



CENTER FOR CAPITAL MARKETS  
COMPETITIVENESS

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September 19, 2013

Mr. Wayne Byers  
Secretary General of the Basel Committee on Banking Supervision  
Bank for International Settlements  
CH-4002 Basel  
Switzerland

Re: **Consultative Document, *Revised Basel III leverage ratio framework and disclosure requirements***

Dear Mr. Byers:

The U.S. Chamber of Commerce (“the Chamber”), the world’s largest business federation represents the interest of more than three million businesses and organizations of every size, sector, and region. The Chamber created the Center for Capital Markets Competitiveness (“CCMC”) to promote a modern and effective regulatory structure for the capital markets to fully function in a 21<sup>st</sup> century economy. The Chamber appreciates the opportunity to comment on the Consultative Document, *Revised Basel III leverage ratio framework and disclosure requirements* (“Proposed Leverage Ratio Framework”), issued by the Basel Committee on Banking Supervision (“BCBS”).

The CCMC is concerned the Proposed Leverage Ratio Framework may dislocate the balance necessary for appropriate capital formation and prudent risk management by businesses, thereby harming economic growth and job creation.<sup>1</sup> We also wish to express our concern about the potential creation of inconsistent regulations across jurisdictions and further contribution to the opaqueness attributed to the overall complexity of current Basel III regulatory capital rules (“Basel III”).

The CCMC believes the consideration of the Proposed Leverage Ratio Framework should be suspended pending the completion of efforts by the BIS to

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<sup>1</sup> See also letter of June 14, 2011 from the Chamber to Federal Reserve Chairman Ben Bernanke on G-SIFI surcharges. See also letter of October 22, 2012 from the Chamber to the regulators commenting on the proposed Basel III regulations.

simplify Basel III<sup>2</sup> and reduce complexity in capital, liquidity and leverage requirements.

## Discussion

The CCMC believes that capital, liquidity, and leverage requirements are important tools to achieve and maintain stability within financial institutions. However, capital standards and leverage ratios that are too arduous can have serious, unintended negative consequences. Allowing suitable levels of risk-taking and providing access to liquid capital markets are necessary elements needed to fuel business growth, job creation and innovation throughout the domestic and global economy. Providing access to liquid capital markets must be balanced with the need to establish appropriate safeguards to maintain the overall safety and soundness of the financial system. An integrated regulatory framework, implemented consistently across jurisdictions, is necessary to provide uniform incentives and disincentives to mitigate potential systemic risks to safety and soundness.

With the growth of the global economy, there have been various efforts to create an international system of capital requirements and leverage ratios. Basel III, the latest effort to achieve international consistency, seeks to impose minimum capital, liquidity and leverage requirements for banks that operate internationally.

### a. Inconsistent Regulation Across Jurisdictions

While Basel III attempts to create a uniform international system of capital requirements, we note with significant concern the increasing number of differences arising in regulatory reforms across major jurisdictions. For example, the Proposed Leverage Ratio Framework, compared to the proposal by U.S. banking regulators to increase the existing minimum leverage ratio requirement for certain large U.S. bank holding companies and their insured depository institutions, results in significant differences in the minimum capital requirements across product types. Such inconsistencies may introduce competitive disparities, operational and enforcement uncertainties, and systemic inefficiencies, all of which could lead to greater systemic

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<sup>2</sup> See discussion paper on *The Regulatory Framework: Balancing Risk Sensitivity, Simplicity and Comparability* (“Basel III capital simplification paper”).

risks, adversely impact economic growth and impede cross-border capital flows needed for businesses to operate on a global basis.

The CCMC recognized the need for and called for comprehensive regulatory reform before the 2007-2008 financial crisis. Basel III can only be a homogenous standard if its interpretation, application and enforcement are the same across the board. Greater effort is required to minimize the further fragmentation and inconsistencies arising across jurisdictions in capital, liquidity, and leverage frameworks, as well as other regulatory reform initiatives such as resolution authority and derivative regulations. We encourage the BCBS to aggressively pursue coordination efforts to achieve consistent implementation of a uniform regulatory framework. The CCMC also believes the regulatory reforms related to capital, liquidity, and leverage requires further evaluation for internal consistency.

Furthermore, the International Lending Supervision Act (“ILSA”) encourages regulators to work with their international counterparts to establish consistent supervisory policies and practices including the establishment of minimum capital requirements. The G-20 has clearly made consistent capital requirements a priority to be addressed in the wake of the financial crisis. While we understand that the depth and structure of markets may require different levels of response, we are concerned that the Proposed Leverage Ratio Framework creates greater inconsistencies within the international framework that frustrates the intent of the ILSA.<sup>3</sup>

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

#### **b. Potential Harm to Economic Growth and Job Creation**

We believe that the individual impacts of the Proposed Leverage Ratio Framework and the cumulative impact of other regulatory reform initiatives upon the financial system and global economy should be studied to understand the aggregate impact and consequences of the changes before any proposals are finalized and

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<sup>3</sup> See October 22, 2012 letter from Chamber commenting on regulations implementing Basel III capital standards and need for international consistency.

implemented. This is necessary to understand the impacts of the Proposed Leverage Ratio Framework upon Main Street businesses and avoid adverse unintended consequences.

Under the Proposed Leverage Ratio Framework, the minimum capital requirements for many products offered by financial institutions to businesses will increase substantially. For example, the minimum capital requirement for unfunded commercial lines of credit increases by more than 30%, relative to Basel III.<sup>4</sup> 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.

The Proposed Leverage Ratio Framework is the latest in a series of initiatives that may hamper the ability of businesses to access the capital and liquidity needed to grow and operate. A comprehensive review of these initiatives illustrates:

- The Proposed Leverage Ratio Framework materially increases the minimum capital requirement by product relative to Basel III which may harm the ability of non-financial businesses to access markets to prudently mitigate risk or manage cash and liquidity;
- Capital surcharges upon Global Systemically Important Financial Institutions (“G-SIFIs”) will force large internationally active banks to withdraw additional capital from productive capital formation streams;

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<sup>4</sup> Assumes an effective risk weight of approximately 35%, based on a BBB-rated corporate undrawn revolver with a remaining maturity of 3 years.

- The complex regulatory regimes envisioned by the proposed Volcker, Vickers, and Liikanen Rules are expected to impact the ability of non-financial businesses to enter the debt and equity markets by raising costs and creating barriers of entry to the capital markets;
- If the Volcker, Vickers, and Liikanen Rules and other market reforms hamper capital formation the next alternatives are commercial lines of credit, however, Basel III creates disincentives for banks to provide businesses with commercial lines of credit;
- Proposed Money Market Fund reform may harm the ability of non-financial businesses to access the short-term commercial paper markets and manage cash;
- If the Volcker, Vickers, and Liikanen Rules and Money Market Fund reform hamper capital formation the next alternatives are commercial lines of credit, however, Basel III creates disincentives for banks to provide businesses with commercial lines of credit; and
- Other regulatory initiatives including derivatives regulation, which do not take into account non-financial end-user concerns, will impact the ability of non-financial companies to mitigate risk.

The combination of all of these initiatives could lead to an underperforming financial sector, create barriers to capital formation and have unintended ramifications throughout the rest of the economy. 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.

### **c. Basel III Complexity and Simplification**

Recently, regulators have joined investors and other commentators in raising concerns that the Basel III capital framework is too complex. Part of the concern is that complexity may cause opaqueness, frustrating the goal of safety and soundness by

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hampering the ability of regulators and investors to understand the health of individual banks or to compare the soundness of different banks. As a result, the BCBS released the Basel III capital simplification paper to achieve a better understanding of the complexity of capital requirements and how to simplify or provide transparency of them to better achieve stability in financial institutions. The comment period for the Basel III capital simplification paper ends on October 11, 2013.

Basel III is the foundation for the system of capital requirements, leverage ratios, and liquidity requirements that global regulators have been building upon since the 2008 financial crisis. Regulators have moved forward in building such a system in multiple jurisdictions, including the United States. In certain jurisdictions, regulators have moved in an aggressive manner to put in place or propose tougher requirements than the majority of other nations. While tough capital rules may be called for, though balanced with other considerations raised previously in this letter, we must question further movement along these lines as the foundation for this system has been called into question.

Initiatives to regulate systemic risks and systemically important firms have not yet been implemented or finalized. It would be prudent for these enhanced tools to be fully fashioned before developing higher leverage ratios that could go beyond the minimums as set by international agreement.

### **Conclusion**

The CCMC believes that a balanced approach to capital requirements and leverage ratios are a pro-growth means of addressing over-leveraging and providing stability in a risk-based free enterprise system. However, the CCMC is very concerned that the foundation upon which the Proposed Leverage Ratio Framework has been built on is being questioned by the BCBS as too complex and in need of simplification. Accordingly, the CCMC believes the BCBS should suspend consideration of the Proposed Leverage Ratio Framework pending the review of the Basel III simplification paper.

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Similarly, we believe that the use of the Proposed Leverage Ratio Framework as a tool to be used in systemic risk regulation calls for a similar suspension of consideration pending greater effort to assess the internal consistency with other regulatory reform efforts. In doing so, the BCBS is encouraged to pursue coordination efforts to ensure consistent implementation of an integrated regulatory framework.

Finally, a carefully calibrated system balanced between safety and appropriate risk taking is necessary for the stability of financial institutions and the ability of businesses to access capital and prudently manage risk and liquidity, in order to grow and create jobs. Increasing the capital requirement for products through the leverage ratio, as compared to the Basel III requirements may, in our view, be disruptive to that balance harming economic growth and job creation.

Thank you again for the opportunity to comment upon the Proposed Leverage Ratio Framework, and we are happy to discuss these issues and concerns in greater detail at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read 'TK' with a long horizontal flourish extending to the right.

Tom Quadman