August 5, 2016

Via Electronic Mail

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Docket No. R-1537
RIN 7100-AE 51

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Docket ID OCC-2014-0029
RIN 1557 AD97

Re: Notice of Proposed Rulemaking—Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements

Ladies and Gentlemen:

We appreciate the opportunity to respond to the proposed rules (the "Proposal")[1] issued by the Board of Governors of the Federal Reserve System (the "Federal Reserve"), the Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency ("OCC") (collectively, the "Agencies") to establish quantitative liquidity standards based on the net stable funding ratio ("NSFR") framework (the "Basel NSFR Framework")[2] established by the Basel Committee on Banking Supervision ("BCBS"). The Proposal comprises two sets of rules. One set jointly proposed by the Agencies would establish an NSFR requirement (the "Full NSFR") for banking organizations with $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure as well as any subsidiary depository institution with

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[1] *Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements*, 81 Fed. Reg. 35,124 (June 1, 2016) (hereinafter *Proposal*).

[2] Basel Committee on Banking Supervision, *Basel III: The Net Stable Funding Ratio* (Oct. 2014), *available at* http://www.bis.org/bcbs/publ/d295.pdf (hereinafter *Basel NSFR Framework*).

total assets of $10 billion or more of such organizations. We refer to organizations that would be subject to the Full NSFR under the Proposal as "Full NSFR Banking Organizations." The second set of rules, issued by the Federal Reserve, proposes a modified NSFR (the "Modified NSFR") that would apply to bank holding companies and certain savings and loan holding companies that have at least $50 billion in total consolidated assets but are not Full NSFR Banking Organizations. We refer to organizations that would be subject to the Modified NSFR under the Proposal as "Modified NSFR Banking Organizations."

The undersigned institutions are regional banking organizations with total consolidated assets of between $88 billion and $361 billion, as of March 31, 2016. Our institutions are traditional banking organizations, focused on domestic business activities, whose sizes are modest in relation to both the U.S. banking sector and U.S. economic activity. For example, each of the undersigned, as of March 31, 2016, had a share of national deposits under 3 percent, total consolidated assets, as of that same date, that represented less than 3 percent of U.S. gross domestic product, and in the aggregate, the 10 undersigned banks had fewer assets than the single largest U.S.-based Global Systemically Important Bank ("G-SIB").[3]

The 2008 financial crisis demonstrated the critical role of liquidity in protecting individual institutions and the broader financial sector. We, therefore, support the fundamental objectives of the post-crisis reforms to, among other things, promote the resilience of banking organizations' funding and liquidity profiles, improving the banking sector's ability to absorb financial and economic shocks, and improving the measurement and management of liquidity risk. In light of the numerous reforms the Agencies already have implemented in the United States—such as the liquidity coverage ratio ("LCR") and enhanced liquidity risk management standards ("DFA liquidity standards") under Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act")—we encourage the Agencies to calibrate the requirements under any final NSFR rules with these reforms in mind. The purpose of this letter is to focus on several aspects of the Proposal that are particularly problematic for regional banking organizations and to provide alternative approaches that achieve the Agencies' regulatory objectives, including to ensure that any final NSFR rules are appropriately calibrated for regional banking organizations, while helping avoid unintended and adverse consequences to the financial system. As discussed in detail below, our most important recommendations are that the Agencies—

- Delay the proposed January 2018 effective date of the NSFR requirements until at least January 2020, in order to allow regional banking organizations an appropriate amount of time to complete the important objective of implementing the FR 2052a liquidity reporting before commencing implementation of the NSFR;

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[3] *See* Board of Governors of the Federal Reserve System, Calibrating the GSIB Surcharge (July 20, 2015), *available at* http://www.federalreserve.gov/aboutthefed/boardmeetings/gsib-methodology-paper-20150720.pdf (indicating which U.S. BHCs would be identified as G-SIBs using the Board's systemic indicator methodologies); *see also* Financial Stability Board, *2015 Update of Group of Global Systemically Important Banks (G-SIBs)* (Nov. 3, 2015), *available at* http://www.fsb.org/2015/11/2015-update-of-list-of-global-systemically-important-banks-g-sibs (updating the Financial Stability Board's list of G-SIBs using year-end 2014 data and the BCBS's methodology published in July 2013).

- Delay the proposed NSFR disclosures until one year after the NSFR's effective date, in order to allow banking organizations appropriate time to prepare data collection processes and to ensure the alignment of such processes with the final NSFR requirements and any guidance from the Agencies to address interpretive issues;

- Align the Proposal more closely with the LCR rules in a number of important respects, including the treatment of operational deposits and the consolidation rules applicable under the Modified NSFR; and

- Revise the scope of the Proposal to ensure that all regional banking organizations are covered by the Modified NSFR. The Proposal itself recognizes that the Modified NSFR is appropriate for organizations that are less complex in structure, have simpler balance sheets, and pose less risk to the financial system. All of the undersigned organizations meet these criteria.

Part I of this letter provides an overview of regional banking organizations and data demonstrating that our organizations have balance sheets and liquidity profiles that are significantly less complex and volatile than larger and more complex banking organizations; Part II addresses our concerns with specific aspects of the Proposal and the consistency of the Proposal with the LCR rules; Part III addresses our recommendations for clarifying certain definitions common to the LCR and the proposed NSFR; and Part IV discusses concerns regarding the Proposal's scope of application.

I. Background on Regional Banks

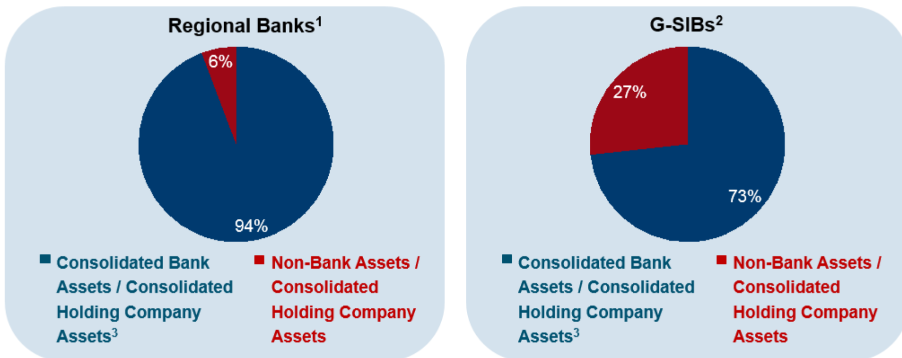
To help put our comments in perspective, we believe it is important to highlight the significant differences between regional banking organizations and larger, more complex banking organizations, such as the U.S. G-SIBs. It is critical for the Agencies to keep these real differences in mind when implementing the Basel NSFR Framework, among other regulatory initiatives, in order to avoid disproportionately burdening regional banking organizations. The Basel NSFR Framework was developed for "internationally active" banking organizations with complex structures, balance sheets and funding profiles.[4] Our organizations, in contrast, are not internationally active and do not present the types of funding risks the NSFR was intended to address. As demonstrated by the below data, our organizations are less complex in structure, and have simpler balance sheets and funding profiles than larger and more complex organizations, such as the G-SIBs.

Relative to such larger and more complex organizations, our organizations have simpler organizational structures. Our organizations primarily focus on providing traditional retail and commercial banking products and services, and have only limited trading and capital markets' operations. Broker-dealers and other nonbank operations comprise only a small portion of our organizations' overall operations. Rather, the vast majority of our organizations' business operations and consolidated assets are in our insured depository institution subsidiaries, and our

[4] *See Basel NSFR Framework*, ¶50.

organizations present only limited, if any, systemic risks to the U.S. or global financial system.[5] *See Figure 1*, below.

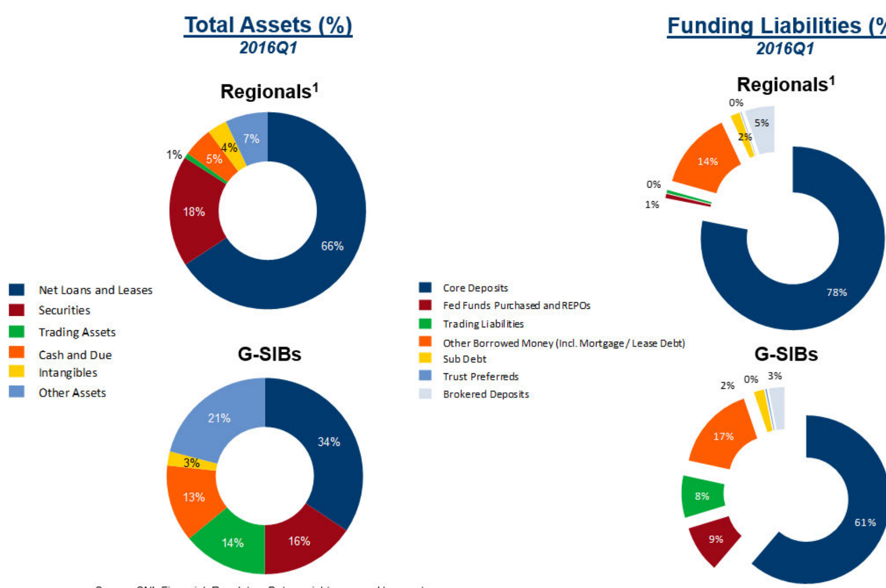
Figure 1



Source: SNL, data as of Q1'16

1: Regional Banks include: USB, COF, PNC, BBT, STI, FITB, RF, KEY, MTB, CMA, ZION, CFG, AXP, DFS, and HBAN
2: G-SIBs include: JPM, BAC, C, WFC, GS, MS, BK, STT
3: FDIC Aggregate: The total of cash and balances due from depository institutions, interest- and noninterest-bearing and currency and coin; securities; federal funds sold and securities purchased under agreements to resell; loans and lease financing receivables, net of unearned income, allowance for loan and lease losses, and allocated transfer risk reserve; assets held for trading; premises and fixed assets; other real estate owned; investments in unconsolidated subsidiaries and associated companies; customers' liability to the reporting bank on acceptances outstanding; intangible assets; other assets

Figure 2



Source: SNL Financial, Regulatory Data; weight-averaged by assets

1: Regional Banks include: USB, COF, PNC, BBT, STI, FITB, RF, KEY, MTB, CMA, HBAN, AXP, ZION, DFS, and CFG

[5] For example, the joint Federal Reserve and FDIC resolution plan rules implicitly recognize that regional banks are simpler, and less likely to pose systemic risk upon failure, than larger and more complex organizations. Each of our organizations has less than $100 billion in total nonbank assets and was part of the third and last round of resolution plan filers. *See*, *e.g.*, 12 C.F.R. §§ 243.3(a)(1)(iii) and 381.3(a)(1)(iii). Moreover, none of our organizations are subject to the enhanced capital requirements designed to mitigate systemic risk, such as the enhanced supplementary leverage ratio, G-SIB risk-based capital surcharge or the proposed total loss absorbing capacity and long-term debt requirements.

Our organizations also rely primarily on core sources of funding, i.e., deposits. *See Figure 2*, above. For example, our organizations engage only to a limited extent in repurchase, reverse repurchase, or other securities financing transactions. As a result of having simpler and more stable funding profiles, liquidity inflows and outflows of our organizations generally are more stable and predictable than larger and more complex organizations. Thus, our liquidity risks are easier for our management and supervisors to monitor and manage.

The limited foreign operations of our organizations further reduce the complexity of our organizational structures and funding profiles. Unlike larger and more complex banking organizations with significant foreign operations, concerns about cross-jurisdictional liquidity mismatches or funding being trapped in foreign jurisdictions are not material issues for our organizations.

With this background, we now turn to our comments on the Proposal.

II. Specific Concerns with the Proposal and Consistency with LCR Rules

A. Delay the Effective Date for the NSFR Rules and Any NSFR Disclosures

The Agencies have previously acknowledged concerns raised by our organizations and other commenters that a lack of sufficient time to implement the robust systems, processes and controls necessary to support liquidity risk management requirements could materially impair the robustness and accuracy of the data provided to the Agencies and potentially the broader financial markets.[6] Through the ongoing implementation of, among other things, the Agencies' LCR rules and the Federal Reserve's comprehensive FR 2052a liquidity reporting requirements, our banking organizations have developed—and continue to enhance—the systems, processes and controls necessary for a robust liquidity risk management infrastructure.

The Proposal comes at a time when banking organizations' efforts to enhance those systems and processes are ongoing. For example, for those regional banking organizations required to calculate the LCR on a daily basis, the efforts to build, test and implement the systems needed to support the daily calculation have only recently been completed.[7] Moreover, all regional banking organizations are currently working on implementing the extensive FR 2052a requirements. For certain regional banking organizations, implementation of the FR 2052a requirements will be ongoing through the Proposal's January 2018 effective date. The NSFR calculation and data elements underlying the NSFR go beyond the scope of existing liquidity risk management requirements and therefore present a significant additional burden to banking organizations. That burden is compounded by the fact banking organizations have already deployed resources to complete implementation of new requirements, such as the FR 2052a, and to further enhance existing systems, such as those supporting calculation of the LCR and the liquidity stress testing requirements under the DFA liquidity standards.

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[6] *See Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring*, 79 Fed. Reg. 61,440, 61,519 (Oct. 10, 2014) (hereinafter *Final LCR Rules*).

[7] For those regional banking organizations required to calculate the LCR on a daily basis, the daily calculation requirement took effect July 1, 2016. *See id.*

Accordingly, we believe it would be appropriate to delay the proposed January 2018 effective date of the NSFR requirements until at least January 2020. Such a delay would allow regional banking organizations an appropriate amount of time to complete the important objectives of building and upgrading systems, developing controls and enhancing operational capabilities to effectively implement the FR 2052a. Moreover, a delay of the effective date would be consistent with the approach for implementing the LCR and FR 2052a. In both cases, the Agencies delayed the proposed effective date of the requirements, or at least for major aspects thereof, and provided a transition period over the course of which quantitative minimums and other requirements were phased in.[8] A phase-in for the NSFR is even more appropriate given the nature of the requirement as a balance sheet measure of stability of long-term funding. To the extent institutions subject to the NSFR may need to increase the long-term funding on their balance sheets, it will take time for the market to absorb such issuances. Providing a reasonable phase-in over a period of two years would be consistent with past practice and would not pose unnecessary risk to the safety and soundness of any institution, particularly given that holding companies that would be subject to the NSFR are already subject to the DFA liquidity standards.

For similar reasons, we also believe that the proposed NSFR disclosure requirements should be delayed until one year after the NSFR's effective date, at the earliest. As proposed, the disclosures would require a banking organization to publish details regarding its funding and related strategies at a time when the operational impact of the NSFR and the strategies and tactics for managing compliance would not be fully understood by covered banking organizations or the Agencies. The additional time would allow banking organizations to appropriately prepare data collection processes and to ensure the alignment of such processes with the final NSFR requirements and any related disclosure requirements. A delayed effective date for the proposed disclosures also would allow the Agencies to address interpretive issues that arise from implementation of the final rules and, thereby, better serve the policy objectives underlying the disclosure requirements.

As with the proposed LCR disclosures, we are concerned that the Proposal's disclosure requirements depart from the disclosure template developed by the BCBS by requiring more granular and additional information. For example, the proposed disclosure template would require more detail than the BCBS template on a banking organization's high-quality liquid assets ("HQLA") as well as certain operational deposits and assets. We believe that additional detail and granularity is unnecessary given that the BCBS template already requires robust disclosure of information about the NSFR and recommend that the Agencies require no more information than called for under the BCBS template. Moreover, the Proposal's language regarding the required qualitative disclosures does not align with the concept of materiality under the public disclosure framework applicable to banking organizations under the federal securities laws. Specifically, the proposed language would require a banking organization's qualitative discussion of the items listed in proposed section __.131(d)(2) to the extent that they are "significant" to the banking organization's NSFR results. We recommend revising this language by replacing the word "significant" with "material", which would better align NSFR disclosures with the materiality concept under the federal securities laws to facilitate more effective compliance.

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[8] *See, e.g.*, *LCR Final Rules*, at 61,519 and 80 Fed. Reg. 71,795, 71,798 (Nov. 17, 2015).

B. Consistent with the Treatment under the LCR Rules, Operational Deposits Should Be Afforded Greater Stable Funding Value

Under the Agencies' LCR rules, operational deposits placed with a banking organization receive a lower outflow rate—5 percent for a fully-insured operational deposit (other than an escrow deposit) and 25 percent for an operational deposit that is not fully-insured—than other sources of wholesale funding in recognition of the fact that balances tied to certain operational services are inherently more stable.[9] In order to be eligible for operational deposit treatment, stringent criteria must be satisfied. For example, a banking organization must be able to demonstrate that, among other things, balances are linked to operational services and that it has a methodology for identifying balances in excess of the amount linked to operational services.

The Proposal, on the other hand, would not distinguish between operational deposits placed with a covered banking organization and other wholesale funding sources. The Proposal would apply the same 50 percent available stable funding ("ASF") factor to an operational deposit as would be applied to unsecured wholesale funding provided by a non-financial sector counterparty. This treatment of operational deposits for purposes of the NSFR is fundamentally inconsistent with the LCR and unnecessarily conservative.

The Proposal explains that under the one-year time horizon for the NSFR "it is more reasonable to assume that a counterparty could successfully restructure its operational deposits and place them with another financial institution."[10] The legal and operational limitations that make moving operational accounts over the course of the 30-day LCR stress period difficult, if not impossible, might present less of an impediment under the longer NSFR horizon. However, there is no basis for assuming that a counterparty actually would move its operational deposits to another institution.[11] In addition to the length of time it takes to transition operational services and the deposits that support the services, there are other factors that a customer generally would have to take into consideration when contemplating such a change. Operational deposits are inherently stable because it is an expensive, time consuming, and risky process to switch operational service providers, i.e., a customer would not reasonably be expected to move without strong cause. As the agencies explain in the Proposal, the NSFR is not intended to be a liquidity measure during a period of stress but instead focuses on funding stability over a one-year period.[12] In light of that, we believe the treatment of operational deposits under the Proposal is overly conservative and inconsistent with the value operational deposits represent as a source of stable funding. Moreover, it is important to note that operational deposits placed with regional

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[9] *See Final LCR Rules*, at 61,497. *See also Proposal*, at 35,138.

[10] *Proposal*, at 35,138.

[11] Moreover, it would take, on average, around 10 months or more in order to move an operational deposit relationship to another institution. The timing depends on, among other things, the services used and size or complexity of the customer's operating business. The timeline would generally include the following: notice to the existing provider; time to select a new provider; negotiating new contracts and agreements; testing, file transmissions, informing customers of changes (e.g., mailing addresses for payments) and learning the new provider's systems and processes.

[12] *Proposal*, at 35,127.

banking organizations typically are a component of a deeper customer relationship that spans deposit, lending and other products, which further underscores their stability. Accordingly, we believe that an ASF factor of 75 percent would more appropriately reflect the stable funding value of operational deposits and more closely align the treatment of operational deposits under the NSFR with the LCR.

C. Recognition of the Federal Home Loan Bank System as an Important Source of Stable Funding

The Proposal does not recognize the proven ability of depository institutions to obtain secured advances from the Federal Home Loan Banks ("FHLBs"). Specifically, a depository institution's unused FHLB borrowing capacity is not assigned any ASF value nor is the ability to borrow against FHLB-eligible assets taken into account in assigning the required stable funding ("RSF") factor for assets eligible as FHLB collateral. Facilities provided by the FHLBs, which are unique to the United States, are an important and stable source of funding for depository institutions. Throughout the recent financial crisis, the FHLBs proved to be a reliable source of liquidity support for U.S. depository institutions. Accordingly, we believe the Agencies should recognize the proven funding value of the FHLBs by, at a minimum, lowering the RSF factors for FHLB-eligible assets.

FHLB advances are made available to member depository institutions on a term basis (ranging from one day to 30 years) and are required to be collateralized by eligible assets, including, among other assets, residential mortgage loans or residential mortgage-backed securities ("RMBS"). Although the Agencies declined to recognize FHLB capacity in the LCR rules in favor of promoting on-balance sheet liquidity,[13] we believe that reflecting in the NSFR the important role of the FHLBs as a source of stable funding would be appropriate, especially in light of the fact that the NSFR is intended to be a structural measure of funding stability over the course of a one-year period rather than a stressed measure of short-term liquidity.[14] Recognizing the FHLBs as a source of stable funding for purposes of the NSFR would not be inconsistent with the Agencies' determination not to include unused FHLB capacity as a cash inflow for LCR purposes.

We believe that the Agencies should, at a minimum, reduce the RSF factors applicable to assets that are eligible to be pledged for FHLB advances. As noted above, assets eligible as collateral for FHLB advances include residential mortgages and RMBS as well as loans and securities issued, insured or guaranteed by the U.S. government or a U.S. government agency ("Agency securities"). Under the Proposal, the RSF factor for these assets would range from 5 percent (for securities eligible as Level 1 liquid assets) to 85 percent (for retail mortgages with a remaining maturity of one year or more and that receive a risk weight greater than 50 percent under the Standardized Approach of the Agencies risk-based capital rules).

We recommend that the Agencies revise the RSF factors for FHLB-eligible assets to more closely align with the average effective collateral lending values across the FHLBs. The Federal

[13] *Final LCR Rules*, at 61,511.

[14] *See supra* note 12.

Home Loan Banks Office of Finance ("FHLBs OF") periodically publishes data on the effective lending values for pledged collateral across the FHLBs.[15] Adjusting the RSF factors for residential mortgage loans and home equity loans and lines of credit, in particular, would be an appropriate means of recognizing that the FHLBs are a reliable source of stable funding. Doing so would be consistent with the fact that such assets are the principal form of collateral for FHLB advances, the FHLBs' mission is to support residential mortgage lending and the FHLBs' demonstrate a proven track record as a source of funding over the course of their history. According to the FHLBs OF, the average effective lending value as of December 31, 2015, for single-family mortgage loans, multifamily mortgage loans and home equity loans and lines of credit was 76 percent, 75 percent, and 51 percent respectively.[16] Data from the FHLBs OF also shows that these average effective lending values are relatively static from year-to-year. Accordingly, an RSF factor for single-family mortgage loans, multifamily mortgage loans and home equity loans and lines of credit of no more than 50 percent would more appropriately reflect a banking organization's ability to borrow against FHLB-eligible assets.

D. Clarify that the Modified NSFR's 70 Percent Factor Applied to RSF Values Should Be Applied at the Consolidated BHC-Level

With respect to the Modified NSFR, we would appreciate the Federal Reserve clarifying the application of the proposed consolidation rules. Specifically, we believe that there should be consistency between the Proposal and the Modified LCR rules with respect to applying the 70 percent factor only at the consolidated level, thus allowing a Modified NSFR Banking Organization to include the ASF of its subsidiaries in its consolidated ASF amount with fewer restrictions and without having to perform additional, complex calculations for each subsidiary. This approach would be consistent with how the Federal Reserve has implemented the Modified LCR rules' consolidation provisions and would allow Modified NSFR Banking Organizations to develop simpler solutions that require fewer discrete calculations.

The Modified LCR rules apply a 70 percent factor to the total net cash outflow amount only at the consolidated level. Accordingly, a Modified LCR Banking Organization includes the HQLA amount of its consolidated subsidiary in its own HQLA amount up to 100 percent of the subsidiary's outflows, taking into account applicable regulatory restrictions such as Regulation W. It is unclear from the Proposal whether the consolidation rules for purposes of the Modified NSFR would operate in the same manner, although we believe the Federal Reserve did not intend for the Modified NSFR to operate differently than the Modified LCR in this regard. Accordingly, to ensure consistency among the Modified LCR and Modified NSFR and limit unnecessary complexity, we respectfully ask the Federal Reserve to clarify that the same consolidation approach used for purposes of the Modified LCR will apply for purposes of the Modified NSFR.

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15 *See, e.g.*, *Federal Home Loan Banks Office of Finance*, Lending and Collateral Q&A (May 16, 2016), *available at* http://www.fhlb-of.com/ofweb_userWeb/resources/lendingqanda.pdf.

16 *Id.* at 7.

E. Requirements Triggered by a Shortfall in a Banking Organization's NSFR

The Proposal would require a banking organization to notify its primary regulator of an NSFR shortfall, or potential shortfall, no later than 10 business days, or such other period as its primary regulator may otherwise require by written notice, following the date that any event has occurred that caused or would cause the banking organization's NSFR to fall below the minimum requirement. Furthermore, the Proposal would require a banking organization to submit a remediation plan to its primary regulator within the same timeframe. Although we believe that a requirement to timely notify the primary regulator is an important component of the NSFR, we believe that the requirement to submit a formal remediation plan should be determined by a banking organization's primary regulator on a case-by-case basis. Given the intricacies of the NSFR calculation and the desire for both banking organizations and the Agencies to achieve prudent and sustainable remediation of NSFR shortfalls, we recommend that any requirement to respond to an NSFR shortfall be calibrated depending on the materiality and likely sustainability of the shortfall. This tailored approach would ensure a prudent and practical shortfall response while maintaining prudential oversight of the banking organization's liquidity risks based on the attending facts and circumstances and a dialogue between a banking organization's management team and its primary regulator.

Notably, given the construct of the NFSR and the fact that its calculation is necessarily based on a point-in-time view of a banking organization's balance sheet,[17] prudent remediation of a shortfall may not be as immediate and direct as solutions for an LCR shortfall. For example, a shortfall could arise from a temporary movement or exposure on a banking organization's balance sheet that will be resolved once the position or exposure naturally moves or otherwise passes from the balance sheet. With the scope and timeframe of the LCR, swift action can be taken to elevate HQLA, e.g., by obtaining cash from LCR-efficient funding sources or through adjusting the mix of the securities portfolio to be more efficient. Given the scope of the NSFR and the extended time frame, bank organizations should have the flexibility to be thoughtful around the best solutions to address any shortfall, which could include the redemption or refinancing of debt that is rolling down the maturity curve, or shifting emphasis on certain products. These strategies should be discussed with the banking organization's primary regulator through discussions following the shortfall notification.

F. ASF Factor for Deposits of Public Sector Entities That Are Required to Be Collateralized and Collateralized Corporate Trust Deposits Should Reflect the Underlying Collateral

As proposed, deposits of public sector entities ("PSEs") that are, pursuant to state law,[18] required to be collateralized and collateralized corporate trust deposits are assigned a 50 percent ASF factor regardless of the underlying collateral. The Proposal's treatment of collateralized deposits does not adequately distinguish between collateralized deposits and other forms of wholesale deposit funding and is inconsistent with how these deposits are treated under the LCR rules. In this regard, the LCR rules acknowledge that collateralized deposits typically are related to longer-term relationships with customers that, in the case of PSEs, are acquired through a public

[17] *Proposal*, at 35,132.

[18] *See, e.g.*, Ohio Rev. Code §§ 135.18, 135.181, and 135.37.

bidding process.[19] Moreover, collateralized deposits generally are secured with HQLA and represent an important source of stable funding for the banking organizations. The LCR rules, therefore, assign an outflow rate to collateralized deposits principally based on the quality of the collateral used to secure the deposits.[20]

We recommend that the agencies revise the proposed treatment of collateralized deposits by assigning an ASF that, similar to the approach under the LCR rules, takes into account the underlying collateral. Specifically, for deposits collateralized with HQLA we recommend assigning an ASF factor to collateralized deposits equal to 1 minus the RSF factor applicable to the underlying collateral. Thus, for example, a collateralized deposit secured with U.S. Treasury Department securities—which would receive a 5 percent RSF factor—would be assigned an ASF factor of 95 percent, rather than 50 percent as proposed.

III. Comments with Respect to Definitions and Requests for Clarification

A. Provide Flexibility for Banking Organizations to Implement Revised LCR Definitions

We appreciate the Agencies clarifying definitions used in the LCR rules—in particular those that have been the subject of interpretive questions submitted to the Agencies—and that the Agencies invite public comment on other definitions used in the LCR rules. As proposed, the revisions to definitions currently used in the LCR rules (that would also apply to the NSFR) would, for purposes of the LCR rules, take effect beginning with the calendar quarter after the NSFR is finalized. Although we agree with the Agencies that the proposed changes to definitions currently used in the LCR rules would provide helpful clarity, we do not believe that the Proposal affords an appropriate amount of time to implement those revisions, especially in light of the competing demands on banking organizations technology resources.

In order to implement changes such as those proposed, including making the necessary adjustments to data sources and systems as well as appropriately testing and validating those adjustments, banking organizations would typically need a minimum of 180 days. As noted above, the Proposal comes at a time when regional banking organizations are in the midst of developing and implementing the systems and processes needed to satisfy the Federal Reserve's comprehensive FR 2052a liquidity reporting requirements. Changes to definitions currently used in the LCR rules could introduce significant operational uncertainty to the development of those systems and processes, as the FR 2052a is, in many respects, driven by the LCR rule's definitions. Given the uncertainty around the proposed effective date of the revised definitions and the short period of time to implement those revisions, banking organizations may need to redesign certain components of their FR 2052a systems and processes at a time when implementation of those systems and processes, in particular testing and validation, would otherwise be scheduled to come to completion. Accordingly, we respectfully ask the Agencies to provide banking organizations a minimum of 180 days after final rules are published to implement the revised definitions for purposes of the LCR rules.

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[19] *Final LCR Rules*, at 61,506.

[20] Thus, for example, the outflow rate for collateralized deposits secured with Level 1 liquid assets is zero. *See generally* 12 C.F.R. § 50.32(j), § 249.32(j) and § 329.32(j).

Despite the general concern that the Proposal would not afford adequate time to implement the revised definitions for LCR purposes, there may be opportunities for banking organizations to implement certain of the revisions more quickly. Accordingly, the Agencies should allow for early adoption of the revised definitions at a banking organization's option. Moreover, we respectfully request that the Federal Reserve clarify how banking organizations should take the proposed revisions into account as they continue to implement the FR 2052a. The revised "secured funding" and "secured lending" definitions, in particular, would provide helpful clarification with respect to the FR 2052a, where the revised definitions could help address ambiguities with respect to the treatment of secured loans, such as auto loans. Allowing banking organizations to implement these revised definitions as they complete implementation of the FR 2052a would limit the unnecessary burden of building systems and processes to report the current definitions of "secured funding" and "secured lending" only to revise those systems and process at a later time for the revised definitions.

B. Refine the "Liquid and Readily-Marketable" Requirements for HQLA

In order for a security—other than a security issued, or unconditionally guaranteed, by the U.S. Treasury Department—to qualify as HQLA, the security must meet the LCR rules' "liquid and readily-marketable" requirements.[21] In this regard, we believe it would be appropriate for the agencies to clarify the means by which a banking organization may demonstrate that a security is liquid and readily-marketable. For example, banking organizations should be able to satisfy the liquid and readily-marketable requirements with data and other information for similar securities of the same issuer or guaranteed by the same protection provider. For highly-liquid securities that may not have a robust secondary market because the securities, for example, are typically purchased by banking organizations and other investors on a buy-and-hold basis, a banking organization should be able to satisfy the liquid and readily-marketable requirements by demonstrating either a 30-day trading volume in excess of the banking organization's holdings of that security or by demonstrating a purchase for each sale in the market. More broadly, we encourage the Agencies to consider adopting a presumption-based approach for applying the liquid and readily-marketable requirements. An approach along these lines would result in greater consistency and would allow banking organizations and the Agencies to focus on those securities that warrant an analysis to determine whether the security has the requisite characteristics to be eligible HQLA.

We also respectfully request that the Agencies reconsider the liquid and readily-marketable requirement in the context of Agency securities. The requirement to demonstrate that Agency obligations are "liquid and readily-marketable" is unnecessary because these obligations—like U.S. Treasury Department securities—clearly meet these requirements. Agency obligations are backed by the full faith and credit of the United States, and we believe that all obligations backed by the full faith and credit of the United States should be presumed to meet the LCR rules' liquid and readily-marketable requirements.

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[21] These requirements are that the security is traded in an active secondary market with: (1) more than two committed market makers; (2) a large number of non-market maker participants on both the buying and selling sides of transactions; (3) timely and observable market prices; and (4) a high trading volume.

Related to the definition of "liquid and readily-marketable" are the LCR rules' operational requirements for eligible HQLA. Among other things, these require that a banking organization periodically monetize a sample of HQLA that "reasonably reflects" the composition of its eligible HQLA. We encourage the Agencies to consider recalibrating the operational requirements, and in particular the periodic monetization requirement, in light of the stringent liquid and readily-marketable requirements that HQLA already must satisfy. Specifically, for securities already demonstrated to be liquid and readily-marketable additional requirements to periodically monetize those securities presents an unnecessary burden. Moreover, sales of securities present additional challenges given the limited supply of suitable replacement securities available in the market and the accounting and financial reporting implications involved. Accordingly, we believe that the Agencies should limit the operational requirements and clarify that banking organizations may satisfy those requirements by demonstrating transactions involving the FHLBs as a counterparty.

C. Broaden the "Operational Deposit" Definition

The Proposal would amend the LCR rules' current definition of "operational deposit" so that only a deposit, as defined by the LCR rules, could be eligible for operational deposit treatment. The Agencies explain in the Proposal that revising the existing definition is necessary to ensure that other forms of funding, such as longer-term unsecured funding, would not qualify as operational deposits, which are limited to accounts that facilitate short-term transactional cash flows associated with operational services and should only have short-term maturities, i.e., generally those maturities that would fall within the 30-day period under the LCR rules.[22]

We believe that, instead of revising the definition as proposed, the Agencies should take a more direct approach to ensuring that the objectives underlying the operational deposit concept are achieved. Specifically, the definition should instead be revised to limit operational deposits to unsecured wholesale funding that matures within 30 days. Revised as the Agencies propose, the definition could have the adverse, and we believe unintended, effect of excluding from operational deposit treatment arrangements that allow an operational customer's balances to be temporarily swept out of a deposit account into non-deposit products until such time as the funds are needed to meet operational demands. Excluding these amounts from operational deposits could misrepresent a customer's operational use of the balances over the course of a 30-day period.

D. Revise the "Collateralized Deposit" Definition to Include Certain Sweep Accounts

The LCR rules' current definition of "collateralized deposit" generally includes deposits of public sector entities that, pursuant to state law, must be collateralized and fiduciary deposits that certain depository institutions are required to collateralize.[23] Secured sweep repurchase transactions, however, are treated like other secured funding transactions and subject to the unwind provisions under the LCR rules.

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[22] *Proposal*, at 35,130.

[23] 12 C.F.R. § 50.3, § 249.3 and § 329.3.

Similar to unsecured wholesale funding sweep arrangements, in a secured sweep repurchase transaction, excess funds are automatically invested into an automated repurchase agreement sweep. These funds are typically collateralized with HQLA (based on customer agreement). Notably, secured sweep repurchase funding is similar to secured deposit funding, as banking organizations typically offer this product to established corporate clients that have other relationships with the banking organization. For example, banking organizations may offer a secured sweep repurchase arrangement to operational services customers until operational funds are needed to meet operational demands. A corporate client will typically instruct an institution to programmatically sweep a portion of unused funds to a secured sweep repurchase account on a daily basis and, thus, liquidity risk with respect to secured sweep repurchase arrangements is materially different than a traditional wholesale funding repurchase transaction offered through broker-dealers, for example. An important distinction is that secured sweep repurchase arrangements are typically tied to operational accounts. We, therefore, recommend that the Agencies revise the definition of "collateralized deposits" to include secured sweep repurchase arrangements tied to operational accounts.

IV. Proposed Scope of Application

A. The Scope of the Proposal Should Be Tailored to Appropriately Reflect a Banking Organization's Size, Complexity, Interconnectedness and Overall Risk Profile

The proposal recognizes that the Modified NSFR is appropriate for organizations that are simpler and less interconnected, which, in case of disruptions to regular funding sources, better enables management and supervisors to identify risks and take corrective action.[24] We appreciate the effort to tailor the scope of the Proposal. However, thresholds based on asset size and on-balance sheet foreign exposure alone fail to appropriately recognize the important differences in complexity, interconnectedness and, therefore, systemic risk of G-SIBs relative to the simple organizational structures and balance sheets, limited interconnectivity with other financial firms and, therefore, limited, if any, systemic risk of regional banking organizations. Moreover, the Proposal's asset and foreign exposure thresholds, which were established thirteen years ago in conjunction with the Advanced Approaches risk-based capital rules, are stale and outdated.[25]

Today, more sophisticated, dynamic and risk-sensitive methods exist to calibrate regulatory requirements, such as the systemic indicator approach, which, among other things, considers size, complexity, interconnectedness, and international activity. The proposal indicates that the Full NSFR is intended to apply to "internationally active" banking organizations that have more complex liquidity risk profiles and pose a greater risk to U.S. financial stability because of their size, the scale and breadth of their activities, and their financial sector interconnectedness.

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[24] *Proposal*, at 35,158.

[25] The thresholds were originally established by the Agencies in 2003 to identify those banking organizations to which the Agencies' Advanced Approaches risk-based capital rules would apply on a mandatory basis. *Risk-Based Capital Guidelines; Implementation of New Basel Capital Accord*, 68 Fed. Reg. 45,900 (Aug. 4, 2003).

However, any banking organization that crosses the Proposal's thresholds[26] is subject to the same standards and requirements. Tailoring based solely on size or foreign exposure, which the Agencies also used in the LCR rules,[27] does not adequately acknowledge that regional banking organizations operate simpler, more traditional business models and pose little, if any, systemic risk.

Data in Appendix 1 illustrates[28] that the undersigned "Covered Regional Banks"[29]are comparatively simpler and less complex than G-SIBs across key metrics related to balance sheet composition, complexity, interconnectedness and international activity:

- While the average ratio of derivative exposures and securities financing transaction exposures to total exposures of the G-SIBs is approximately 26 percent, the same average ratio is only approximately 2 percent for Covered Regional Banks;

- While the average amount of intra-financial system assets and intra-financial system liabilities for G-SIBs is approximately $210 billion and $220 billion, respectively, the same average amounts are only approximately $19 billion and $7 billion for Covered Regional Banks; and

- While the average amount of cross-jurisdictional claims for G-SIBs is approximately $239 billion, the same average amount is only $15 billion for Covered Regional Banks.[30]

In the liquidity risk management context, the Federal Reserve has already acknowledged that regional banking organizations are simpler and less complex than the G-SIBs and, therefore, should not be subject to the same standards or requirements. For example, only G-SIBs are subject to the daily reporting requirements of the Federal Reserve's FR 2052a liquidity reporting framework.[31] We believe that a similar approach should be used to more appropriately tailor the

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[26] Banking organizations with $250 billion or more in total consolidated assets or $10 billion or more in on-balance sheet foreign exposure, and the subsidiary depository institutions of such organizations with total assets above $10 billion, would be subject to the Full NSFR.

[27] Public comments on the Agencies' LCR proposal highlighted the similarities, in terms of liquidity risk profiles and other metrics, between banking organizations covered by the Full LCR and Modified LCR and argued that all regional banking organizations should be subject only to the Modified LCR. *See, e.g.*, Letter to the Agencies from 11 Regional Banking Organizations (Jan. 31, 2014).

[28] In addition to the data included in Appendix 1, we direct the Agencies to the data previously provided by our organizations and other commenters. *See, e.g.*, Letter to the Agencies from 11 Regional Banking Organizations (Jan. 31, 2014), Letter to the Agencies from 4 Regional and Traditional Banking Organizations (Mar. 22, 2016) and Letter to the Agencies, et al. from 4 Regional Banking Organizations (July 22, 2016).

[29] These are Capital One Financial Corp., The PNC Financial Services Group, Inc., TD Group US Holdings LLC.

[30] All data derived from the Federal Reserve's Banking Organization Systemic Risk Report on Form FR Y-15 for the quarter ended December 31, 2015.

[31] 80 Fed. Reg. 71,795, 71,797 (Nov. 17, 2015).

NSFR. Revising the scope of application for the NSFR in the manner we recommend also would be consistent with recent Congressional direction included in the House Committee on Appropriation's report accompanying the 2016 Financial Services and General Government Appropriations Bill, which was incorporated into the 2016 Consolidated Appropriations Act enacted in December 2015.[32]

B. Eliminate the Application of the NSFR to Subsidiary Depository Institutions

We do not believe that it would be appropriate or necessary to apply the NSFR, as proposed, to depository institutions with assets of $10 billion or more that are subsidiaries of a Full NSFR Banking Organization. First, the NSFR should not be applied separately to any depository institution subsidiaries due to the unique organizational structure of banking organizations in the United States. U.S. banking organizations operate through a holding company structure, and as a result of that structure, such organizations, consistent with U.S. banking laws and regulations and principles of safety and soundness, manage funding within both specific legal entities but also the broader corporate group. Moreover, available stable funding within the broader bank holding company may be available to help meet funding needs at different parts of the organization, including in particular insured depository institution subsidiaries. In particular, under the source of strength doctrine, both as historically applied by the Federal Reserve and as required by Congress under the Dodd-Frank Act, ensures that the holding company act as a source of financial strength, including with respect to funding needs, for its insured depository institution subsidiaries.

Although this aspect of the Proposal impacts all covered banking organizations, the significant costs and limited benefits of applying such a requirement to depository institution subsidiaries of organizations that operate the great majority, if not essentially all, of their activities through insured depository institutions is even more stark. For example, virtually all assets of regional banking organizations are held within their insured depository institutions subsidiaries. However, implementing the NSFR at each depository institution subsidiary has the potential to unnecessarily trap available stable funding at such subsidiaries, without creating any significant benefit given the fact that the depository institution subsidiaries constitute substantially all of the operations of the combined banking organization. If it is determined that the requirement should apply to depository institution subsidiaries of a covered banking organization, we would urge the agencies to exempt banking organizations from this requirement where the total assets of the insured depository subsidiaries under the covered company make up at least 85 percent of the total assets of the consolidated organization.

In light of the foregoing, we do not believe that applying the NSFR to subsidiary depository institutions would further the purposes of the Proposal. In fact, the costs would outweigh any potential benefits to safety and soundness or liquidity risk management, particularly in light of the many improvements made by institutions to liquidity risk management and the Agencies supervisory guidance and regulations with respect to the same. If the agencies have concerns about the long-term funding profile of a particular depository institution, a more measured and

[32] H.R. Rep. No. 114-194 (2015), at 10.

appropriate approach would be to address those with the specific institutions in question through the supervisory process.

C. Recognize the Unique Relationship between Affiliated Depository Institutions in Setting ASF and RSF Factors

If the Agencies retain the requirement that the NSFR apply to depository institutions with assets of $10 billion or more that are subsidiaries of a Full NSFR Banking Organization, the ASF and RSF factors should be revised to reflect the stable nature of funding provided between affiliated depository institutions. The assigned ASF factors in the Proposal are intended to reflect stability of funding, with relevant factors including tenor, funding type, and counterparty type. Funding is considered less stable where the likelihood is greater that the banking organization would have to replace or repay the funding during the one-year time horizon. In setting the ASF factors, the Proposal does not adequately recognize the relationship between sister banks, which is unique to the structure of banking organizations, and the related regulatory framework, in the United States.

We request that the Agencies revise the Proposal so that funding provided by a depository institution to a sister bank reflects a more stable ASF factor at the depository institution receiving the funding. Such a revision would be appropriate in recognition of the fact that, all other factors being equal, funding provided by an affiliated depository institution to a sister bank is more stable, with the applicable RSF factor being increased for the sister bank providing the funding. Specifically, we would request that the ASF factor for funding provided by a sister bank, regardless of form or tenor, be subject to a minimum ASF factor of 95 percent, at least under circumstances where the affiliated depository institution providing the funding has excess ASF. It would be appropriate to limit such ASF treatment to circumstances where transactions between the two institutions qualify for the "sister bank exemption" under the Federal Reserve's Regulation W and Sections 23A and 23B of the Federal Reserve Act (i.e., transactions between two depository institutions if the same company owns at least 80 percent of the voting securities of both depository institutions).

Revising the ASF factor for funding provided by a sister bank would better reflect the nature of intercompany funding between sister banks in a holding company structure. It also would be consistent with the principles set out in Regulation W and Sections 23A and 23B of the Federal Reserve Act and the cross-guaranty liability provisions of the Federal Deposit Insurance Act, both of which recognize the distinct relationship between sister banks in the U.S. bank regulatory framework.

* * *

V. Conclusion

The undersigned thank the Agencies for the opportunity to comment on the Proposal and respectfully ask for consideration of the recommendations and suggestions in this letter. If you have any questions regarding the content of this letter or would like more information on the same, please do not hesitate to contact any of the individuals listed in *Attachment 1* to this letter.

Sincerely,

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Discover Financial Services
Fifth Third Bancorp
KeyCorp
M&T Bank Corp.
MUFG Americas Holdings Corp.
The PNC Financial Services Group, Inc.
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Attachment 1

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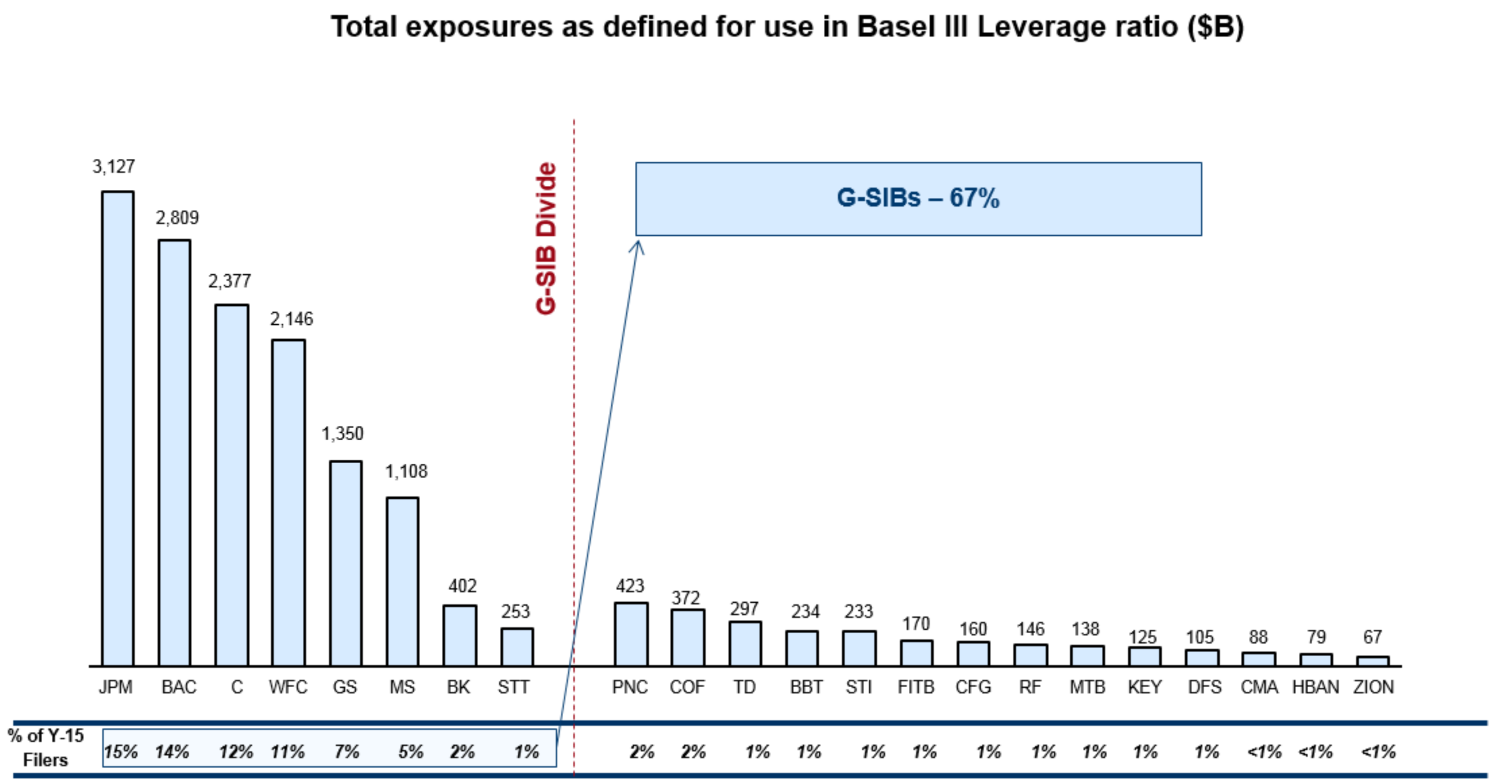
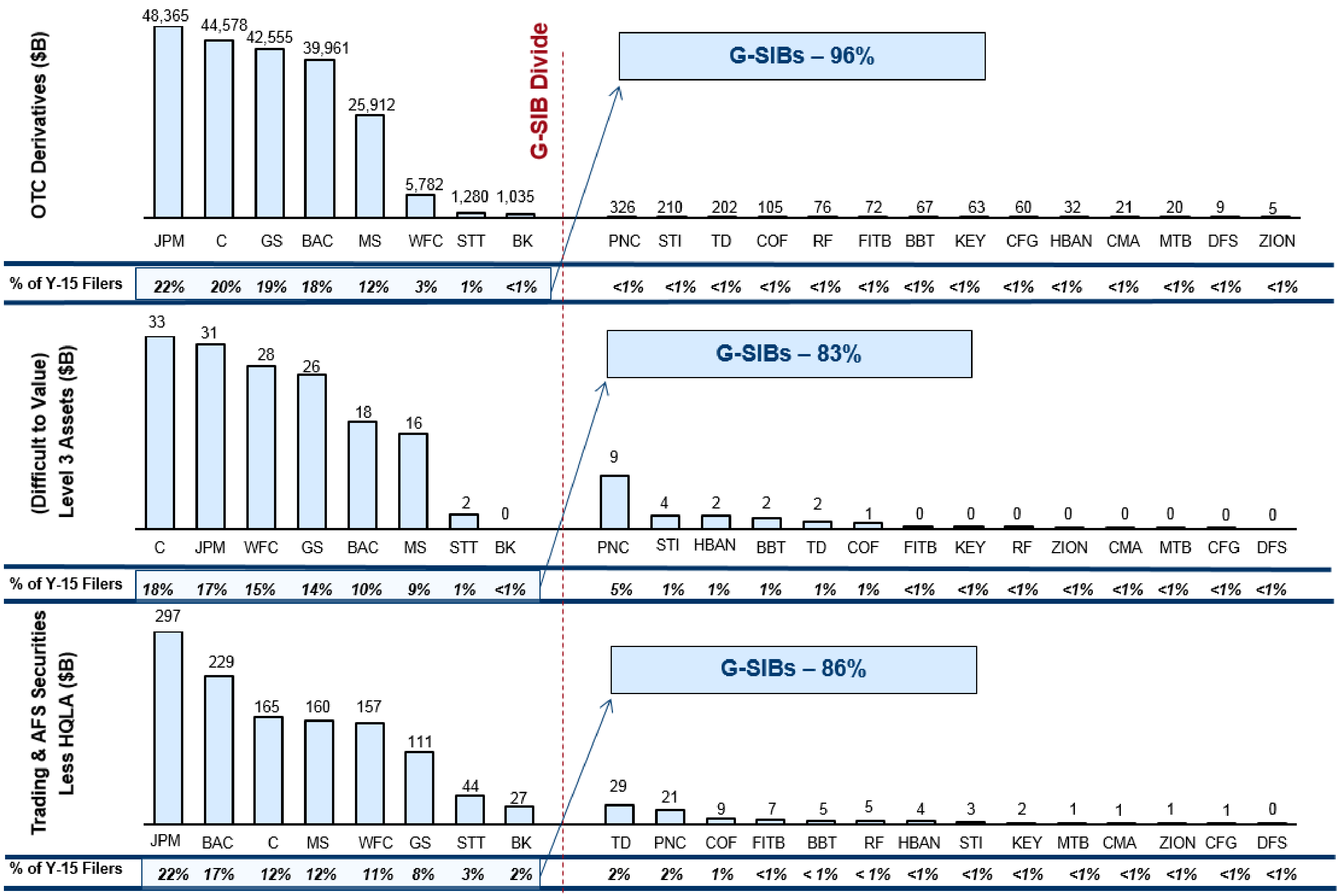
APPENDIX 1

U.S. G-SIBs are multiples larger in size than regional banking organizations

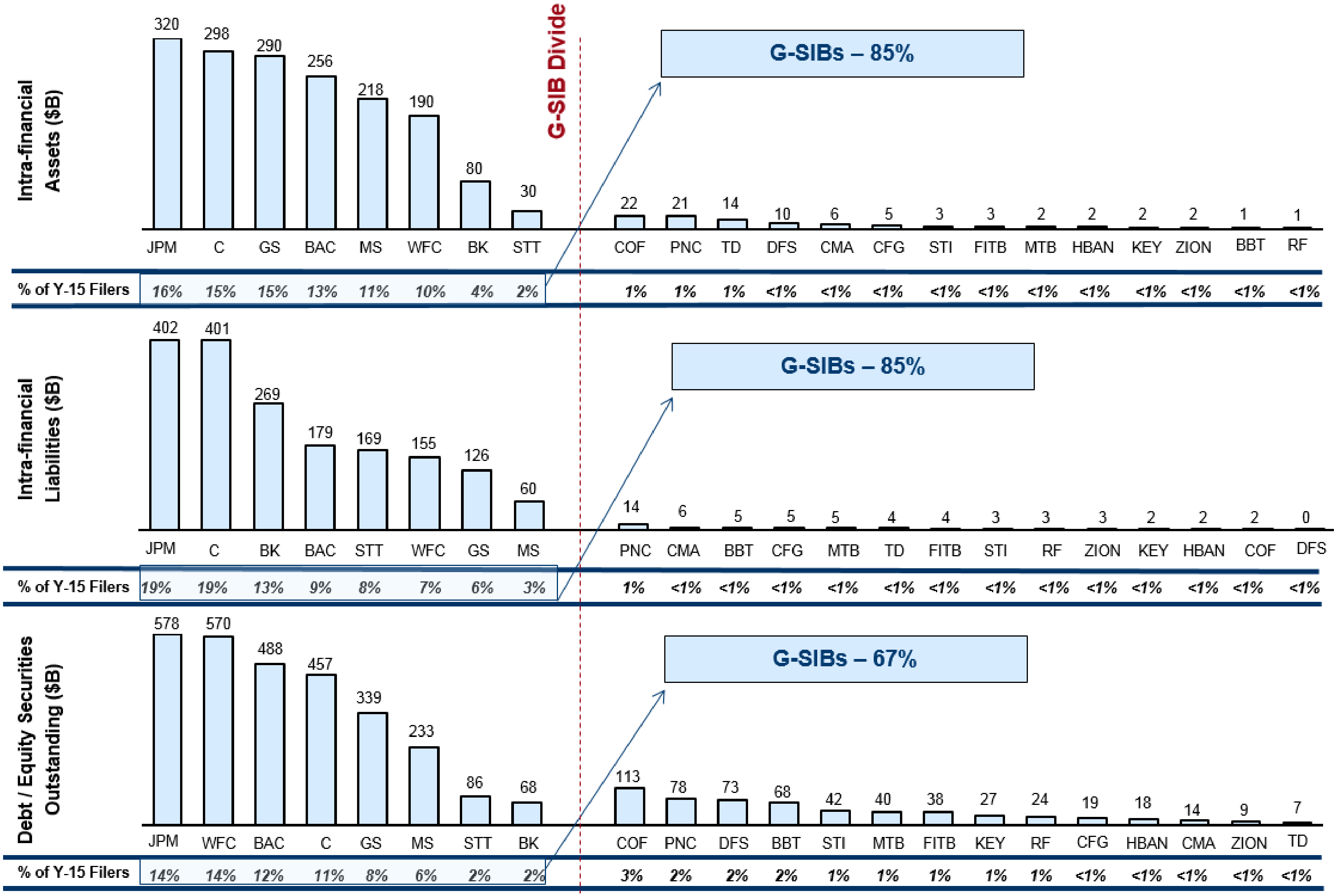


Source: Y15 Data; Data as of most recent regulatory filings (2015YE)

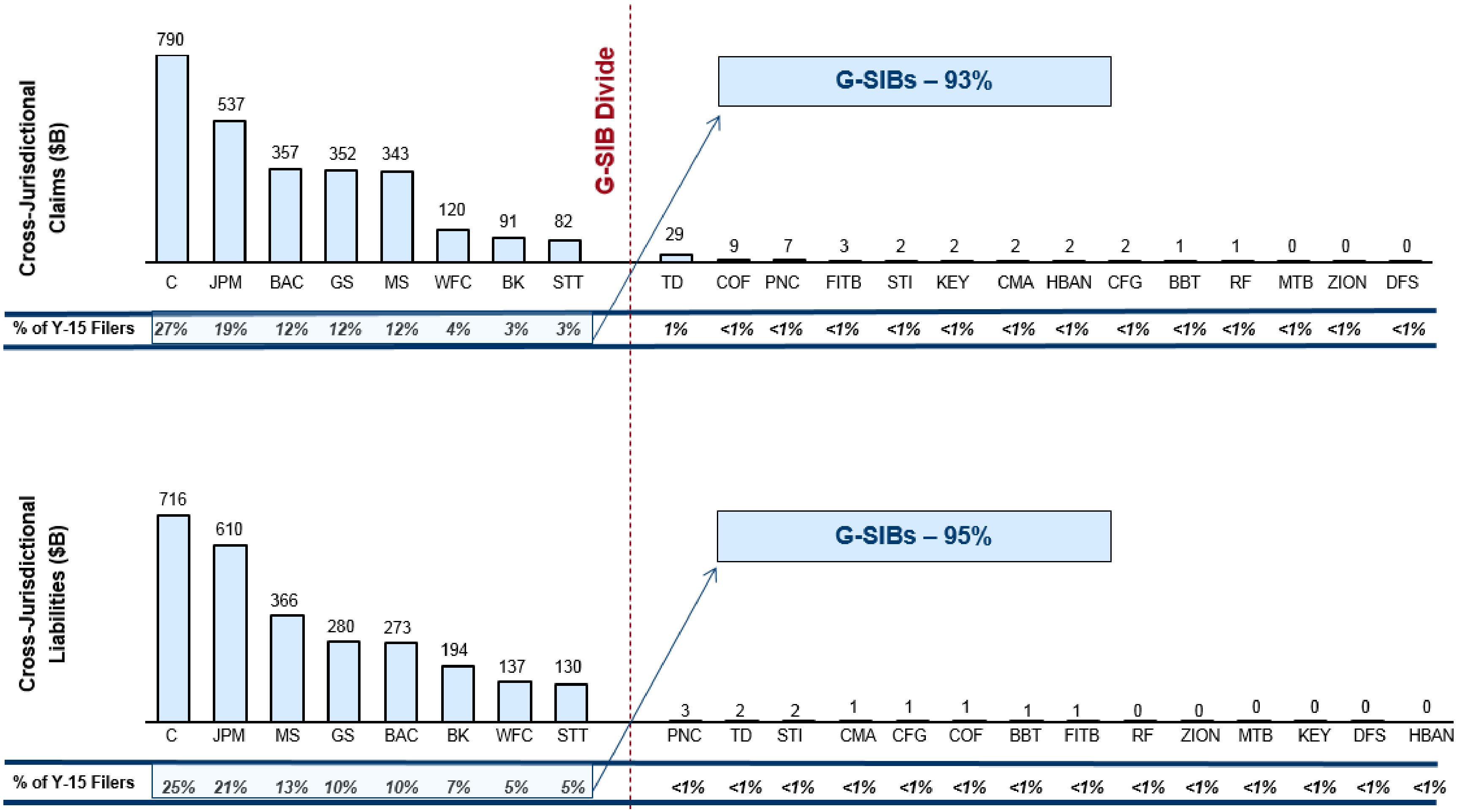
Regional banking organizations are far less complex



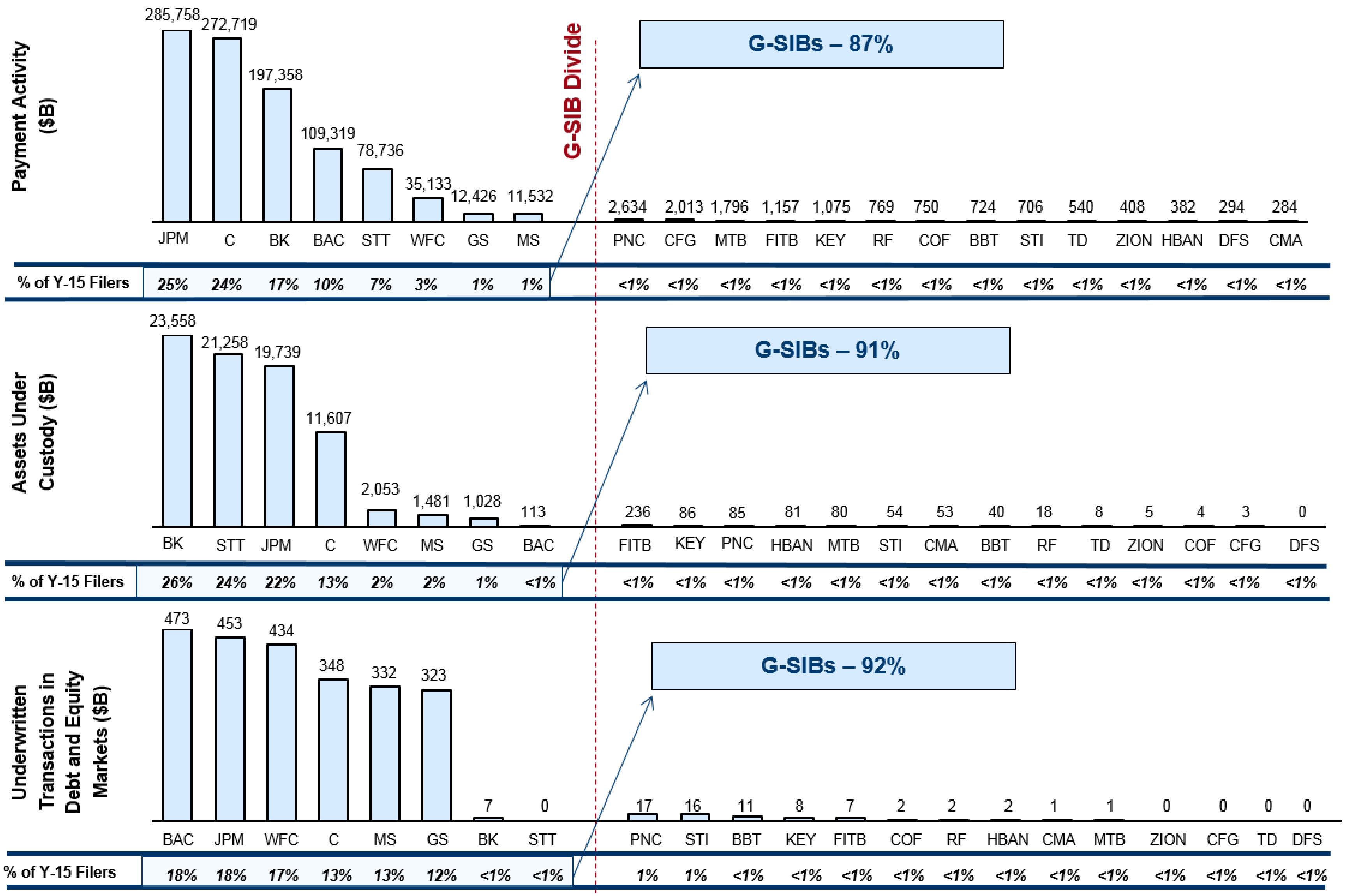
Regional banking organizations are far less interconnected



Regional banking organizations' cross-jurisdictional activities are insignificant

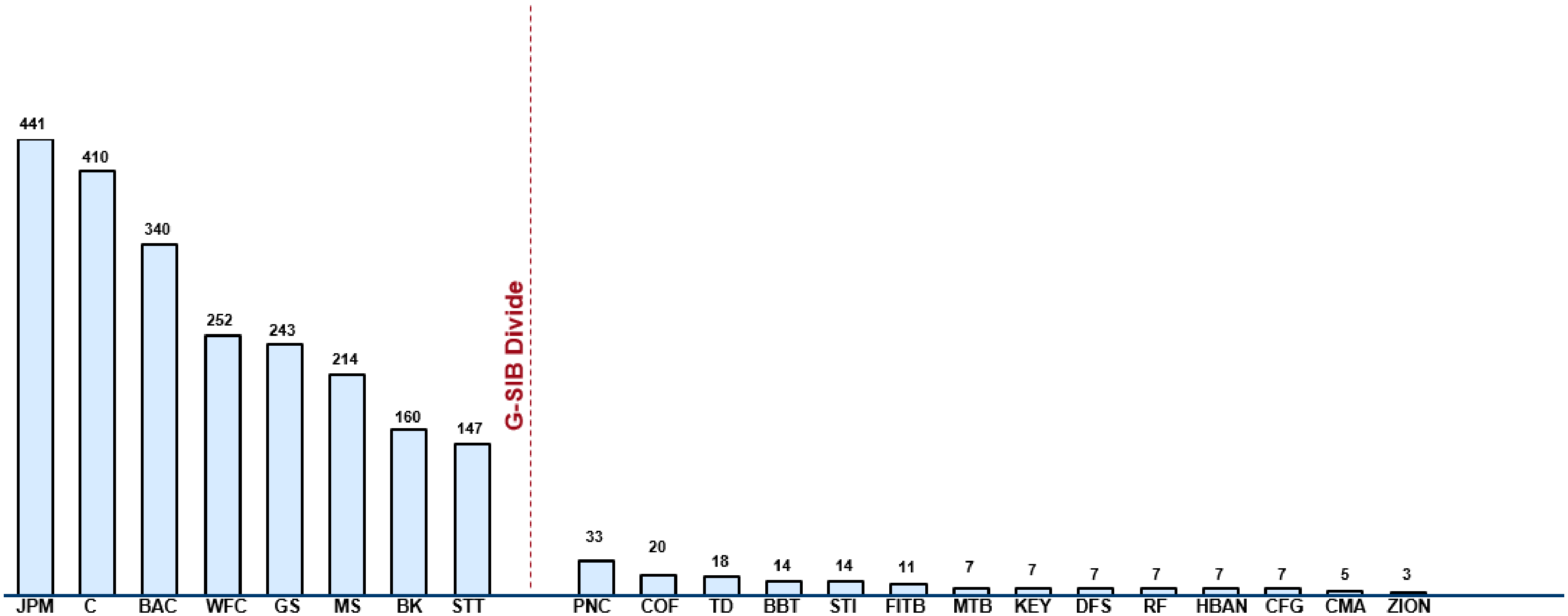


The G-SIBs are much less substitutable



The systemic indicator scores show the vast gulf between U.S. G-SIBs and regional banking organizations

GSIB Scores with 2015 Ending Global Indicators[1]



1) Based on FR Y-15 reports as of 12/31/2015
2) G-SIB Scores are calculated under the Method 1 Approach