From: Kermit Kubitz

Proposal: 1523 (7100-AE37) Regs Q and YY - Total Loss-Absorbing, Long-Term Debt, & Clean Holding Company Requi

Subject: Regulations Q and YY - Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requ

---

Comments:

Public Comments on Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; etc.:

Title: Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; etc.
FR Document Number: 2015-29740
RIN: 7100-AE37
Publish Date: 11/30/2015 12:00:00 AM

Submitter Info:
First Name: Kermit
Last Name: Kubitz
Mailing Address:
City:
Country: United States
State or Province:
ZIP/Postal Code:
Email Address:
Organization Name:
Comment:

While the objective of establishing reasonable levels of Loss-Absorbing Capacity for systemically important financial institutions is important, the details should not be set forth in a manner which unnecessarily harms or potentially harms depositors, especially small depositor. Thus, while the levels of 18% of the covered Bank Holding Company (BHC) total risk-weighted assets, and 9.5% of the BHC's total leverage exposure appear reasonable and comparable to the 17% adopted for British banks, the sources of external LTD or internal funds should not, in any reported plan, use customer deposits unnecessarily or non-progressively. Concern has been expressed in a number of forums that once a customer deposits funds in a bank, even if protected by FDIC deposit insurance, up to $250,000, those funds become essentially funds of the bank, subject to the bank's use for any purpose. Use, or planned use, of any customer deposits to establish Loss-Absorbing capacity is, in essence, a euphemism. Rather, a bank should have a maximum amount of non-recourse, non-collaterlized debt pre-positioned as an alternative to use of customer deposits as a loss-shock absorber of last resort. The availability and interest charges or option fee for availability of funds charges would then be a measure of the expected riskiness of the bank or bank holding company. Banks highly leveraged or engaged in aggressively risky lending would have higher costs of external loss absorbing debt, while more prudently, less risky managed banks would have lower costs, presumably for any backstop financial capability or lend-in. It would be preferable to use such a market measure of costs of potential financial draws rather than burdening retail depositors with being the source of funds of last resort of a large bank holding company.

Indeed, any bank that utilized customer deposits as part of its Total-Loss Absorbing capacity should be required to post a notice to that effect in every branch;

"Your deposits in this bank may be utilized in part to absorb any losses and any required financial resolution or recapitalization of the bank or its holding company. Your deposits above the amounts insured by the FDIC, $250,000 (or any higher amount which FDIC might insure) are not insured in the event of use as part of a plan of reorganization or resolution."

The need for such a notice might cause banks to decide on how much risk to take, and whether to become so systematically large that they would need to post such a notice, or whether to reduce and disaggregate to avoid having customers choose to bank elsewhere, at banks that did not need to engage in such a plan of resolution or loss absorption.