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The Clearing House℠

September 4, 2009

Office of the Comptroller of the Currency
250 E Street, S.W.
Mail Stop 2-3
Washington, D.C. 20219
Docket ID OCC-2009-0009

Ms. Jennifer J. Johnson
Secretary
Board of Governors of the Federal Reserve System
20th and C Streets, N.W.
Washington, D.C. 20551
Docket No. OP-1362

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

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, N.W.
Washington, D.C. 20552
Attn: ID OTS-2009-0011

Ms. Mary F. Rupp
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: Proposed Interagency Guidance—Funding and Liquidity Risk Management

Ladies and Gentlemen:

The Clearing House Association L.L.C. ("The Clearing House")[1] is pleased to comment on the Agencies' proposal to issue interagency guidance on funding and liquidity risk management ("Guidance").[2] The Guidance "summarizes the principles of sound liquidity risk

[1] The members if The Clearing House are ABN AMRO Bank N.V.; Bank of America, National Association; The Bank of New York Mellon; Citibank, National Association; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JPMorgan Chase Bank, National Association; UBS AG; U.S. Bank National Association; and Wells Fargo Bank, National Association.
[2] 74 Fed. Reg. 32,035 (Jul. 6, 2009).

management that the agencies have issued in the past and, where appropriate, brings them into conformance with the 'Principles for Sound Liquidity Risk Management and Supervision' issued by the Basel Committee on Banking Supervision (BCBS) in September 2008."[3] The Guidance establishes a general expectation that banks and other financial institutions "have a comprehensive management process for identifying, measuring, monitoring and controlling liquidity risk."[4]

The Clearing House strongly supports the overall approach that the Agencies have taken with the Guidance, eschewing rigid rules in favor of a principles-based approach that focuses on each institution's risk-management processes and procedures. An approach that emphasizes quantitative standards would not be able to encompass an institution's individual business model, liquidity position, and vulnerabilities. While proponents of a quantitative model may argue that combining that approach with robust disclosure requirements would allow the public to understand the liquidity risks associated with different institutions, we do not believe this would be true. Quantitative standards would not really be comparable across institutions and could be misleading if taken out of context. Each institution is unique and must build its own liquidity-risk management program to suit its own circumstances.

While we support the overall approach taken by the Agencies, we believe that the Guidance could be improved in certain respects. Our thoughts on these matters are set out below:

Improved Coordination of International Standards.

Most members of The Clearing House are internationally active banks or U.S. affiliates of global financial institutions. This fact has given them a keen insight into the requirements of managing liquidity globally. Because of this, The Clearing House believes strongly that there is an urgent need for better coordination of international standards for managing funding and liquidity-risk management, with the goal being the adoption by banking supervisors across the

[3] *Id.*
[4] *Id.*

globe of as close to a single set of standards as possible. The benefits of a single standard are obvious: first, a level playing field for international banking institutions; second, giving banks that operate around the world the ability to deploy liquidity efficiently by assigning and moving liquid assets and collateral as needed, thereby contributing to the banks' ability to remain liquid in all the markets in which they participate, increasing their own safety and soundness and the stability of world financial markets generally.

Conversely, lack of harmonization would tend to inhibit the ability of financial institutions to address funding and liquidity-risk management on a global, firm-wide basis, would tend to trap liquidity in local markets, and result in competitive inequality among internationally active firms. Accordingly, we strongly urge the Agencies to work with bank supervisors, either on an individual basis or through such international organizations as the G-20 and The Basel Committee on Banking Supervision, to harmonize to the greatest extent possible standards for funding and liquidity-risk management across the globe.

Liquidity Across Legal Entities and Business Lines.

The Guidance provides that "[a]n institution should actively monitor and control liquidity risk exposures and funding needs *within and across* legal entities and business lines. Separately regulated entities will need to maintain liquidity commensurate with their own risk profiles on a stand-alone basis. "[5] The Guidance goes on to say that firms must "actively monitor and control liquidity risks at the level of individual legal entities, and the group as a whole."[6] While we do not object to these principles, we are concerned with what appears to be a growing tendency among international bank regulators to restrict the free flow of liquidity. Bank supervisors' should encourage the ability of banks and other companies within a holding company to borrow from one another, thus allowing liquidity to move freely within the firm. Liberalizing these rules would enhance an institution's ability to manage funding and liquidity risks thereby reducing overall risk to the financial system.

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[5] *Id.* at 32,041.
[6] *Id.*

Requiring each separate legal entity to maintain its own liquidity position would work to the detriment of the firm as a whole, creating pools of trapped liquidity that would not be available to the rest of the firm when needed. Such a regime would increase risk rather than reduce it.

Cushion of Liquid Assets.

The Guidance states that "a critical component of an institution's availability to effectively respond to potential liquidity stress in the availability of highly liquid assets without legal, regulatory, or operational impediments . . . that can be sold or pledged to obtain funds in a range of stress scenarios."[7] The Clearing House and its members strongly support this principle: Financial institutions should have a buffer of highly liquid assets, and the size of this buffer should be determined by each firm's individual circumstances. The example given, however, "high-quality U.S. Treasury securities, or similar instruments,"[8] seems to indicate an unduly restrictive approach. Limiting the kinds of instruments that make up the liquidity buffer to government securities would work against the goal of minimizing liquidity risk by diversifying funding sources. We believe that this liquidity buffer should include a mix of government securities and similar assets together with other assets that could be pledged to secure discount-window advances. Central banks should be encouraged to expand and harmonize the kinds of collateral they will accept at their discount windows. We also believe that the Guidance should explicitly state that liquidity buffers should be built during benign market conditions so that they will be available during times of stress.

Contingency Funding Plan.

We support the Guidance's stress on each institution's need to develop a contingency funding plan that is tailored to its individual circumstances and business model.

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[7] *Id.* at 32,041-42.
[8] *Id.* at 32,042.

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We hope these comments are helpful. If you have any questions or are in need of any further information, please contact Joseph R. Alexander, Senior Vice President and Senior Counsel, at (212) 612-9234.

Very truly yours,