

**Meeting Between Staff of the Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, and Representatives from RBC Capital Markets LLC**

**October 26, 2023**

**Participants:** Elizabeth Falloon, Julia Paris, Michael Norton, Ken Stinson, Zrinka Dusevic, and Dena Kessler (Federal Deposit Insurance Corporation)

Juan Climent, Helen Xu, Francis Kuo, Lesley Chao, Lars Arneson, Benjamin Kay, James Caldera, Josh Strazanac, Brian Kesten, and Jacob Fraley (Federal Reserve Board)

Carl Kaminski and Andrew Tschirhart (Office of the Comptroller of the Currency)

Anthony Ragozino and Diego Nogales (RBC Capital Markets LLC)

**Summary:** Staff of the Federal Deposit Insurance Corporation, Federal Reserve System, and Office of the Comptroller of the Currency (collectively, the “agencies”) met with representatives from RBC Capital Markets LLC regarding the agencies’ Notice of Proposed Rulemaking on Long-Term Debt Requirements for Large Bank Holding Companies, Certain Intermediate Holding Companies of Foreign Banking Organizations, and Large Insured Depository Institutions (Federal Reserve Board RIN 7100-AG66) (the “NPR”), which was published in the *Federal Register* on September 19, 2023 (88 *Fed. Reg.* 64524). The representatives from RBC Capital Markets LLC discussed the impact of different aspects of the NPR on debt investors and the banking organizations that would be subject to the proposed rule, the treatment for legacy long-term debt (“LTD”), timing requirements, LTD eligibility requirements, the interaction between the NPR and resolution planning requirements and deposit insurance assessments, calibration of the minimum LTD requirement, clean holding company requirements, and authority for the NPR.

Attachment

# RBC Capital Markets

## Proposed Long-Term Debt Requirement for U.S. Non-GSIBs

- Questions for Agency Staff

October 16, 2023



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## Proposed Long-Term Debt Requirement for U.S. Non-GSIBs

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- We are pleased to speak with staff of the Board of Governors of the Federal Reserve System (“FRB Staff”) about the U.S. banking regulators’ notice of proposed rulemaking (“NPR”) to impose Long-Term Debt (“LTD”) requirements on firms in Categories II, III and IV.
- The RBC Capital Markets team has spent considerable time analyzing key elements of the proposal, assessing the proposal’s potential impact on covered firms, and discussing those insights with our bank clients.
- On the following pages, we include one excerpt from our broader analysis, i.e., a *list of questions* compiled through our own analysis and discussions with bank clients and institutional investors, in order to seek clarification from the regulators on certain aspects of the LTD NPR.

**RBC Capital Markets looks forward to the opportunity to discuss this significant rulemaking initiative with the FRB Staff**



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*Note: We are submitting these materials in our capacity as advisers to our external clients and not on behalf of Royal Bank of Canada or any of its affiliated entities.*

## Questions for Agency Staff on LTD Proposal

Questions	
1	Would currently existing intercompany debt be captured in the grandfathering provision? Or would it need to be restructured to meet the LTD eligibility criteria? [We note the definition of “legacy internal debt” appears to only contemplate debt issued externally by the bank.]
2	Was consideration given to aligning the three-year phase-in period of the LTD proposal with the three-year phase-in period of the Basel III endgame proposal?
3	Regarding non-qualifying debt issued up until the rule’s finalization. If banks continue to issue external debt, will the regulator exercise its discretion (as provided by the proposed rule) to exclude such debt from the bank’s eligible LTD amount?
4	Regarding the agencies’ estimated LTD shortfall: a) Are these amounts based on the four-quarter average ended Q3 2022? b) Does the analysis include any existing (as of Q3 ’22) inter-company debt? [fn98 suggests it does not] If so, how much of such inter company debt was assumed to be included? And is it included on the assumption that it could be restructured to be LTD compliant? c) If the agencies assume some amount of inter-company debt could be restructured to be LTD compliant, was consideration given to how this could impact parent company liquidity requirements/needs, e.g., LCR, as applicable, other liquidity requirements?
5	Does the agencies’ shortfall analysis incorporate any assumptions about changes in RWAs due to balance sheet changes (e.g., loan growth, asset sales, etc.)?
6	Other than satisfying the eligibility criteria for internal LTD, will the agencies impose any other requirement or expectations re internal LTD, e.g., interest rates, interest payment dates, call options, extension options, etc.?
7	Would it be useful to provide feedback from institutional investors on the proposed \$400,000 minimum denomination requirement for external LTD?
8	Does the dual LTD requirement effectively mandate an MPOE resolution strategy for all Category II-IV firms? a) In some places of the NPR, it appears that SPOE may still be an option (e.g., page 68: “In the case of SPOE resolution...”), but most places seem to assume MPOE. And then there’s the following statement on page 69: “[C]overed entities that currently plan for an MPOE resolution strategy may nevertheless be resolved pursuant to an SPOE resolution strategy or adopt an SPOE resolution strategy in the future.”] b) If a covered entity has adopted an SPOE resolution strategy, could it only be subject to a BHC-level LTD requirement? Or would it still also be subject to the IDI-level requirement?

## Questions for Agency Staff on LTD Proposal (*continued*)

Questions ( <i>continued</i> )	
<b>9</b>	<p>On page 27 of the NPR, the agencies note that the proposed rule would “reserve the authority for the Board to require a covered entity to maintain more, or allow a covered entity to maintain less, eligible LTD than the minimum amount required by the proposed rule under certain circumstances.” (See also, proposed rule text at pg. 162 similar reference on page 38 re the IDI holding <b>more</b> than the minimum amount of required LTD, though no reference to the IDI being permitted to hold <b>less</b> than the minimum required amount of LTD)</p> <ol style="list-style-type: none"> <li>a) While the text then indicates how this authority can be used to <b>increase</b> a covered entity’s required LTD amount, it does not indicate how the authority could be used to require a covered entity to maintain <b>less</b> LTD than what the rule requires. Can you explain what type of situation would result in a covered entity being required to hold <b>less</b> LTD than the minimum required by the rule?</li> <li>b) Does the lack of a reference to the IDI being permitted to hold <b>less</b> than the minimum required LTD amount mean the IDI regulator does not have the same authority on this point as the Board has with respect to the entities it regulates?</li> <li>c) Where in the proposed rule text is this authority with respect to the FDIC and OCC? (Board authority is at pg. 162)</li> </ol>
<b>10</b>	<p>The NPR provides the Board with the right, after notice and opportunity to respond, “to order the covered entity to exclude from its outstanding eligible LTD amount any otherwise eligible debt securities with features that would significantly impair the ability of such debt securities to absorb losses in a resolution.”</p> <ol style="list-style-type: none"> <li>a) Is this intended to capture securities that (1) did not comply with the eligible LTD criteria when issued, but that the firm nevertheless included in its LTD amount? Or (2) debt that fully complied with the LTD criteria when issued, but that the Board subsequently determined could be problematic if the firm went into resolution?</li> <li>b) The language also captures “eligible legacy external LTD.” Are there any examples of outstanding securities that could be excluded from the grandfathering provision?</li> <li>c) Should covered entities pre-clear debt securities that they seek to include in their LTD amount with their local regulator in advanced of issuance? If so:             <ol style="list-style-type: none"> <li>i. Will local regulators be trained on what criteria to look for in order to make such an assessment?</li> <li>ii. What materials should the covered entity provide? E.g., term sheet, prospectus, indenture</li> <li>iii. Will the local regulator’s assessment be binding (i.e., not subject to subsequent reversal) by the applicable agency?</li> </ol> </li> </ol>
<b>11</b>	<p>Have the agencies considered recalibrating the FDIC insurance assessment or the limit on the Unsecured Debt Adjustment benefit, as a result of the proposal’s requirement for IDIs to hold a significantly higher amount of unsecured debt that would be contractually subordinated to deposits?</p>
<b>12</b>	<p>Regarding the “clean holding company” prohibition on third-party debt with an original maturity of less than 1 year: Will any outstanding securities be permitted to roll off; i.e., be held until their maturity? Or will firms need to repurchase/tender for these securities?</p> <ol style="list-style-type: none"> <li>a) Similar question re the 5% of CET1 limit on non-eligible LTD liabilities?</li> </ol>
<b>13</b>	<p>Does the “downstream” requirement of the LTD proposal effectively rely on the “source of strength” doctrine?</p>
<b>14</b>	<p>If a bank needs Tier 2 capital, can the BHC issue senior debt and downstream the proceeds in exchange for a Tier 2 bond? Would that intercompany Tier 2 bond count toward the IDI’s LTD requirement, if it included all the required eligibility criteria?</p>

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