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THE CLEARING HOUSE
Advancing Payment Solutions Worldwide

January 18, 2006

Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, DC 20551

Attention: Ms. Jennifer J. Johnson
Secretary

Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Attention: Public Information Room,
Mail Stop 1-5

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Attention: Robert E. Feldman
Executive Secretary

Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Attention: Regulation Comments
Chief Counsel's Office

Re: Joint Advance Notice of Proposed Rulemaking: Possible Modifications To Risk-Based Capital Guidelines (Docket Nos. R-1238 (Federal Reserve Board), 05-16 (OCC), 2005-40 (OTS))

Ladies and Gentlemen:

The Clearing House Association L.L.C. ("The Clearing House"), an association of major commercial banks[1], appreciates the opportunity to comment on the above-captioned joint

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1 The members of The Clearing House are Bank of America, National Association; The Bank of New York; Citibank, N.A.; Deutsche Bank Trust Company Americas; HSBC Bank USA, National Association; JP Morgan Chase Bank, National Association; LaSalle Bank National Association; UBS AG; U.S. Bank, National Association; Wachovia Bank, National Association; and Wells Fargo Bank, National Association. Deutsche Bank Trust Company Americas and UBS AG are not participating in this comment letter. References herein to "The Clearing House" include only the participating banks.

advance notice of proposed rulemaking (the "ANPR") by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency and the Office of Thrift Supervision (together, the "Agencies"). The proposals in the ANPR, sometimes referred to as "Basel I-A", would revise in various respects the Agencies' existing risk-based capital framework based on Basel I (the "Existing Guidelines") for banks that are not internationally active banking organizations.

The Clearing House supports the Basel I-A project to harmonize the Existing Guidelines with the updated international standards of Basel II[2], not just for internationally active banking organizations but for all banks. We greatly appreciate the efforts the Agencies have devoted to this project, as well as the candor of the discussions between the Agencies and the banking community. We endorse most of the concepts provided for in the ANPR (as we endorsed their counterparts in Basel II), including the expansion of the number of risk-weight categories to better recognize the differentiation in credit quality among individual exposures and the expanded recognition of financial collateral and guarantors.

However, we have several basic concerns with respect to the proposals outlined in the ANPR, discussed further below. We are not addressing in this letter the more detailed issues that some of our members will address in their individual comment letters.

A. Timing of Implementation

The Clearing House believes that it is essential that the implementation schedules for Basel I-A and Basel II for banks required or opting to apply the advanced internal ratings-based approach ("A-IRB") be aligned so that they become effective within similar time frames. Failure to do so could give rise to a competitive advantage to non-internationally active banking organizations subject to Basel I-A relative to internationally active banking organizations subject to the A-IRB under Basel II.

[2] References to "Basel II" mean the Basel Committee on Banking Supervision's report entitled "International Convergence of Capital Measurement and Capital Standards – A Revised Framework (Updated November 2005)."

The ANPR provides no transition period capital floor for Basel I-A. The A-IRB approach for internationally active banking organizations, as embodied in the Agencies' advance notice of proposed rulemaking published in August 2003 (the "Basel II ANPR"), provides for the Basel I capital standards as a floor during a transition period. Consequently, if Basel I-A were implemented before Basel II for A-IRB banks, non-A-IRB banks could benefit from the revised risk-based capital framework more quickly than A-IRB banks, which have made significant capital investments to implement the A-IRB approach.

B. Capital Floor During Transition Period for A-IRB Banks

We believe it is very important that the Agencies do not take the position that a corollary of Basel I-A is that Basel I-A becomes the required transition floor for A-IRB banks. The administrative and financial costs of implementing new capital standards have been and will continue to be enormous. It is very important that the A-IRB banks not be required to implement systems and procedures to calculate capital under yet another set of standards. However, we recommend allowing the A-IRB banks that wish to use Basel I-A as the capital floor during the transition period to do so.

C. Constructive Industry Consultation

Basel II, including the standardized and foundation IRB approaches provided therein, was the result of extensive discussion and analysis, including quantitative impact studies. If the Agencies proceed with the framework set forth in the ANPR for Basel I-A, we urge the Agencies to develop the new framework in consultation with the banking industry. Basel I-A is essentially a new and untested version of Basel I. Basel I-A is, of course, substantially simpler than the A-IRB approach of Basel II and consequently the analytic process, which might include a simplified impact study, should be shorter and easier to conduct.

D. Material Differences between Basel I-A and Basel II

There are many differences between the proposal for Basel I-A embodied in the ANPR and the standardized and foundation internal ratings-based ("IRB") approaches in

Basel II, with Basel I-A being comparable to the standardized approach in Basel II. We urge the Agencies to give careful consideration to the differences between the ANPR and the standardized approach as they proceed to a notice of proposed rulemaking. Where there are clear and direct differences between the standardized approach in Basel II and the Agencies' proposals for Basel I-A, we urge the Agencies to address the differences and explain the reasons for the differences in their notice of proposed rulemaking. We are concerned that the differences may have unexpected consequences for U.S. banks.

To cite just one example, the ANPR assigns a 200% risk weighting to externally rated corporate claims of BB+, BB or BB-. Basel II (paragraph 66) assigns a 100% risk weighting to externally rated corporate claims rated BBB+ through BB-. This discrepancy could have very important consequences. It would put U.S. banks that apply Basel I-A as proposed at a disadvantage as compared to banks in other jurisdictions that are permitted to use the Basel II risk weightings. It could also skew the capital cost of lending in favor of retail exposures and away from corporate exposures. These considerations raise important policy considerations that require a careful and thorough analysis.

E. <u>Bank Subsidiaries of Multi-Bank Holding Companies</u>

We urge the Agencies to permit banks that are not internationally active banking organizations, but that are affiliates or subsidiaries of banks or bank holding companies that are, to have the right to choose between the A-IRB approach of the Basel II ANPR and Basel I-A. In the Basel II ANPR, the Agencies explain their position regarding the subsidiaries of lead banks, stating that they:

> "believe that all bank and thrift institutions that are members of a consolidated group that is itself a core bank or an opt-in bank should calculate and report their risk-based capital requirements under the advanced approaches."

However, the ANPR for Basel I-A does not address the capital treatment of non-lead bank subsidiaries of multi-bank holding companies that themselves, together in most cases with their respective lead bank subsidiaries, are subject to the A-IRB approach provided for in the Basel II ANPR.

For most banks, we believe the choice between the A-IRB approach of the Basel II ANPR and Basel I-A will be dictated by administrative and systems considerations and expense. For some banks that are not themselves A-IRB banks, those considerations will point to choosing the A-IRB approach; for others they will point toward choosing the Basel I-A approach. We do not believe that giving a choice to non-lead banks in a multi-bank holding company that itself is an internationally active banking organization or whose lead bank subsidiary is an internationally active banking organization should raise regulatory concerns. The United States bank regulatory regime, including the "source of strength" doctrine embodied in the Federal Reserve Board's Regulation Y and the "cross-guarantee" provisions in the Federal Deposit Insurance Act, recognize the inter-dependency of banks in multi-bank holding company systems. We believe the administrative (including systems related) and expense considerations for these banks of being forced to implement multiple systems on an on-going (as opposed to merely a transition) basis should outweigh any potential regulatory or competitive concerns.

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Thank you for considering the views expressed in this letter. If you have any questions, please contact Norman R. Nelson at 212-612-9205.

Sincerely yours,