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Docket ID: OCC–2014-0029

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Docket Number: R-1537
RIN: 7100 AE-51

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Attention: Comments/Legal ESS
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Joint Notice of Proposed Rulemaking – Net Stable Funding Ratio, Risk Measurement Standards and Disclosure Requirements

Dear Sir/Madam:

State Street Corporation ("State Street"), the Bank of New York Mellon Corporation ("BNY Mellon") and the Northern Trust Corporation ("Northern Trust") (collectively the "Custody Banks") welcome the opportunity to comment on the joint Notice of Proposed Rulemaking ("proposed rule") issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System ("FRB") and the Federal Deposit Insurance

Corporation (collectively the "federal banking agencies"), implementing in the United States ("US") a Net Stable Funding Ratio ("NSFR") requirement.

Headquartered in Boston, Massachusetts, State Street specializes in the provision of financial services to institutional investor clients. This includes investment servicing, investment management, data and analytics, and investment research and trading. With $27.8 trillion in assets under custody and administration and $2.3 trillion in assets under management as of June 30, 2016, State Street operates in 30 countries and in more than 100 geographic markets.

Headquartered in New York, New York, BNY Mellon is a global investment company that provides investment management and investment services to help both individuals and institutions invest, conduct business and transact in financial markets globally. BNY Mellon operates in over 100 markets, with $29.5 trillion in assets under custody and/or administration and $1.7 trillion in assets under management as of June 30, 2016.

Headquartered in Chicago, Illinois, Northern Trust is a leading provider of wealth management, asset servicing, asset management and banking services to corporations, affluent families and individuals. Founded in 1889, Northern Trust has offices in 19 states and Washington, DC, and 20 international locations in Canada, Europe, the Middle East and the Asia-Pacific region. As of June 30, 2016, Northern Trust had assets under custody of $6.4 trillion and assets under management of $906 billion.

The NSFR is one of two quantitative liquidity standards introduced by the Basel Committee on Banking Supervision ("Basel Committee") in the wake of the financial crisis and forms part the Basel III Accord adopted in December 2010.[1] The first quantitative liquidity standard, the Liquidity Coverage Ratio ("LCR"), is a stressed measure of liquidity over a short-term 30-day horizon. It was implemented as a minimum standard by the federal banking agencies for US banks in September 2014. The second quantitative liquidity standard, the NSFR, which is the subject of the proposed rule, is intended to serve as a longer-term structural measure of liquidity over a one-year horizon. Under the proposed rule, the definitions which apply in the LCR also apply in the NSFR. This includes the requirements which apply to operational deposits, which is the main building block of the custody bank balance sheet.

Together, the Basel Committee's quantitative liquidity standards are intended to enhance the resiliency of the financial system by requiring banks to strengthen their funding profile, improve the measurement and management of their liquidity risk, and expand disclosure of both quantitative and qualitative liquidity metrics. As large internationally active BHCs with more than $250 billion in total consolidated assets or $10 billion or more in total on-balance sheet foreign exposures, each of the Custody Banks is a 'covered banking entity' under the proposed rule. This is also the case for each of their primary IDI subsidiaries, due to the proposed

[1] 'Basel III: A Global Regulatory Framework for More Resilient Banks and Banking Systems', Basel Committee on Banking Supervision (December 2010).

extension of the rule to any consolidated IDI subsidiary of a covered BHC with more than $10 billion in total assets.

The Custody Banks strongly support the implementation of robust and well-defined liquidity requirements for US banks. This includes quantitative measures of liquidity, such as the LCR and the NSFR, which limit the ability of covered banking entities to rely on less stable sources of funding over both the short and the longer-term horizon. This also includes the liquidity requirements of Section 165 of the Dodd Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which incorporates, among other items, liquidity stress testing ("LST") mandates designed to assess the adequacy of each covered banking entity's structural liquidity and its ability to manage liquidity risk. We commend the thoughtful and detailed manner in which the federal banking agencies have implemented the LCR requirement and the LST in the US, which we believe should serve as a benchmark for the implementation of liquidity standards in other national jurisdictions.

Nevertheless, we continue to have certain reservations regarding the design and calibration of the Basel Committee's quantitative liquidity framework in the US, which we believe have a disproportionate and unwarranted impact on the custody bank business model.[2] This includes: (i) the outflow assumptions which apply to operational deposits under the proposed NSFR requirement, and (ii) the disqualification from the operational deposit category, any deposit which results from the provision of operational services to a non-regulated fund in a manner not foreseen or required by the Basel Committee. We therefore recommend certain targeted adjustments to the proposed rule as further described below.

THE CUSTODY BANK BUSINESS MODEL

Custody banks employ a highly specialized business model focused on the provision of operational services to institutional investor clients, rather than the generation of yield from credit risk assets. These clients, which include asset owners, asset managers, official institutions and insurance companies, contract with custody banks to ensure the proper safekeeping of their investment assets, as well as the provision of a broad range of related financial services. These services include: access to the global settlement infrastructure in order to complete the purchase or sale of investment securities; various asset administration functions, such as the processing of income and other interest payments, corporate action events, tax reclamations and client subscriptions and redemptions; and the provision of banking services, notably access to deposit accounts in order to facilitate day-to-day transactional activities.

The custody bank client base is diverse and includes regulated investment funds, such as US mutual funds ("40 Act Funds"), European Union ("EU") Undertakings for Collective Investments

[2] We note, in this respect, a recent consultation paper from the European Commission 'On Further Considerations for the Implementation of NSFR in the EU' (May 26, 2016), which seeks views on ways to address the potential unintended impact of the framework on certain industry business models and on ways to implement the requirements in a more proportionate manner.

in Transferable Securities ("UCITS") and other similar national equivalents; alternative investment funds, including hedge and private equity funds; corporate and public retirement plans; sovereign wealth funds; insurance company accounts; charitable foundations; and endowments. In many cases, the use of a custody bank is a function of the prevailing regulatory regime, such as the requirements which apply to '40 Act Funds under the Investment Company Act of 1940, to EU UCITS under the UCITS IV Directive, and to EU alternative investment funds under the Alternative Investment Fund Managers Directive. In other cases, the use of a custodian reflects well-established client preference to hold and to safe-keep investment portfolios with banking entities which are subject to stringent prudential requirements and regulatory oversight. The importance of financial services to the custody bank business model can be seen in the large amount of revenue that the Custody Banks' derive from fee-related activities.

In addition, custody banks have balance sheets which are constructed differently than other banks with extensive commercial and investment banking operations. Indeed, the custody bank balance sheet is liability driven and expands not through asset growth, but through the organic development of client servicing relationships that, over time, translate into increased volumes of highly stable deposits. These deposits, rather than other sources of wholesale funding, comprise the largest part of the custody banks' liabilities. In turn, these deposits are used to fund the purchase of large and well-diversified portfolios of investment assets which generate conservative amounts of net interest revenue. Importantly, custody banks acquire deposit liabilities as a direct result of the financial services they provide. In other words, the cash deposits that come on to the custody bank balance sheet are driven by customer-related needs and not by the custody banks' financing decisions.

Our perspective in respect of the proposed rule is broadly informed by our status as among the world's largest providers of custody services to the institutional investor community. We appreciate the opportunity to offer insight relative to the implications of the NSFR requirement on our role as custodial entities, a role that is widely understood by the market and by the supervisory community as providing important benefits for the safety of client assets and the stability of the financial system. We have participated in the development of the responses prepared by various financial services trade groups, notably the joint submission from The Clearing House Association, the Securities Industry and Financial Markets Association, the Financial Services Roundtable and the CRE Financial Council, and we broadly support the observations and the recommendations made therein. Our intention with this letter is to highlight issues of concern in the proposed rule regarding the treatment of operational deposits, which as previously noted constitutes the main building block of the custody bank balance sheet.

TREATMENT OF OPERATIONAL DEPOSITS

As defined by the Basel Committee, operational deposits are limited to deposits which result from the provision of clearing, custody and cash management services (collectively "operational services”), where the client receiving these services must ‘place or leave deposits with a bank in order to facilitate their access (to) and ability to use payment and settlement services, and otherwise make payment.”[3] Furthermore and unlike other categories of deposit liabilities, operational deposits must meet a series of stringent qualification requirements. In the case of the US, these requirements include:

- The operational service must be provided pursuant to a legally binding written agreement, subject to a minimum termination period of 30 days or significant ‘contractual termination costs or switching costs’;
- The deposit must be held in an account which is specifically designated as an operational account;
- The client must hold the deposit with the banking entity for the ‘primary purpose of obtaining the operational service’;
- The deposit account must not be designed to create an economic incentive for the customer to maintain excess funds on deposit with the banking entity;
- The banking entity must demonstrate that the deposit is ‘empirically linked to the operational service’ and that (the banking entity) has a methodology in place to ‘identify any excess amounts’, which must be excluded from operational deposits;
- The exclusion of deposits resulting from the provision of either prime brokerage services or correspondent banking services, as well as the exclusion of ‘operational services provided to (any) non-regulated fund’.[4]

In addition, as a supervisory matter, the federal banking agencies require US banks to implement detailed and empirically-driven processes for the identification of their operational deposit balances. This is reflected in the use of highly granular methodologies designed to determine deposit amounts that each client is expected to hold in support of its day-to-day transactional needs. These methodologies rely on historical data to identify a client’s average daily deposit balance, which is then compared to similar client data in order to conservatively estimate core operational deposits. As such, the operational deposit modeling processes employed by the Custody Banks are robust and result in the identification of certain ‘excess amounts’ of deposits, which although derived from operational services, are categorized for purposes of the Basel Committee’s quantitative liquidity framework as non-structural funding.

In addition and as previously noted in our comment letter, US banks are subject to detailed liquidity risk management requirements resulting from the implementation of Section 165 of the Dodd-Frank Act. This includes the regular stress-testing of cash flow projections, using a series of scenarios tailored to reflect each banking entity’s business activities, on-and-off balance sheet exposures and risk profile.[5] In the case of large internationally active banks, LST

[3] ‘Basel III: The Liquidity Coverage Ratio and Liquidity Risk Monitoring Tools’, Basel Committee on Banking Supervision (January 2013), Paragraph 93.

[4] ‘Final Rule : Liquidity Coverage Ratio: Liquidity Risk Measurement Standards’, Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Register, Volume 79, Number 197 (October 10, 2014), page 61528.

assumptions are a key focus in the FRB's annual Comprehensive Liquidity Assessment and Review ("CLAR") process, a horizontal and forward-looking exercise designed to assess the liquidity position of those firms most likely to present systemic risk to the financial system.[6]

There are a minimum of three stress scenarios prescribed by Section 165 of the Dodd-Frank Act (a market-wide stress event, an idiosyncratic stress event, and a combined idiosyncratic and market-wide stress event), which must capture at least four time horizons (overnight, 30-days, 90-days and one year) and must be sufficiently dynamic to address a variety of changes in a banking entity's internal and external circumstances. This includes the impact of market disruptions and the actions of other major market participants. Furthermore, banking entities must establish appropriate oversight of their LST, notably an independent validation function and information systems capable of collecting, sorting and aggregating the resulting data for use in the management of liquidity risk.

Given the importance of deposit liabilities as a source of funding, the Custody Banks undertake a detailed analysis of the expected outflow of operational deposit balances. This is based on a granular analysis of available empirical data, and when combined with the results of required operational deposit modeling, results in a highly customized view of each covered banking entity's funding profile under stress. It is this analysis that is subject to review by the FRB under CLAR, and we strongly encourage the federal banking agencies to consider the results of this analysis in assessing the appropriateness of the stability factor for operational deposits in the NSFR framework, especially those which result from the provision of traditional custody services.

In effect then, the US approach for the identification and measurement of operational deposits results in a highly stable source funding for US banks, whether assessed over a period of acute short-term financial market stress as foreseen in the LCR, or over a one-year structural horizon as foreseen in the NSFR. This is especially true for operational deposits which result from the provision of traditional custody services. Indeed, the strong operational dependencies of the custody bank business model is one of the primary factors that led the Basel Committee to incorporate within its quantitative liquidity framework a specific category for operational deposit liabilities distinct from wholesale funding generally.

As previously emphasized in our comment letter, custody banks specialize in the provision of financial services to institutional investor clients. This centers on the safekeeping and administration of investment assets, and includes access to deposit accounts required to support day-to-day transactional activities. Essentially, custody banks provide the equivalent of checking accounts for institutional investors, used to buy or sell investment securities in diversified portfolios of investment assets, along with the movement of cash resulting from these investment activities. Making it possible for clients to hold cash on deposit and to be able to freely direct the movement of such cash is, therefore, a central feature of the traditional

[6] CLAR applies to BHCs in the US which are subject to the FRB's Large Institution Supervision Coordinating Committee (LISCC) program.

custody function. In these ways, custody banks play a narrow, but critical, role within the financial system, helping to facilitate access to and the smooth day-to-day operation of the financial markets. Indeed, it is difficult to imagine that pension plans, mutual funds and other institutional investors could function without custody banks, through which they safely and securely manage their safekeeping, asset administration, and cash-related needs.

Custody-related services are provided pursuant to a legally binding written agreement, with minimum notification periods that can extend for 60 or more days. These agreements typically cover a series of investment funds, most with a separate legal identity and/or existence. Even after notification of termination, there are a number of operational considerations that must be addressed prior to the outright transfer of the assets held on behalf of an individual fund. This includes the establishment of client profiles on relevant custody and accounting systems, the migration of accounting and other financial data, the initiation of a parallel period of shadow accounting and the notification of revisions to settlement instructions for each of the global markets in which the client transacts. It is therefore not uncommon to have transitional periods in the custody industry of anywhere between six to twelve months, with the prospect of even lengthier timeframes should multiple clients seek to leave a custodial entity at the same time.

Since custody banks maintain the primary operational accounts of their institutional investor clients, they are the recipients of substantial deposit inflows associated with normal course transactional activities. On occasions, these transactional volumes can be significant and therefore result in elevated deposit activity. This includes pay-down dates on asset-backed securities and other fixed income instruments, the processing of large corporate action events and in periods where institutional investors are actively rebalancing their investment portfolios. In addition, custody banks hold deposit balances linked to each investment fund's underlying liquidity needs. As an example, deposit balances in '40 Act funds typically increase at the end of each month, during periods of active client investment reallocations and during periods of significant client growth or decline. As another example, emerging market portfolios typically have higher cash balances than other investment portfolios due to the presence of lower trading volumes in various national jurisdictions and the need to account for timing considerations in the execution of foreign exchange transactions in global markets.

Given their crucial role in supporting normal course investment activities, these deposits cannot be removed from the custody bank without the risk of significant disruption to essential payment, clearing and settlement functions. As an example, insufficient client deposit balances have the potential to disrupt the timely settlement of securities transactions, the movement of funds through national payment systems, and the provision of cash margin in support of over-the-counter derivatives transactions. Insufficient funding could also disrupt the routine processing of client redemptions from '40 Act funds and other non-US equivalents, structured for sale to and use by the retail investor community.

While institutional investors will typically seek to invest available cash in order to maximize investment returns, there are occasions where they will leave additional amounts of cash on deposit with their custody bank. This includes residual cash, which is a normal byproduct of the investment allocation process. This also includes deposit inflows tied to factors beyond the control of the custodian, such as 'market volatility or geopolitical risk that leads mutual funds, sovereign wealth funds, hedge funds, asset managers and similar entities to seek safekeeping for their customers' funds until market conditions stabilize.'[7] As a result, even though the resulting deposit balance may be categorized as an 'excess amount' for purposes of the Basel Committee's quantitative liquidity framework, the importance of the custody banks is even greater during periods of financial market uncertainty as institutional investors actively reduce their risk exposures, thus driving elevated levels of deposit inflows with their custody provider. Since the amount of excess cash that institutional investors will hold at any given time will vary, custody banks have historically managed 'excess amounts' of client deposit inflows by placing them in the safest way possible, with national central banks. This reflects a highly conservative asset-liability management strategy, designed to enable the custody banks to support their clients' cash-related needs in a safe and secure manner, without introducing additional risk to the custody bank, to the client or to the financial system as a whole.

As a result of these strong and multi-layered operational dependencies, there is substantial empirical evidence that a significant proportion of the deposit balances held by custody banks are stable over a multi-year horizon, thereby resulting in a robust structural liquidity position with high levels of resilience to potential systemic instability. Consequently, while we acknowledge and appreciate the considerable efforts made by the federal banking agencies to implement a coherent framework for the assessment of liquidity risk at covered banking entities, we believe that certain aspects of the Basel III liquidity framework and its implementation in the US do not properly account for the particular characteristics and risk profile of operational deposits, particularly those operational deposits which result from the provision of traditional custody services.

POLICY CONCERNS AND RECOMMENDATIONS

We have two major concerns with the design and calibration of the quantitative liquidity framework for covered banking entities. To begin with, because of the detailed and highly prescriptive manner in which the US has implemented the operational deposit requirements in the LCR, which as previously noted drives the treatment of such deposits in the NSFR, we believe that the use of a 50% stability factor for operational deposits is far too conservative, and results in the unwarranted exclusion of a substantial proportion of our client funded deposit base, unsupported by an empirical assessment of liquidity risk. This reflects the overlapping impact of the stringent qualification requirements in the LCR final rule and the risk-insensitive mandate in the NSFR to then apply a stability factor of 50% to that core funding base. For example, assuming that a custody bank holds $100 in deposits on behalf of a custody client and that the required modeling of that deposit balance results in the identification of $60 worth of 'operational deposits', the subsequent imposition of a 50% stability factor when

[7] 'Where the Money Goes and Why it Matters: the Market and Policy Impact of Reduced Custody Bank Deposit Capacity', Federal Financial Analytics (August 4, 2015), page 5.

calculating the NSFR would mean that the custody bank would only be given credit for $30 worth of structural funding, with the rest of the deposit balance ($70) being treated as non-operational wholesale funding.

While we recognize the desire to account for the potentially greater outflow of operational deposits over a one year horizon relative to the 30-day horizon prescribed in the LCR, we respectful submit that the above outcome is illogical in a structural measure of liquidity and has the practical effect of penalizing the custody bank business model notwithstanding the presence of highly stable funding. Indeed, the prescribed methodology for operational deposits in the NSFR produces outflow rates for such deposits which are far in excess of the deposit outflows identified by the Custody Banks in the context of their LST.

We therefore strongly urge the federal banking agencies to actively reconsider the appropriate stability factor for operational deposits in the NSFR, whether in the context of US implementation of the Basel Committee's quantitative liquidity framework, or in the context of discussions with peer supervisory authorities at the Basel Committee. This is especially true for deposits derived from the provision of traditional custody services, where there is clear evidence of highly stable structural funding, which may unwittingly be obscured by the presence of other types of operationally-linked deposits with potentially less significant liquidity value. While we recognize that calibration issues are complex and are best informed by a detailed assessment of industry data, our experience indicates that a useful frame of reference for the further review of the stability factor for operational deposits would be in the range of 60% to 75%. We stand ready, in this respect, to provide whatever information may be required to help achieve the appropriate calibration.

In addition, we believe that the US disqualification of deposits that result from the provision of operational services to a non-regulated fund from the operational deposit category is unwarranted and leads, without any clear policy rationale, to the punitive treatment of the custody bank business model. There are several factors that should prompt reconsideration of the existing approach. First, while deposit balances resulting from the provision of prime brokerage services and correspondent banking services are specifically excluded by the Basel Committee from categorization as an operational deposit, there is no additional requirement in the Basel Committee's liquidity framework to exclude deposits derived from the provision of operational services to any particular category of client or fund. As such, the Basel Committee correctly recognizes that as long as an operational service meets the stringent qualification requirements specified by rule, and as long as the deposit balance does not result from the provision of prime brokerage services or correspondent banking services, there is no objective reason to disqualify any sub-category of deposits that results from the provision of operational services.

This includes the provision of traditional custody services to a non-regulated fund, since the core characteristics of these services and the resulting flow of payments are qualitatively no different than deposit balances which result from the provision of traditional custody services to a mutual fund or pension fund. This is validated by the Custody Banks' operational deposit modeling processes, which have greatly improved the empirical understanding of our institutional investor clients' day-to-day deposit activities, and therefore the level of qualifying operational deposits in a fund, irrespective of the identity of the client. Put differently, the empirical methodologies that US banks are required to implement in order to identify core operational deposits are sufficiently mature and robust that they can be used to accurately determine operational deposit balances across the spectrum of institutional investor clients which rely on custody banks for the provision of payment, safekeeping and asset administration services, without the need for the preemptive disqualification of certain fund types, as foreseen in the US LCR final rule.

Second, there is a growing trend among non-regulated funds to separate the safekeeping and administration of their investment assets from their trading and financing activities. This is designed to reduce the potential exposure of a non-regulated fund to broker dealers and providers of prime broker services, and involves the appointment of a dedicated custodian bank. We are concerned that this trend, which has the potential to greatly reduce contagion risk within the financial system, could unwittingly be undermined by regulatory measures which fail to objectively consider the funding characteristics of deposits resulting from the provision of traditional custody services, regardless of fund or client type.

Third, we note that the US LCR final rule incorporates a prescriptive definition of excluded prime brokerage services, thus leaving little room for the potential misapplication or misuse of the operational deposit designation. Specifically, the US LCR final rule clarifies that an operational deposit 'must not be provided in connection with the bank's provision of prime brokerage services, which….are a package of services offered by the bank, whereby the bank, among other services, executes, clears, settles and finances transactions entered into by the customer, or a third-party entity on behalf of the customer (such as an executing broker), and where the bank has a right to use or re-hypothecate assets provided by the customer, including in connection with the extension of margin and other similar financing of the customer, subject to applicable law.'[8] As emphasized in our joint response to the federal banking agencies notice of proposed rulemaking on the LCR, custody banks do not help facilitate client trading activities, nor do they provide financing to facilitate the execution of client investment strategies .[9]

As such, the definition found in the US LCR final rule provides a suitable basis upon which to differentiate excluded prime brokerage services from permissible custody services, without the need for the preemptive exclusion of all deposit balances resulting from a non-regulated fund, an approach which unfairly penalizes the custody bank business model. From a practical perspective, this can be achieved by adding our recommended adjustment to Subpart A, Section 4(b)(6) of the LCR final rule to the other definitional changes proposed by the federal

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[8] 'Final Rule : Liquidity Coverage Ratio: Liquidity Risk Measurement Standards', Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Federal Register, Volume 79, Number 197 (October 10, 2014), page 61528.

[9] 'Joint Notice of Proposed Rulemaking – Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards and Monitoring', State Street Corporation, Bank of New York Mellon and Northern Trust Corporation Comment Letter (January 31, 2014).

banking agencies in the proposed rule, including changes to the definition of an operational deposit.[10]

CONCLUSION

Thank you once again for the opportunity to comment on the important matters raised within this consultation. To summarize, while the Custody Banks strongly support the implementation of a robust and well-defined liquidity framework for US banks, we believe that there are certain features of the proposed NSFR requirement that do not accurately reflect the particular characteristics of operational deposits, which are the key building block of the custody bank balance sheet. We therefore recommend two targeted adjustments to the intended quantitative liquidity framework.

First, we believe that when combined with the empirically driven methodologies that covered banking entities must apply to identify operational deposits, the use of a 50% stability factor for such deposits in the NSFR is overly conservative and results in a material underestimation of the structural funding profile of the custody banks. We therefore urge the federal banking agencies to actively reconsider the appropriate stability factor for operational deposits, either as part of the implementation of the NSFR requirement in the US, or in conjunction with other supervisory authorities at the level of the Basel Committee. Subject to the further review of available quantitative data, we believe that an appropriately calibrated NSFR would provide for a stability factor for operational deposits in the range of 60% to 75%.

Second, while we recognize the policy decision made by the supervisory authorities to exclude deposits resulting from the provision of prime brokerage services from the definition of eligible operational deposits, we believe that there is no practical reason to also exclude deposits that result from the provision of operational service to a non-regulated fund. This is especially true in the case of traditional custody services, where empirically-driven methodologies can accurately assess underlying levels of eligible operational deposits regardless of fund or client type. We therefore recommend that the federal banking agencies amend the existing definition of operational deposits by removing the reference to 'operational services to a non-regulated fund' in the LCR final rule.

Should you have any questions or require any additional information, please contact:

[10] Specifically, we suggest amending Subpart A, Section 4(b)(6) as follows: The deposit must not be provided in connection with the [BANK]'s provision of prime brokerage services, which, for the purposes of this part, are a package of services offered by the [BANK] whereby the [BANK], among other services, executes, clears, settles, and finances transactions entered into by the customer or a third-party entity on behalf of the customer (such as an executing broker), and where the [BANK] has a right to use or re-hypothecate assets provided by the customer, including in connection with the extension of margin and other similar financing of the customer, subject to applicable law~~, and includes operational services provided to a nonregulated fund~~; and

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