DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 50

[Docket ID OCC–2013–0016]

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FEDERAL RESERVE SYSTEM

12 CFR Part 249

[Regulation WW; Docket No. R–1466]

RIN 7100 AE–03

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

RIN 3064–AE04

Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring

AGENCIES: Office of the Comptroller of the Currency, Department of the Treasury; Board of Governors of the Federal Reserve System; and Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking with request for public comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) are requesting comment on a proposed rule (proposed rule) that would implement a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision. The requirement is designed to promote the short-term resilience of the liquidity risk profile of internationally active banking organizations, thereby improving the banking sector's ability to absorb shocks arising from financial and economic stress, as well as improvements in the measurement and management of liquidity risk. The proposed rule would apply to all internationally active banking organizations, generally, bank holding companies, certain savings and loan holding companies, and depository institutions with more than $250 billion in total assets or more than $10 billion in on-balance sheet foreign exposure, and to their consolidated subsidiaries that are depository institutions with $10 billion or more in total consolidated assets. The proposed rule would also apply to companies designated for supervision by the Board by the Financial Stability Oversight Council under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act that do not have significant insurance operations and to their consolidated subsidiaries that are depository institutions with $10 billion or more in total consolidated assets. The Board also is proposing on its own a modified liquidity coverage ratio standard that is based on a 21-calendar day stress scenario rather than a 30 calendar-day stress scenario for bank holding companies and savings and loan holding companies without significant insurance or commercial operations that, in each case, have $50 billion or more in total consolidated assets.

DATES: Comments on this notice of proposed rulemaking must be received by January 31, 2014.

ADDRESSES: Comments should be directed to:

OCC: Because paper mail in the Washington, DC area is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or email, if possible. Please use the title ''Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''regulations.gov'':* Go to *http://www.regulations.gov.* Enter ''Docket ID OCC–2013–0016'' in the Search Box and click ''Search''. Results can be filtered using the filtering tools on the left side of the screen. Click on ''Comment Now'' to submit public comments. Click on the ''Help'' tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2013–0016'' in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide, such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

- *Viewing Comments Electronically:* Go to *http://www.regulations.gov.* Enter ''Docket ID OCC–2013–0016'' in the Search box and click ''Search''. Comments can be filtered by Agency using the filtering tools on the left side of the screen. Click on the ''Help'' tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700. Upon arrival, visitors will be required to present valid government-issued photo identification and to submit to security screening in order to inspect and photocopy comments.
- *Docket:* You may also view or request available background documents and project summaries using the methods described above.

Board: You may submit comments, identified by Docket No. R–1466, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *FAX:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Robert deV. Frierson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm as* submitted, unless modified for technical reasons.

Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Street NW) between 9:00 a.m. and 5:00 p.m. on weekdays.

FDIC: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Agency Web site: http://www FDIC.gov/regulations/laws/federal/propose.html.*
- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal ESS, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.
- *Email: comments@FDIC.gov.*

Instructions: Comments submitted must include ''FDIC'' and ''RIN 3064–AE04.'' Comments received will be posted without change to *http://www FDIC.gov/regulations/laws/federal/propose.html*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: Kerri Corn, Director, Credit and Market Risk Division, (202) 649–6398; Linda M. Jennings, National Bank Examiner, (980) 387–0619; Patrick T. Tierney, Special Counsel, or Tiffany Eng, Law Clerk, Legislative and Regulatory Activities Division, (202) 649–5490; or Adam S. Trost, Senior Attorney, Securities and Corporate Practices Division, (202) 649–5510 Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

Board: Anna Lee Hewko, Deputy Associate Director, (202) 530–6260; David Emmel, Manager, (202) 912–4612, Credit, Market and Liquidity Risk Policy; Ann McKeehan, Senior Supervisory Financial Analyst, (202) 972–6903; Andrew Willis, Senior Financial Analyst, (202) 912–4323, Capital and Regulatory Policy; April C. Snyder, Senior Counsel, (202) 452–3099; or Dafina Stewart, Senior Attorney, (202) 452–3876, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

FDIC: Kyle Hadley, Chief, Examination Support Section, (202) 898–6532; Rebecca Berryman, Senior Capital Markets Policy Specialist, (202) 898–6901; Eric Schatten, Capital Markets Policy Analyst, (202) 898–7063, Capital Markets Branch Division of Risk Management Supervision, (202) 898–6888; Gregory Feder, Counsel, (202) 898–8724; or Sue Dawley, Senior Attorney, (202) 898–6509, Supervision Branch, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

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I. Introduction

A. Summary of the Proposed Rule

The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) (collectively, the agencies) are requesting comment on a proposed rule (proposed rule) that would implement a liquidity coverage ratio requirement, consistent with the international liquidity standards published by the Basel Committee on Banking Supervision (BCBS),[1] for large, internationally active banking organizations, nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision that do not have substantial insurance activities (covered nonbank companies), and their consolidated subsidiary depository institutions with total assets greater than $10 billion. The BCBS published the international liquidity standards in December 2010 as a part of the Basel III reform package [2] and revised the standards in January 2013 (as revised, the Basel III Revised Liquidity Framework).[3] The Board also is proposing on its own to implement a modified version of the liquidity coverage ratio requirement as an enhanced prudential standard for bank holding companies and savings and loan holding companies with at least

[1] The BCBS is a committee of banking supervisory authorities that was established by the central bank governors of the G10 countries in 1975. It currently consists of senior representatives of bank supervisory authorities and central banks from Argentina, Australia, Belgium, Brazil, Canada, China, France, Germany, Hong Kong SAR, India, Indonesia, Italy, Japan, Korea, Luxembourg, Mexico, the Netherlands, Russia, Saudi Arabia, Singapore, South Africa, Sweden, Switzerland, Turkey, the United Kingdom, and the United States. Documents issued by the BCBS are available through the Bank for International Settlements Web site at *http://www.bis.org.*

[2] ''Basel III: International framework for liquidity risk measurement, standards and monitoring'' (December 2010), available at *http://www.bis.org/publ/bcbs188.pdf* (Basel III Liquidity Framework).

[3] ''Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools'' (January 2013), available at *http://www.bis.org/publ/bcbs238.htm.*

$50 billion in total consolidated assets that are not internationally active and do not have substantial insurance activities. This modified approach is described in section V of this preamble.

As described in more detail below, the proposed rule would establish a quantitative minimum liquidity coverage ratio that builds upon the liquidity coverage methodologies traditionally used by banking organizations to assess exposures to contingent liquidity events. The proposed rule would complement existing supervisory guidance and the more qualitative liquidity requirements that the Board proposed, in consultation with the OCC and the FDIC, pursuant to section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act)[4] and would establish transition periods for conformance with the new requirements.

B. Background

The recent financial crisis demonstrated significant weaknesses in the liquidity positions of banking organizations, many of which experienced difficulty meeting their obligations due to a breakdown of the funding markets. As a result, many governments and central banks across the world provided unprecedented levels of liquidity support to companies in the financial sector in an effort to sustain the global financial system. In the United States, the Board and the FDIC established various temporary liquidity facilities to provide sources of funding for a range of asset classes.

These events came in the wake of a period characterized by ample liquidity in the financial system. The rapid reversal in market conditions and the declining availability of liquidity during the financial crisis illustrated both the speed with which liquidity can evaporate and the potential for protracted illiquidity during and following these types of market events. In addition, the recent financial crisis highlighted the pervasive detrimental effect of a liquidity crisis on the banking sector, the financial system, and the economy as a whole.

Banking organizations' failure to adequately address these challenges was in part due to lapses in basic liquidity risk management practices. Recognizing the need for banking organizations to improve their liquidity risk management and to control their liquidity risk exposures, the agencies worked with regulators from foreign jurisdictions to establish international liquidity standards. These standards include the principles based on supervisory expectations for liquidity risk management in the ''Principles for Sound Liquidity Management and Supervision'' (Basel Liquidity Principles).[5] In addition to these principles, the BCBS established quantitative standards for liquidity in the ''Basel III: International framework for liquidity risk measurement, standards and monitoring'' [6] in December 2010, which introduced a liquidity coverage ratio (2010 LCR) and a net stable funding ratio (NSFR), as well as a set of liquidity monitoring tools. These reforms were intended to strengthen liquidity and promote a more resilient financial sector by improving the banking sector's ability to absorb shocks arising from financial and economic stress. Subsequently, in January 2013, the BCBS issued ''Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools'' (Basel III LCR),[7] which updated key components of the 2010 LCR as part of the Basel III liquidity framework.[8] The agencies acknowledge that there is ongoing international study of the interaction between the Basel III LCR and central bank operations. The agencies are working with the BCBS on these matters and would consider amending the proposal if the BCBS proposes modifications to the Basel III LCR.

The Basel III LCR establishes for the first time an internationally harmonized quantitative liquidity standard that has the primary objective of promoting the short-term resilience of the liquidity risk profile of internationally active banking organizations. The Basel III LCR is designed to improve the banking sector's ability to absorb, without reliance on government support, shocks arising from financial and economic stress, whatever the source, thus reducing the risk of spillover from the financial sector to the broader economy.

Beginning in January 2015, under the Basel III LCR, internationally active banking organizations would be required to hold sufficient high-quality liquid assets (HQLA) to meet their obligations and other liquidity needs that are forecasted to occur during a 30 calendar-day stress scenario. To meet the Basel III LCR standard, the HQLA must be unencumbered by liens and other restrictions on transferability and must be convertible into cash easily and immediately in deep, active private markets.

Current U.S. regulations do not require banking organizations to meet a quantitative liquidity standard. Rather, the agencies evaluate a banking organization's methods for measuring, monitoring, and managing liquidity risk on a case-by-case basis in conjunction with their supervisory processes.[9] Since the financial crisis, the agencies have worked to establish a more rigorous supervisory and regulatory framework for U.S. banking organizations that would incorporate and build upon the BCBS standards. First, the agencies, together with the National Credit Union Administration and the Conference of State Bank Supervisors, issued guidance titled the ''Interagency Policy Statement on Funding and Liquidity Risk Management'' (Liquidity Risk Policy Statement) in March 2010.[10] The Liquidity Risk Policy Statement incorporates elements of the Basel Liquidity Principles and is supplemented by other liquidity risk management principles previously issued by the agencies. The Liquidity Risk Policy Statement specifies supervisory expectations for fundamental liquidity risk management practices, including a comprehensive management process for identifying, measuring, monitoring, and controlling liquidity risk. The Liquidity Risk Policy Statement also emphasizes the central role of corporate governance, cash-flow projections, stress testing, ample liquidity resources, and formal contingency funding plans as necessary tools for effectively measuring and managing liquidity risk.

Additionally, in 2012, pursuant to section 165 of the Dodd-Frank Act,[11] the Board proposed enhanced liquidity standards for large U.S. banking firms,

[4] *See* ''Enhanced Prudential Standards and Early Remediation Requirements for Covered Companies,'' 77 FR 594 (Jan. 5, 2010); ''Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organizations and Foreign Nonbank Financial Companies,'' 77 FR 76628 (Dec. 28, 2012).

[5] Principles for Sound Liquidity Risk Management and Supervision (September 2008), available at *http://www.bis.org/publ/bcbs144.htm*.

[6] Basel III Liquidity Framework, *supra* note 2.

[7] Basel III Revised Liquidity Framework, *supra* note 3.

[8] Key provisions of the 2010 LCR that were updated by the BCBS in 2013 include expanding the definition of high-quality liquid assets, technical changes to the calculation of various inflow and outflow rates, introducing a phase-in period for implementation, and a variety of rules text clarifications. *See http://www.bis.org/press/p130106b pdf* for a complete list of revisions to the 2010 LCR.

[9] For instance, the Uniform Financial Rating System adopted by the Federal Financial Institutions Examination Council (FFIEC) requires examiners to assign a supervisory rating that assesses a banking organization's liquidity position and liquidity risk management.

[10] 75 FR 13656 (March 22, 2010).

[11] *See* 12 U.S.C. 5365.

certain foreign banking organizations, and nonbank financial companies designated by the Financial Stability Oversight Council for Board supervision.[12] These enhanced liquidity standards include corporate governance provisions, senior management responsibilities, independent review, a requirement to hold highly liquidity assets to cover stressed liquidity needs based on internally developed stress models, a contingency funding plan, and specific limits on potential sources of liquidity risk.[13]

The proposed rule would further enhance the supervisory efforts described above, which are aimed at measuring and managing liquidity risk, by implementing a minimum quantitative liquidity requirement in the form of a liquidity coverage ratio. This quantitative requirement would focus on short-term liquidity risks and would benefit the financial system as a whole by improving the ability of companies subject to the proposal to absorb potential market and liquidity shocks in a severe stress scenario over a short term. The agencies are proposing to establish a minimum liquidity coverage ratio that would be consistent with the Basel III LCR, with some modifications to reflect characteristics and risks of specific aspects of the U.S. market and U.S. regulatory framework, as described in this preamble. For instance, in recognition of the strong liquidity positions many U.S. banking organizations and other companies that would be subject to the proposal have achieved since the recent financial crisis, the proposed rule includes transition periods that are similar to, but shorter than, those set forth in the Basel III LCR. These proposed transition periods are designed to give companies subject to the proposal sufficient time to adjust to the proposed rule while minimizing any potential adverse impact that implementation could have on the U.S. banking system.

The agencies note that the BCBS is in the process of reviewing the NSFR that was included in the BCBS liquidity framework when it was first published in 2010. While the Basel III LCR is focused on measuring liquidity resilience over a short-term period of severe stress, the NSFR is designed to promote resilience over a one-year time horizon by creating additional incentives for banking organizations and other financial companies that would be subject to the standard to fund their activities with more stable sources and encouraging a sustainable maturity structure of assets and liabilities. Currently, the NSFR is in an international observation period as the agencies work with other BCBS members and the banking industry to gather data and study the impact of the proposed NSFR standard on the banking system. The agencies are carefully considering what changes to the NSFR they may recommend to the BCBS based on the results of this assessment. The agencies anticipate that they would issue a proposed rulemaking implementing the NSFR in advance of its scheduled global implementation in 2018.

C. Overview of the Proposed Rule

The proposed rule would establish a minimum liquidity coverage ratio applicable to all internationally active banking organizations, that is, banking organizations with $250 billion or more in total assets or $10 billion or more in on-balance sheet foreign exposure, and to consolidated subsidiary depository institutions of internationally active banking organizations with $10 billion or more in total consolidated assets (collectively, covered banking organizations). Thus, the rule would not apply to institutions that have opted in to the advanced approaches capital rule;[14] the agencies are seeking comment on whether to apply the rule to opt-in banking organizations. The proposed rule would also apply to covered nonbank companies, and to consolidated subsidiary depository institutions of covered nonbank companies with $10 billion or more in total consolidated assets (together with covered banking organizations and covered nonbank companies, covered companies). The proposed rule would not apply to a bridge financial company or a subsidiary of a bridge financial company, a new depository institution or a bridge depository institution, as those terms are used in the resolution context.[15] The agencies believe that requiring the FDIC to maintain a minimum liquidity coverage ratio in these entities would inappropriately constrain the FDIC's ability to resolve a depository institution or its affiliated companies in an orderly manner.[16]

The Board also is proposing on its own to implement a modified version of the liquidity coverage ratio as an enhanced prudential standard for bank holding companies and savings and loan holding companies without significant insurance or commercial operations that, in each case, have $50 billion or more in total consolidated assets, but are not covered companies for the purposes of the proposed rule.[17]

The agencies are reserving the authority to apply the proposed rule to a company not meeting the asset thresholds described above if it is determined that the application of the proposed liquidity coverage ratio would be appropriate in light of a company's asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered companies, or risk to the financial system. A covered company would remain subject to the proposed rule until its primary Federal supervisor determines in writing that application of the proposed rule to the company is not appropriate in light of these same factors. Moreover, nothing in the proposed rule would limit the authority of the agencies under any other provision of law or regulation to take supervisory or enforcement actions, including actions to address unsafe or unsound practices or conditions, deficient liquidity levels, or violations of law. The agencies also are reserving the authority to require a covered company to hold an amount of HQLA greater than otherwise required under the proposed rule, or to take any other measure to improve the covered company's liquidity risk profile, if the relevant agency determines that the

[12] *See* 77 FR 594 (Jan. 5, 2012); 77 FR 76628 (Dec. 28, 2012).

[13] *See* 12 U.S.C. 5365.

[14] *See* 12 CFR part 3 (OCC), 12 CFR part 217 (Federal Reserve), and 12 CFR part 324 (FDIC).

[15] *See* 12 U.S.C. 1813(i) and 12 U.S.C. 5381(a)(3).

[16] Pursuant to the International Banking Act (IBA), 12 U.S.C. 3101 *et seq.*, and OCC regulation, 12 CFR 28.13(a)(1), a Federal branch or agency regulated and supervised by the OCC has the same rights and responsibilities as a national bank operating at the same location. Thus, as a general matter, Federal branches and agencies are subject to the same laws as national banks. The IBA and the OCC regulation state, however, that this general standard does not apply when the IBA or other applicable law provides other specific standards for Federal branches or agencies, or when the OCC determines that the general standard should not apply. This proposal would not apply to Federal branches and agencies of foreign banks operating in the United States. At this time, these entities have assets that are substantially below the proposed $250 billion asset threshold for applying the proposed liquidity standard to an internationally active banking organization. As part of its supervisory program for Federal branches and agencies of foreign banks, the OCC reviews liquidity risks and takes appropriate action to limit such risks in those entities. In addition, the OCC is monitoring other emerging initiatives in the U.S. that may impact liquidity risk supervision of Federal branches and agencies of foreign banks before considering applying a liquidity coverage ratio requirement to them.

[17] Total consolidated assets for the purposes of the proposed rule would be as reported on a covered banking organization's most recent year-end Consolidated Reports of Condition and Income or Consolidated Financial Statements for Bank Holding Companies, Federal Reserve Form FR Y–9C. Foreign exposure data would be calculated in accordance with the Federal Financial Institution Examination Council 009 Country Exposure Report.

covered company's liquidity requirements as calculated under the proposed rule are not commensurate with its liquidity risks. In making such determinations, the agencies will apply notice and response procedures as set forth in their respective regulations.

The proposed liquidity coverage ratio would require a covered company to maintain an amount of HQLA meeting the criteria set forth in the proposed rule (the numerator of the ratio) that is no less than 100 percent of its total net cash outflows over a prospective 30 calendar-day period, as calculated in accordance with the proposed rule (the denominator of the ratio). Under the proposed rule, certain categories of assets may qualify as HQLA if they are unencumbered by liens and other restrictions on transfer so that they can be converted into cash quickly with little to no loss in value. Access to HQLA would enhance the ability of a covered company to meet its liquidity needs during an acute short-term liquidity stress scenario. A covered company's total net cash outflow amount would be determined by applying outflow and inflow rates, which reflect certain stressed assumptions, against the balances of a covered company's funding sources, obligations, and assets over a prospective 30 calendar-day period.

As further described below, the measures of total cash outflow and total cash inflow, and the outflow and inflow rates used in their determination, are meant to reflect aspects of the stress events experienced during the recent financial crisis. Consistent with the Basel III LCR, these components of the proposed rule take into account the potential impact of idiosyncratic and market-wide shocks, including those that would result in: (1) A partial loss of retail deposits and brokered deposits for retail customers; (2) a partial loss of unsecured wholesale funding capacity; (3) a partial loss of secured, short-term financing with certain collateral and counterparties; (4) losses from derivative positions and the collateral supporting those positions; (5) unscheduled draws on committed credit and liquidity facilities that a covered company has provided to its clients; (6) the potential need for a covered company to buy back debt or to honor non-contractual obligations in order to mitigate reputational and other risks; and (7) other shocks which affect outflows linked to structured financing transactions, mortgages, central bank borrowings, and customer short positions.

As noted above, covered companies generally would be required to maintain, on a consolidated basis, a liquidity coverage ratio equal to or greater than 100 percent. However, the agencies recognize that under certain circumstances, it may be necessary for a covered company's liquidity coverage ratio to briefly fall below 100 percent to fund unanticipated liquidity needs.

However, a liquidity coverage ratio below 100 percent may also reflect a significant deficiency in a covered company's management of liquidity risk. Therefore, the proposed rule would establish a framework for flexible supervisory response when a covered company's liquidity coverage ratio falls below 100 percent. Under the proposed rule, a covered company would be required to notify its primary Federal supervisor on any business day that its liquidity coverage ratio is less than 100 percent. In addition, if the liquidity coverage ratio is below 100 percent for three consecutive business days, a covered company would be required to submit to its primary Federal supervisor a plan for remediation of the shortfall. These procedures, which are described in further detail in this preamble, are intended to enable supervisors to monitor and respond appropriately to the unique circumstances that are giving rise to a covered company's liquidity coverage ratio shortfall.

Consistent with the BCBS liquidity framework, the proposed rule, once finalized, would be effective as of January 1, 2015, subject to a transition period. Under the proposed rule's transition provisions, covered companies would be required to comply with a minimum liquidity coverage ratio of 80 percent as of January 1, 2015. From January 1, 2016, through December 31, 2016, the minimum liquidity coverage ratio would be 90 percent. Beginning on January 1, 2017 and thereafter, all covered companies would be required to maintain a liquidity coverage ratio of 100 percent.

The proposed rule's liquidity coverage ratio is based on a standardized supervisory stress scenario. While the liquidity coverage ratio would establish one scenario for stress testing, supervisors expect companies that would be subject to the proposed rule to maintain robust stress testing frameworks that incorporate additional scenarios that are more tailored to the risks within their firms. Companies should use these additional scenarios in conjunction with the proposed rule's liquidity coverage ratio to appropriately determine their liquidity buffers. The agencies note that the liquidity coverage ratio is a minimum requirement and organizations that pose more systemic risk to the U.S. banking system or whose liquidity stress testing indicates a need for higher liquidity buffers may need to take additional steps beyond meeting the minimum ratio in order to meet supervisory expectations.

The BCBS liquidity framework also establishes liquidity risk monitoring mechanisms designed to strengthen and promote global consistency in liquidity risk supervision. These mechanisms include information on contractual maturity mismatch, concentration of funding, available unencumbered assets, liquidity coverage ratio reporting by significant currency, and market-related monitoring tools. At this time, the agencies are not proposing to implement these monitoring mechanisms as regulatory standards or requirements. However, the agencies intend to obtain information from covered companies to enable the monitoring of liquidity risk exposure through reporting forms and from information the agencies collect through other supervisory processes.

The proposed rule would provide enhanced information about the short-term liquidity profile of a covered company to managers and supervisors. With this information, the covered company's management and supervisors would be better able to assess the company's ability to meet its projected liquidity needs during periods of liquidity stress; take appropriate actions to address liquidity needs; and, in situations of failure, to implement an orderly resolution of the covered company. The agencies anticipate that they will separately seek comment upon proposed regulatory reporting requirements and instructions pertaining to a covered company's disclosure of the proposed rule's liquidity coverage ratio in a subsequent notice.

The agencies request comment on all aspects of the proposed rule, including comment on the specific issues raised throughout this preamble. The agencies request that commenters provide detailed qualitative or quantitative analysis, as appropriate, as well as any relevant data and impact analysis to support their positions.

II. Minimum Liquidity Coverage Ratio

Under the proposed rule, a covered company would be required to calculate its liquidity coverage ratio as of a particular date, which is defined in the proposed rule as the calculation date. The proposed rule would require a covered company to calculate its liquidity coverage ratio daily as of a set time selected by the covered company prior to the effective date of the rule and communicated in writing to its primary

Federal supervisor. Subsequent to this election, a covered company could only change the time as of which it calculates its liquidity coverage ratio daily with the written approval of its Federal supervisor.

A covered company would calculate its liquidity coverage ratio by dividing its amount of HQLA by total net cash outflows, which would be equal to the highest daily amount of cumulative net cash outflows within the 30 calendar days following a calculation date (30 calendar-day stress period). A covered company would not be permitted to double count items in this computation. For example, if an asset is included as a part of the stock of HQLA, such asset may not also be counted as cash inflows in the denominator.

The following discussion addresses the proposed criteria for HQLA, which are meant to reflect the characteristics the agencies believe are associated with the most liquid assets banking organizations typically hold. The discussion also explains how HQLA would be calculated under the proposed rule, including its constituent components, and the proposed caps and haircuts applied to those components.

Next, the discussion describes total net cash outflows, the denominator of the liquidity coverage ratio. This discussion explains the items that would be included in total cash outflows and total cash inflows, as well as rules for determining whether instruments mature or transactions occur within a 30 calendar-day stress period for the purposes of the liquidity coverage ratio's calculation. The discussion concludes by describing the regulatory framework for supervisory response if a covered company's liquidity coverage ratio falls below 100 percent.

1. *What operational or other issues arise from requiring the calculation of the liquidity coverage ratio as of a set time selected by a covered company prior to the effective date of the rule? What significant operational costs, such as technological improvements, or other operational difficulties, if any, may arise from the requirement to calculate the liquidity coverage ratio on a daily basis? What alternatives to daily calculation should the agencies consider and why?*

2. *The proposed rule would require a covered company to calculate its HQLA on a daily basis. Should the agencies impose any limits with regard to covered companies' ability to transfer HQLA on an intraday basis between entities? Why or why not? In particular, what appropriate limits should the agencies consider with regard to intraday movements of HQLA between domestic and foreign entities, including foreign branches?*

A. High-Quality Liquid Assets

The numerator of the proposed liquidity coverage ratio would be comprised of a covered company's HQLA, subject to the qualifying criteria and compositional limitations described below (HQLA amount). These proposed criteria and limitations are meant to ensure that a covered company's HQLA amount only includes assets with a high potential to generate liquidity through sale or secured borrowing during a stress scenario.

Consistent with the Basel III LCR, the agencies are proposing to divide HQLA into three categories of assets: level 1, level 2A and level 2B liquid assets. Specifically and as described in greater detail below, the agencies are proposing that level 1 liquid assets, which are the highest quality and most liquid assets, be included in a covered company's HQLA amount without a limit. Level 2A and 2B liquid assets have characteristics that are associated with being relatively stable and significant sources of liquidity, but not to the same degree as level 1 liquid assets. Accordingly, level 2A liquid assets would be subject to a 15 percent haircut and, when combined with level 2B liquid assets, could not exceed 40 percent of the total stock of HQLA. Level 2B liquid assets, which are associated with a lesser degree of liquidity and more volatility than level 2A liquid assets, would be subject to a 50 percent haircut and could not exceed 15 percent of the total stock of HQLA. These haircuts and caps are set forth in section 21 of the proposed rule.

A covered company would include assets in each HQLA category as required by the proposed rule as of a calculation date, irrespective of an asset's residual maturity. A description of the methodology for calculating the HQLA amount, including the caps on level 2A and level 2B liquid assets and the requirement to calculate adjusted and unadjusted amounts of HQLA, is described in section II.A.5 below.

1. Liquidity Characteristics of HQLA

Assets that would qualify as HQLA should be easily and immediately convertible into cash with little or no loss of value during a period of liquidity stress. In identifying the types of assets that would qualify as HQLA, the agencies considered the following categories of liquidity characteristics, which are generally consistent with those of the Basel III LCR: (a) Risk profile; (b) market-based characteristics; and (c) central bank eligibility.

a. Risk Profile

Assets that are appropriate for consideration as HQLA tend to be lower risk. There are various forms of risk that can be associated with an asset, including liquidity risk, market risk, credit risk, inflation risk, foreign exchange risk, and the risk of subordination in a bankruptcy or insolvency. Assets appropriate for consideration as HQLA would be expected to remain liquid across various stress scenarios and should not suddenly lose their liquidity upon the occurrence of a certain type of risk. Also, these assets generally experience ''flight to quality'' during a crisis, wherein investors sell their other holdings to buy more of these assets in order to reduce the risk of loss and increase the ability to monetize assets as necessary to meet their own obligations.

Assets that may be highly liquid under normal conditions but experience wrong-way risk and could become less liquid during a period of stress would not be appropriate for consideration as HQLA. For example, securities issued or guaranteed by many companies in the financial sector [18] have been more prone to lose value and, as a result, become less liquid and lose value in times of liquidity stress due to the high correlation between the health of these companies and the health of the financial markets generally. This correlation was evident during the recent financial crisis, as most debt issued by such companies traded at significant discounts for a prolonged period. Because of this high potential for wrong-way risk, consistent with the Basel III LCR standard, the proposed rule would exclude assets issued by companies that are primary actors in the financial sector from HQLA.[19]

b. Market-Based Characteristics

The agencies also have found that assets appropriate for consideration as HQLA generally exhibit characteristics that are market-based in nature. First, these assets tend to have active outright sale or repurchase markets at all times with significant diversity in market participants as well as high volume. This market-based liquidity characteristic may be demonstrated by historical evidence, including evidence during recent periods of market liquidity stress, of low bid-ask spreads, high trading volumes, a large and diverse number of market participants, and other factors. Diversity of market participants, on both the buy and sell

[18] *See infra* section II.A.2.c.

[19] Identification of companies with high potential for wrong-way risk under the proposal is discussed below in section II.A.2.

sides, is particularly important because it tends to reduce market concentration and is a key indicator that a market will remain liquid. Also, the presence of multiple committed market makers is another sign that a market is liquid.

Second, assets that are appropriate for consideration as HQLA generally tend to have prices that do not incur sharp price declines, even during times of stress. Volatility of traded prices and bid-ask spreads during normal times are simple proxy measures of market volatility; however, there should be historical evidence of relative stability of market terms (such as prices and haircuts) and volumes during stressed periods. To the extent that an asset exhibits price or volume fluctuation during times of stress, assets appropriate for consideration as HQLA tend to increase in value and experience a flight to quality during such times, as historically, the market moves into more liquid assets in times of systemic crisis.

Third, assets that can serve as HQLA tend to be easily and readily valued. The agencies generally have found that an asset's liquidity is typically higher if market participants agree on its valuation. Assets with more standardized, homogenous, and simple structures tend to be more fungible, thereby promoting liquidity. The pricing formula of more liquid assets generally is easy to calculate when it is based upon sound assumptions and publicly available inputs. Whether an asset is listed on an active and developed exchange can serve as a key indicator of an asset's price transparency and liquidity.

c. Central Bank Eligibility

Assets that a covered company can pledge at a central bank as collateral for intraday liquidity needs and overnight liquidity facilities in a jurisdiction and in a currency where the bank has access to the central bank generally tend to be liquid and, as such, are appropriate for consideration as HQLA. In the past, central banks have provided a backstop to the supply of banking system liquidity under conditions of severe stress. Central bank eligibility should, therefore, provide additional assurance that assets could be used in acute liquidity stress events without adversely affecting the broader financial system and economy. However, central bank eligibility is not itself sufficient to categorize an asset as HQLA; all of the proposed rule's requirements for HQLA would need to be met if central bank eligible assets are to qualify as HQLA.

3. *What, if any, other characteristics should be considered by the agencies in analyzing the liquidity of an asset?*

2. Qualifying Criteria for Categories of HQLA

The characteristics of HQLA discussed above are reflected in the proposed rule's qualifying criteria for HQLA. The criteria, set forth in section 20 of the proposed rule, are designed to identify assets that exhibit low risk and limited price volatility, are traded in high-volume, deep markets with transparent pricing, and that are eligible to be pledged at a central bank. Consistent with these characteristics and the BCBS LCR framework, the proposed rule would establish general criteria for all HQLA and specific requirements for each category of HQLA. For example, most of the assets in these categories would need to meet the proposed rule's definition of ''liquid and readily-marketable'' in order to be included in HQLA. Under the proposed rule, an asset would be liquid and readily-marketable if it is traded in an active secondary market with more than two committed market makers, a large number of committed non-market maker participants on both the buying and selling sides of transactions, timely and observable market prices, and high trading volumes. The ''liquid and readily-marketable'' requirement is meant to ensure that assets included in HQLA exhibit a level of liquidity that would allow a covered company to convert them into cash during times of stress and, therefore, to meet its obligations when other sources of funding may be reduced or unavailable. Timely and observable market prices make it likely that a buyer could be found and that a price could be obtained within a short period of time such that a covered company could convert the assets to cash, as needed.

As noted above, assets that are included in HQLA should not be issued by financial sector entities since they would then be correlated with covered companies (or wrong-way risk assets). In the proposed rule, financial sector entities are defined as regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, or a consolidated subsidiary of any of the foregoing. HQLA also could not be issued by any company (or any of its consolidated subsidiaries) that an agency has determined should be treated the same for the purposes of this proposed rule as a regulated financial company, investment company, non-regulated fund, pension fund, or investment adviser, based on activities similar in scope, nature, or operations to those entities (identified company).

The term ''regulated financial company'' under the proposal would include bank holding companies and savings and loan holding companies (depository institution holding companies); nonbank financial companies supervised by the Board under Title I of the Dodd-Frank Act; depository institutions; foreign banks; credit unions; industrial loan companies, industrial banks, or other similar institutions described in section 2 of the Bank Holding Company Act; national banks, state member banks, or state nonmember banks that are not depository institutions; insurance companies; securities holding companies (as defined in section 618 of the Dodd-Frank Act);[20] broker-dealers or dealers registered with the SEC; futures commission merchants and swap dealers, each as defined in the Commodity Exchange Act;[21] or security-based swap dealers defined in section 3 of the Securities Exchange Act.[22] It would also include any designated financial market utility, as defined in section 803 of the Dodd-Frank Act.[23] The definition also includes foreign companies if they are supervised and regulated in a manner similar to the institutions listed above.[24]

In addition, a ''regulated financial company'' would include a company that is included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the depository institution holding company produced by the National Information Center (NIC) Web site, provided that the top tier depository institution holding company is subject to the proposed rule (FR Y–6 companies).[25]

FR Y–6 companies are typically controlled by the filing depository institution holding company under the Bank Holding Company Act. Although many such companies are not consolidated on the financial statements of a depository institution holding company, the links between the

[20] 12 U.S.C. 1850a(a)(4).

[21] 7 U.S.C. 1a(28) and (49).

[22] 15 U.S.C. 78c(a)(71).

[23] 12 U.S.C. 5462(4).

[24] Under paragraph (8) of the proposed rule's definition of ''regulated financial company,'' the following would not be considered regulated financial companies: U.S. government-sponsored enterprises; small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*); entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; and central banks, the Bank for International Settlements, the International Monetary Fund, or a multilateral development bank.

[25] *See http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx.*

companies are sufficiently significant that the agencies believe it would be appropriate to exclude securities issued by FR Y–6 companies (and their consolidated subsidiaries) from HQLA, for the same policy reasons that other regulated financial companies' securities would be excluded from HQLA under the proposal. The organizational hierarchy chart produced by the NIC Web site reflects (as updates regularly occur) the FR Y–6 companies a depository institution holding company must report on the form. The agencies are proposing this method for identifying these companies in order to reduce burden associated with obtaining the FR Y–6 organizational charts for all depository institution holding companies subject to the proposed rule, because the charts are not uniformly available by electronic means.

Under the proposal, investment companies would include companies registered with the SEC under the Investment Company Act of 1940 [26] and investment advisers would include companies registered with the SEC as investment advisers under the Investment Advisers Act of 1940,[27] as well as the foreign equivalent of such companies. Non-regulated funds would include hedge funds or private equity funds whose investment advisers are required to file SEC Form PF (Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors), and any consolidated subsidiary of such fund, other than a small business investment company, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*). Pension funds would be defined as employee benefit plans as defined in ERISA and government pension plans,[28] as well as their foreign equivalents. Securities issued by the foregoing entities or their consolidated subsidiaries would be excluded from HQLA.

4. *What, if any, modifications should the agencies consider to the definition of ''regulated financial company''? What, if any, entities should be added to, or removed from, the definition and why? What operational difficulties may be involved in identifying a ''regulated financial company,'' including companies a depository institution holding company must report on the FR Y–6 organizational chart (or in identifying consolidated subsidiaries)? How should those operational difficulties be addressed? What alternatives for identifying companies reported on the FR Y–6 should be considered, and what difficulties may be associated with using the organizational hierarchy chart produced by the NIC Web site?*

5. *What, if any, modifications should the agencies consider to the definition of ''non-regulated funds''? Should hedge funds or private equity funds whose managers are not required to file Form PF be included in the definition? What operational or other difficulties may covered companies encounter in identifying ''non-regulated'' funds and their consolidated subsidiaries? What other definitions would generally capture hedge funds and private equity funds in an appropriate and clear manner? Provide detailed suggestions and justifications.*

6. *What, if any, modifications should the agencies consider to the definitions of ''investment company,'' ''pension fund,'' ''investment adviser,'' or ''identified company''? Should investment companies or investment advisers not required to register with the SEC be included in the respective definitions?*

7. *What risk or operational issues should the agencies consider regarding the definitions and the exclusion of securities issued by the companies described above from HQLA, as well as the higher outflow rates applied to such companies, as described below?*

8. *What additional factors or characteristics should the agencies consider with respect to identifying those companies whose securities should be excluded from HQLA and should be subject to the accompanying higher outflow rates for such companies, as discussed below?*

9. *How well does the proposed definition of ''liquid and readily-marketable'' meet the agencies' goal of identifying HQLA that could be converted into cash in order to meet a covered company's liquidity needs during times of stress? What other characteristics, if any, of a traded security and relevant markets should the agencies consider? What other approaches for capturing this liquidity characteristic should the agencies consider? Provide detailed description of and justifications for any alternative approaches.*

a. Level 1 Liquid Assets

Under the proposed rule, a covered company could include the full fair value of level 1 liquid assets in its HQLA amount. These assets have the highest potential to generate liquidity for a covered company during periods of severe liquidity stress and thus would be includable in a covered company's HQLA amount without limit. As discussed in further detail in this section, the proposed rule would include the following assets in level 1 liquid assets: (1) Federal Reserve Bank balances; (2) foreign withdrawable reserves; (3) securities issued or unconditionally guaranteed as to the timely payment of principal and interest by the U.S. Department of the Treasury; (4) liquid and readily-marketable securities issued or unconditionally guaranteed as to the timely payment of principal and interest by any other U.S. government agency (provided that its obligations are fully and explicitly guaranteed by the full faith and credit of the United States government); (5) certain liquid and readily marketable securities that are claims on, or claims guaranteed by, a sovereign entity, a central bank, the Bank for International Settlements, the International Monetary Fund, the European Central Bank and European Community, or a multilateral development bank; and (6) certain debt securities issued by sovereign entities.

Reserve Bank Balances

Under the BCBS LCR framework, ''central bank reserves'' are included in HQLA. In the United States, Federal Reserve Banks are generally authorized under the Federal Reserve Act to maintain balances only for ''depository institutions'' and for other limited types of organizations.[29] Pursuant to the Federal Reserve Act, there are different kinds of balances that depository institutions may maintain at Federal Reserve Banks, and they are maintained in different kinds of Federal Reserve Bank accounts. Balances that depository institutions must maintain to satisfy a reserve balance requirement must be maintained in the depository institution's ''master account'' at a Federal Reserve Bank or, if the institution has designated a pass-through correspondent, in the correspondent's master account. A ''reserve balance requirement'' is the amount that a depository institution must maintain in an account at a Federal Reserve Bank in order to satisfy that portion of the institution's reserve requirement that is not met with vault cash. Balances in excess of those required to be maintained to satisfy a reserve balance requirement, known as ''excess balances,'' may be maintained in a master account or in an ''excess balance account.'' Finally, balances maintained for a specified period of time, known as ''term deposits,'' are

[26] 15 U.S.C. 80a–1 *et seq.*

[27] 15 U.S.C. 80b–1 *et seq.*

[28] *See* paragraph (7) of § __.3 of the proposed rule's definition of ''regulated financial company.''

[29] *See* 12 U.S.C. 342.

maintained in a term deposit account offered by the Federal Reserve Banks. The proposed rule therefore uses the term ''Reserve Bank balances'' as the relevant term to capture central bank reserves in the United States.

Under the proposed rule, all balances a depository institution maintains at a Federal Reserve Bank (other than balances that an institution maintains on behalf of another institution, such as balances it maintains on behalf of a respondent or on behalf of an excess balance account participant) would be considered level 1 liquid assets, except for certain term deposits as explained immediately below.

Consistent with the concept of ''central bank reserves'' in the BCBS LCR framework, the proposed rule includes in its definition of ''Reserve Bank balances'' only those term deposits offered and maintained pursuant to terms and conditions that (1) explicitly and contractually permit such term deposits to be withdrawn upon demand prior to the expiration of the term, or that (2) permit such term deposits to be pledged as collateral for term or automatically-renewing overnight advances from a Federal Reserve Bank. None of the term deposits offered under the Federal Reserve's Term Deposit Facility as currently configured would be included in ''Reserve Bank balances'' because all term deposits offered to date by the Federal Reserve Banks are not explicitly and contractually repayable on notice. Similarly, all term deposits offered to date may not serve as collateral against which the depository institutions can borrow from a Federal Reserve Bank on a term or automatically renewable basis. Federal Reserve term deposits that are not included in ''Reserve Bank balances'' and, therefore, would not be considered level 1 liquid assets under the proposed rule could be included in a covered company's inflows, if the terms of such deposits expire within 30 days of the calculation date.

Under the proposed rule, a covered company's reserve balance requirement would be subtracted from its level 1 liquid asset amount, because a depository institution generally satisfies its reserve requirement by maintaining vault cash or a balance in an account at a Federal Reserve Bank.[30]

Foreign Withdrawable Reserves

The agencies are proposing that reserves held by a covered company in a foreign central bank that are not subject to restrictions on use be included in level 1 liquid assets. Similar to Reserve Bank balances, foreign withdrawable reserves should be able to serve as a medium of exchange in the currency of the country where they are held.

United States Government Securities

The proposed rule would include in level 1 liquid assets securities issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S Department of the Treasury. Generally, these types of securities have exhibited high levels of liquidity even in times of extreme stress to the financial system, and typically are the securities that experience the most ''flight to quality'' when investors adjust their holdings. Level 1 liquid assets would also include securities issued by any other U.S. government agency whose obligations are fully and explicitly guaranteed by the full faith and credit of the U.S. government, provided that they are liquid and readily-marketable.

Certain Sovereign and Multilateral Organization Securities

The proposed rule would include in level 1 liquid assets securities that are a claim on, or a claim guaranteed by, a sovereign entity, a central bank, the Bank for International Settlements, the International Monetary Fund, the European Central Bank and European Community, or a multilateral development bank, provided that such securities meet the following three requirements.

First, these securities must have been assigned a zero percent risk weight under the standardized approach for risk-weighted assets of the agencies' regulatory capital rules.[31] Generally, securities issued by sovereigns that are assigned a zero percent risk weight have shown resilient liquidity characteristics. Second, the proposed rule would require these securities to be liquid and readily-marketable, as discussed above. Third, these securities would be required to be issued by an entity whose obligations have a proven record as a reliable source of liquidity in the repurchase or sales markets during stressed market conditions. A covered company could demonstrate a historical record that meets this criterion through reference to historical market prices during times of general liquidity stress, such as the period of financial market stress experienced from 2007 to 2008. Covered companies should also look to other periods of systemic and idiosyncratic stress to see if the asset under consideration has proven to be a reliable source of liquidity. Fourth, these securities could not be an obligation of a regulated financial company, non-regulated fund, pension fund, investment adviser, or identified company or any consolidated subsidiary of such entities.

Certain Foreign Sovereign Debt Securities

Debt securities issued by a foreign sovereign entity that are not assigned a zero percent risk weight under the standardized approach for risk-weighted assets of the agencies' regulatory capital rules may serve as level 1 liquid assets if they are liquid and readily marketable, the sovereign entity issues such debt securities in its own currency, and a covered company holds the debt securities to meet its cash outflows in the jurisdiction of the sovereign entity, as calculated in the outflow section of the proposed rule. These assets would be appropriately included as level 1 liquid assets despite having a risk weight greater than zero because a sovereign often is able to meet obligations in its own currency through control of its monetary system, even during fiscal challenges.

10. *What, if any, alternative factors should be considered in determining the assets that qualify as level 1 liquid assets? What, if any, additional assets should qualify as level 1 liquid assets based on the characteristics for HQLA that the agencies discussed above? Provide detailed justification based on the liquidity characteristics of any such assets, including historical data and observations.*

11. *Are there any assets that would qualify as level 1 liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets should not be included and why? Provide detailed justification based on the liquidity characteristics of an asset in question, including historical data and observations.*

b. Level 2A Liquid Assets

Under the proposed rule, level 2A liquid assets would include certain claims on, or claims guaranteed by a U.S. government sponsored enterprise (GSE)[32] and certain claims on, or claims guaranteed by, a sovereign entity or a multilateral development bank. Assets would be required to be liquid and

[30] *See* § __.21(b)(1) of the proposed rule.

[31] *See* 12 CFR part 3 (OCC), 12 CFR part 217 (Federal Reserve), and 12 CFR part 324 (FDIC).

[32] GSEs include the Federal Home Loan Mortgage Corporation (FHLMC), the Federal National Mortgage Association (FNMA), the Farm Credit System, and the Federal Home Loan Bank System.

readily-marketable, as described above, to be considered level 2A liquid assets.

The agencies are aware that some securities issued and guaranteed by U.S. GSEs consistently trade in very large volumes and generally have been highly liquid, including during times of stress. However, the U.S. GSEs remain privately owned corporations, and their obligations do not have the explicit guarantee of the full faith and credit of the United States. The agencies have long held the view that obligations of U.S. GSEs should not be accorded the same treatment as obligations that carry the explicit guarantee of the U.S. government and under the agencies' regulatory capital rules, have currently and historically assigned a 20 percent risk weight to their obligations and guarantees, rather than the zero percent risk weight assigned to securities guaranteed by the full faith and credit of the United States. Consistent with the agencies' regulatory capital rules, the agencies are not assigning the most favorable regulatory treatment to U.S. GSEs' issuances and guarantees under the proposed rule and therefore are assigning them to the level 2A liquid asset category, so long as they are investment grade consistent with the OCC's investment regulation (12 CFR part 1) as of the calculation date. Additionally, consistent with the agencies' regulatory capital rules' higher risk weight for the preferred stock of U.S. GSEs, the agencies are proposing to exclude such preferred stock from HQLA.

Level 2A liquid assets also would include claims on, or claims guaranteed by a sovereign entity or a multilateral development bank that: (1) is not included in level 1 liquid assets; (2) is assigned no higher than a 20 percent risk weight under the standardized approach for risk-weighted assets of the agencies' regulatory capital rules; [33] (3) is issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions; and (4) is not an obligation of a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, identified company, or any consolidated subsidiary of the foregoing. A covered company could demonstrate that a claim on or claims guaranteed by a sovereign entity or a multilateral development bank that has issued obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions through reference to historical market prices during times of general liquidity stress.[34] Covered companies should look to multiple periods of systemic and idiosyncratic liquidity stress in compiling such records.

The proposed rule likely would not permit covered bonds and securities issued by public sector entities, such as a state, local authority, or other government subdivision below the level of a sovereign (including U.S. states and municipalities) to qualify as HQLA at this time. While these assets are assigned a 20 percent risk weight under the standardized approach for risk-weighted assets in the agencies' regulatory capital rules, the agencies believe that, at this time, these assets are not liquid and readily-marketable in U.S. markets and thus do not exhibit the liquidity characteristics necessary to be included in HQLA under this proposed rule. For example, securities issued by public sector entities generally have low average daily trading volumes. Covered bonds, in particular, exhibit significant risks regarding interconnectedness and wrong-way risk among companies in the financial sector such as regulated financial companies, investment companies, and non-regulated funds.

12. *What other assets, if any, should the agencies include in level 2A liquid assets? How should such assets be identified and what are the characteristics of those assets that would justify their inclusion in level 2A liquid assets?*

13. *Are there any assets that would qualify as level 2A liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets and why? Provide a detailed justification based on the liquidity characteristics of the asset in question, including historical data and observations.*

14. *What alternative treatment, if any, should the agencies consider for obligations of U.S. GSEs and why? Provide justification and supporting data.*

c. Level 2B Liquid Assets

Under the proposed rule, level 2B liquid assets would include certain publicly traded corporate debt securities and publicly traded shares of common stock that are liquid and readily-marketable, as discussed above. The limitation of level 2B liquid assets to those that are publicly traded is meant to ensure a minimum level of liquidity, as privately traded assets are less liquid. Under the proposed rule, the definition of ''publicly traded'' would be consistent with the definition used in the agencies' regulatory capital rules and would identify securities traded on registered exchanges with liquid two-way markets.[35] A two-way market would be defined as market where there are independent bona fide offers to buy and sell, so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a relatively short time frame, conforming to trade custom. This definition is also consistent with the definition in the agencies' capital rules [36] and is designed to identify markets with transparent and readily available pricing, which, for the reasons discussed above, is fundamental to the liquidity of an asset.

Publicly Traded Corporate Debt Securities

Publicly traded corporate debt securities would be considered level 2B liquid assets under the proposed rule if they meet three requirements (in addition to being liquid and readily-marketable). First, the securities would be required to meet the definition of ''investment grade'' under 12 CFR part 1 as of a calculation date.[37] This standard would ensure that assets not meeting the required credit quality standard for bank investment would not be included in HQLA. The agencies believe that meeting this standard is indicative of lower risk and, therefore, higher liquidity for a corporate debt security. Second, the securities would be required to have been issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions. A covered company would be required to demonstrate this record of liquidity reliability and lower volatility during times of stress by showing that the market price of the publicly traded debt securities or equivalent securities of the issuer declined by no more than 20 percent or the market haircut demanded by counterparties to secured lending and secured funding transactions that were collateralized by such debt

[33] *See* 12 CFR part 3 (OCC), 12 CFR part 217 (Federal Reserve), and 12 CFR part 324 (FDIC).

[34] This would be demonstrated if the market price of the security or equivalent securities of the issuer declined by no more than 10 percent or the market haircut demanded by counterparties to secured funding or lending transactions that are collateralized by such security or equivalent securities of the issuer increased by no more than 10 percentage points during a 30 calendar-day period of significant stress.

[35] *See id.*

[36] *Id.*

[37] 12 CFR 1.2(d).

securities or equivalent securities of the issuer increased by no more than 20 percentage points during a 30 calendar-day period of significant stress. As discussed above, a covered company could demonstrate a historical record that meets this criterion through reference to historical market prices of the debt security during times of general liquidity stress.

Finally, for the reasons discussed above, the debt securities could not be obligations of a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, identified company, or any consolidated subsidiary of the foregoing.

Publicly Traded Shares of Common Stock

Under the proposed rule, publicly traded shares of common stock could be included in a covered company's level 2B liquid assets if the shares meet the five requirements set forth below (in addition to being liquid and readily-marketable). Because of general statutory prohibitions on holding equity investments for their own account,[38] depository institutions subject to the proposed rule would not be able to include common stock in their level 2B liquid assets (including common stock held pursuant to authority for debt previously contracted, as discussed further below). However, a depository institution could include in its consolidated level 2B liquid assets common stock permissibly held by a consolidated subsidiary, where the investments meet the proposed level 2B requirements for publicly traded shares of common stock. Furthermore, a depository institution could only include in its level 2B assets the amount of a consolidated subsidiary's publicly traded shares of common stock if it is held to cover the net cash outflows for the consolidated subsidiary. For example, if Subsidiary A holds level 2B publicly traded common stock of $100 in a legally permissible manner and has outflows of $80, Subsidiary A could not contribute more than $80 of its level 2B publicly traded common stock to its parent depository institution's consolidated level 2B assets.

Under the rule, to be considered a level 2B liquid asset, the publicly traded common stock would be required to be included in either: (1) the Standard & Poor's 500 Index (S&P 500); (2) if the stock is held in a non-U.S. jurisdiction to meet liquidity risks in that jurisdiction, an index that the covered company's supervisor in that jurisdiction recognizes for purposes of including the equities as level 2B liquid assets under applicable regulatory policy; or (3) any other index for which the covered company can demonstrate to the satisfaction of its primary federal supervisor that the stock is as liquid and readily-marketable as equities traded on the S&P 500.

The agencies believe that being included in a major stock index is an important indicator of the liquidity of a stock, because such stock tends to have higher trading volumes and lower bid-ask spreads during stressed market conditions than those that are not listed. The agencies identified the S&P 500 as being appropriate for this purpose given that it is considered a major index in the United States and generally includes the most liquid and actively traded stocks. Moreover, stocks that are included in the S&P 500 are selected by a committee that considers, among other characteristics, the volume of trading activity and length of time the stock has been publicly traded.

Second, to be considered a level 2B liquid asset, a covered company's publicly traded common stock would be required to be issued in: (1) U.S. dollars; or (2) the currency of a jurisdiction where the covered company operates and the stock offsets its net cash outflows in that jurisdiction. This requirement is meant to ensure that, upon liquidation of the stock, the currency received from the sale matches the outflow currency.

Third, the common stock would be required to have been issued by an entity whose common stock has a proven record as a reliable source of liquidity in the repurchase or sales markets during stressed market conditions. Under the proposed rule, a covered company would be required to demonstrate this record of reliable liquidity by showing that the market price of the common stock or equivalent securities of the issuer declined by no more than 40 percent or that the market haircut, as evidenced by observable market prices, of secured funding or lending transactions collateralized by such common stock or equivalent securities of the issuer increased by no more than 40 percentage points during a 30 calendar-day period of significant stress. This limitation is meant to account for the volatility inherent in equities, which is a risk to the preservation of liquidity value. As above, a covered company could demonstrate this historical record through reference to the historical market prices of the common stock during times of general liquidity stress.

Fourth, as with the other asset categories of HQLA and for the same reasons, common stock included in level 2B liquid assets may not be issued by a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, identified company, or any consolidated subsidiary of the foregoing. During the recent financial crisis, the common stock of such companies experienced significant declines in value and the agencies believe that such declines indicate those assets would be less likely to provide substantial liquidity during future periods of stress and, therefore, are not appropriate for inclusion in a covered company's stock of HQLA.

Fifth, if held by a depository institution, the publicly traded common stock could not be acquired in satisfaction of a debt previously contracted (DPC). In general, publicly traded common stock may be acquired by a depository institution to prevent a loss from a DPC. However, in order for a depository institution to avail itself of the authority to hold DPC assets, such as by holding publicly traded common stock, such assets typically must be divested in a timely manner.[39] The agencies believe that depository institutions should make a good faith effort to dispose of DPC publicly traded common stock as soon as commercially reasonable, subject to the applicable legal time limits for disposition. The agencies are concerned that permitting depository institutions to include DPC publicly traded common stock in level 2B liquid assets may provide an inappropriate incentive for depository institutions to hold such assets beyond a commercially reasonable period for disposition. Therefore, the proposal would prohibit depository institutions from including DPC publicly traded common stock in level 2B liquid assets.

15. *What, if any, additional criteria should the agencies consider in determining the type of securities that should qualify as level 2B liquid assets? What alternatives to the S&P 500 should be considered in determining the liquidity of an equity security and why? In addition to an investment grade classification, what additional characteristics denote the liquidity quality of corporate debt that the agencies would be legally permitted to use in light of the Dodd-Frank Act prohibition against agencies' regulations referencing credit ratings? The agencies*

[38] 12 U.S.C. 24(Seventh) (national banks); 12 U.S.C. 1464(c) (federal savings associations); 12 U.S.C. 1831a (state banks); 12 U.S.C. 1831e (state savings associations).

[39] *See generally* 12 CFR 1.7 (OCC); 12 U.S.C. 1843(c)(2) (Board); 12 CFR 362.1(b)(3) (FDIC).

solicit detailed comment, with supporting data, on the advantages and disadvantages of the proposed investment grade criteria as well as recommended alternatives.

16. *Are there any assets that would qualify as level 2B liquid assets under the proposed rule that should not qualify based on their liquidity characteristics? If so, which assets and why? Provide a detailed justification based on the liquidity characteristics of the asset in question, including historical data and observations.*

17. *What other criteria, if any, should the agencies consider for establishing an adequate historical record during times of liquidity stress in order to meet the relevant criteria under the proposed rule? What operational burdens, if any, are associated with this requirement? What other standards, if any, should the agencies consider to achieve the same result?*

18. *Is the proposed treatment for publicly traded common stock appropriate? Why or why not? Are there circumstances under which a depository institution may permissibly hold publicly traded common stock that the agencies should not prohibit from being included in level 2B liquid assets? Please provide specific examples. Under what circumstances, if any, should DPC publicly traded common stock be included in a depository institution's level 2B liquid assets and why? What liquidity risks, if any, are introduced or mitigated if DPC publicly traded common stock are permitted in a depository institution's level 2B liquid assets?*

3. Operational Requirements for HQLA

Under the proposed rule, an asset that a covered company includes in its HQLA would need to meet the following operational requirements. These operational requirements are intended to better ensure that a covered company's HQLA can be liquidated in times of stress. Several of these requirements relate to the monetization of an asset, by which the agencies mean the receipt of funds from the outright sale of an asset or from the transfer of an asset pursuant to a repurchase agreement.

First, a covered company would be required to have the operational capability to monetize the HQLA. This capability would be demonstrated by: (1) implementing and maintaining appropriate procedures and systems to monetize the asset at any time in accordance with relevant standard settlement periods and procedures; and (2) periodically monetizing a sample of HQLA that reasonably reflects the composition of the covered company's total HQLA portfolio, including with respect to asset type, maturity, and counterparty characteristics. This requirement is designed to ensure a covered company's access to the market, the effectiveness of its processes for monetization, and the availability of the assets for monetization and to minimize the risk of negative signaling during a period of actual stress. The agencies would monitor the procedures, systems, and periodic sample liquidations through their supervisory process.

Second, a covered company would be required to implement policies that require all HQLA to be under the control of the management function of the covered company that is charged with managing liquidity risk. To do so, a covered company would be required either to segregate the assets from other assets, with the sole intent to use them as a source of liquidity or to demonstrate its ability to monetize the assets and have the resulting funds available to the risk management function, without conflicting with another business or risk management strategy. Thus, if an HQLA were being used to hedge a specific transaction, such as holding an asset to hedge a call option that the covered company had written, it could not be included in the HQLA amount because its sale would conflict with another business or risk management strategy. However, if HQLA were being used as a general macro hedge, such as interest rate risk of the covered company's portfolio, it could still be included in the HQLA amount. This requirement is intended to ensure that a central function of a covered company has the authority and capability to liquidate HQLA to meet its obligations in times of stress without exposing the covered company to risks associated with specific transactions and structures that had been hedged. There were instances at specific firms during the recent financial crisis where unencumbered assets of the firms were not available to meet liquidity demands because the firms' treasuries were restricted or did not have access to such assets.

Third, a covered company would be required to include in its total net cash outflow amount the amount of cash outflow that would result from the termination of any specific transaction hedging HQLA. The impact of the hedge would be required to be included in the outflow because if the covered company were to liquidate the asset, it would be required to close out the hedge to avoid creating a risk exposure. This requirement is not intended to apply to general macro hedges such as holding interest rate derivatives to adjust internal duration or interest rate risk measurements, but is intended to cover specific hedges that would become risk exposures if the asset were sold.

Fourth, a covered company would be required to implement and maintain policies and procedures that determine the composition of the assets in its HQLA amount on a daily basis by (1) identifying where its HQLA is held by legal entity, geographical location, currency, custodial or bank account, and other relevant identifying factors, (2) determining that the assets included in a covered company's HQLA amount continue to qualify as HQLA, (3) ensuring that the HQLA in the HQLA amount are appropriately diversified by asset type, counterparty, issuer, currency, borrowing capacity or other factors associated with the liquidity risk of the assets, and (4) ensuring that the amount and type of HQLA included in a covered company's HQLA amount that is held in foreign jurisdictions is appropriate with respect to the covered company's net cash outflows in foreign jurisdictions.

The agencies also recognize that significant international banking activity occurs through non-U.S. branches of legal entities organized in the United States and that a foreign branch's activities may give rise to the need to hold HQLA in the jurisdiction where it is located. While the agencies believe that holding HQLA in a geographic location where it is needed to meet liquidity needs such as those envisioned by the LCR is appropriate, they are concerned that other factors such as taxes, re-hypothecation rights, and legal and regulatory restrictions may encourage certain companies to hold a disproportionate amount of their HQLA in locations outside the United States where unforeseen impediments may prevent timely repatriation of liquidity during a crisis. Nonetheless, establishing quantitative limits on the amount of HQLA that can be held abroad and still count towards a U.S. domiciled legal entity's LCR requirement is complex and can be overly restrictive in some cases.

Therefore, the agencies are proposing to require a covered company to establish policies to ensure that HQLA maintained in locations is appropriate with respect to where the net cash outflows arise. By requiring that there be a correlation between the HQLA amount held outside of the United States and the net cash outflows attributable to non-U.S. operations, the agencies intend to increase the likelihood that HQLA is available to a covered company and to avoid

repatriation concerns from HQLA held in another jurisdiction.

The agencies note that assets that meet the criteria of HQLA and are held by a covered company as either ''available-for-sale'' or ''held-to-maturity'' can be included in HQLA, regardless of such designation.

19. *Are the proposed operational criteria sufficiently clear to determine whether an asset could be included in the pool of HQLA? Why or why not? If not, what requirements need clarification?*

20. *What costs or other burdens would be incurred as a result of the proposed operational requirements? What modifications should the agencies consider to mitigate such costs or burdens, while establishing appropriate operational criteria for HQLA to ensure its liquidity? Please provide detailed explanations and justifications.*

21. *Given that, absent the requirement that a covered company develop and maintain policies and procedures to ensure sufficient HQLA is held domestically, a covered company could theoretically hold its entire HQLA in a foreign branch located in a jurisdiction that could impede its use to support U.S. operations, should the proposed rule be supplemented with quantitative restrictions on the amount of HQLA that can be held in foreign branches and included in the liquidity coverage ratio calculation? If so, how should the rule require a correlation between the geographic location of a covered company's HQLA and the location of the outflows the HQLA is intended to cover?*

22. *The agencies seek comment on all aspects of the criteria for HQLA, including issues of domestic and international competitive equity, and the adequacy of the proposed HQLA criteria in meeting the agencies' goal of requiring a covered company to maintain a buffer of liquid assets sufficient to withstand a 30 calendar-day stress period.*

4. Generally Applicable Criteria for HQLA

Under the proposed rule, assets would be required to meet the following generally applicable criteria to be considered as HQLA.

a. Unencumbered

To be included in HQLA, an asset would be required to be unencumbered as defined under the proposed rule. First, the asset would be required to be free of legal, regulatory, contractual, or other restrictions on the ability of a covered company to monetize asset. The agencies believe that, as a general matter, HQLA should only include assets that could be converted easily into cash. Second, the asset could not be pledged, explicitly or implicitly, to secure or provide credit-enhancement to any transaction, except that the asset could be pledged to a central bank or a U.S. GSE to secure potential borrowings if credit secured by the asset has not been extended to the covered company or its consolidated subsidiaries. This exception is meant to account for the ability of central banks and U.S. GSEs to lend against the posted HQLA or to return the posted HQLA, in which case a covered company could *sell* or engage in a repurchase agreement with the assets to receive cash. This exception is also meant to permit collateral that is covered by a blanket lien from a U.S. GSE to be included in HQLA.

b. Client Pool Security

An asset included in HQLA could not be a client pool security held in a segregated account or cash received from a repurchase agreement on client pool securities held in a segregated account. The proposed rule defines a client pool security as one that is owned by a customer of a covered company and is not an asset of the organization, regardless of the organization's hypothecation rights to the security. Since client pool securities held in a segregated account are not freely available to meet all possible liquidity needs, they should not count as a source of liquidity.

c. Treatment of HQLA Held by U.S. Consolidated Subsidiaries

Under the proposal, HQLA held in a legal entity that is a U.S. consolidated subsidiary of a covered company would be included in HQLA subject to specific limitations depending on whether the subsidiary is subject to the proposed rule and is therefore required to calculate a liquidity coverage ratio under the proposed rule.

If the consolidated subsidiary is subject to a minimum liquidity coverage ratio under the proposed rule, then a covered company could include in its HQLA amount the HQLA held in the consolidated subsidiary in an amount up to the consolidated subsidiary's net cash outflows calculated to meet its liquidity coverage ratio requirement. The covered company could also include in its HQLA amount any additional amount of HQLA the monetized proceeds from which would be available for transfer to the covered company's top-tier parent entity during times of stress without statutory, regulatory, contractual, or supervisory restrictions. Regulatory restrictions would include, for example, sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223). Supervisory restrictions may include, but would not be limited to, enforcement actions, written agreements, supervisory directives or requests to a particular subsidiary that would directly or indirectly restrict the subsidiary's ability to transfer the HQLA to the parent covered company.

If the consolidated subsidiary is not subject to a minimum liquidity coverage ratio under section 10 of the proposed rule, a covered company could include in its HQLA amount the HQLA held in the consolidated subsidiary in an amount up to the net cash outflows of the consolidated subsidiary that are included in the covered company's calculation of its liquidity coverage ratio, plus any additional amount of HQLA held by the consolidated subsidiary the monetized proceeds from which would be available for transfer to the covered company's top tier parent entity during times of stress without statutory, regulatory, contractual, or supervisory restrictions. This treatment is consistent with the Basel III LCR and ensures that assets in the pool of HQLA can be freely monetized and the proceeds can be freely transferred to a covered company's top-tier parent entity in times of a liquidity stress.

d. Treatment of HQLA Held by Non-U.S. Consolidated Subsidiaries

Consistent with the BCBS liquidity framework, HQLA held by a non-U.S. legal entity that is a consolidated subsidiary of a covered company could be included in a covered company's HQLA in an amount up to the net cash outflows of the non-U.S. consolidated subsidiary that are included in the covered company's net cash outflows, plus any additional amount of HQLA held by the non-U.S. consolidated subsidiary that is available for transfer to the covered company's top-tier parent entity during times of stress without statutory, regulatory, contractual, or supervisory restrictions. The proposal would require covered companies with foreign operations to identify the location of HQLA and net cash outflows and exclude any HQLA above net cash outflows that is not freely available for transfer due to statutory, regulatory, contractual or supervisory restrictions. Such transfer restrictions would include liquidity coverage ratio requirements greater than those that would be established by the proposed rule, counterparty exposure limits, and any other regulatory, statutory, or supervisory limitations. While the

agencies believe it is appropriate for a covered company to hold HQLA in a particular geographic location in order to meet liquidity needs there, they do not believe it is appropriate for a covered company to hold a disproportionate amount of HQLA in locations outside the United States given that unforeseen impediments may prevent timely repatriation of liquidity during a crisis. Therefore, under section 20(f) of the proposal, a covered company would be generally expected to maintain in the United States an amount and type of HQLA that is sufficient to meet its total net cash outflow amount in the United States.

23. *What effects may the provision in section 20(f) that a covered company is generally expected to maintain HQLA in the United States sufficient to meet its total net cash outflow amount in the United States have on a company's management of HQLA? Should the agencies be concerned about the transferability of liquidity between national jurisdictions during a time of financial distress and, if so, would such a requirement be sufficient to allay these concerns? Would holding HQLA in a foreign jurisdiction in an amount beyond such jurisdiction's estimated outflow limit the operational capacity of HQLA to meet liquidity needs in the United States; conversely, would the proposed general requirement unnecessarily disrupt overall banking operations? What changes, if any, to section 20(f) should the agencies consider to ensure that a covered company has sufficient HQLA readily available to meet its outflows in the United States? Should the agencies consider quantitative limits to ensure that a covered company has sufficient HQLA readily available in the United States to meet its net outflows in the United States and support its operations during periods of stress? Why or why* not?

e. Exclusion of Rehypothecated Assets

Under the proposed rule, assets that a covered company received under a rehypothecation right where the beneficial owner has a contractual right to withdraw the asset without remuneration at any time during a 30 calendar-day stress period would not be included in HQLA under the proposed rule. This exclusion extends to assets generated from another asset that was received under such a rehypothecation right. If the beneficial owner has such a right and were to exercise it within a 30 calendar-day stress period, the asset would not be available to support the covered company's liquidity position.

f. Exclusion of Assets Designated as Operational

Assets included in a covered company's HQLA amount could not be specifically designated to cover operational costs. The agencies believe that assets specifically designated to cover costs such as wages or facility maintenance generally would not be available to cover liquidity needs that arise during stressed market conditions.

24. *The agencies seek comment on the proposed rule's description of an unencumbered asset. What, if any, additional criteria should be considered in determining whether an asset is unencumbered for purposes of consideration as HQLA?*

25. *What difficulties or lack of clarity, if any, may arise from the proposed operational requirement that HQLA not be a client pool security be held in a segregated account? What, if any, terms could the agencies consider to clarify what securities are captured in this provision? For example, what characteristics should be included to describe the types of accounts that should cause client pool securities to be excluded from HQLA treatment?*

26. *What, if any, modifications should the agencies consider to the treatment of HQLA held by consolidated U.S. subsidiaries and why?*

27. *The agencies solicit comment on the proposed method for including the HQLA held at non-U.S. consolidated subsidiaries in a covered company's HQLA. Is it appropriate to include in HQLA some amount of HQLA that is held in non-U.S. consolidated subsidiaries? If not, why not? Should the proposed rule be supplemented with quantitative restrictions on the amount of HQLA that can be held in foreign branches and subsidiaries for the liquidity coverage ratio calculation of the consolidated U.S. entity? If so, how should the rule require a correlation between the geographic locations of a covered company's HQLA and the location of the outflows the HQLA is intended to cover? What portion of HQLA held by non-U.S. consolidated subsidiaries is freely available for use in connection with a covered company's U.S. operations during times of stress? In determining the amount of HQLA held at a non-U.S. consolidated subsidiary that a covered company can include in its HQLA, should a covered company be required to take into account any net cash outflows arising in connection with transactions between a non-U.S. entity and another affiliate? What challenges, if any, of the proposed methodology are not addressed? Please suggest specific solutions.*

5. Calculation of the HQLA Amount

Instructions for calculating the HQLA amount, including the calculation of the required haircuts and asset caps that the agencies are proposing to apply to level 2 liquid assets, are set forth in section 21 of the proposed rule. For the purposes of calculating a covered company's HQLA amount, the value of level 1, level 2A, and level 2B liquid assets would be equal to the fair value of the assets as determined under U.S. Generally Accepted Accounting Principles (GAAP), multiplied by the appropriate haircut factor and taking in consideration the unwinding of certain transactions.

Consistent with the Basel III LCR, the proposed rule would apply a 15 percent haircut to level 2A liquid assets and a 50 percent haircut to level 2B liquid assets.[40] These haircuts are meant to recognize that level 2 liquid assets generally are less liquid, have larger haircuts in the repurchase markets, and have more volatile prices in the outright sales markets. Also consistent with the Basel III LCR, the proposed rule would cap the amount of level 2 liquid assets that could be included in the HQLA amount. Specifically, level 2 liquid assets could account for no more than 40 percent of the HQLA amount and level 2B liquid assets could account for no more than 15 percent of the HQLA amount. These caps are meant to ensure that these types of assets, which provide less liquidity as compared to level 1 liquid assets, comprise a smaller portion of a covered company's total HQLA amount such that the majority of the HQLA amount is comprised of level 1 liquid assets.

As discussed in more detail in section II.A.5.b of this preamble, the agencies believe the proposed level 2 caps and haircuts should be applied to a covered company's HQLA amount both before and after certain transactions are unwound, such as transactions where HQLA will be exchanged for HQLA within the next 30 calendar days in order to ensure that the HQLA portfolio is appropriately diversified. The calculation of adjusted HQLA would prevent a covered company from being able to manipulate its HQLA portfolio by engaging in transactions such as certain repurchase or reverse repurchase transactions because the HQLA amount, including the caps and haircuts, would be calculated both before and after unwinding those transactions. Formulas for calculating the HQLA amount are provided in section 21 of the proposed

[40] *See* Basel III Revised Liquidity Framework, paragraphs 46–54 and Annex 1, *supra* note 3; proposed rule § __.21(b).

rule. Under these provisions, the HQLA amount would be the sum of the three liquid asset category amounts after the application of appropriate haircuts, less the greater of the amount of HQLA that exceeds the level 2 caps on the first day of a calculation period (unadjusted excess HQLA amount) or the amount of HQLA that exceeds the level 2 caps at the end of a 30 calendar-day stress period after unwinding certain transactions (adjusted excess HQLA amount).

a. Calculation of Unadjusted Excess HQLA Amount

The unadjusted excess HQLA amount is the sum of the level 2 cap excess amount and the level 2B cap excess amount. The calculation of the unadjusted excess HQLA amount applies the 40 percent level 2 liquid asset cap and the 15 percent level 2B liquid asset cap at the start of a 30 calendar-day stressed period by subtracting the amount of level 2 liquid assets that are in excess of the limits. The unadjusted HQLA excess amount enforces the cap limits without unwinding any transactions.

The method of calculating the level 2 cap excess amount and level 2B cap excess amounts is set forth in sections 21(d) and (e) of the proposed rule, respectively. Under those provisions, the level 2 cap excess amount would be calculated by taking the greater of: (1) the level 2A liquid asset amount plus the level 2B liquid asset amount that exceeds 0.6667 (or 40/60, which is the ratio of the allowable level 2 liquid assets to the level 1 liquid assets) times the level 1 liquid asset amount; or (2) zero.[41] The calculation of the level 2B cap excess amount would be calculated by taking the greater of: (1) the level 2B liquid asset amount less the level 2 cap excess amount and less 0.1765 (or 15/85, which is the ratio of allowable level 2B liquid assets to the sum of level 1 and level 2A liquid assets) times the sum of the level 1 and level 2A liquid asset amount; or (2) zero.[42] Subtracting the level 2 cap excess amount from the level 2B liquid asset amount when applying the 15 percent level 2B cap is appropriate because the level 2B liquid assets should be excluded before the level 2A liquid assets when applying the 40 percent level 2 cap.

b. Calculation of Adjusted Excess HQLA Amount

To determine its adjusted HQLA excess amount, a covered company must unwind all secured funding transactions, secured lending transactions, asset exchanges, and collateralized derivatives transactions, each as defined by the proposed rule, that mature within a 30 calendar-day stress period where HQLA is exchanged. The unwinding of these transactions and the calculation of adjusted excess HQLA amount is intended to prevent a covered company from having a substantial amount of transactions that would create the appearance of a significant level 1 liquid asset amount at the beginning of a 30 calendar-day stress period, but that would unwind by the end of the 30 calendar-day stress period. For example, absent the unwinding of these transactions, a firm that has all level 2 liquid assets could appear compliant with the level 2 liquid asset cap on a calculation date by borrowing a level 1 liquid asset (such as cash or Treasuries) secured by a level 2 liquid asset overnight. While doing so would lower the covered company's amount of level 2 liquid assets and increase its amount of level 1 liquid assets, the organization would have a concentration of level 2 liquid assets above the 40 percent cap after the transaction is unwound. Therefore, the calculation of the adjusted excess HQLA amount and its subtraction from the HQLA amount, if greater than unadjusted excess HQLA amount, would prevent covered companies from avoiding the liquid asset cap limitations.

The adjusted level 1 liquid asset amount would be the fair value, as determined under GAAP, of the level 1 liquid assets that are held by a covered company upon the unwinding of any secured funding transaction, secured lending transaction, asset exchanges, or collateralized derivatives transaction that mature within a 30 calendar-day stress period and that involves an exchange of HQLA. Similarly, adjusted level 2A and adjusted level 2B liquid assets would only include those transactions involving an exchange HQLA. After unwinding all the appropriate transactions, the asset haircuts of 15 percent and 50 percent would be applied to the level 2A and 2B liquid assets, respectively.

The adjusted excess HQLA amount calculated pursuant to section 21(g) of the proposed rule would be comprised of the adjusted level 2 cap excess amount and adjusted level 2B cap excess amount calculated pursuant to sections 21(h) and 21(i) of the proposed rule, respectively. These excess amounts are calculated in order to maintain the 40 percent cap on level 2 liquid assets and the 15 percent cap on level 2B liquid assets after unwinding a covered company's secured funding transactions, secured lending transactions, asset exchanges, and collateralized derivatives transactions.

The adjusted level 2 cap excess amount would be calculated by taking the greater of: (1) the adjusted level 2A liquid asset amount plus the adjusted level 2B liquid asset amount minus 0.6667 (or 40/60, which is the ratio of the allowable level 2 liquid assets to level 1 liquid assets) times the adjusted level 1 liquid asset amount; or (2) zero.[43] The adjusted level 2B cap excess amount would be calculated by taking the greater of: (1) the adjusted 2B liquid asset amount less the adjusted level 2 cap excess amount less 0.1765 (or 15/85, which is the ratio of allowable level 2B liquid assets to the sum of level 1 liquid assets and level 2A liquid assets) times the sum of the adjusted level 1 liquid asset amount and the adjusted level 2A liquid asset amount; or (2) zero.[44] As noted above, the adjusted excess HQLA amount is the sum of the adjusted level 2 cap excess amount and the adjusted level 2B cap excess amount.[45] Also as noted above, subtracting out the adjusted level 2 cap excess amount from the adjusted level 2B liquid asset amount when applying the 15 percent level 2B cap is appropriate because the adjusted level 2B liquid assets should be excluded before the adjusted level 2A liquid assets when applying the 40 percent level 2 cap.

c. Example HQLA Calculation

The following is an example calculation of the HQLA amount that would be required under the proposed rule. Note that the given liquid asset amounts and adjusted liquid asset amounts already reflect the level 2A and 2B haircuts.

Level 1 liquid asset amount: 15
Level 2A liquid asset amount: 25
Level 2B liquid asset amount: 140
Adjusted level 1 liquid asset amount: 120
Adjusted level 2A liquid asset amount: 50
Adjusted level 2B liquid asset amount: 10
Calculate unadjusted excess HQLA amount (section 21(c))

Step 1: Calculate the level 2 cap excess amount (section 21(d)):

Level 2 cap excess amount = Max (level 2A liquid asset amount + level 2B liquid asset amount $-0.6667*$Level 1 liquid asset amount, 0)

= Max (25 + 140 $-$ 0.6667*15, 0)

[41] *See* § __.21(d) of the proposed rule.

[42] *See* § __. 21(e) of the proposed rule.

[43] *See* § __.21(h) of the proposed rule.

[44] *See* § __.21(i) of the proposed rule.

[45] *See* § __.21(g) of the proposed rule.

= Max (165 − 10.00, 0)
= Max (155.00, 0)
= 155.00

Step 2: Calculate the level 2B cap excess amount (section 21(e)).

Level 2B cap excess amount = Max (level 2B liquid asset amount − level 2 cap excess amount − 0.1765*(level 1 liquid asset amount + level 2 liquid asset amount), 0)
= Max (140–155.00 − 0.1765*(15+25), 0)
= Max (−15 − 7.06, 0)
= Max (−22.06, 0)
= 0

Step 3: Calculate the unadjusted excess HQLA amount (section 21(c)).

Unadjusted excess HQLA amount = Level 2 cap excess amount + Level 2B cap excess amount
= 155.00 + 0
= 155

Calculate adjusted excess HQLA amount (sections 21(g))

Step 1: Calculate the adjusted level 2 cap excess amount (section 21(h)).

Adjusted level 2 cap excess amount = Max (adjusted level 2A liquid asset amount + adjusted level 2B liquid asset amount − 0.6667*adjusted level 1 liquid asset amount, 0)
= Max (50 + 10 − 0.6667*120, 0)
= Max (60 − 80.00, 0)
= Max (−20.00, 0)
= 0

Step 2: Calculate the adjusted level 2B cap excess amount (section 21(i)).

Adjusted level 2B cap excess amount = Max (adjusted level 2B liquid asset amount − adjusted level 2 cap excess amount − 0.1765*(adjusted level 1 liquid asset amount + adjusted level 2 liquid asset amount, 0)
= Max (10 − 0 − 0.1765*(120+50), 0)
= Max (10 − 30.00, 0)
= Max (−20.00, 0)
= 0

Step 3: Calculate the adjusted excess HQLA amount (section 21(g)).

Adjusted excess HQLA amount = adjusted level 2 cap excess amount + adjusted level 2B cap excess amount
= 0 + 0
= 0

Determine the HQLA amount (section 21(a))

HQLA = Level 1 liquid asset amount + level 2A liquid asset amount + level 2B liquid asset amount − Max(unadjusted excess HQLA amount, adjusted excess HQLA amount)
= 15 + 25 + 140 − Max (155, 0)
= 180 − 155
= 25

B. Total Net Cash Outflow

To determine the liquidity coverage ratio as of a calculation date, the proposed rule would require a covered company to calculate its total stressed net cash outflow amount for each of the 30 calendar days following the calculation date, thereby establishing the dollar value that must be offset by the HQLA amount.

Under section 30 of the proposed rule, the total net cash outflow amount would be the dollar amount on the day within a 30 calendar-day stress period that has the highest amount of net cumulative cash outflows. The agencies believe that using the largest daily calculation as the denominator of the liquidity coverage ratio (rather than using total cash outflows over a 30 calendar-day stress period, which is the method employed by the Basel III LCR) is necessary because it takes into account potential maturity mismatches between a covered company's outflows and inflows, that is, the risk that a covered company could have a substantial amount of contractual inflows late in a 30 calendar-day stress period while also having substantial outflows early in the same period. Such mismatches could threaten the liquidity of the organization. By requiring the recognition of the highest net cumulative outflow day of a particular 30 calendar-day stress period, the agencies believe that the proposed liquidity coverage ratio would better capture a covered company's liquidity risk and help foster more sound liquidity management.

To determine the denominator of the liquidity coverage ratio as of a calculation date, the proposed rule would require a covered company to calculate its total cumulative stressed net cash outflows occurring on each of the 30 calendar days following the calculation date. Under section 30 of the proposed rule, the total net cash outflow amount for each of the next 30 calendar days would be the sum of the cumulative stressed outflow amounts less the sum of the cumulative stressed inflow amounts, with cumulative stressed inflow amounts limited to 75 percent of cumulative stressed outflow amounts. Stressed outflow and inflow amounts would be calculated by multiplying an outflow or inflow rate (designed to reflect a stress scenario) to each category of outflows and inflows. The cumulative stressed outflow amount would be comprised of different groupings of outflow categories, including categories where the instruments and transactions do not have maturity dates [46] and categories where the instruments mature and transactions occur on or prior to a day 30 calendar days or less after the calculation date.[47] The cumulative stressed inflow amount, which would be deducted from the cumulative stressed outflow amount, would equal the lesser of (1) the sum of categories where the inflows are grouped together and categories where the instruments mature and transactions occur on or prior to that calendar day [48] and (2) 75 percent of the cumulative stressed outflow amount for that calendar day.[49] The largest of these total net cash outflow amounts calculated for each of the 30 calendar days after the calculation date would be equal to the amount of HQLA that a covered company would be required to hold under the proposed rule.

Consistent with the Basel III LCR and as noted above, in calculating total net cash outflow, cumulative cash inflows would be capped at 75 percent of aggregate cash outflows. This limit would prevent a covered company from relying exclusively on cash inflows (which may not materialize in a period of stress) to cover its liquidity needs under the proposal's stress scenario and ensure that covered companies maintain a minimum level of HQLA to meet unexpected liquidity demands during the 30 calendar-day period of liquidity stress.

Table 1 illustrates the determination of the total net cash outflow amount by applying the daily outflow and inflow calculations for a given 30 calendar-day stress period. Using Table 1, a covered company would, for each day, add (A) cash outflows as calculated under sections 32(a) through 32(g)(2) and cash outflows as calculated under sections 32(g)(3) through 32(l) for instruments and transactions that have no contractual maturity date and (C) cumulative cash outflows as calculated under sections 32(g)(3) through 32(l) for instruments or transactions that have a contractual maturity date up to and including the calculation date (the cumulative sum of amounts in column (B)) to arrive at (D) total cumulative cash outflows. Next, a covered company would subtract the lesser of (F) cumulative cash inflows as calculated under sections 33(b) through 33(f) where the instruments or transactions have a contractual maturity date up to and including the calculation date (the cumulative sum of amounts in column

[46] *See* § __.30(b) of the proposed rule.
[47] *See* § __.30(c) of the proposed rule.
[48] *See* § __.30(d)(1) of the proposed rule.
[49] *See* § __.30(d)(2) of the proposed rule.

(E)) or (G) 75 percent of (D) total cumulative cash outflows to determine (H) the net cumulative cash outflow.

Based on the example provided below, the peak outflow would occur on Day 18, resulting in a total net cash outflow amount of 285.

TABLE 1—DETERMINATION OF PEAK NET CONTRACTUAL OUTFLOW DAY

	Non-maturity cash outflows (constant)	Contractual cash outflows with maturity date up to and including the calculation date	Cumulative contractual cash outflows with maturity date up to and including the calculation date	Total cumulative cash outflows	Contractual cash inflows with maturity date up to and including the calculation date	Cumulative contractual cash inflows with maturity date up to and including the calculation date	Maximum inflows permitted due to 75% inflow cap	Net cumulative cash outflow
	A	B	C	D	E	F	G	H
Day 1	200	100	100	300	90	90	225	210
Day 2	200	20	120	320	5	95	240	225
Day 3	200	10	120	330	5	100	248	230
Day 4	200	15	145	345	20	120	259	225
Day 5	200	20	165	365	15	135	274	230
Day 6	200	0	165	365	0	135	274	230
Day 7	200	0	165	365	0	135	274	230
Day 8	200	10	175	375	8	143	281	232
Day 9	200	15	190	390	7	150	293	240
Day 10	200	25	215	415	20	170	311	245
Day 11	200	35	250	450	5	175	338	275
Day 12	200	10	260	460	15	190	345	270
Day 13	200	0	260	460	0	190	345	270
Day 14	200	0	260	460	0	190	345	270
Day 15	200	5	265	465	5	195	349	270
Day 16	200	15	280	480	5	200	360	280
Day 17	200	5	285	485	5	205	364	280
Day 18	200	10	295	495	5	210	371	285
Day 19	200	15	310	510	20	230	383	280
Day 20	200	0	310	510	0	230	383	280
Day 21	200	0	310	510	0	230	383	280
Day 22	200	20	330	530	45	275	398	255
Day 23	200	20	350	550	40	315	413	235
Day 24	200	5	355	555	20	335	416	220
Day 25	200	40	395	595	5	340	446	255
Day 26	200	8	403	603	125	465	452	151
Day 27	200	0	403	603	0	465	452	151
Day 28	200	0	403	603	0	465	452	151
Day 29	200	5	408	608	10	475	456	152
Day 30	200	2	410	610	5	480	458	153

28. *Does the method the agencies are proposing for determining net cash outflows appropriately capture the potential mismatch between the timing of inflows and outflows under the 30 calendar-day stress period? Why or why not? Are there alternative methodologies for determining the net cumulative cash outflows that would more appropriately capture the maturity mismatch risk within 30 days about which the agencies are concerned? Provide specific suggestions and supporting data or other information.*

29. *What costs or other burdens would be incurred as a result of the proposed method for calculating net cash outflows? What modifications should the agencies consider to mitigate such costs or burdens, while establishing appropriate means to capture potential mismatches between the timing of inflows and outflows within a 30 calendar-day stress period?*

1. Determining the Maturity of Instruments and Transactions

Under the proposal, a covered company generally would be required to identify the maturity or transaction date that is the most conservative for an instrument or transaction in calculating inflows and outflows (that is, the earliest possible date for outflows and the latest possible date for inflows). In addition, under section 30 of the proposed rule, a covered company's total outflow amount as of a calculation date would include outflow amounts for certain instruments that do not have contractual maturity dates and that mature prior to or on a day 30 calendar days or less after the calculation date. Section 33 of the proposed rule would expressly exclude instruments with no maturity date from a covered company's total inflow amount.

Section 31 of the proposed rule describes how covered companies would determine whether instruments mature or transactions occur within the 30 calendar-day stress period for the purposes of calculating outflows and inflows. Section 31 would require covered companies to assess whether any options, either explicit or embedded, exist that would modify maturity dates such that they would fall within or beyond the 30 calendar-day stress period. If such an option exists for an outflow instrument or transaction, the proposed rule would direct a covered company to assume that the option would be exercised at the earliest possible date. If such an option exists for an inflow instrument or transaction, the proposed rule would require covered companies to assume that the option would be exercised at the latest possible date.

In addition, if an option to adjust the maturity date of an instrument is subject to a notice period, a covered company would be required to either disregard or take into account the notice period, depending upon whether the instrument was an outflow or inflow instrument, respectively.

30. *The agencies solicit commenters' views on the proposed treatment for maturing instruments and for determining the date of transactions. Specifically, what are commenters' views on the proposed provisions that would require covered companies to apply the most conservative treatment with the respect to inflow and outflow dates and embedded options?*

31. *What notice requirements, if any, should a covered company be able to recognize for counterparties that have options to accelerate the maturity of transactions and instruments included as outflows? Should a distinction be drawn between wholesale and retail customers or counterparties? Provide justification and supporting information.*

2. Cash Outflow Categories

Section 32 of the proposed rule sets forth the outflow categories for calculating cumulative cash outflows and their respective outflow rates, each as described below. The outflow rates are designed to reflect the 30 calendar-day stress scenario that is the basis for the proposed rule. Consistent with the Basel III LCR, the agencies are proposing to assign outflow rates for each category, ranging from 0 percent to 100 percent. These outflow rates would be multiplied by the outstanding balance of each category of funding to arrive at the applicable outflow amount.

a. Unsecured Retail Funding Outflow Amount

Under the proposed rule, unsecured retail funding would include retail deposits (other than brokered deposits), that are not secured under applicable law by a lien on specifically designated assets owned by the covered company and that are provided by a retail customer or counterparty. Unsecured retail funding would be divided into subcategories of stable retail deposits, other retail deposits, and funding from a retail customer or counterparty that is not a retail deposit or a brokered deposit provided by a retail customer or counterparty, each subject to the outflow rates set forth in section 32(a) of the proposed rule, as explained below.

Under the proposed rule, retail customers and counterparties would include individuals and certain small businesses. A small business would qualify as a retail customer or counterparty if its transactions have liquidity risks similar to those of individuals and are managed by a covered company in the same way as comparable transactions with individuals. In addition, to qualify as a small business under the proposed rule the total aggregate funding raised from the small business must be less than $1.5 million. If an entity provides $1.5 million or more in total funding, if it has liquidity risks that are not similar to individuals, or if the covered company manages the customer like corporate customers rather than individual customers, it would be a wholesale customer under the proposed rule. This treatment reflects the agencies' understanding that, during the recent financial crisis, small business customers generally behaved similarly to individual customers with respect to the stability of their deposits.

Supervisory data from stressed or failed institutions indicates that retail depositors withdrew term deposits at a similar rate to deposits without a contractual term. Therefore, the proposed rule would require covered companies to hold the same amount of HQLA to meet retail customer withdrawals in a stressed environment, regardless of whether the deposits have a contractual term. A retail deposit would thus be defined under the proposed rule as a demand or term deposit that is placed with a covered company by a retail customer or counterparty. This definition would not include wholesale brokered deposits or brokered deposits for retail customers or counterparties, which are covered in separate outflow categories.

i. Stable Retail Deposits

The proposed rule would define a stable retail deposit as a retail deposit, the entire amount of which is covered by deposit insurance,[50] and either (1) held in a transactional account by the depositor or (2) the depositor has another established relationship with a covered company, such that withdrawal of the deposit would be unlikely. Under the proposed rule, the established relationship could be another deposit account, a loan, bill payment services, or any other service or product provided to the depositor, provided that the banking organization demonstrates to the satisfaction of its primary Federal supervisor that the relationship would make deposit withdrawal highly unlikely during a liquidity stress event.

The agencies observe that in the recent financial crisis, retail customers and counterparties with deposit balances below the FDIC's standard maximum deposit insurance amount did not generally withdraw their deposits in such a way as to cause liquidity strains for banking organizations. However, the agencies do not believe the presence of deposit insurance alone is sufficient to consider a retail deposit stable because depositors with only one insured account are generally less stable than depositors with multiple accounts or relationships in a stress scenario. The combination of deposit insurance covering the entire amount of the deposit and the depositors' relationship with the bank, however, makes this category of retail deposits very unlikely to be subject to withdrawal in a stress scenario, due to confidence in FDIC deposit insurance and the inconvenience of moving transactional or multiple accounts. Historical experience has demonstrated that retail customers and counterparties have tended to avoid restructuring direct deposits, automatic payments, and similar banking products that are insured during a stress scenario because they generally have sufficient confidence that insured funds would not be lost in the event of a bank failure and the difficulty of such restructuring does not seem to be worthwhile when funds are insured.

Therefore, under the proposed rule, stable retail deposit balances would be multiplied by the relatively low outflow rate of 3 percent. Notwithstanding the above, the agencies note that a stressed environment could cause a surge in retail deposit inflows, as customers seek the safety of deposit insurance. Over several months or quarters, a surge in deposit inflows could distort a banking organization's liquidity coverage ratio calculation because these funds may not remain in the institution once market conditions and public confidence improves. A covered company's management should be cognizant of this potential distortion and consider appropriate steps to maintain adequate liquidity for the potential future withdrawals.

32. *What, if any, aggregate funding thresholds should the agencies consider for application to individuals, such as the $1.5 million aggregate funding threshold applicable to qualify as a small business under the proposed rule? Provide justification and supporting information.*

ii. Other Retail Deposits

Under the proposed rule, other retail deposits would include all deposits from retail customers that are not stable retail deposits as described above. Supervisory data supports a higher outflow rate for deposits that are partially insured in the United States as

[50] For purposes of the proposed rule, ''deposit insurance'' is defined to mean deposit insurance provided by the FDIC and does not include other deposit insurance schemes that may exist.

compared to entirely insured. During the recent financial crisis, to the extent that retail depositors whose deposits partially exceeded the FDIC's insurance limit withdrew deposits from a banking organization, they tended to withdraw not only the uninsured portion of the deposit, but the entire deposit. Furthermore, as discussed above, the agencies believe that insured retail deposits that are not either transactional account deposits or deposits of a customer with another relationship with the institution are less stable than those that are.

Accordingly, the agencies are proposing to assign an outflow rate of 10 percent for those retail deposits that are not entirely covered by deposit insurance, or that otherwise do not meet the proposed criteria for a stable retail deposit.

All other retail deposits would include retail deposits not insured by the FDIC, whether entirely insured, or insured by other jurisdictions. While the Basel III Liquidity Framework contemplates recognition of foreign deposit insurance, the agencies are proposing to recognize only FDIC deposit insurance in defining stable retail deposits because of the level of variability in terms of coverage and structure found in different foreign deposit insurance systems and because of the forthcoming potential revision of international best practices for deposit insurance. As discussed more fully below, the agencies are contemplating how best to identify and give comparable treatment to foreign deposit insurance systems that are similar to FDIC insurance once international best practices are further developed.

Congress created the FDIC in 1933 to end the banking crisis during the Great Depression, to restore public confidence in the banking system, and to safeguard bank deposits through deposit insurance. In the most recent crisis, the FDIC's deposit insurance guarantee contributed significantly to financial stability in an otherwise unstable financial environment. FDIC insurance has several characteristics that make it effective in stabilizing deposit outflows during liquidity stress events, including, but not limited to: capacity to make insured funds promptly available, usually the next business day after a bank closure; coverage levels sufficient to protect most retail depositors in full; an ex-ante funding mechanism; a rigorous prudential supervision process; timely intervention and resolution protocols; public awareness of deposit insurance; and backing by the full faith and credit of the U.S. government.

National adoption of deposit insurance systems has become prevalent since the 1980s, in part because of similar experiences to the Great Depression (for example, the Mexican peso crisis of the 1990s and the 1997 Asian financial crisis). Numerous international organizations have recognized the necessity of deposit insurance as part of a comprehensive financial stability framework, and there are now at least 112 recognized deposit insurers, with several more jurisdictions in the process of implementing deposit insurance.

Although many countries have implemented deposit insurance programs, deposit insurance around the globe is uneven along a number of dimensions, including terms of coverage, deposit insurer powers, financial resources, and public awareness. At one end of the deposit insurance system spectrum, some systems appear to be similar to the FDIC's insurance framework in terms of uniform coverage and back-up funding options. At the other end, a variety of less structured models exist, including private organizations with only implied or no sovereign support, sovereign guarantees with no deposit insurer, and minimal deposit insurance systems with limited powers.

The international regulatory community has recognized the variance in global deposit insurance as a significant issue. In 2002, the International Association of Deposit Insurers (IADI) was formed to promote best practices in deposit insurance and has developed core principles that are recognized by both the IMF and the World Bank. IADI recently announced that its core principles would be assessed and updated, as necessary, to reflect enhanced guidance, international regulatory developments, and the results of compliance assessment reviews conducted to date.[51]

The agencies considered whether foreign deposit insurance systems, particularly those with sovereign backing, should be given the same treatment as FDIC insurance in the proposed rule. While credible sovereign guarantees are useful in reassuring depositors of the safety of their principal balances, experience has proven that without established operational infrastructure or explicit funding arrangement, depositors may not be assured that their funds will be available in a reasonable timeframe. History has shown that if depositors believe that their funds will be unavailable for a protracted period, they may withdraw funds in large numbers to avoid the resulting hardship. The ability of foreign deposit insurers to make funds promptly available varies widely and is often in contrast to the FDIC's next-business-day standard.[52]

33. *The agencies solicit comments on the proposed rule's treatment of deposits that are insured in foreign jurisdictions, views on the stability of foreign-entity insured deposits in a stressed environment, and how to best determine if foreign deposit insurance system is similar to FDIC insurance.*

iii. Other Unsecured Retail Funding

The other unsecured retail funding category would apply an outflow rate of 100 percent to all funding provided by retail customers or counterparties that is not a retail deposit or a retail brokered deposit and that matures within 30 days. This is intended to capture all additional types of retail funding that are not otherwise categorized.

34. *The agencies solicit commenters' views on the proposed outflow rates associated with stable retail deposits (3 percent outflow), less-stable retail deposits (10 percent outflow), and other unsecured retail funding (100 percent outflow). What, if any, additional factors should be taken into consideration regarding the proposed outflow rates for these deposit types? Do the proposed outflow rates reflect industry experience? Why or why not? Please provide supporting data.*

35. *Is it appropriate to treat certain small business customers like retail customers? Why or why not? What additional criteria, if any, would serve as more appropriate indicators?*

36. *The agencies solicit comment on the outflow rate for the insured portion of those deposits that are in excess of deposit insurance limit. Specifically, should the insured portion of a deposit that exceeds $250,000 (e.g., the portion of deposit balances up to and including $250,000) receive a different outflow rate than the uninsured portion of the deposit? Why or why not? Please provide supporting data.*

b. Structured Transaction Outflow Amount

The proposed rule's structured transaction outflow amount would capture obligations and exposures associated with structured transactions

[51] Today, IADI consists of 70 members, 9 associates, and 12 partner organizations, and is considered to be the standard-setter for deposit insurance by the Financial Stability Board (FSB), the BCBS, the International Monetary Fund (IMF), and the World Bank.

[52] *See* Financial Stability Board, Thematic Review on Deposit Insurance Systems (February 8, 2012), available at *http://www.financialstabilityboard.org/publications/r_120208.pdf.*

sponsored by a covered company, without regard to whether the structured transaction vehicle that is the issuing entity is consolidated on the covered company's balance sheet. Under the proposed rule, the outflow amount for each of a covered company's structured transactions would be the greater of (1) 100 percent of the amount of all debt obligations of the issuing entity that mature 30 days or less from a calculation date and all commitments made by the issuing entity to purchase assets within 30 calendar days or less from the calculation date and (2) the maximum contractual amount of funding the covered company may be required to provide to the issuing entity 30 calendar days or less from such calculation date through a liquidity facility, a return or repurchase of assets from the issuing entity, or other funding agreement.

The agencies believe that the maximum potential amount that a covered company may be required to provide to support its sponsored structured transactions, including potential obligations arising out of commitments to an issuing entity, that arise from structured finance transactions should be fully included in outflows when calculating the proposed liquidity coverage ratio because such transactions, whether issued directly or sponsored by covered companies, have caused severe liquidity demands at covered companies during stressed environments. Their inclusion is important to measuring a covered company's short-term susceptibility to unexpected funding requirements.

37. *What, if any modifications to the structured transaction outflows should the agencies consider? In particular, what, if any, modifications to the definition of structured transaction should be considered? Please provide justifications and supporting data.*

c. Net Derivative Cash Outflow Amount

Under the proposed rule, a covered company's net derivative cash outflow amount would equal the sum of the payments and collateral that a covered company will make or deliver to each counterparty under derivative transactions, less, if subject to a valid qualifying master netting agreement,[53] the sum of payments and collateral due from each counterparty. This calculation would incorporate the amounts due to and from counterparties under the applicable transactions within 30 calendar days of a calculation date. Netting would be permissible at the highest level permitted by a covered company's contracts with its counterparties and could not include inflows where a covered company is already including assets in its HQLA that the counterparty has posted to support those inflows. If the derivative transactions are not subject to a valid qualifying master netting agreement, then the derivative cash outflow for that counterparty would be included in the net derivative cash outflow amount and the derivative cash inflows for that counterparty would be included in the net derivative cash inflow amount, without any netting. Net derivative cash outflow should be calculated in accordance with existing valuation methodologies and expected contractual derivatives cash flows. In the event that net derivative cash outflow for a particular counterparty is less than zero, such amount would be required to be included in a covered company's net derivative cash inflow for that counterparty.

Under the proposed rule, a covered company's net derivative cash outflow amount would not include amounts arising in connection with forward sales of mortgage loans or any derivatives that are mortgage commitments subject to section 32(d) of the proposed rule. Net derivative cash outflow would still include derivatives that hedge interest rate risk associated with a mortgage pipeline.

This category is important to the proposed rule's liquidity coverage ratio in that many covered companies actively use derivatives across their business lines. In a short-term stressed situation, the amount of potential cash outflow associated with derivatives positions can change as positions are adjusted for market conditions and as counterparties demand additional collateral or more conservative contract terms.

38. *What, if any, additional factors or aspects of derivatives transactions should be considered for the treatment of derivatives contracts under the proposed rule?*

39. *Is it appropriate to exclude forward sales of mortgage loans from the treatment of derivatives contracts under the proposed rule? Why or why not?*

d. Mortgage Commitment Outflow Amount

During the recent financial crisis, it was evident that financial institutions were not able to curtail mortgage loan pipelines and had difficulty liquidating loans held for sale. Accordingly, the proposed rule would require a covered company to recognize potential cash outflows related to commitments to fund retail mortgage loans that could be drawn upon within 30 days of a calculation date. Under the proposal, a retail mortgage would be a mortgage that is primarily secured by a first or subsequent lien on a one-to-four family property.

The proposed rule would require a covered company to use an outflow rate of 10 percent for all retail mortgage commitments that can be drawn upon within a 30 calendar-day stress period. In addition, the proposed rule would not include in inflows proceeds from the potential sale of mortgages in the to-be-announced, specified pool, or similar forward sales market.[54] The agencies believe that, in a crisis, such inflows may not materialize as investors may curtail most or all of their investment in the mortgage market.

40. *What, if any, modifications should the agencies make to the mortgage commitment outflow amount? Provide data and other supporting information.*

41. *What effect may the treatment for retail mortgage funding under the proposed rule have on the banking system and the mortgage markets, including in combination with the effects of other regulations that apply to the mortgage market? What other treatments, if any, should the agencies consider? Provide data and other supporting information.*

e. Commitment Outflow Amount

This category would include the undrawn portion of committed credit and liquidity facilities provided by a covered company to its customers and counterparties that can be drawn down within 30 days of the calculation date. A liquidity facility would be defined under the proposed rule as a legally binding agreement to extend funds at a future date to a counterparty that is made expressly for the purpose of refinancing the debt of the counterparty when it is unable to obtain a primary or anticipated source of funding. A liquidity facility would include an agreement to provide liquidity support to asset-backed commercial paper by lending to, or purchasing assets from, any structure, program, or conduit in

[53] Under the proposal, a ''qualifying master netting agreement'' would be defined as under the agencies' regulatory capital rules as a legally binding agreement that gives the covered company contractual rights to terminate, accelerate, and close out transactions upon the event of default and liquidate collateral or use it to set off its obligation. The agreement also could not be subject to a stay under bankruptcy or similar proceeding and the covered company would be required to meet certain operational requirements with respect to the agreement, as set forth in section 4 of the proposed rule.

[54] *See* § __.33(a) of the proposed rule.

the event that funds are required to repay maturing asset-backed commercial paper. Liquidity facilities would exclude general working capital facilities, such as revolving credit facilities for general corporate or working capital purposes.

A credit facility would be defined as a legally binding agreement to extend funds if requested at a future date, including a general working capital facility such as a revolving credit facility for general corporate or working capital purposes. Under the proposed rule, a credit facility would not include a facility extended expressly for the purpose of refinancing the debt of a counterparty that is otherwise unable to meet its obligations in the ordinary course of business. Facilities that have aspects of both credit and liquidity facilities would be classified as liquidity facilities for the purposes of the proposed rule.

Under the proposed rule, a liquidity or credit facility would be considered committed when the terms governing the facility prohibit a covered company from refusing to extend credit or funding under the facility, except where certain conditions specified by the terms of the facility—other than customary notice, administrative conditions, or changes in financial condition of the borrower—have been met. The undrawn amount for a committed credit or liquidity facility would be the entire undrawn amount of the facility that could be drawn upon within 30 calendar days of the calculation date under the governing agreement, less the fair value of level 1 or level 2A liquid assets, if any, which secure the facility, after recognizing the applicable haircut for the assets serving as collateral. In the case of a liquidity facility, the undrawn amount would not include the portion of the facility that supports customer obligations that do not mature 30 calendar days or less after the calculation date. A covered company's proportionate ownership share of a syndicated credit facility also would be included in the appropriate category of wholesale credit commitments.

The proposed rule would assign the outflow amounts to commitments as set forth in section 32(e) of the proposed rule. First, in contrast to the outflow rates applied to other commitments, those between affiliated depository institutions subject to the proposed rule would receive an outflow rate of 0 percent because the agencies recognize that both institutions should have adequate liquidity to meet their obligations during a stress scenario and therefore should not rely extensively on such liquidity facilities. The other outflow rates are meant to reflect the characteristics of each class of customers and counterparties in a stress scenario, as well as the reputational and legal risks covered companies face if they try to restructure a commitment during a crisis to avoid drawdowns by customers. Accordingly, a relatively low outflow rate of 5 percent is proposed for retail facilities because individuals and small businesses would likely have a lesser need for committed credit facilities in stressed scenarios than institutional or wholesale customers (that is, the correlation between draws on such facilities and the stress scenario of the liquidity coverage ratio is low). The agencies are proposing to assign outflow rates of 10 percent for credit facilities and 30 percent for liquidity facilities committed to entities that are not financial sector companies whose securities are excluded from HQLA [55] based on their typically longer-term funding structures and perceived higher credit quality profile in the capital markets, particularly during times of financial stress. The proposed rule would assign a 50 percent outflow rate to credit and liquidity facilities committed to depository institutions, depository institution holding companies, and foreign banks (other than commitments between affiliated depository institutions). Commitments to all other regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, or identified companies (or to a consolidated subsidiary of any of the foregoing) would be subject to a 40 percent outflow rate for credit facilities and 100 percent for liquidity facilities.

The agencies are generally proposing higher outflow rates for liquidity facilities than credit facilities as described above because the crisis scenario that is incorporated into the proposed rule focuses on liquidity pressures increasing the likelihood of large draws on liquidity lines as compared to credit lines, which typically are used more during the normal course of business and not as substantially during a liquidity stress. The lower liquidity commitment outflow rate for depository institutions, depository institution holding companies, and foreign banks compared to other financial sector entities, is reflective of historical experience, which indicates these entities drew on liquidity lines less than other financial sector entities did during periods of liquidity stress. The higher outflow rate for commitments to other types of companies in the financial sector reflects their likely high need to use every available liquidity source during a liquidity crisis in order to meet their obligations and the fact that these entities are less likely to be able to immediately access government liquidity sources.

The agencies are proposing a 100 percent outflow rate for a covered company's liquidity facilities with special purpose entities (SPEs), given SPEs' sensitivity to emergency cash and backstop needs in a short-term stress environment, such as those experienced with SPEs during the recent financial crisis. During that period, many SPEs experienced severe cash shortfalls, as they could not rollover debt and had to rely on borrowing and backstop lines.

Under the proposed rule, the amount of level 1 or level 2A liquid assets securing the undrawn portion of a commitment would reduce the outflow associated with the commitment if certain conditions are met. The amount of level 1 or level 2A liquid assets securing a committed credit or liquidity facility would be the fair value (as determined under GAAP) of all level 1 liquid assets and 85 percent of the fair value of level 2A liquid assets posted or required to be posted upon funding of the commitment as collateral to secure the facility, provided that the following conditions are met during the applicable 30 calendar-day period: (1) the pledged assets meet the criteria for HQLA as set forth in section 20 of the proposed rule; and (2) the covered company has not included the assets in its HQLA amount as calculated under subpart C of the proposed rule.

42. *What, if any, additional factors should be considered in determining the treatment of unfunded commitments under the proposal? What, if any, additional distinctions between different types of unfunded commitments should the agencies consider? If necessary, how might the definitions of credit facility and liquidity facility be further clarified or distinguished? Are the various proposed treatments for unfunded commitments consistent with industry experience? Provide detailed explanations and supporting information.*

43. *Is the proposed rule's definition of SPE appropriate, under-inclusive, or over-inclusive? Why?*

Consistent with the BCBS LCR, specified run-off rates are not provided for credit card lines, since they are

[55] *See* section II.A.2. These financial sector companies are regulated financial companies, investment companies, non-regulated funds, pension funds, investment adviser, or identified companies, and consolidated subsidiaries of the foregoing, as defined in the proposal.

typically unconditionally cancelable and therefore do not meet the proposed definition of a committed facility. The agencies believe that during a financial crisis, draws on credit card lines would remain relatively constant and predictable; thus, outstanding lines should not materially affect a covered company's liquidity demands in a crisis. Accordingly, undrawn retail credit card lines are not included in cash outflows in the proposed rule. However, for a few banking organizations, these lines are significant relative to their balance sheet and these banking organizations may experience reputational or other risks if lines are withdrawn or significantly reduced during a crisis.

44. *What, if any, outflow rate should the agencies apply to outstanding credit card lines? What factors associated with these lines should the agencies consider?*

f. Collateral Outflow Amount

The proposed rule would require a covered company to recognize outflows related to changes in collateral positions that could arise during a period of financial stress. Such changes could include posting additional or higher quality collateral, returning excess collateral, accepting lower quality collateral as a substitute for already-posted collateral, or changing collateral value, all of which could have a significant impact upon a covered company's liquidity profile. The following discussion describes the subcategories of collateral outflow addressed by the proposed rule.

Changes in Financial Condition

Certain contractual clauses in derivatives and other transaction documents, such as material adverse change clauses and downgrade triggers, are aimed at capturing changes in a covered company's financial condition and, if triggered, would require a covered company to post more collateral or accelerate demand features in certain obligations that require collateral. During the recent financial crisis, various companies that would be subject to the proposed rule came under severe liquidity stress as the result of contractual requirements to post collateral following a credit rating downgrade.

Accordingly, the proposed rule would require a covered company to count as an outflow 100 percent of all additional amounts that the covered company would need to post or fund as additional collateral under a contract as a result of a change in its financial condition. A covered company would calculate this outflow amount by evaluating the terms of such contracts and calculating any incremental additional collateral or higher quality collateral that would need to be posted as a result of the triggering of clauses tied to a ratings downgrade or similar event, or change in the covered company's financial condition. If multiple methods of meeting the requirement for additional collateral are available (*i.e.,* providing more collateral of the same type or replacing existing collateral with higher quality collateral) the banks may use the lower calculated outflow amount in its calculation.

45. *What are the operational difficulties in identifying the collateral outflows related to changes in financial condition? What, if any, additional factors should be considered?*

Potential Valuation Changes

The proposed rule would apply a 20 percent outflow rate to the fair value of any assets posted as collateral that are not level 1 liquid assets to recognize that a covered company likely would be required to post additional collateral if market prices fell. The agencies are not proposing to apply outflow rates to level 1 liquid assets that are posted as collateral, as they are not expected to face mark-to-market losses in times of stress.

Excess Collateral

The agencies believe that a covered company's counterparty would not maintain any more collateral at the covered company than is required. Therefore, the proposed rule would apply an outflow rate of 100 percent on the fair value of the collateral posted by counterparties that exceeds the current collateral requirement in a governing contract. Under the proposed rule, this category would include unsegregated excess collateral that a covered company may be required to return to a counterparty based on the terms of a derivative or other financial agreement and which is not already excluded from the covered company's HQLA amount.

Contractually-Required Collateral

The proposed rule would require that 100 percent of the fair value of collateral that a covered company is contractually obligated to post, but has not yet posted, be included in the cash outflows calculation. Where a covered company has not yet posted such collateral, the agencies believe that, in stressed market conditions, a covered company's counterparties would likely demand all contractually required collateral.

Collateral Substitution

The proposed rule's collateral substitution outflow amount would be the differential between the post-haircut fair value of HQLA collateral posted by a counterparty and the lower quality HQLA or non-HQLA with which it could be substituted under an applicable contract. This outflow category assumes that, in a stress scenario, a covered company's counterparty would post the lowest quality collateral permissible under the governing contract. For example, an agreement could require a minimum of level 2A liquid assets as collateral, but allow a customer to pledge level 1 or level 2A liquid assets as collateral to meet such requirement. If a covered company is currently holding a level 1 liquid asset as collateral, the proposed rule would impose an outflow rate of 15 percent, which results from discounting the equivalent market value of the level 2A liquid asset. For a level 2B liquid asset, the amount of the market value included as an outflow would be 50 percent, which is equal to the market value of the level 2B liquid asset discounted by 50 percent. If the minimum required collateral under an agreement is comprised of assets that are not HQLA, a covered company currently holding level 1 assets would be required to include 100 percent of such assets' market value. The proposed rule provides outflow rates for each possible permutation.

Derivative Collateral Change

The proposed rule would require a covered company to use a two-year look-back approach in calculating its market valuation change outflow amounts for collateral securing its derivative positions. This approach is intended to capture the risk of a covered company facing additional collateral calls as a result of asset price fluctuations. The risk of such fluctuations can be particularly acute for a covered company with significant derivative operations and other business lines that rely on collateral postings.

Under the proposed rule, the derivative collateral amount would equal the absolute value of the largest consecutive 30 calendar-day cumulative net mark-to-market collateral outflow or inflow resulting from derivative transactions realized during the preceding 24 months.

46. *What, if any, additional factors or aspects for collateral outflow amounts should be considered under the proposal? For example, should the outflow include initial margin collateral flows in addition to variation margin*

collateral flows? Why or why not? Does the 24 month look back approach adequately capture mark to market valuation changes, or are there alternative treatments that would better capture this risk?

g. Brokered Deposit Outflow Amount for Retail Customers or Counterparties

Under the proposed rule, a brokered deposit would be defined as any deposit held at the covered company that is obtained directly or indirectly, from or through the mediation or assistance of a deposit broker, as that term is defined in section 29(g) of the Federal Deposit Insurance Act.[56] The agencies consider brokered deposits for retail customers or counterparties to be a more volatile form of funding than stable retail deposits, even if deposit insurance coverage is present, because of the structure of the attendant third-party relationship and the potential instability of such deposits during a liquidity stress event. The agencies are also concerned that statutory restrictions on certain brokered deposits make this form of funding less stable than other deposit types. Specifically, a covered company that is not ''well capitalized'' or becomes less than ''well capitalized'' [57] is subject to prohibitions on accepting funds obtained through a deposit broker. In addition, because the retention of brokered deposits from retail customers or counterparties is highly correlated with a covered company's ability to legally accept such brokered deposits and continue offering competitive interest rates, the agencies are proposing higher outflow rates for this class of liabilities. The agencies are proposing to assign outflow rates to brokered deposits for retail customers or counterparties based on the type of account, whether deposit insurance is in place, and the maturity date of the deposit agreement. Outflow rates for retail brokered deposits would be further subdivided into reciprocal brokered deposits, brokered sweep deposits, and all other brokered deposits.

A reciprocal brokered deposit is defined in the proposed rule as a brokered deposit that a covered company receives through a deposit placement network on a reciprocal basis such that for any deposit received, the covered company (as agent for the depositor) places the same amount with other depository institutions through the network and each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members.

Reciprocal brokered deposits generally have been observed to be more stable than typical brokered deposits because each institution within the deposit placement network typically has an established relationship with the retail customer or counterparty making the initial over-the-insurance-limit deposit that necessitates placing the deposit through the network. The proposed rule would therefore apply a 10 percent outflow rate to all reciprocal brokered deposits at a covered company that are entirely covered by deposit insurance. Reciprocal brokered deposits would receive an outflow rate of 25 percent if less than the entire amount of the deposit is covered by deposit insurance.

Brokered sweep deposits involve securities firms or investment companies that ''sweep'' or transfer idle customer funds into deposit accounts at one or more banks. Accordingly, such deposits are defined under the proposed rule as those that are held at the covered company by a customer or counterparty through a contractual feature that automatically transfers to the covered company from another regulated financial company at the close of each business day amounts identified under the agreement governing the account from which the amount is being transferred. The proposed rule would assign brokered sweep deposits progressively higher outflow rates depending on deposit insurance coverage and the affiliation of the broker sweeping the deposits. Under the proposed rule, brokered sweep deposits that are entirely covered by deposit insurance and that are deposited in accordance with a contract between a retail customer or counterparty and a covered company, a covered company's consolidated subsidiary, or a company that is a consolidated subsidiary of the same top tier company would be subject to a 10 percent outflow rate. Brokered sweep deposits that are entirely covered by deposit insurance but that do not originate with a covered company, a covered company's consolidated subsidiary, or a company that is a consolidated subsidiary of the same top tier company of a covered company would be assigned a 25 percent outflow rate. Brokered sweep deposits that are not entirely covered by deposit insurance would be subject to a 40 percent outflow rate because they have been observed to be more volatile during stressful periods, as customers seek alternative investment vehicles or use those funds for other purposes.

Under the proposed rule, all other brokered deposits would include those brokered deposits that are not reciprocal deposits or are not part of a brokered sweep arrangement. These accounts would be subject to an outflow rate of 10 percent if they mature later than 30 calendar days from a calculation date or 100 percent if they mature 30 calendar days or less from a calculation date.

47. *The agencies seek commenters' views on the proposed outflow rates for brokered deposits. Specifically, what are commenters' views on the range of outflow rates to brokered deposits? Where commenters disagree with the proposed treatment, please provide alternative proposals supported by sound analysis as well as the associated advantages and disadvantages for such alternative proposals.*

48. *Is it appropriate to assign a particular outflow rate to brokered sweep deposits entirely covered by deposit insurance that originate with a consolidated subsidiary of a covered company, and different outflow rates to other brokered deposits entirely covered by deposit insurance? Why or why not? What different outflow rates, if any should the agencies consider for application to all brokered sweep deposits entirely covered by deposit insurance? Provide justification and supporting information.*

h. Unsecured Wholesale Funding Outflow Amount

The proposed rule includes three general categories of unsecured wholesale funding: (1) unsecured wholesale funding transactions; (2) operational deposits; and (3) other unsecured wholesale funding. Funding instruments within these categories are not secured under applicable law by a lien on specifically designated assets. The proposed rule would assign a range of outflow rates depending upon whether deposit insurance is covering the funding, the counterparty, and other characteristics that cause these instruments to be more or less stable when compared to other instruments in this category. Unsecured wholesale funding instruments typically would include wholesale deposits,[58] federal funds purchased, unsecured advances from a public sector entity, sovereign entity, or U.S. government enterprise, unsecured notes and bonds, or other unsecured debt securities issued by a covered company (unless sold exclusively in retail markets to retail customers or counterparties), brokered

[56] 12 U.S.C. 1831f(g).

[57] As defined by section 38 of the Federal Deposit Insurance Act, 12 U.S.C. 1831o.

[58] Certain small business deposits are included within unsecured retail funding. *See* section II.B.2.a.i *supra.*

deposits from non-retail customers and any other transactions where an on-balance sheet unsecured credit obligation has been contracted.

The agencies are proposing to assign three separate outflow rates to unsecured wholesale funding that is not an operational deposit. These outflow rates are meant to address the stability of these obligations based on deposit insurance and the nature of the counterparty. Unsecured wholesale funding that is provided by an entity that is not a financial sector company whose securities are excluded from HQLA, as described above,[59] generally would be subject to an outflow rate of 20 percent where the entire amount is covered by deposit insurance, whereas deposits that are less than fully covered by deposit insurance or the funding is a brokered deposit would have a 40 percent outflow rate. However, the proposed rule would require that all other unsecured wholesale funding, including that provided by a consolidated subsidiary or affiliate of a covered company, be subject to an outflow rate of 100 percent. This higher outflow rate is associated with the elevated refinancing or roll-over risk in a stressed situation and the interconnectedness of financial institutions.

Some covered companies provide services, such as those related to clearing, custody, and cash management services, that require their customers to maintain certain deposit balances with them. These services are defined in the proposed rule as operational services, and the corresponding deposits, which are termed ''operational deposits,'' can be a key component of unsecured wholesale funding for certain covered companies. The proposed rule would define an operational deposit as wholesale funding that is required for a covered company to provide operational services, as defined by the proposed rule, as an independent third-party intermediary to the wholesale customer or counterparty providing the unsecured wholesale funding.

In developing the proposed outflow rates for these assets, the agencies contemplated the nature of operational deposits, their deposit insurance coverage, the customers' rights under their deposit agreements, and the economic incentives associated with customers' accounts. The agencies expect operational deposits to have a lower impact on a covered company's liquidity in a stressed environment because these accounts have significant legal or operational limitations that make significant withdrawals within 30 calendar days unlikely. For example, an entity that relies on a covered company for payroll processing services is not likely to move that operation to another covered company during a liquidity stress because it needs stability in providing payroll, regardless of stresses in the broader financial markets.

Under the proposed rule, operational deposits (other than escrow accounts) that meet the criteria in section 4(b) would be assigned a 5 percent outflow rate where the entire deposit amount is fully covered by deposit insurance. All other operational deposits (including all escrow deposits) would be assigned a 25 percent outflow rate. The agencies believe that insured operational deposits eligible for inclusion at the lower outflow rate exhibit relatively stable funding characteristics in a 30 calendar-day stress period and have a reduced likelihood of rapid outflow. Escrow deposits, while operational in nature, are more likely to be withdrawn upon the occurrence of a motivating event regardless of deposit insurance coverage, and the 25 percent outflow rate approximately reflects this aspect of escrow deposits. The agencies believe that operational deposits that are not fully covered by deposit insurance also are a less stable source of funding for covered companies. The higher outflow rate reflects the higher likelihood of withdrawal by the wholesale customer if any part of the deposit is uninsured.

Balances in these accounts should be recognized as operational deposits only to the extent that they are critically important to customers to utilize operational services offered by a covered company. The agencies believe that amounts beyond that which is critically important for the customer's operations should not be included in the operational deposit category. Section 4(b) of the proposed rule enumerates specific criteria for operational deposits that seek to limit operational deposit amounts to those that are held for operational needs, such as by excluding from operational deposits those deposit products that create economic incentives for the customer to maintain funds in the deposit in excess of what is needed for operational services.[60] The criteria for a deposit to qualify as operational are intended to be restrictive because the agencies expect these deposits to be truly operational in nature, meaning they are used for the enumerated operational services related to clearing, custody, and cash management and have contractual terms that make it unlikely that a counterparty would significantly shift this activity to other organizations within 30 days. The agencies intend to closely monitor classification of operational deposits by covered companies to ensure that the deposits meet these operational criteria.

Covered companies would be expected to develop internal policies and methodologies to ensure that amounts categorized as operational deposits are limited to only those funds needed to facilitate the customer's operational service needs. Amounts in excess of what customers have historically held to facilitate such purposes, such as surge balances, would be considered excess operational deposits. The agencies believe it would be inappropriate to give excess operational deposit amounts the same favorable treatment as deposits truly needed for operational purposes, because such treatment would provide opportunities for regulatory arbitrage and distort the proposed liquidity coverage ratio calculation. The agencies, therefore, are proposing that funds in excess of those required for the provision of operational services be excluded from operational deposit balances and treated on a counterparty-by-counterparty basis as a non-operational deposit. If a covered company is unable to separately identify excess balances and balances needed for operational services, the entire balance would be ineligible for treatment as an operational deposit. The agencies do not intend for covered companies to allow customers to retain funds in this operational deposit category unless doing so is necessary to utilize the actual services offered by a covered company.

Consistent with the Basel III LCR, deposits maintained in connection with the provision of prime brokerage services are excluded from operational deposits by focusing on the type of customer that uses operational services linked to an operational account. Under the proposal, an account cannot qualify as an operational deposit if it is provided in connection with operational services provided to an investment company, non-regulated fund, or investment adviser.

While prime brokerage clients typically use operational services related to clearing, custody, and cash management, the agencies believe that balances maintained by prime brokerage clients should not be considered operational deposits because such balances, owned by hedge funds and other institutional investors, are at risk of margin and other immediate cash

[59] *See* section II.A.2 for a description of these companies.

[60] *See* § __.4(b) of the proposed rule.

calls in stressed scenarios and have proven to be more volatile during stress periods. Moreover, after finding themselves with limited access to liquidity in the recent financial crisis, most prime brokerage customers maintain multiple prime brokerage relationships and are able to quickly shift from one covered company to another. Accordingly, the agencies are proposing that deposit balances maintained in connection with the provision of prime brokerage services be treated the same as unsecured wholesale funding provided by a financial entity or affiliate of a covered company, and thus be assigned a 100 percent outflow rate.

Finally, operational deposits exclude correspondent banking arrangements under which a covered company holds deposits owned by another depository institution bank that temporarily places excess funds in an overnight deposit with the covered company. While these deposits may meet some of the operational requirements, historically they are not stable during stressed liquidity events and therefore are assigned a 100 percent outflow rate.

The proposed rules would assign an outflow rate of 100 percent to all unsecured wholesale funding not described above.

49. *The agencies solicit commenters' views on the criteria for, and treatment of, operational deposits. What, if any, of the identified operational services should not be included or what other services not identified should be included? What, if any, additional conditions should be considered with regard to the definition of operational deposits? Is the proposed outflow rate consistent with industry experience, particularly during the recent financial crisis? Why or why not?*

50. *What are commenters' views on the proposed treatment of excess operational deposits? What operational burdens or other issues may be associated with identifying excess amounts in operational deposits? What other factors, if any, should be considered in determining whether to classify an unsecured wholesale deposit as an operational deposit?*

51. *Have the agencies appropriately identified prime brokerage services for the purposes of the exclusion of prime brokerage deposits from operational deposits? Should additional categories of customer be included, such as insurance companies or pension funds? What additional characteristics could identify prime brokerage deposits? Should the proposed rule include a definition of prime brokerage services or prime brokerage deposits and if so, how should those terms be defined? Is the higher outflow rate for prime brokerage deposits appropriate? Why or why not? What other treatments, if any, should the agencies consider?*

i. Debt Security Outflow Amount

The agencies are proposing that where a covered company is the primary market maker for its own debt securities, the outflow rate for such funding would equal 3 percent for all debt securities that are not structured securities that mature outside of a 30 calendar-day stress period and 5 percent for all debt securities that are structured debt securities that mature outside of a 30 calendar-day stress period. Under the proposal, a structured security would be a security whose cash flow characteristics depend upon one or more indices or that have embedded forwards, options, or other derivatives or a security where an investor's investment return and the issuer's payment obligations are contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates or cash flows. This outflow is in addition to any outflow that must be included in net cash outflows due to the maturity of the underlying security during a 30 calendar-day stress period.

Institutions that make markets in their own debt by quoting buy and sell prices for such instruments implicitly or explicitly indicate that they will provide bids on their own debt issuances. In such cases, a covered company may be called upon to provide liquidity to the market by purchasing its debt securities without having an offsetting sale through which it can readily recoup the cash outflow. Based on historical experience, including the recent financial crisis, in which institutions went to great lengths to ensure the liquidity of their debt securities, the agencies are proposing relatively low outflow rates for a covered company's own debt securities. The proposed rule would differentiate between structured and non-structured debt on the basis of data from stressed institutions that indicate the likelihood that structured debt require more liquidity support.

52. *What, if any, other factors should the agencies consider in identifying structured securities and the treatment for such securities under the proposal?*

53. *What additional criteria could be considered in determining whether certain unsecured wholesale funding activities should receive a 3 or 5 percent outflow rate associated with primary market maker activity?*

j. Secured Funding and Asset Exchange Outflow Amount

A secured funding transaction would be defined under the proposed rule as any funding transaction that gives rise to a cash obligation of a covered company that is secured under applicable law by a lien on specifically designated assets owned by the covered company that gives the counterparty, as holder of the lien, priority over the assets in the case of bankruptcy, insolvency, liquidation, or resolution. In practice, secured funding can be borrowings from repurchase transactions, Federal Home Loan Bank advances, secured deposits from municipalities or other public sector entities (which typically require collateralization in the United States), loans of collateral to effect customer short positions, and other secured wholesale funding arrangements with Federal Reserve Banks, regulated financial companies, non-regulated funds, or other counterparties.

Secured funding could give rise to cash outflows or increased collateral requirements in the form of additional collateral or higher quality collateral to support a given level of secured debt. In the proposed rule, this risk is reflected through the proposed secured funding transaction outflow rates, which are based on the quality and liquidity of assets posted as collateral under the terms of the transaction.[61] Secured funding outflow rates progressively increase on a spectrum that ranges from funding secured by levels 1, 2A, and 2B liquid assets to funding secured by assets that are not HQLA. For the reasons described above, the agencies believe that rather than applying an outflow treatment that is based on the nature of the funding provider, the proposed rule would generally apply a treatment that is based on the nature of the collateral securing the funding. The proposed rule recognizes customer short positions covered by other customers' collateral that is not HQLA as secured funding and applies to them an outflow rate of 50 percent. This outflow reflects the agencies' recognition that clients will not be able to close all short positions without also reducing leverage, which would offset a portion of the liquidity outflows associated with closing the short. Section 32(j)(1) of the proposed rule sets forth the outflow rates for various secured funding transactions.

The agencies are proposing to treat borrowings from Federal Reserve Banks

[61] In section __.32(g) of the proposed rule, the agencies have proposed outflow rates related to changes in collateral.

the same as other secured funding transactions because these borrowings are not automatically rolled over, and a Federal Reserve Bank may choose not to renew the borrowing. Therefore, an outflow rate based on the collateral posted is most appropriate for purposes of the proposed rule. Should the Federal Reserve Banks offer alternative facilities with different terms than the current primary credit facility, or modify the terms on the primary credit facility, outflow rates for the proposed liquidity coverage ratio may be modified.

An asset exchange would be defined under the proposed rule as a transaction that requires the counterparties to exchange non-cash assets at a future date. Asset exchanges could give rise to actual cash outflows or increased collateral requirements if the covered company is contractually obligated to provide higher-quality assets in return for less liquid, lower-quality assets. In the proposed rule, this risk is reflected through the proposed asset exchange outflow rates, which are based on the HQLA levels of the assets exchanged by each party. Asset exchange outflow rates progressively increase from the covered company posting assets that are the same HQLA level as the assets it will receive to the covered company posting assets that are of significantly lower quality than the assets it will receive. Section 32(j)(2) of the proposed rule sets forth the outflow rates for various asset exchanges.

54. *The agencies solicit commenters' views on the proposed treatment of secured funding activities. Do commenters agree with the proposed outflow rates as they relate to the collateral? Why or why not? Should municipal and other public sector entity deposits be treated as secured funding transactions? What, if any, additional secured-funding risk factors should be reflected in the rule?*

55. *What, if any, alternative treatments should the agencies consider for borrowings from a Federal Reserve Bank? Provide justification and support.*

56. *The agencies solicit commenters' views on the proposed treatment of asset exchanges. Do commenters agree with the proposed outflow rates as they relate to the collateral? Why or why not? What, if any, additional asset exchange risk factors should be reflected in the rule?*

k. Foreign Central Bank Borrowings

The agencies recognize central banks' lending terms and expectations differ by jurisdiction. Accordingly, for a covered company's borrowings from a particular foreign jurisdiction's central bank, the proposed rule would assign an outflow rate equal to the outflow rate that such jurisdiction has established for central bank borrowings under a minimum liquidity standard. If such an outflow rate has not been established in a foreign jurisdiction, the outflow rate for such borrowings would be calculated as secured funding pursuant to section 32(j) of the proposed rule.

57. *What, if any, alternative treatments should the agencies consider for foreign central bank borrowings? Should borrowings from foreign central banks be treated as borrowings from the Federal Reserve Bank? What effects on the behavior of covered companies may the difference in the treatment between Federal Reserve Bank borrowings and foreign central bank create? What unintended results may occur?*

l. Other Contractual Outflow Amounts

Under the proposed rule, a covered company would apply a 100 percent outflow rate to amounts payable 30 days or less after a calculation date under applicable contracts that are not otherwise specified in the proposed rule. These would include contractual payments such as salaries and any other payments owed 30 days or less from a calculation date that is not otherwise enumerated in section 32 of the proposed rule.

58. *The Basel III LCR standard suggests that national authorities provide outflow rates for stable value funds. Should the agencies do so? Why or why not? If so, please provide suggestions as to specific outflow rates for stable value funds. Please provide justification and supporting information.*

59. *The agencies solicit commenters' views on the proposed criteria for each of the categories discussed above, their proposed outflow rates, and the associated underlying assumptions for the proposed treatment. Are there specific outflow rates for other types of transactions that have not been included, but should be? If so, please specify the types of transactions and the applicable outflow rates that should be applied and the reasons for doing so. Alternatively, are there outflow rates that have been provided that should not be?*

m. Excluded Amounts for Intragroup Transactions

Under the proposed rule, a covered company would exclude all transactions from its outflows and inflows between the covered company and a consolidated subsidiary of the covered company or a consolidated subsidiary of the covered company and another consolidated subsidiary of the covered company. Such transactions are excluded because they involve outflows that would transfer to a company that is itself included in the financials of the covered company, so the inflows and outflows at the consolidated level should net to zero.

3. Total Cash Inflow Amount

As explained above, the total cash inflow amount for the proposed rule's liquidity coverage ratio would be limited to the lesser of (1) the sum of cash inflow amounts as described in section 33 of the proposed rule; and (2) 75 percent of expected cash outflows as calculated under section 32 of the proposed rule. The total cash inflow amount would be calculated by multiplying the outstanding balances of contractual receivables and other cash inflows as of a calculation date by the inflow rates described in section 33 of the proposed rule. The proposed rule also sets forth certain exclusions from cash inflow amounts, as described immediately below.

a. Items not included as inflows

The agencies have identified six categories of items that are explicitly excluded from cash inflows under the proposed rule. These exclusions are meant to ensure that the denominator of the proposed rule's liquidity coverage ratio would not be influenced by potential cash inflows that may not be reliable sources of liquidity during a stressed scenario.

The first excluded category would be amounts a covered company holds in operational deposits at other regulated financial companies. Because these deposits are for operational purposes, it is unlikely that a covered company would be able to withdraw these funds in a crisis to meet other liquidity needs, and they are therefore excluded.

The second excluded category would be amounts that a covered company expects to receive or is contractually entitled to receive from derivative transactions due to forward sales of mortgage loans and any derivatives that are mortgage commitments. The agencies recognize that covered companies may be receiving inflows as a result of the sale of mortgages or derivatives that are mortgage commitments within 30 days after the calculation date. However, as discussed above, the agencies believe that inflow amounts from such transactions may not materialize during a liquidity crisis or may be delayed beyond the 30 calendar-day time horizon. During the recent financial crisis, it was evident that many institutions were unable to rapidly reduce the mortgage lending pipeline

even as market demand for mortgages slowed.

The third excluded category would be amounts arising from any credit or liquidity facility extended to a covered company. The agencies believe that in a stress scenario, inflows from such facilities may not materialize. Furthermore, to the extent that a covered company relies upon inflows from credit facilities with other financial entities, it would increase the interconnectedness within the system and a stress at one institution could result in additional strain throughout the financial system as the company draws down its lines of credit. Because of these likelihoods, a covered company's credit and liquidity facilities would not be counted as inflows.

The fourth excluded category would be the amounts of any asset included in a covered company's HQLA amount under section 21 of the proposed rule and any amount payable to the covered company with respect to those assets. Given that HQLA is already included in the numerator at fair market value (as determined under GAAP), including such amounts as inflows would result in double counting. Consistent with the Basel III LCR, this exclusion also includes all HQLA that mature within 30 days.

The fifth excluded category would be any amounts payable to the covered company or any outstanding exposure to a customer or counterparty that is a nonperforming asset as of a calculation date, or the covered company has reason to expect will become a nonperforming exposure 30 calendar days or less from a calculation date. Under the proposed rule, a nonperforming exposure is any exposure that is past due by more than 90 calendar days or on nonaccrual. This is meant to recognize that it is not likely that a covered company will receive inflow amounts due from a nonperforming customer.

The sixth excluded category includes those items that have no contractual maturity date. The agencies' stress scenario assumes that in a time of liquidity stress a covered company's counterparties will not pay amounts not contractually required in order to maintain liquidity for other purposes.

60. *What, if any, additional items the agencies should explicitly exclude from inflows? What, if any excluded items should the agencies consider including in inflows? Please provide justification and supporting information.*

61. *Should the agencies treat credit and liquidity facility inflows differently than proposed? For example, should credit and liquidity facilities extended by certain counterparties be counted as inflows while others are prohibited? If so, which entities and why?*

b. Net Derivatives Cash Inflow Amount

Under the proposed rule, a covered company's net derivative cash inflow amount would equal the sum of the payments and collateral that a covered company will receive from each counterparty under derivative transactions, less, if subject to a qualifying master netting agreement, the sum of payments and collateral that the covered company will make or deliver to each counterparty. This calculation would incorporate the amounts due from and to counterparties under applicable transactions within 30 calendar days of a calculation date. Netting would be permissible at the highest level permitted by a covered company's contracts with its counterparties and could not include outflows where a covered company is already including assets in its HQLA that the counterparty has posted to support those outflows. If the derivatives transactions are not subject to a valid qualifying master netting agreement, then the derivative cash inflow amount for that counterparty would be included in the net derivative cash inflow amount and the derivative cash outflows for that counterparty would be included in the net derivative cash outflow amount, without any netting. Net derivative cash inflow should be calculated in accordance with existing valuation methodologies and expected contractual derivative cash flows. In the event that net derivative cash inflow for a particular counterparty is less than zero, such amount would be required to be included in a covered company's net derivative cash outflow amount.

As with net derivative cash outflow, net derivative cash inflow would not include amounts arising in connection with forward sales of mortgage loans and derivatives that are mortgage commitments subject to section 32(d) of the proposed rule. Net derivative cash inflow would still include derivatives that hedge interest rate risk associated with a mortgage pipeline.

c. Retail Cash Inflow Amount

The proposed rule would allow a covered company to count as inflow 50 percent of all contractual payments it expects to receive within a particular 30 calendar-day stress period from retail customers and counterparties. This inflow rate is reflective of the agencies' expectation that covered companies will need to maintain a portion of their retail lending even during periods of liquidity stress, albeit not to the same extent as they have in the past. During the recent financial crisis, several stressed institutions tightened their credit standards but continued to make loans to maintain customer relationships and avoid further signaling of distress to the market.

62. *Is the proposed retail cash inflow rate reflective of industry experience? Why or why not? What, if any, additional funding activities could be included in this category? What, if any, inflow sources should be excluded from this category?*

d. Unsecured Wholesale Cash Inflow Amount

The agencies believe that for purposes of this proposed rule, all wholesale inflows (*e.g.,* principal and interest) from regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, and identified companies (and consolidated subsidiaries of any of the foregoing), and from central banks generally would be available to meet a covered company's liquidity needs. Therefore, the agencies are proposing to assign such inflows a rate of 100 percent. This rate also reflects the assumption that covered companies would stop extending credits to such counterparties when faced with the stress envisioned by the proposed rule.

However, the agencies also expect covered companies to maintain ample liquidity to sustain core businesses lines, including continuing to extend credit to retail customers and wholesale customers and counterparties that are not financial sector companies whose securities are excluded from HQLA.[62] Indeed, one purpose of the proposed rule is to ensure that covered companies have sufficient liquidity to sustain such business lines during a period of liquidity stress. While the agencies acknowledge that, in times of liquidity stress, covered companies can curtail this activity to a limited extent, due to reputational and business considerations, covered companies would likely continue to renew at least a portion of maturing credits and extend some new loans. Therefore, the agencies are proposing to apply an inflow rate of 50 percent for inflows due from wholesale customers or counterparties that are not regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, or identified companies, or consolidated subsidiary of any of the foregoing. With respect to revolving credit facilities, already drawn

[62] *See* section II.A.2 for a description of these companies.

amounts would not be included in a covered company's inflow amount, and undrawn amounts would be treated as outflows under section 32(e) of the proposed rule. This is based upon the agencies' assumption that a covered company's counterparty would not repay funds it is not contractually obligated to repay in a stressed scenario.

63. *What are commenters' views regarding the differing rates for unsecured wholesale inflows? What, if any, modifications should the agencies consider making to the proposed inflow rates? Provide justification and supporting data.*

e. Securities Cash Inflow Amount

Inflows from securities owned by a covered company that are not included in a covered company's HQLA amount would receive a 100 percent inflow rate. Accordingly, if an asset is not included in the HQLA amount, all contractual dividend, interest, and principal payments due and expected to be paid to a covered company, regardless of their quality or liquidity, would receive an inflow rate of 100 percent.

64. *What, if any, modifications should the agencies consider for the proposed rate for securities inflows? Please provide justification and supporting data.*

f. Secured Lending and Asset Exchange Cash Inflow Amount

Under the proposed rule, a covered company would be able to recognize cash inflows from secured lending transactions. The proposed rule would define a secured lending transaction as any lending transaction that gives rise to a cash obligation of a counterparty to a covered company that is secured under applicable law by a lien on specifically designated assets owned by the counterparty and included in the covered company's HQLA amount that gives the covered company, as a holder of the lien, priority over the assets in the case of bankruptcy, insolvency, liquidation, or resolution and includes reverse repurchase transactions and securities borrowing transactions. If the specifically designated assets are not included in a covered company's HQLA amount but are still held by the covered company, then the transaction would be included in the unsecured wholesale cash inflow amount. Secured lending transactions could give rise to cash inflows or additional or higher quality collateral being provided to a covered company to support a given level of secured debt.

Under the proposed rule, secured lending transaction inflow rates progressively increase on a spectrum that ranges from funding secured by levels 2B and 2A liquid assets to lending secured by assets that are not HQLA.[63] A covered company also may apply a 50 percent inflow rate to the contractual payments due from customers that have borrowed on margin, where such loans are collateralized. These inflows could only be counted if a covered company is not including the collateral it received in its HQLA amount or using it to cover any of its short positions.

Similarly, asset exchanges could give rise to actual cash inflow or decreased collateral requirements if the covered company's counterparty is contractually obligated to provide higher-quality assets in return for less liquid, lower-quality assets. In the proposed rule, this is reflected through the proposed asset exchange inflow rates, which are based on the HQLA level of the asset to be posted by a covered company and the HQLA level of the asset posted by the counterparty. Asset exchange inflow rates progressively increase on a spectrum that ranges from receiving assets that are the same HQLA level as the assets a covered company is required to post to receiving assets that are of significantly higher quality than the assets that the covered company is required to post. Section 33(f)(2) of the proposed rule sets forth the inflow amounts for various asset exchanges.

65. *The agencies solicit commenters' views on the treatment of secured lending transaction and asset exchange inflows. What, if any, modifications should the agencies consider? Specifically, what are commenters' perspectives on when an inflow should be reflected in the ratio's denominator as opposed to the HQLA amount? Provide justification and supporting data.*

III. Liquidity Coverage Ratio Shortfall

While the Basel III LCR provides that a banking organization is required to maintain an adequate amount of HQLA in order to meet its liquidity needs within a 30 calendar-day stress period, it also makes clear that it may be necessary for a banking organization to fall below the requirement during a period of liquidity stress. The Basel III LCR therefore provides that any supervisory decisions in response to a reduction of a banking organization's liquidity coverage ratio should take into consideration the objectives and definitions of the Basel III LCR. This provision of the Basel III LCR indicates that supervisory actions should not discourage or deter a banking organization from using its HQLA when necessary to meet unforeseen liquidity needs arising from financial stress that exceeds normal business fluctuations.

The agencies are proposing a supervisory framework for addressing a shortfall with respect to the proposed rule's liquidity coverage ratio that is consistent with the intent of having HQLA available for use during stressed conditions as described in the Basel III LCR. This approach also reflects the agencies' views on the appropriate supervisory response to such shortfalls. The agencies understand that there are a wide variety of potential liquidity stresses that a covered company may experience (both idiosyncratic and market-wide), and that it is difficult to foresee the different circumstances that may precipitate or accompany such stress scenarios. Therefore, the agencies believe that the regulatory framework for the proposed rule's liquidity coverage ratio must be sufficiently flexible to allow supervisors to respond appropriately under the given circumstances surrounding a liquidity coverage ratio shortfall.

Accordingly, the proposed rule sets forth notice and response procedures that would require a covered company to notify its primary Federal supervisor of any liquidity coverage ratio shortfall on any business day and provides the necessary flexibility in the supervisory response. In addition, if a covered company's liquidity coverage ratio is below the minimum requirement for three consecutive business days or if its supervisor has determined that the covered company is otherwise materially noncompliant with the proposed rule, the covered company would be required to provide to its supervisor a plan for remediation. As set forth in section 40(b) of the proposed rule, the remediation plan would need to include an assessment of the covered company's liquidity position, the actions the covered company has taken and will take to achieve full compliance with the proposed rule, an estimated timeframe for achieving compliance, and a commitment to report to its supervisor no less than weekly on progress to achieve compliance with the plan until full compliance with the proposed rule has been achieved.

A supervisory or enforcement action may be appropriate based on operational issues at a covered company, whether the violation is a part of a pattern, whether the liquidity shortfall was temporary or caused by an unusual event, and the extent of the shortfall or the noncompliance. Depending on the circumstances, a liquidity coverage ratio shortfall below

[63] *See* proposed rule §§ __.33(f)(1)(i)–(iv).

100 percent would not necessarily result in supervisory action, but, at a minimum, would result in heightened supervisory monitoring. For example, as with other regulatory violations, a covered company may be required to enter into a written agreement if it does not meet the proposed minimum requirement within an appropriate period of time.

The agencies would use existing supervisory processes and procedures for addressing a covered company's liquidity coverage ratio shortfall under the proposed rule. As with existing supervisory actions to address deficiencies in regulatory compliance or in risk management, the actions to be taken if a covered company's liquidity coverage ratio were to fall below 100 percent would be at the discretion of the appropriate Federal banking agency.

66. *Is the current banking supervisory regime sufficient to address situations in which a covered company needs to utilize its stock of HQLA? Why or why not?*

67. *Are there additional supervisory tools that the agencies could rely on to address situations in which a covered company needs to utilize its stock of HQLA? If so, provide detailed examples and explanations.*

68. *Should a de minimis exception to a liquidity coverage ratio shortfall be implemented, such that a covered company would not need to report such a shortfall, provided its liquidity coverage ratio returns to the required minimum within a short grace period? If so, what de minimis amount would be appropriate and why? What duration of grace period would be appropriate and why?*

69. *Should a covered company be required to submit a separate remediation plan to address its liquidity coverage ratio shortfall or should a modification to existing plans, such as contingency funding plans that include provisions to address the liquidity shortfalls, be sufficient? Please provide justifications supporting such a view.*

70. *Should the supervisory response differ depending on the cause of the stress event? Why or why not?*

71. *Should restrictions be imposed on the circumstances under which a covered company's liquidity coverage ratio may fall below 100 percent? If so, provide detailed examples and explanations.*

IV. Transition and Timing

The agencies are proposing to implement a transition period for the proposed rule's liquidity coverage ratio that is more accelerated than the transition provided in the Basel III Revised LCR Framework. The proposed rule would require covered companies to comply with the minimum liquidity coverage ratio as follows: 80 percent on January 1, 2015, 90 percent on January 1, 2016, and 100 percent on January 1, 2017 and thereafter. The agencies are proposing an accelerated transition period for covered companies to build on the strong liquidity positions these companies have achieved since the recent financial crisis, thereby providing greater stability to the firms and the financial system. The proposed transition period accounts for the potential implications of the proposed rule on financial markets, credit extension, and economic growth and seeks to balance these concerns with the proposed liquidity coverage ratio's important role in promoting a more robust and resilient banking sector.

While these transition periods are intended to facilitate compliance with a new minimum liquidity requirement, the agencies expect that covered companies with liquidity coverage ratios at or near the 100 percent minimum generally would not reduce their liquidity coverage during the transition period, as reflected by this proposed requirement. The agencies emphasize that the proposed rule's liquidity coverage ratio is a minimum requirement, and that companies should have internal liquidity management systems and policies in place to ensure they hold liquid assets sufficient to meet their liquidity needs that could arise in a period of stress. The transition provisions of the final rule are also set forth in table 2 below.

TABLE 2: TRANSITION PERIOD FOR THE LIQUIDITY COVERAGE RATIO

Transition Period	Liquidity coverage ratio
Calendar year 2015	0.80
Calendar year 2016	0.90
Calendar year 2017 and thereafter	1.00

72. *What concerns, if any, do commenters have in meeting the proposed transitional arrangements?*

73. *Are the proposed transition periods appropriate for all covered companies? Are there any situations that may prevent a covered company from achieving compliance within the proposed transition periods? Are there alternatives to the proposed transition periods that would better achieve the agencies' goal of establishing a quantitative liquidity requirement in a timely fashion while not disrupting lending and the real economy?*

V. Modified Liquidity Coverage Ratio Applicable to Covered Depository Institution Holding Companies

A. Overview and Applicability

As noted above, all bank holding companies subject to the proposed rule are subject to enhanced liquidity requirements under section 165 of the Dodd-Frank Act.[64] Section 165 additionally authorizes the Board to tailor the application of the standards, including differentiating among covered companies on an individual basis or by category. When differentiating among companies for purposes of applying the standards established under section 165, the Board may consider the companies' size, capital structure, riskiness, complexity, financial activities, and any other risk-related factor the Board deems appropriate.[65]

The Basel III LCR was developed for internationally active banking organizations, taking into account the complexity of their funding sources and structure. While covered depository institution holding companies with at least $50 billion in total consolidated assets that are not covered companies (modified LCR holding companies) are large financial companies with extensive operations in banking, brokerage, and other financial activities, they generally are smaller in size, less complex in structure, and less reliant on riskier forms of market funding. These companies tend to have simpler balance sheets, better enabling management and supervisors to take corrective actions more quickly than is the case with an internationally active banking organization in a stressed scenario.

Accordingly, the Board is tailoring the proposed rule's liquidity coverage ratio requirement as applied to the modified LCR holding companies pursuant to its authority under section 165 of the Dodd-Frank Act. While the Board believes it is important for all bank holding companies subject to section 165 of the Dodd-Frank Act (and similarly situated savings and loan holding companies) to be subject to a quantitative liquidity requirement as an enhanced prudential standard, it recognizes that these companies would likely not have as great a systemic impact as larger, more complex companies if they experienced liquidity stress. Therefore, because the options for addressing their liquidity needs under such a scenario (or, if necessary, for resolving such companies) would likely be less complex and therefore more likely to be implemented in a

[64] *See* 12 U.S.C. 5365(a) and (b).

[65] *See* 12 U.S.C. 5365(a)(2).

shorter period of time, the Board is proposing to establish a modified liquidity coverage ratio incorporating a shorter (21-calendar day) stress scenario for the modified LCR holding companies.

The modified liquidity coverage ratio would be a simpler, less stringent form of the proposed rule's liquidity coverage ratio (for the purposes of this section V, unmodified liquidity coverage ratio) and would have outflow rates based on a 21calendar-day rather than a 30 calendar-day stress scenario. As a result, outflow rates for the modified liquidity coverage ratio generally would be 70 percent of the unmodified liquidity coverage ratio's outflow rates. In addition, modified LCR holding companies would not have to calculate a peak maximum cumulative outflow day for total net cash outflows as required for covered companies subject to the unmodified liquidity coverage ratio.[66] The requirements of the modified liquidity coverage ratio standard would otherwise be the same as the unmodified liquidity coverage ratio as described above, including the proposed HQLA criteria and the calculation of the HQLA amount, and modified LCR holding companies would have to comply with all unmodified aspects of the standard to the same extent as covered companies.

B. High-Quality Liquid Assets

Modified LCR holding companies generally would calculate their HQLA amount as covered companies do pursuant to section 21 of the proposed rule. However, when calculating the adjusted liquid asset amounts, modified LCR holding companies would incorporate the unwinding of secured funding and lending transactions, asset exchanges, and collateralized derivative transactions that mature within 21 calendar days (rather than 30 calendar days) of a calculation date. All other aspects of the calculation would remain the same and assets that do not qualify as HQLA under the proposed rule could not be included into the HQLA amount of a modified LCR holding company.

The adjustments of the modified liquidity coverage ratio reflect the lesser size and complexity of modified LCR holding companies through a shorter stress scenario, which is not relevant to the quality of liquid assets that a company would need to cover its needs during any stress scenario. Therefore, the HQLA amount would be calculated on the same basis under the modified liquidity coverage ratio as the unmodified liquidity coverage ratio, with the only adjustment reflecting the shorter stress scenario period of the modified liquidity coverage ratio. The policy purposes and rationales for applying the unmodified requirements to covered companies, articulated above, also pertain to the application of these requirements to modified LCR holding companies.

C. Total Net Cash Outflow

Under the unmodified liquidity coverage ratio, the outflow and inflow rates applied to different sources of outflows and inflows are based on a 30 calendar-day stress scenario. Because the modified liquidity coverage ratio is based on a 21calendar-day stress scenario, 70 percent of each outflow and inflow rate for outflows and inflows without a contractual maturity date, as described above, would be applied in calculating total net cash outflow under the modified liquidity coverage ratio, as set forth in Table 3. Outflows and inflows with a contractual maturity date would be calculated on the basis of the maturity (as determined under the proposal and described above) occurring within 21 calendar days from a calculation date, rather than 30 calendar days.

In addition, as explained above, a modified LCR holding company would not be required to use its peak maximum cumulative outflow day as its total net cash outflow amount. Instead, the total net cash outflow amount under the modified liquidity coverage ratio would be the difference between a modified LCR company's outflows amounts and inflows amounts, calculated as required under the proposed rule. The Board believes this approach is appropriate as a modified LCR holding company would likely be less dependent on cash inflows to meet the proposed rule's liquidity coverage ratio requirement, thereby reducing its likelihood of having a significant maturity mismatch within a 21 calendar-day stress period. However, as part of sound liquidity risk management, modified LCR holding companies should be aware of any potential mismatches within the 21 calendar-day stress period and ensure that a sufficient amount of HQLA is available to meet any net cash outflow gaps throughout the period.

TABLE 3—NON-MATURITY MODIFIED OUTFLOWS

Category	Agencies' liquidity coverage ratio outflow amount	Modified liquidity coverage ratio outflow amount
Unsecured retail funding:		
Stable retail deposits	3.0%	2.1%
Other retail deposits	10.0	7.0
Other retail funding	100.0	70.0
Retail brokered deposits:		
Brokered deposits that mature later than 30 calendar days from the calculation date	10.0	7.0
Reciprocal brokered deposits, entirely covered by deposit insurance	10.0	7.0
Reciprocal brokered deposits, not entirely covered by deposit insurance	25.0	17.5
Brokered sweep deposits, issued by a consolidated subsidiary, entirely covered by deposit insurance	10.0	7.0
Brokered sweep deposits, not issued by a consolidated subsidiary, entirely covered by deposit insurance	25.0	17.5
Brokered sweep deposits, not entirely covered by deposit insurance	40.0	28.0
All other retail brokered deposits	100.0	70.0
Unsecured wholesale funding:		
Non-operational, entirely covered by deposit insurance	20.0	14.0
Non-operational, not entirely covered by deposit insurance	40.0	28.0
Non-operational, from financial entity or consolidated subsidiary	100.0	70.0
Operational deposit, entirely covered by deposit insurance	5.0	3.5

[66] *See supra* section II.B.

TABLE 3—NON-MATURITY MODIFIED OUTFLOWS—Continued

Category	Agencies' liquidity coverage ratio outflow amount	Modified liquidity coverage ratio outflow amount
Operational deposit, not entirely covered by deposit insurance	25.0	17.5
All other wholesale funding	100.0	70.0
Commitments:		
Undrawn credit and liquidity facilities to retail customers	5.0	3.5
Undrawn credit facility to wholesale customers	10.0	7.0
Undrawn liquidity facility to wholesale customers	30.0	21.0
Undrawn credit and liquidity facilities to certain banking organizations	50.0	35.0
Undrawn credit facility to financial entities	40.0	28.0
Undrawn liquidity facility to financial entities	100.0	70.0
Undrawn liquidity facilities to SPEs or any other entity	100.0	70.0

74. *What, if any, modifications to the modified liquidity coverage ratio should the Board consider? In particular, what, if any, modifications to incorporation of the 21-calendar day stress period should be considered? Please provide justification and supporting data.*

75. *What, if any, modifications to the calculation of total net cash outflow rate should the Board consider? What versions of the peak maximum cumulative outflow day might be appropriate for the modified liquidity coverage ratio? Please provide justification and supporting data.*

76. *What operational burdens may modified LCR holding companies face in complying with the proposal? What modifications to transition periods should the Board consider for modified LCR holding companies?*

VI. Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Public Law 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. The Federal banking agencies invite your comments on how to make this proposal easier to understand. For example:

- *Have the agencies organized the material to suit your needs? If not, how could this material be better organized?*
- *Are the requirements in the proposed rule clearly stated? If not, how could the proposed rule be more clearly stated?*
- *Does the proposed rule contain language or jargon that is not clear? If so, which language requires clarification?*
- *Would a different format (grouping and order of sections, use of headings, paragraphing) make the proposed rule easier to understand? If so, what changes to the format would make the proposed rule easier to understand?*
- *What else could the agencies do to make the regulation easier to understand?*

VII. Regulatory Flexibility Act

The Regulatory Flexibility Act [67] (RFA), requires an agency to either provide an initial regulatory flexibility analysis with a proposed rule for which general notice of proposed rulemaking is required or to certify that the proposed rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banks with assets less than or equal to $500 million). In accordance with section 3(a) of the RFA, the Board is publishing an initial regulatory flexibility analysis with respect to the proposed rule. The OCC and FDIC are certifying that the proposed rule will not have a significant economic impact on a substantial number of small entities.

Board

Based on its analysis and for the reasons stated below, the Board believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing an initial regulatory flexibility analysis. A final regulatory flexibility analysis will be conducted after comments received during the public comment period have been considered.

The proposed rule is intended to implement a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision applicable for bank holding companies, savings and loan holding companies, nonbank financial companies, and state member banks.

Under regulations issued by the Small Business Administration, a ''small entity'' includes firms within the ''Finance and Insurance'' sector with asset sizes that vary from $7 million or less in assets to $500 million or less in assets.[68] The Board believes that the Finance and Insurance sector constitutes a reasonable universe of firms for these purposes because such firms generally engage in activities that are financial in nature. Consequently, bank holding companies, savings and loan holding companies, nonbank financial companies, and state member banks with asset sizes of $500 million or less are small entities for purposes of the RFA.

As discussed previously in this preamble, the proposed rule generally would apply to Board-regulated institutions with (i) consolidated total assets equal to $250 billion or more; (ii) consolidated total on-balance sheet foreign exposure equal to $10 billion or more; or (iii) consolidated total assets equal to $10 billion or more if that Board-regulated institution is a consolidated subsidiary of a company subject to the proposed rule or if a company subject to the proposed rule owns, controls, or holds with the power to vote 25 percent or more of a class of voting securities of the company. The Board is also proposing to implement a modified version of the liquidity coverage ratio as enhanced prudential standards for top-tier bank holding companies and savings and loan holding companies domiciled in the United States that have consolidated total assets equal to $50 billion or more. The modified version of the liquidity coverage ratio would not apply to (i) a grandfathered unitary savings and loan

[67] 5 U.S.C. 601 *et seq.*

[68] 13 CFR 121.201.

holding company that derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act; (ii) a top-tier bank holding company or savings and loan holding company that is an insurance underwriting company; or (iii) a top-tier bank holding company or savings and loan holding company that had 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies and either calculates its total consolidated assets in accordance with GAAP or estimates its total consolidated assets, subject to review and adjustment by the Board.

Companies that are subject to the proposed rule therefore substantially exceed the $500 million asset threshold at which a banking entity is considered a ''small entity'' under SBA regulations. The proposed rule would apply to a nonbank financial company designated by the Council under section 113 of the Dodd-Frank Act regardless of such a company's asset size. Although the asset size of nonbank financial companies may not be the determinative factor of whether such companies may pose systemic risks and would be designated by the Council for supervision by the Board, it is an important consideration.[69] It is therefore unlikely that a financial firm that is at or below the $500 million asset threshold would be designated by the Council under section 113 of the Dodd-Frank Act because material financial distress at such firms, or the nature, scope, size, scale, concentration, interconnectedness, or mix of its activities, are not likely to pose a threat to the financial stability of the United States.

As noted above, because the proposed rule is not likely to apply to any company with assets of $500 million or less, if adopted in final form, it is not expected to apply to any small entity for purposes of the RFA. The Board does not believe that the proposed rule duplicates, overlaps, or conflicts with any other Federal rules. In light of the foregoing, the Board does not believe that the proposed rule, if adopted in final form, would have a significant economic impact on a substantial number of small entities supervised. Nonetheless, the Board seeks comment on whether the proposed rule would impose undue burdens on, or have unintended consequences for, small organizations, and whether there are ways such potential burdens or consequences could be minimized in a manner consistent with standards established by the Basel Committee on Banking Supervision.

OCC

The RFA requires an agency to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banking entities with total assets of $500 million or less and trust companies with assets of $35.5 million or less).

As discussed previously in this Supplementary Information section, the proposed rule generally would apply to national banks and Federal savings associations with: (i) consolidated total assets equal to $250 billion or more; (ii) consolidated total on-balance sheet foreign exposure equal to $10 billion or more; or (iii) consolidated total assets equal to $10 billion or more if a national bank or Federal savings association is a consolidated subsidiary of a company subject to the proposed rule. As of December 31, 2012, the OCC supervises 1,291 small entities. Since the proposed rule would only apply to institutions that have total consolidated total assets or consolidated total on-balance sheet foreign exposure equal to $10 billion or more, the proposed rule would not have any impact on small banks and small Federal savings associations. Therefore, the proposed rule would not have a significant economic impact on a substantial number of small OCC-supervised entities.

The OCC certifies that the proposed rule would not have a significant economic impact on a substantial number of small national banks and small Federal savings associations.

FDIC

The RFA requires an agency to provide an initial regulatory flexibility analysis with a proposed rule or to certify that the rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banking entities with total assets of $500 million or less).

As described in section I of this preamble, the proposed rule would establish a quantitative liquidity standard for internationally active banking organizations with $250 billion or more in total assets or $10 billion or more of on-balance sheet foreign exposure (internationally active banking organizations), covered nonbank companies, and their consolidated subsidiary depository institutions with $10 billion or more in in total consolidated assets. Two FDIC-supervised institutions satisfy the foregoing criteria, and neither is a small entity. As of June 30, 2013, based on a $500 million threshold, 2 (out of 3,363) small state nonmember banks, and zero (out of 53) small state savings associations were subsidiaries of a covered company that is subject to the proposed rule. Therefore, the FDIC does not believe that the proposed rule will result in a significant economic impact on a substantial number of small entities under its supervisory jurisdiction.

The FDIC certifies that the NPR would not have a significant economic impact on a substantial number of small FDIC-supervised institutions.

VIII. Paperwork Reduction Act

Request for Comment on Proposed Information Collection

Certain provisions of the proposed rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521). In accordance with the requirements of the PRA, the agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The information collection requirements contained in this joint notice of proposed rulemaking are being submitted by the FDIC and OCC to OMB for approval under section 3507(d) of the PRA and section 1320.11 of OMB's implementing regulations (5 CFR part 1320). The Board reviewed the proposed rule under the authority delegated to the Board by OMB.

Comments are invited on:

(a) Whether the collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility;

(b) The accuracy of the agencies' estimates of the burden of the information collections, including the validity of the methodology and assumptions used;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the information collections on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

[69] *See* 77 FR 21637 (April 11, 2012).

All comments will become a matter of public record. Commenters may submit comments on aspects of this notice that may affect burden estimates at the addresses listed in the **ADDRESSES** section. A copy of the comments may also be submitted to the OMB desk officer for the agencies: By mail to U.S. Office of Management and Budget, 725 17th Street NW., #10235, Washington, DC 20503; by facsimile to 202–395–6974; or by email to: *oira_submission@omb.eop.gov.* Attention, Federal Banking Agency Desk Officer.

Proposed Information Collection

Title of Information Collection: Reporting and Recordkeeping Requirements Associated with Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring.

Frequency of Response: Event generated.

Affected Public

FDIC: Insured state non-member banks, insured state branches of foreign banks, state savings associations, and certain subsidiaries of these entities.

OCC: National banks, Federal savings associations, or any operating subsidiary thereof.

Board: Insured state member banks, bank holding companies, savings and loan holding companies, nonbank financial companies supervised by the Board, and any subsidiary thereof.

Abstract: The notice sets forth implementing a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee on Banking Supervision. The proposed rule contains requirements subject to the PRA. The reporting and recordkeeping requirements in the joint proposed rule are found in § __.40. Compliance with the information collections would be mandatory. Responses to the information collections would be kept confidential and there would be no mandatory retention period for the proposed collections of information.

Section __.40 would require that an institution must notify its primary Federal supervisor on any day when its liquidity coverage ratio is calculated to be less than the minimum requirement in § __.10. If an institution's liquidity coverage ratio is below the minimum requirement in § __.10 for three consecutive days, or if its primary Federal supervisor has determined that the institution is otherwise materially noncompliant, the institution must promptly provide a plan for achieving compliance with the minimum liquidity requirement in § __.10 and all other requirements of this part to its primary Federal supervisor.

The liquidity plan must include, as applicable, (1) an assessment of the institution's liquidity position; (2) the actions the institution has taken and will take to achieve full compliance including a plan for adjusting the institution's risk profile, risk management, and funding sources in order to achieve full compliance and a plan for remediating any operational or management issues that contributed to noncompliance; (3) an estimated timeframe for achieving full compliance; and (4) a commitment to provide a progress report to its primary Federal supervisor at least weekly until full compliance is achieved.

Estimated Paperwork Burden

Estimated Burden Per Response: reporting—0.25 hours; recordkeeping—100 hours.

Frequency: reporting—5; recordkeeping—1.

FDIC

Estimated Number of Respondents: 2.

Total Estimated Annual Burden: reporting—3 hours; recordkeeping—200 hours.

OCC

Estimated Number of Respondents: 3.

Total Estimated Annual Burden: reporting—4 hours; recordkeeping—300 hours.

Board

Estimated Number of Respondents: 3.

Total Estimated Annual Burden: reporting—4 hours; recordkeeping—300 hours.

IX. OCC Unfunded Mandates Reform Act of 1995 Determination

The Unfunded Mandates Reform Act of 1995 (UMRA) requires federal agencies to prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more (adjusted annually for inflation) in any one year. The current inflation-adjusted expenditure threshold is $141 million. If a budgetary impact statement is required, section 205 of the UMRA also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule.

In conducting the regulatory analysis, UMRA requires each federal agency to provide:

- The text of the draft regulatory action, together with a reasonably detailed description of the need for the regulatory action and an explanation of how the regulatory action will meet that need;
- An assessment of the potential costs and benefits of the regulatory action, including an explanation of the manner in which the regulatory action is consistent with a statutory mandate and, to the extent permitted by law, promotes the President's priorities and avoids undue interference with State, local, and tribal governments in the exercise of their governmental functions;
- An assessment, including the underlying analysis, of benefits anticipated from the regulatory action (such as, but not limited to, the promotion of the efficient functioning of the economy and private markets, the enhancement of health and safety, the protection of the natural environment, and the elimination or reduction of discrimination or bias) together with, to the extent feasible, a quantification of those benefits;
- An assessment, including the underlying analysis, of costs anticipated from the regulatory action (such as, but not limited to, the direct cost both to the government in administering the regulation and to businesses and others in complying with the regulation, and any adverse effects on the efficient functioning of the economy, private markets (including productivity, employment, and competitiveness), health, safety, and the natural environment), together with, to the extent feasible, a quantification of those costs;
- An assessment, including the underlying analysis, of costs and benefits of potentially effective and reasonably feasible alternatives to the planned regulation, identified by the agencies or the public (including improving the current regulation and reasonably viable non-regulatory actions), and an explanation why the planned regulatory action is preferable to the identified potential alternatives;
- An estimate of any disproportionate budgetary effects of the federal mandate upon any particular regions of the nation or particular State, local, or tribal governments, urban or rural or other types of communities, or particular segments of the private sector; and
- An estimate of the effect the rulemaking action may have on the national economy, if the OCC determines that such estimates are reasonably feasible and that such effect is relevant and material.

Need for Regulatory Action

Liquidity is defined as a financial institution's capacity to readily meet its

cash and collateral obligations at a reasonable cost. As discussed in the preamble of the proposed rule, the recent financial crisis saw unprecedented levels of liquidity support from governments and central banks around the world, suggesting that banks and other financial market participants were not adequately prepared to meet their cash and collateral obligations at reasonable cost. Table 1 provides a list of some of the liquidity facilities provided by the Federal Reserve and the FDIC during the financial crisis. The proposed rule introduces the U.S. implementation of one of the two international liquidity standards (the liquidity coverage ratio and the net stable funding ratio) intended by the Basel Committee on Banking Supervision and the U.S. banking agencies to create a more resilient financial sector by strengthening the banking sector's liquidity risk management.

A maturity mismatch in a bank's balance sheet creates liquidity risk. Banks will typically manage this liquidity risk by holding enough liquid assets to meet their usual net outflow demands. The presence of a central bank that can serve as a lender of last resort provides an element of liquidity insurance, which, as is often the case with insurance, creates moral hazard. Because of the presence of a lender of last resort, banks may not hold socially optimal levels of liquid assets. The LCR buffer established by the proposed rule offsets the moral hazard to a degree, and lowers the probability of a liquidity crisis and may limit the severity of liquidity crises when they do occur. Reducing the severity of liquidity crises will also limit the damage from negative externalities associated with liquidity crises, e.g., asset fire sales, rapid deleveraging, liquidity hoarding, and reduced credit availability.[70] Furthermore, the LCR buffer at institutions affected by the proposed rule could help alleviate liquidity stress at smaller institutions that may still hold less than the socially optimal level of liquid assets because of ongoing moral hazard problems. As van den End and Kruidhof (2013) point out, the degree of systemic liquidity stress will ultimately depend on the size of liquidity shocks the financial system encounters, the size of the initial liquidity buffer, regulatory constraints on the buffer, and behavioral reactions by banks and other market participants.

Capital and liquidity in the banking sector provide critical buffers to the broader economy. Capital allows the banking sector to absorb unexpected losses from some customers while continuing to extend credit to others. Liquidity in the banking sector allows banks to provide cash to customers who have unexpected demands for liquidity. The financial crisis of 2007–2009 began with a severe liquidity crisis when the asset-backed commercial paper market (ABCP) essentially froze in August of 2007 and the demand for liquidity from the banking sector quickly outstripped its supply of liquid assets. Acharya, Afonso, and Kovner (2013) discuss the problems in the ABCP market in 2007 and how foreign and domestic banks scrambled for liquidity in U.S. financial markets.[71] They find that U.S. banks sought to increase liquidity by increasing deposits and borrowing through Federal Home Loan Bank advances. Foreign banks operating in the United States were generally not eligible for Federal Home Loan Bank advances and sought liquidity by decreasing overnight interbank lending and borrowed from the Federal Reserve's Term Auction Facility when that became available.

TABLE 1—SPECIAL LIQUIDITY FACILITIES INTRODUCED DURING THE 2007–2009 FINANCIAL CRISIS

Facility or program	Dates	Type of activity	Activity levels
Agency Mortgage-Backed Security (MBS) Purchase Program.	Began 11/2008	Purchase of Agency guaranteed MBS.	$1.25 trillion purchased between 1/2009 and 3/2010.
Term Auction Facility	12/12/2007–3/8/2010	28-day and 84-day loans to depository institutions.	Maximum one day auction of $142.3 billion on 2/12/2009.
Central Bank Liquidity Swap Lines	Began 12/12/2007	1-day to 90-day swap lines of credit with certain foreign central banks.	Maximum one day extension of $422.5 billion on 10/15/2008.
Primary Dealer Credit Facility	Announced 3/16/2008	Overnight loan facility for primary dealers.	Maximum of $155.8 billion on 9/29/2008.
Term Securities Lending Facility	Announced 3/11/2008	One-month loans of Treasury Securities to primary dealers.	One-day Maximum of $75.0 billion on 3/28/2008.
Asset-Backed Commercial Paper Money Market Mutual Fund Liquidity Facility.	Announced 9/19/2008	Nonrecourse loans to financial institutions to purchase eligible ABCP from Money Market Mutual Funds.	One-day Maximum of $31.1 billion on 9/23/2008.
Commercial Paper Funding Facility	Announced 10/7/2008	Three-month loans to specially created company that purchased commercial paper from eligible issuers.	One-day Maximum lent of $56.6 billion on 10/29/2008.
Term Asset-Backed Securities Loan Facility.	Announced 11/25/2008	Nonrecourse loans of up to five years to holders of eligible asset-backed securities.	Loan Total of $71.1 billion.

[70] For a discussion of liquidity risk and problems associated with liquidity risk, see Douglas W. Diamond and Philip H. Dybvig, ''Bank Runs, Deposit Insurance, and Liquidity'', *Journal of Political Economy,* Vol. 91, No. 3, June 1983, pp. 401–419 and Jan Willem van den End and Mark Kruidhof, ''Modelling the liquidity ratio as macroprudential instrument'', *Journal of Banking Regulation,* Vol. 14, No. 2, 2013, pp. 91–106.

[71] *See* Acharya, Viral V., Gara Afonso, and Anna Kovner, (2013), ''How Do Global Banks Scramble for Liquidity? Evidence from the Asset-Backed Commercial Paper Freeze of 2007'', Federal Reserve Bank of New York, Staff Report No. 623, August 2013.

TABLE 1—SPECIAL LIQUIDITY FACILITIES INTRODUCED DURING THE 2007–2009 FINANCIAL CRISIS—Continued

Facility or program	Dates	Type of activity	Activity levels
FDIC Temporary Liquidity Guarantee Program.	10/14/2008	Transaction Account Guarantee Program (TAGP) guaranteed noninterest-bearing transaction accounts; Debt Guarantee Program (DGP) guaranteed certain newly issued senior unsecured debt.	TAGP covered $834.5 billion in eligible deposits as of 12/31/2009; DGP peak guarantee of $348.5 billion of outstanding debt.

Source: Federal Reserve, FDIC.

A study by Cornett, McNutt, Strahan, and Tehranian (2011) suggests that banks with less liquid assets at the start of the crisis reduced lending, and that the overall effort by banks to manage the liquidity crisis led to a decrease in credit supply.[72] Cornett *et al* also point out that through new and existing credit lines, banks provide crucial liquidity to the overall market during a liquidity drought. This sentiment is shared in an earlier study by Gatev and Strahan (2006), which suggests that large firms that use the commercial paper and bond markets during normal times, depend upon banks for liquidity during periods of market stress. Gatev and Strahan also provide evidence that banks tend to experience funding inflows during liquidity crises, for instance, when commercial-paper spreads widen. Gatev and Strahan's results show that when commercial-paper spreads widen, banks increase their reliance on transaction deposits and yields on large certificates-of-deposit tend to fall. They attribute these inflows at least partially to implicit government support for banks. They also point out that deposit outflows during the Great Depression led to a severe credit contraction.[73]

This evidence of the role that banks play in providing liquidity during a liquidity crisis highlights the importance of ensuring that banks are properly managing their liquidity risk so that they are able to provide liquidity to others under all but the most dire of circumstances. The proposed rule does not seek to ensure that banks always have a specific amount of high quality liquid assets, because such a requirement could prove counterproductive during a liquidity crisis. Rather, the proposed rule seeks to ensure that certain banks have an amount of high quality liquid assets that will enable them to meet their own liquidity needs and the liquidity needs of their customers, even during periods of market stress.

The Proposed Rule

The proposed rule would require covered institutions to maintain a liquidity coverage ratio (LCR) according to the transition schedule (shown in table 2) beginning January 1, 2015.

TABLE 2—TRANSITION PERIOD FOR THE MINIMUM LIQUIDITY COVERAGE RATIO

Calendar year	Minimum liquidity coverage ratio (in percent)
2015	80
2016	90
2017, and beyond	100

The proposed rule would require covered institutions to calculate their LCR on a daily basis at a set time selected by the institution. The proposed rule does not require a covered institution to report its LCR to the appropriate regulatory agency unless the institution expects a shortfall at its selected reporting time.

The LCR is equal to the bank's qualifying high-quality liquid assets (HQLA) divided by the bank's total net cash outflows over a prospective 30-day liquidity stress scenario:

LCR = [(HQLA)/(Total net cash outflow)] * 100.

HQLA = (Level 1 liquid assets − Required Reserves) + .85*(Level 2A liquid assets) + .5*(Level 2B liquid assets) − (the maximum of the Adjusted or Unadjusted Excess HQLA Amount).

Total net cash outflow = (Total cash outflow) − (Limited Total cash inflow), where the total net cash outflow is equal to total net cash outflow on the day within the 30-day stress period that has the largest net cumulative cash outflows after limiting cash inflow amounts to 75 percent of cash outflows.

When the LCR of a covered institution falls below the minimum LCR on a particular day, the institution must notify its primary federal supervisor. If the LCR is below the minimum LCR for three consecutive business days, the institution must submit a plan for remediation of the shortfall to its primary federal supervisor. In addition to public disclosure requirements described later in this section, the proposed rule includes various reporting requirements that a covered institution must make to its primary federal regulator on a periodic basis.

Both the Basel III LCR framework and the proposed rule recognize the importance of allowing a covered institution to use its HQLA when necessary to meet liquidity needs. The proposed rule would require a covered banking organization to report to its appropriate federal banking agency when its liquidity coverage ratio falls below 100 percent on any business day. In addition, if a covered banking organization's LCR is below 100 percent for three consecutive business days, then the covered banking organization would be required to provide its supervisory agency with (1) the reasons its liquidity coverage ratio has fallen below the minimum, and (2) a plan for remediation. While an LCR shortfall will always result in supervisory monitoring, circumstances will dictate whether the shortfall results in supervisory enforcement action. Existing supervisory processes and procedures related to regulatory compliance and risk management would help determine the appropriate response to LCR non-compliance by the appropriate federal banking agency.

Institutions Affected by the Proposed Rule

The proposed rule would apply to (1) all internationally active banking organizations with more than $250 billion in total assets or more than $10 billion in on-balance sheet foreign exposure and to their subsidiary depository institutions with $10 billion or more in total consolidated assets, and

[72] *See* Cornett, Marcia Millon, Jamie John McNutt, Philip E. Strahan, and Hassan Tehranian, (2011), ''Liquidity risk management and credit supply in the financial crisis,'' *Journal of Financial Economics,* Vol. 101, pp. 297–312.

[73] *See* Gatev, Evan, and Philip E. Strahan, (2006), ''Banks' Advantage in Hedging Liquidity Risk: Theory and Evidence from the Commercial Paper Market,'' *Journal of Finance,* Vol. 61, No. 2, pp. 867–892.

(2) companies designated for supervision by the Federal Reserve Board by the Financial Stability Oversight Council under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act that do not have significant insurance operations, and to their consolidated subsidiaries that are depository institutions with $10 billion or more in total consolidated assets. As of June 30, 2013, we estimate that approximately 16 bank holding companies will be subject to the proposed rule and 27 subsidiary depository institutions with $10 billion or more in consolidated assets. Of these, 13 holding companies include OCC-supervised institutions (national bank or federal savings association), and within these 13 holding companies, there are a total of 21 OCC-supervised subsidiaries with $10 billion or more in consolidated assets. Thus, we estimate that 21 OCC-supervised banks will be subject to the proposed rule.

Estimated Costs and Benefits of the Proposed Rule

The proposed rule entails costs in two principal areas: the operational costs associated with establishing programs and procedures to calculate and report the LCR on a daily basis, and the opportunity costs of adjusting the bank's assets and liabilities to comply with the minimum LCR standard on a daily basis. The benefits of the proposed rule are qualitative in nature, but substantial nonetheless. As described by the Basel Committee on Banking Supervision, ''the objective of the LCR is to promote the short-term resilience of the liquidity risk profile of banks.'' [74] A principal benefit of the proposed rule is that, in the guise of the LCR, the proposed rule establishes a measure of liquidity that will be consistent across time and across covered institutions. A consistent measure of liquidity could prove invaluable to bank supervisors and bank managers during periods of financial market stress.

To help calibrate the LCR proposal and gauge the distance covered institutions may have to cover to comply with a liquidity rule, the banking agencies have been conducting a quantitative impact study (QIS) by collecting consolidated data from bank holding companies on various components of the LCR and the net stable funding ratio. We use QIS data from the fourth quarter of 2012, to estimate the current LCR shortfall across all OCC-supervised institutions subject to the proposed rule. Institutions facing an LCR shortfall have three options to meet the minimum LCR standard. They may either (1) increase their holdings of high quality liquid assets to increase the numerator of the LCR, (2) decrease the denominator of the LCR by decreasing their outflows, or (3) decrease the denominator by adjusting assets and liabilities to increase their inflows. Of course, they may also elect to meet the LCR standard by pursuing some combination of the three options.

Data from the QIS for the fourth quarter of 2012 suggests that there is currently a shortfall of approximately $151 billion among OCC-supervised institutions participating in the QIS. OCC-supervised institutions participating in the QIS account for approximately 90 percent of the assets of all OCC-supervised institutions that we estimate may be subject to the proposed rule. To estimate the potential shortfall among OCC-supervised institutions that are subject to the proposal but do not participate in the QIS, we apply the ratio of the shortfall to total assets across QIS participants to the total assets across nonparticipants. This method yields an additional shortfall of approximately $9 billion. Combining these two shortfall amounts results in an overall shortfall estimate of approximately $160 billion for the OCC-supervised institutions' shortfall.

In pursuing one or more of the options open to them to make up the shortfall and comply with the minimum LCR standard, we anticipate that affected institutions would have to surrender some yield to close the LCR gap. If they elect to close the gap by replacing assets that are not HQLAs with HQLAs, they would likely receive a lower rate of return on the HQLA relative to the non-HQLA. Similarly, they would likely have to pay a higher rate of interest to either reduce their outflows or increase their inflows. Although we do not know the exact size of the change in yield necessary to close the LCR gap, a recent industry report card by Standard & Poor's suggests that a recent quarter over quarter decline of 4 basis points in net interest margin at large, complex banks was due in part to an increase in HQLA to improve Basel III LCRs.[75] The median year over year overall decline was 21 basis points. Table 3 shows the estimated cost of eliminating the $160 billion LCR shortfall for a range of basis points. For the purposes of this analysis, we estimate that the cost of closing the LCR gap will be between 10 basis points and 15 basis points. As shown in table 3, this implies that our estimate of the opportunity cost of changes in the balance sheet to satisfy the requirements of the proposed rule will fall between $160 million and $241 million.

TABLE 3—LCR OPPORTUNITY COST ESTIMATES

Basis points	Estimated LCR shortfall (In billion)	Opportunity cost to eliminate shortfall (In million)
0	$160	$0
5	160	80
10	160	160
15	160	241
20	160	321
25	160	401
30	160	481

[74] *See* Basel Committee on Banking Supervision (2013), ''Basel III: The Liquidity Coverage Ratio and liquidity risk monitoring tools,'' Bank for International Settlements, January, p. 1.

[75] *See* Standard & Poor's, RatingsDirect, ''Industry Report Card: U.S. Large, Complex Banks' Capital Markets Business Trumped Traditional Banking in the Second Quarter,'' August 8, 2013, p. 5.

In addition to opportunity costs associated with changes in the banks' balance sheets, institutions affected by the rule also face compliance costs related to the time and effort necessary to establish programs and procedures to calculate and report the LCR on a daily basis. The principal compliance costs of the proposed rule will involve the costs of establishing procedures and maintaining the programs that calculate the LCR and report the results. These efforts will also involve various recordkeeping, reporting, and training requirements.

In particular, the proposed rule would require each covered institution to:

1. Establish and maintain a system of controls, oversight, and documentation for its LCR program.
2. Establish and maintain a program to demonstrate an institutional capacity to liquidate their stock of HQLA, which requires a bank to periodically sell a portion of its HQLAs.
3. Calculate the LCR on a daily basis.
4. Establish procedures to report an LCR deficiency to the institution's primary federal supervisor.

Table 4 shows our estimates of the hours needed to complete tasks associated with establishing systems to calculate the LCR, reporting the LCR, and training staff responsible for the LCR. In developing these estimates, we consider the requirements of the proposed rule and the extent to which these requirements extend current business practices. Because liquidity measurement and management are already integral components of a bank's ongoing operations, all institutions affected by the proposed rule already engage in some sort of liquidity measurement activity. Thus, our hour estimates reflect the additional time necessary to build upon current internal practices.[76] As shown in table 4, we estimate that financial institutions covered by the proposed rule will spend approximately 2,760 hours during the first year the rule is in effect. Because most of these costs reflect start-up costs associated with the introduction of systems to collect and process the data needed to calculate the LCR, we estimate that in subsequent years, after LCR systems are in place, annual compliance hours will taper off to 800 hours per year.

Table 5 shows our overall operational cost estimate for the proposed rule. This estimate is the product of our estimate of the hours required per institution, our estimate of the number of institutions affected by the rule, and an estimate of hourly wages. To estimate hours necessary per activity, we estimate the number of employees each activity is likely to need and the number of days necessary to assess, implement, and perfect the required activity. To estimate hourly wages, we reviewed data from May 2012 for wages (by industry and occupation) from the U.S. Bureau of Labor Statistics (BLS) for depository credit intermediation (NAICS 522100). To estimate compensation costs associated with the proposed rule, we use $92 per hour, which is based on the average of the 90th percentile for seven occupations (i.e., accountants and auditors, compliance officers, financial analysts, lawyers, management occupations, software developers, and statisticians) plus an additional 33 percent to cover inflation and private sector benefits.[77]

As shown in table 5, we estimate that the overall operational costs of the proposed rule in the first year of implementation will be approximately $5.3 million. Eliminating start-up costs after the first year, we expect annual operational costs in subsequent years to be approximately $2.0 million. We do not expect the OCC to incur any material costs as a result of the proposed rule. Combining our opportunity cost estimates (between $160 million and $241 million) and our operational cost estimate ($5.3 million) results in our overall cost estimate of between $165 million and $246 million for the proposed LCR rule. This estimate exceeds the threshold for a significant rule under the OCC's Unfunded Mandates Reform Act (UMRA) procedures.

TABLE 4—ESTIMATED ANNUAL HOURS FOR LCR CALCULATION

Activity	Estimated start-up hours per institution	Estimated ongoing hours per institution
Develop and maintain systems for LCR program	2,400	520
Daily internal reporting of LCR	260	260
Training	100	20
Total	2,760	800

TABLE 5—ESTIMATED OPERATIONAL COSTS FOR LCR PROPOSAL

Number of covered OCC institutions	Estimated hours per institution	Estimated cost per institution	Estimated total operational costs
21	2,760	$253,920	$5,332,320

Potential Costs

In addition to the anticipated operational and opportunity costs described earlier, the introduction of an LCR as described in the proposed rule could also affect some broader markets. In this section we list some aspects of the proposed rule that we do not expect to carry substantial direct costs, but under some circumstances, could affect the intended outcome of the proposed rule. We will look to comment letters to see if any of these considerations warrant a more specific inclusion in our

[76] For instance, certain operational requirements, especially with respect to demonstrating the liquidity of an institution's HQLA portfolio, could further increase operational costs if these requirements do not reflect current business practices. We do not include these potential costs in our current estimate, and we will look to comment letters especially with respect to this potential cost for information regarding deviation from current business practices.

[77] According to BLS' employer costs of employee benefits data, thirty percent represents the average private sector costs of employee benefits.

analysis of the final rule. These potential costs include:

1. *Potential problems from liquidity hoarding:* The proposed rule increases the potential for liquidity hoarding among covered institutions, especially during a crisis. To the extent that this possibility emerges as a significant concern among comment letters, an alternative proposal that allows the LCR to fall within a range of 90–100 percent could alleviate some potential for hoarding. The study by van den End and Kruidhof (2013) suggest several possible policy responses to increasingly severe liquidity shocks. These policy responses include (1) reducing the minimum level of the LCR, (2) widening the LCR buffer definition to include more assets, and (3) acknowledge central bank funding in the LCR denominator. They also point out that in the most severe liquidity stress scenarios, the lender of last resort may still need to rescue the financial system. In the event of a liquidity crisis, Diamond and Dybvig (1983) suggest that the discount window or expanding deposit insurance on either a temporary or permanent basis are tools that can help prevent bank runs.

2. *No LCR reporting requirement in the proposal:* While the LCR proposal does not include a reporting requirement, the agencies plan to do so in the future. Any such reporting requirement will be published for notice and comment. One of the principal benefits of the proposed rule is the introduction of a liquidity risk measurement that is consistent across time and across covered institutions. Knowledge of the LCR and its components across institutions makes the LCR an important supervisory tool and a lack of a standardized reporting requirement would mean a significant loss of the benefits of the proposal. For instance, a decrease in the LCR may occur because of changes in one or more of its three components: a decrease in HQLA, an increase in outflow, or a decrease in inflow. It is important for bank supervisors and the lender of last resort to know which element is changing. Bank supervisors also need to know if the change in the LCR is idiosyncratic or systemic. In particular, bank supervisors should know the number of banks reacting to the liquidity shock and the extent of these reactions to help determine the appropriate policy response, e.g., adjusting LCR requirements, discount window lending, expansion of deposit insurance coverage, or asset purchases. Furthermore, the current LCR formula is not likely to be a static formula, and banking supervisors will need information on the behavior of components in the LCR to calibrate it and update it over time.

3. *Public disclosure:* While it is important for bank supervisors to be well informed regarding changes in the LCR and its components, the likelihood of liquidity hoarding increases if banks are required to publicly disclose their LCR. Thus, it is appropriate that the proposed rule does not include a public disclosure requirement, though there may be some public disclosure at the bank holding company level.

4. *Temporary Gaming Opportunity:* The absence of a Net Stable Funding Ratio (NSFR) requirement creates some opportunity to game the LCR with maturity dates.

5. *Challenges to LCR Calibration:* The components of the LCR tend to focus on the behavior of assets in the most recent financial crisis and may not capture asset performance during the next liquidity crisis, and the focus of the LCR should be on future liquidity events.

6. *HQLA Designation Should Enhance Liquidity:* Including an asset in eligible HQLA will tend to increase the liquidity of that particular asset, except under stress conditions when there may be hoarding. Similarly, excluding assets from HQLA will tend to decrease the liquidity of those assets.

7. *Potential for additional operational costs:* Certain operational requirements, especially with respect to demonstrating the liquidity of an institution's HQLA portfolio, could further increase operational costs if these requirements do not reflect current business practices. We will look to comment letters especially with respect to this potential cost for information regarding deviation from current business practices.

Comparison Between the Proposed Rule and the Baseline

Under current rules, banks are subject to a general liquidity risk management requirement captured as part of the CAMELS rating system. The CAMELS rating system examines capital adequacy, asset quality, management quality, earnings, liquidity, and sensitivity to market risk. According to the *Comptroller's Handbook,* the liquidity component of this rating system requires banks to have a sound understanding of the following seven factors affecting a bank's liquidity risk.

1. Projected funding sources and needs under a variety of market conditions.

2. Net cash flow and liquid asset positions given planned and unplanned balance sheet changes.

3. Projected borrowing capacity under stable conditions and under adverse scenarios of varying severity and duration.

4. Highly liquid asset (which is currently defined as U.S. Treasury and Agency securities and excess reserves at the Federal Reserve) and collateral position, including the eligibility and marketability of such assets under a variety of market environments.

5. Vulnerability to rollover risk, which is the risk that a bank is unable to renew or replace funds at reasonable costs when they mature or otherwise come due.

6. Funding requirements for unfunded commitments over various time horizons.

7. Projected funding costs, as well as earnings and capital positions under varying rate scenarios and market conditions.

Under the baseline scenario, liquidity requirements incorporated in the CAMELS rating process and the Comptroller's Handbook on liquidity would continue to apply. Thus, under the baseline, institutions affected by the proposed rule would not have to calculate and report the LCR, and the banks would incur no additional costs related to liquidity risk measurement and management. Under the baseline, however, there would also be no added benefits related to the introduction of a consistent measure of liquidity.

Comparison Between the Proposed Rule and Alternatives

With respect to OCC-supervised institutions, the proposed rule would apply to 21 national banks or federal savings associations that are subject to the advanced approaches risk-based capital rules and their subsidiary depository institutions with $10 billion or more in total consolidated assets. For our feasible alternatives, we consider applying the proposed rule using criteria other than use of the advanced approaches threshold. In particular, we consider the impact of the proposal if (1) the rule only applied to institutions designated as global systemically important banks (G–SIBs) and their subsidiary depository institutions with $10 billion or more in total consolidated assets, and (2) the rule applied to all depository institutions with $10 billion or more in total assets.

The first alternative considers applying the LCR to U.S. bank or financial holding companies identified in November 2012, as global systemically important banking organizations by the Basel Committee on Banking Supervision. This implies that the U.S. banking organizations that would be subject to the proposed rule are Citigroup Inc., JP Morgan Chase &

Co., Bank of America Corporation, The Bank of New York Mellon Corporation, Goldman Sachs Group, Inc., Morgan Stanley, State Street Corporation, and Wells Fargo & Company. Together with their insured depository institution subsidiaries also covered by the proposed rule, 12 OCC-supervised banks would be subject to the proposal.

Applying the same methodology as before, we estimate that the LCR shortfall for OCC-supervised G–SIBS would be approximately $104 billion, which yields an opportunity cost estimate of between $104 million and $157 million. This opportunity cost estimate again assumes a 10–15 basis point cost to the balance sheet adjustment. Applying the same operational cost estimate as before to the 12 OCC institutions subject to the proposal under the first alternative scenario, results in an operational cost estimate of $3.0 million. Combining opportunity and operational costs provides a total cost estimate of between $107 million and $160 million under the first alternative.

The second alternative considers applying the LCR to all U.S. banks with total assets of $10 billion or more. This size threshold would increase the number of OCC-supervised banks to 59, and the estimated LCR shortfall would increase to $179 billion. The opportunity cost estimate would then be between $179 million and $269 million. The operational cost estimate would increase to $15.0 million across the 59 institutions. Thus, the overall cost estimate under the second alternative would be between $194 million and $284 million.

The Unfunded Mandates Reform Act (UMRA) Conclusion

UMRA requires federal agencies to assess the effects of federal regulatory actions on State, local, and tribal governments and the private sector. As required by the UMRA, our review considers whether the mandates imposed by the rule may result in an expenditure of approximately $141 million or more annually by state, local, and tribal governments, or by the private sector.[78] Our estimate of the total cost is between $165 million and $246 million per year. We conclude that the proposed rule will result in private sector costs that exceed the UMRA threshold for a significant rule.[79]

Other than the aforementioned costs to banking organizations affected by the proposed rule, we do not anticipate any disproportionate effects upon any particular regions of the United States or particular State, local, or tribal governments, or urban or rural communities. We do not expect an increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies. Nor do we expect this proposed rule to have a significant adverse effect on economic growth, competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises.

Text of the Proposed Common Rules (All Agencies)

The text of the proposed common rules appears below:

PART [INSERT PART]—LIQUIDITY RISK MEASUREMENT, STANDARDS AND MONITORING

Text of Common Rule

Subpart A—General Provisions

§ __.1 Purpose and applicability.

(a) *Purpose.* This part establishes a minimum liquidity standard and disclosure requirements for certain [BANK]s, as set forth herein.

(b) *Applicability.* (1) A [BANK] is subject to the minimum liquidity standard and other requirements of this part if:

(i) It has consolidated total assets equal to $250 billion or more, as reported on the most recent year-end [REGULATORY REPORT];

(ii) It has consolidated total on-balance sheet foreign exposure at the most recent year-end equal to $10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report);

(iii) It is a depository institution that is a consolidated subsidiary of a company described in paragraphs (b)(1)(i) or (b)(1)(ii) of this section and has consolidated total assets equal to $10 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income; or

(iv) The [AGENCY] has determined that application of this part is appropriate in light of the [BANK]'s asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(2) This part does not apply to:

(i) A bridge financial company as defined in 12 U.S.C. 5381(a)(3), or a subsidiary of a bridge financial company; or

(ii) A new depository institution or a bridge depository institution, as defined in 12 U.S.C. 1813(i).

(3) A [BANK] subject to a minimum liquidity standard under this part shall remain subject until the [AGENCY] determines in writing that application of this part to the [BANK] is not appropriate in light of the [BANK]'s asset size, level of complexity, risk profile, scope of operations, affiliation with foreign or domestic covered entities, or risk to the financial system.

(4) In making a determination under paragraphs (b)(1)(iv) or (3) of this section, the [AGENCY] will apply notice and response procedures in the same manner and to the same extent as the notice and response procedures in [12 CFR 3.404 (OCC), 12 CFR 263.202 (Board), and 12 CFR 324.5 (FDIC)].

§ __.2 Reservation of authority.

(a) The [AGENCY] may require a [BANK] to hold an amount of high-quality liquid assets (HQLA) greater than otherwise required under this part, or to take any other measure to improve the [BANK]'s liquidity risk profile, if the [AGENCY] determines that the [BANK]'s liquidity requirements as calculated under this part are not commensurate with the [BANK]'s liquidity risks. In making determinations under this section, the [AGENCY] will apply notice and response procedures as set forth in [12 CFR 3.404 (OCC), 12 CFR 263.202 (Board), and 12 CFR 324.5 (FDIC)].

(b) Nothing in this part limits the authority of the [AGENCY] under any other provision of law or regulation to take supervisory or enforcement action, including action to address unsafe or unsound practices or conditions, deficient liquidity levels, or violations of law.

[78] UMRA's aggregate expenditure threshold to determine the significance of regulatory actions is $100 million or more adjusted annually for inflation. Using the GDP deflator published by the Bureau of Economic Analysis, we apply the ratio of the 2012 GDP deflator to the 1995 deflator and multiply by $100 million to arrive at our inflation adjusted UMRA threshold of approximately $141 million.

[79] UMRA describes costs as expenditures necessary to comply with federal private sector mandates, and could thus be interpreted to exclude opportunity costs. Our estimate of direct expenditures (excluding opportunity costs) is approximately $7 million per year.

§ __.3 Definitions.

For the purposes of this part:

Affiliated depository institution means with respect to a [BANK] that is a depository institution, another depository institution that is a consolidated subsidiary of a bank holding company or savings and loan holding company of which the [BANK] is also a consolidated subsidiary.

Asset exchange means a transaction that requires the counterparties to exchange non-cash assets at a future date. Asset exchanges do not include secured funding and secured lending transactions.

Bank holding company is defined in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*).

Brokered deposit means any deposit held at the [BANK] that is obtained, directly or indirectly, from or through the mediation or assistance of a deposit broker as that term is defined in section 29 of the Federal Deposit Insurance Act (12 U.S.C. 1831f(g)), and includes a reciprocal brokered deposit and a brokered sweep deposit.

Brokered sweep deposit means a deposit held at the [BANK] by a customer or counterparty through a contractual feature that automatically transfers to the [BANK] from another regulated financial company at the close of each business day amounts identified under the agreement governing the account from which the amount is being transferred.

Calculation date means any date on which a [BANK] calculates its liquidity coverage ratio under § __.10.

Client pool security means a security that is owned by a customer of the [BANK] and is not an asset of the [BANK] regardless of a [BANK]'s hypothecation rights to the security.

Committed means, with respect to a credit facility or liquidity facility, that under the terms of the legally binding agreement governing the facility:

(1) The [BANK] may not refuse to extend credit or funding under the facility; or

(2) The [BANK] may refuse to extend credit under the facility (to the extent permitted under applicable law) only upon the satisfaction or occurrence of one or more specified conditions not including change in financial condition of the borrower, customary notice, or administrative conditions.

Company means a corporation, partnership, limited liability company, depository institution, business trust, special purpose entity, association, or similar organization.

Consolidated subsidiary means a company that is consolidated on a [BANK]'s balance sheet under GAAP.

Covered depository institution holding company means a top-tier bank holding company or savings and loan holding company domiciled in the United States other than:

(1) A top-tier savings and loan holding company that is:

(i) A grandfathered unitary savings and loan holding company as defined in section 10(c)(9)(A) of the Home Owners' Loan Act (12 U.S.C. 1461 *et seq.*); and

(ii) As of June 30 of the previous calendar year, derived 50 percent or more of its total consolidated assets or 50 percent of its total revenues on an enterprise-wide basis (as calculated under GAAP) from activities that are not financial in nature under section 4(k) of the Bank Holding Company Act (12 U.S.C. 1842(k));

(2) A top-tier depository institution holding company that is an insurance underwriting company; or

(3)(i) A top-tier depository institution holding company that, as of June 30 of the previous calendar year, held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk); and

(ii) For purposes of paragraph 3(i) of this definition, the company must calculate its total consolidated assets in accordance with GAAP, or if the company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may estimate its total consolidated assets, subject to review and adjustment by the Board.

Covered nonbank company means a company that the Financial Stability Oversight Council has determined under section 113 of the Dodd-Frank Act (12 U.S.C. 5323) shall be supervised by the Board and for which such determination is still in effect (designated company) other than:

(1) A designated company that is an insurance underwriting company; or

(2)(i) A designated company that, as of June 30 of the previous calendar year, held 25 percent or more of its total consolidated assets in subsidiaries that are insurance underwriting companies (other than assets associated with insurance for credit risk); and

(ii) For purposes of paragraph 2(i) of this definition, the company must calculate its total consolidated assets in accordance with GAAP, or if the company does not calculate its total consolidated assets under GAAP for any regulatory purpose (including compliance with applicable securities laws), the company may estimate its total consolidated assets, subject to review and adjustment by the Board.

Credit facility means a legally binding agreement to extend funds if requested at a future date, including a general working capital facility such as a revolving credit facility for general corporate or working capital purposes. Credit facilities do not include facilities extended expressly for the purpose of refinancing the debt of a counterparty that is otherwise unable to meet its obligations in the ordinary course of business (including through its usual sources of funding or other anticipated sources of funding). *See liquidity facility.*

Deposit means ''deposit'' as defined in section 3(*l*) of the Federal Deposit Insurance Act (12 U.S.C. 1813(*l*)) or an equivalent liability of the [BANK] in a jurisdiction outside of the United States.

Depository institution is defined in section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)).

Depository institution holding company means a bank holding company or savings and loan holding company.

Deposit insurance means deposit insurance provided by the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*).

Derivative transaction means a financial contract whose value is derived from the values of one or more underlying assets, reference rates, or indices of asset values or reference rates. Derivative contracts include interest rate derivative contracts, exchange rate derivative contracts, equity derivative contracts, commodity derivative contracts, credit derivative contracts, and any other instrument that poses similar counterparty credit risks. Derivative contracts also include unsettled securities, commodities, and foreign currency exchange transactions with a contractual settlement or delivery lag that is longer than the lesser of the market standard for the particular instrument or five business days. A derivative does not include any identified banking product, as that term is defined in section 402(b) of the Legal Certainty for Bank Products Act of 2000 (7 U.S.C. 27(b)), that is subject to section 403(a) of that Act (7 U.S.C. 27a(a)).

Dodd-Frank Act means the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010).

Foreign withdrawable reserves means a [BANK]'s balances held by or on behalf of the [BANK] at a foreign central bank that are not subject to restrictions on the [BANK]'s ability to use the reserves.

GAAP means generally accepted accounting principles as used in the United States.

High-quality liquid asset (HQLA) means an asset that meets the requirements for level 1 liquid assets, level 2A liquid assets, or level 2B liquid assets, as set forth in subpart C of this part.

HQLA amount means the HQLA amount as calculated under § __.21.

Identified company means any company that the [AGENCY] has determined should be treated the same for the purposes of this part as a regulated financial company, investment company, non-regulated fund, pension fund, or investment adviser, based on activities similar in scope, nature, or operations to those entities.

Individual means a natural person, and does not include a sole proprietorship.

Investment adviser means a company registered with the SEC as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 *et seq.*), or foreign equivalents of such company.

Investment company means a company registered with the SEC under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) or foreign equivalents of such company.

Liquid and readily-marketable means, with respect to a security, 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.

Liquidity facility means a legally binding agreement to extend funds at a future date to a counterparty that is made expressly for the

purpose of refinancing the debt of the counterparty when it is unable to obtain a primary or anticipated source of funding. A liquidity facility includes an agreement to provide liquidity support to asset-backed commercial paper by lending to, or purchasing assets from, any structure, program or conduit in the event that funds are required to repay maturing asset-backed commercial paper. Liquidity facilities exclude facilities that are established solely for the purpose of general working capital, such as revolving credit facilities for general corporate or working capital purposes. *See credit facility.*

Multilateral development bank means the International Bank for Reconstruction and Development, the Multilateral Investment Guarantee Agency, the International Finance Corporation, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, the European Bank for Reconstruction and Development, the European Investment Bank, the European Investment Fund, the Nordic Investment Bank, the Caribbean Development Bank, the Islamic Development Bank, the Council of Europe Development Bank, and any other entity that provides financing for national or regional development in which the U.S. government is a shareholder or contributing member or which the [AGENCY] determines poses comparable credit risk.

Non-regulated fund means any hedge fund or private equity fund whose investment adviser is required to file SEC Form PF (Reporting Form for Investment Advisers to Private Funds and Certain Commodity Pool Operators and Commodity Trading Advisors), and any consolidated subsidiary of such fund, other than a small business investment company as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*).

Nonperforming exposure means an exposure that is past due by more than 90 days or nonaccrual.

Operational deposit means unsecured wholesale funding that is required for the [BANK] to provide operational services as an independent third-party intermediary to the wholesale customer or counterparty providing the unsecured wholesale funding. In order to recognize a deposit as an operational deposit for purposes of this part, a [BANK] must comply with the requirements of § __.4(b) with respect to that deposit.

Operational services means the following services, provided they are performed as part of cash management, clearing, or custody services:

(1) Payment remittance;

(2) Payroll administration and control over the disbursement of funds;

(3) Transmission, reconciliation, and confirmation of payment orders;

(4) Daylight overdraft;

(5) Determination of intra-day and final settlement positions;

(6) Settlement of securities transactions;

(7) Transfer of recurring contractual payments;

(8) Client subscriptions and redemptions;

(9) Scheduled distribution of client funds;

(10) Escrow, funds transfer, stock transfer, and agency services, including payment and settlement services, payment of fees, taxes, and other expenses; and

(11) Collection and aggregation of funds.

Pension fund means an employee benefit plan as defined in paragraphs (3) and (32) of section 3 of the Employee Retirement Income and Security Act of 1974 (29 U.S.C. 1001 *et seq.*), a ''governmental plan'' (as defined in 29 U.S.C. 1002(32)) that complies with the tax deferral qualification requirements provided in the Internal Revenue Code, or any similar employee benefit plan established under the laws of a foreign jurisdiction.

Public sector entity means a state, local authority, or other governmental subdivision below the sovereign entity level.

Publicly traded means, with respect to a security, that the security is traded on:

(1) Any exchange registered with the SEC as a national securities exchange under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(2) Any non-U.S.-based securities exchange that:

(i) Is registered with, or approved by, a national securities regulatory authority; and

(ii) Provides a liquid, two-way market for the security in question.

Qualifying master netting agreement (1) Means a written, legally binding agreement that:

(i) Creates a single obligation for all individual transactions covered by the agreement upon an event of default, including upon an event of receivership, insolvency, liquidation, or similar proceeding, of the counterparty;

(ii) Provides the [BANK] the right to accelerate, terminate, and close out on a net basis all transactions under the agreement and to liquidate or set-off collateral promptly upon an event of default, including upon an event of receivership, insolvency, liquidation, or similar proceeding, of the counterparty, provided that, in any such case, any exercise of rights under the agreement will not be stayed or avoided under applicable law in the relevant jurisdictions, other than in receivership, conservatorship, resolution under the Federal Deposit Insurance Act, Title II of the Dodd-Frank Act, or under any similar insolvency law applicable to U.S. government-sponsored enterprises;

(iii) Does not contain a walkaway clause (that is, a provision that permits a non-defaulting counterparty to make a lower payment than it otherwise would make under the agreement, or no payment at all, to a defaulter or the estate of a defaulter, even if the defaulter or the estate of the defaulter is a net creditor under the agreement); and

(2) In order to recognize an agreement as a qualifying master netting agreement for purposes of this part, a [BANK] must comply with the requirements of § __.4(a) with respect to that agreement.

Reciprocal brokered deposit means a brokered deposit that a [BANK] receives through a deposit placement network on a reciprocal basis, such that:

(1) For any deposit received, the [BANK] (as agent for the depositors) places the same amount with other depository institutions through the network; and

(2) Each member of the network sets the interest rate to be paid on the entire amount of funds it places with other network members.

Regulated financial company means:

(1) A bank holding company; savings and loan holding company (as defined in section 10(a)(1)(D) of the Home Owners' Loan Act (12 U.S.C. 1467a(a)(1)(D)); nonbank financial institution supervised by the Board of Governors of the Federal Reserve System under Title I of the Dodd-Frank Act (12 U.S.C. 5323);

(2) A company included in the organization chart of a depository institution holding company on the Form FR Y–6, as listed in the hierarchy report of the depository institution holding company produced by the National Information Center (NIC) Web site,[1] provided that the top-tier depository institution holding company is subject to a minimum liquidity standard under this part;

(3) A depository institution; foreign bank; credit union; industrial loan company, industrial bank, or other similar institution described in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*); national bank, state member bank, or state non-member bank that is not a depository institution;

(4) An insurance company;

(5) A securities holding company as defined in section 618 of the Dodd-Frank Act (12 U.S.C. 1850a); broker or dealer registered with the SEC under section 15 of the Securities Exchange Act (15 U.S.C. 78o); futures commission merchant as defined in section 1a of the Commodity Exchange Act of 1936 (7 U.S.C. 1 *et seq.*); swap dealer as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a); or security-based swap dealer as defined in section 3 of the Securities Exchange Act (15 U.S.C. 78c);

(6) A designated financial market utility, as defined in section 803 of the Dodd-Frank Act (12 U.S.C. 5462); and

(7) Any company not domiciled in the United States (or a political subdivision thereof) that is supervised and regulated in a manner similar to entities described in paragraphs (1) through (6) of this definition (e.g., a foreign banking organization, foreign insurance company, foreign securities broker or dealer or foreign designated financial market utility).

(8) A regulated financial institution does not include:

(i) U.S. government-sponsored enterprises;

(ii) Small business investment companies, as defined in section 102 of the Small Business Investment Act of 1958 (15 U.S.C. 661 *et seq.*);

(iii) Entities designated as Community Development Financial Institutions (CDFIs) under 12 U.S.C. 4701 *et seq.* and 12 CFR part 1805; or

(iv) Central banks, the Bank for International Settlements, the International Monetary Fund, or a multilateral development bank.

[1] *http://www.ffiec.gov/nicpubweb/nicweb/NicHome.aspx.*

Reserve Bank balances means:

(1) Balances held in a master account of the [BANK] at a Federal Reserve Bank, less any balances that are attributable to any respondent of the [BANK] if the [BANK] is a correspondent for a pass-through account as defined in section 204.2(l) of Regulation D (12 CFR 204.2(l));

(2) Balances held in a master account of a correspondent of the [BANK] that are attributable to the [BANK] if the [BANK] is a respondent for a pass-through account as defined in section 204.2(l) of Regulation D;

(3) ''Excess balances'' of the [BANK] as defined in section 204.2(z) of Regulation D (12 CFR 204.2(z)) that are maintained in an ''excess balance account'' as defined in section 204.2(aa) of Regulation D (12 CFR 204.2(aa)) if the [BANK] is an excess balance account participant; and

(4) ''Term deposits'' of the [BANK] as defined in section 204.2(dd) of Regulation D (12 CFR 204.2(dd)) if such term deposits are offered and maintained pursuant to terms and conditions that:

(i) Explicitly and contractually permit such term deposits to be withdrawn upon demand prior to the expiration of the term, or that

(ii) Permit such term deposits to be pledged as collateral for term or automatically-renewing overnight advances from the Reserve Bank.

Retail customer or counterparty means a customer or counterparty that is:

(1) An individual; or

(2) A business customer, but solely if and to the extent that:

(i) The [BANK] manages its transactions with the business customer, including deposits, unsecured funding, and credit facility and liquidity facility transactions, in the same way it manages its transactions with individuals;

(ii) Transactions with the business customer have liquidity risk characteristics that are similar to comparable transactions with individuals; and

(iii) The total aggregate funding raised from the business customer is less than $1.5 million.

Retail deposit means a demand or term deposit that is placed with the [BANK] by a retail customer or counterparty, other than a brokered deposit.

Retail mortgage means a mortgage that is primarily secured by a first or subsequent lien on one-to-four family residential property.

Savings and loan holding company means a savings and loan holding company as defined in section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a).

SEC means the Securities and Exchange Commission.

Secured funding transaction means any funding transaction that gives rise to a cash obligation of the [BANK] to a counterparty that is secured under applicable law by a lien on specifically designated assets owned by the [BANK] that gives the counterparty, as holder of the lien, priority over the assets in the case of bankruptcy, insolvency, liquidation, or resolution, including repurchase transactions, loans of collateral to the [BANK]'s customers to effect short positions, and other secured loans. Secured funding transactions also include borrowings from a Federal Reserve Bank.

Secured lending transaction means any lending transaction that gives rise to a cash obligation of a counterparty to the [BANK] that is secured under applicable law by a lien on specifically designated assets owned by the counterparty and included in the [BANK]'s HQLA amount that gives the [BANK], as holder of the lien, priority over the assets in the case of bankruptcy, insolvency, liquidation, or resolution, including reverse repurchase transactions and securities borrowing transactions. If the specifically designated assets are not included in the [BANK]'s HQLA amount but are still held by the [BANK], then the transaction is an unsecured wholesale funding transaction. *See unsecured wholesale funding.*

Securities Exchange Act means the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Short position means a legally binding agreement to deliver a non-cash asset to a counterparty in the future.

Sovereign entity means a central government (including the U.S. government) or an agency, department, ministry, or central bank of a central government.

Special purpose entity means a company organized for a specific purpose, the activities of which are significantly limited to those appropriate to accomplish a specific purpose, and the structure of which is intended to isolate the credit risk of the special purpose entity.

Stable retail deposit means a retail deposit that is entirely covered by deposit insurance and:

(1) Is held by the depositor in a transactional account; or

(2) The depositor that holds the account has another established relationship with the [BANK] such as another deposit account, a loan, bill payment services, or any similar service or product provided to the depositor that the [BANK] demonstrates to the satisfaction of the [AGENCY] would make deposit withdrawal highly unlikely during a liquidity stress event.

Structured security means a security whose cash flow characteristics depend upon one or more indices or that have imbedded forwards, options, or other derivatives or a security where an investor's investment return and the issuer's payment obligations are contingent on, or highly sensitive to, changes in the value of underlying assets, indices, interest rates or cash flows.

Structured transaction means a secured transaction in which repayment of obligations and other exposures to the transaction is largely derived, directly or indirectly, from the cash flow generated by the pool of assets that secures the obligations and other exposures to the transaction.

Two-way market means a market where there are independent bona fide offers to buy and sell so that a price reasonably related to the last sales price or current bona fide competitive bid and offer quotations can be determined within one day and settled at that price within a relatively short time frame conforming to trade custom.

U.S. government-sponsored enterprise means an entity established or chartered by the Federal government to serve public purposes specified by the United States Congress, but whose debt obligations are not explicitly guaranteed by the full faith and credit of the United States government.

Unsecured wholesale funding means a liability or general obligation of the [BANK] to a wholesale customer or counterparty that is not secured under applicable law by a lien on specifically designated assets owned by the [BANK], including a wholesale deposit.

Wholesale customer or counterparty means a customer or counterparty that is not a retail customer or counterparty.

Wholesale deposit means a demand or term deposit that is provided by a wholesale customer or counterparty.

§ ___.4 Certain operational requirements.

(a) *Qualifying Master netting agreements.* In order to recognize an agreement as a qualifying master netting agreement as defined in § __.3, a [BANK] must:

(1) Conduct sufficient legal review to conclude with a well-founded basis (and maintain sufficient written documentation of that legal review) that:

(i) The agreement meets the requirements of the definition of qualifying master netting agreement in § __.3; and

(ii) In the event of a legal challenge (including one resulting from default or from receivership, insolvency, liquidation, or similar proceeding) the relevant judicial and administrative authorities would find the agreement to be legal, valid, binding, and enforceable under the law of the relevant jurisdictions; and

(2) Establish and maintain written procedures to monitor possible changes in relevant law and to ensure that the agreement continues to satisfy the requirements of the definition of qualifying master netting agreement in § __.3.

(b) *Operational deposits.* In order to recognize a deposit as an operational deposit as defined in § __.3:

(1) The deposit must be held pursuant to a legally binding written agreement, the termination of which is subject to a minimum 30 calendar-day notice period or significant termination costs are borne by the customer providing the deposit if a majority of the deposit balance is withdrawn from the operational deposit prior to the end of a 30 calendar-day notice period;

(2) There must not be significant volatility in the average balance of the deposit;

(3) The deposit must be held in an account designated as an operational account;

(4) The customer must hold the deposit at the [BANK] for the primary purpose of obtaining the operational services provided by the [BANK];

(5) The deposit account must not be designed to create an economic incentive for the customer to maintain excess funds therein through increased revenue, reduction in fees, or other offered economic incentives;

(6) The [BANK] must demonstrate that the deposit is empirically linked to the operational services and that it has a methodology for identifying any excess amount, which must be excluded from the operational deposit amount;

(7) The deposit must not be provided in connection with the [BANK]'s provision of

operational services to an investment company, non-regulated fund, or investment adviser; and

(8) The deposits must not be for correspondent banking arrangements pursuant to which the [BANK] (as correspondent) holds deposits owned by another depository institution bank (as respondent) and the respondent temporarily places excess funds in an overnight deposit with the [BANK].

Subpart B—Liquidity Coverage Ratio

§ __.10 Liquidity coverage ratio.

(a) *Minimum liquidity coverage ratio requirement.* Subject to the transition provisions in subpart F of this part, a [BANK] must calculate and maintain a liquidity coverage ratio that is equal to or greater than 1.0 on each business day in accordance with this part. A [BANK] must calculate its liquidity coverage ratio as of the same time on each business day (elected calculation time). The [BANK] must select this time by written notice to the [AGENCY] prior to the effective date of this rule. The [BANK] may not thereafter change its elected calculation time without written approval from the [AGENCY].

(b) *Calculation of the liquidity coverage ratio.* A [BANK]'s liquidity coverage ratio equals:

(1) The [BANK]'s HQLA amount as of the calculation date, calculated under subpart C of this part; *divided by*

(2) The [BANK]'s total net cash outflow amount as of the calculation date, calculated under subpart D of this part.

Subpart C—High-Quality Liquid Assets

§ __.20 High-Quality Liquid Asset Criteria.

(a) *Level 1 liquid assets.* An asset is a level 1 liquid asset if it meets all of the criteria set forth in paragraphs (d) and (e) of this section and is one of the following types of assets:

(1) Reserve Bank balances;

(2) Foreign withdrawable reserves;

(3) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, the U.S. Department of the Treasury;

(4) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a U.S. government agency (other than the U.S. Department of the Treasury) whose obligations are fully and explicitly guaranteed by the full faith and credit of the United States government, provided that the security is liquid and readily-marketable;

(5) A security that is issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity, the Bank for International Settlements, the International Monetary Fund, the European Central Bank and European Community, or a multilateral development bank, that is:

(i) Assigned a 0 percent risk weight under subpart D of [AGENCY CAPITAL REGULATION] as of the calculation date;

(ii) Liquid and readily-marketable;

(iii) Issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions;

(iv) Not an obligation of a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, and not an obligation of a consolidated subsidiary of any of the foregoing; and

(6) A security issued by, or unconditionally guaranteed as to the timely payment of principal and interest by, a sovereign entity that is not assigned a 0 percent risk weight under subpart D of [AGENCY CAPITAL REGULATION], where the sovereign entity issues the security in its own currency, the security is liquid and readily-marketable, and the [BANK] holds the security in order to meet its net cash outflows in the jurisdiction of the sovereign entity, as calculated under subpart D of [AGENCY CAPITAL REGULATION].

(b) *Level 2A liquid assets.* An asset is a level 2A liquid asset if the asset is liquid and readily-marketable, meets all of the criteria set forth in paragraphs (d) and (e) of this section, and is one of the following types of assets:

(1) A security issued by, or guaranteed as to the timely payment of principal and interest by, a U.S. government-sponsored enterprise, that is investment grade under 12 CFR part 1 as of the calculation date, provided that the claim is senior to preferred stock;

(2) A security that is issued by, or guaranteed as to the timely payment of principal and interest by, a sovereign entity or multilateral development bank that is:

(i) Not included in level 1 liquid assets;

(ii) Assigned no higher than a 20 percent risk weight under subpart D of [AGENCY CAPITAL REGULATION] as of the calculation date;

(iii) Issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions demonstrated by:

(A) The market price of the security or equivalent securities of the issuer declining by no more than 10 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the security or equivalent securities of the issuer increasing by no more than 10 percentage points during a 30 calendar-day period of significant stress; and

(iv) Not an obligation of a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, and not an obligation of a consolidated subsidiary of any of the foregoing.

(c) *Level 2B liquid assets.* An asset is a level 2B liquid asset if the asset is liquid and readily-marketable, meets all of the criteria set forth in paragraphs (d) and (e) of this section, and is one of the following types of assets:

(1) A publicly traded corporate debt security that is:

(i) Investment grade under 12 CFR part 1 as of the calculation date;

(ii) Issued by an entity whose obligations have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, demonstrated by:

(A) The market price of the publicly traded corporate debt security or equivalent securities of the issuer declining by no more than 20 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to secured lending and secured funding transactions that are collateralized by the publicly traded corporate debt security or equivalent securities of the issuer increasing by no more than 20 percentage points during a 30 calendar-day period of significant stress; and

(iii) Not an obligation of a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, and not an obligation of a consolidated subsidiary of any of the foregoing; or

(2) A publicly traded common equity share that is:

(i) Included in:

(A) The Standard & Poor's 500 Index;

(B) An index that a [BANK]'s supervisor in a foreign jurisdiction recognizes for purposes of including equity shares in level 2B liquid assets under applicable regulatory policy, if the share is held in that foreign jurisdiction; or

(C) Any other index for which the [BANK] can demonstrate to the satisfaction of the [AGENCY] that the equities represented in the index are as liquid and readily marketable as equities included in the Standard & Poor's 500 Index;

(ii) Issued in:

(A) U.S. dollars; or

(B) In the currency of a jurisdiction where the [BANK] operates and the [BANK] holds the common equity share in order to cover its net cash outflows in that jurisdiction, as calculated under subpart D of this part;

(iii) Issued by an entity whose publicly traded common equity shares have a proven record as a reliable source of liquidity in repurchase or sales markets during stressed market conditions, demonstrated by:

(A) The market price of the security or equivalent securities of the issuer declining by no more than 40 percent during a 30 calendar-day period of significant stress, or

(B) The market haircut demanded by counterparties to securities borrowing and lending transactions that are collateralized by the publicly traded common equity shares or equivalent securities of the issuer increasing by no more than 40 percentage points, during a 30 calendar day period of significant stress;

(iv) Not issued by a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, and not issued by a consolidated subsidiary of any of the foregoing;

(v) If held by a depository institution, is not acquired in satisfaction of a debt previously contracted (DPC); and

(vi) If held by a consolidated subsidiary of a depository institution, the depository institution can include the publicly traded common equity share in its level 2B liquid assets only if the share is held to cover net cash outflows of the depository institution's consolidated subsidiary, as calculated by the [BANK] under this part.

(d) *Operational requirements for HQLA.* With respect to each asset that a [BANK] includes in its HQLA amount, a [BANK] must meet all of the following operational requirements:

(1) The [BANK] must have the operational capability to monetize the HQLA by:

(i) Implementing and maintaining appropriate procedures and systems to monetize any HQLA at any time in accordance with relevant standard settlement periods and procedures; and

(ii) Periodically monetize a sample of HQLA that reasonably reflects the composition of the [BANK]'s HQLA amount, including with respect to asset type, maturity, and counterparty characteristics;

(2) The [BANK] must implement policies that require all HQLA to be under the control of the management function in the [BANK] that is charged with managing liquidity risk, and this management function evidences its control over the HQLA by either:

(i) Segregating the assets from other assets, with the sole intent to use the assets as a source of liquidity; or

(ii) Demonstrating the ability to monetize the assets and making the proceeds available to the liquidity management function without conflicting with a business risk or management strategy of the [BANK];

(3) The [BANK] must include in its total net cash outflow amount under subpart D of this part the amount of cash outflows that would result from the termination of any specific transaction hedging HQLA included in its HQLA amount; and

(4) The [BANK] must implement and maintain policies and procedures that determine the composition of the assets in its HQLA amount on a daily basis, by:

(i) Identifying where its HQLA is held by legal entity, geographical location, currency, custodial or bank account, or other relevant identifying factor as of the calculation date;

(ii) Determining HQLA included in the [BANK]'s HQLA amount meet the criteria set forth in this section; and

(iii) Ensuring the appropriate diversification of the assets included in the [BANK]'s HQLA amount by asset type, counterparty, issuer, currency, borrowing capacity, or other factors associated with the liquidity risk of the assets.

(e) *Generally applicable criteria for HQLA.* Assets that a [BANK] includes in its HQLA amount must meet all of the following criteria:

(1) The assets are unencumbered in accordance with the following criteria:

(i) The assets are free of legal, regulatory, contractual, or other restrictions on the ability of the [BANK] to monetize the asset; and

(ii) The assets are not pledged, explicitly or implicitly, to secure or to provide credit enhancement to any transaction, except that the assets may be pledged to a central bank or a U.S. government-sponsored enterprise if potential credit secured by the assets is not currently extended to the [BANK] or its consolidated subsidiaries.

(2) The asset is not:

(i) A client pool security held in a segregated account; or

(ii) Cash received from a secured funding transaction involving client pool securities that were held in a segregated account.

(3) For HQLA held in a legal entity that is a U.S. consolidated subsidiary of a [BANK]:

(i) If the U.S. consolidated subsidiary is subject to a minimum liquidity standard under this part, the [BANK] may include the assets in its HQLA amount up to:

(A) The amount of net cash outflows of the U.S. consolidated subsidiary calculated by the U.S. consolidated subsidiary for its own minimum liquidity standard under this part; plus

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the top-tier [BANK] during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223);

(ii) If the U.S. consolidated subsidiary is not subject to a minimum liquidity standard under this part, the [BANK] may include the assets in its HQLA amount up to:

(A) The amount of the net cash outflows of the U.S. consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the [BANK] for the [BANK]'s minimum liquidity standard under this part; plus

(B) Any additional amount of assets, including proceeds from the monetization of assets, that would be available for transfer to the top-tier [BANK] during times of stress without statutory, regulatory, contractual, or supervisory restrictions, including sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and 12 U.S.C. 371c–1) and Regulation W (12 CFR part 223); and

(4) For HQLA held by a consolidated subsidiary of the [BANK] that is organized under the laws of a foreign jurisdiction, the [BANK] may only include the assets in its HQLA amount up to:

(i) The amount of net cash outflows of the consolidated subsidiary as of the 30th calendar day after the calculation date, as calculated by the [BANK] for the [BANK]'s minimum liquidity standard under this part; plus

(ii) Any additional amount of assets that are available for transfer to the top-tier [BANK] during times of stress without statutory, regulatory, contractual, or supervisory restrictions.

(5) The [BANK] must not include in its HQLA amount any assets, or HQLA generated from an asset, that it received under a rehypothecation right if the beneficial owner has a contractual right to withdraw the assets without remuneration at any time during the 30 calendar days following the calculation date;

(6) The [BANK] has not designated the assets to cover operational costs.

(f) *Maintenance of U.S. HQLA.* A [BANK] is generally expected to maintain in the United States an amount and type of HQLA that is sufficient to meet its total net cash outflow amount in the United States under subpart D of this part.

§ __.21 High-Quality Liquid Asset Amount.

(a) *Calculation of the HQLA amount.* As of the calculation date, a [BANK]'s HQLA amount equals:

(1) The level 1 liquid asset amount; plus

(2) The level 2A liquid asset amount; plus

(3) The level 2B liquid asset amount; minus

(4) The greater of:

(i) The unadjusted excess HQLA amount; or

(ii) The adjusted excess HQLA amount.

(b) *Calculation of liquid asset amounts.* (1) *Level 1 liquid asset amount.* The level 1 liquid asset amount equals the fair value (as determined under GAAP) of all level 1 liquid assets held by the [BANK] as of the calculation date, less required reserves under section 204.4 of Regulation D (12 CFR 204.4).

(2) *Level 2A liquid asset amount.* The level 2A liquid asset amount equals 85 percent of the fair value (as determined under GAAP) of all level 2A liquid assets held by the [BANK] as of the calculation date.

(3) *Level 2B liquid asset amount.* The level 2B liquid asset amount equals 50 percent of the fair value (as determined under GAAP) of all level 2B liquid assets held by the [BANK] as of the calculation date.

(c) *Calculation of the unadjusted excess HQLA amount.* As of the calculation date, the unadjusted excess HQLA amount equals:

(1) The level 2 cap excess amount; plus

(2) The level 2B cap excess amount.

(d) *Calculation of the level 2 cap excess amount.* As of the calculation date, the level 2 cap excess amount equals the greater of:

(1) The level 2A liquid asset amount plus the level 2B liquid asset amount minus 0.6667 times the level 1 liquid asset amount; or

(2) 0.

(e) *Calculation of the level 2B cap excess amount.* As of the calculation date, the level 2B excess amount equals the greater of:

(1) The level 2B liquid asset amount minus the level 2 cap excess amount minus 0.1765 times the sum of the level 1 liquid asset amount and the level 2A liquid asset amount; or

(2) 0.

(f) *Calculation of adjusted liquid asset amounts.* (1) *Adjusted level 1 liquid asset amount.* A [BANK]'s adjusted level 1 liquid asset amount equals the fair value (as determined under GAAP) of all level 1 liquid assets that would be held by the [BANK] upon the unwind of any secured funding transaction, secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date and where the [BANK] and the counterparty exchange HQLA.

(2) *Adjusted level 2A liquid asset amount.* A [BANK]'s adjusted level 2A liquid asset amount equals 85 percent of the fair value (as determined under GAAP) of all level 2A liquid assets that would be held by the [BANK] upon the unwind of any secured funding transaction, secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date and where the [BANK] and the counterparty exchange HQLA.

(3) *Adjusted level 2B liquid asset amount.* A [BANK]'s adjusted level 2B liquid asset amount equals 50 percent of the fair value (as determined under GAAP) of all level 2B liquid assets that would be held by the [BANK] upon the unwind of any secured funding transaction, secured lending transaction, asset exchange, or collateralized derivatives transaction that matures within 30 calendar days of the calculation date and where the [BANK] and the counterparty exchange HQLA.

(g) *Calculation of the adjusted excess HQLA amount.* As of the calculation date, the adjusted excess HQLA amount equals:

(1) The adjusted level 2 cap excess amount; plus

(2) The adjusted level 2B cap excess amount.

(h) *Calculation of the adjusted level 2 cap excess amount.* As of the calculation date, the adjusted level 2 cap excess amount equals the greater of:

(1) The adjusted level 2A liquid asset amount plus the adjusted level 2B liquid asset amount minus 0.6667 times the adjusted level 1 liquid asset amount; or

(2) 0.

(i) *Calculation of the adjusted level 2B excess amount.* As of the calculation date, the adjusted level 2B excess liquid asset amount equals the greater of:

(1) The adjusted level 2B liquid asset amount minus the adjusted level 2 cap excess amount minus 0.1765 times the sum of the adjusted level 1 liquid asset amount and the adjusted level 2A liquid asset amount; or

(2) 0.

Subpart D—Total Net Cash Outflow

§ __.30 Total net cash outflow amount.

As of the calculation date, a [BANK]'s total net cash outflow amount equals the largest difference between cumulative inflows and cumulative outflows, as calculated for each of the next 30 calendar days after the calculation date as:

(a) The sum of the outflow amounts calculated under §§ __.32(a) through __.32(g)(2); plus

(b) The sum of the outflow amounts calculated under §§ __.32(g)(3) through __.32(l) for instruments or transactions that have no contractual maturity date; plus

(c) The sum of the outflow amounts for instruments or transactions identified in §§ __.32(g)(3) through __.32(l) that have a contractual maturity date up to and including that calendar day; less

(d) The lesser of:

(1) The sum of the inflow amounts under §§ __.33(b) through __.33(f), where the instrument or transaction has a contractual maturity date up to and including that calendar day, and

(2) 75 percent of the sum of paragraphs (a), (b), and (c) of this section as calculated for that calendar day.

§ __.31 Determining maturity.

(a) For purposes of calculating its liquidity coverage ratio and the components thereof under this subpart, a [BANK] shall assume an asset or transaction matures:

(1) With respect to an instrument or transaction subject to § __.32, on the earliest possible contractual maturity date or the earliest possible date the transaction could occur, taking into account any option that could accelerate the maturity date or the date of the transaction as follows:

(i) If an investor or funds provider has an option that would reduce the maturity, the [BANK] must assume that the investor or funds provider will exercise the option at the earliest possible date;

(ii) If a [BANK] has an option that would extend the maturity of an obligation it issued, the [BANK] must assume the [BANK] will not exercise that option to extend the maturity; and

(iii) If an option is subject to a contractually defined notice period, the [BANK] must determine the earliest possible contractual maturity date regardless of the notice period.

(2) With respect to an instrument or transaction subject to § __.33, on the latest possible contractual maturity date or the latest possible date the transaction could occur, taking into account any option that could extend the maturity date or the date of the transaction as follows:

(i) If the borrower has an option that would extend the maturity, the [BANK] must assume that the borrower will exercise the option to extend the maturity to the latest possible date;

(ii) If a [BANK] has an option that would accelerate a maturity of an instrument or transaction, the [BANK] must assume the [BANK] will not exercise the option to accelerate the maturity; and

(iii) If an option is subject to a contractually defined notice period, the [BANK] must determine the latest possible contractual maturity date based on the borrower using the entire notice period.

(b) [Reserved]

§ __.32 Outflow amounts.

(a) *Unsecured retail funding outflow amount.* A [BANK]'s unsecured retail funding outflow amount as of the calculation date includes (regardless of maturity):

(1) 3 percent of all stable retail deposits held at the [BANK];

(2) 10 percent of all other retail deposits held at the [BANK]; and

(3) 100 percent of all funding from a retail customer or counterparty that is not a retail deposit or a brokered deposit provided by a retail customer or counterparty.

(b) *Structured transaction outflow amount.* If a [BANK] is a sponsor of a structured transaction, without regard to whether the issuing entity is consolidated on the [BANK]'s balance sheet under GAAP, the structured transaction outflow amount for each structured transaction as of the calculation date is the greater of:

(1) 100 percent of the amount of all debt obligations of the issuing entity that mature 30 calendar days or less from such calculation date and all commitments made by the issuing entity to purchase assets within 30 calendar days or less from such calculation date; and

(2) The maximum contractual amount of funding the [BANK] may be required to provide to the issuing entity 30 calendar days or less from such calculation date through a liquidity facility, a return or repurchase of assets from the issuing entity, or other funding agreement.

(c) *Net derivative cash outflow amount.* The net derivative cash outflow amount as of the calculation date is the sum of the net derivative cash outflow, if greater than zero, for each counterparty. The net derivative cash outflow for a counterparty is the sum of the payments and collateral that the [BANK] will make or deliver to the counterparty 30 calendar days or less from the calculation date under derivative transactions less, if the derivative transactions are subject to a qualifying master netting agreement, the sum of the payments and collateral that the [BANK] will receive from the counterparty 30 calendar days or less from the calculation date under derivative transactions. This paragraph does not apply to forward sales of mortgage loans and any derivatives that are mortgage commitments subject to paragraph (d) of this section.

(d) *Mortgage commitment outflow amount.* The mortgage commitment outflow amount as of a calculation date is 10 percent of the amount of funds the [BANK] has contractually committed for its own origination of retail mortgages that can be drawn upon 30 calendar days or less from such calculation date.

(e) *Commitment outflow amount.* (1) A [BANK]'s commitment outflow amount as of the calculation date includes:

(i) 0 percent of the undrawn amount of all committed credit and liquidity facilities extended by a [BANK] that is a depository institution to an affiliated depository institution that is subject to a minimum liquidity standard under this part;

(ii) 5 percent of the undrawn amount of all committed credit and liquidity facilities extended by the [BANK] to retail customers or counterparties;

(iii)(A) 10 percent of the undrawn amount of all committed credit facilities; and

(B) 30 percent of the undrawn amount of all committed liquidity facilities extended by the [BANK] to a wholesale customer or counterparty that is not a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, or to a consolidated subsidiary of any of the foregoing;

(iv) 50 percent of the undrawn amount of all committed credit and liquidity facilities extended by the [BANK] to depository institutions, depository institution holding companies, and foreign banks, excluding commitments described in paragraph (e)(1)(i) of this section;

(v)(A) 40 percent of the undrawn amount of all committed credit facilities; and

(B) 100 percent of the undrawn amount of all committed liquidity facilities extended by the [BANK] to a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, or identified company, or to a consolidated subsidiary of any of the foregoing, excluding other commitments described in paragraph (e)(1)(i) or (e)(1)(iv) of this section;

(vi) 100 percent of the undrawn amount of all committed credit and liquidity facilities extended to special purpose entities,

excluding liquidity facilities included in § _.32(b)(2); and

(vii) 100 percent of the undrawn amount of all other committed credit or liquidity facilities extended by the [BANK].

(2) For the purposes of this paragraph (e), the undrawn amount is:

(i) For a committed credit facility, the entire undrawn amount of the facility that could be drawn upon within 30 calendar days of the calculation date under the governing agreement, less the amount of level 1 liquid assets and 85 percent of the amount of level 2A liquid assets securing the facility; and

(ii) For a committed liquidity facility, the entire undrawn amount of the facility, that could be drawn upon within 30 calendar days of the calculation date under the governing agreement, less:

(A) The amount of level 1 liquid assets and level 2A liquid assets securing the portion of the facility that could be drawn upon within 30 calendar days of the calculation date under the governing agreement; and

(B) That portion of the facility that supports obligations of the [BANK]'s customer that do not mature 30 calendar days or less from such calculation date. If facilities have aspects of both credit and liquidity facilities, the facility must be classified as a liquidity facility.

(3) For the purposes of this paragraph (e), the amount of level 1 liquid assets and level 2A liquid assets securing a committed credit or liquidity facility is the fair value (as determined under GAAP) of level 1 liquid assets and 85 percent of the fair value (as determined under GAAP) of level 2A liquid assets that are required to be posted as collateral by the counterparty to secure the facility, provided that the following conditions are met as of the calculation date and for the 30 calendar days following such calculation date:

(i) The assets pledged meet the criteria for level 1 liquid assets or level 2A liquid assets in § __.20; and

(ii) The [BANK] has not included the assets in its HQLA amount under subpart C of this part.

(f) *Collateral outflow amount.* The collateral outflow amount as of the calculation date includes:

(1) *Changes in financial condition.* 100 percent of all additional amounts of collateral the [BANK] could be contractually required to post or to fund under the terms of any transaction as a result of a change in the [BANK]'s financial condition.

(2) *Potential valuation changes.* 20 percent of the fair value (as determined under GAAP) of any collateral posted to a counterparty by the [BANK] that is not a level 1 liquid asset.

(3) *Excess collateral.* 100 percent of the fair value (as determined under GAAP) of collateral that:

(i) The [BANK] may be required by contract to return to a counterparty because the collateral posted to the [BANK] exceeds the current collateral requirement of the counterparty under the governing contract;

(ii) Is not segregated from the [BANK]'s other assets; and

(iii) Is not already excluded from the [BANK]'s HQLA amount under § __.20(e)(5).

(4) *Contractually required collateral.* 100 percent of the fair value (as determined under GAAP) of collateral that the [BANK] is contractually required to post to a counterparty and, as of such calculation date, the [BANK] has not yet posted;

(5) *Collateral substitution.* (i) 0 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 1 liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as level 1 liquid assets without the consent of the [BANK];

(ii) 15 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 1 liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as level 2A liquid assets without the consent of the [BANK];

(iii) 50 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 1 liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as level 2B liquid assets without the consent of the [BANK];

(iv) 100 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 1 liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that do not qualify as HQLA without the consent of the [BANK];

(v) 0 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 2A liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as level 1 or level 2A liquid assets without the consent of the [BANK];

(vi) 35 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 2A liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as level 2B liquid assets without the consent of the [BANK];

(vii) 85 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 2A liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that do not qualify as HQLA without the consent of the [BANK];

(viii) 0 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 2B liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that qualify as HQLA without the consent of the [BANK];

(ix) 50 percent of the fair value of collateral posted to the [BANK] by a counterparty that the [BANK] includes in its HQLA amount as level 2B liquid assets, where under the contract governing the transaction the counterparty may replace the posted collateral with assets that do not qualify as HQLA without the consent of the [BANK]; and

(6) *Derivative collateral change.* The absolute value of the largest 30-consecutive calendar day cumulative net mark-to-market collateral outflow or inflow resulting from derivative transactions realized during the preceding 24 months.

(g) *Brokered deposit outflow amount for retail customers or counterparties.* The brokered deposit outflow amount for retail customers or counterparties as of the calculation date includes:

(1) 100 percent of all brokered deposits at the [BANK] provided by a retail customer or counterparty that are not described in paragraphs (g)(3) through (g)(7) of this section and which mature 30 calendar days or less from the calculation date;

(2) 10 percent of all brokered deposits at the [BANK] provided by a retail customer or counterparty that are not described in paragraphs (g)(3) through (g)(7) of this section and which mature later than 30 calendar days from the calculation date;

(3) 10 percent of all reciprocal brokered deposits at the [BANK] provided by a retail customer or counterparty, where the entire amount is covered by deposit insurance;

(4) 25 percent of all reciprocal brokered deposits at the [BANK] provided by a retail customer or counterparty, where less than the entire amount is covered by deposit insurance;

(5) 10 percent of all brokered sweep deposits at the [BANK] provided by a retail customer or counterparty:

(i) That are deposited in accordance with a contract between the retail customer or counterparty and the [BANK], a consolidated subsidiary of the [BANK], or a company that is a consolidated subsidiary of the same top-tier company of which the [BANK] is a consolidated subsidiary; and

(ii) Where the entire amount of the deposits is covered by deposit insurance;

(6) 25 percent of all brokered_sweep deposits at the [BANK] provided by a retail customer or counterparty:

(i) That are not deposited in accordance with a contract between the retail customer or counterparty and the [BANK], a consolidated subsidiary of the [BANK], or a company that is a consolidated subsidiary of the same top-tier company of which the [BANK] is a consolidated subsidiary; and

(ii) Where the entire amount of the deposits is covered by deposit insurance; and

(7) 40 percent of all brokered sweep deposits at the [BANK] provided by a retail customer or counterparty where less than the entire amount of the deposit balance is covered by deposit insurance.

(h) *Unsecured wholesale funding outflow amount.* A [BANK]'s unsecured wholesale funding outflow amount as of the calculation date includes:

(1) For unsecured wholesale funding that is not an operational deposit and is not

provided by a regulated financial company, investment company, non-regulated fund, pension fund, investment adviser, identified company, or consolidated subsidiary of any of the foregoing:

(i) 20 percent of all such funding (not including brokered deposits), where the entire amount is covered by deposit insurance;

(ii) 40 percent of all such funding, where:

(A) Less than the entire amount is covered by deposit insurance, or

(B) The funding is a brokered deposit;

(2) 100 percent of all unsecured wholesale funding that is not an operational deposit and is not included in paragraph (h)(1) of this section, including funding provided by a consolidated subsidiary of the [BANK], or a company that is a consolidated subsidiary of the same top-tier company of which the [BANK] is a consolidated subsidiary;

(3) 5 percent of all operational deposits, other than escrow accounts, where the entire deposit amount is covered by deposit insurance;

(4) 25 percent of all operational deposits not included in paragraph (h)(3) of this section; and

(5) 100 percent of all unsecured wholesale funding that is not otherwise described in this paragraph (h).

(i) *Debt security outflow amount.* A [BANK]'s debt security outflow amount for debt securities issued by the [BANK] that mature more than 30 calendar days after the calculation date and for which the [BANK] is the primary market maker in such debt securities includes:

(1) 3 percent of all such debt securities that are not structured securities; and

(2) 5 percent of all such debt securities that are structured securities.

(j) *Secured funding and asset exchange outflow amount.* (1) A [BANK]'s secured funding outflow amount as of the calculation date includes:

(i) 0 percent of all funds the [BANK] must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 1 liquid assets;

(ii) 15 percent of all funds the [BANK] must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 2A liquid assets;

(iii) 25 percent of all funds the [BANK] must pay pursuant to secured funding transactions with sovereign, multilateral development banks, or U.S. government-sponsored enterprises that are assigned a risk weight of 20 percent under subpart D of [AGENCY CAPITAL REGULATION], to the extent that the funds are not secured by level 1 or level 2A liquid assets;

(iv) 50 percent of all funds the [BANK] must pay pursuant to secured funding transactions, to the extent that the funds are secured by level 2B liquid assets;

(v) 50 percent of all funds received from secured funding transactions that are customer short positions where the customer short positions are covered by other customers' collateral and the collateral does not consist of HQLA; and

(vi) 100 percent of all other funds the [BANK] must pay pursuant to secured funding transactions, to the extent that the funds are secured by assets that are not HQLA.

(2) A [BANK]'s asset exchange outflow amount as of the calculation date includes:

(i) 0 percent of the fair value (as determined under GAAP) of the level 1 liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive level 1 liquid assets from the asset exchange counterparty;

(ii) 15 percent of the fair value (as determined under GAAP) of the level 1 liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive level 2A liquid assets from the asset exchange counterparty;

(iii) 50 percent of the fair value (as determined under GAAP) of the level 1 liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive level 2B liquid assets from the asset exchange counterparty;

(iv) 100 percent of the fair value (as determined under GAAP) of the level 1 liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive assets that are not HQLA from the asset exchange counterparty;

(v) 0 percent of the fair value (as determined under GAAP) of the level 2A liquid assets that [BANK] must post to a counterparty pursuant to asset exchanges where [BANK] will receive level 1 or level 2A liquid assets from the asset exchange counterparty;

(vi) 35 percent of the fair value (as determined under GAAP) of the level 2A liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive level 2B liquid assets from the asset exchange counterparty;

(vii) 85 percent of the fair value (as determined under GAAP) of the level 2A liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive assets that are not HQLA from the asset exchange counterparty;

(viii) 0 percent of the fair value (as determined under GAAP) of the level 2B liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive HQLA from the asset exchange counterparty; and

(ix) 50 percent of the fair value (as determined under GAAP) of the level 2B liquid assets the [BANK] must post to a counterparty pursuant to asset exchanges where the [BANK] will receive assets that are not HQLA from the asset exchange counterparty.

(k) *Foreign central bank borrowing outflow amount.* A [BANK]'s foreign central bank borrowing outflow amount is, in a foreign jurisdiction where the [BANK] has borrowed from the jurisdiction's central bank, the outflow amount assigned to borrowings from central banks in a minimum liquidity standard established in that jurisdiction. If the foreign jurisdiction has not specified a central bank borrowing outflow amount in a minimum liquidity standard, the foreign central bank borrowing outflow amount must be calculated under paragraph (j) of this section.

(l) *Other contractual outflow amount.* A [BANK]'s other contractual outflow amount is 100 percent of funding or amounts payable by the [BANK] to counterparties under legally binding agreements that are not otherwise specified in this section.

(m) *Excluded amounts for intragroup transactions.* The outflow amounts set forth in this section do not include amounts arising out of transactions between:

(1) The [BANK] and a consolidated subsidiary of the [BANK]; or

(2) A consolidated subsidiary of the [BANK] and another consolidated subsidiary of the [BANK].

§ __.33 Inflow amounts.

(a) The inflows in paragraphs (b) through (g) of this section do not include:

(1) Amounts the [BANK] holds in operational deposits at other regulated financial companies;

(2) Amounts the [BANK] expects, or is contractually entitled to receive, 30 calendar days or less from the calculation date due to forward sales of mortgage loans and any derivatives that are mortgage commitments subject to § __.32(d);

(3) The amount of any credit or liquidity facilities extended to the [BANK];

(4) The amount of any asset included in the [BANK]'s HQLA amount and any amounts payable to the [BANK] with respect to those assets;

(5) Any amounts payable to the [BANK] from an obligation of a customer or counterparty that is a nonperforming asset as of the calculation date or that the [BANK] has reason to expect will become a nonperforming exposure 30 calendar days or less from the calculation date; and

(6) Amounts payable to the [BANK] on any exposure that has no contractual maturity date or that matures after 30 calendar days of the calculation date.

(b) *Net derivative cash inflow amount.* The net derivative cash inflow amount as of the calculation date is the sum of the net derivative cash inflow, if greater than zero, for each counterparty. The net derivative cash inflow amount for a counterparty is the sum of the payments and collateral that the [BANK] will receive from the counterparty 30 calendar days or less from the calculation date under derivative transactions less, if the derivative transactions are subject to a qualifying master netting agreement, the sum amount of the payments and collateral that the [BANK] will make or deliver to the counterparty 30 calendar days or less from the calculation date under derivative transactions. This paragraph does not apply to amounts excluded from inflows under paragraph (a)(2) of this section.

(c) *Retail cash inflow amount.* The retail cash inflow amount as of the calculation date includes 50 percent of all payments contractually payable to the [BANK] from retail customers or counterparties.

(d) *Unsecured wholesale cash inflow amount.* The unsecured wholesale cash inflow amount as of the calculation date includes:

(1) 100 percent of all payments contractually payable to the [BANK] from regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, or identified companies, or from a consolidated subsidiary of any of the foregoing, or central banks; and

(2) 50 percent of all payments contractually payable to the [BANK] from wholesale customers or counterparties that are not regulated financial companies, investment companies, non-regulated funds, pension funds, investment advisers, or identified companies, or consolidated subsidiaries of any of the foregoing, provided that, with respect to revolving credit facilities, the amount of the existing loan is not included and the remaining undrawn balance is included in the outflow amount under § __.32(e)(1).

(e) *Securities cash inflow amount.* The securities cash inflow amount as of the calculation date includes 100 percent of all contractual payments due to the [BANK] on securities it owns that are not HQLA.

(f) *Secured lending and asset exchange cash inflow amount.* (1) A [BANK]'s secured lending cash inflow amount as of the calculation date includes:

(i) 0 percent of all contractual payments due to the [BANK] pursuant to secured lending transactions, to the extent that the payments are secured by level 1 liquid assets, provided that the level 1 liquid assets are included in the [BANK]'s HQLA amount.

(ii) 15 percent of all contractual payments due to the [BANK] pursuant to secured lending transactions, to the extent that the payments are secured by level 2A liquid assets, provided that the [BANK] is not using the collateral to cover any of its short positions, and provided that the level 2A liquid assets are included in the [BANK]'s HQLA amount;

(iii) 50 percent of all contractual payments due to the [BANK] pursuant to secured lending transactions, to the extent that the payments are secured by level 2B liquid assets, provided that the [BANK] is not using the collateral to cover any of its short positions, and provided that the level 2B liquid assets are included in the [BANK]'s HQLA amount;

(iv) 100 percent of all contractual payments due to the [BANK] pursuant to secured lending transactions, to the extent that the payments are secured by assets that are not HQLA, provided that the [BANK] is not using the collateral to cover any of its short positions; and

(v) 50 percent of all contractual payments due to the [BANK] pursuant to collateralized margin loans extended to customers, provided that the loans are not secured by HQLA and the [BANK] is not using the collateral to cover any of its short positions.

(2) A [BANK]'s asset exchange inflow amount as of the calculation date includes:

(i) 0 percent of the fair value (as determined under GAAP) of level 1 liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where [BANK] must post level 1 liquid assets to the asset exchange counterparty;

(ii) 15 percent of the fair value (as determined under GAAP) of level 1 liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post level 2A liquid assets to the asset exchange counterparty;

(iii) 50 percent of the fair value (as determined under GAAP) of level 1 liquid assets the [BANK] will receive from counterparty pursuant to asset exchanges where the [BANK] must post level 2B liquid assets to the asset exchange counterparty;

(iv) 100 percent of the fair value (as determined under GAAP) of level 1 liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post assets that are not HQLA to the asset exchange counterparty;

(v) 0 percent of the fair value (as determined under GAAP) of level 2A liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post level 1 or level 2A liquid assets to the asset exchange counterparty;

(vi) 35 percent of the fair value (as determined under GAAP) of level 2A liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post level 2B liquid assets to the asset exchange counterparty;

(vii) 85 percent of the fair value (as determined under GAAP) of level 2A liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post assets that are not HQLA to the asset exchange counterparty;

(viii) 0 percent of the fair value (as determined under GAAP) of level 2B liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post assets that are HQLA to the asset exchange counterparty; and

(ix) 50 percent of the fair value (as determined under GAAP) of level 2B liquid assets the [BANK] will receive from a counterparty pursuant to asset exchanges where the [BANK] must post assets that are not HQLA to the asset exchange counterparty.

(g) *Other cash inflow amounts.* A [BANK]'s inflow amount as of the calculation date includes 0 percent of other cash inflow amounts not included in paragraphs (b) through (f) of this section.

(h) *Excluded amounts for intragroup transactions.* The inflow amounts set forth in this section do not include amounts arising out of transactions between:

(1) The [BANK] and a consolidated subsidiary of the [BANK]; or

(2) A consolidated subsidiary of the [BANK] and another consolidated subsidiary of the [BANK].

Subpart E—Liquidity Coverage Shortfall

§ __.40 Liquidity coverage shortfall: supervisory framework.

(a) *Notification requirements.* A [BANK] must notify the [AGENCY] on any business day when its liquidity coverage ratio is calculated to be less than the minimum requirement in § __.10.

(b) *Liquidity Plan.* If a [BANK]'s liquidity coverage ratio is below the minimum requirement in § __.10 for three consecutive business days, or if the [AGENCY] has determined that the [BANK] is otherwise materially noncompliant with the requirements of this part, the [BANK] must promptly provide to the [AGENCY] a plan for achieving compliance with the minimum liquidity requirement in § __.10 and all other requirements of this part. The plan must include, as applicable:

(1) An assessment of the [BANK]'s liquidity position;

(2) The actions the [BANK] has taken and will take to achieve full compliance with this part, including:

(i) A plan for adjusting the [BANK]'s risk profile, risk management, and funding sources in order to achieve full compliance with this part; and

(ii) A plan for remediating any operational or management issues that contributed to noncompliance with this part;

(3) An estimated timeframe for achieving full compliance with this part; and

(4) A commitment to report to the [AGENCY] no less than weekly on progress to achieve compliance in accordance with the plan until full compliance with this part is achieved.

(c) *Supervisory and enforcement actions.* The [AGENCY] may, at its discretion, take additional supervisory or enforcement actions to address noncompliance with the minimum liquidity coverage ratio.

Subpart F—Transitions

§ __.50 Transitions.

(a) Beginning January 1, 2015, through December 31, 2015, a [BANK] subject to a minimum liquidity standard under this part must calculate and maintain a liquidity coverage ratio on each calculation date in accordance with this part that is equal to or greater than 0.80.

(b) Beginning January 1, 2016, through December 31, 2016, a [BANK] subject to a minimum liquidity standard under this part must calculate and maintain a liquidity coverage ratio on each calculation date in accordance with this part that is equal to or greater than 0.90.

(c) On January 1, 2017, and thereafter, a [BANK] subject to subject to a minimum liquidity standard under this part must calculate and maintain a liquidity coverage ratio on each calculation date that is equal to or greater than 1.0.

List of Subjects

12 CFR Part 50

Administrative practice and procedure; Banks, banking; Liquidity; Reporting and recordkeeping requirements; Savings associations.

12 CFR Part 249

Administrative practice and procedure; Banks, banking; Federal Reserve System; Holding companies; Liquidity; Reporting and recordkeeping requirements.

12 CFR Part 329

Administrative practice and procedure; Banks, banking; Federal Deposit Insurance Corporation, FDIC; Liquidity; Reporting and recordkeeping requirements.

Adoption of Proposed Common Rule

The adoption of the proposed common rules by the agencies, as modified by the agency-specific text, is set forth below:

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the common preamble, the OCC proposes to add the text of the common rule as set forth at the end of the **SUPPLEMENTARY INFORMATION** as part 50 of chapter I of title 12 of the Code of Federal Regulations:

PART 50—LIQUIDITY RISK MEASUREMENT, STANDARDS AND MONITORING

■ 1. The authority citation for part 50 is added to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 93a, 481, 1818, and 1462 *et seq.*

■ 2. Part 50 is amended by:
■ a. Removing ''[AGENCY]'' and adding ''OCC'' in its place, wherever it appears;
■ b. Removing ''[AGENCY CAPITAL REGULATION]'' and adding ''(12 CFR part 3)'' in its place, wherever it appears;
■ c. Removing ''[BANK]'' and adding ''national bank or Federal savings association'' in its place, wherever it appears;
■ d. Removing ''[BANK]s'' and adding ''national banks and Federal savings associations'' in its place, wherever it appears;
■ e. Removing ''[BANK]'s'' and adding ''national bank's or Federal savings association's'' in its place, wherever it appears;
■ f. Removing ''[PART]'' and adding ''part'' in its place, wherever it appears;
■ g. Removing ''[REGULATORY REPORT]'' and adding ''Consolidated Reports of Condition and Income'' in its place, wherever it appears; and
■ h. Removing ''[12 CFR 3.404 (OCC), 12 CFR 263.202 (Board), and 12 CFR 324.5 (FDIC)]'' and adding ''12 CFR 3.404'' in its place, wherever it appears.
■ 3. Section 50.1 is amended by:
■ a. Redesignating paragraph (b)(1)(iv) as paragraph (b)(1)(v);
■ b. Adding paragraph (b)(1)(iv);
■ c. Removing ''(b)(1)(iv)'' in paragraph (b)(4) and adding ''(b)(1)(v)'' in its place;
■ d. Removing the word ''or'' at the end of paragraph (b)(2)(i);
■ e. Removing the period at the end of paragraph (b)(2)(ii) and adding ''; or'' in its place; and
■ f. Adding paragraph (b)(2)(iii).

The additions read as follows.

§ 50.1 Purpose and applicability.

* * * * *

(b)* * *

(1) * * *

(iv) It is a depository institution that has consolidated total assets equal to $10 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income and is a consolidated subsidiary of one of the following:

(A) A covered depository institution holding company that has total assets equal to $250 billion or more, as reported on the most recent year-end FR Y–9C, or, if the covered depository institution holding company is not required to report on the FR Y–9C, its estimated total consolidated assets as of the most recent year end, calculated in accordance with the instructions to the FR Y–9C;

(B) A depository institution that has consolidated total assets equal to $250 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income;

(C) A covered depository institution holding company or depository institution that has consolidated total on-balance sheet foreign exposure at the most recent year-end equal to $10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report); or

(D) A covered nonbank company.

* * * * *

(2) * * *

(iii) A Federal branch or agency as defined by 12 CFR 28.11.

* * * * *

Board of Governors of the Federal Reserve System

12 CFR CHAPTER II

Authority and Issuance

For the reasons set forth in the common preamble, the Board proposes to add the text of the common rule as set forth at the end of the **SUPPLEMENTARY INFORMATION** as part 249 of chapter II of title 12 of the Code of Federal Regulations as follows:

PART 249—LIQUIDITY RISK MEASUREMENT, STANDARDS AND MONITORING (REGULATION WW)

■ 4. The authority citation for part 249 shall read as follows:

Authority: 12 U.S.C. 248(a), 321–338a, 481–486, 1818, 1828, 1831p–1, 1844(b), 5365, 5366, 5368.

■ 5. Part 249 is amended as set forth below:
■ a. Remove ''[AGENCY]'' and add ''Board'' in its place wherever it appears.
■ b. Remove ''[AGENCY CAPITAL REGULATION]'' and add ''Regulation Q (12 CFR part 217)'' in its place wherever it appears.
■ c. Remove ''[BANK]'' and add ''Board-regulated institution'' in its place wherever it appears.
■ d. Remove ''[BANK]s'' and add ''Board-regulated institutions'' in its place wherever it appears.
■ e. Remove ''[BANK]'s'' and add ''Board-regulated institution's'' in its place wherever it appears.
■ 6. Amend § 249.1 by:
■ a. Removing ''[REGULATORY REPORT]'' from paragraph (b)(1)(i) and adding ''FR Y–9C, or, if the Board-regulated institution is not required to report on the FR Y–9C, then its estimated total consolidated assets as of the most recent year end, calculated in accordance with the instructions to the FR Y–9C, or Consolidated Report of Condition and Income (Call Report), as applicable'' in its place.
■ b. Redesignating paragraph (b)(1)(iv) as paragraph (b)(1)(vi);
■ c. Adding new paragraphs (b)(1)(iv) and (b)(1)(v) and;
■ d. Revising paragraph (b)(4).

The additions and revisions read as follows:

§ 249.1 Purpose and applicability.

* * * * *

(b) * * *

(1) * * *

(iv) It is a covered nonbank company;

(v) It is a covered depository institution holding company that meets the criteria in § 249.51(a) but does not meet the criteria in paragraphs (b)(1)(i)

or (b)(1)(ii) of this section, and is subject to complying with the requirements of this part in accordance with subpart G of this part; or

* * * * *

(4) In making a determination under paragraphs (b)(1)(vi) or (3) of this section, the Board will apply, as appropriate, notice and response procedures in the same manner and to the same extent as the notice and response procedures set forth in 12 CFR 263.2.

■ 7. In § 249.2, revise paragraph (a) to read as follows:

§ 249.2 Reservation of authority.

(a) The Board may require a Board-regulated institution to hold an amount of high quality liquid assets (HQLA) greater than otherwise required under this part, or to take any other measure to improve the Board-regulated institution's liquidity risk profile, if the Board determines that the Board-regulated institution's liquidity requirements as calculated under this part are not commensurate with the Board-regulated institution's liquidity risks. In making determinations under this section, the Board will apply, as appropriate, notice and response procedures as set forth in 12 CFR 263.2.

* * * * *

■ 8. In § 249.3, add definitions for ''Board'', ''Board-regulated institution'', and ''State member bank'' in alphabetical order, to read as follows:

§ 249.3 Definitions.

* * * * *

Board means the Board of Governors of the Federal Reserve System.

Board-regulated institution means a state member bank, covered depository institution holding company, or covered nonbank company.

* * * * *

State member bank means a state bank that is a member of the Federal Reserve System.

* * * * *

■ 9. Add subpart G to read as follows:

Subpart G—Liquidity Coverage Ratio for Certain Bank Holding Companies

§ 249.51 Applicability.

(a) *Scope.* This subpart applies to a covered depository institution holding company domiciled in the United States that has total consolidated assets equal to $50 billion or more, based on the average of the Board-regulated institution's four most recent FR Y–9Cs (or, if a savings and loan holding company is not required to report on the FR Y–9C, based on the average of its estimated total consolidated assets for the most recent four quarters, calculated in accordance with the instructions to the FR Y–9C) and does not meet the applicability criteria set forth in § 249.1(b).

(b) *Applicable provisions.* Except as otherwise provided in this subpart, the provisions of subparts A through F apply to covered depository institution holding companies that are subject to this subpart.

§ 249.52 High-Quality Liquid Asset Amount.

A covered depository institution holding company subject to this subpart must calculate its HQLA amount in accordance with subpart C of this part; provided, however, that such covered BHC must incorporate into the calculation of its HQLA amount a 21 calendar day period instead of a 30 day calendar day period and must measure 21 calendar days from a calculation date instead of 30 calendar days from a calculation date, as provided in § 249.21.

§ 249.53 Total Net Cash Outflow.

(a) A covered depository institution holding company subject to this subpart must calculate its cash outflows and inflows in accordance with subpart D of this part, provided, however, that such company must:

(1) Include only those outflow and inflow amounts with a contractual maturity date that are calculated for each day within the next 21 calendar days from a calculation date; and

(2) Calculate its outflow and inflow amounts for instruments or transactions that have no contractual maturity date by applying 70 percent of the applicable outflow or inflow amount as calculated under subpart D of this part to the instrument or transaction.

(b) As of a calculation date, the total net cash outflow amount of a covered depository institution subject to this subpart equals:

(1) The sum of the outflow amounts calculated under §§ __.32(a) through __.32(g)(2); *plus*

(2) The sum of the outflow amounts calculated under §§ __.32(g)(3) through __.32(l); where the instrument or transaction has no contractual maturity date; *plus*

(3) The sum of the outflow amounts under §§ __.32(g)(3) through __.32(l) where the instrument or transaction has a contractual maturity date up to and including that calendar day; *less*

(4) The lesser of:

(i) The sum of the inflow amounts under §§ __.33(b) through __.33(f), where the instrument or transaction has a contractual maturity date up to and including that calendar day, or

(ii) 75 percent of the sum of paragraphs (a), (b), and (c) of this section as calculated for that calendar day.

Federal Deposit Insurance Corporation

12 CFR CHAPTER III

Authority and Issuance

For the reasons set forth in the common preamble, the Federal Deposit Insurance Corporation amends chapter III of title 12 of the Code of Federal Regulations as follows:

PART 329—LIQUIDITY RISK MEASUREMENT, STANDARDS AND MONITORING

■ 10. The authority citation for part 329 shall read as follows:

Authority: 12 U.S.C. 1815, 1816, 1818, 1819, 1828, 1831p–1, 5412.

■ 11. Part 329 is added as set forth at the end of the common preamble.

■ 12. Part 329 is amended as set forth below:

■ a. Remove ''[INSERT PART]'' and add ''329'' in its place wherever it appears.

■ b. Remove ''[AGENCY]'' and add ''FDIC'' in its place wherever it appears.

■ c. Remove ''[AGENCY CAPITAL REGULATION]'' and add ''12 CFR part 324'' in its place wherever it appears.

■ d. Remove ''A [BANK]'' and add ''An FDIC-supervised institution'' in its place wherever it appears.

■ e. Remove ''a [BANK]'' and add ''an FDIC-supervised institution'' in its place wherever it appears.

■ f. Remove ''[BANK]'' and add ''FDIC-supervised institution'' in its place wherever it appears.

■ g. Remove ''[REGULATORY REPORT]'' and add ''Consolidated Report of Condition and Income'' in its place wherever it appears.

■ h. Remove ''[12 CFR 3.404 (OCC), 12 CFR 263.202 (Board), and 12 CFR 324.5 (FDIC)]'' and add ''12 CFR 324.5'' in its place wherever it appears.

■ 13. In § 329.1, revise paragraph (b)(1)(iii) to read as follows:

§ 329.1 Purpose and applicability.

* * * * *

(b) * * *

(1) * * *

(iii) It is a depository institution that has consolidated total assets equal to $10 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income and is a consolidated subsidiary of one of the following:

(A) A covered depository institution holding company that has total assets equal to $250 billion or more, as reported on the most recent year-end FR

Y–9C, or, if the covered depository institution holding company is not required to report on the FR Y–9C, its estimated total consolidated assets as of the most recent year end, calculated in accordance with the instructions to the FR Y–9C;

(B) A depository institution that has consolidated total assets equal to $250 billion or more, as reported on the most recent year-end Consolidated Report of Condition and Income;

(C) A covered depository institution holding company or depository institution that has consolidated total on-balance sheet foreign exposure at the most recent year-end equal to $10 billion or more (where total on-balance sheet foreign exposure equals total cross-border claims less claims with a head office or guarantor located in another country plus redistributed guaranteed amounts to the country of head office or guarantor plus local country claims on local residents plus revaluation gains on foreign exchange and derivative transaction products, calculated in accordance with the Federal Financial Institutions Examination Council (FFIEC) 009 Country Exposure Report); or

(D) A covered nonbank company.

* * * * *

■ 14. In § 329.3, add definitions for ''FDIC'' and ''FDIC-supervised institution'' in alphabetical order, to read as follows:

§ 329.3 Definitions.

* * * * *

FDIC means the Federal Deposit Insurance Corporation.

FDIC-supervised institution means any state nonmember bank or state savings association.

* * * * *

Date: October 30, 2013.

Thomas J. Curry,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, November 6, 2013.

Robert deV. Frierson,

Secretary of the Board.

By order of the Board of Directors of the Federal Deposit Insurance Corporation.

Dated at Washington, DC, this 30th day of October, 2013.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2013–27082 Filed 11–27–13; 8:45 am]

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