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ALERT MEMORANDUM

Agencies Finalize Net Stable Funding Ratio Despite Criticism

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On October 20, 2020, the federal banking agencies finalized a joint rule to adopt an NSFR requirement for certain banking organizations with total consolidated assets of $100 billion or more and certain of their depository institution subsidiaries ("Covered Companies"). Adoption of an NSFR requirement fulfills what Federal Reserve Vice Chair Quarles has called a "moral obligation" to complete the implementation of the Basel liquidity framework in the United States. The Final Rule follows the same tiered approach to application of the LCR in the Agencies' enhanced prudential standards tailoring rules finalized in October 2019. Originally proposed in May 2016, the NSFR is intended to complement the LCR by reducing a Covered Company's funding risk over a one-year horizon, in contrast to the LCR's 30-day stress assumption.

Many commenters questioned the need for the NSFR given the implementation of other U.S. regulations which similarly support stable funding and liquidity, such as the G-SIB surcharge, TLAC and the host of enhanced prudential standards in Regulation YY. Significant criticism of the proposed NSFR arose in light of incidents in 2019 and 2020 of Treasury market friction and potential market illiquidity allegedly aggravated by financial institutions' reluctance to participate in size for fear of negatively affecting their liquidity metrics. In the Final Rule, the Agencies defended the concept of an NSFR, maintaining that a standardized measure for balance sheet funding with disclosure requirements is important, and not addressed by Regulation YY's liquidity stress testing requirements (including those tests that require modeling out to one year). However, the Final Rule did make certain changes that reflect commenters' calls for significant modification to the proposed NSFR, in particular by generally excluding U.S. Treasury securities and U.S. Treasury-backed repurchase agreements from stable funding requirements and providing more favorable treatment for certain sweep deposits and for derivatives.

This memorandum identifies key takeaways and summarizes the Final Rule requirements, including changes from the 2016 proposal and divergences from the Basel NSFR standards. The tables in the Appendix provide a side-by-side comparison of the Final Rule's ASF and NSF factors, encumbrance provisions and treatment of derivatives against the requirements of the Basel NSFR and against those proposed by the Agencies. The Final Rule becomes effective on July 1, 2021.

I. Key Takeaways

— ***More Favorable Treatment of U.S. Treasury Securities.*** The potential impact of a net stable funding ratio ("NSFR") on the U.S. Treasury market was one of the most prevalent criticisms of the proposal, especially after the fall 2019 liquidity event and recent market volatility during the COVID-19 pandemic. In the Final Rule,[1] the Agencies generally require no stable funding to be held against U.S. Treasury securities or U.S. Treasury-backed short-term repurchase agreements. Specifically, unencumbered U.S. Treasury securities and other Level 1 liquid assets are given a 0% required stable funding ("RSF") factor and securities financings extended by the Covered Company to financial sector counterparties for less than six months and secured by U.S. Treasury securities or Level 1 liquid assets (where the banking organization retains the right to rehypothecate the securities) are also given a 0% RSF factor. The FDIC states that such assets "make minimal contribution to a [Covered Company's] aggregate funding risk and are important to the efficient operation of key short-term funding markets, making it appropriate to assign an RSF factor of zero percent."[2] In the context of securities financings, rehypothecating such Level 1 liquid assets would, however, raise the RSF factor to 100%, and the funding received in the rehypothecation may attract only a 50% or lower available stable funding ("ASF") factor.

— ***Increased Recognition of Certain Sweep Deposits.*** The Final Rule provides more favorable treatment for certain affiliate sweep deposits and non-deposit retail funding. Specifically:

- A 95% ASF factor (rather than a 90% ASF factor under the proposal) applies to retail affiliate sweep deposits that are fully covered by deposit insurance, and for which the Covered Company can demonstrate to the satisfaction of the relevant Agency that a withdrawal of such deposits is highly unlikely to occur during a liquidity stress event;
- A 90% ASF factor (rather than a 50% or, potentially, 0% ASF factor under the proposal) applies to retail affiliate sweep deposits that do not meet the criteria above, including if they are not fully covered by deposit insurance; and
- A 50% ASF factor applies to third-party retail sweep deposits and certain non-deposit retail liabilities (rather than a 0% ASF factor under the proposal).[3]

— ***Derivatives Add-on Reduced to 5%.*** The Final Rule includes an add-on to a Covered Company's total RSF amount equal to 5% of its gross derivatives liabilities (down from 20% in the proposal), which is the lowest amount that the Basel Committee allowed national regulators in its 2017 changes[4] to the Basel NSFR.[5] The proposed 20% add-on had been sharply criticized as a blunt mechanism, with no empirical basis, that would

[1] See, e.g., Federal Deposit Insurance Corporation (the "FDIC"), Net Stable Funding Ratio: Liquidity Risk Measurement Standards and Disclosure Requirements (Oct. 20, 2020), https://www.fdic.gov/news/board/2020/2020-10-20-notice-dis-b-fr.pdf (the "Final Rule"). The Board of Governors of the Federal Reserve System (the "Federal Reserve") and the Office of the Comptroller of the Currency (the "OCC" and, together with the Federal Reserve and the FDIC, the "Agencies") also finalized the rule on October 20, 2020. As of the date of this memorandum, the Final Rule has not yet been published in the Federal Register.

[2] Memorandum from Doreen R. Eberley, Director, FDIC Division of Risk Management Supervision, to the FDIC Board of Directors (Oct. 20, 2020), https://www.fdic.gov/news/board/2020/2020-10-20-notice-dis-b-mem.pdf.

[3] The Agencies indicated that they are considering making similar changes to the treatment of affiliate sweep deposits under the LCR, and that they would more generally continue to review data related to affiliate and non-affiliate sweep deposits to determine if a different treatment may apply.

[4] Press Release, Basel Committee, Implementation of net stable funding ratio and treatment of derivative liabilities (Oct. 6, 2017), https://www.bis.org/press/p171006.htm.

[5] Basel Committee, Basel III: The Net Stable Funding Ratio (Oct. 2014), http://www.bis.org/bcbs/publ/d295.pdf (the "Basel NSFR").

drive up costs for derivatives end users without commensurate benefits in risk reduction or financial stability. The calculation of gross derivative liabilities allows netting under a qualifying master netting agreement ("QMNA"), but does not permit the offset of posted variation margin ("VM") or settled-to-market payments.

— ***Other Positive Changes to Treatment of Derivatives.*** VM received is now recognized in more instances as an offset to the derivatives asset amount (which is subject to a 100% RSF factor).

- Unlike the proposal, cash VM does not have to meet all of the requirements for VM under the supplementary leverage ratio ("SLR") provisions in the Agencies' capital rules.[6] Notably, cash margin need not extinguish the entire amount of exposure and it need not be delivered in the same currency as the derivative contract (as long as it is an acceptable currency under the derivative contract).
- Level 1 liquid assets (not only cash) are also permitted to offset the derivatives asset amount, provided that the Covered Company reserves the right to rehypothecate the securities.
- Off-balance-sheet VM received in a derivatives transaction is not subject to the treatment of rehypothecated assets (which can cause an asset such as a loan to be deemed encumbered if the collateral is rehypothecated).

— ***Agencies Accepted Comments on Trade Date Receivables and Commodities Traded on Non-U.S. Exchanges.***

- *Trade date receivables*. The Final Rule expands the types of trade date receivables that are assigned a 0% RSF factor to include trade date receivables due to a Covered Company that (i) result from the sale of a financial instrument, foreign currency or commodity, (ii) are required to settle no later than the market standard for the particular transaction, and (iii) have yet to settle but that are not more than five business days past the scheduled settlement date. The Agencies stated that this would be a more accurate calibration because "such trade date receivables are still reasonably expected to settle imminently." The proposal would have assigned a 0% RSF factor only to those trade date receivables expected to settle within 5 days (or less, if market standard were less).
- *Non-U.S. Commodities*. The Final Rule removes the distinction between commodities for which derivatives transactions are traded on U.S. and non-U.S. exchanges and treats both under the 85% RSF factor, in response to comments that commodities with derivatives traded on non-U.S. exchanges have similar liquidity characteristics to commodities with derivatives traded on U.S. exchanges.

— ***No Change to ASF Discount for "Excess" Liquidity Trapped in Consolidated Subsidiaries.***

- The Final Rule requires Covered Companies to calculate their NSFR on a consolidated basis, consistent with the Basel NSFR. However, in sharp contrast to the Basel NSFR, the Final Rule further requires a Covered Company, when calculating ASF amounts that are lodged in a consolidated subsidiary, to take into account restrictions on the ability of that stable funding to support assets, derivative exposures and commitments of the Covered Company that are held at entities other than the subsidiary. A Covered Company is able to include the ASF amounts of a consolidated subsidiary in its total ASF amount to the extent that the funding of the subsidiary supports the RSF amount associated with the subsidiary's own assets. However, any "excess" ASF funding in the subsidiary is only included in the Covered Company's total ASF (numerator) calculation if the funding is "readily available"—meaning transferable without statutory, regulatory, contractual or supervisory

[6] 12 C.F.R. § 3.10(c)(4) (OCC), 12 C.F.R. § 217.10(c)(4) (Federal Reserve), and 12 C.F.R. § 324.10(c)(4) (FDIC).

restrictions. This deviation from the Basel NSFR, which is also a feature of the Agencies' liquidity coverage ratio rule (the "LCR Rule"),[7] increases the operational burden on Covered Companies by effectively requiring the Covered Company to calculate and monitor compliance with the NSFR at the level of every consolidated subsidiary (backing out any intercompany transactions that would disappear in consolidation).

- The Final Rule also requires a Covered Company to maintain written procedures to identify and monitor restrictions on transferring assets from its consolidated subsidiaries, further amplifying the compliance burden. This documentation requirement could invite examiners to scrutinize whether a Covered Company is meeting the NSFR at the level of its subsidiaries and could transform NSFR compliance into a de facto, subsidiary-by-subsidiary requirement.

— ***No Relief for Matched-book Securities Financing Transactions.*** It is still possible for matched securities financing transactions to be treated worse than if they had not been matched, given the encumbrance requirements upon rehypothecation, as well as the mismatch between ASF factors for secured funding and the RSF factors for secured lending. The Agencies declined to apply the "interdependent assets and liabilities" concept under which the Basel NSFR provides discretion to national authorities to address matched-book trades differently. The Agencies maintained that employing this concept would (i) be inconsistent with the purpose of the NSFR as it is possible that the asset may persist after extinguishment of the liability and (ii) increase the complexity of the NSFR, which is intended to be a simple and standardized measure. As noted above, the Agencies did reduce the RSF factor for certain short-term lending transactions secured by rehypothecatable Level 1 liquid assets.

— ***Rejected Suggested Changes to LCR Definitions.*** The Final Rule includes changes to certain definitions in the LCR Rule that also apply in the NSFR. In addition, these definitions figure prominently in the Agencies' capital surcharge rule for global systemically important banks ("G-SIBs").[8] While the Final Rule made certain changes to the definitions, in particular with respect to brokered deposits to align better with the FDIC brokered deposit framework, the Agencies did not revise certain terms that received significant comments.

- *Liquid and readily marketable*. The definition of "liquid and readily marketable" remains unchanged from the LCR, and includes prescriptive (e.g., at least two market makers) and subjective elements. Several of these subjective elements (such as "large" number of market participants, "high" trading volume or "committed" market makers) do not have their own definitions. Although the Agencies specifically requested comments on how the definition could be amended "to provide clarity or relieve operational burden," they denied commenter suggestions on how to provide a more workable standard. The preamble provides some clarifications as to the agencies' general expectations but these clarifications include their own subjective analyses. The Agencies clarified that:
    - the criteria need not be satisfied on a daily basis, but must be monitored periodically under an appropriate review process;
    - committed market makers include those that have a history of trading the security in substantial volume, even during stress;

[7] See Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 Fed. Reg. 61,440 (Oct. 10, 2014), codified at 12 C.F.R. pt. 50 (OCC), 12 C.F.R. pt. 249 (Federal Reserve), and 12 C.F.R. pt. 329 (FDIC).

[8] See, e.g., 12 C.F.R. pt. 217 subpt. H.

  - a large number of participants will exist if a majority of the trading volume involves non-market-maker participants; and
  - securities that trade regularly with daily quoted prices can generally meet the requirement for timely and observable market prices.
- *Operational deposits.* The Agencies also denied commenters' requests to expand the "operational deposits" definition to cover deposits from hedge funds and private equity funds. In the Agencies' view, these entities rely on leverage, may have higher cash needs, are subject to greater propensity for collateral calls and therefore maintain less stable deposit balances during certain market conditions. Operational deposit balances swept out of a deposit account and into non-deposit products also will not be eligible to be considered "operational deposits" because they are not deemed necessary for the provision of operational services.
- *Secured funding/lending.* The Agencies declined to expand secured funding and lending transactions to include transactions secured by assets other than securities, such as gold or other commodities that commenters argued were liquid and tradable.

— ***EPS Tailoring Rules Determine Applicability, Reducing Number of Covered Companies.*** By relying on the EPS Tailoring Rules[9] for the scope of Covered Companies, the Final Rule narrows the scope of the banking organizations subject to an NSFR requirement. Thirty-five banking organizations would have been subject to an NSFR under the proposal, 21 of which would have been subject to the full NSFR and 14 of which would be subject to the 70% reduced NSFR. In contrast, 20 banking organizations are subject to an NSFR under the Final Rule, 9 of which are subject to the full NSFR and 11 of which are subject to the 85% reduced NSFR. There are no banking organizations currently subject to the 70% reduced NSFR. Notably, both FDIC Board Member Martin Gruenberg and Federal Reserve Governor Lael Brainard focused their objections to the Final Rule on the adoption of the EPS Tailoring Rules' narrowed scope of application.

— ***Implications for FBOs' U.S. Operations.*** For foreign banking organizations, the Final Rule only applies to IHCs that meet the applicability thresholds, and there is no NSFR applied on a combined U.S. operations basis. However, the preamble to the Final Rule indicates the Federal Reserve is still considering (for proposal under a separate rulemaking process) a standardized liquidity requirement with respect to the U.S. branches and agencies of foreign banking organizations.

— ***July 1, 2021 Effective Date.*** The effective date for the Final Rule is July 1, 2021, providing approximately three quarters to comply with the new NSFR requirements. It appears the Agencies were encouraged by their calculations that indicate a low current shortfall (the Agencies estimate that "a small number" of G-SIBs could face an NSFR shortfall projected to be an aggregate of $10 billion to $31 billion of stable funding). However, there does not appear to have been much consideration of operational issues for a Covered Company to build the monitoring, calculation and reporting infrastructure necessary to meet the NSFR, other than the longer public reporting timeframe provided.

II. Summary of Final Rule

NSFR Minimum Requirement

— A Covered Company's NSFR is expressed as a ratio of its ASF amount (the numerator) to its RSF amount (the denominator).

[9] See Changes to Applicability Thresholds for Regulatory Capital and Liquidity Requirements, 84 Fed. Reg. 59230 (Nov. 1, 2019), codified at 12 C.F.R. pt. 3 (OCC), 12 C.F.R. pt. 50 (OCC), 12 C.F.R. pt. 217 (Federal Reserve), 12 C.F.R. pt. 249 (Federal Reserve), 12 C.F.R. pt. 324 (FDIC), and 12 C.F.R. pt. 329 (FDIC) (the "EPS Tailoring Rules").

- Covered Companies must maintain an NSFR with a value equal to or greater than 1.0.
- Covered Companies subject to an NSFR "reduced" to 85% or 70% are effectively required to maintain an NSFR ratio of 0.85 or 0.70, respectively, which is accomplished by discounting their RSF calculation to 85% or 70% of the RSF amount required for Covered Companies.

$$\text{"}\boldsymbol{Full}\text{"}\ \boldsymbol{NSFR} = \frac{\boldsymbol{ASF}}{\boldsymbol{RSF}} \geq \mathbf{100\%}$$

$$\mathbf{85\%}\ \text{"}\boldsymbol{Reduced}\text{"}\ \boldsymbol{NSFR} = \frac{\boldsymbol{ASF}}{\boldsymbol{RSF} * \mathbf{0.85}} \geq \mathbf{100\%}$$

$$\mathbf{70\%}\ \text{"}\boldsymbol{Reduced}\text{"}\ \boldsymbol{NSFR} = \frac{\boldsymbol{ASF}}{\boldsymbol{RSF} * \mathbf{0.7}} \geq \mathbf{100\%}$$

Covered Companies

— The scope of applicability was determined in the EPS Tailoring Rules. The Final Rule applies:

- A more stringent "full" NSFR to all Category I and II banking organizations and those Category III banking organizations that report $75 billion or more in average weighted short-term wholesale funding ("wSTWF") and their depository institution subsidiaries with $10 billion or more in total consolidated assets;
- A "reduced" NSFR calculated at 85% of the full NSFR requirement to Category III banking organizations that report less than $75 billion in wSTWF and their depository institution subsidiaries with $10 billion or more in total consolidated assets; and
- A "reduced" NSFR calculated at 70% of the full NSFR requirement to Category IV banking organizations that report $50 billion or more in wSTWF. Depository institution subsidiaries of companies subject to Category IV liquidity standards are not subject to the NSFR.

Effective Date

— ***Compliance.*** Covered Companies are required to comply with the NSFR requirements in the Final Rule beginning on July 1, 2021. The Final Rule's changes to the definitions in the LCR Rule similarly become effective on July 1, 2021.

- Banking organizations that initially become Covered Companies after July 1, 2021 must comply with the requirements on the first day of the third calendar quarter after which the banking organization becomes a Covered Company.
- Banking organizations that trip the threshold for compliance with a more stringent NSFR after the effective date must comply with the higher NSFR on the first day of the third calendar quarter after the threshold is crossed.
- Banking organizations that fall beneath a threshold and therefore are subject to a lower NSFR must continue to comply with the higher NSFR until the first day of the first calendar quarter after the threshold is crossed.
- The Final Rule also includes a broad reservation of authority that permits an Agency discretion to extend or accelerate any compliance date.

— ***Regulatory Reporting.*** The Final Rule preamble notes that the Federal Reserve will issue a separate proposal for notice and comment to amend the Form FR 2052a to collect information related to the NSFR requirements. The 2052a is required on a daily basis for Category I, II and III firms subject to the full LCR/NSFR and on a monthly basis for Category III and IV firms subject to the reduced LCR/NSFR.

Pillar 3 Disclosure Requirements

— The Final Rule subjects all Covered Companies other than depository institutions to semi-annual NSFR public disclosure requirements, using a standardized tabular format (the "NSFR Disclosure Template"). In a helpful change from the proposal, the Final Rule revised the frequency of public disclosure from quarterly to semi-annually and amended disclosure of a Covered Company's NSFR to its daily average instead of its period-end NSFR. The NSFR Disclosure Template includes the NSFR ratio and components of the Covered

Company's ASF and RSF calculations, as well as disclosure of both the average "un-weighted" (the values of the components before standardized factors are applied) and "weighted" amounts. These components are separated by relevant maturity categories.

— Covered Companies are required to provide sufficient qualitative discussion of their NSFR and component calculations to facilitate an understanding of the results. The qualitative disclosure requirements are tailored to provide flexibility to a Covered Company to disclose information relevant to understanding the individual Covered Company's liquidity profile, such as key drivers of changes to its NSFR over time, concentrations of available stable funding throughout the funding structure or other sources of funding. Covered Companies do not need to include any information that is proprietary or confidential in the qualitative discussion, as long as the Covered Company discloses general information on the topic and provides a specific reason why the information is not being disclosed.

— While the NSFR Disclosure Template is similar to the NSFR disclosure template published by the Basel Committee as part of the Basel III Disclosure Standards, it requires more granular disclosures by including additional ASF and RSF categories not separately broken out under the Basel III NSFR.[10]

— ***Timing of Disclosures.*** The first reporting period for which a Covered Company is required to disclose its NSFR is the first calendar quarter 18 months after the Covered Company becomes subject to the NSFR requirement, which would be after the second calendar quarter in 2023 for Covered Companies that become subject to NSFR requirements on the July 1, 2021 effective date. The NSFR Disclosure Template must be prepared for each quarter, but is only required to be reported on a semi-annual basis (i.e., the first and second quarter would both be disclosed following the end of the second quarter).

Rules of Construction: The Final Rule includes three "rules of construction" that guide interpretation of the Rule.

— The first affirms that the Final Rule will follow generally accepted accounting principles ("GAAP") for determining balance sheet assets and liabilities, unless another treatment is specifically provided under the rule text.

The agencies declined commenters' requests to exclude from the NSFR calculation certain securitization-related assets and liabilities that are included on a Covered Company's balance sheet pursuant to GAAP but are not owned or owed by the Covered Company. The Agencies noted that the GAAP treatment for such exposures is based on the Covered Company's ability to control the exposures and that it may be exposed to funding obligations arising from such exposures that should be reflected in the NSFR.

— The second affirms that GAAP offset treatment may be applied in relation to secured funding and secured lending transactions. If permitted under GAAP, gross receivables from a counterparty may be offset against gross payables to that counterparty, provided that the offset is also performed in accordance with the SLR offset provisions in the Agencies' capital rules.[11]

— The third addresses the treatment of securities received in an asset exchange by a securities lender. It provides that when a Covered Company, acting as a securities lender, receives a security rather than cash as collateral (an asset exchange), includes the value of the security on its balance sheet, and has not rehypothecated the security received, the Covered Company is not required to assign an RSF factor to the security it has received and is not

[10] See Basel Committee, Net Stable Funding Ratio Disclosure Standards (June 2015), http://www.bis.org/bcbs/publ/d324.pdf.

[11] See, e.g., 12 C.F.R. § 217.10(c)(4)(ii)(E)(1) -(3).

permitted to assign an ASF factor to any liability to return the security.

ASF Amount (Numerator)

— ***Components of ASF.*** ASF is composed of capital instruments and liabilities, including cash deposits and borrowings of different maturity lengths.

- "<u>NSFR Liability</u>" is defined as any liability or equity reported on the balance sheet that is not an NSFR Regulatory Capital Element.
- "<u>NSFR Regulatory Capital Element</u>" is defined to include any common equity tier 1, additional tier 1 or tier 2 capital element (before the application of any regulatory deductions or adjustments required by the Agencies' capital rules).
- The Final Rule thus generally aligns with the Basel NSFR, with certain exceptions: instruments, like trust preferred securities, that are subject to phase out under the transition provision of the Agencies' Basel III capital implementing rules are excluded from the definition of NSFR Regulatory Capital Element.

— ***Calculation of ASF Amount.*** Consistent with the Basel NSFR, the Final Rule uses a standardized bucketing approach to determine a Covered Company's ASF amount.

- First, assign each of a Covered Company's balance sheet NSFR Regulatory Capital Elements and NSFR Liabilities to one of five ASF factor categories,
- Second, multiply the carrying value of each capital element or liability by the appropriate ASF factor for that category, and
- Third, sum the resulting values.

— ***ASF Factors.*** The Final Rule assigns standardized ASF factors to categories of capital elements or liabilities based on tenor, funding type and counterparty type. ASF factors are scaled from 0% to 100%, with 0% representing the lowest stability and 100% representing the highest stability over a one-year time horizon.

- The ASF factors for the five categories of capital elements and liabilities are summarized in Table 1 in the Appendix and contrasted against the ASF factors in the Basel NSFR and the proposal.

— ***Determining Maturity.*** Despite commenters' requests to modify the standard for determining maturity of NSFR liabilities and assets, the Final Rule maintains the maturity standard set forth in the LCR.

- Accordingly, the Final Rule assigns the *earliest* possible maturity date for an NSFR Liability. Liabilities that have "open" maturities and may be closed out on demand are assumed to mature the following day, except in circumstances where the original maturity of the obligation is greater than one year and the option does not go into effect for a period of 180 days following the issuance of the instrument. "Perpetual" instruments are not treated as maturing the following day, as they typically are not able to be closed out on demand. The Final Rule also requires a Covered Company to assign ASF factors to particular liabilities consistent with scheduled payment dates (e.g., amortizing loans may be segmented and assigned different factors).
- While the rule text discusses only options that may accelerate or extend a maturity date, the preamble notes Covered Companies should take a conservative approach when determining maturity with respect to any notice periods, either explicit or embedded, that may modify the maturity date as well.
- However, the Final Rule confirms that a 100% ASF factor applies to all NSFR Regulatory Capital Elements, since by definition they are longer-term.

— ***Treatment of Subsidiaries in ASF Calculations.*** Consistent with the Basel NSFR, the Final Rule requires Covered Companies to calculate their NSFR on a consolidated basis. In sharp contrast to the Basel NSFR, however, the Final Rule (consistent with the proposal and the LCR) further requires a Covered Company, when calculating ASF amounts from a consolidated subsidiary, to take into account restrictions on the ability of the subsidiary's stable funding to support assets, derivative exposures and commitments of the Covered Company held at entities other than the subsidiary.

- *"Excess" ASF not counted if subject to transfer restrictions.* A Covered Company is able to include the ASF amounts of a consolidated subsidiary towards its total ASF only to the extent that the funding of the subsidiary supports the RSF amount associated with the subsidiary's own assets or is "readily available" to support RSF amounts associated with the assets of the Covered Company outside the consolidated subsidiary, taking into account statutory, regulatory, contractual and supervisory restrictions.
- *Potential restrictions on transfer of "excess" ASF must be documented.* Moreover, the Final Rule requires a Covered Company to maintain written procedures to identify and monitor restrictions on transferring assets from its consolidated subsidiaries.
  - A Covered Company is required to document the types of transactions, such as loans or dividends, a Covered Company's consolidated subsidiary could use to transfer assets and how the transactions would comply with applicable restrictions. The Covered Company would then be expected to demonstrate to examiners that such excess amounts may be transferred freely in compliance with applicable statutory, regulatory, contractual or supervisory restriction in the relevant jurisdiction.
- Restrictions that may impede transfer of assets include Sections 23A and 23B of the Federal Reserve Act and Regulation W,[12] lending limits, capital requirements and other restrictions imposed by a federal or state regulator or a foreign supervisor for consolidated subsidiaries located outside the United States.

RSF Amount (Denominator)

— ***Components of RSF.*** RSF is composed of balance sheet assets and certain off-balance-sheet items, including unfunded commitments and derivative exposures.

— ***Calculation of RSF Amount.*** A Covered Company's RSF amount represents the minimum level of stable funding that the Covered Company is required to maintain based on the liquidity risk profile of its assets, derivative exposures and commitments over a one-year period. A Covered Company's RSF amount equals the sum of:

- the carrying values of a Covered Company's assets (other than derivative assets) and the undrawn amount of commitments, each multiplied by its assigned RSF factor, and
- the Covered Company's "RSF derivatives amount" which is derived from a separate, seven-component calculation described below.

— ***RSF Factors.*** RSF factors are scaled from 0% to 100% based on the liquidity characteristics of the asset, commitment or derivative exposure. Assets assigned a 0% RSF—which have the greatest liquidity, are of the greatest quality and/or have the shortest maturity—include currency and coins, cash items in the process of collection, central bank reserves, U.S. Treasury securities and certain trade date receivables arising from the sale of financial instruments, foreign currencies and commodities. A 0% RSF factor means that the Final Rule does not require the asset, derivative exposure or commitment to be supported by available stable funding, and a 100% RSF factor means that the Final Rule requires the asset, derivative exposure or commitment to be fully supported by available stable funding. The Final Rule measures liquidity over the NSFR's one-year time horizon based on

[12] 12 U.S.C. 371c and 12 U.S.C. 371c-1; 12 C.F.R. pt. 223.

credit quality, tenor, type of counterparty, market characteristics and encumbrance.

- *Determining maturity*. Consistent with the LCR, the Final Rule requires a Covered Company to assume the *latest* possible maturity date for all assets, taking into account options and notice periods that could extend the maturity. As with the ASF calculation, the Final Rule requires Covered Companies to assign RSF factors to particular assets consistent with the scheduled payment dates where the asset is an amortizing loan.
- The RSF factors for the seven categories of assets and off-balance-sheet items are summarized in Table 2 of the Appendix and presented alongside the corresponding RSF categories in the Basel NSFR and the proposal.

— ***Undrawn committed liquidity and credit facilities***. Consistent with the Basel NSFR, the Final Rule assigns a 5% RSF factor to the undrawn amount of committed credit and liquidity facilities that a Covered Company provides to its customers and counterparties, even though such items are generally not included on a company's balance sheet, to account for the possibility of drawdowns over the one-year NSFR time horizon. The RSF charge applies only to "committed" facilities—defined as facilities that cannot be unconditionally canceled by a Covered Company. The undrawn amount is the maximum amount that could be drawn upon within one year of the calculation date. Undrawn amounts that are contingent on the occurrence of a contractual milestone or other event that has not occurred and cannot be reasonably expected to be reached or occur within one year are not included in the undrawn commitment amount.[13]

— ***Encumbered assets.*** Assets are included in the RSF total regardless of whether or not they are encumbered.[14] However, because encumbered assets cannot be easily liquidated during the period they are encumbered, the Final Rule requires more stable funding for any assets encumbered for six months or more. Those assets are assigned an RSF factor equal to the greater of 50% or the RSF factor applicable to the asset class if unencumbered. Any asset encumbered for one year or more is assigned an RSF factor of 100% since it is presumed unavailable to the Covered Company during the NSFR one-year time horizon. Assets encumbered for less than six months receive the same RSF factor as if they were unencumbered. Table 3 in the Appendix provides a comparison of the treatment of encumbered assets under the Basel NSFR, the proposal and the Final Rule.

- The Basel NSFR provides national authorities with the discretion to determine the RSF for assets encumbered as a result of exceptional central bank liquidity operations. Consistent with this discretion, the Agencies have carved out any assets pledged to a central bank or U.S. government sponsored enterprise where (i) potential credit secured by the asset is not currently extended to the Covered Company and (ii) the pledged asset is not required to support access to the payment services of a central bank.

[13] The preamble gave as examples of undrawn commitments (i) a construction credit facility that permits draws based on reaching certain construction milestones and (ii) a letter of credit that is only honored upon the nonperformance of the buyer. In these cases, the preamble indicates the Agencies expect that a Covered Company would analyze and document whether the performance hurdle or default has occurred or should "reasonably be expected" to occur within the one-year time horizon.

[14] Encumbered assets are defined as assets that are (i) subject to legal, regulatory, contractual, or other restrictions on the ability of the Covered Company to monetize the asset; or (ii) pledged, explicitly or implicitly, to secure or to provide credit enhancement to any transaction, but exclude assets pledged to a central bank or a U.S. government-sponsored enterprise where (a) the potential credit secured by the asset is not currently extended to the Covered Company and (b) the pledged asset is not required to support access to the payment services of a central bank. Assets held in segregated customer protection accounts subject to statutory or regulatory requirements for the protection of customer assets are not viewed as encumbered solely due to the restrictions on the ability move assets from such accounts.

— ***Issues Specific to Securities Financing Transactions.*** The Final Rule generally adopts the treatment of securities financing transactions, including the treatment of rehypothecated off-balance-sheet assets, as proposed. The Final Rule also provides no relief for matched-book repos (other than with respect to the treatment of U.S. Treasury securities and other Level 1 liquid assets), which remain subject to a 15% RSF factor for all other collateral, even where these transactions are short term and perfectly offset by mirror transactions.

- *Rehypothecated off-balance-sheet assets.* The Final Rule requires Covered Companies to track off-balance-sheet assets received by the Covered Company as collateral in a lending transaction and apply a higher RSF factor to the lending transaction if any off-balance-sheet assets received have been rehypothecated in longer-dated transactions. A similar treatment would apply to off-balance-sheet assets in an asset exchange and to such assets sold into a short sale. The encumbrance concept may significantly increase the compliance burden for Covered Companies by requiring them to establish systems to track and trace all securities obtained as collateral in one transaction and on-posted as collateral in another in order to assess the degree of encumbrance of the original lending transaction or asset provided in an asset exchange.
- The Agencies assert that although such assets may not appear on a Covered Company's balance sheet, they may adversely impact the company's liquidity profile once sold or rehypothecated. For example, if a Covered Company obtains a security as collateral in a lending transaction and rehypothecates the security as collateral in a separate borrowing transaction, the Covered Company may need to either roll over the lending transaction if it matures before the borrowing transaction or obtain a replacement asset for the rehypothecated collateral to return to the pledgor under the lending transaction. Similarly, a short sale may result in a balance-sheet liability (to return the borrowed security) without a corresponding balance sheet asset, even though the asset will need to be replaced in order to settle the liability. A comparison of the treatment of off-balance sheet rehypothecated assets under the Basel NSFR, the proposal and the Final Rule is provided in Table 3 in the Appendix.
- *No relief for matched-book repos under interdependent assets and liabilities exemption.* Consistent with the proposal, the Final Rule rejects the Basel NSFR treatment for "interdependent assets and liabilities." Under the Basel exemption, national authorities have discretion to set ASF and RSF factors to zero in the case of interdependent assets and liabilities. The exception may be applied when certain assets and liabilities are interdependent such that the liability cannot come due while the asset remains on the banking enterprise's balance sheet, the principal payment flows from the asset cannot be used for anything other than repaying the liability and the liability cannot be used to fund other assets, among other Basel NSFR requirements. The Agencies stated that adoption of the interdependence concept would (i) be inconsistent with the purpose of the NSFR where it is possible that the asset may persist after extinguishment of the liability and (ii) increase the complexity of the NSFR, which is intended to be a simple and standardized measure.

Derivatives RSF Amount

— A Covered Company must calculate its derivatives RSF amount separately from the calculation of RSF for other assets and undrawn commitments. A comparison of the treatment of derivatives under the Basel NSFR, the proposal and the Final Rule is included in Table 4 of the Appendix.

— ***Calculation of Derivatives RSF Amount.*** A Covered Company's derivatives RSF amount equals the sum of the following seven calculations:

1. Its NSFR **derivatives asset amount** multiplied by an RSF factor of 100%;
   - The Covered Company's derivative asset amount or derivatives liability amount is determined by (i) first totaling all derivatives and QMNA netting sets that have a positive value to the Covered Company after netting VM in the form of rehypothecatable Level 1 liquid assets, (ii) totaling all derivatives and QMNA netting sets that have a liability value after netting VM of any type, and (iii) then netting the total asset value against the total liability value.
   - If the calculated total derivative assets exceed the total derivative liabilities, then there is a derivative asset amount subject to a 100% RSF factor.
   - If the calculated total derivative liabilities exceed the total derivative asset amount, the Covered Company has a derivatives liability amount which is assigned a 0% ASF factor.
2. The on-balance-sheet carrying value, if any, of **non-excess VM provided** by the Covered Company multiplied by a 0% RSF;
3. The on-balance-sheet carrying value, if any, of **excess VM provided** by the Covered Company multiplied by the RSF factor applicable to its asset category;
   - The Agencies noted that a liquidity charge is appropriate for these assets since they do not reduce the Covered Company's derivatives liabilities that are able to net against its derivative assets.
4. The on-balance-sheet carrying value, if any, of **initial margin ("IM")[15] or VM received** by the Covered Company multiplied by the RSF factor applicable to its asset category;
   - On-balance-sheet cash VM received is assigned an RSF factor of 0%. In contrast to the proposal, cash VM does not have to meet all of the requirements for VM under the SLR provisions in the Agencies' capital rules[16] in order to be offset against a derivative asset amount. Notably, cash margin need not extinguish the entire amount of exposure and it need not be delivered in the same currency as the derivative contract (as long as it is an acceptable currency to settle obligations under the derivative contract). Such cash VM must not be segregated and must be calculated and transferred on a daily basis based on mark-to-fair value of the derivative contract.
   - In another significant change from the proposal, Level 1 liquid assets received as VM are also permitted to offset the derivatives asset amount, provided that the banking organization reserves the right to rehypothecate the Level 1 assets.
   - Off-balance-sheet VM received in a derivatives transaction is not subject to the treatment of rehypothecated assets (which can cause an asset such as a loan to be deemed encumbered if the collateral is rehypothecated).
   - The Final Rule assigns a 0% ASF factor to any NSFR Liability arising from an obligation to return IM or VM.
5. 5% of the sum of **gross derivative liabilities** multiplied by an RSF factor of 100% (as a proxy for potential future changes in the

[15] While the preamble to the Final Rule is clear that IM received on balance sheet is to be treated this way, there does not appear to be a specific regulatory provision that addresses received IM, other than a provision that indicates that a 0% ASF factor is to be assigned to the liability to return IM.

[16] 12 C.F.R. § 3.10(c)(4) (OCC), 12 C.F.R. § 217.10(c)(4) (Federal Reserve), and 12 C.F.R. § 324.10(c)(4) (FDIC).

Covered Company's derivatives portfolio that may require the Covered Company to provide VM or make settlement payments);

- Individual derivatives not covered by a QMNA are included if they are liabilities; a QMNA netting set is included if its net amount of assets and liabilities is a liability.
  - However, neither settlement payments nor VM payments are recognized in the calculation of "gross derivatives values."
  - Derivative transactions where the Covered Company acts as agent for a customer also are not included in "gross derivative values" for purposes of the add-on (unless payment on the guarantee provided to the CCP results in a balance-sheet asset under GAAP).
- As discussed in the Key Takeaways, the Final Rule reduces the add-on calibration from 20% to 5%, the lowest permitted by the Basel NSFR revisions in 2017. The Agencies state that the reduction of the weighting of this component from 20% in the proposal to 5% in the Final Rule should reduce the potentially pro-cyclical effects of the proposal's calibration and possible disincentives for Covered Companies to maintain longer-dated derivative transactions that are used for hedging purpose. The Agencies also state that 5% calibration "ensures covered companies maintain at least a minimum amount of stable funding for funding risks associated with potential valuation changes in derivatives portfolios," but note that they will utilize the supervisory process to monitor and evaluate the appropriateness of the 5% calibration (with any change subject to notice and comment).

6. The fair value of the Covered Company's **contributions to default funds** of a central counterparty ("CCP"), regardless of whether the contribution is on balance sheet, multiplied by an RSF factor of 85%; and
7. The fair value of each **IM asset provided** by the Covered Company for derivative transactions, regardless of whether the IM is on balance sheet, multiplied by an RSF of 85% unless a 100% RSF factor would otherwise apply to the IM assets (for example, if the IM assets were equity securities that are not publicly traded).
   - Any balance-sheet receivable recorded in connection with such IM is disregarded and the RSF factor applies only to the amount of IM provided by the Covered Company in order to avoid double counting.

— ***Customer Cleared Derivative Transactions.*** Derivative transactions, where the clearing member Covered Company acts as agent and provides a guarantee to the CCP for the performance of the customer, are not included as derivative assets or liabilities of the Covered Company.

- However, if (i) under GAAP, the Covered Company records its guarantee on-balance-sheet as the equivalent of the underlying derivative, or (ii) the Covered Company must perform on its guarantee and such performance results in an on-balance-sheet derivative asset or liability value, this amount would be included when determining the Covered Company's total derivatives asset or liability amount for the NSFR.
- Principal derivative transactions with a CCP (where the Covered Company has entered into a back-to-back with a customer) and any VM provided or received by the Covered Company are included in the Covered Company's total derivatives asset or liability amount.
- IM provided by a Covered Company as agent for a customer's cleared derivatives transactions is not included, so long as the company does not guarantee the obligations of the customer's counterparty to the customer. However, such IM is assigned an RSF factor and included in a Covered Company's RSF amount to the extent

the IM remains on the Covered Company's balance sheet.

Treatment of Certain Federal Reserve Facilities

— Consistent with the LCR revisions finalized in May 2020, the Final Rule includes provisions that neutralize the NSFR impacts of advances made by the Money Market Mutual Fund Liquidity Facility and Paycheck Protection Program Liquidity Facility, together with the assets securing these advances, by excluding assets that secure borrowings from these facilities from a Covered Company's NSFR. Consistent with the LCR exclusion, the NSFR exclusion does not apply to the extent a Covered Company or its consolidated subsidiary issued the instruments serving as collateral.

Enforcement Mechanisms

— ***Notice Requirement.*** Covered Companies are required to notify their appropriate federal supervisor within 10 business days after an event causing an NSFR shortfall. Thus, Covered Companies need to calculate and monitor their NSFR on a regular basis to identify shortfalls and notify accordingly.

— ***Liquidity Plan.*** In addition, a Covered Company with a shortfall is required to submit a written liquidity plan indicating how it would remediate the shortfall.

The plan must include an assessment of the Covered Company's liquidity profile, a plan for remediating operational or managerial issues that led to the NSFR shortfall, status of planned remedial actions and an estimated timeframe for NSFR compliance. Submission of the plan triggers a monthly reporting requirement on progress towards NSFR compliance.

— ***Other Enforcement Actions***. The Agencies have discretion to take additional supervisory or enforcement actions to address non-compliance.

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TABLE 1: Comparison of liability categories and associated ASF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
	Components of ASF category		
ASF factor	**Basel NSFR**	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
100%	• Total regulatory capital (excluding Tier 2 instruments with residual maturity of less than one year) • Other capital instruments and liabilities with effective residual maturity of one year or more	• NSFR regulatory capital elements (CET1, Additional Tier 1 and Tier 2 capital with a residual contractual maturity of 1 year or more, excluding any capital instruments that do not meet the qualifications for Tier 1 or Tier 2 capital, such as grandfathered trust preferred securities) • Long-term NSFR liabilities (equity or liabilities with a remaining maturity of one year or longer, excluding retail and brokered deposits)	• NSFR regulatory capital elements (CET1, Additional Tier 1 and Tier 2 capital with a residual contractual maturity of 1 year or more, excluding any capital instruments that do not meet the qualifications for Tier 1 or Tier 2 capital, such as grandfathered trust preferred securities) (***unchanged***) • Long-term NSFR liabilities (equity or liabilities with a remaining maturity of one year or longer, excluding retail and brokered deposits) (***unchanged***)
95%	• Stable non-maturity (demand) deposits and term deposits with residual maturity of less than one year provided by retail and small business customers	• Fully insured stable retail deposit (regardless of maturity or collateralization) held at the banking organization	• Fully insured stable retail deposit (regardless of maturity or collateralization) held at the banking organization (***unchanged***) • Affiliate-brokered sweep deposits that are fully insured and for which the banking organization can demonstrate to the Agency's satisfaction that withdrawal is highly unlikely during a liquidity stress event (***new component***)
90%	• Less stable non-maturity deposits and term deposits with residual maturity of less than one year provided by retail and small business customers	• Retail deposits that are neither stable retail deposits nor retail brokered deposits, including retail deposits that are not fully insured by the FDIC or are insured under a non-FDIC insurance regime • Brokered reciprocal deposits that are fully covered by deposit insurance • Affiliate-brokered sweep deposits that are fully insured • Other brokered deposits with a remaining maturity of at least one year that are not held in a transactional account	• Retail deposits that are neither stable retail deposits nor retail brokered deposits, including retail deposits that are not fully insured by the FDIC or are insured under a non-FDIC insurance regime (***unchanged***) • Brokered reciprocal deposits that are fully covered by deposit insurance (***unchanged***) • Affiliate-brokered sweep deposits whether or not they are fully insured or that do not otherwise meet the criteria for a 95% ASF (***removed the proposed deposit insurance requirement***) • Other brokered deposits with a remaining maturity of at least one year that are not held in a transactional account (***unchanged***)

TABLE 1: Comparison of liability categories and associated ASF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
	Components of ASF category		
ASF factor	Basel NSFR	Agencies' NSFR Proposal	Agencies' NSFR Final Rule
50%	• Funding (secured and unsecured) with residual maturity of less than one year provided by non-financial corporate customers • Operational deposits • Funding with residual maturity of less than one year from sovereigns, public sector entities, and multilateral and national development banks • Other funding (secured and unsecured) with residual maturity between six months and less than one year not included in the above categories, including funding provided by central banks and financial institutions	• Unsecured wholesale funding (including wholesale deposits, and excluding securities issued or operational deposits) and secured funding transactions (not including operational deposits) with a counterparty that is not a financial sector entity or central bank with a remaining maturity of less than one year • Unsecured wholesale funding (not including securities issued or operational deposits) and secured funding transactions (not including operational deposits) with a financial sector entity or central bank with remaining maturity of six months or more, but less than one year • Securities issued by a Covered Company with remaining maturity of six months or more but less than one year • Operational deposits • Other retail brokered deposits not included in other categories (including affiliate-brokered sweep deposits that are not fully insured) • All other NSFR liabilities with remaining maturity of six months or more, but less than one year	• Unsecured wholesale funding (including wholesale deposits, and excluding securities issued or operational deposits) and secured funding transactions (not including operational deposits) with a counterparty that is not a financial sector entity or central bank with a remaining maturity of less than one year (***unchanged***) • Unsecured wholesale funding (not including securities issued or operational deposits) and secured funding transactions (not including operational deposits) with a financial sector entity or central bank with remaining maturity of six months or more, but less than one year (***unchanged***) • Securities issued by a Covered Company with remaining maturity of six months or more but less than one year (***unchanged***) • Operational deposits (***unchanged***) • Other retail brokered deposits not included in other categories (***unchanged, but subject to changes in other categories***) • Other retail sweep deposits not included in other categories (***moved from the proposed 50% or 0% categories depending upon the maturity***) • Non-deposit retail funding (***moved from the proposed 0% category***) • All other NSFR liabilities with remaining maturity of six months or more, but less than one year (***unchanged***)

TABLE 1: Comparison of liability categories and associated ASF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
	Components of ASF category		
ASF factor	**Basel NSFR**	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
0%	• All other liabilities and equity categories not included in the above categories, including other funding with residual maturity of less than six months from central banks and financial institutions • All other liabilities and equity not included in the above categories, including liabilities without a stated maturity (with a specific treatment for deferred tax liabilities and minority interests) • NSFR derivative liabilities net of NSFR derivative assets if NSFR derivative liabilities are greater than NSFR derivative assets • "Trade date" payables arising from purchases of financial instruments, foreign currencies and commodities • Liabilities with interdependent assets that meet certain criteria, subject to national discretion (resulting also in an RSF for the asset of 0%)	• Trade date payables that result from purchases of a financial instrument, foreign currency, or commodity that are contractually required to settle within the lesser of the market standard settlement period for the particular transaction and five business days from the date of the sale • Retail brokered deposits that are not brokered reciprocal deposits or sweep deposits, that are not held in a transactional account, with a remaining maturity of under six months • Non-deposit retail funding • Securities issued by a Covered Company with a remaining maturity of less than six months • Funding (not including securities issued or operational deposits) from a financial sector entity or central bank with a remaining maturity under six months • NSFR derivatives liabilities net of NSFR derivative assets if NSFR derivative liabilities are greater than NSFR derivative assets • All other NSFR liabilities with a remaining maturity under six months or an open maturity	• Trade date payables that result from purchases of a financial instrument, foreign currency, or commodity that are contractually required to settle within the lesser of the market standard settlement period for the particular transaction and five business days from the date of the sale (***unchanged***) • Retail brokered deposits that are not brokered reciprocal deposits or sweep deposits, that are not held in a transactional account, with a remaining maturity of under six months (***unchanged***) • Securities issued by a Covered Company with a remaining maturity of less than six months (***unchanged***) • Funding (not including securities issued or operational deposits) from a financial sector entity or central bank with a remaining maturity under six months (***unchanged***) • NSFR derivatives liabilities net of NSFR derivative assets if NSFR derivative liabilities are greater than NSFR derivative assets (**unchanged**) • All other NSFR liabilities with a remaining maturity under six months or an open maturity (***unchanged***) • The Agencies concluded it would be inappropriate to recognize any assets and liabilities as interdependent (***further clarification***)

TABLE 2: Comparison of asset categories and associated RSF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
Components of RSF category			
RSF factor	**Basel NSFR**	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule (Assets Required to be Unencumbered Unless Otherwise Noted)**
0%	• Coins and banknotes • All central bank reserves • All claims on central banks with residual maturities of less than six months • "Trade date" receivables arising from sales of financial instruments, foreign currencies and commodities that (i) are expected to settle within the standard settlement cycle or period that is customary for the relevant exchange or type of transaction, or (ii) have failed to, but are still expected to, settle • Assets with interdependent liabilities that meet certain criteria, subject to national discretion (resulting also in an ASF for the liability of 0%)	• Currency, coin and cash items in process of collection • Reserve Bank balances (defined to include required and excess reserves but excluding balances maintained by the Covered Company for other institutions) • Other claims on Reserve Banks and foreign central banks with residual maturities of less than six months • Trade date receivables resulting from the sale of a financial instrument, foreign currency, or commodity that are required to settle within the lesser of the market standard settlement period, without extension, for the particular transaction and five business days from the date of the sale, and that have not failed to settle within the required settlement period	• Currency, coin and cash items in process of collection (***unchanged***) • Reserve Bank balances (defined to include required and excess reserves but excluding balances maintained by the Covered Company for other institutions) (***unchanged***) • Other claims on Reserve Banks and foreign central banks with residual maturities of less than six months (***unchanged***) • Trade date receivables resulting from the sale of a financial instrument, foreign currency, or commodity that are required to settle no later than the market standard, without extension, and that has yet to settle but is not more than five business days past the scheduled settlement date (***modified to grant a five-day grace period and to make market standard (rather than five days) the ceiling***) • Level 1 liquid assets not described above, including U.S. Treasury securities (***moved from the proposed 5% category***) • Secured lending transactions with a financial sector entity that mature within six months and are secured by a rehypothecatable Level 1 liquid asset (***moved from the proposed 10% category***) • The Agencies concluded it would be inappropriate to recognize any assets and liabilities as interdependent (***further clarification***)
5%	• Unencumbered Level 1 assets, excluding coins, banknotes and central bank reserves	• Level 1 liquid assets (excluding assets assigned to the 0% RSF category), including U.S. Treasury securities • The undrawn amount of any committed credit facility or committed liquidity facility extended by the banking organization (where the undrawn amount is the entire unused amount of the facility that could be drawn upon within one year of the calculation date under the governing agreement)	• The undrawn amount of any committed credit facility or committed liquidity facility extended by the banking organization (where the undrawn amount is the entire unused amount of the facility that could be drawn upon within one year of the calculation date under the governing agreement) (***unchanged***)

TABLE 2: Comparison of asset categories and associated RSF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
Components of RSF category			
RSF factor	**Basel NSFR**	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule (Assets Required to be Unencumbered Unless Otherwise Noted)**
10%	• Unencumbered loans to financial institutions with residual maturities of less than six months, where the loan is secured against Level 1 assets, and where the bank has the ability to freely rehypothecate the received collateral for the life of the loan	• Secured lending transactions with a financial sector entity or a subsidiary thereof that mature within six months and are secured by a rehypothecatable Level 1 liquid asset	• No components are in this category (***sole proposed component was moved to the 0% category***)
15%	• All other unencumbered loans to financial institutions with residual maturities of less than six months not included in the above categories • Unencumbered Level 2A assets	• Secured lending transactions extended by the Covered Company to a financial sector entity that mature within six months and that are secured by assets other than rehypothecatable Level 1 liquid assets • Unsecured wholesale lending (other than operational deposits) extended by the Covered Company to a financial sector entity that mature within six months • Level 2A liquid assets, including GSE obligations	• Secured lending transactions extended by the Covered Company to a financial sector entity that mature within six months and that are secured by assets other than rehypothecatable Level 1 liquid assets (***unchanged***) • Unsecured wholesale lending (other than operational deposits) extended by the Covered Company to a financial sector entity that mature within six months (***unchanged***) • Level 2A liquid assets, including GSE obligations (***unchanged***)

TABLE 2: Comparison of asset categories and associated RSF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule

	Components of RSF category		
RSF factor	**Basel NSFR**	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule (Assets Required to be Unencumbered Unless Otherwise Noted)**
50%	• Unencumbered Level 2B assets • HQLA encumbered for a period of six months or more and less than one year • Loans to financial institutions and central banks with residual maturities between six months and less than one year • Deposits held at other financial institutions for operational purposes • All other non-HQLA not included in the above categories with residual maturity of less than one year, including loans to non-financial corporate clients, loans to retail and small business customers, and loans to sovereigns and public sector entities	• Level 2B liquid assets, including certain publicly traded corporate equity and debt securities and U.S. general obligation municipal securities • Secured lending transactions and unsecured wholesale lending (other than operational deposits) extended to a financial sector entity or a central bank with a remaining maturity between six months and one year • Secured lending transactions and unsecured wholesale lending extended to counterparties that are not financial sector entities and are not central banks that mature in less than one year • Lending to retail customers and counterparties (including certain small businesses) that matures in less than one year • Operational deposits placed at financial sector entities • All other assets that mature in less than one year	• Level 2B liquid assets, including certain publicly traded corporate equity and debt securities and U.S. general obligation municipal securities (***unchanged***) • Secured lending transactions and unsecured wholesale lending (other than operational deposits) extended to a financial sector entity or a central bank with a remaining maturity between six months and one year (***unchanged***) • Secured lending transactions and unsecured wholesale lending extended to counterparties that are not financial sector entities and are not central banks that mature in less than one year (***unchanged***) • Lending to retail customers and counterparties (including certain small businesses) that matures in less than one year (***unchanged***) • Operational deposits placed at financial sector entities (***unchanged***) • All other assets that mature in less than one year (***unchanged***)
65%	• Unencumbered residential mortgages with a residual maturity of one year or more and with a risk weight of less than or equal to 35% under the Basel II standardized approach • Other unencumbered loans not included in the above categories, excluding loans to financial institutions, with a residual maturity of one year or more and with a risk weight of less than or equal to 35% under the Basel II standardized approach	• Retail mortgages with a remaining maturity of one year or more that are assigned a risk weight of no greater than 50% under the Agencies' capital regulations • Other lending that has a remaining maturity of one year or more, is assigned a risk weight of no greater than 20% under the Agencies' capital regulations, where the borrower is not a financial sector entity	• Retail mortgages with a remaining maturity of one year or more that are assigned a risk weight of no greater than 50% under the Agencies' capital regulations (***unchanged***) • Other lending that has a remaining maturity of one year or more, is assigned a risk weight of no greater than 20% under the Agencies' capital regulations, where the borrower is not a financial sector entity (***unchanged***)

<table>
<tr><th colspan="4">TABLE 2: Comparison of asset categories and associated RSF factors under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule</th></tr>
<tr><th colspan="4">Components of RSF category</th></tr>
<tr><th>RSF factor</th><th>Basel NSFR</th><th>Agencies' NSFR Proposal</th><th>Agencies' NSFR Final Rule
(Assets Required to be Unencumbered Unless Otherwise Noted)</th></tr>
<tr><td>85%</td><td>• Other unencumbered performing loans with risk weights greater than 35% under the standardized approach and residual maturities of one year or more, excluding loans to financial institutions
• Unencumbered securities and exchange-traded equities with a remaining maturity of one year or more, that are not in default and do not qualify as HQLA
• Physical traded commodities, including gold</td><td>• Retail mortgages with a remaining maturity of one year or more that are assigned a risk weight of greater than 50% under the Agencies' capital regulations
• Other lending that has a remaining maturity of one year or more and is assigned a risk weight greater than 20% under the Agencies' capital regulations, where the borrower is not a financial sector entity
• Publicly traded common equity shares that are not HQLA
• Other securities that have a remaining maturity of one year or more and are not HQLA, including private label MBS and other asset-backed securities
• Commodities for which derivative transactions are traded on a U.S. designated contract market ("DCM") or U.S. swap execution facility ("SEF")</td><td>• Retail mortgages with a remaining maturity of one year or more that are assigned a risk weight of greater than 50% under the Agencies' capital regulations (unchanged)
• Other lending that has a remaining maturity of one year or more and is assigned a risk weight greater than 20% under the Agencies' capital regulations, where the borrower is not a financial sector entity (unchanged)
• Publicly traded common equity shares that are not HQLA (unchanged)
• Other securities that have a remaining maturity of one year or more and are not HQLA, including private label MBS and other asset-backed securities (unchanged)
• Commodities for which derivative transactions are traded on a registered DCM or SEF, or on another exchange (whether U.S. or foreign) (modified to include other exchanges in and outside the U.S.)</td></tr>
<tr><td>100%</td><td>• All other assets not included in the above categories, including
- non-performing loans;
- loans to financial institutions with a residual maturity of one year or more;
- non-exchange-traded equities;
- fixed assets;
- items deducted from regulatory capital;
- retained interest; insurance assets;
- subsidiary interests and
- defaulted securities</td><td>• All other assets not described above, including:
- nonperforming assets;
- lending that has a remaining maturity of one year or more, where the borrower is a financial sector entity;
- equity securities that are not publicly traded;
- commodities for which derivative transactions are not traded on a DCM or SEF;
- unposted debits and
- assets deducted from regulatory capital</td><td>• All other assets not described above, including:
- nonperforming assets;
- lending that has a remaining maturity of one year or more, where the borrower is a financial sector entity;
- equity securities that are not publicly traded;
- commodities for which derivative transactions are not traded on a DCM, SEF or other U.S./non-U.S. exchange;
- unposted debits and
- assets deducted from regulatory capital
(unchanged)</td></tr>
</table>

TABLE 3: Comparison of treatment of encumbered assets under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule				
Components of RSF category				
		Basel NSFR	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
Encumbered Assets (General Treatment)				
Time Remaining in Encumbrance Period	**Less than six months**	• The same RSF factor as an equivalent asset that is unencumbered	• RSF factor that would be assigned if the asset were not encumbered	• RSF factor that would be assigned if the asset were not encumbered (***unchanged***)
	Six months or more, but less than one year	• If unencumbered and would receive an RSF factor lower than or equal to 50%, a 50% RSF factor • If unencumbered and would receive an RSF factor higher than 50%, retain that higher RSF factor	• If the asset would be assigned an RSF factor of 50% or less if unencumbered, an RSF factor of 50% • If the asset would be assigned an RSF factor of greater than 50% if the asset were not encumbered, the same RSF factor as if it were not encumbered	• If the asset would be assigned an RSF factor of 50% or less if unencumbered, an RSF factor of 50% (***unchanged***) • If the asset would be assigned an RSF factor of greater than 50% if the asset were not encumbered, the same RSF factor as if it were not encumbered (***unchanged***)
	One year or more	• All assets encumbered for a year or more are subject to a 100% RSF factor	• All assets encumbered for a year or more are subject to a 100% RSF factor	• All assets encumbered for a year or more are subject to a 100% RSF factor (***unchanged***)
	Encumbered longer than remaining maturity	• N/A	• RSF factor that would be assigned based on the time remaining in the encumbrance period	• RSF factor that would be assigned based on the time remaining in the encumbrance period (***unchanged***)
Segregated Account Assets		• Assets held in segregated accounts should be reported in accordance with the underlying exposure, whether or not the segregation requirement is separately classified on a bank's balance sheet (NSFR FAQ 23)	• Assets held in a segregated account maintained pursuant to statutory or regulatory requirements are not considered encumbered solely because such asset is held in a segregated account	• Assets held in a segregated account maintained pursuant to statutory or regulatory requirements are not considered encumbered solely because such asset is held in a segregated accountant. Such an asset is assigned the RSF factor that would be assigned if the asset were not held in a segregated account (***unchanged***)

TABLE 3: Comparison of treatment of encumbered assets under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule				
Components of RSF category				
		Basel NSFR	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
Off-balance Sheet Rehypothecated Assets[17]				
How the Covered Company Received the Asset	**Lending transaction**	• The rehypothecation into a liability transaction (e.g., a repo where the banking organization receives cash) of off-balance-sheet assets originally received in an asset/funding transactions (e.g., securities received in a reverse repo) results in the asset/funding transaction being encumbered for the term of the rehypothecation (NSFR FAQ 5.1) • When the off-balance-sheet asset is sold (e.g., into a short sale), the asset/funding transaction should be deemed encumbered for the term of the asset/funding transaction (NSFR FAQ 5.1)	• RSF factor that would be assigned if the lending transaction were encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the lending transaction	• RSF factor that would be assigned if the lending transaction were encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the lending transaction (***unchanged***)
	Asset exchange	• No distinction made between asset exchanges and lending transactions	• RSF factor that would be assigned to the asset *provided* by the Covered Company in the asset exchange if the asset were encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the provided asset	• RSF factor that would be assigned to the asset *provided* by the Covered Company in the asset exchange if the asset were encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the provided asset (***unchanged***)

17 If an off-balance-sheet asset is received in an asset transaction (e.g., a reverse repo treated as a loan of cash to the counterparty and a receipt of securities by the Covered Company), and that off-balance-sheet asset is subsequently rehypothecated to secure a liability transaction (e.g., posted to a repo counterparty in exchange for cash received by the Covered Company), then an RSF may be assigned to the asset transaction or to the off-balance-sheet asset to address the possibility that the off-balance-sheet asset may not be able to be returned in the asset transaction. The Final Rule, in contrast to the proposal, excluded assets received as derivatives VM.

	TABLE 3: Comparison of treatment of encumbered assets under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
Components of RSF category				
		Basel NSFR	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
	Other means	• No distinction made between other means of obtaining an asset and lending transactions	• RSF factor assigned to the off-balance-sheet asset as if it were on balance sheet and encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the off-balance-sheet asset	• RSF factor assigned to the on-balance-sheet asset resulting from the rehypothecation (even cash) as if the on-balance sheet asset were encumbered for the longer of (i) the remaining maturity of the rehypothecation liability transaction and (ii) any other encumbrance period applicable to the transaction through which the off-balance-sheet asset was received (***modified to assign RSF factor to any asset resulting from rehypothecation and to use an encumbrance period based on the transaction in which the off-balance-sheet asset was received***)

TABLE 4: Comparison of treatment of derivatives under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
	Basel NSFR	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
RSF	• NSFR derivative assets as calculated net of NSFR derivative liabilities, if NSFR derivative assets are greater than NSFR derivative liabilities, are assigned a 100% RSF • 5% to 20% (depending on national discretion) of derivative liabilities, before deducting VM, are assigned a 100% RSF (modified in 2017) • Cash, securities or other assets posted as IM for derivative contracts and cash or other assets provided to contribute to the default fund of a central counterparty are assigned an 85% RSF • Where securities or other assets posted as IM for derivative contracts would otherwise receive a higher RSF factor, they should retain that higher factor	• A Covered Company's derivatives RSF amount would be calculated separately as the sum of: - the net current value of the Covered Company's net derivatives assets, multiplied by an RSF factor of 100%, if greater than its derivative liabilities; - the on-balance-sheet carrying value (if any) of VM *provided* by the Covered Company, to the extent the margin reduces the Covered Company's derivatives liability value, multiplied by an RSF factor of 0%; - the on-balance-sheet carrying value (if any) of excess VM *provided* by the Covered Company, multiplied by the RSF factor applicable to each asset; - the on-balance-sheet carrying value (if any) of VM *received* by the Covered Company, multiplied by the RSF factor applicable to each asset; - 20% of the Covered Company's gross derivatives liabilities, multiplied by an RSF factor of 100%; - fair value of the Covered Company's contributions to any default fund for cleared derivatives (regardless of whether the contribution is on-balance-sheet), multiplied by an RSF factor of 85% and - fair value of any IM posted for derivatives (regardless of whether the margin is on-balance-sheet, but not including margin posted as agent in a cleared transaction where the Covered Company does not guarantee the obligations of the counterparty to the clearing customer), multiplied by an RSF factor of 85%	• A Covered Company's derivatives RSF amount is calculated separately as the sum of: - the net current value of the Covered Company's derivatives assets, multiplied by an RSF factor of 100%, if greater than its derivative liabilities (***unchanged, but the modification to more easily offset cash and Level 1 margin received should provide relief***); - the on-balance-sheet carrying value (if any) of VM *provided* by the Covered Company, to the extent the margin reduces the Covered Company's derivatives liability value, multiplied by an RSF factor of 0% (***unchanged***); - the on-balance-sheet carrying value (if any) of excess VM *provided* by the Covered Company, multiplied by the RSF factor applicable to each asset (***unchanged, but the modification to assign a 0% RSF to all Level 1 assets should provide relief***); - the on-balance-sheet carrying value (if any) of VM *received* by the Covered Company, multiplied by the RSF factor applicable to each asset (***unchanged, but the modification to assign a 0% RSF to all Level 1 assets should provide relief***); - 5% of the Covered Company's gross derivatives liabilities, multiplied by an RSF factor of 100% (***reduced from 20%***);

TABLE 4: Comparison of treatment of derivatives under the Basel NSFR, the Agencies' Proposal and the Agencies' Final Rule			
	Basel NSFR	**Agencies' NSFR Proposal**	**Agencies' NSFR Final Rule**
			- fair value of the Covered Company's contributions to any default fund for cleared derivatives (regardless of whether the contribution is on-balance-sheet), multiplied by an RSF factor of 85% (***unchanged***) and - fair value of any IM posted for derivatives (regardless of whether the margin is on-balance-sheet, but not including margin posted as agent in a cleared transaction where the Covered Company does not guarantee the obligations of the counterparty to the clearing customer), multiplied by an RSF factor of 85% (***unchanged***)
ASF	• In calculating NSFR derivative assets, collateral received in connection with derivative contracts may not offset the positive replacement cost amount, regardless of whether or not netting is permitted, unless it is received in the form of cash VM and meets the conditions as specified in paragraph 25 of the Basel III leverage ratio framework and disclosure requirements. • Any remaining balance sheet liability associated with (a) VM received that does not meet the criteria above or (b) IM received may not offset derivative assets and should be assigned a 0% ASF factor	• Any NSFR liability arising from an obligation to return IM or VM is assigned a 0% ASF • Derivatives transactions also would not qualify as ASF	• Any NSFR liability arising from an obligation to return IM or VM is assigned a 0% ASF (***unchanged***) • Derivatives transactions also would not qualify as ASF (***unchanged***)