November 12, 2019

The Honorable Randal Quarles
Vice Chairman for Supervision
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Re: Challenges regarding the implementation of the FBO Tailoring Rule

Dear Vice Chairman Quarles,

SIFMA[1] appreciates the Board of Governors of the Federal Reserve's efforts on finalizing the revisions to the tailoring rules and the collective efforts of the Federal Banking Agencies regarding the tailored application of interagency liquidity and capital requirements. We have reviewed the final rules issued by the Board of Governors of the Federal Reserve System ("Board Rule") to revise Regulation YY as it applies to the enhanced prudential standards[2] and the Agencies' final rule to change applicability thresholds for regulatory capital and liquidity requirements[3] ("Inter-agency Proposal"). While SIFMA was a signatory on the Joint Trades Letter providing "Supplemental Comments on the Final Tailoring Rule" sent November 1, 2019, we believe additional alternatives detailed in this letter may provide expeditious resolution to industry concerns. The Tailoring rule was a very broad rulemaking and further revisions maybe warranted to accommodate transition in a way envisioned in the rule's preamble. Nonetheless, we offer for your consideration concerns regarding certain Risk Based Indicators use in the initial designation which unless refined will present challenges in implementation and avoidable costs, burdens, uncertainty that impact effected banks' balance sheets and business planning. These issues are particularly impactful for Intermediate Holding Companies (IHCs) of Foreign Banking Organizations (FBOs) engaged in institutional U.S. capital markets activities.

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[2] Board of Governors of the Federal Reserve System, Prudential Standards for Large Bank Holding Companies, Savings and Loans Holding Companies, and Foreign Banking Organizations Docket No. R-1658; RIN 7100-AF 45

[3] Office of the Comptroller of the Currency 12 CFR Parts 3 and 50 Docket ID OCC-2019-009 Rin 1557-AE63; The Federal Reserve System 12 CFR Parts 217 and 249 Regulation Q, WW; Docket No. R-1628 RIN 7100-AF21; and The Federal Deposit Insurance Corporation 12 CFR Parts 324 and 329 RIN 3064-AE96

SIFMA is the leading trade association for broker-dealers, investment banks and asset managers operating in the U.S. and global capital markets. On behalf of our industry's nearly 1 million employees, we advocate for legislation, regulation and business policy, affecting retail and institutional investors, equity and fixed income markets and related products and services. We serve as an industry coordinating body to promote fair and orderly markets, informed regulatory compliance, and efficient market operations and resiliency. We also provide a forum for industry policy and professional development. SIFMA, with offices in New York and Washington, D.C., is the U.S. regional member of the Global Financial Markets Association (GFMA).

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We believe these challenges can be addressed simply and expeditiously to closely reflect the intention of the rules as discussed in the preamble. This letter will highlight the challenges regarding the implementation of the Cross Jurisdictional Activities (CJA) indicator and the calculation of the weighted Short-term Wholesale Funding (wSTWF) indicator.

I. The Federal Reserve should establish an interim process for IHCs to provide CJA numbers until the FR Y-15 gets updated in 2020

Initial Reporting of CJA Numbers in December 2019 may result in temporary and costly miscategorization:

Domestic Banking Organizations and Foreign Banking Organizations are required to categorize their respective Bank Holding Companies (BHCs) and IHCs as of the effective date of the rule – year end 2019. The CJA indicator is one of the threshold metrics critical to the determination of placement in the restrictive Category II bucket or the less punitive Category III or IV buckets. The methodology to calculate the CJA refers to the FR Y 15 as the mechanism to demonstrate the indicator calculation, however the current FR Y-15 does not require the breakout of data necessary to perform the initial categorization. It is very likely the revised FR Y-15 report (which will request the appropriate information) will not be in final form at the time the initial categorization is performed. Firms, if not provided with an alternative reporting mechanism or relief from the date of conformance, will be temporarily incorrectly slotted in a more stringent category than was represented in the final Board Rule. For example, a firm slotted in the Category II bucket will not be permitted to adopt the recent capital simplifications to the standardized approach adopted by the Agencies in July 2019. Instead, these firms will have to engage in costly program builds in order to ensure compliance with the advanced approaches of the U.S. Risk-Based Capital Rules including SA-CCR, AOCI and potentially will be mandated to adopt the deduction approach for certain unsecured debt securities issues by G-Sibs and their IHCs. The mis- categorization of slotting could potentially persist until mid-year 2021 because the methodology relies on an averaging method.

Recommended Solutions:

To reduce the unintended consequences created by the timing of necessary revisions to the FR Y -15, the FRB should develop a transitional solution. We suggest the FRB should permit an IHC to slot itself based on the CJA Indicator methodology described in the Board rule without reference to the *current* FR Y 15. To ensure rigor in the calculation, firms could rely on the instructions that accompanied the Foreign Bank Quantitative Impact Study Instructions which was provided to the Federal Reserve based on September 30, 2018 or March 31, 2019 data. Alternatively, IHCs could inform the agencies of their appropriate bucket as identified in the Board's visuals accompanying the rules, provide documented assurances that the firm will be below the CJA thresholds as of the first reporting period of June 30, 2020 and the firm could request relief from the data of conformance for the IHCs.

II. The Federal Reserve should measure weighted Short-term Wholesale Funding (wSTWF) as a spot average on the effective date of the Tailoring Rule instead of the super averaging method.

Initial calculation of wSTWF also may result in temporary and costly miscategorization: Under the FBO tailoring rule, IHCs reflecting greater than $75B in weighted Short-Term Wholesale Funding, as reported on Form FR Y-15, become subject to more stringent liquidity requirements under Category II. These more stringent requirements include full daily LCR, full NSFR and daily liquidity reporting under 2052 (a). The wSTWF metric utilized for this determination is represented by the average of four quarterly reporting periods of the previous 365 day's daily average. It should be noted that this is a departure from other indices as this average of daily averages including capturing data over a period of 1.75 years and significantly overweighting data for certain quarters.

We appreciate that this super-averaging method could be designed to ensure that temporary volatility in wSTWF does not create capriciousness in the wSTWF indices and the different systems for supervising liquidity, however, there are unintended consequences, While such a super-averaging methodology may make perfect sense on an ongoing basis, during the tailoring rule's initial categorization period, this approach likely results in temporary misclassification of certain IHCs whose most current FR Y-15 reporting falls below $75B as of the current quarter but may have exceeded such levels in previous quarters. The use of a super averaging approach given the span of the data considered, combined with the lack of any similar limitation or metric which would have influenced wSTWF behaviors and levels are resulting in temporary misclassifications with real implications. In this situation, rigid interpretation of the ongoing rule would seem to unnecessarily penalize an IHC that has operated completely in accord with supervisory objectives to reduce wSTWF prior to the rule's effective date. Such an IHC would be forced to implement costly systems and processes to support daily 2052 (a) reporting versus monthly 2052(a) reporting which is far less impactful. Further, a firm which is improperly slotted will need to unnecessarily hold greater liquidity than its risk profile requires and force the implementation of some aspects of its reporting systems which will likely be unnecessary when the quarterly average ultimately dips below the $75 billion based on the super average approach.

Recommended Solutions: The Fed should allow an IHCs on a transition basis to use the $75 billion metric as a starting point for the liquidity requirements of category III, if the IHC can satisfy one of two tests. Either, (i) the IHC demonstrate its wSTWF measure as reported on the current FR Y-15 is below $75 billion which would represent the average of the last 365 days, or, (ii) the IHC can demonstrates a steady decline of its wSTWF spot averages over the past four reporting periods which will result in a wSTWF number less than $75B by the first date of reporting. Such a transitional approach will promote great stability in the initial slotting of FBOs as intended in the rule as well as prevent IHCs from wasting significant resources to establish systems that will become unnecessary in a relatively short period of time. We recommend that the agencies issue a revision to provide for the most recently reported wSTWF measure on the FR Y-15 (itself a four-quarter average) to be used for purposes of initial and subsequent categorizations, rather than an average of the wSTWF measures reported in each of the previous four quarters.

We appreciate the Federal Reserve's consideration of our concerns. If you have any questions or need more information, please contact either Joseph Seidel (jseidel@sifma.org), Carter McDowell (cmcdowell@sifma.org), or Coryann Stefansson (cstefansson@sifma.org) at (202) 962-7300.

Sincerely,

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