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*Submitted via e-mail: rule-comments@sec.gov*

September 8, 2009

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

**Re:** SEC File Number S7-11-09, Money Market Fund Reform, 74 *Federal Register* 32688, July 8, 2009

Dear Ms. Murphy,

The American Bankers Association (ABA) appreciates the opportunity to comment on the Securities and Exchange Commission's (Commission) proposed amendments to certain rules that govern money market funds under the Investment Company Act. In the proposal, the Commission seeks comment on whether money market funds (MMFs) should effect shareholder transactions at the market-based net asset value, known as a "floating net asset value" (NAV), as opposed to a stable NAV. In addition, the Commission seeks comment on whether it should strengthen the liquidity requirements for MMFs. Among the liquidity changes the Commission is proposing is a requirement that assets be liquid when purchased, as well as altering the definition of liquidity for MMFs to include looking at amortized cost. Among the products that MMFs invest in currently are bank certificates of deposit (CDs).

ABA[1] represents over a thousand banks with trust departments who invest in MMFs on behalf of their trust clients. Through these trust departments, banks invest over $57 billion in MMFs.[2] In addition over 100 banks offer proprietary MMFs which will be impacted directly by these proposed changes. Our members are very concerned that their clients continue to have access to funds with stable NAVs. In addition, over 8,000 banks offer CDs for investment and could be

[1] The American Bankers Association (ABA) brings together banks of all sizes and charters into one association. ABA works to enhance the competitiveness of the nation's banking industry and strengthen America's economy and communities. Its members – the majority of which are banks with less than $125 million in assets – represent over 95 percent of the industry's $13.3 trillion in assets and employ over 2 million men and women.

[2] FDIC Call Report Data, December 2008

significantly impacted if MMFs were unable to invest in these instruments. The ABA urges the Commission to retain the exemption authorizing a stable NAV for MMFs and to retain the existing definition of liquidity when altering the liquidity standard.

Stable Versus Floating NAV

MMFs are regulated under Rule 2a-7 of the Investment Company Act which permits MMFs to use amortized cost – as opposed to market or fair value – to value fund assets. This exception in Rule 2a-7 was created to facilitate the dual roles of MMFs as cash management vehicles and low-risk investments. In light of the recent market crisis, the Commission has expressed concern that when a fund's fair value falls below $1.00, those persons who redeem their shares early have an advantage over investors who have not redeemed their shares and who thus bear the unrealized losses of the fund. The financial impact of this timing creates an incentive to redeem shares early during a liquidity crisis. The Commission seeks comment on whether a floating NAV might serve as a disincentive to such early, rapid redemptions, thus lessening the impact on the fund, and in turn, the market.

ABA believes that the MMFs with stable NAVs should remain a viable option for investors who desire transactional stability and accounting ease. For many investors the ability to have access to money market funds with a stable NAV is important in easing fund transactions and reporting. For other investors, however, a MMF with a floating NAV is an appropriate investment option. We believe the market is fully capable of addressing the need for a MMF with floating NAV as it is doing, for example, with Deutsche Bank's announcement of plans to launch a MMF with a floating NAV.[3]

A. Transactional Stability

Investor demand for MMFs with a stable NAV is strong, as is evidenced by the $3.9 trillion invested in them, and ABA believes investors must have the ability to invest in this type of fund. A stable net asset value provides a level of simplicity for investors who wish to keep their assets fairly liquid for some period of time, and gives them confidence that the value of the fund will remain constant no matter which day they may purchase or redeem shares. This is particularly important for accounts that are used for transactional purposes rather than as investments.

For example, in the institutional world, MMFs are used to fund transactions that occur over the course of the day. If the NAV floats, service providers would need to request that shares be redeemed prior to the close of the market (when the fund is priced), but the number of shares needed to be redeemed to fund the transaction would be uncertain. Estimating the number of shares needed to be redeemed will result in an end-of-day excess or shortfall. This leads to a potentially significant difficulty in calculating the end-of-day values. By contrast, a stable NAV provides certainty for funding the day's transactions. Similarly, municipal bond issuers who, under their indentures, are required to maintain reserves at a specified level, can be assured that they will not have to advance cash to satisfy that reserve level because funds invested in MMFs will not fluctuate. Finally, trust departments commonly sweep idle cash that must be made productive into MMFs on an overnight or longer basis. For example, if such swept funds are

[3] Laise, Eleanor, *Money Fund Floats Plan to Erase $1 Barrier*, The Wall Street Journal, Sept. 3, 2009, at C1.

intended to cover a future expense, such as college tuition, a floating NAV could result in an insufficient amount to cover the particular expense.

B. Accounting Ease

Investors understand and appreciate the accounting treatment offered by stable NAV funds. With a stable NAV, investors do not need to report the gains or losses in the fund, because the fund is distributing all returns of the fund through dividends as income. With a floating NAV, different reporting would be required, including the reclassification of money market funds as short-term or long-term investments. The investor would then need to mark to market the value of the MMF shares and match purchases and redemptions to calculate capital gains and losses. By retaining the stable NAV, the investor follows a simpler reporting scheme.

C. Legal Requirements

Certain trust investors may face legal or other constraints that would require them to invest their cash balances in funds that maintain a stable NAV. There are a number of state statutes specifying permissible investments under indentures requiring a stable NAV.[4]

Definition of "Liquidity"

The Commission's proposal would prohibit MMFs from acquiring assets unless they are "liquid" as defined in the proposal. In the past, the Commission permitted stable NAV funds to hold up to ten percent of their assets in illiquid investments. Under the proposal, *all purchases* would need to be "liquid," meaning that they could be sold or disposed of in the ordinary course of business within seven days at approximately their "amortized cost value."

ABA is concerned that bank certificates of deposits (CDs) may not meet the proposed liquidity definition. A CD is a special type of bank deposit account that typically offers a higher rate of interest than a regular savings account. An important benefit of CDs is that they are insured by the Federal Deposit Insurance Corporation. When an individual purchases a CD, the funds are invested in a fixed sum of money for a fixed period of time and, in exchange, the issuing bank pays the individual interest at regular intervals. When the CD is redeemed, the individual receives the money originally invested plus any accrued interest. However, if the CD is redeemed before it reaches its maturity date, then an early withdrawal penalty *may* be assessed.

ABA is concerned that a CD may be considered illiquid under the proposal because it may not be liquidated prior to maturity at the amortized cost value without the possibility of incurring withdrawal penalties. CDs may be purchased either directly by MMFs or through reciprocal deposit arrangements, such as the Certificate of Deposit Account Registry Service (CDARs)[5]. Through CDARs, these deposits are available to customers of banks that are members of a group of insured depository institutions, where each member of the group sets the interest rate to be paid on the entire amount of funds it places with other group members and then swaps deposits with other group members. Such an arrangement enables a bank to offer its customers a

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[4] See Texas Public Funds Investment Act, Texas Government Code Sec. 225.014; see also, Louisiana Revised Statutes. RS 33:2955 A.(1)(e).
[5] CDARS is a product of the Promontory Interfinancial Network.

convenient way to obtain FDIC insurance on large deposits (currently, up to $50 million) by working solely with the bank with whom the customer has a relationship.

CDs, whether issued through a reciprocal deposit arrangement or by the bank directly, are stable products. No customer has ever lost money on an insured CD. We strongly encourage the Commission to continue using market price, as opposed to amortized cost value in the definition of a "liquid" security, thereby ensuring that MMFs may continue to purchase CDs.

<u>Conclusion</u>

We appreciate the SEC's need to address current market concerns; however, eliminating CDs as eligible investments and eliminating the stable NAV is not the way to do it.

If you have any questions, please do not hesitate to contact the undersigned.

Sincerely,

Lisa J Bleier

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