CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
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The Honorable Jeb Hensarling
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Hensarling and Ranking Member Waters:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors, and regions, and dedicated to promoting, protecting, and defending America's free enterprise system, applauds the Financial Services Committee for considering H.R. 5983, the "Financial Choice Act of 2016," which would begin the process of implementing sensible, necessary reforms to the U.S. financial system. That system has been saddled with an ineffective regulatory structure and an array of conflicting legislative and regulatory requirements that, individually or collectively, constrain growth. The Chamber believes the Financial Choice Act is a positive first step for unlocking the capital markets to better facilitate the financing of America's economic growth and job creation.

Before the 2008 financial crisis, the Chamber advocated for a modernization of the U.S. financial regulatory system, parts of which date to the New Deal and other elements date as far back as the Civil War. That outdated regulatory system was creating a drag on the efficiency of capital markets and economic growth. The confluence of responses to the financial crisis, many of them well intentioned, unfortunately tried to wring reasonable risk taking out of the system in the name of financial stability. While financial stability is a laudable goal, stability is not possible without growth.

Accordingly, the United States economy has been constrained by 2% growth, and America's job creators have had difficulty accessing the financial resources and tools they need to expand, create jobs, and spur economic growth. U.S. capital markets have become more inefficient and illiquid. Some of this is the result of the Dodd-Frank Act, coupled with international standards such as the Basel III rules that U.S. regulators have taken to the extreme. Disappointingly, the Dodd-Frank Act did not address the issues of multiple agencies with overlapping authorities and regulatory dead-zones that have occurred because of the antiquated regulatory system.

As a result, Main Street businesses have faced challenges in accessing liquidity, raising capital, issuing debt, and mitigating risk with ease and affordability. Today, the Chamber

released a plan entitled ***Restarting the Growth Engine: A plan to Reform America's Capital Markets*** (Restarting the Growth Engine Plan), which has over 100 suggested recommendations for creating a regulatory system that embraces stability and growth. While the Chamber believes the Financial Choice Act is a positive step in this direction, we would also suggest that the Committee use the recommendations of the Restarting the Growth Engine Plan in its deliberations. The Restarting the Growth Engine Plan contains several issue areas and recommendations not included in the Financial Choice Act.

Specifically, the Chamber is pleased to see the following provisions in the Financial Choice Act:

- Recognition that several provisions of the Dodd-Frank Act, including capital, liquidity, and other requirements, are creating a severe drag on the economy and damaging the health of the capital markets. The Chamber does, however, believe that eligibility for relief for bank holding companies should not be based on a leverage ratio or similar computation.

- Structural and authority modifications to the Financial Stability Oversight Council (FSOC), as well as transparency reforms. The recent opinion by a U.S. district court judge in the case of MetLife vs. Financial Stability Oversight Council over MetLife's SIFI designation validates the many flaws with FSOC's structure and designation process.

- Changes to the Bankruptcy Code that are designed to facilitate the resolution of large and complex financial institutions. A bankruptcy style process that provides certainty to creditors as to the order and priority of payments is the preferred method of resolution of large bank holding companies and non-bank SIFIs.

- Structural improvements to the Consumer Financial Protection Bureau (CFPB) that allow more diverse views to inform its decision-making, the inclusion of the CFPB in Congressional appropriations to enable greater accountability of the agency, and many other reforms to the CFPB's substantive authorities.

- Structural and managerial reforms to the Securities and Exchange Commission (SEC), as well as streamlining of SEC enforcement authorities to ensure fair treatment and due process during the course of investigations.

- Repeal of the Franken Amendment that directs the SEC to create a board that assigns credit ratings agencies to rate structured finance securities. The Chamber appreciates the recognition of the importance of preserving the independence, transparency, and integrity of credit ratings as they serve a valuable role in U.S. capital markets.

- Inclusion of the Commodity End-User Relief Act, which passed the House last year.

- Repeal of the Department of Labor's Conflicts of Interest Rule and related exemptions and inclusion of provisions from H.R. 1090, the Retail Investor Protection Act, which passed the House earlier this year.

- Congressional oversight of the regulatory policy functions for all financial regulators through the appropriations process.

- Requirement of a regulatory impact analysis for all financial regulations and a mandatory five-year "lookback" at all regulations to ensure that regulations are modernized and fit the current needs of the financial system. Economic analysis and mandatory "lookbacks" are smart regulatory tools that improve regulations and make regulators more effective.

- Greater transparency and process in how the U.S. participates in Financial Stability Board (FSB) decisions and actions, as well as the actions of other international standard setters and regulators that report to the FSB.

- Repeal of the Volcker Rule, as it has created impediments for non-financial businesses to enter the debt and equity markets. The Volcker Rule has placed market participants operating in the U.S. at a global competitive disadvantage.

- Incorporation of Committee- or House-passed capital formation bills. The Chamber remains greatly concerned with the continued 20-year decline in the number of public companies in the United States and the difficulties entrepreneurs have in starting new businesses. These bills would help foster capital formation by expanding the investor community, focusing on small businesses and startups, and leveraging new technologies to unleash Main Street growth and economic opportunity.

- Repeal of section 1071 of the Dodd-Frank Act and the CFPB's arbitration rulemaking authority. The Chamber also is pleased to see many of the provisions that would reduce burdens to residential mortgage credit access.

As the Financial Choice Act moves through the legislative process, the Chamber encourages you to consider the following enhancements that would strengthen this bill:

- Requirement that regulators undertake a cumulative impact study of major financial regulatory initiatives implemented since the financial crisis to understand their collective impact upon capital formation and the economy. These initiatives should include but not be limited to Basel III, the Volcker Rule, systemic risk surcharges, stress tests and money market fund regulations. Such a study would help inform further legislative and regulatory efforts. The Chamber would strongly suggest moving forward with such a cumulative impact study as a stand-alone bill if the Financial Choice Act does not move forward on a fast track for consideration by the full House.

- Elimination of the repeal of funding for the Governmental Accounting Standard Board (GASB). Providing an independent source of funding for GASB is critical to ensuring

that GASB's standards for governmental entities and public pensions are not influenced by outside actors.

- Restriction of U.S. representatives to the FSB from affirmatively agreeing to any global systemic risk designation of a U.S. based financial institution unless that financial institution has already been deemed to be a threat to the stability of the U.S. financial system by the FSOC.

- Removal of any efforts to audit the Federal Reserve outside their normal audit for financial statement and reporting purposes. Creating outside pressures that could politicize monetary policy decisions would likely harm the market foundations needed to fuel the free enterprise system.

- Incorporation of recommendations from the Chamber's recently released study, ***Federal Reserve Reform: Securing Regulatory Transparency and Accountability***, which is included as an attachment.

- Incorporation of due process reforms, including procedural and substantive safeguards for defendants facing penalties associated with civil and criminal liability under the SEC and Financial Institutions Reform, Recovery, and Enforcement Act of 1989.

- Requirement that regulators and the Department of Justice consider the actions other agencies have taken to ensure proportionality with regard to civil penalties.

- Requirement that regulatory agencies enter into Memorandums of Understanding to determine lead enforcement agencies and avoid duplicative investigations.

Through a variety of initiatives since the 2008 financial crisis, the U.S. financial system has been made less diverse and more adverse to reasonable risk taking. This has resulted in illiquid and inefficient capital markets that have hamstrung Main Street businesses from providing the growth and jobs that America needs. Job creators have been hamstrung with a financial market paralyzed from overregulation and slow economic growth. Therefore, the Chamber encourages Congress to put forth efforts such as the Financial Choice Act and enact sensible reforms to provide for oversight and a level playing field that enables the reasonable risk taking needed to re-ignite the economic growth the American economy has traditionally attained.

Sincerely,

R. Bruce Josten

cc: Members of the Committee on Financial Services

Attachments (2): Restarting the Growth Engine
Federal Reserve Reform: Securing Regulatory Transparency and Accountability