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Mr. Stefan Ingves
Chairman
Basel Committee on Banking Supervision
Centralbahnplatz 2
Basel
Switzerland

Re: BCBS Consultative Document on Domestic Systemically Important Banks (D-SIBs)

Dear Chairman Ingves:

The Institute of International Finance (IIF) appreciates the opportunity to comment on the **BCBS Consultative Document: "A framework for dealing with domestic systemically important banks".** These comments have been produced by the IIF Working Group on Capital Adequacy under the guidance of the IIF Special Committee on Regulatory Capital (SCRC). In offering these comments, we believe it is important to reiterate the industry's support for appropriate measures designed to strengthen regulation and thus make the global financial system more stable.

The IIF fully recognizes the relevance of the BCBS work in fulfilling the G20 mandate established at the Cannes 2011[1] Summit on extending the G-SIFIs' framework to Domestic SIBs and examining the extent to which the activities of domestic banks may be a source of systemic risk. We therefore appreciate the continued openness of the BCBS to industry perspectives on such a relevant and critical subject.

Having said this, we must reiterate the IIF position regarding the shortcomings of approaches to systemic risk that rely on designating groups of firms (whether banks or non-bank financial institutions, global or local) as potentially systemic and applying additional loss absorbency requirements to these. Such approaches would in our view (contrary to the express aim of G20 leaders) increase the moral hazard and market distorting effects arising out of such firms being seen as "special" and potentially too big to fail, including at the domestic level. The IIF has also drawn attention, from a policy perspective, to the drawbacks of dealing separately (in a disconnected way) with the objectives of reducing the probability of bank failure and reducing the impact and cost of failure. Such an approach is likely to result in double counting of risk and the consequential excessive regulatory burdens.

[1] G20 Cannes Summit - http://www.g20-g8.com/g8-g20/g20/english/for-the-press/news-releases/cannes-summit-final-declaration.1557.html - par. 29

All these issues were explained in considerable detail in the IIF letter of August, 26 2011, commenting on the Basel Committee's Consultative Document on "*Global Systemically Important Banks: Assessment Methodology and the Additional Loss Absorbency Requirement*" as well as in the IIF Report *"Systemic Risk and Systemically Important Firms"* of May 2010.

Furthermore, in the current economic environment, there is growing concern among many stakeholders (financial institutions as well as central banks and other policy makers) about the potential effects of numerous incremental layers of regulation in the areas of capital, liquidity and collateral requirements on the banking system's ability to provide the volumes of credit necessary for the global economic recovery and ongoing growth. The Institute's work on impact analysis, as well as analysis conducted by several members of the official sector,[2] only increases such concerns[3]. The D-SIB framework, as proposed, promises to add to such burdens without a convincing impact analysis demonstrating that the stability benefits outweigh the burden on growth thereby created.

In short, the IIF continues to believe that surcharges are unnecessary as a prudential matter and ill-advised economically, given the full panoply of regulatory advances that have been and are being made. In addition, of course, history suggests that domestic bank risks can arise just as much as or more than from risks occurring across groups of smaller institutions, and that there is little reason to single out larger institutions rather than assessing the capital needs of all banks on an equitable and balanced basis, as the basic Basel II/III program already does, especially given the numerous other reforms aimed at systemic risks.

However, recognizing that the Basel Committee may nonetheless feel committed to pursuing higher loss absorbency for D-SIBS, the Institute of International Finance offers the following suggestions in a constructive spirit, to clarify the proposals and to diminish the drawbacks they pose, in the industry's view.

General comments

The IIF agrees with the BCBS that the proposed framework should take a principles-based approach, in contrast to the prescriptive approach of the G-SIB framework. The Institute recognizes that each individual jurisdiction has its domestic particularities which, in some circumstances, might not be adequately dealt with through globally uniform regulation or procedures. We therefore understand the necessity to allow for some degree of flexibility in dealing with the financial institutions considered systemically relevant at the domestic level.

Nevertheless, the IIF believes that it would be appropriate to place the principles-based approach to D-SIB assessment in a context of "constrained discretion" in order to minimize insofar as possible the cross-border divergences in application of the proposal to D-SIBS (including both local firms and subsidiaries of global firms), to avoid undue

[2] ECB, *Financial Stability Review*, December 2011 – pg. 131
ECB, *Financial Stability Review*, June 2012 – pg. 106
IMF, *Global Financial Stability Report*, April 2012
King M. – *Speech at the Lord Mayor's Banquet for Bankers and Merchants of the City of London at the Mansion House* – June, 14 2012
[3] IIF Report: "*The Cumulative Impact on the Global Economy of Changes in the Financial Regulatory Framework*", September 2011

uncertainty that will complicate capital planning, especially at this difficult time in the markets, and to promote harmonized interpretation of the standard.

- ***Scope of application and calibration of Higher Loss Absorbency (HLA) requirements at the domestic level***. The scope of the D-SIB framework, as proposed, envisages measuring the systemic risk posed by a financial entity at the domestic level (*Introduction, par. 4, 5 – Assessment Methodology, Principle 1, 3*). However, the framework also makes the scope of application of the D-SIB assessment for cross-border groups the consolidated balance sheet of the firm and not simply that of local operations in the home country. Multinational groups are concerned with the accumulation of multiple layers of capital requirements aimed essentially at the same risks. As a general matter, capital assessments should take into account the structure and business model of each group, in particular its degree of integration and the role of the parent in the group overall. In order to achieve results that would be economically appropriate, *D-SIB* assessments of systemic importance of international groups, which by definition focus on home-country issues, should take into account *only* activities of direct relevance to the home country, rather than the entire consolidated balance sheet. This would appropriately mean including consideration of strictly domestic activities and those international activities conducted in conjunction with the domestic business, but excluding activities of the group in other countries that are not directly related to its domestic business.

- ***Definition of Higher Loss Absorbency (HLA) requirements***. Recognizing that national authorities should retain a degree of discretion in defining a surcharge (as stated above), the IIF nevertheless believes that the framework should establish clear limits to the level of HLA requirements that domestic authorities could impose. Such limits would ensure not only intellectual consistency across the systemic risk policy framework but also appropriate harmonization and would avoid the pitfalls of an excessively fragmented framework across jurisdictions and thus an uneven playing field. The D-SIB framework should establish, in a similar fashion to the G-SIB one, a gradual scale of capital add-ons, capped at the G-SIB maximum amount, subject to the comments below on the appropriate use of other capital instruments. The BCBS should ensure consistency of policies regarding systemic risk, including the calibration of HLA. It would be methodologically inconsistent to establish different levels of HLA to equal degrees of "systemic importance". In other words, the highest assessed degree of systemic importance should correspond to the same maximum level of HLA for both G-SIBs and D-SIBs. Therefore, in order to preserve methodological consistency, we believe that the maximum capital add-on figure for D-SIBs should be no greater than that in the G-SIB framework[4].

- ***Role of additional Tier 1 capital.*** The IIF is of the view that some degree of flexibility should exist with regard to the nature of the capital instruments allowed to satisfy HLA requirements. In particular, recognition should be given to instruments that would meet the Basel III requirements for Additional Tier 1 capital. This is especially important given the challenging market conditions that currently exist for banks to raise additional

[4] Additional considerations would apply in integrated situations such as the European single market, as discussed further below.

CET1 capital on top of that prescribed by Basel III. Therefore, firms should have the option to meet any D-SIB capital add-on that may be required by the national authorities in the form of any instrument that would meet the requirements for Additional Tier 1 capital, subject to the discussion of contingent convertibles (co-cos) in the next paragraph.

- ***Role of Contingent Capital***. The IIF also believes that further consideration should be given to the possibility for D-SIBs to meet additional capital requirements with other non-common equity instruments, in particular contingent convertible instruments or write-down instruments, possibly with recovery potential. The framework could specify that *at least* a portion of any capital add-on could be met with such instruments. This would provide sufficient loss-absorbency to the entity while allowing for a more diversified capital base, as is already permitted in Switzerland. In any case, we believe it is essential that if, contrary to our recommendation above, firms are subject at the consolidated group level to a D-SIB add-on higher than the G-SIB add-on, the framework should at the least allow such additional capital requirements to be satisfied with co-cos or other non-equity instruments. In order to ensure global consistency and to avoid unlevel playing field issues, the BCBS and FSB should develop minimum standards for the issuance and use of contingent capital (allowing firms to negotiate other terms provided the minima are met) that would be allowable for purposes of meeting D-SIB requirements.

- ***D-SIB framework integration with other prudential policy tools, including Pillar 2***. The interaction with other existing prudential frameworks beyond G-SIB should be carefully thought through and specified as comprehensively as possible. The IIF encourages the Basel Committee to establish clear provisions in the framework requiring national authorities to take into account existing prudential policy measures in their jurisdictions before implementing additional measures such as HLA. Without such provisions, there would be a risk of penalizing banks in jurisdictions where already high capital requirements (above Basel II/III minima) are in place and unlevel playing field issues would be compounded. In addition, we would encourage the BCBS to articulate the appropriate interaction between the D-SIB framework and Pillar 2. Without a clear delimitation between the two, there is a risk of confusing the nature of capital add-ons and potentially double counting risks and duplicating prudential measures.

- ***Interaction of the Proposed D-SIB Framework with the Recovery and Resolution Framework.*** While the consultative document appropriately recognizes in paragraph 42 the interaction between recovery and resolution planning and the new HLA requirements, more should be done to elevate the importance of careful integration of the proposed D-SIB policies with the FSB's policies on recovery and resolution plans. This has several dimensions: a) jurisdictions should assure the compliance of their resolution regimes to the FSB's *Key Attributes of Effective Resolution,* which is essential to efficient resolution of a cross-border firm, b) the consolidated and down-stream subsidiary analysis required for D-SIB purposes should be conformed to that for recovery and resolution planning purposes, to avoid duplication of work or possible inconsistencies, and c) the effects of recovery and resolution planning in mitigating many

of the concerns that lie behind the consultative document should be taken into account: in many cases additional requirements for D-SIBs may well be superfluous.

- ***Impact on Cross-border Groups.*** Lack of coordination between domestic and global frameworks on systemic risk would have an impact on the internal organization of cross border groups and may result in unwarranted differentiation in treatment for certain business and organizational models to the detriment of others. To this extent, we disagree with paragraph 35. In fact, significant new home-host issues arise from the D-SIB proposals, which put a greater premium on home-host coordination. All the involved regulators (home, sub holding, host) may have incentives to protect excessively narrow interests by implementing their own criteria and methodologies for assessing the systemic relevance of a bank and defining corresponding measures to limit its systemic impact. This could lead to arbitrary decisions that would affect the way a bank is structured and managed. Incremental national requirements, ring-fencing, trapped capital and liquidity pools, and divergent requirements from different competent authorities of a cross-border group could further lead to added and otherwise unjustified complexities, costs, and inefficiencies in managing the group structure, for example by duplication of operations and resources, loss of synergies, and higher funding costs. An inadequately designed D-SIB framework might therefore compromise otherwise valid and sound business models or strategic plans of global groups, which could in turn decide to review their investments and business activities in host jurisdictions, leading to a reduction of competition and credit provision in the local market, and to a loss of efficiency for multinational corporate clients, and for the system generally. While the good advice on cooperation of Principle 11 is helpful, the consultative document does not go nearly far enough in setting the need for, and modalities of, the necessary cross-border cooperation.

- It is also important to note that current regulatory expectations, notably those set out in the Joint Forum's "*Principles for the supervision of financial conglomerates*", envisage demanding requirements in regard to capabilities at the group level, including global risk management, group risk profile, group risk appetite, and global liquidity and capital management. Nevertheless, the proposed framework, by potentially forcing capital allocation at the country level, would lead to added rigidity in group-wide risk and capital management for banking groups that have validly opted for such a global structure. Such rigidity would have consequences not just for the groups themselves but also for the efficiency and resilience of the global system of which banking groups are part.

- ***Cooperation between Home and Host countries' Authorities***. While it is fundamental to guarantee an appropriate and functioning level of cooperation between home and host authorities, the current draft framework does not foresee any mechanism or system for resolving conflicts. Generic encouragement of coordination is not enough if not supported by a clear definition of roles and responsibilities.

- The consultative document contains good language urging coordination among regulators without, however, creating tangible incentives to cooperation or defining ways to solve potential conflicts deriving from different criteria, assessments or measures imposed on banks. The document appropriately foresees a role for the Committee's

implementation monitoring process in reviewing the methodology and assessing the implementation of the framework, but – as far as we are aware – no powers are provided to the Committee to intervene in case it finds problems related to cross-jurisdictional inconsistency. Therefore, the IIF would recommend that the Basel Committee consider establishing a framework to ensure effective cooperation and resolve potential conflicts arising from unilateral measures by individual authorities. The BCBS could consider elaborating a clearly defined "International Cooperation Accord" to be signed by the authorities in different jurisdictions which will facilitate effective cooperation and define suitable mechanisms to resolve potential conflicts.

- Furthermore, while we fully support the intention of a "*consistent, coherent and non-discriminatory treatment regardless the ownership*" (paragraph 36), the D-SIBs framework, as currently proposed, does not provide rules and tools to ensure its application. This reinforces the need for a more ambitious framework to deal with potential conflicts among supervisors. We also urge the Standards Implementation Group to put a high priority on developing general comparability of D-SIB measures that various jurisdictions may choose to impose, as implied in the *Introduction - Paragraph 8*. For cross border groups, which could be deemed systemic in several jurisdictions, coordination through Colleges of Supervisors is crucial to ensure a consistent approach and avoid the overburden that conflicting, duplicative, or unnecessarily fragmenting local requirements would cause.

- ***Earlier implementation of Basel III requirements***. As we already took the opportunity to stress, the impact of Basel III on banks and the banking sector must not be underestimated, because it is still posing significant challenges that need to be understood and addressed. For every bank, working out the most effective and efficient model for implementing Basel III is a critical issue. Several national authorities are requesting systemically relevant domestic banks to implement such requirements much earlier than the 2019 deadline. Market pressure and competitor pressure are already also driving considerable change at a wide range of organizations, including stronger capital and risk structures. In summary, these new measures already safeguard against, and reduce, systemic risk. The sufficiency of these new measures should be evaluated carefully and taken into account in the design of any additional measures for any D-SIBs.

Specific comments

The document lists a set of 12 principles, which are categorized into two groups: Principles 1 to 7 focus on the **assessment methodology for D-SIBs** while Principles 8 to 12 focus on the **higher loss absorbency (HLA)** requirement for D-SIBs.

Assessment methodology

Principle 1: *National authorities should establish a methodology for assessing the degree to which banks are systemically important in a domestic context.*

The ability for a bank to deal with, and investors to understand, the regulatory assessment of whether it is systemically important is crucial. National frameworks should be

transparent and objective and provide all relevant elements in the determination of systemic importance of an individual firm. The establishment of common, coherent and transparent guidelines for the decisions of each competent authority is of crucial importance to avoid unlevel playing field issues and to avoid any unnecessary disruption of structural and business-model decisions of banking organizations across the world.

Principle 2: *The assessment methodology for a D-SIB should reflect the potential impact of, or externality imposed by, a bank's failure.*

The impact assessment of the potential failure of a bank (paragraph 13) ignores the *probability of default* – PD – dimension of the issue and concentrates on *loss given default* – LGD. This implies that only the potential impact of a hypothetical default will be taken into account when assigning the size of the HLA. By neglecting the probability of default, the degree of recoverability and the health of the bank in question are ignored. A uniform HLA will thus be assigned to institutions that are assessed to have similar external impact in case of failure, regardless of the possibly large differences in their prospects to recover from different crisis situations, and the likelihood of ending up there in the first place. This will act as a disincentive to prudential management, efficient risk management, and a diversified and well-balanced business mix which minimizes the risk of failure, factors that will not be adequately acknowledged through a HLA reduction. It will also create inefficient allocation of capital from a market perspective. As a consequence, the size of the HLA for well-managed, well-diversified, low-risk banks – for example, by reason of appropriate organizational structure and adequacy of their approaches to capital and liquidity management – is likely to be overestimated.

Principle 3: *The reference system for assessing the impact of failure of a D-SIB should be the domestic economy.*

We agree with this principle. See the further discussion in the general comments above.

However, in case of highly integrated jurisdictions, such as the European Union, the framework should, as was the case for the BCBS consultation on G-SIB methodology[5], make reference to regional scope in the assessment of a bank's systemic relevance. At the European level, European policy-makers should develop a framework that appropriately establishes that the identification of a D-SIB should take into account the single market principle and its regional operations. Moreover, certain banks feel strongly that, particularly in integrated markets such as the European Union, the assessment of any D-SIB surcharges for a group that is also designated as a G-SIB should be done through a joint assessment process and a joint decision-making procedure, to establish D-SIB charges on a basis that would ensure that the aggregate amount of capital surcharges assessed upon D-SIBs within a G-SIB group would not exceed the amount of the total G-SIB surcharge. The limitation to the G-SIB surcharge would, among other things, create an incentive for agreement among domestic authorities on any D-SIB charges that seem indicated.

[5] BCBS: "*Global systemically important banks: Assessment methodology and the additional loss absorbency requirement*", July 2011, pg. 14

The IIF also believes that due consideration should be given to the emerging markets' economies and to the impact that D-SIB or any other capital surcharges might have on the availability and cost of credit and overall economic growth in such economies.

Principle 4: *Home authorities should assess banks for their degree of systemic importance at the consolidated group level, while host authorities should assess subsidiaries in their jurisdictions, consolidated to include any of their own downstream subsidiaries, for their degree of systemic importance.*

As discussed above, for purposes of D-SIB analysis, home country authorities should assess the domestic systemic riskiness of a bank, depending on its organizational structure and business model, based on the domestic related activities and not on the consolidated balance sheet.

As stated in the general comments, generic encouragement for coordination between homes and hosts is not enough if not supported by a clear definition of roles and responsibilities. If the proposed rule is maintained, there is no indication of the need for strong cooperation with the supervisors of downstream subsidiaries in order to develop appropriate and proportional requirements. Such provisions are essential and should be developed by the BCBS. Good coordination of requirements may itself become a systemic issue, certainly from the point of view of an efficient use of capital in the system.

Principle 5: *The impact of a D-SIB's failure on the domestic economy should, in principle, be assessed having regard to bank-specific factors:*
(a) Size;
(b) Interconnectedness;
(c) Substitutability/financial institution infrastructure (including considerations related to the concentrated nature of the banking sector); and
(d) Complexity (including the additional complexities from cross-border activity).
In addition, national authorities can consider other measures/data that would inform these bank-specific indicators within each of the above factors, such as size of the domestic economy.

One of the mentioned general criteria (paragraph 22) for assessing the domestic systemic relevance of a bank is its weight relative to domestic GDP. It would be important to develop at the very least some guidelines for the application of such a criterion in order to assess the levels at which firms are deemed to pose a serious threat to the domestic economy. Without such guidance there is a substantial risk that a level playing field will not be achieved, given the likelihood that regulators will make uncoordinated evaluations.

Furthermore, as pointed out in the general comments, the D-SIB assessment, and any potential surcharge, should be calibrated taking into account other existing frameworks, especially Pillar 2 but also domestic requirements. It would be very helpful for the BCBS to articulate the appropriate interaction between the D-SIB framework and Pillar 2. Clear delimitation between the two would avoid confusing the nature of capital add-ons, possible double counting concerns, and duplication of prudential measures. The BCBS should make clearer that national authorities would be expected to take into account existing domestic measures in their jurisdictions before implementing additional HLA requirements, so as to

avoid penalizing banks where already-higher capital requirements (above Basel II/III minima) are imposed.

Principle 6: *National authorities should undertake regular assessments of the systemic importance of the banks in their jurisdictions to ensure that their assessment reflects the current state of the relevant financial systems and that the interval between D-SIB assessments not be significantly longer than the G-SIB assessment frequency.*

In relative terms, a D-SIB may be as systemically important to its own "reference system", the domestic economy, as a G-SIB is in its global context. In principle, therefore, the IIF agrees that the frequency of assessments should be the same for D-SIBs as for G-SIBs. This, together with alignment of the timing of such assessments in relation to a particular banking group, would also make sense from a practical point of view.

Nevertheless, we would like to call the BCBS's attention to the fact that, within weak overall global economic conditions, growth rates are currently sharply different among countries. Therefore, before the D-SIB framework comes into force, once capital surcharges for G-SIBs and D-SIBs are defined by the authorities, an impact assessment should be performed by the BCBS to assess the amount of capital on aggregate that the banking system would need to raise in order to comply with the aggregated G-SIB and D-SIB frameworks, and the capacity of the market to absorb this demand. Aside from the general issue of the impact of such further capital requirements on global credit creation and therefore growth, countries in recession or with sluggish growth will need to focus on properly provisioning expected losses, further restricting resources available for recovery. Requiring additional capital requirements under such conditions is at the least highly questionable. A further discussion of the impact and timing of any surcharges is necessary and should be informed by an objective impact assessment.

Principle 7: *National authorities should publicly disclose information that provides an outline of the methodology employed to assess the systemic importance of banks in their domestic economy.*

As already mentioned, it is essential that complete transparency exist as to the methodology and process for designation of systemically relevant firms. The IIF would suggest that authorities should publicly disclose not only "*an outline of the methodology employed*" – as foreseen by the framework – but also of the sources of data and qualitative criteria used when supervisory judgment is applied (if any, see below). This will ensure that markets and institutions have all the elements to fully understand the evaluation process performed by the competent authorities.

Higher loss absorbency

Principle 8: *National authorities should document the methodologies and considerations used to calibrate the level of HLA that the framework would require for D-SIBs in their jurisdiction. The level of HLA calibrated for D-SIBs should be informed by quantitative methodologies (where available) and country-specific factors without prejudice to the use of supervisory judgment.*

We appreciate the requirement (paragraph 28) for host regulators to disclose the methodology they use to assess the systemic relevance of a domestic bank. This is constructive and should help alleviate the situation where banks similar in terms of their level of systemic importance might receive different treatment.

Nevertheless, we are concerned that the expression in brackets "where available" is too open-ended. It would be preferable to require disclosure of any methodology actually used for the stated purpose.

Principle 9: *The HLA requirement imposed on a bank should be commensurate with the degree of systemic importance, as identified under Principle 5. In the case where there are multiple D-SIB buckets in a jurisdiction, this could imply differentiated levels of HLA between D-SIB buckets.*

The purpose of additional HLA requirements is to encourage banks "*to reduce (or at least not increase) their systemic importance over time*". This principle, however, unless qualified, could result in an impediment to healthy, organic growth of individual institutions and penalize successful competition. The role of capital-based measures should be to reduce the risk posed by D-SIBs, but not carry out other policy goals, such as regulating the size of institutions (if such regulation is thought desirable in a given country). The view that a fragmented banking system, at the country level, has to be preferred over a system with a smaller number of effectively competing banks (such as those of Canada and Australia) because of the systemic relevance and higher impact in case of failure of bigger banks, is highly questionable. Policies regarding the growth and size of banks in domestic systems should be left to individual countries and should not be addressed, as currently proposed, in the Basel framework.

Principle 10: *National authorities should ensure that the application of the G-SIB and D-SIB frameworks is compatible within their jurisdictions. Home authorities should impose HLA requirements that they calibrate at the parent and/or consolidated level, and host authorities should impose HLA requirements that they calibrate at the sub-consolidated/subsidiary level. The home authority should test that the parent bank is adequately capitalised on a standalone basis, including cases in which a D-SIB HLA requirement is applied at the subsidiary level. Home authorities should impose the higher of either the D-SIB or G-SIB HLA requirements in the case where the banking group has been identified as a D-SIB in the home jurisdiction as well as a G-SIB.*

The requirement in the Principle and paragraph 38 to apply the higher of the HLA requirement prescribed for a G-SIB or DSIB is at odds with our analysis of the appropriate approach to the requirements for the domestic operations of a group that is also a G-SIB, as stated above. The rationale and justification for a global GSIB framework would be undermined if national authorities impose requirements based on a higher scale than that used in the global context. As indicated in the first half of the letter, D-SIB surcharges should be determined with reference to domestic-related activities (and subject to the maximum level established under the G-SIB framework). Thus, there is no case for the "higher of" rule.

While we understand the argument made in paragraph 37, in most circumstances testing the capital of the parent company on a stand-alone basis is not justifiable on

economic grounds and would in fact contribute to the regulatory fragmentation of the global economy, contrary to the goals of the G20 in mandating the reform package of which the D-SIB proposals form a part. Efficiency requires group capital to be looked at on a group basis, except in the case of decentralized groups that are locally funded and capitalized.

Given the importance of underscoring the principle that there should not be discrimination among domestic banks (paragraph 36), including subsidiaries of foreign banking groups or subsidiaries of G-SIBs, we are concerned that the framework does not foresee any mechanism to remedy potential cases of discrimination.

Principle 11: *In cases where the subsidiary of a bank is considered to be a D-SIB by a host authority, home and host authorities should make arrangements to coordinate and cooperate on the appropriate HLA requirement, within the constraints imposed by relevant laws in the host jurisdiction.*

The good admonitions of Principle 11 on cooperation and coordination are encouraging; nonetheless, we are concerned about the realization of cooperation between home and host authorities and hope that the Basel SIG will pay particular attention to making such cooperation tangible and effective. In addition, we recommend that the home authority should be given explicit responsibility for ensuring coordination with host authorities to ensure consistency and avoid uncoordinated overlap of capital requirements on a single group. This Principle could be further expanded to stipulate the requirement for a college of supervisors to meet at least on an annual basis to discuss and agree D-SIB charges to be applied across all jurisdictions.

Furthermore, while it is extremely valuable that the consultative document stresses the importance of taking recovery and resolution plans into account, we must also express some concern about the risk of conflicts' arising with resolution planning. Although resolution issues are outside the scope of the present proposal, we would like to take the opportunity to stress that recovery and resolution planning should be coordinated through the group and the home authorities[6]. If relevant resolution authorities define different requirements (in terms of information and time lines), inconsistent jurisdiction-specific D-SIB requirements may jeopardize the resolution process, reducing the recoverability of cross border groups where multiple recovery and resolution regimes co-exist.

In defining HLA requirements the regulators should reduce any such dangerous inconsistencies, and avoid penalizing banks for such inconsistencies that are beyond their control when setting HLA requirements. Moreover, the Basel Committee should focus on means to support the FSB's *Key Attributes of Resolution* by encouraging the reduction of local impediments to seamless group resolution, rather than compounding such impediments, as may well be the result of the current D-SIB proposals.

Principle 12: *The HLA requirement should be met fully by Common Equity Tier 1 (CET1). In addition, national authorities should put in place any additional requirements and other policy measures they consider to be appropriate to address the risks posed by a D-SIB.*

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[6] IIF Report: "*Making Resolution Robust – Completing the Legal and Institutional Frameworks for Effective Cross-Border Resolution of Financial Institutions*", June 2012

The IIF considers the terminology "*any additional requirements and other policy measures*" excessively broad. We would recommend that the BCBS specify the meaning of "*additional requirements and other policy measures*" and at the very minimum provide concrete examples of the range of measures which can be envisaged without duplication with any other existing or upcoming prudential requirements (e.g. the internationally agreed Basel III framework).

Along with the finalised rules on G-SIB, the proposed framework fails to appropriately balance the goals of financial stability and economic growth. The benefits of capital add-ons are unlikely to outweigh the costs of reduced economic growth. Reconciliation of such objectives should be part of the framework.

Furthermore, the IIF encourages the Basel Committee to give firms the option of satisfying the additional capital requirement through the use of any other additional loss absorbing capital such as write-down instruments and Contingent Convertibles (co-cos), as discussed above.

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We hope these comments are useful as the BCBS considers the way forward in this area. Given the complexity of these issues, we believe direct dialogue with the industry is essential.

The Institute of International Finance and its Working Group stand ready to provide additional views or clarifications. We look forward to discussing these issues with the BCBS going forward.

Should you have any questions on the issues in this letter, please contact Andrés Portilla (aportilla@iif.com) or Alberto Orsi (aorsi@iif.com).

Very truly yours,