



MORTGAGE BANKERS ASSOCIATION

January 31, 2014

Honorable Ben S. Bernanke  
Chairman  
Board of Governors of the  
Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, NW  
Washington, DC 20551  
(Docket No. R-1466)

Honorable Thomas J. Curry  
Comptroller of the Currency  
Office of the Comptroller of the Currency  
250 E Street, SW  
Washington, DC 20219  
(Docket ID OCC-2013-0016)

Honorable Martin J. Gruenberg  
Chairman  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, NW  
Washington, DC 20429  
(RIN No. 3064-AE04)

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

Ladies and Gentlemen:

The Mortgage Bankers Association<sup>1</sup> (MBA) appreciates the opportunity to supplement its January 27, 2014 comment letter on the proposal *Liquidity Coverage Ratio: Liquidity Risk Measurement, Standards, and Monitoring*<sup>2</sup> (Proposed Rule). We are seeking clarification on recent concerns raised by members that include: the treatment of escrow accounts; classification of mortgage servicers; and the lack of clarity for defining an "Identified Company." Because the Proposed Rule is sweeping in nature (it addresses many bank asset categories and potential outflows) we addressed topics that could have unintended negative operational impacts for large banks.

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,200 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: [www.mortgagebankers.org](http://www.mortgagebankers.org).

<sup>2</sup> 78 Fed. Reg. 71818 (November 20, 2013).

**Escrow Deposits** - MBA seeks clarification on whether escrow deposits placed in banks by unaffiliated servicers would be considered operational deposits or non-operational deposits for the purpose of the LCR calculation. Servicers hold these deposits in trust for the underlying borrower. MBA recommends that the outflow rate be limited to the amount that can be contractually withdrawn over the 30-day LCR period or the 5 percent outflow rate for operational deposits, rather than the 25 percent outflow rate designated for escrows. Failing to limit the outflow rate has the potential to cause a bank to far exceed contractually obligated monthly escrow distributions.

**Mortgage Servicers** – MBA seeks clarification as to whether the activities associated with mortgage servicing would result in non-bank mortgage servicers being classified as financial entities, thus attaching to them to a higher outflow rate than non-financial entities or wholesale customers. Generally, servicers are not exposed to credit losses, but rather are responsible for, and compensated for, the management and collection of the payments made by the borrower, for making allocations or distributions of funds to the lender/investor, for overseeing and reporting on the performance of the collateral property, and for the management of work-outs or other resolutions of defaulted loans. Given this operational role, we believe that servicers should be classified as wholesale customers.

**Identified Companies** - MBA also seeks clarity on the Agencies' authority to deem a company to be an Identified Company under the Rule. The language in the Proposed Rule<sup>3</sup> could potentially confer to the Agencies unlimited authority to subject certain exposures to more onerous treatment, irrespective of other regulatory or public policy concerns. We urge clarity on how the Agencies may use this authority, given that ambiguity in the Rule may inappropriately cast uncertainty even on longstanding classifications under banking and financial regulations. For example, we believe that REITs, which are subject to a distinct regulatory framework, should not be viewed as Identified Companies.<sup>4</sup>

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<sup>3</sup> 78 Fed. Reg. at 71857 (defining Identified Company as "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").

<sup>4</sup> See, e.g., Internal Revenue Code § 856; CFTC Letter No. 12-13 (Oct. 11, 2012).

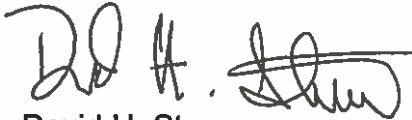
Proposed Liquidity Coverage Ratio – Supplementary Letter

January 31, 2014

Page 3 of 3

MBA appreciates the opportunity to comment on the Proposed Rule. Any questions on MBA's response should be addressed to Jim Gross at 202-557-2860 or [jgross@MBA.org](mailto:jgross@MBA.org).

Sincerely,

A handwritten signature in black ink, appearing to read "D.H. Stevens". The signature is fluid and cursive, with a prominent horizontal stroke at the end.

David H. Stevens

President and Chief Executive Officer