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October 30, 2008

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn: Comments

Re: RIN 3064-AD30: Recordkeeping Requirements for Qualified Financial Contracts

Dear Mr. Feldman:

The Clearing House Association L.L.C. ("The Clearing House"), an association of major commercial banks,[1] appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (the "FDIC") notice of proposed rulemaking that would require an insured depository institution in a troubled condition, upon written notification by the FDIC, to produce at the close of processing of the institution's business day certain data and information relating to qualified financial contracts ("QFCs") to which the institution, and in certain cases its affiliates, are parties (the "Proposal").[2]

[1] The members of The Clearing House are: ABN AMRO Bank, N.V.; Bank of America, National Association; The Bank of New York Mellon; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JPMorgan Chase Bank, National Association; UBS AG; U.S. Bank National Association; Wachovia Bank, National Association; and Wells Fargo Bank, National Association.

[2] 73 Fed. Reg. 43635 (July 28, 2008).

The Clearing House recognizes the FDIC's need to evaluate and analyze failed institutions' exposure in receivership to QFC transactions quickly and efficiently in order to maximize the value of those institutions' QFC portfolios and thereby reduce potential losses to the Deposit Insurance Fund. We therefore acknowledge that recordkeeping requirements may be appropriate to the extent that they would give the FDIC access to information about an institution's QFC portfolio that would be valuable to the FDIC in its role as receiver or conservator.[3] As we discuss below, however, we believe that the benefit to the FDIC would be more commensurate with the compliance costs imposed on institutions if the data required under the Proposal were focused on counterparty-level information, rather than on position-level data as proposed. In particular, because the FDIC is statutorily obligated in its role as receiver to treat all transactions with a given counterparty and its affiliates as a single "book," we believe that the collection of counterparty-level data would provide the FDIC with the critical information necessary to permit it to deal with a troubled institution's QFC portfolio quickly and properly.

Although even recordkeeping requirements focused only on counterparty-level data would impose significant costs on complying institutions, we are particularly concerned that constructing and updating a centralized database to capture *position-level* data, as the Proposal would require, would impose significant burdens on our members and other depository institutions. We do not believe that such requirements would further either the FDIC's objectives or safe and sound banking principles beyond what counterparty-level data requirements can provide.

Additionally, we are concerned that requiring compliance with this Proposal while our members are still putting in place the necessary systems to comply with Basel II will frustrate the efficient implementation of both regulatory schemes.

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[3] The discussion of the FDIC's role as receiver throughout this letter includes both its role as receiver and as conservator, as the case may dictate.

Finally, because of the vast amount of information that the Proposal would require an institution to process upon reaching a troubled condition, we are concerned that the Proposal in its current form creates a risk of signaling to employees, and even outsiders, when an institution may be in troubled condition.

Accordingly, we urge the FDIC to consider our recommendations below when adopting the final rule so that the guiding principles of the Proposal will be more effectively realized and adverse effects can be avoided.

I. Focusing on Counterparty-Level Data

Our member banks agree that the FDIC must have ready access to relevant data regarding a troubled institution's QFC portfolio, in the event it steps in as receiver, in order to permit the FDIC to determine rapidly how to deal with that portfolio. We believe, however, that counterparty-level data are most directly applicable to the determinations the FDIC must make as receiver and, as a result, the FDIC's QFC recordkeeping and reporting requirements should focus on this type of information. In receivership, the FDIC is required by statute to transfer, repudiate, or retain all transactions with a single counterparty and its affiliates as a single "book."[4] For this reason, we believe that the most valuable information to employ in determining whether to transfer, repudiate, or retain QFCs with any given counterparty would be data permitting the FDIC to evaluate as a single book each set of transactions that must be dealt with together

A focus on counterparty-level data is also consistent with the way in which institutions manage exposure and risk in their QFC portfolios. Financial institutions generally manage trading relationships on a counterparty-by-counterparty basis rather than on a trade-by-trade basis. To assess the risks and benefits that a trading

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[4] *See* 12 U.S.C. §§ 1821(e)(9)(A), 1821(e)(11) (2008).

relationship presents to an institution, the institution must be able to evaluate, on an on-going basis, aggregate information for that particular counterparty. In other words, while credit and market risk and other aspects of a trading relationship with a single counterparty are, of course, monitored through various systems, the primary factor a depository institution must assess in evaluating the immediate loss that it would suffer if a counterparty were to default is the institution's aggregate position vis-à-vis that counterparty. Existing information systems are already built with this objective in mind.

We respectfully submit that the same evaluation would remain paramount in a receiver's assessment of the QFC portfolio of a troubled institution. The receiver would have to determine whether the entire counterparty relationship, on an aggregate basis, has value to the defaulted institution, or whether it would be better to permit the counterparty to terminate that relationship in its entirety.

In addition, in carrying out its obligations as receiver, the FDIC must balance the utility of the required data against the substantial costs to all institutions of complying with the Proposal.[5] With that objective in mind, we are concerned that the cost of aggregating position-level data, as required by Table A1 of the proposed recordkeeping requirements,[6] across a large portfolio of QFCs of varying transaction types outweighs the utility of having aggregated position-level data available to the FDIC. Aggregating counterparty-level data would be less costly in large part because, as noted above, it is consistent with the way in which institutions themselves evaluate and manage their own QFC exposures. Additionally, our member banks have already begun developing systems to evaluate and report net counterparty exposure across their QFC

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5 Based on our recent experience with Basel II implementation, we believe that the initial personnel hours and IT resources required to implement the Proposal would greatly exceed the estimated burden prepared by the FDIC under the Paperwork Reduction Act. We believe that the costs associated with this burden are significant but indeterminate at this time.

6 *See* 73 Fed. Reg. at 43642.

portfolios as part of their Basel II compliance efforts, so preparing these data in a form that would be useful to the FDIC could be accomplished much more quickly and at much lower cost.[7] Conversely, preparing the position-level data in the manner requested by the FDIC would require additional systems and operational functionality, creating a burden to the significant efforts underway toward Basel II implementation. This would be of no benefit to the institution and would have no practical use to the FDIC in deciding how to deal with the overall QFC trading relationship with each counterparty, especially where QFC portfolios as large as those of our member banks' are concerned.

Accordingly, we strongly urge the FDIC to consider refocusing the reporting required under the Proposal to counterparty-level data. The Clearing House would welcome the opportunity to consult with the FDIC to determine how best to provide access to appropriate counterparty-level data in a format that is both useful to the FDIC and consistent with the way in which an institution manages such data in the ordinary course.

If the FDIC does determine that QFC data must be centralized in some manner, the cost of building the necessary systems could be reduced by permitting institutions to maintain the information in the same counterparty-level format as they normally maintain the data across separate systems.

II. Operational Burden of Aggregating the Required Data onto a Single Platform

The Proposal's requirement that an institution aggregate information across all of its QFC portfolios in a centralized fashion, particularly position-level data, also comes at a high cost to institutions—a cost that we believe is disproportionate to the value to the FDIC of having the data presented in the proposed format. As already noted,

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[7] Because institutions are not currently required under Basel II to keep these data in a centralized database, creating a centralization requirement would still require significant capital expenditure. We discuss this and other costs in further detail in Section II of this letter.

in order to manage their QFC portfolios and related risks appropriately, most financial institutions have already created information systems for much of the data that would be required by the Proposal. Consistent with the uses for which they are intended, however, this information is collected and reported through separate systems, across varying business units and geographic locations, so that each business unit can control and manage the transactions in the institutions' portfolio in the manner most appropriate for the business or location. Generally, however, when the information from these transaction databases is aggregated, it is for the purpose of assessing or managing a particular type of risk, and not to simply identify the transactions with a particular counterparty. Therefore, there is not typically a system for aggregating and storing transactional information all in one place. To put this information in a centralized database within the United States, as called for by the Proposal, would require building bridges among those various systems at substantial cost, without adding to an institution's ability to operate in a safe and sound manner.[8] As indicated above, a counterparty-level data aggregation system would be consistent with both an institution's current risk management procedures and goals and the FDIC's timely analysis of a QFC portfolio.

Compliance with the Proposal would place a financial institution in the difficult position of choosing among three unpalatable alternatives with little additional benefit to the institution. An institution could incur significant upfront costs to consolidate its separate information systems and require all of its business units to use a single unwieldy system, resulting in additional operating costs due to the inefficiencies in transaction flows such a system may create. Alternatively, an institution could incur significant upfront costs to build bridges between its separate information systems for the

[8] It will be important to consider data privacy issues when crafting the requirements for the final rule. Aggregating transaction-level data on a global basis, for example, that includes identifying details about counterparties may present an issue under applicable data privacy laws and regulations (particularly in the European Union).

mere purpose of gathering transaction-specific data beyond what is already collected for risk management, thereby creating a data collection mechanism with no incremental benefit to the institution and no enhancement to its risk management function. Or, as a third option, an institution could create and administer two parallel information systems: one system to be used by employees for day-to-day business purposes, and a second, separate system to be used by the FDIC in the event that the institution were determined to be in a troubled condition. All of these approaches would substantially increase operational costs and may divert valuable financial and personnel resources precisely at a time when an institution may require those resources to improve its troubled condition.

For these reasons, we urge the FDIC to modify the proposed rule to operate more within the framework of institutions' existing systems, rather than mandating a separate format and location that is not conducive to the manner in which our members' QFC businesses operate. We believe that the substantial costs and operational challenges of centralizing QFC data into a single database in the United States as contemplated by the Proposal should be taken into consideration in developing the final rule.

III. Conflict with Basel II Implementation

In addition to the concerns discussed above, we respectfully submit that it is impossible for any financial institution with a substantial QFC portfolio to assemble the required data in the manner set forth in the Proposal within the thirty-day period currently contemplated, unless the institution were given significant lead time to acquire or develop the requisite operating systems. In order to comply with the Proposal, our member banks, each of which has a substantial QFC portfolio, would need to begin building the necessary systems once the final rule is adopted, a project that would be substantial even were they to focus on these requirements exclusively. Our member banks, however, are already acquiring and developing the systems necessary to comply with Basel II, a process that takes considerable time and resources. Requiring these

institutions to create additional data systems that are not complementary to those of Basel II, such as systems to aggregate and report position-level data, could result in considerable disruption and time delays to both efforts.

IV. Modifications to Proposed Recordkeeping Requirements

If the FDIC determines that position-level data must be aggregated not only by counterparty but also for each of the other fields identified in the proposed Table A1, The Clearing House would also like to address three concerns relating to the specific recordkeeping requirements set forth in the Proposal. First, we believe that the "purpose of the position" field may be difficult to populate across large QFC portfolios because financial institutions typically have no business need to record such information, and the purpose can change over time or lose its significance. At the same time, we believe such information likely would not be of significant value to the FDIC as receiver.

Second, given the broad nature of the definition of "qualified financial contract," we believe that it may be necessary for the FDIC to make clear that inclusion, or failure to include, a transaction in the required database will not determine whether the transaction is ultimately eligible for treatment as a QFC under the Federal Deposit Insurance Act. In the course of their business, financial institutions must track all of their counterparty exposures, whether or not they are QFCs. There are some transactions, particularly new types of transactions, whose status as QFCs may be open to question, at least initially. A depository institution may decide, as a matter of prudent management, to treat a transaction as a non-QFC transaction for credit analysis, regulatory capital, and other purposes, even though the institution might believe that a properly briefed court would agree that the transaction is entitled to the benefits of the QFC protections in a receivership. It may be difficult for an institution dealing with such novel transactions to operate its systems in this fashion and at the same time include such transactions in the proposed QFC database. This difficulty should not preclude the institution from exercising its remedies if and when the status of the transaction is determined.

Third, the FDIC, in question 6 in the Proposal, has requested comment on whether data requirements in proposed Appendix A should be tailored to fit specific QFC categories. Given the breadth of the definition of "qualified financial contract," we believe that different recordkeeping requirements for specific QFC categories would be necessary to provide a full transaction-level understanding of the transactions—but collecting that information would further increase the cost of compliance if those requirements were inconsistent with the way in which those contracts were managed in the ordinary course.

V. Signaling Risk

The Clearing House is also concerned that the very act of having to collect or organize the data in the format required could signal to employees of an institution, and potentially to parties outside the institution, that the institution is in a troubled condition. Because institutions do not normally maintain the full range of data covered by the Proposal in a central location as part of their on-going business, and because of the large numbers of people required to gather and reformat such data, the simple, easily observable fact that an institution is collecting such data might signal to employees and outsiders that the institution is in a troubled condition, which could result in a failure in confidence and thus further destabilize the institution.

We believe that this risk is best minimized by requiring that records regarding a QFC portfolio be maintained in a manner consistent with the way in which an institution maintains such records in the ordinary course of its business. As discussed above, most institutions already have systems to rapidly evaluate a QFC portfolio at the counterparty level. Our member banks are further developing these systems as part of the Basel II compliance process. For these reasons, preparing QFC records that are consistent with an institution's ordinary course records for delivery to the FDIC in the event that the institution is determined to be in troubled condition would involve fewer

personnel and a less drastic departure from standard procedures, thereby minimizing the signaling risk to employees and outsiders.

VI. Recordkeeping and Safety and Soundness Principles

Lastly, The Clearing House respectfully disagrees with the implication in the Proposal that it would be inconsistent with safe and sound banking principles if the data set forth in the Proposal are not maintained *in the required format* by institutions holding QFCs. Except as noted above, each piece of data set forth in the Proposal is generally maintained by each institution in some form. However, there is no reason that an institution would need to assemble all the information required by the Proposal into a single, centralized database, whether upon demand or on an on-going basis. As discussed above, financial institutions generally manage the exposures arising out of trading relationships on a counterparty-by-counterparty basis as meets their needs. When an institution's counterparty fails, that institution must be able to rapidly aggregate information for that particular counterparty in order to respond appropriately and minimize its losses across all exposures regardless of whether they are QFCs. This task is already feasible on a counterparty-by-counterparty basis using existing systems. In the course of managing its counterparty exposures, however, an institution has no compelling business need to extract and aggregate position-level QFC data for *all* counterparties *simultaneously*, nor would doing so facilitate the institution's ability to manage its exposure to its counterparties.

Furthermore, as noted above, because the definition of "qualified financial contract" is very broad, the term covers an array of different transactions that are managed by different business units across large institutions. Each of these transaction types requires tracking and managing different types of data. Therefore, requiring all business units to use a single vehicle to track their differing transaction types would be cumbersome and inefficient and would not appear to add significant value to the FDIC's ability to assess a troubled institution's assets in an effective manner. In fact, adding

extraneous data might complicate that assessment—both for institutions in the ordinary course of business and for the FDIC in its role as receiver. Of course, each piece of data set forth in the Proposal is generally maintained in some form to carry out and settle these contracts, though institutions generally do not find it useful or cost-effective on an on-going basis to maintain such data in a centralized location on a position-level basis.

Accordingly, it does not appear that safe and sound banking principles would require an institution to consolidate position-level data for all QFC transactions into a single database.

VII. Specific Questions

We have provided additional responses in Annex A of this letter to specific questions raised in the Proposal.

VIII. Conclusion

The Clearing House supports the FDIC's need to quickly access certain information related to QFC transactions in order to allow the FDIC, in its role as receiver, to efficiently assess the assets of troubled institutions. We believe, however, that this need can be met more cost-effectively by permitting institutions to report counterparty-level data that are already kept on existing systems. Requiring institutions to aggregate and deliver position-level data, and requiring a centralized database, would provide little additional value to the FDIC relative to the alternatives outlined herein. Additionally, compliance with such requirements would require a substantial outlay of financial and personnel resources both at the outset and on an on-going basis, could actually detract from the ability of institutions to operate efficiently on a day-to-day basis, and could signal to employees and persons outside the institution that it is in troubled condition.

If the FDIC nonetheless chooses to pursue a framework similar to the Proposal, we respectfully request that it consider the substantial effort involved in

complying with such regulations, and allow enough lead time to implement the systems required. The specific lead time, of course, would depend on the exact requirements of the final rule. A rule focused on counterparty-level data located on existing systems would require far less lead time than the current Proposal. In addition, considerable weight should be given to the significant time and resources already being spent on Basel II compliance, especially since the required new systems would complicate the Basel II effort. Implementing these systems on an earlier time frame than required under Basel II could be particularly challenging, especially if the process involves enhancing or linking to systems being built for Basel II.

In conclusion, The Clearing House recognizes the importance of delivering to the FDIC, in a timely and effective manner, information about a troubled institution's QFC portfolio that would be helpful to the FDIC in its role as receiver. Our member banks are prepared to work with the FDIC to arrive at a set of requirements that meet the FDIC's needs in a focused and targeted manner. To that end, and recognizing the complex issues presented in drafting such a final rule, our member banks, including their respective operational staffs, would welcome the opportunity to meet with the FDIC so that together we may more fully explore the challenges related to this issue and arrive at a satisfactory result.

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Thank you for considering the views expressed in this letter. If you would like additional information regarding this letter, or if it would be helpful to meet with representatives of our member banks, please contact me at (212) 612-9205.

Very truly yours,

Responses to FDIC Questions

1. *Whether the definition of "troubled condition" in the proposed rule should be modified in the final rule to include any insured depository institution that has received a composite rating as determined by its appropriate Federal banking agency in its most recent examination, of a 3 under the Uniform Financial Institution Rating System?*

 The Clearing House believes that the definition of "troubled condition" in the Proposal is appropriately broad with respect to examination ratings and should not apply to institutions with a composite rating of 3 that have less than ten billion dollars in consolidated assets. An institution, even a large one, can receive a rating of 3 for a variety of reasons that do not put it in imminent danger of FDIC intervention in its on-going business. Furthermore, for smaller institutions with less significant QFC portfolios, the burden of compliance upon receiving such a rating would be disproportionate to the cost if there is indeed no such danger.

 We also do not believe that the requirements of the Proposal should apply automatically to institutions with a rating of 3 having ten billion dollars or more in assets. We agree that an automatic reporting requirement for any bank with a 4 or 5 rating is appropriate, given the severity of such a rating. For institutions with a rating of 3, however, we would propose that a more subjective requirement that examines the reasons for a particular institution's rating, perhaps in consultation with that institution's primary regulator, would be a more effective method of evaluating if that rating really merited application of the QFC reporting requirements. In any case, if the FDIC or the institution's primary regulator believes that the problem is severe, the institution would likely be deemed to be in "troubled condition" under one of the other triggers in Section 370.2(f) of the Proposal.

2. *Whether the QFC recordkeeping requirements in this proposed rule should be applied in the final rule to cover all institutions, regardless of whether they are in a troubled condition? Alternatively, should the proposed rule be applied to cover all institutions, regardless of whether they are in a troubled condition, if they meet certain quantitative thresholds? Possible thresholds are outlined in the following question. Such an expansion of the scope of the proposed rule would be consistent with the important role that the availability of this information will have in the case of the appointment of a receiver or conservator in facilitating an orderly resolution of a failed institution and the reduction of the losses of the Deposit Insurance Fund. Delaying the obligation for such recordkeeping until an institution is in a troubled condition increases the risks of disruption and the potential for losses to the Deposit Insurance Fund. In addition, the requirements imposed by this proposed rule are consistent with the data and records necessary for the safe and sound management of the risks arising from QFC activities. The absence of such prudent management practices increases the risks to the Deposit Insurance Fund. The FDIC's general authority to promulgate rules to protect the Deposit Insurance Fund would provide additional support for this expanded coverage.*[9]

[9] *See* 12 U.S.C. § 1819(a) (Tenth); 12 U.S.C. § 1821(a)(4)(A).

The Clearing House does not believe that it is appropriate to require all institutions, regardless of whether they are in troubled condition, to maintain the information required by the Proposal. An unintended consequence of the Proposal, particularly if it is adopted in its current form, would be to require institutions with large QFC portfolios to have to begin developing or bridging systems well before they would be deemed to be in "troubled condition," because there would not be sufficient time after such a determination to implement the systems necessary to comply.

Because we continue to believe, however, that it is not appropriate for all institutions to have to undertake such efforts, we strongly urge the FDIC to consider The Clearing House's proposals in the body of the letter for working within institutions' existing systems and aggregation formats. The Clearing House does not believe that it is inconsistent with safe and sound banking principles to organize the data in a manner other than in the required format, as banks generally manage QFC credit exposure on a counterparty-by-counterparty basis. A requirement to simultaneously maintain QFC data, particularly on a position-level basis, in a centralized database could create costly redundancies for an institution that is not in a troubled condition, while still not compromising its ability to comply with the proposed requirements if it fell into troubled condition.

3. *Whether the QFC recordkeeping requirements in this proposed rule should be applied in the final rule only to institutions that meet certain quantitative thresholds, for example, including (i) the total consolidated assets of the institution exceed a certain threshold (e.g., a minimum total asset size of the institution of $2 billion or more); (ii) the institution's holding of QFCs exceeds a certain total notional or principal amount; (iii) the institution is a party to no fewer than 10 open positions, or (iv) the total notional or principal amount of QFCs held by the institution constitute more than a certain percentage of tier 1 and tier 2 capital under the risk-based capital guidelines of the appropriate Federal banking agency, based on the institution's most recent consolidated Report of Condition and Income (e.g., greater than 20 percent of the institution's tier 1 and tier 2 risk-based capital)? In addition, should the FDIC consider other relevant factors such as the total number of QFC transactions by the institution, the types of QFCs executed by the institution, and the complexity of the QFC positions executed by the institution? Alternatively, should institutions below thresholds of the types described in this question be required to comply with the substantive requirements in proposed part 370 and section B of proposed Appendix A, but be excused from the requirements in Tables A1 and A2 of proposed Appendix A that records be maintained in electronic form?*

   Please see our responses to Questions 1 and 2.

4. *Should the QFC position level data fields in Table A1 of proposed Appendix A be required of affiliates of institutions subject to the proposed rule? Alternatively, should the QFC position level data fields in Table A1 of proposed Appendix A be required for affiliates of the institution that are counterparties to QFC transactions where such transactions are subject to a master agreement that also governs QFC transactions entered into by the institution?*

Rather than the position-level data required in Table A1, the QFC recordkeeping requirements should be focused on counterparty-level data, including where an affiliate is the counterparty to the institution, as this is the level of detail most useful to the FDIC in determining a course of action for QFCs with any given counterparty.

Requiring position-level data for QFCs where an affiliate of an institution has a QFC with a third party would significantly increase the operational burden of compliance, with little marginal benefit to the FDIC.

5. *Are there additional recordkeeping requirements or modifications to the proposed QFC recordkeeping requirements that would better reflect current internal risk management concerns of institutions?*

Banks generally manage counterparty credit exposure on a counterparty-by-counterparty basis. When a counterparty fails, a bank must rapidly assemble information with respect to such counterparty, and banks have developed existing systems to do this. In the course of managing its counterparty exposures, a bank is not required to aggregate information for all counterparties simultaneously, and doing so would not facilitate the bank's ability to manage exposure to its counterparties. Furthermore, no single database would be ideal for tracking all types of transactions, and the cost of building together separate systems to aggregate the information as required by the Proposal would exceed any utility to the FDIC of having the information required by the Proposal in a single database.

In addition, The Clearing House believes that the focus of the recordkeeping requirements should be on the counterparty level, as this is how banks manage QFC exposure in the ordinary course and similarly how the FDIC would likely evaluate a QFC portfolio in a receivership or conservatorship situation.

6. *Should the data requirements in proposed Appendix A be tailored to fit specific QFC categories (e.g., repurchase agreements and swap contracts)?*

Given the breadth of the definition of "qualified financial contract" and the universe of transactions that it covers, The Clearing House believes that tracking specific QFC categories across the entire range of fields in the Proposal could be overly burdensome. As financial institutions have developed systems to track the various types of QFCs according to their business needs, if the FDIC determines that it would benefit from recordkeeping requirements that are consistent with the level of detail commonly used by financial institutions (i.e., focus on counterparty-level data), The Clearing House would welcome the opportunity to work with the FDIC to develop appropriate data requirements for specific QFC categories.

7. *Should the FDIC revise its current definition of "troubled condition" in 12 CFR 303.102(c) to include the definition of "troubled condition" in this proposed rule?*

Rather than conforming the definition of "troubled condition" in 12 C.F.R. § 303.101(c) to the definition in the Proposal, The Clearing House believes it may be more appropriate, in part for the reasons set forth in Question 1, to conform the definition in the final rule to the definition in 12 C.F.R. § 303.101(c).

9. *Do any of the data fields required in Tables A1 and A2 of proposed Appendix A call for information that is not relevant to the institutions' and counterparties' legal and economic positions regarding their QFC portfolios? Also, please provide any modifications of the data fields in Tables A1 and A2, in addition to the information required in section B of proposed Appendix A that would be appropriate for the appropriate Federal banking agency and the FDIC to better monitor QFCs entered into by institutions, counterparties, and affiliates of institutions and counterparties that are covered by section B.1 of proposed Appendix A.*

   See response to Question 5. In addition, certain fields—for example, the "purpose of the position" field—may be difficult to populate across a large QFC portfolio because banks typically have no business need to collect this information, which is also subject to change over time, and these data likely would not be of significant value to the FDIC as receiver or conservator.

10. *Under section 370.1(c) of the proposed rule, an insured institution must comply with this rule and Appendix A within 30 days after written notification by the institution's appropriate Federal banking agency or the FDIC that it is in a "troubled condition" as defined in the proposed rule. Should the FDIC include in the final rule an approval procedure for requests for an extension of the 30 day deadline from institutions with an aggregate amount of QFCs beyond a certain threshold and based on specific dates for compliance?*

    An approval procedure for requests for extension would be appropriate. As banks generally do not maintain QFC data in the format required by the Proposal, compliance with the Proposal within 30 days after written notification may not be possible for institutions with a large QFC portfolio. Once the Proposal goes into effect, institutions would likely be required to seek to tailor their systems to permit prompt compliance with the Proposal if and when they become subject to its requirements. In addition, see the responses to Questions 1 and 2 above.

11. *Should Appendix A be amended to include requirements for a listing of the institution's QFC-related portfolios, those portfolios' risk information, and the specific counterparties associated with those portfolios?*

    The Clearing House respectfully requests clarification from the FDIC as to what would constitute a "QFC-related portfolio". We would be pleased to respond to this inquiry or discuss further with the FDIC upon receiving such clarification.