U.S. CHAMBER OF COMMERCE

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October 11, 2013

Secretariat of the Basel Committee on
Banking Supervision
Bank for International Settlements
CH-4002
Basel Switzerland

Sent Electronically via baselcommittee@bis.org

Re: **Discussion Paper: *The Regulatory Framework: Balancing Risk Sensitivity, Simplicity and Comparability***

To Whom It May Concern:

The U.S. Chamber of Commerce ("the Chamber"), the world's largest business federation, represents the interests of more than three million businesses and organizations of every size, sector, and region. The Chamber has recently established the Global Risk and Governance Initiative ("GRGI") to promote modern and appropriate international structures for capital formation, risk management and corporate governance needed by businesses to fully function in a 21st century economy. The Chamber appreciates the opportunity to comment on the Discussion Paper, ***The Regulatory Framework: Balancing Risk Sensitivity, Simplicity and Comparability*** ("Basel Simplification Paper") issued by the Basel Committee on Banking Supervision, Bank for International Settlements ("Basel Committee or BIS").

The GRGI agrees that the current Basel III capital system ("Basel III") is too complex. This complexity is at cross-purposes with the goals of Basel III. It produces results that are opaque, and diminish their value as a tool for comparisons across the industry. This problem is exacerbated by an absence of international consistency in application. As a result, regulators and investors are left with a set of opaque standards that defeat the purpose of Basel III to provide a clear and simple system of capital standards designed to enhance the resiliency of banks and the financial sector as a whole. Instead of strengthening the financial sector, impervious capital formulations may destabilize financial firms; prevent regulators from

understanding the marketplace and addressing dangers in a timely manner, while inhibiting the reasonable risk taking necessary for economic growth.

In short, it appears that Basel III in its current form is sacrificing the good in a pursuit of the perfect. This quixotic quest may create more harm than good.

Our concerns are discussed in further detail below.

Discussion

The Chamber agrees that capital standards, if used properly, can be a pro-growth method of promoting a stable financial sector that can still provide businesses with access to the resources needed to grow and create jobs. However, the Chamber has also written to regulators, in the United States and abroad, as well as to the BIS, of concerns regarding the application of onerous capital standards and inconsistent application of global capital standards that could result in an overly risk-averse financial system that can starve businesses of needed resources. This, in turn could lead to stagnant economies and lagging employment.[1]

Basel III is the foundation of the global system of capital requirements, leverage ratios, and liquidity requirements that global regulators have been building upon since the 2008 financial crisis. In some nations, regulators have moved in an aggressive manner to put in place tougher requirements than the majority of other nations. Recently, regulators have joined investors and other commentators in raising concerns about the complexity of the Basel III capital framework. These concerns have been raised because complexity can detract from transparency. By hampering the ability of regulators and investors to accurately evaluate the health of individual banks or to draw meaningful comparisons among peer institutions, complexity can complicate prudential regulation.

[1] As an example see the June 14, 2011 letter from the Chamber to Federal Reserve Chairman Ben Bernanke on the imposition of GISFI surcharges, the October 22, 2012 letter from the Chamber to the Federal Reserve, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency on the Basel III implementing regulations, the September 19, 2013 letter from the Chamber to BIS on revised Basel III leverage ratio framework and disclosure requirements and September 23, 2103 letter from the Chamber to the Federal Reserve, Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency on enhanced leverage ratios.

For Global capital standards to operate appropriately they must be:

1) Clear and understandable;

2) Applied on a uniform basis internationally; and

3) Calibrated to allow for appropriate lending and not unnecessarily restrict access to customers.

As currently constructed, Basel III does not meet this three part test and BIS should be commended for proactively reviewing Basel III to find a better and simpler means of achieving the goals of that three part test. Additionally, as part of the process of simplifying the capital standards, the GRGI believes that it is advisable to carefully examine the impact upon bank's customers, such as the business communities, as well as the broader implications on the economy also need to be studied.

I. Capital Standards Must be Clear and Understandable

Capital standards must be clear and concise for regulators and market participants to understand the condition of an institution and the overall financial sector. Starting with Basel II, global capital standards have grown increasing complex and difficult to understand. Overly complex capital standards make less useful tools for regulatory scrutiny and market discipline. Basel III standards should be reviewed with an eye towards creating an easy to understand measure of capital adequacy and risk measurement. Overly complex risk weights and models create an impenetrable set of standards that are more likely to be misconstrued than understood. It is also necessary to set the goal of attaining, in undertaking simplification, the metrics which enable meaningful comparisons amongst similarly situated financial institutions.

II. Basel III Must Be Applied On a Uniform Basis Internationally

While Basel III attempts to create a uniform international system of capital requirements, we note with significant concern the increasing number of differences arising from regulatory reforms across major jurisdictions. For example, the Leverage

Ratio Framework proposed by the Basel committee and the proposal of U.S. banking regulators to increase the existing minimum leverage ratio requirement for certain large U.S. banks[2], results in significant differences in the minimum capital requirements across product types. At the same time, some European commentators and regulators are calling for flexibility in the application of Basel III capital standards.

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 true international guide if its interpretation, application, and enforcement are the same world-wide. Greater effort is required to minimize potential fragmentation among different nations in capital, liquidity, and leverage frameworks, as well as other regulatory reform initiatives such as resolution authority and derivative regulations. We believe the Basel Committee should pursue coordination efforts to achieve consistent implementation of a uniform capital structure. The GRGI also believes the regulatory reforms related to capital, liquidity, and leverage requires further evaluation for reliability and uniformity.

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

III. Capital Standards Must Be Calibrated to Allow for Appropriate Lending and not Unnecessarily Restrict Access to Customers

The GRGI thinks the impacts of Basel III complexity should be studied in conjunction with the cumulative impacts of other regulatory reform initiatives, upon

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[2] *See* the Chamber letter of September 23, 2013 to the Federal Reserve, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency requesting that the proposed rulemaking, *Regulatory Capital Rules: Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for Certain Bank Holding Companies and their Subsidiary Insured Depository Institutions,* be suspended pending completion of the Basel III simplification study and the rulemakings implementing prudential standards for systemically important financial institutions under Section 165 of the Dodd Frank Act.

the financial system and global economy, to understand their aggregate impact. A comprehensive study is needed to better understand Basel III complexity and the interaction of the capital standards and other regulatory initiatives upon Main Street businesses, thereby avoiding adverse unintended consequences.

Under Basel III, the minimum capital requirements for many products offered by financial institutions to businesses will increase substantially. Facing such material increases in capital costs, financial institutions are likely to either reduce or halt product offerings, restrict credit availability, increase prices for constrained products or a combination of all the above. Reduced product offerings from financial institutions may impede businesses' ability to access capital and liquidity or to prudently mitigate risk. The unintended consequence of reduced credit availability and higher cost of capital will adversely impact *all* businesses, irrespective of size or sector. Higher financing costs may dramatically change businesses ability to raise capital ultimately slowing both economic growth and job creation.

As an example, the majority of public sector entities, relevant to State law, as well as local ordinance typically require that banks collateralize these deposits. The vast majority of these deposits are collateralized with U.S. government obligations. The increased calibration of the proposed United States leverage ratio and the consequent binding constraints by including these deposits in the denominator. This in turn creates a distortion of the true representation of the health of an institution and may unnecessarily restrict the resources available for business lending. In short, unclear capital standards may unintentionally drive economic activity, or in this case circumstances that may lead to unhealthy inactivity.

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.

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Thank you again for the opportunity to comment on the Basel Simplification Paper and we appreciate that the BIS has undertaken this important project. The GRGI thinks that the simplification of Basel III is necessary for capital standards to

achieve their purpose, allow financial regulators to understand the institutions they regulate, permit for a resilient financial sector and provide for the reasonable risk taking needed for businesses to access the funding needed to grow and create jobs.

We are happy to discuss these issues and concerns in greater detail.

Sincerely,

Gary Litman

Tom Quaadman