BARCLAYS

Barclays Treasury
9th Floor
1 Churchill Place
London
E14 5HP

Tel +44 (0)20 7623 2323
Fax +44 (0)20 7773 5539

barclays.com

1st August 2012

baselcommittee@bis.org
Secretariat of the Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002 Basel
Switzerland

Dear Sirs,

A framework for dealing with Domestic Systemically Important Banks ("D-SIBs")

Barclays welcomes the opportunity to comment on the Basel Committee on Banking Supervision ("BCBS") proposed framework for D-SIBs. We recognise the importance of fulfilling the G20 mandate to extend the Global Systemically Important Financial Institution ("G-SIFI") framework to D-SIBs. This is an important step toward delivering financial stability and we support the overall proposal.

We believe the principles-based approach is correct, but feel it could be strengthened as follows:

1. **Establish a cap on the level of higher loss absorbency ("HLA").** The Principles currently give national authorities considerable latitude in imposing buffers that potentially go beyond what is necessary to deliver financial stability and Global Systemically Important Bank ("G-SIB") levels. Imposing a cap will avoid excessive cross-border differences and facilitate greater consistency across the systemic risk policy framework.

2. **Recognise steps that would enable an institution to reduce systemic risk and therefore its HLA requirements.** This potentially enables D-SIBs to pursue the goal of making themselves less systemically risky. It is important that national banks are able to do this without relying on deleveraging or limiting their activities, which if pursued simultaneously across the financial sector, may have unintended consequences for the national economy thereby exacerbating macro imbalances/global impacts. It would also allow home authorities to take account of actions taken to reduce the burden of subsidiaries in non-home markets in determining the amount of buffer necessary at the consolidated level. The UK authorities are developing just such a consideration as part of their application of the loss-absorbing capital requirement recommendations proposed by the Vickers Commission. Such a principle should be formalised on a global basis through the D-SIB framework.

3. **Provide a common set of core assessment methodologies that can be weighted to accommodate jurisdictional nuances.** Lack of such guidance is likely to lead to a significant divergence in the development and application of criteria used to assess D-SIBs, impeding transparency and international comparability.

4. **For international banks, the home supervisor should be given explicit responsibility for ensuring coordination between itself and host authorities.** We advocate that the home authority should chair a sub-college of regulators, meeting as required to agree D-SIB HLA requirements across jurisdictions (or that this happen formally through existing colleges). We recommend that the home authority as chair, would lead the discussions to reach a satisfactory conclusion at the consolidated, parent and subsidiary level. Without

this, we are concerned capital may get trapped in certain jurisdictions at the expense of the parent company or other jurisdictions, potentially increasing global systemic risk.

5. **Consider alternatives to common equity.** We propose that Principle 12 be amended to provide firms the flexibility to use alternative forms of capital, such as contingent convertible instruments ("CoCos"), to cover D-SIB requirements. These instruments fully convert/write down into Core Equity Tier 1 to deliver equivalent going concern loss absorbency to common equity. Clear principles should be established for what can qualify as 'loss absorbing' capital without restricting that to common equity alone.

6. **BCBS to set a timetable for review of the D-SIB and G-SIB regimes and to update the market on its findings.** Both regimes are new to the regulatory framework and as such there is much to learn from the experience gained from implementation that would be helpful to share amongst regulators and banks alike.

Please refer to the attached appendix which provides the rationale for each recommendation.

We would be delighted to provide further information or guidance on any of the issues discussed.

Yours sincerely,

Rupert Fowden
MD, Co-head Group Capital Management

APPENDIX

Recommendations and rationale

1. **Establish a cap on the level of higher loss absorbency**

    - The D-SIB framework gives national authorities significant discretion in setting HLA. Unlike the G-SIB framework no limits have been set. We believe this could result in capital buffers being set at national level that go beyond what is necessary to deliver financial stability.

    - In our opinion, it is counterintuitive for D-SIB HLA requirements to be greater than the envisaged G-SIB requirements given the likely externalities from failure of the latter relative to the former. This logically implies that there should be a cap of 2.5% on D-SIB HLA requirements.

    - To avoid double counting, the Principles should make it clear that, if a risk has been addressed by another capital buffer or measure (e.g. the G-SIB buffer or a Pillar 2 add-on) then the risk should not be addressed again under a D-SIB buffer.

    - It should also be noted within the Principles that, by introducing a buffer cap, it does not impact the home authority's ability to impose higher capital requirements under Pillar 2 if a given institution is exposed to risks not fully captured under Pillar 1.

2. **Recognise steps that would enable an institution to reduce systemic risk and therefore its HLA requirements**

    - The consultative paper acknowledges that HLA is one way to reduce systemic risk but does not go on to articulate alternatives.

    - In order to control the potentially higher capital requirements under the proposed D-SIB framework the natural course of action for many banks will be to deleverage or limit their activities. Our concern is that if these actions are pursued simultaneously across the financial sector it may have unintended consequences for the national economy, thereby exacerbating macro imbalances/global impacts. We believe encouraging alternative ways to reduce systemic risk will lead to a better outcome.

    - We request that the Principles include the following:
        - Acknowledgement that there are steps that can be taken to reduce the level of systemic risk caused by a bank, and to list those potential steps.
        - Clear guidance on which of these steps must be taken into account, including to what extent, by supervisors in assessing systemic risk and/or setting HLA requirements.
        - Clear guidance on which of these steps would not be taken into account by supervisors because they aren't deemed to be reliable or sufficiently effective.

    - Steps might include robustness of a firm's Recovery Plan, strength of national / regional resolution regime and robustness of a firm's Resolution Plan including actions taken by the firm to mitigate known impediments to resolution.

    - UK authorities are acknowledging mitigating action as part of their application of the loss-absorbing capital requirement recommendations proposed by the Vickers Commission.

    - For example, the UK government proposes that where banks can demonstrate that overseas assets do not pose a threat to UK and/or EEA financial stability, those assets can be excluded from the higher "primary loss absorbing capacity" capital requirements recommended by the Independent Commission on Banking.

    - In addition, the two policy goals of ring-fencing directly address 3 of the 4 factors under D-SIB Principle 5, which would otherwise justify a higher D-SIB buffer. Specifically:

        - '(To) insulate critical banking services from shocks elsewhere in the financial system', if successfully achieved through ring-fencing prohibitions on all financial institution exposures and limitations on exposures to prohibited activities via a non-ring-fenced sister or parent company, would reduce the <u>interconnectedness</u> of Barclays within the UK economy.

    - '(To) make it easier to preserve the continuity of those services, while resolving financial institutions in an orderly manner and without injecting taxpayer funds', once achieved by ring-fencing, will also reduce the need for substitutability of the Barclays infrastructure as no substitute would need to be found in case of default as the infrastructure would continue to operate regardless.
    - The insulation of ring-fencing should also materially reduce the relevance of Barclays complexity to the UK domestic economy by mitigating intra-group contagion.

- Principles should acknowledge such developments and be formalized on a global basis through the D-SIB framework.

3. **Provide a common set of core assessment methodologies that can be weighted to accommodate jurisdictional nuances**

- We acknowledge that national specificities are integral to a D-SIB framework, but urge the BCBS to continue to work with regional and international authorities to develop a core common approach to assessing D-SIBs.

- Lack of such guidance is likely to lead to a divergence in the development and application of criteria used to assess D-SIBs, impeding transparency and international comparability.

- A core common approach would facilitate international comparability, whilst weighting factors would allow jurisdictional differences to be taken into account. In our opinion methodologies for assessing D-SIBs and calculating the HLA requirements should be sufficiently transparent to enable third parties to apply independently.

4. **For international banks, the home supervisor should be given explicit responsibility for ensuring coordination between itself and host authorities**

- Relying only on informal coordination and cooperation between national authorities may lead to a rush for capital as host authorities implement HLA to protect their own domestic systems.

- This may trap or lock capital in certain jurisdictions at the expense of the home parent company or other jurisdictions, potentially increasing global systemic risk.

- We believe it is critical for the success of the G-SIB and D-SIB frameworks and the broader global financial stability mandate that workable cross-border solutions can be found. As such, we advocate that the home authority should chair a sub-college of regulators, meeting at least annually to review D-SIB HLA across jurisdictions.

5. **Consider alternatives to common equity**

- The Principles stipulate that only common equity can be used to satisfy HLA requirements. We believe the economic costs of meeting D-SIB requirements should be kept to a minimum, given the diminishing value of ever increasing capital buffers as a tool for reducing financial instability/systemic risk.

- We propose that Principle 12 should be amended to provide firms the flexibility to use alternative forms of demonstrably loss absorbing capital such as CoCos to cover D-SIB requirements. Appropriately designed CoCos fully convert/write down into Core Equity Tier 1 at an appropriate trigger point to deliver equivalent going concern loss absorbency to common equity.

- Clear principles should be designed as part of the D-SIB framework setting out what types of capital would qualify without limiting to common equity alone. Such principles could be based on work already undertaken by international policymakers (such as the CoCo straw-man debated in the context of the BCBS G-SIB consultation) and could leverage on-going work on the subject currently being undertaken in Europe by industry and policy makers in tandem – for example enhancements to the EBA Additional Tier 1 Binding Technical Standards and/or the Buffer Contingent Capital Note (BCCN) Term sheet. Barclays has contributed extensively to the international policy debate on this subject and would be delighted to share further thinking with the BCBS in the context of its D-SIB work.

- A deep and liquid fixed income market would be created if these instruments were allowed. This would help diversify capital requirements away from the common equity investor base to create another check on management, at a cost marginally below the cost of equity.

- We therefore believe that permitting CoCos in the G/D-SIB buffer would meet the primary regulatory objectives of HLA, whilst creating additional lending capacity (via lower weighted average cost of capital) and significant incentives for management to avoid a trigger breach.

6. **BCBS to set a timetable for review of the D-SIB and G-SIB regimes and to update the market on its findings**

- Peer review will be an important part of the work to develop the D-SIB framework, as noted in the introduction to the consultative paper; however we would appreciate greater clarity on how this process will operate in practice.

- The D-SIB and G-SIB regimes are new to the regulatory framework and as such there is much to learn from the experience gained from implementation that would be helpful to share amongst regulators and banks alike.

- We therefore urge the BCBS to set out a timetable for review, and to report on its findings and update the framework as appropriate.