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Claudia Buch
Vice-President of the Deutsche Bundesbank
Chair, Too Big to Fail Working Group
Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 Basel
Switzerland
Re: Financial Stability Board Evaluation of Too-Big-To-Fail Reforms

Dear Ms. Buch:

The U.S. Chamber of Commerce ("the Chamber") is the world's largest business federation, representing the interests of more than three million businesses and organizations of every size, sector, and region. Our members include banks that operate only in the United States ("U.S."), banks with global operations, and banks headquartered outside of the U.S. Perhaps more importantly, our membership includes non-financial companies that rely on banks to access the capital markets and fund their operations.

We appreciate the opportunity to provide comment on the Evaluation of Too-Big-To-Fail Reforms (the "Evaluation") being conducted by the Financial Stability Board ("FSB"). The Evaluation is intended to "assess whether the implemented reforms are reducing the systemic risk and moral hazard risks associated with systemically important banks (SIBs). It will also examine the broader effects of the reforms to address TBTF for SIBs on the overall functioning of the financial system."

The Chamber supports the FSB's move to evaluate Too Big to Fail ("TBTF") reforms. The Chamber supports standards and regulations that promote market stability, but we believe this should be carefully balanced with promoting competitive and efficient markets. International standard setters should be continually focused on ensuring the standards they develop are efficient, especially after they have been implemented and tested in practice.

The Chamber requests that the Financial Stability Board be guided by these principles as it develops its report for public consultation:

I. TBTF reforms should contribute to stability without undermining economic growth;

II. Evidence shows that TBTF reforms impose costs on nonfinancial companies;

III. Implementation of TBTF reforms should be tailored to recognize existing regulatory structures of disparate jurisdictions; and

IV. Recommendations for changes to TBTF reforms.

I. TBTF reforms should contribute to stability without undermining economic growth

The Chamber believes that capital and liquidity requirements are important tools to achieve and maintain stability at banks, within the financial system, and overall economy. The development of international standards can contribute to efficient flow of capital through regulatory harmonization, but a successful process must incorporate robust stakeholder input.

Measures developed under the auspices of the FSB should also permit for suitable levels of risk-taking that allow financial institutions to provide credit and access to capital that engenders economic growth. As the new capital and liquidity measures were being developed by the Basel Committee on Banking Supervision ("BCBS"), the Chamber argued that they could have severe unintended consequences and potentially redundant to U.S. prudential requirements and supervisory expectations. If nonfinancial companies are unable to access credit or the capital markets then it may contribute to instability in the real economy.

The FSB should also keep in mind that excessive regulation may unintentionally contribute to TBTF paradigms by limiting competition and creating barriers to entry. A recent U.S. Treasury Department Report on Banks and Credit Unions noted, "Excessive regulation imposes costs on institutions that can create incentives for institutions to grow larger than market conditions would otherwise require. To the extent regulatory costs can be spread over a large number of customers, regulation can create a barrier to entry for smaller firms and confer competitive advantages on the largest institutions."[1] Although the TBTF reforms are intended for large and complex firms, there may be a trickle-down effect, especially through supervisory expectations. The dearth of de novo charters of financial institutions in the United States may be evidence of this concern manifesting.[2]

II. Evidence shows that TBTF reforms impose costs on nonfinancial companies

As a threshold matter, policymakers should be concerned that small business lending by U.S. financial institutions dropped by nearly 50 percent – loans less than $1 million dropped from 2.5 percent of gross domestic product in 2001 to 1.7 percent in 2017, and such loans make up a smaller portion of total bank assets, dropping from 4.0 percent in 2001 to 2.1 percent in 2016.[3] This concerning trend must be addressed as you consider changes to the TBTF reforms and that indirectly impede the ability of their customers to access the credit they need to grow.

The one place these TBTF reforms converge is at the corporate treasurer's desk. If the treasurer cannot raise capital, or only do so in a less liquid and more expensive environment, then businesses cannot grow and create jobs and may even have to shutter their doors.

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[1] U.S. Department of the Treasury. A Financial System That Creates Economic Opportunities Banks and Credit Unions (2017), available at https://www.treasury.gov/press-center/press-releases/documents/a financial system.pdf

[2] FDIC data shows that only 11 de novo bank charters have been approved in the U.S. since 2008. This is in contrast to approximately 100 de novo approvals per year in the preceding decade. https://www.fdic.gov/regulations/examinations/supervisory/insights/sisum16/si_summer16-article01.pdf

[3] Angel, J. (fall 2018). Impact of Bank Regulation on Business Lending. U.S. Chamber of Commerce Center for Capital Markets Competitiveness. Retrieved from https://www.centerforcapitalmarkets.com/wpcontent/uploads/2018/09/CCMC_RestoringSmallbizLendingReport_9.10.18-1.pdf

The Chamber regularly conducts a survey of corporate treasurers, chief financial officers, and other corporate financial professionals to inform our understanding of how financial regulations, and other policies, affect their financing needs. The Chamber's Corporate Treasurers Survey was most recently conducted in spring 2019.[4]

After a challenging decade that included a financial meltdown, recession, and a historically slow recovery, American businesses are reporting that their ability to access capital is steadily improving, and generally they are optimistic about their expected performance over the next 12 months.[5] This improvement is a welcome development; given the difficulties Main Street businesses had raising capital in the years immediately following the financial crisis.

A key component of a strong financial system is a regulatory structure that promotes economic growth. Unfortunately, the post 2008 financial crisis regulatory response imposed enormous costs on the economy while doing little to fundamentally reform the U.S. financial regulatory system. As a result, Main Street businesses found it more difficult to access the capital they needed to innovate, grow, and hire new employees.

The survey, which includes insight from more than 300 corporate finance professionals, illuminates their attitudes regarding financial regulation. Lingering effects of the post-financial crisis regulatory response in the U.S. and abroad continue to present a challenge to American businesses. Bank capital charges in particular are cited as an impediment to capital access. The survey finds that among American businesses:

- 82% report taking some action as a result of changes to banking regulations, up from 61% in 2013 and 79% in 2016.

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[4] Financing Main Street: The State of Business Financing in America. Spring 2019. Available at https://www.centerforcapitalmarkets.com/wp-content/uploads/2019/04/CCMC_CorpTreasurerSurvey_v4_DIGITAL.pdf

[5] Ibid.

2013 Survey available at http://www.centerforcapitalmarkets.com/wp-content/uploads/2010/04/CCMC-Main-Street-Businesses-Survey_summit1000pdf.pdf

2016 Survey available at https://www.uschamber.com/sites/default/files/documents/files/financing_growth_report_16_june_16.pdf

- 45% report absorbing the higher costs of banking services and loans, while 28% report increasing prices for customers as a result of financial regulation.
- 27% report substituting or reducing the number of financial institutions that provide services to them.
- 66% report that increased bank capital charges have led to increased costs or other challenges, up from 50% in 2016.
- 63% support federal regulators recalibrating capital requirements for large banks when lending money to small businesses.

The effects of financial regulation on Main Street, including the customers of financial institutions, must be addressed in the FSB's evaluation of TBTF reforms.

III. Implementation of TBTF reforms should be tailored to recognize existing regulatory structures of disparate jurisdictions

The Chamber argued that the TBTF reforms, including the Basel III framework, could be too complex or inappropriate for different jurisdictions or financial institutions.

There is consensus among policymakers in the United States that the TBTF Reforms were too severe and should be tailored to more appropriately reflect the risk of individual financial institutions. The U.S. Treasury Department's June 2017 Report on Banks and Credit Unions noted, "The lack of tailoring and imprecise calibration in both capital and liquidity standards have diminished the flow of credit to fulfill loan demand. Numerous aspects of risk-based capital standards discourage lending in key asset classes."

The United States Congress enacted the Economic Growth, Regulatory Relief, and Consumer Protection Act ("EGRRCPA") to address the overreaching regulations, including TBTF reforms that had been imposed on financial institutions. The law directs federal banking regulators to appropriately tailor the financial regulation imposed on financial institutions based on the risk they may pose to the financial system.

When the Chamber supported the passage of EGRRCPA we wrote, "The post-financial crisis 'one-size-fits-all' regulatory regime has severely constrained these banks' ability to serve households and small businesses in their communities. . . While provisions such as raising the asset threshold for enhanced prudential standards are an important step, the Chamber continues to strongly support tailored regulations—sophisticated rules that are properly calibrated to the risk profile of an activity or institution."[6]

The U.S. federal banking regulators are in the process of finalizing a risk-based framework to determine application of some TBTF reforms. In general, new categories of financial institutions – each subject to varying tailoring of regulation – would be determined based on asset-size and risk-based indicators including cross-jurisdictional activity, nonbank assets, off-balance sheet exposure, and weighted short-term wholesale funding. The Chamber generally supports this approach; however, we have raised concerns with policymakers relying on asset-size as a metric for determining systemic risk and believe some of the risk-based indicators, including the thresholds for application, could be refined.

There is also evidence to support the Chamber's assertion that the TBTF reforms are too complicated to be effectively implemented. Policymakers in the United States are still determining how to appropriately implement some TBTF reforms, in addition to reviewing those that have already been implemented. This issue could be alleviated by simplifying the standards, including eliminating redundancies, or providing more flexibility for implementation.

The Chamber has argued that capital and liquidity requirements may be redundant to new enhanced prudential standards and regulatory structures that existed before TBTF reforms were implemented. For example, we noted imposing standardized leverage ratios may be redundant to the enhanced prudential standards that have been imposed on large U.S. banks under Sec. 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.[7] The FSB's evaluation of TBTF reforms should focus on where such redundancies may exist and contribute to the inefficient flow of capital and credit throughout the financial system.

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[6] See letter to U.S. House of Representatives, U.S. Chamber of Commerce, May 21, 2018, available athttps://www.uschamber.com/sites/default/files/180521_kv_s2155_economicgrowthregulatoryreliefandconsumerprotection_house.pdf

[7] See letter on bank capital priorities, U.S. Chamber of Commerce, November 9, 2018, available at https://www.centerforcapitalmarkets.com/wp-content/uploads/2018/11/181108_Comments_BankCapitalRules_OCCFedFDIC-002-Final.pdf?#

IV. Recommendations for changes to TBTF reforms

We recognize the FSB is in the early stages and look forward to reviewing the draft report. In addition to the previously stated principles, we recommend the FSB consider a closer evaluation of these issues:

a. General coherence of implementation and evaluation of redundancies

The FSB should evaluate the consequences of the aggregate imposition of TBTF reforms. While they may have different purposes and be directed at different aspects of a financial institution or the marketplace, these reforms may interact in unforeseen ways that in the aggregate contribute to an increase or inefficient allocation of capital and assets. For example, the Chamber has suggested that myriad liquidity requirements, such as the Net Stable Funding Ratio and Liquidity Coverage Ratio, may be redundant.[8] Therefore, the FSB should evaluate individual TBTF reforms and the aggregate effect of these reforms.

b. Evaluation of risk-weights for small business loans

The Chamber believes the risk-weights for capital and liquidity requirements should be reviewed. There is evidence to suggest these risk-weights have been especially punitive for small business lending.

There would of course be broad economic impacts if small businesses were to receive unfavorable of unfair treatment in the credit markets. Smaller companies do not necessarily have the economies of scale to compete with larger or more established firms – credit availability should not be a barrier they should have to overcome assuming they have strong financials and a business plan that demonstrates an aptitude for growth. In other words, lending to SMEs should not be presumed to be inherently more risky than other extensions of credit.

[8] CCMC comment letter on NSFR
https://www.federalreserve.gov/SECRS/2016/August/20160829/R-1537/R-1537_080416_130393_501312881931_1.pdf

The Chamber released a report in fall 2018 studying the impact of bank regulation on small business lending.[9] The report notes, "Commercial loans are generally assigned much higher risk weights than assets such as home mortgages . . . this makes it more expensive for banks to make commercial loans, and thus they make fewer of them."

The Chamber's report also concurs with analysis by The Clearing House that small business loans are particularly disadvantaged by stress tests.[10] The effective risk weight used in CCAR for small business loans is between three and five times the Basel III risk-weight validating the Chamber's concern about how the unintended consequences of capital and liquidity requirements may be amplified by other regulatory standards.

The Chamber's report also notes study of risk-weights for small business loans in other jurisdictions. Although evidence is mixed, the special treatment of SMEs in the EU appears to have had benefits. The Banco de España (2014) found that lending to SMEs relative to larger enterprises in Spain increased by 5.8% as a result of the change. The European Banking Authority (2016) also studied the impact and was unable to identify an increase in bank lending to SMEs relative to large corporations due to the lower risk weights, but cautioned that it may take longer to observe an impact and that more study was needed. Izquierda et al. (2017) studied the impact of this reduction in capital requirements for SMEs in Spain and found that it increased GDP growth by 0.8%.

On June 7, 2019, the FSB published a consultation on SME financing evaluation.[11] It notes, "For the reforms that are within the scope of this evaluation, the analysis thus far does not identify material and persistent negative effects on SME

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[9] Angel, J. (fall 2018). Impact of Bank Regulation on Business Lending. U.S. Chamber of Commerce Center for Capital Markets Competitiveness. Retrieved from https://www.centerforcapitalmarkets.com/wpcontent/uploads/2018/09/CCMC_RestoringSmallbizLendingReport_9.10.18-1.pdf

[10] Covas, Francisco, 2017, Capital requirements in supervisory stress tests and their adverse impact on small business lending, The Clearing House Staff Working Paper 2017-2, available at https://www. theclearinghouse.org/-/media/tch/documents/research/articles/2017/08/capital-requirements-insupervisory-stress-tests-and-their-adverse-impact-on-small-business-lending.pdf?la=en

[11] Financial Stability Board consultation on evaluation of SME financing. June 7, 2019. Available at https://www.fsb.org/2019/06/fsb-publishes-consultation-on-sme-financing-evaluation/

financing in general, although there is some differentiation across jurisdictions." We look forward to thoroughly reviewing the findings of the consultation in light of our own research and observations and will provide comment in advance of the August 7, 2019 deadline.

Closing

A carefully calibrated system balanced between stability and appropriate risk taking is necessary for the stability of financial institutions and the ability of businesses to access capital in order to grow. The FSB's Evaluation should focus on whether financial institutions are empowered to extend credit and provide access to capital throughout the economy given they have now substantially increased their capital and liquidity, and improved their risk management.

Thank you again for the opportunity to provide feedback on the Financial Stability Board Evaluation of Too Big to Fail Reforms. We appreciate you undertaking this initiative.

Very Respectfully,

Tom Quaadman