May 22, 2015

Secretariat of the Financial Stability Board
c/o Bank for International Settlements
CH-4002
Basel, Switzerland

International Organization of Securities Commissions
C/ Oquendo 12
28006 Madrid, Spain

RE: **Consultative Document (2nd): Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions**

Dear Sir or Madam:

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 in the United States. The Chamber 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 GRGI appreciates the opportunity to comment on the Consultative Document (2nd), Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions ("Document"), issued by the Financial Stability Board ("FSB") and the International Organization of Securities Commissions ("IOSCO").

Summary

The GRGI supports efforts to monitor and manage systemic risk on a national and global level as long as they are accomplished in a balanced way so as not to burden the efficient functioning of economies for little regulatory benefit. Our message is simple. The risk of impairing the benefits provided to the global economy by investment

funds far outweighs any potential global financial stability benefits that may result. In the absence of an empirical record based on historical precedent, FSB and IOSCO must resist the temptation to designate investment funds because of a fear of making a mistake and should not implement a global systemically important financial institution ("G-SIFI") designation methodology for investment funds or asset managers. The cost of engaging in such a protective regulatory thought process is far more likely to be harmful to the global economy than such a theoretical mistake.

The two consultations released by FSB and IOSCO appear to suggest the potential G-SIFI designation of certain investment funds and asset managers based on arbitrary and unsupported premises. This represents a dangerous threat to the important functions played by investment funds and asset managers in supporting the growth of the world economy.

Unlike financial institutions that have been designated as G-SIFIs, investment funds are facilitators which create alternatives for investors to deploy their funds in the global economy and take advantage of the benefits of cost-effective professional management of their assets, particularly their retirement savings. Their role may be distinguished from those financial institutions most effectively by the fact that they simply provide a range of diversified ways to invest in equity and debt instruments available in the global markets. Investment funds do not create risk assets. They simply provide efficient channels for investors to pursue their chosen investment strategies.

Therefore, the objective of global initiatives in regard to investment funds should be to recognize and support their role of enfranchising the global public through individual participation in the growth and success of the private sector. Actions that adversely impact private sector investment and economic growth are exactly the type of actions that will ultimately pose the true threat to financial stability. Accordingly, we respectfully request that the FSB and IOSCO withdraw the elements of the Document that currently contemplate potential G-SIFI designations for certain investment funds and asset managers.[1]

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[1] It appears that under the proposed G-SIFI designation criteria for public investment funds, the funds likely to be considered for a G-SIFI designation would overwhelmingly be U.S.-based investment funds, registered as investment companies ("U.S. registered funds") with the SEC. Accordingly, our comments regarding the potential G-SIFI designation of public investment funds refer to U.S registered funds. For purposes of this letter, references to U.S. registered funds refer to open-end funds that operate with a floating net asset value ("NAV"). The term does not include U.S. money market funds that operate with an objective of maintaining a stable NAV.

Finally, we note that the methodologies proposed to evaluate investment funds and asset managers would likely result in the entities subject to evaluation being predominantly U.S. based entities. Particularly given that the potential financial stability and operational risks of the asset management sector and potential responses thereto are currently under intensive review in the U.S. by the U.S. Securities and Exchange Commission ("SEC") and the U.S. Financial Stability Oversight Council ("FSOC"), we recommend that the FSB and IOSCO avoid a situation where they appear to be overriding and interfering with that ongoing regulatory review of investment funds and asset management products and services.

Discussion

1. U.S. Registered Funds Are Transparent Investment Vehicles for Shareholder Funds, Not Creators of Risk

U.S. registered funds absorb systemic shocks, they do not create them. They are transparent investment vehicles that merely reflect the aggregate value of a portfolio of underlying assets. They are not the primary creators or transmitters of risk. Investors in U.S. registered funds knowingly seek exposure to the potential gains and losses of the fund in which they invest, and bear both the upside potential and downside risk. It is the investors that assume the risk in the value of a fund's underlying assets. These basic attributes, in conjunction with the regulatory scheme imposed on U.S. registered funds, contribute to an investment vehicle that has proven to be systemically safe for the past 75 years.

The objective of the proposed G-SIFI methodologies addressed in the Document is "to identify [non-bank non-insurer ("NBNI")] financial institutions whose ***distress or disorderly failure***, because of their size, complexity and systemic interconnectedness,

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Our letter does not focus on U.S.-based private funds. Such funds, like U.S. registered funds, are vehicles that investors select to use to pursue their individual investment preferences and objectives. As discussed in our letter, such investor vehicles should not be the focus of potential G-SIFI designations since they fundamentally are not creators of financial stability risk but rather participants, on behalf of their clients, in the global equity and debt markets. U.S. private funds and their managers have been subject to substantially enhanced regulation and supervision since the enactment of the U.S. Dodd-Frank Wall Street Reform and Consumer Protection Act in July 2010. Moreover, private funds generally have significant flexibility to limit or halt redemptions by their investors when conditions warrant such action. Accordingly, we do not believe that a G-SIFI designation methodology for U.S. private funds is appropriate or supportable.

would ***cause significant disruption to the wider financial system*** and economic activity at the global level."[2] Under that banner, a focus on U.S. registered funds for potential G-SIFI designation is simply not merited and particularly not at such an early point in the recalibration of risk regulation in the financial services business. As the FSB and IOSCO have acknowledged, concerns of contagion as a result of a U.S. registered fund's distress or improbable disorderly failure are misplaced. Such funds do not cause systemic risk. On the contrary, in several respects they act to reduce systemic risk. The FSB's and IOSCO's First Consultation stated that:

> [F]rom a purely systemic perspective, funds contain a specific "shock absorber" feature that differentiates them from banks. In particular, fund investors absorb the negative effects that might be caused by the distress or even the default of a fund, thereby mitigating the eventual contagion effects in the broader financial system.[3]

Similarly, the International Monetary Fund ("IMF") has stated that—

> The larger role of the asset management industry in intermediation has many benefits. It helps investors diversify their assets more easily and can provide financing to the real economy as a "spare tire" even when banks are distressed. The industry also has advantages over banks from a financial stability point of view. Banks are predominantly financed with short-term debt, exposing them to both solvency and liquidity risks. In contrast, most investment funds issue shares, and end investors bear all investment risk.[4]

The stabilizing impact of U.S. registered funds is largely attributable to their equity funding model and the long-term investment horizon that the vast majority of their investors have. The data shows that the overwhelming majority of investors in U.S.

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[2] FSB-IOSCO, Consultative Document, Assessment Methodologies for Identifying Non-Bank Non-Insurer Global Systemically Important Financial Institutions (Jan. 8, 2014) at 1 (the "First Consultation") (emphasis added).

[3] *Id.* at 29.

[4] IMF Global Financial Stability Report, April 2015: Navigating Monetary Policy Challenges and Managing Risks, International Monetary Fund, Monetary and Capital Markets Department, at 94. ("IMF Report").

registered funds were individuals focused on retirement savings.[5] This characteristic was recognized in the First Consultation which, after reviewing industry data for U.S. mutual funds for the period 2000 through 2012, including the dot.com bust and the 2008 financial crisis, concluded that—

> Even when viewed in the aggregate, ***no mutual fund liquidations led to a systemic market impact throughout the observation period.*** Part of the explanation may be that many U.S. investors hold mutual fund shares for retirement purposes. As such, these investors' investment horizon could be long-term, whereby they would prefer to remain invested rather than cash-out during a market downturn.[6]

The First Consultation further concluded that investment funds are highly substitutable and are not so interconnected that a fund's liquidation or even *hypothetical* failure would cause a disruption in the market—

> Moreover, funds close (and are launched) on a regular basis ***with negligible or no market impact***. In other words, the investment fund industry is highly competitive with numerous substitutes existing for most investment fund strategies (funds are highly substitutable).[7]

We are surprised and troubled that in the face of the FSB and IOSCO's own statements, those of the IMF, and the data and analysis included in the comments that were submitted in response to the First Consultation, that the FSB and IOSCO nevertheless persist in pursuing a path based on the contrary, unfounded perspective that U.S. registered funds are likely to be a source of a financial stability threat.

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[5] Investment Company Institute ("ICI") data indicate that approximately 90% of mutual fund assets were held by households at year end 2013. ICI 2014 Investment Company Fact Book at 118. Moreover, an ICI survey indicated that retirement savings was the primary goal was the primary goal of 74% of households for their mutual fund investments. Kimberly Burham, Michael Bogdan, and Daniel Schrass, "Characteristics of Mutual Fund Investors, 2014," ICI Research Perspective 20, no.9 (November 2014) at 8, *available at* www.ici.org/pdf/per20-09.pdf.

[6] First Consultation at 30 n. 38 (emphasis added).

[7] *Id.* (emphasis added).

U.S. registered funds are fundamentally different from financial institutions that operate through the use of leveraged capital where depositors and creditors rely on the institution's capital cushion for payment of their claims. In sharp contrast, in U.S. registered funds the shareholders place their money fully at risk and accept the gains and losses to which their investment is exposed.

U.S. registered funds are designed and regulated in a way that naturally reduces the potential for systemic risk. Such funds are required to register with the SEC and comply with a comprehensive regulatory regime under the Investment Company Act of 1940 (the "1940 Act"). For 75 years the 1940 Act has enabled investors to access a transparent investment vehicle that, to our knowledge, has never had a significant, adverse impact on financial stability. The reason for this success is that the 1940 Act contains many explicit requirements and limitations, and the SEC has promulgated rules that mitigate risk associated with U.S. registered funds, including:

- maintaining a portfolio consisting of 85% liquid assets;[8]
- prohibiting the issuance of senior securities by open-end funds;[9]
- daily calculation of NAV and forward pricing;[10]
- maintaining 300% asset coverage for borrowings;[11]
- segregating, earmarking or offsetting assets equal to 100% of any obligation to a counterparty created through the use of derivatives;[12]
- limiting a fund's exposure to its counterparties through collateral control requirements and the use of qualified custodians;[13]

[8] *See* Revisions of Guidelines to Form N-1A, Investment Company Act Release No. 18612 (Mar. 12, 1992).
[9] *See* 1940 Act § 18.
[10] *See* Rule 22c-1under the 1940 Act.
[11] *Id.*
[12] *See, e.g.*, Securities Trading Practices of Registered Investment Companies, Investment Company Act Release No. 10666 (Apr. 18, 1979), 44 Fed. Reg. 25128 (Apr. 27, 1979).
[13] *See* 1940 Act § 17(f) and rules thereunder.

- limiting a fund's investment concentration in a single industry to 25% (unless otherwise disclosed in the fund's prospectus) of the fund's holdings;[14] and

- limiting a fund's investment in any one financial firm to 5%.[15]

These requirements, taken together with the characteristics of investors and the risk management practices of U.S. registered funds, sharply limit the impact that adverse financial results at a particular fund can have on third parties. Under the structure of the U.S. registered funds, third parties' claims have priority over shareholder interests. As a result, liquidations of U.S. registered funds do not create waves of systemic risk.

The economic impact of the operational structure of the U.S. registered funds industry is evident in the ease with which funds are terminated and the absence of any impact of such terminations on financial stability. It is critical to any analysis to appreciate that between 2008 and 2013, approximately 3,400 U.S. mutual funds were liquidated or merged,[16] without any impact on global financial stability.

In that same period, the U.S. banking industry encountered severe financial stress, leading to unprecedented U.S. government support for banking institutions, and approximately 500 U.S. insured depository institutions were closed and placed in receivership with the Federal Deposit Insurance Corporation.[17] Another substantial number of banks throughout the world experienced severe financial distress during that time, and were given financial assistance by their governments to mitigate the financial stability concerns associated with their distress.

The impact of a U.S. registered fund's liquidation, as recognized by FSB, IOSCO and the IMF, is centered on and experienced by its own shareholders, who willingly accepted the investment risk when they purchased shares in the fund.[18] The failures of

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[14] *See id.* § 8(b)(1)(E), see also 76 Fed. Reg. 55237, 55254 (Sept. 7, 2011).
[15] *See id.* § 12(e)(2)
[16] *See* ICI, "Orderly Resolution" of Mutual Funds and Their Managers, at 3 (July 15, 2014).
[17] *See* FDIC, "Failed Bank List" (last updated Apr. 8, 2015), *available at* https://www.fdic.gov/bank/individual/failed/banklist.html.
[18] It is also important to recognize that U.S. registered funds are separate legal entities with legally separate balance sheets from their advisers. Therefore, the risk of a hypothetical failure of one fund does not financially impact other funds advised by the asset manager.

G-SIFI banks create a different and more troubling set of dynamics. Whatever global regulators are going to do with those companies from a systemic regulation point of view must be completed before they can accurately determine whether any other market participants present risk, let alone any that require a regulatory response of this magnitude.

2. No Historical Precedents or Empirical Evidence Has Been Cited To Support an Assertion That U.S. Registered Funds Present the Type of Risk to Financial Stability That Would Justify Their Designation As G-SIFIs, On the Contrary, the Evidence Proves That They Do Not

The Document does not support a G-SIFI designation of a U.S. registered fund based on actual historical precedent or data. As the FSB and IOSCO frankly acknowledge, even during the historically challenging 2008 financial crisis, U.S. registered funds did not actually constitute a threat to financial stability.

Disturbingly, the Document indicates that its concerns regarding potential G-SIFI threats are not based on any empirical analysis or plausible prediction, but rather a mere possibility of threat. In that regard, the Document states:

> [T]he NBNI G-SIFI assessment methodologies aim to measure the impact that an NBNI financial entity's failure can have on the global financial system and wider economy, rather than the *probability* that a failure could occur.[19]

We do not believe that such an approach is a proper basis for the far reaching adverse economic consequences that may flow from a G-SIFI designation. At a minimum, probability must be considered. A threat must be plausible in order to justify a regulatory response of the magnitude of a G-SIFI designation.[20] To meet this standard,

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[19] Document at 10.

[20] Governor Jerome H. Powell, a member of the U.S. Board of Governors of the Federal Reserve System, recently advocated regulatory restraint and setting a high standard to justify regulatory intervention in the capital markets: "[T]he Fed and other prudential and market regulators should resist interfering with the role of markets in allocating capital to issuers and risk to investors unless the case for doing so is strong and the available tools can achieve the objective in a targeted manner and with a high degree of confidence." *See* Jerome H. Powell, Speech at the Stern School of Business, New York University (Feb. 18, 2015) *available at* http://www. federalreserve.gov/news events/speech/powell20150218a.htm.

regulators must assess *both* the plausibility and magnitude of any threat and the costs and benefits of potential regulatory responses. In view of the remote global financial stability threat posed by investment funds we are confident that such an analysis would demonstrate the inappropriateness of such designations.

In the absence of empirical evidence, the Document simply engages in wide-ranging speculation. The entire Document is only 57 pages long, but the words, "may," "might," "could," "potential," and "potentially," are used 403 times. Similarly it asserts that investment funds could have a systemic impact as a result of dynamics such as "herding" or "fire sales," but proposes no actionable definitions or methods of measuring such dynamics. It cites literature theorizing that "herding" by global bond funds "can transmit instability to local emerging markets."[21] However, as acknowledged in the IMF's recent survey of academic literature on systemic risk and the asset management industry support for these theories are "hard to quantify because of data gaps."[22] Major regulatory action should not be premised on a guess or mere speculation.

Another proponent of such theoretical risks, Andrew Haldane, cited in the Document as support for the risk of forced asset sales, admits that—

> [U]nlike banking, history is not littered with examples of failing funds wreaking havoc in financial markets. The historical examples we have tend to be confined to small and isolated corners of the financial system.[23]

Although the Document cites to literature in support of these theories, it ignores evidence of contrary results. A recent study, the Plantier Paper, addresses investment fund involvement in emerging markets.[24] It demonstrates that U.S. registered funds and other similarly regulated funds globally held only 8.5% of total emerging market stock market capitalization, and 4.3% of outstanding emerging market debt.[25] It also provides

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[21] Document at 34.

[22] IMF Report at 115. The Document itself concedes that the proposed methodologies had to "overcome limitations in data availability." Document at 1.

[23] "The Age of Asset Management?" Speech by Andrew Haldane, Executive Director, Financial Stability, the Bank of England, and member of the Bank of England's Financial Stability Executive Board and the Financial Policy Committee, at the London Business School, April 4, 2014 ("Haldane Speech").

[24] *See* Plantier, L. Christopher, Regulated Funds, Emerging Markets, and Financial Stability, ICI Global Research Perspective 2, No. 1 (April 2015), *available at* www.iciglobal.org/pdf/icig_per02-01.pdf ("Plantier Paper").

[25] *Id.* at 10-11.

data that shows mutual funds holding emerging market securities are diffuse "and tend to diversify their holdings across many countries, rather than concentrating them in a few."[26] The diffuse nature of emerging market funds "suggests that if there were investor outflows from US and European regulated funds, funds would likely accommodate them by selling a small amount of securities from a wide range of emerging market countries…"[27] Finally, the Plantier Paper concludes that mutual fund transactions in emerging market securities do not have a "persistent influence on the future returns of those securities."[28]

The Document needs to show valid historical precedent to make it and the analysis it suggests credible. It references what *"could"* happen 125 times, with not one reference to any historical examples of U.S. registered funds posing an actual global financial stability risk. The final methodologies cannot be based on biased, goal-oriented predicates derived from incomplete data. Competing views must be considered and cannot be ignored, especially when in the form of theoretical conjecture as opposed to empirical, historically-based precedent.

3. Policy Measures Directed at G-SIFI U.S. Registered Funds Could Harm Private Sector Investment and Adversely Impact Economic Growth

U.S. registered funds play a valuable role in the global financial system by efficiently allocating both shareholder funds into the capital markets and assisting in the efficient formation of capital. Although the FSB and IOSCO have not yet proposed the form of prudential regulation that they would suggest be imposed on a U.S. registered fund that is designated as a G-SIFI, we believe it is reasonable to expect that it would likely harm current investors by raising costs and reducing returns on the fund. Additionally, a G-SIFI designation would almost certainly make the designated fund less attractive to future investors. In effect, the FSB and IOSCO would set themselves up to decide who will be winners and losers among U.S. registered funds based on their notions of hypothetical non-empirically based financial stability risk. This is wholly unjustified and inappropriate. FSB and IOSCO must recognize the decisions of millions of shareholders to invest in or to redeem their holdings from a particular investment fund are fundamentally the free exercise of individual investor choice among a wide

[26] *Id.* at 21.
[27] *Id.* at 24.
[28] *Id.* at 29.

range of investment vehicles. FSB and IOSCO should not overreach their mandate and undertake actions that interfere with the essence of the global capital markets—the free and unfettered choices available to investors to allocate investable assets.

Under the current circumstances of unknowns and guesstimates, prudential regulation of the type that FSB and IOSCO envisions for U.S. registered funds is more likely to be harmful to global capital markets and counterproductive to initiatives currently in progress to stimulate private sector growth than it is to improve financial stability. For example, the European Commission ("EC") is currently exploring how to establish a Capital Markets Union ("CMU") that would create a single market for capital for 28 European countries still in the process of recovering from the financial crisis. As the EC stated, the CMU is a worthwhile endeavor because—

> Compared with the US, medium-sized companies, the engines of growth in many countries, receive five times more funding from capital markets than they do in the EU. If our venture capital markets were as deep, as much as €90 billion of funds would have been available to finance companies between 2008 and 2013.[29]

The EC also notes that Europe has in the past been more reliant on bank financing, which makes its economy more vulnerable to the shock effects of the tightening of bank lending during a crisis.[30] Indeed, Sir Jon Cunliffe, Deputy Governor of the Bank of England and participant in the FSB, has observed that "it is very probable that one of the reasons the U.S. has recovered faster from its financial crisis than Europe is that in the U.S. banks do not dominate the provision of finance to anything like the same degree as in the EU."[31] In support of the CMU, Sir Cunliffe also noted that the recession in the U.S. was further mitigated because when the banking system in the U.S.

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[29] Green Paper, Building a Capital Markets Union, European Commission, Brussels, 18.2.2015, COM (2015) 63 final at 2 ("Green Paper").

[30] *Id.* at 8.

[31] *See* Financial Stability, "the Single Market and Capital Markets Union," speech by Sir Jon Cunliffe, City of London Corporation and Open Europe Conference, London (Jan. 20, 2015) at 7 ("Cunliffe Speech"). *See also* Hugo Dixon, "Unlocking Europe's Capital Markets Union," Centre for European Reform (October 2014) at 3 (asserting that the "[t]he shock-absorbing capacity of capital markets is particularly high when funding is provided in the form of equity" and the "ability of capital markets to act as shock-absorbers depends on the risks . . . being transferred from bank balance sheets to the capital markets . . . .").

was in a state of distress, "a well-developed alternative existed to help meet the financing needs of the real economy."[32] Likewise, the EC noted that—

> Europe has traditionally been more reliant on bank finance, with bank lending playing a significantly larger role in the financing of the corporate sector than the issuance of debt securities in the market…In aggregate, this greater dependency on bank lending makes the European economy…more vulnerable when bank lending tightens, as happened in the financial crisis.[33]

Importantly, the EC recognized that a significant factor to help inject capital into the European economy would be through stimulating retail investment. To that end, the EC acknowledges that "[m]utual funds products such as UCITS are popular vehicles for retail investors to invest in capital markets."[34]

Prudential regulation that makes investment in public funds less attractive and more constrained is directly contrary to the imperatives of economic recovery and private business development. Accordingly, we respectfully request that the FSB and IOSCO withdraw the portion of the Document that would establish a methodology for G-SIFI designations for U.S. registered funds.

4. Asset Managers Are Merely Agents, Not Creators of Risk

Asset managers merely act in an agency capacity for their clients. They do not now and would not, once the regulation of other current G-SIFIs is fully in place, pose a systemic risk. Accordingly, they should not be considered for designation as G-SIFIs.

Fund investors fully understand that their money is invested in the market, not in the asset manager. As Andrew Haldane observes, because asset managers "do not bear market and liquidity risk on their portfolios" and "[f]luctuations in asset values do not threaten the insolvency of an asset manager as they would a bank, . . . [a]sset managers

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[32] Cunliffe Speech 7.
[33] Green Paper at 8.
[34] *Id.* at 19.

are, to a large extent, insolvency remote."[35] Furthermore, claims against an asset manager are not claims against the assets of the asset manager's clients.

Even in the unlikely event of the failure of an asset manager, regulatory requirements with respect to custody of client assets mitigate the impacts on client assets. U.S. registered fund assets are required to be kept with an independent custodian. Accordingly, should an asset manager become insolvent or otherwise need to be replaced, the U.S. registered fund's assets will not be affected.

The FSOC in its recent request for comments on the asset management industry recognized that the structure of the industry limits the potential financial stability implications of asset managers its request for comment on the asset management industry—

> [A]sset management firms and investment vehicles have closed without representing a threat to financial stability. The Council notes that an investment vehicle is a separate legal structure from the asset manager, any parent company, or any affiliated investment vehicles under the same manager. In addition, the assets of the investment vehicle are not legally available to the asset manager, its parent company, or affiliates for the purposes of satisfying their financial obligations or those of affiliated investment vehicles.[36]

Moreover, in its designation of AIG as a systemically important financial institution, the FSOC discussed its evaluation of AIG's asset management activities and noted that—

> [T]he extent to which assets are managed rather than owned by AIG, and ***the extent to which ownership of assets under management is diffuse***. [Emphasis in original] The relevance of this factor to AIG is limited. *If AIG* ***were to experience financial distress, its asset management***

[35] Haldane Speech at 6.

[36] 79 Fed. Reg. 77488, 77494 (Dec. 24, 2014). Similarly, the IMF Report stated that mutual funds and most other investment vehicles have few direct solvency linkages with the asset managers, noting that asset managers own balance sheets are legally separated from those of the mutual funds they manage as required by regulation. IMF Report at 114.

> ***business likely could be transferred to other asset managers, and therefore it is unlikely that AIG provides a critical function as a third-party asset manager.***[37]

5. Recommendations Regarding the FSB's and IOSCO's Proposed Process for G-SIFI Designations

To the extent that FSB and IOSCO nevertheless decide to continue to consider adopting a methodology for G-SIFI designations for U.S. registered funds or asset managers at this time, we recommend that they modify the proposed timeline set forth in the Document.

As currently envisioned, after the receipt of comments on the Document, the FSB—in consultation with IOSCO—will further revise and finalize the proposed methodologies. Once that occurs, the FSB in cooperation with IOSCO and other relevant authorities will begin to develop incremental policy measures needed to address systemic risks posed by G-SIFIs. Then, an international oversight group will be established to coordinate the actual assessment process. [38]

The Document explains how the assessment process for the various categories of potential G-SIFIs will be conducted: (i) the international group would create a preliminary list of entities that would be subject to review by the home jurisdiction of each entity on it; (ii) followed by a preliminary determination by the home jurisdiction of entities that should be designated as G-SIFIs; and finally, (iii) the FSB and the national authorities together will determine the final list of G-SIFIs.[39]

5.1. FSB and IOSCO Should Evaluate Whether U.S. Registered Funds or U.S. Asset Managers Present A Risk to Global Financial Stability

It appears that the vast majority if not all of the public investment funds that would meet an initial materiality threshold for G-SIFI designation would be U.S. registered funds. It also appears that the asset managers that would meet an initial

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[37] Basis of the FSOC's Final Determination Regarding American International Group (Jul. 8, 2013), at 12 (emphasis added).
[38] Document at 2.
[39] *Id.* at 12-15.

materiality threshold for G-SIFI designation consideration would be predominantly U.S. asset managers. As a result, as discussed above, we recommend that the FSB and IOSCO avoid a situation where they appear to be overriding and interfering with the SEC and FSOC's ongoing regulatory review of investment funds and asset management product and services.

In any event we believe that before proceeding with a narrow single nation focused process, the FSB and IOSCO should first thoroughly examine the law, regulations, supervisory environment and industry practices that govern U.S. registered funds and U.S. asset managers. Such an evaluation should include consultation with U.S. regulators with jurisdiction over U.S. registered funds and U.S. asset managers, including the SEC.[40]

We believe that this evaluation would lead to the conclusion that U.S. registered funds and U.S. asset managers do not present a potential threat to global financial stability that would warrant the adoption of methodologies directed at designating U.S. registered funds or U.S. asset managers as G-SIFIs.

In this regard, we continue to believe as set forth in our April 7, 2014 comment letter on the First Consultation that rather than pursue G-SIFI designations of individual investment funds or asset managers, the FSB and IOSCO should turn their attention to focusing on the activities-based regulation in the various national jurisdictions to determine whether recommendations for enhancements in particular national regulation are appropriate. We strongly suggest that the FSB and IOSCO incorporate such an activities-based focus in any evaluation they decide to conduct of U.S. regulation of investment funds and asset managers and reconsider pursuing an activities-based sectoral approach.

[40] In this regard, we note that SEC Chair Mary Jo White in December 2014 announced that the SEC is currently reviewing its approach to regulating risk management practices in the U.S. registered funds and asset management industry. SEC Chair Mary Jo White, "Enhancing Risk Monitoring and Regulatory Safeguards for the Asset Management Industry," Dec. 11, 2014.

Conclusion

More regulation does not necessarily result in a greater level of financial stability. Regulation that is misdirected and overly burdensome has caused financial crises in the past. Any impediment to private sector investment should be carefully weighed against the benefits of global economic growth. Initiating a G-SIFI process and seeking to impose additional regulation on U.S. registered funds and asset managers without thoroughly understanding the impact, costs and benefits is rolling the global economic dice.

Sincerely,

Tom Quaadman
Vice President
Center for Capital Markets Competitiveness