CENTER FOR CAPITAL MARKETS
COMPETITIVENESS

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September 23, 2013

Mr. Robert de V. Frierson
Secretary
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue
Washington, DC 20551

Mr. Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Legislative and Regulatory Affairs Division
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Re: **Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions; 12 CFR Part 6, Docket ID OCC-2013-0008; RIN 1557-AD69; 12 CFR Parts 208 and 217, Regulation H and Q, Docket No. R-1460, RIN 7100-AD; 12 CFR Part 324, RIN 3064-AE01**

Dear Messrs. Frierson, Feldman, and To Whom It May Concern:

The U.S. Chamber of Commerce ("the Chamber"), the world's largest business federation represents the interest of more than three million businesses and organizations of every size, sector, and region. The Chamber created the Center for Capital Markets Competitiveness ("CCMC") to promote a modern and effective regulatory structure for the capital markets to fully function in a 21st century economy. The Chamber appreciates the opportunity to comment on *Regulatory Capital Rules:*

Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions ("proposed leverage ratio rules") as proposed by the Board of Governors of the Federal Reserve System ("Federal Reserve"), the Office of the Comptroller of Currency ("OCC"), and the Federal Deposit Insurance Corporation ("FDIC") (also collectively known as the "regulators"). [1]

The CCMC is concerned that the proposed leverage ratio rules are premature. The Bank for International Settlements ("BIS") has issued for comment a discussion paper on *The Regulatory Framework: Balancing Risk Sensitivity, Simplicity and Comparability* ("Basel III capital simplification paper") in an effort to reduce the complexity and opaqueness of the Basel III capital agreements (Basel III"). Furthermore, the Federal Reserve has not yet completed the final promulgation of the rules implementing section 165 of the Dodd Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). The proposed leverage ratios are also creating a divergence from international standards. The Chamber also wishes to express concerns that the proposed leverage ratio rules may adversely impact the ability of businesses to attract capital harming their ability to grow and create jobs.[2]

Accordingly, the CCMC recommends that consideration of the proposed leverage ratio rules be suspended pending the review and finalization of regulatory initiatives based on the Basel III capital simplification paper and the final promulgation of the rules implementing section 165 prudential standards.

Discussion

The CCMC believes that capital, liquidity and leverage requirements are important tools to achieve and maintain stability within financial institutions. However, capital standards and leverage ratios that are too arduous can have serious,

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[1] *See* also letter of September 19, 2013 from the Chamber to the Basel Committee on Banking Supervision commenting on *Revised Basel III leverage ratio framework and disclosure requirements* ("Proposed Leverage Ratio Framework").
[2] *See* also letter of June 14, 2011 from the Chamber to Federal Reserve Chairman Ben Bernanke on GSIFI surcharges and the letter of October 22, 2012 from the Chamber to the regulators commenting on the proposed Basel III implementing regulations.

unintended negative consequences. Allowing suitable levels of risk-taking and providing access to liquid capital markets are necessary elements needed to fuel business growth, job creation, and innovation throughout the domestic and global economy. Providing access to liquid capital markets must be balanced with the need to establish appropriate safeguards to maintain the overall safety and soundness of the financial system. An integrated regulatory framework, implemented consistently across jurisdictions, is necessary to provide uniform incentives and disincentives to mitigate potential systemic risks to safety and soundness.

The proposed Leverage Ratio Rules are buttressed upon the triple pillars of the International Lending Supervision Act ("ILSA"), section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") and Basel III. The ILSA encourages regulators to work with their international counterparts to establish consistent supervisory policies and practices including the establishment of minimum capital requirements. Section 165 of the Dodd-Frank Act requires the Federal Reserve to impose prudential standards on large bank holding companies and non-bank financial companies that have been designated as being systemically important. Basel III seeks to impose minimum capital requirements, leverage ratios, and liquidity requirements for banks that operate internationally.

a. Basel III Complexity and Simplification

Recently, regulators have joined investors and other commentators in raising concerns that the Basel III capital framework is too complex. Part of the concern is that complexity may cause opaqueness, frustrating the goal of safety and soundness by hampering the ability of regulators and investors to understand the health of individual banks or to compare the soundness of different banks. As a result, the Basel Committee on Banking Supervision released the Basel III capital simplification paper to achieve a better understanding of the complexity of capital requirements and how to simplify them to better achieve stability in financial institutions. The comment period for the Basel III capital simplification paper ends on October 11, 2013.

Basel III is the foundation for the system of capital requirements, leverage ratios and liquidity requirements that global regulators have been building upon since the 2008 financial crisis. The regulators have moved forward in building such a system here in the United States, and in fact, have moved in an aggressive manner to put in place tougher requirements than the majority of other nations. While tough capital rules may be called for, though balanced with other considerations raised later in this letter, we must question further movement along these lines as the foundation for this system has been called into question.

Furthermore, the ILSA seeks to create consistent international standards. The G-20 has clearly made consistent capital requirements a priority to be addressed in the wake of the financial crisis. While we understand that the depth and structure of markets may require different level of responses, we are concerned that the proposed leverage ratio rules are creating a wide divergence from a consistent international framework that frustrates the intent of the ILSA.[3]

b. Section 165 Prudential Standards

Section 165 of the Dodd-Frank Act authorizes the development and use of prudential standards to regulate the potential systemic risk of banks and non-bank financial companies that have been designated as being systemically important. Enhanced capital standards, leverage ratios and liquidity requirements are among the tools that the Federal Reserve may use to carry out section 165.

The Comment period for the Section 165 prudential standards closed on April 30, 2012, and to date the final rules have not been finalized and promulgated.[4] The section 165 rules will be the central means of regulating systemic risk for systemically important firms. It would be prudent for these enhanced tools to be fully fashioned before developing higher leverage ratios that go beyond the minimums as set by international agreement.

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[3] *See* October 22, 2012 letter from Chamber commenting on regulations implementing Basel III capital standards and need for international consistency.

[4] *See* letters of January 30, 2012 and April 30, 2012 from the Chamber to the Federal Reserve commenting on the proposed Section 165 prudential standards rules.

c. Inconsistent Regulation Across Jurisdictions

While Basel III attempts to create a uniform international system of capital requirements, we note with significant concern the increasing number of differences arising in regulatory reforms across major jurisdictions. For example, the proposed leverage ratio rules, issued by the regulators to increase the existing minimum leverage ratio requirement for certain large U.S. bank holding companies and their insured depository institutions, as compared to the BCBS' proposed leverage ratio framework, results in significant differences in the minimum capital requirements across product types. Such inconsistencies may introduce competitive disparities, operational and enforcement uncertainties and systemic inefficiencies, all of which could lead to greater systemic risks, adversely impact economic growth and impede cross-border capital flows needed for businesses to operate on a global basis.

Basel III can only be a homogenous standard if its interpretation, application and enforcement are the same across the board. Greater effort is required to minimize the further fragmentation and inconsistencies arising across jurisdictions in capital, liquidity and leverage frameworks, as well as other regulatory reform initiatives such as resolution authority and derivative regulations. We encourage the regulators to pursue coordination efforts with the BCBS and other appropriate parties to achieve consistent implementation of a uniform regulatory framework. The CCMC also believes the regulatory reforms related to capital, liquidity and leverage require further evaluation for internal consistency.

Furthermore, the ILSA encourages regulators to work with their international counterparts to establish consistent supervisory policies and practices including the establishment of minimum capital requirements. The G-20 has clearly made consistent capital requirements a priority to be addressed in the wake of the financial crisis. While we understand that the depth and structure of markets may require different levels of response, we are concerned that the Proposed Leverage Ratio

Framework creates greater inconsistencies within the international framework that frustrates the intent of the ILSA.[5]

An integrated regulatory framework, implemented consistently across jurisdictions, is necessary to provide uniform incentives and disincentives to mitigate potential systemic risks to the safety and soundness of the financial system.

d. Capital Formation Concerns and Potential Economic Impacts

The proposed leverage ratio rules are the latest in a series of initiatives that may hamper the ability of businesses to access the capital and liquidity needed to grow and operate.

A comprehensive review of these initiatives would illustrate:

- The proposed leverage ratio rules, as applied to major U.S. insured depository institutions, are twice the requirement in Basel III;

- Capital surcharges upon Global Systemically Important Financial Institutions ("GSFIs")will force large internationally active banks to withdraw additional capital from productive capital formation streams;

- The Volcker Rule will impact the ability of non-financial businesses to enter the debt and equity markets by raising costs and creating barriers to entry ;

- Proposed Money Market Fund reform may harm the ability of non-financial businesses to access the short-term commercial paper markets and manage cash;

[5] *See* October 22, 2012 letter from Chamber commenting on regulations implementing Basel III capital standards and need for international consistency.

- If the Volcker Rule and Money Market reform hamper capital formation, the next alternatives are commercial lines of credit; however, Basel III creates disincentives for banks to provide businesses with commercial lines of credit; and

- Other Dodd-Frank Act provisions including derivatives regulation will impact the ability of non-financial companies to mitigate risk.

The combination of all of these initiatives could lead to an underperforming financial sector, create barriers to capital formation and have unintended ramifications throughout the rest of the economy. The inability of businesses to be able to engage in normal capital formation activities, efficient cash management and effective risk management will raise costs and create inefficiencies adversely impacting economic growth.

Conclusion

The Chamber believes that a balanced approach to capital requirements and leverage ratios are a pro-growth means of addressing over-leveraging and providing stability in a risk-based free enterprise system. However, the Chamber is very concerned that the foundation upon which the proposed leverage ratio rules has been built is being questioned by the BIS as too complex and in need of simplification. Accordingly, the Chamber believes that the regulators should suspend consideration of the proposed leverage ratio rules pending the review and completion of regulatory initiatives based on the Basel III simplification paper. Similarly, we believe that the use of leverage ratios as a tool to be used in systemic risk regulation calls for a similar suspension of consideration of the proposed leverage ratio rules pending the completion of the Section 165 rulemaking.

Furthermore, a carefully calibrated system balanced between stability and appropriate risk taking is necessary for the stability of financial institutions and the ability of businesses to access capital in order to grow and create jobs. A doubling of the leverage ratios, as compared to the Basel III requirements may, in our view, be disruptive to that balance harming economic growth and job creation.

Thank you again for the opportunity to comment upon the proposed leverage ratio rules, and we are happy to discuss these issues and concerns in greater detail at your convenience.

Sincerely,

Tom Quaadman