve System (the "Federal Reserve"), the Office of the Comptroller of the Currency (the "OCC"), and the Federal Deposit Insurance Corporation (the "FDIC").

² Federal Reserve, Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies, 84 Fed. Reg. 21,988 (May 15, 2019) (the "Federal Reserve Proposal"); Federal Reserve, OCC and FDIC, Proposed Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements to Foreign Banking Organizations, Certain U.S. Depository Institution Holding Companies, and Certain Depository Institution Subsidiaries, 84 Fed. Reg. 24,296 (May 24, 2019) (the "Joint Proposal").



organizations (“FBOs”), including HSBC, and their U.S. intermediate holding companies (“U.S. IHCs”), including HNAH.

We support the recommendations related to the Proposals of the Institute of International Bankers (“IIB”), the Bank Policy Institute and the Securities Industry and Financial Markets Association. We are writing separately to express our support for the Proposals and provide additional comment as to why further refinement is needed for certain of the Agencies’ risk-based indicators.

I. We Support the Proposals’ Approach to Tailoring of Prudential Standards and Capital and Liquidity Requirements

As it is consistent with the principle of national treatment in prudential regulation, we support the Proposals’ application of U.S. prudential standards and capital and liquidity requirements to an FBO based on the size and complexity of the FBO’s U.S. activities, rather than the FBO’s global activities. All of HSBC’s U.S. operations are conducted by HNAH, HSBC’s U.S. IHC, and its subsidiaries. HNAH’s subsidiaries are typical of a U.S. banking organization of HNAH’s size and include HSBC Bank USA, N.A. (“HBUS”), a full-service bank that engages in traditional retail, commercial and corporate banking activities, and HSBC Securities (USA) Inc. (“HCSU”), a traditional broker-dealer.

We also support the Proposals’ use of risk-based indicators, rather than only asset size, in determining the application of prudential standards and capital and liquidity requirements to an FBO’s U.S. activities. If properly calibrated and indexed, risk-based indicators could provide a fair, transparent and effective means for tailoring the application of prudential standards and capital and liquidity requirements to the U.S. activities of FBOs, notwithstanding the vast differences in their structures and activities.

II. We Recommend Adjusting the Measure of an FBO’s and U.S. IHC’s Cross-Jurisdictional Activity (“CJA”) to Exclude All Interaffiliate Liabilities and Claims, Interaffiliate Derivatives and Collateralized Claims Against Third Parties

A. Exclude All Interaffiliate Liabilities from CJA

As recognized in the Proposals, interaffiliate liabilities should be excluded from CJA because these liabilities are associated with valuable activities conducted by FBOs and U.S. IHCs. Cross-jurisdictional liabilities owed to a non-U.S. affiliate typically represent funding provided by the foreign operations of the FBO. Cross-jurisdictional liabilities can also be incurred as U.S. operations provide U.S. clients with access to foreign markets.³ For example, a U.S.-based customer that wishes to invest in foreign assets can obtain foreign currency from HBUS if HBUS

³ See Federal Reserve Proposal at 21,995; Joint Proposal at 24,305 (recognizing that FBOs play this role in U.S. and foreign markets).



is able to borrow from HSBC's non-U.S. subsidiaries.⁴ Finally, FBOs such as HSBC that operate globally through multiple locally organized and regulated subsidiaries enter into frequent cross-jurisdictional interaffiliate transactions to facilitate such intermediation and also to manage and hedge risk within the financial group in the entity and jurisdiction best able to manage it.⁵ Thus, including these cross-jurisdictional liabilities in CJA would have the undesired consequence of discouraging FBOs from providing support to their U.S. operations,⁶ dissuading FBOs from facilitating foreign investment by U.S. clients, and making intermediation and hedging more difficult and less efficient.

For similar reasons, HSBC also supports comments made by the IIB that interaffiliate liabilities should be excluded from the measure of an FBO or U.S. IHC's weighted short-term wholesale funding.

B. Exclude All Interaffiliate Claims from CJA

The same logic for excluding all interaffiliate liabilities from CJA should apply for excluding all interaffiliate claims. Like interaffiliate liabilities, interaffiliate claims are entered into for purposes of funding, for the benefit of clients and for intermediation and hedging. These critical activities result in HSBC's U.S. subsidiaries having cross-jurisdictional claims on their non-U.S. affiliates, and should be excluded from the CJA metric because of their valuable role in the functioning of U.S. markets, U.S. companies and U.S. commerce.

Thus, while we support the exclusion of cross-jurisdictional claims that are collateralized by financial collateral,⁷ we believe that the Agencies should exclude all interaffiliate claims from CJA to ensure that the CJA indicator does not discourage important activities of FBOs that benefit clients and are risk-reducing.

To the extent that the Agencies believe that uncollateralized interaffiliate cross-jurisdictional claims expose an FBO's U.S. operations to heightened risks, these risks are already managed through the supervisory process and existing regulation. For example, the Agencies already consider exposures to certain classes of entities, such as non-U.S. banks, including affiliated non-U.S. banks, as a matter of the supervisory process.⁸ FBOs are also subject to internal liquidity buffer requirements that limit the amount that inflows from intercompany receivables can offset

⁴ This transaction would be subject to traditional regulatory requirements, including the market terms requirements of Section 23B of the Federal Reserve Act, 12 U.S.C. § 371c-1, and Federal Reserve Regulation W, 12 C.F.R. pt. 223, unless an exemption applies.

⁵ See Federal Reserve Proposal at 21,995; Joint Proposal at 24,305 (acknowledging that FBOs enter into such global risk management transactions).

⁶ The Agencies also recognize that these liabilities are sometimes required by regulation. Federal Reserve Proposal at 21,995; Joint Proposal at 24,305.

⁷ As defined under the Agencies' capital rules.

⁸ See, e.g., OCC, Comptroller's Handbook: Due from Banks (Mar. 1998) ([link](#)) (describing the OCC's expectations with respect to the amount due to a national bank from other banks, including demand, or nostro, accounts and longer-date time deposits at non-U.S. banks).

outflows to third parties.⁹ Such interaffiliate transactions would also be subject to the market terms requirements of Section 23B of the Federal Reserve Act and Federal Reserve Regulation W, unless an exemption applies.¹⁰

C. Retain the Exclusion for Interaffiliate Derivatives Even if the Form FR Y-15 is Amended

The CJA metric, as proposed, would not include claims or liabilities associated with derivative positions, as the Form FR Y-15, from which CJA would be calculated, excludes these positions from the calculation of CJA.¹¹ However, the Basel Committee on Banking Supervision (“BCBS”) has revised its definition of CJA to include derivative positions,¹² and the Federal Reserve anticipates amending the FR Y-15 in a manner consistent with this change.¹³

To the extent that the Federal Reserve proposes such a change to the FR Y-15, it should not include cross-jurisdictional claims and cross-jurisdictional liabilities associated with interaffiliate derivative positions in the CJA measure for purposes of the application of prudential standards and capital and liquidity requirements to FBOs. FBOs, including HSBC, primarily use interaffiliate derivatives as part of a centralized risk management program where risk is transferred within the financial group to the affiliate with the expertise and market access to best manage it. For example, if a U.S. client wishes to enter into a derivative to manage its U.S. dollar-British pound exchange risk, the client will execute the trade with its local HSBC entity with which it has a relationship, which would be HBUS. As a result, HBUS may enter into an interaffiliate derivative with HBEU, transferring the British pound risk to be managed out of a U.K. entity and by a U.K. team that has the expertise to manage the risk associated with British pounds. It would be an odd and unfortunate result to disincentivize an FBO from managing its risk globally in this manner.

D. Exclude Third-Party Collateralized Claims from CJA

The Agencies should also expand the exclusion for cross-jurisdictional claims to cover claims on *third parties* to the extent that they are collateralized by financial collateral. A cross-jurisdictional claim that is collateralized by financial collateral, subject to haircuts and other

⁹ For example, under the current rules that apply to U.S. IHCs, a U.S. IHC may not offset cash-flow needs that result from transactions with non-affiliates by cash-flow sources that result from transactions with affiliates. 12 C.F.R. § 252.157(c)(2)(iii). To the extent that a U.S. IHC has a liability to a U.S. third party that funds a receivable due from a non-U.S. affiliate (as in the HBUS / HBEU example listed in Exhibit 1), cash inflows from the affiliate would not be eligible to offset cash outflows to the U.S. third party. The Proposals would not alter this aspect of the internal liquidity buffer rules. See Federal Reserve Proposal at 22,034–35 (amending 12 C.F.R. § 252.157 without altering subsection (c)(2)(iii)).

¹⁰ See 12 U.S.C. § 371c-1; 12 C.F.R. pt. 223.

¹¹ See Federal Reserve, Instructions for Preparation of Banking Organization Systemic Risk Report Reporting Form FR Y-15 at E-1 (Dec. 2016) ([link](#)).

¹² See BCBS, Global Systemically Important Banks - Revised Assessment Framework at 5 (Mar. 2017) ([link](#)).

¹³ Federal Reserve Proposal at 21,995; Joint Proposal at 24,305.



requirements of the Agencies' capital rules, does not lead to the type of cross-border liquidity or interconnectivity risks that the CJA measure is designed to identify due to the ability to foreclose on the collateral if necessary. Application of the Agencies' definition of financial collateral would, as the Agencies noted in the Proposals, "ensure that the collateral is liquid, while the use of supervisory haircuts would also limit risk associated with price volatility."¹⁴ There is nothing special about interaffiliate claims in this regard, however; it is equally true when the financial collateral is provided by a non-U.S. third party. FBOs and U.S. IHCs "facilitat[e] access for foreign clients to U.S. markets"¹⁵ just as well when transacting directly with those clients as when transacting through a non-U.S. affiliate. In short, the same reasons that led the Agencies to propose excluding collateralized interaffiliate cross-jurisdictional claims from an FBO's or U.S. IHC's measure of CJA should lead the Agencies to do the same with respect to third-party collateralized claims.

¹⁴ Federal Reserve Proposal at 21,995; Joint Proposal at 24,305.

¹⁵ Federal Reserve Proposal at 21,995; Joint Proposal at 24,305.



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Thank you for your attention to HSBC's comments on the Proposals. We would welcome the opportunity to provide any additional information that the Agencies may consider helpful.

Sincerely,



Mark A. Steffensen
Senior Executive Vice President, General Counsel
HSBC North America Holdings Inc.