American Bankers Association

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Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, D.C. 20219
Docket ID OCC-2019-0009, RIN 1557-AE63

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street & Constitution Avenue, NW
Washington, D.C. 20551
Docket No. R-1658, RIN 7100-AF45
Docket No. R-1628B, RIN 7100-AF21

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20249
RIN 3064-AE96

Via Electronic Mail

Re: Proposals to Tailor Prudential Regulations for Foreign Banking Organizations

Ladies and Gentlemen:

The American Bankers Association[1] (ABA) appreciates the opportunity to comment on the banking agencies'[2] (Agencies') proposals[3] to tailor prudential regulations for foreign banking organizations (FBOs). The U.S. banking sector is a diverse industry made up of institutions of various sizes, business models, and ownership. ABA is supportive of the

[1] The American Bankers Association is the voice of the nation's $18 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard nearly $14 trillion in deposits, and extend more than $10 trillion in loans. Learn more at www.aba.com.
[2] Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System (Board), and Federal Deposit Insurance Corporation.
[3] The joint agency proposal changing the applicability thresholds for certain regulatory capital requirements and the application of liquidity requirements to FBOs that have "significant" U.S. operations, 84 Fed. Reg. 24296 (May 24, 2019), and the Board proposal changing the enhanced prudential standards for large FBOs and revisions to previously proposed changes to the enhanced prudential standards for large bank holding companies and savings and loan holding companies, 84 Fed. Reg. 21988 (May 15, 2019).

recent efforts of the Agencies and other policymakers to consider the effectiveness of the numerous new prudential standards implemented in recent years, with a view toward how they can be improved. These efforts are a welcome recognition that existing capital, liquidity, and systemic risk regulations have not sufficiently distinguished among banks engaged in various activities with varied risk profiles. Tailoring of capital, stress testing and liquidity standards is a crucial step toward ensuring that the character of regulation fits the character of a banking organization and promotes the diversity of the U.S. banking sector.

In this context ABA will be submitting a detailed comment letter jointly with the Bank Policy Institute (BPI) (joint BPI/ABA comment letter). We submit this comment letter to stress the importance of FBOs to the U.S. economy and iterate the broad themes of the joint comment letter.

The Importance of FBOs to the U.S. Economy

FBOs play an important economic role in communities around the country, providing traditional banking services, branch networks, card offerings, small business lending, and significant economic investment in all 50 states. As the Agencies are no doubt aware, FBOs are highly regulated, both in their home jurisdictions and in the U.S, and those with greater than $50 billion in U.S. non-branch assets have formed U.S. intermediate holding companies (IHCs). In creating and establishing IHCs, FBOs demonstrated their commitment and investment in the U.S. economy.

FBO are significant lenders to U.S. consumer and commercial borrowers. As of the end of the third quarter of 2018, FBOs have extended some $710 billion in loans, including mortgages, business loans, consumer loans, and commercial real estate loans, to a broad spectrum of borrowers. FBO loan activity is critical to fueling the U.S. economy. For example, FBOs provided one in three U.S. business loans and 71% of the loan volume for U.S. infrastructure projects over the last five years. Two of the top three commercial agricultural lenders in the U.S. are FBOs and two of the top ten Small Business Administration lenders are FBOs. FBO activity in the U.S. is widespread as they serve some 3,600 communities through branches in thirty-eight states and the District of Columbia.

FBOs create valuable jobs in the U.S. FBOs employ nearly 150,000 Americans and provide some $28 billion in employee compensation.

General Comments on Both Proposals

ABA appreciates the Agencies' efforts to implement the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA), and to tailor the application of enhanced prudential standards under Section 165 of the Dodd-Frank Act, as well as the capital and liquidity requirements for the U.S. operations of FBOs. A tailored regulatory framework that appropriately aligns regulatory requirements with the diverse activities, organizational structures, business and regulatory models, and risk profiles of FBOs would further the policy objectives of fairness, effectiveness, and efficiency in regulation. Such a framework would also promote global cooperation and the development of a global regulatory framework in which home country regulation and host country regulation are balanced appropriately.

ABA is concerned, however, that the proposals do not succeed in creating an appropriately tailored regulatory framework for FBOs. We raise these specific points:

- We do not believe that it is appropriate to use the characteristics of an FBO's combined U.S. operations (CUSO) to determine the liquidity requirements and the enhanced prudential standards applicable at the level of an FBO's U.S. IHC to the extent that this would result in an inappropriate regulatory framework in which regulatory requirements at the IHC level would often be misaligned with the IHC's activities, organizational structure, business model, and risk profile. We therefore urge the Agencies to revise the proposals so that the application of each liquidity requirement and enhanced prudential standard at the IHC level is based solely on the characteristics of an IHC.
- While we support the general framework of the risk-based indicator approach set forth in the proposals, some of the risk based indicators are crude and not appropriately risk sensitive. As such, the Agencies should improve the indicators to better reflect the U.S. risk profiles of FBOs, as is detailed in the joint BPI/ABA comment letter.
- With regard to the imposition of standardized liquidity requirements with respect to the U.S. branch and agency networks of the FBOs (which was the subject of a request for comment by the Board in the joint agency proposal), we recommend that the Board not impose new standardized liquidity requirements on FBOs, given that standardized home country liquidity requirements already apply to FBOs and their U.S. branches and agencies. As the Board has recognized, such requirements would be "novel in the realm of international regulation."[4] We do not see a compelling need to impose such new requirements.

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[4] Vice Chair for Supervision Randal K. Quarles, *Opening Statement on Proposals to Modify Enhanced Prudential Standards for Foreign Banks and to Modify Resolution Plan Requirements for Domestic and Foreign Banks* (Apr. 8, 2019), *available at* https://www.federalreserve.gov/newsevents/pressreleases/99A5C407E998418CB2CB9DDB85C54B0B.htm#aboutMenu.

Office of the Comptroller of the Currency
Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation

Thank you for your consideration of our views and recommendations. If you have any questions or require any additional information, please do not hesitate to contact the undersigned at anandar@aba.com or at 202-663-5037.

Sincerely,

[redacted]

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