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The Institute's mission is to help resolve the many special legislative, regulatory and tax issues confronting **internationally headquartered** financial institutions that engage in banking, securities and/or insurance activities in the United States.

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INSTITUTE SEEKS ELIMINATION OF THE DISPARITY IN TREATMENT OF INTERNATIONAL BANKS UNDER THE FEDERAL RESERVE'S DAYLIGHT OVERDRAFT POLICY

The Institute submitted a comment letter dated June 4th to the Federal Reserve on the proposed changes to the Payments System Risk Policy regarding daylight overdrafts (the letter is available on the Institute's web site at: http://www.iib.org/associations/6316/files/20080604Final_PSR_Comment.pdf). As previously reported, the Federal Reserve proposes to (i) eliminate the deductible applied to all intraday overdrafts, whether or not collateralized; (ii) increase the fee charged for uncollateralized intraday overdrafts from 36 basis points to 50 basis points; and (iii) allow banks to avoid daylight overdraft fees altogether by collateralizing their intraday overdraft exposures using the same type of collateral as is acceptable for discount window borrowing.

Reflecting discussions with interested member banks, as well as recent meetings with Federal Reserve staff, the letter expresses the Institute's strong support for the proposal to the extent that it includes significant incentives encouraging both internationally and domestically headquartered banks to collateralize their daylight overdraft exposures in a manner that would create a level playing field for international banks.

However, the letter takes issue with the decision by the Federal Reserve that international banks should still be subject to a lower net debit cap with respect to their daylight overdrafts compared to domestic banks of comparable capital size and credit standing. The letter explains that, depending on the cost of collateral relative to the 50 basis point intraday overdraft fee provided for under the proposal, a bank might find it advantageous in some circumstances to elect not to collateralize its intraday exposure. The extent to which an international bank could exercise that choice vis-à-vis a comparably situated domestic bank is limited by the amount of its net debit cap, which at best is almost *three times* lower than for its domestic counterpart. Thus, there is still the possibility under the proposal that international banks would be significantly disadvantaged vis-à-vis similarly situated domestic banks.

The Institute in its letter therefore continues to urge the Federal Reserve to eliminate the source of this disparity by increasing the net debit cap for international banks, in particular those that are financial holding companies or have a "SOSA 1" rating. In addition, the letter requests interim relief on intraday deductibles pending the proposed revisions taking effect. The letter also urges the Federal Reserve to address the operational issues presented by the proposal with respect to pledging discount window collateral to secure daylight overdraft exposures.

Underscoring the degree of our concern with the continuing disparity with respect to the net debit cap, the Institute also has sent a letter directly to Federal Reserve Board Chairman Bernanke requesting that further consideration be given to eliminating the disparity. A copy of the letter is available at <http://www.iib.org/associations/6316/files/20080606BernankeLetter.pdf>. We encourage interested member banks, as well as national and regional banking associations and home-country governmental authorities, likewise to express their concern to the Federal Reserve regarding the proposed retention of a lower net debit cap for international banks relative to similarly situated domestic banks and to urge equal treatment of international banks.

INSTITUTE COMMENTS ON PROPOSED REVISIONS TO THE REGULATIONS RELATING TO CFIUS NATIONAL SECURITY REVIEWS AS THEY AFFECT INTERNATIONAL BANKS' DIRECT INVESTMENT AND LENDING ACTIVITIES IN THE UNITED STATES

The Institute plans to file a comment letter on the Treasury Department's proposed regulations implementing the amendments to the Committee on Foreign Investment in the United States (CFIUS) review process enacted in the Foreign Investment and National Security Act of 2007 (the Federal Register notice of the proposed regulations is at <http://edocket.access.gpo.gov/2008/pdf/08-1172.pdf>). Comments on the proposed regulations are due by June 9th.

While supporting the basic approach and architecture of the proposed regulations, which reflect careful consideration and balancing of national security interests and the traditional economic strength and commitment to free markets of the United States, the Institute has several concerns regarding potentially unintended consequences and difficulties that arise from the proposed regulations from the perspective of internationally headquartered financial institutions engaged in direct investment or lending in the United States. These concerns focus in particular on the potential impact the proposed regulations would have on international banks' corporate and acquisition finance, merchant banking and minority investment activities.

The Institute's submission addresses concerns regarding the proposed regulations' treatment of "negative pledge" clauses in loan agreements, debt previously contracted (DPC) transactions and minority private equity investor shareholder rights, as well as the question of whether acquisitions of financial institutions would be treated as potentially involving "critical infrastructure." In addition, the letter addresses other concerns regarding certain additional aspects of the proposed regulations – specifically, the treatment of convertible instruments and suggested means to reduce both the number of notifications likely to be triggered by the regulations and the burden of making a notification.

INSTITUTE SEEKS MODIFICATION TO THE ACCELERATED DEADLINE FOR FILING FORM 20-F ANNUAL REPORTS PROPOSED BY THE SEC

The Institute filed with the SEC a comment letter dated May 9th regarding the proposed shortening of the filing deadline for the annual report by foreign private issuers on Form 20-F from 6 months to 90 or 120 days, depending on the issuer's filing status. The letter is available on the Institute's web site at: http://www.iib.org/associations/6316/files/20080509Final_20F_Letter.pdf

In our letter, the Institute urges the SEC to adopt a bifurcated filing deadline in place of the proposed deadline. Under this approach, the deadline for foreign private issuers preparing their financial statements on the basis of IFRS as issued by the IASB would be 120 days after their fiscal year-end, while the deadline for so-called "dual GAAP issuers" (*i.e.*, those required to prepare a reconciliation of their home country GAAP financial statements to U.S. GAAP) would be 150 days after their fiscal year-end. The Institute's letter recommends that these deadlines be implemented over a two-year transition period, as proposed by the SEC.

INSTITUTE EFFORTS TO OBTAIN AN EXEMPTION FROM THE SEC FOR INTERNATIONAL BANKS' GLOBAL CUSTODY ACTIVITIES

As previously reported, the Institute has requested the Securities and Exchange Commission to grant an exemption from U.S. broker-dealer requirements with respect to the provision of cross-border custody services to U.S. investors by international banks from outside the United States. The exemption would apply to international banks covered by a "comprehensive consolidated supervision" ("CCS") determination by the Federal Reserve and would enable such "CCS banks" to provide U.S. investors the same type of services as are permissible for U.S. banks (including the U.S. branches of international banks) under the "safekeeping and custody" provisions of the Gramm-Leach-Bliley Act, as well as the order-taking services permissible for U.S. bank custodians under Rule 760 of Regulation R. The Institute's request is available at: <http://www.iib.org/associations/6316/files/20071108FinalSECLetter.pdf>.

In our recent communications with senior SEC staff regarding the exemption we have emphasized that the requested relief involves activities that are fundamentally banking in nature and therefore should be addressed separately from and prior to resolution of the issues the SEC has under consideration in connection with its "mutual recognition" initiative.

We will continue to coordinate with representatives of the European Commission (EC) and encourage the EC's continued support for our efforts on this issue. We urge interested member institutions likewise to express their support for early action on the request in their discussions with the SEC and EC.

INSTITUTE CONTINUES TO URGE TREASURY AND IRS TO EXPAND THE SECTION 475 SAFE HARBOR FOR VALUING SECURITIES

As part of our ongoing efforts in this area, the Institute on May 20th sent a letter to Eric Solomon, the Treasury Department's Assistant Secretary for Tax Policy, urging the Treasury and IRS to extend the book/tax conformity safe harbor for valuing securities under the mark-to-market rules of Internal Revenue Code section 475 to financial institutions whose financial statements are not prepared in accordance with U.S. GAAP. The letter is available at: <http://www.iib.org/associations/6316/files/20080520Solomon475Letter.pdf>

As presently formulated, the book/tax conformity safe harbor is not available to most U.S. branches of internationally headquartered banks (since the Call Reports they file with the federal banking regulators do not contain complete financial statements) or to most foreign-based dealers in respect of their global dealing activities because it requires that those institutions have U.S. GAAP financial statements. The Institute has been urging the Treasury Department and the IRS to correct this competitive imbalance, particularly in light of the SEC's announcement that it will permit non-U.S. companies to file their financial statements in conformity with IFRS without requiring reconciliation to U.S. GAAP.

As previously reported, Treasury and IRS officials have indicated to the Institute that they are working on guidance that would extend the Section 475 safe harbor. However, because the resolution of this matter has been pending for three years, we encourage national and regional banking associations and home-country governmental authorities to express their concern to the Treasury and IRS with regard to the competitive imbalance in the safe harbor as presently formulated.