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NEW YORK CLEARING HOUSE

100 BROAD STREET, NEW YORK, N.Y. 10004

JEFFREY P. NEUBERT
PRESIDENT AND
CHIEF EXECUTIVE OFFICER

TEL: (212) 612-9200
FAX: (212) 612-9253

September 12, 2002

Office of the Comptroller of the Currency
250 E Street, SW
Public Information Room Mailstop 1-5
Washington, DC 20219
Attention: Docket No. 02-11
regs.comments@occ.treas.gov

Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attention: Comments/OES
comments@FDIC.gov

Financial Crimes Enforcement Network
Section 326 Bank Rule Comments
P.O. Box 39
Vienna, VA 22183
Attention: Section 326 Bank Rule Comments
regcomments@fincen.treas.gov

Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Attention: Docket No. R-1127
regs.comments@federalreserve.org

Regulation Comments
Chief Counsel's Office
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552
Attention: No. 2002-27
regs.comments@ots.treas.gov

Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428
reg.comments@NCUA.gov

Re: Proposed Rule on Customer Identification Programs for Banks, Savings Associations and Credit Unions

Ladies and Gentlemen:

The New York Clearing House Association L.L.C. (the "Clearing House"),[1]

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[1] The member banks of the Clearing House are: Bank of America, National Association; The Bank of New York; Bank One, National Association; Citibank, N.A.; Deutsche Bank Trust Company Americas; Fleet National Bank; HSBC Bank USA; JPMorgan Chase Bank; LaSalle Bank National Association; Wachovia Bank, National Association and Wells Fargo Bank, National Association. Members of the Clearing House's affiliate, The Clearing House Interbank Payments Company L.L.C., that participated in the preparation of this letter and support its views are American Express Bank Ltd. and UBS AG, U.S. branches.

joined by the Bankers' Association for Finance and Trade,[2] appreciates the opportunity to comment on the joint notice of proposed rulemaking issued by the Department of the Treasury, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, the Office of Thrift Supervision and the National Credit Union Administration (collectively, the "Agencies") to implement Section 326 of the USA PATRIOT ACT (the "Act")[3] for banks, savings associations and credit unions (the "Bank Rule"). 67 Fed. Reg. 48,290 (July 23, 2002). Simultaneously with the Bank Rule, the relevant federal functional regulators also issued for public comment proposed rules to implement Section 326 of the Act for (i) certain banks that do not have federal functional regulators (67 Fed. Reg. at 48,299); (ii) broker dealers (67 Fed. Reg. at 48,306); (iii) mutual funds (67 Fed. Reg. at 48,318); and (iv) futures commission merchants and introducing brokers (67 Fed. Reg. at 48,328) (collectively with the Bank Rule, the "Proposed Rules").

The Clearing House is committed to assisting the Government's efforts to detect and prevent money laundering and the financing of terrorism. We strongly agree with the fundamental principle of the Bank Rule that an effective customer identification program (a "CIP") is an essential element of a bank's overall due diligence program and will assist the Government in its efforts. We also agree with the Agencies' risk-based approach in the Bank Rule that provides for a CIP in each case that is appropriate given the bank's size, location and type of business. 67 Fed. Reg. at 48,292.

The Clearing House believes, however, that this risk-based approach should encompass not only the type of bank and its business, but also the type of customer and account,

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2 The Bankers' Association for Finance and Trade has, since 1921, been the spokesperson for the international interests of the U.S. commercial banking industry.

3 Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Pub. L. No. 107-56).

in order to be most feasible and effective and to most enhance the ability of financial institutions to combat money laundering and terrorist financing.[4] We also believe that the risk-based approach should recognize the ability of a bank to rely, in appropriate circumstances, upon its customers rather than being required to identify and verify the identity of its customers' customers or employees or family members. We are also concerned that certain aspects of the customer identification and verification requirements would promote reliance on mechanical compliance that would not enhance the quality of our member banks' customer identification procedures or significantly reduce any actual risk of money laundering. We address many of our comments to those aspects of the Proposed Rules.

Our comments on the Bank Rule will focus on the following nine issues of primary significance: (i) focus on the bank's accountholder in the specific context of signatories and intermediaries; (ii) uniformity among the Proposed Rules; (iii) foreign branches; (iv) timing of implementation of the Proposed Rules; (v) identification verification procedures for existing customers; (vi) record retention; (vii) verification of the existence of corporations and trusts through documents; (viii) publication of an inventory of government lists; and (ix) the requirement to obtain two customer addresses.

I. Focus on the Accountholder

As the Clearing House has stressed in prior comment letters on rules proposed under the Act, a fundamental element of a risk-based approach is reliance, in appropriate circumstances, on the bank's own customer, i.e., the accountholder. We believe it is equally important in the context of the Bank Rule for banks to be able to rely on their customers to identify and verify the identity of other persons, such as employees, who may have the ability to access the account. Under a risk-based approach, a bank would be responsible for evaluating when such reliance on its customer would be reasonable and appropriate. We urge, therefore,

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[4] If it is intended that the reference to "type of business" encompass types of customers and accounts, that should be made explicit in the Bank Rule.

that the Bank Rule be amended to adopt this risk-based approach in two key areas: (i) the inclusion of signatories in the definition of customer; and (ii) the treatment of intermediaries.

A. The Inclusion of Signatories on Accounts

Under the Bank Rule, the definition of "customer" includes the individual or legal entity opening the account and any "signatory" on the account. By way of example, it refers to an individual with signing authority over a corporate account. 67 Fed. Reg. at 48,292. The Bank Rule does not define the term "signatory", which leads to the potential for the rule's CIP requirement to have an extraordinarily broad scope. For corporate accounts, including correspondent accounts of other financial institutions and accounts of government agencies or municipalities, it could include large numbers of administrative personnel with signing authority on the account. For credit or charge card accounts it could include any authorized user on the account. In the case of corporate credit or charge cards, this could include every employee to whom a corporate card is issued.

The Clearing House respectfully submits that the blanket inclusion of all signatories in the definition of "customer" is inappropriate and unnecessary for an effective anti-money laundering program. We believe that the definition of "customer" for purposes of customer identification and verification should be limited to the individual or entity opening the account, unless under a risk-based approach a bank determines that the CIP should be applied to other persons. For example, it may be appropriate under a bank's risk-based approach for a bank to apply its CIP to persons controlling a private banking account or controlling persons of a closely held corporation.

It is not current industry practice for banks to perform customer identification and verification procedures on signatories of corporations or authorized users on credit or charge cards.[5] Although bank systems may include names of signatories and authorized users on an

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5 See, e.g., ABA Industry Resource Guide, "Identification and Verification of Accountholders" (January 2002).

account, they do not generally include fields for all other required customer identification information, such as street and mailing address, date of birth and social security number. The benefit to be gained by collecting this information does not, in our view, justify the cost and burden associated with the systems modifications required to include the information. Obtaining such information for all signatories would not appreciably reduce the actual risk of money laundering and in many cases would simply not be feasible.

In the case of accounts of financial institutions, other corporations, and government agencies or municipalities, there may be hundreds of persons with signing authority on the accounts. Those persons will change on a frequent basis as new employees are hired, terminated, promoted or resign. We respectfully submit that in the case of signatories on such accounts, the accountholder is in the best position to verify the identity of its employees. In addition, corporations, municipalities and agencies have a strong incentive to know and maintain control of the persons to whom they grant signing authority and, in many cases, employers are obligated by law to verify identity and employment eligibility and/or citizenship information for all new employees. See, e.g., 8 U.S.C. § 1324a. This same reasoning applies to verification of the identity of authorized users on corporate credit and charge cards. In the case of corporate cards, the authorized users could include virtually hundreds or even thousands of employees of the corporation.

Authorized users on personal credit or charge cards may include a spouse or a dependent as a convenience to the cardholder. We respectfully submit that performing customer identification and verification on such persons would serve no substantive purpose. As a practical matter, in an automated marketplace, a credit card holder can allow any person to utilize his or her credit card by sharing relevant data with that person, whether or not such person is nominally an authorized signatory. Therefore, the focus on authorized users would not capture all potential users of a customer's card. A more useful way to address the perceived risk of money laundering through credit cards is through monitoring and investigation of card usage. Our member banks have extensive transaction monitoring systems in place for credit cards.

It should also be noted that in bank or corporate initiated wire transfers or automated clearing house transactions, the identities of signatories are often not relevant because most of these transactions are effected by authenticated computer messages and are not dependent on the identities of signatories. Often, for security reasons, the functions of entering and releasing funds transfer information are separated, i.e., one set of persons is authorized to enter data and another set of persons is authorized to release data electronically to the bank. Also, the identities of employees who are authorized to enter and/or release payment orders change frequently without notice of such change to the bank.

B. Intermediated Accounts

As stated in the joint comment letter submitted by the Clearing House and ten other industry groups on the proposed rules implementing Section 312 of the Act (the "Joint Comment"), we believe that a key element of an effective risk-based anti-money laundering program is the ability of a financial institution to rely in appropriate circumstances on intermediaries.

The preamble to the Proposed Rule for futures commission merchants and introducing brokers (the "FCM Rule") specifically recognizes that principle with respect to intermediated accounts, such as omnibus accounts, accounts for commodity pools and other collective investment vehicles. Because a futures commission merchant or introducing broker may have little or no information about the identities and transaction activities of the underlying participants or beneficiaries of such accounts, the preamble to the FCM Rule provides that under the risk-based approach, in most cases, "it is expected that the focus of each futures commission merchant's and introducing broker's CIP will be the intermediary itself, and not the underlying participants or beneficiaries". 67 Fed. Reg. at 48,331. The focus of the CIP in those cases is on the risks associated with the intermediary, based on an evaluation of relevant factors, including:

> the type of intermediary; its location; the statutory and regulatory regime that applies to a foreign intermediary (*e.g.*, whether the jurisdiction complies with the European Union anti-money

> laundering directives or has been identified as non-cooperative by the Financial Action Task Force); the futures commission merchant's or introducing broker's historical experience with the intermediary; references from other financial institutions regarding the intermediary; and whether the intermediary is itself a [Bank Secrecy Act] financial institution required to have an anti-money laundering program.

Id.

This approach is also recognized to a limited extent in the Proposed Rule for mutual funds (the "Mutual Fund Rule"). The preamble to the Mutual Fund Rule specifically states that "[a] mutual fund's CIP does not have to include verification of individuals' identities whose transactions are conducted through an omnibus account". 67 Fed. Reg. at 48,321. The preamble recognizes that typically the mutual fund would have little or no identifying information about the individual customers represented in an omnibus account. Id. That information would typically be collected by the broker-dealer opening the account. In those situations, the Mutual Fund Rule specifically permits mutual funds to treat the broker-dealer as its customer for purposes of its CIP.

We agree fully with the approach described in the preamble to the FCM Rule, and we believe it should be applied to each of the Proposed Rules. The same reasons for utilizing this approach in the FCM Rule applies to depository and other financial institutions. Assuming that a financial institution has conducted appropriate due diligence on the intermediary, and has determined that the intermediary has satisfied relevant criteria, such as the factors described in the FCM Rule, we believe it would be unfruitful and unnecessary to attempt to replicate the customer identification process that has already been conducted by the intermediary on its own customer base. In addition, in many cases, such customer identification would, as a practical matter, be ineffective or even impossible.

II. Uniformity Among the Proposed Rules

The preamble to the Bank Rule states that "all of the participating agencies intend the effect of the [Proposed Rules] to be uniform throughout the financial services industry". 67 Fed. Reg. at 48,291. The Clearing House strongly endorses this objective. We are concerned, however, that in some significant respects, the Agencies' objective of uniformity is not achieved. In particular, our concern extends to (i) reliance on affiliates or service providers; (ii) the definition of "customer"; (iii) the definition of "account"; and (iv) the scope of the verification requirement.

A. Reliance on Affiliates or Service Providers

The Mutual Fund Rule explicitly permits a mutual fund to delegate contractually the implementation and operation of its CIP to another affiliated or unaffiliated service provider, such as a transfer agent. 67 Fed. Reg. at 48,321. This delegation authority is also recognized in the FCM Rule and the Proposed Rule for broker-dealers (the "Broker-Dealer Rule") by allowing those institutions to realize efficiencies by dividing up the CIP requirements with regard to shared accounts. 67 Fed. Reg. at 48,308 (Broker-Dealer Rule); 67 Fed. Reg. at 48,332 (FCM Rule). In each case, however, the financial institution would have appropriate responsibility for compliance with the requirements in the Proposed Rule with respect to the institution's customers. Accordingly, the financial institution would be obligated to assess whether the other firm can be relied upon to fulfill its customer identification responsibilities, and must cease such reliance if it is no longer justified.

The FCM Rule is instructive in this regard. The preamble suggests that, in cases involving shared responsibility between executing and clearing futures commission merchants, an executing futures commission merchant could obtain from the clearing futures commission merchant "either as part of a give-up agreement or on a transaction-by-transaction basis, a certification that the latter has performed the required customer identification or verification functions." 67 Fed. Reg. at 48,332, fn. 10. This approach is a practical one and is consistent

with developing industry practice. As noted in the Joint Comment, the Clearing House would be willing to work with other industry groups to develop a standard attestation that could serve this purpose.[6]

The Clearing House strongly believes that this approach should be applied more generally to reliance on customer identification and verification performed by affiliates. In appropriate circumstances, which would include a financial institution's compliance procedures specifically setting forth the instances where such reliance is warranted, we believe all financial institutions subject to the Proposed Rules should be permitted to rely on customer identification and verification performed by affiliates. Such reliance may be warranted in cases where the institution verifies that the affiliate applies reasonably satisfactory customer identification and verification procedures. It seems superfluous and unnecessarily burdensome to subject the same customer to substantially similar customer identification and verification procedures on multiple occasions. It likewise seems superfluous and unnecessarily burdensome to require banks and their affiliates to maintain duplicative records regarding identification verification under the record retention requirements of the Bank Rule.

B. Definition of "Customer"

The Bank Rule defines the term "customer" to mean any person seeking to open a new account, regardless of whether the account is opened. 67 Fed. Reg. at 48,298. The other Proposed Rules define "customer" as "any person who opens a new account". See, e.g., 67 Fed. Reg. at 48, 317. Thus, as proposed, the Bank Rule would require banks to obtain customer identification information from all applicants, seek to verify such information, and retain the

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6 According to the Broker-Dealer Rule, a broker-dealer must *continually* assess whether the other firm can be relied upon to perform its responsibilities. 67 Fed. Reg. at 48,308. We believe that such a requirement is not practical or necessary and would have a negative effect on business relationships. A periodic standard attestation should generally be sufficient.

results of such inquiry for a period of five years, whereas the CIP obligation of other institutions would be limited to actual customers.

The Clearing House respectfully submits that the application of the CIP requirements to all applicants, and not just customers, is highly unlikely to detect or prevent money laundering or other criminal activity and will result in an enormous burden for banks. This burden and the risk to banks is not justified by the theoretical risk that an applicant for a bank account is more likely to be a potential money launderer or other type of criminal than, for example, a customer of a broker-dealer. Subjecting that applicant to a bank's CIP is unlikely to uncover that possibility. We respectfully submit, therefore, that the definition of the term "customer" in the Bank Rule should be revised to be consistent with the definitions in the other Proposed Rules, i.e., to mean "any person who opens an account."

C. Definition of "Account"

The Bank Rule defines the term "account" as a formal banking or business relationship established to provide "ongoing" services, dealings or other financial transactions, to make clear that this term does not cover infrequent transactions such as the occasional purchase of a money order or a wire transfer. 67 Fed. Reg. at 48,291. The definition of "account" in the other Proposed Rules does not contain a comparable provision allowing for the exclusion of infrequent or isolated transactions. We respectfully submit that the other Proposed Rules should be revised to include a similar exclusion.

D. Scope of Verification Requirement

The Bank Rule, as written, could be interpreted to require banks to verify all of the required customer identification information obtained under a bank's CIP. This is because, under proposed Section 103.121(b)(2)(ii), a bank must have procedures that provide for

"verifying the information obtained pursuant to paragraph (b)(2)(i)(A)."[7] The other Proposed Rules[8] contain different language which incorporates a risk-based approach. For example, the Broker-Dealer Rule states that a "CIP shall include procedures for verifying the identity of customers, to the extent reasonable and practicable, using identifying information obtained". 67 Fed. Reg. at 48,317.[9]

The Clearing House submits that the scope of the verification requirement in the Bank Rule should be revised to be consistent with that in the other Proposed Rules. There is no reason to differentiate between banks and other financial institutions in this regard. Requiring banks to verify each item of required customer information for every customer account would not be consistent with the Proposed Rules' risk-based approach to customer identification. Financial institutions should be provided with flexibility to determine not only how, but also what, information they should verify to establish that they have a reasonable basis for verifying the identity of their customers.

III. The Inclusion of Foreign Branches in the Definition of "Bank"

The Agencies have requested comment on whether the definition of "bank" in the Bank Rule should be amended with respect to the foreign branches of banks by, among other things, clarifying that a foreign branch must comply only to the extent that the bank's program does not contravene applicable local law. 67 Fed. Reg. at 48,296. The Agencies recognize that interpreting the Bank Secrecy Act to apply to the foreign branch of a U.S. depository institution

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7 Paragraph (b)(2)(i)(A) contains the required minimum customer identification information that must be obtained under a bank's CIP.

8 The Proposed Rule governing credit unions, private banks and trust companies that do not have a federal function regulator mirrors the language of the Bank Rule.

9 The Bank Rule also contains "reasonable and practicable" language in proposed Section 103.121(b)(2). It is not clear, however, if this was intended to modify the standard set forth in Section 103.121(b)(2)(ii). If so, this should be clarified in the final rule.

could cause practical and legal problems for that institution if the branch has a conflicting obligation under local law. 67 Fed. Reg. at 48,296. According to the Agencies, the Bank Rule, if adopted as proposed, may place a foreign branch in a position of potentially violating local law by implementing aspects of its bank's CIP. Id.

These concerns of the Agencies' are well placed, and we believe that they must be addressed. The Clearing House believes that they can be addressed in a manner consistent with a risk-based approach because our banks currently apply robust CIPs across their organizations globally, and they fully intend to continue to do so in future. There is, however, an important difference between (i) voluntary compliance with the requirements of a bank's own customer identification and verification procedures on a risk-focused basis in a foreign market and (ii) compliance with a mandated universal regulatory regime. As the Agencies recognized, broad-based customer identification and verification requirements may not fit the specific market conditions or legal requirements in foreign jurisdictions.

The simplest approach to dealing with this dilemma would be to provide in the final rule that the specific CIP requirements do not apply to foreign branches, but that each financial institution must implement an effective CIP in its foreign branches taking into account local laws and regulations. Alternatively, there could be a general exception if a bank determined that a specific aspect of the CIP compliance requirements would violate local law or regulation and, in the bank's view, the institution's CIP can be effective without those specific aspects.

IV. Timing of Implementation of the Bank Rule

The Clearing House is appreciative of the Agencies' constructive efforts to develop realistic implementation deadlines throughout the process of promulgating regulations under the Act. The Clearing House urges the Agencies to continue this approach by adopting a flexible implementation schedule with regard to the Bank Rule.

If the Bank Rule is adopted as proposed, it will require significant and time-consuming changes to banks' existing systems. For example, as stated above, the inclusion of signatories in the definition of "customer" would require banks to make changes to their existing systems in order to enable banks to include the names and customer identification information of signatories in their various databases. Similarly, significant systems changes will be mandated by the requirement in the Proposed Rule that banks obtain both an individual's mailing address and residential address (banks' current systems generally only capture one or the other), and the requirement to obtain an individual's date of birth (in some instances, banks' current systems only capture an individual's age).

As another example of the significant changes that could result from the proposed requirements, the "Fannie Mae" and "Freddie Mac" standard mortgage loan applications capture a loan applicant's age and not his/her date of birth. In order to comply with the requirement to obtain date of birth information, these and other standard industry forms would need to be modified by the relevant federal agency. In addition, banks' various systems used in the origination, servicing and sale of these mortgages would have to be re-programmed to capture the data required by the Bank Rule in the format required. This could include changes to a bank's origination system, loan processing system, closing system, servicing system and investors' systems.

Also, the commencement of systems changes could be delayed by other systems changes currently underway to take into account other new regulatory requirements. Once re-programming of a system is completed, there must be implementation and testing, which can be very time-consuming. Finally, training on the use of new systems can usually only be accomplished once the systems are fully operational, which would consume additional time.

Although the Clearing House banks will seek to implement the final rule as promptly as feasible, the comprehensive and detailed requirements of the Bank Rule cannot be

effectively implemented by October 25, 2002.[10] It is simply impossible, as a practical matter, for banks even to begin the major systems reprogramming required by the Bank Rule until the final rules are published. As indicated, that reprogramming will take considerable time. Moreover, it is not practical to begin implementation of other procedures required by the Bank Rule until the final rules have been published. Under the best of circumstances, the final rule is unlikely to be published until days before October 25, 2002, and, once published, the final rule will have to be reviewed and analyzed and responsive customer identification and verification procedures put in place.

Accordingly, the Clearing House recommends that the Bank Rule become effective on the following phased-in schedule. Within 90 days after publication of the final rule in the Federal Register, each bank would be required to have developed an initial implementation plan that outlines a staged approach to implementing the new policies and procedures over a period of time. Within 180 days, each bank would be required to have adopted a final implementation plan. Within one year, the plan would be required to be implemented.

V. Identity Verification Procedures for Existing Customers

According to the Bank Rule, a bank need not verify the identifying information of an existing customer seeking to open a new account, or who becomes a signatory on an account, if the bank (i) previously verified the customer's identity in accordance with procedures consistent with the Bank Rule; and (ii) continues to have a reasonable belief that it knows the true identity of the customer. 67 Fed. Reg. at 48,299. As written, this exception would virtually never be applicable because banks have not been following all the particulars of the Bank Rule.

We believe that banks should be permitted to take a risk-based approach to customer identification and verification for existing customers. Banks have sophisticated

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10 Section 326(a)(6) of the Act provides that Section 326 will take effect by no later than the date that is the one year anniversary of the date of enactment of the Act, i.e., October 25, 2002.

systems and controls in place that enable them to monitor on a risk-focused basis the account activity of their existing customers. Where such monitoring indicates that additional steps should be taken to verify an existing customer's identity, banks will perform their customer identification and verification procedures. Absent such concerns, a bank should only be required to perform its identification and verification procedures on a prospective basis with regard to new customers with whom it has no prior history.

VI. Record Retention

The Bank Rule requires banks to maintain records of the resolution of any discrepancy in the identifying information obtained from the customer. 67 Fed. Reg. at 48,299. The Clearing House believes that such a requirement would be burdensome and unnecessary. Once a bank has conducted the necessary identity verification according to its CIP and accepted a customer, a record of the documentation used to verify a customer's identity, or a record of the non-documentary verification method used to verify the customer's identity, as applicable, should be sufficient proof of the successful resolution of any discrepancy that may have existed at the time of account opening. If the Agencies require the retention of discrepancy information, we believe that only information relating to material discrepancies should be retained. For example, typographical errors or minor mistakes, such as a missing number from a phone number, should not have to be recorded. This would be consistent with the risk-based approach of the Bank Rule.

The Bank Rule also provides that a bank is required to maintain a copy of any document that was relied upon for verification of a customer's identity that clearly evidences the type of document and any identification number it contains. 67 Fed. Reg. at 48,299. Therefore, if a bank relies on government-issued identification bearing a photograph to verify a customer's identity, the bank may be required to maintain a copy of such photo identification. As most of our member banks store information electronically, a requirement to maintain a copy of photo

identification, which is not as readily transferable to electronic format as other information, is very burdensome and may raise privacy issues and create an undue risk of liability for the banks. The Clearing House urges the Agencies to consider allowing banks the flexibility to make a determination, based on their own risk-assessment, whether to retain copies of photo identification.

The Clearing House believes that the compliance burden of a requirement to retain a copy of photo identification outweighs any potential benefit. Photo identification is most useful when an individual presents such photo identification at account opening and the bank officer is able to physically compare it to the likeness of the person opening the account in order to verify such person's identity. If the bank officer records all of the relevant information from the customer's photo identification, such record would constitute a reliable indicator from an audit standpoint that the customer had in fact produced a government-issued identification bearing a photograph and that the customer's identity had in fact been verified.

VII. Verification of the Existence of Corporations and Trusts through Documents

The Bank Rule requires a bank's CIP to contain procedures describing when the bank will verify a customer's identity through documents and setting forth the documents that the bank will use for this purpose. 67 Fed. Reg. at 48,299. For corporations, partnerships, trusts and other persons that are not individuals, "these may include documents showing the existence of the entity, such as registered articles of incorporation, a government-issued business license, partnership agreement, or trust agreement". Id.

The meaning of "registered articles of incorporation" in this context is unclear. The Clearing House respectfully requests that the Agencies clarify this reference to allow banks, in appropriate circumstances and based on their own risk-assessment, to obtain articles of incorporation certified by an appropriate officer of the corporation or a good standing certificate or certified copy of the articles of incorporation from a corporation's chartering jurisdiction. In

the case of non-public companies, banks may also determine, on a risk-focused basis, to rely on a third party information source, such as the directories published by the International Organization of Securities Commissions.

The Clearing House banks also believe that a trust instrument may not be the document that most effectively demonstrates the continued existence of a trust. Many banks do not obtain copies of trust instruments, particularly when they are not expected to comply with the requirements of the trust (because of the limited nature of the services they are performing). Also, in many instances, settlors and beneficiaries of trusts prefer not to disclose all of the provisions of a trust. We recommend that the Agencies consider allowing banks to rely on a certification by the trustee, or an appropriate legal opinion, rather than a copy of the trust instrument, to verify the existence of the trust. We note that the legislatures in certain States, such as California, have enacted statutory provisions providing that third parties may rely upon a certification by the trustee as to the trust's existence and general powers.

VIII. Publication of Inventory of Government Lists

The Bank Rule requires that a bank's CIP include procedures for determining whether a customer appears on any list of known or suspected terrorists or terrorist organizations provided to the bank by any federal agency. 67 Fed. Reg. at 48,299. The Clearing House respectfully urges the Agencies to clarify which Government lists, in addition to the Control List and the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Office of Foreign Assets Control, banks are expected to utilize for this purpose. Publication of an inventory of such lists in one central location, such as one of the Agencies' websites, would be very useful and reduce confusion.

IX. Requirement to Obtain Two Customer Addresses

The Proposed Rules would require financial institutions to obtain a residence street address for individuals and a principal place of business address for entities, and a mailing

address for each, if different. Currently, banks generally only obtain one address, which may be one of the above. The proposed requirement to obtain two addresses in the event the mailing address differs from the residence or business address may require substantial procedural and systems changes because many application forms and systems do not provide fields for two addresses. Rather than requiring two addresses in those cases, the Clearing House urges the Agencies to include in the final rule a requirement that the customer provide a street address. For individuals, the address could be their residence or business street address; for entities, the street address could be for the principal place of business, local office or other physical location.

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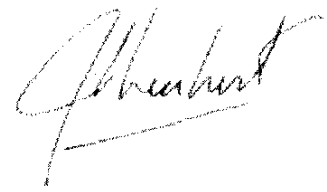
The Clearing House appreciates the opportunity to comment on the Bank Rule, and would be pleased to discuss any of the points made in this letter in more detail. Should you have any questions, please contact Norman Nelson, General Counsel of the Clearing House, at (212) 612-9205.

Very truly yours,



cc: Bankers' Association for Finance and Trade
(Thomas L. Farmer)