



January 6, 2011

Michael Houghton  
Chair, ULC Executive Committee  
Morris, Nichols, Arsht & Tunnell LLP  
P.O. Box 1347  
1201 N. Market St., 18<sup>th</sup> Floor  
Wilmington, DE 19899

Judge Harriet Lansing  
Chair, ULC Scope and Program Committee  
313 Judicial Center  
25 Rev. Dr. Martin Luther King Jr. Blvd.  
Saint Paul, MN 55155

Re: Uniform Law Commission (“ULC”) Study Committee on Payment Issues’ (the “Study Committee”) Recommendation that a Drafting Committee be formed to revise Uniform Commercial Code (“UCC”) Articles 3, 4 and 4A

Dear Mr. Houghton:

The Clearing House Association L.L.C. (“The Clearing House”)<sup>1</sup> respectfully submits to the ULC Executive Committee (the “Executive Committee”) the following requests in connection with the Executive Committee’s consideration of whether it should authorize a Drafting Committee to begin work on revising UCC Articles 3, 4 and 4A and whether the scope of such proposed Drafting Committee’s effort should include payment issues beyond those issues that address promissory notes and the foreclosure of mortgages securing these notes (the “mortgage promissory note issues”):

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<sup>1</sup> Established in 1853, The Clearing House is the nation’s oldest banking association and payments company. It is owned by the world’s largest commercial banks, which employ 1.4 million people in the U.S. and hold more than half of all U.S. deposits. The Clearing House is a nonpartisan advocacy organization representing through regulatory comment letters, amicus briefs and white papers the interests of its owner banks on a variety of systemically important banking issues. The Clearing House Payments Company provides payment, clearing, and settlement services to its member banks and other financial institutions, clearing almost \$2 trillion daily and representing nearly half of the automated clearing-house, funds-transfer, and check image payments made in the U.S. See The Clearing House’s web page at [www.theclearinghouse.org](http://www.theclearinghouse.org).

- (1) The Executive Committee should not empower a Drafting Committee to address issues in UCC Articles 3, 4 and 4A beyond what is minimally necessary to address the mortgage promissory note issues.

Mortgage industry foreclosure challenges surfacing during the latter half of 2010 fomented an expansion of the Study Committee's scope to include mortgage promissory note issues. At its December 21, 2010 conference call meeting, Fred Miller, Chair of the Study Committee, reported that the New York and Atlanta Federal Reserve Banks had expressed a "strong desire" for the ULC to address issues concerning mortgage promissory notes and foreclosure. Based on these events, the Study Committee submitted a report to ULC Leadership requesting that a Drafting Committee be formed and outlining recommendations for the scope of such proposed Drafting Committee. These recommendations for the proposed Drafting Committee expand beyond the scope of those UCC provisions related to the mortgage promissory note issues. The Clearing House respectfully requests that any Drafting Committee authorized by the Executive Committee should not be empowered to make revisions to the UCC except to the extent unavoidably necessary to address the mortgage promissory note issues. A Drafting Committee should not be empowered to make other revisions to UCC Articles 3, 4 or 4A.

- (2) The Executive Committee should not empower a Drafting Committee to begin drafting revisions to address the mortgage promissory note issues until the Drafting Committee has defined the specific issues that the revisions are intended to address.

If the Executive Committee creates a new Drafting Committee to revise UCC provisions designed to address mortgage promissory note issues, the proposed Drafting Committee should take additional steps before it begins to draft such revisions. Namely, The Clearing House respectfully requests that the proposed Drafting Committee should collect additional information from the industry and conduct any necessary studies to ensure that the issue is clearly defined and supported by interested industry constituents.

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Thank you for your consideration and review of these recommendations. If you have any questions or wish to discuss The Clearing House's comments, please do not hesitate to contact me at (212) 612-9234.

Yours very truly,

A handwritten signature in black ink, appearing to read "Joseph R. Alexander", followed by a long horizontal flourish.

Joseph R. Alexander  
Senior Vice President, Deputy General Counsel  
and Secretary

cc: Fred H. Miller, Chair of Study Committee on Payment Issues  
Linda J. Rusch, Reporter