**Tom Quaadman**
Executive Vice President

1615 H Street, NW
Washington, DC 20062-2000
(202) 463-5540
tquaadman@uschamber.com

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To Whom It May Concern
International Association of Insurance Supervisors
c/o Bank for International Settlements
CH-4002 Basel
Switzerland

**Re: Public Consultation – Holistic Framework for Systemic Risk in the Insurance Sector**

To Whom It May Concern:

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 insurance companies that operate only in the United States ("U.S.") as well as insurance companies headquartered both in and outside of the United States. Perhaps more importantly, our membership includes non-financial companies that rely on insurance products, and we are mindful of the larger role insurance plays as an investor in a globally interconnected economy.

The insurance sector is an integral provider of capital to the U.S. economy. Businesses of all sizes depend on bond markets to raise capital. Although not as liquid as equity markets, the global bond markets provide a stable form of financing, benefitting businesses and investors alike. Inappropriately structured regulation for the insurance sector could have a significant impact on the ability of many businesses to engage in normal capital formation activities, efficient cash management, and effective risk management.[1]

[1] Consultation Regarding Global Systemically Important Insurers: Proposed Updated Assessment Methodology (January 25, 2016), available at https://centerforcap.wpengine.com/wp-content/uploads/2016/01/12516-NTNI-Comment-Letter.pdf

While some of our members disagree with the standard setting work of the IAIS, the Chamber as a whole supports the development of standards in a transparent manner. To that end, the Chamber appreciates the opportunity to comment on the Public Consultation on the "Holistic Framework for Systemic Risk in the Insurance Sector" ("Holistic Framework") issued by the International Association of Insurance Supervisors ("IAIS") on November 14, 2018. In general, we support the incremental shift by the IAIS from a narrow focus on individual entities to a broader cross sector and cross sectoral activities-based approach. While we support the direction of the Holistic Framework there are a number of elements of concern to our members. **The Chamber offers the following perspectives and comments on the proposed Holistic Framework**:

1. **The Holistic Framework should be principles-based and preserve flexibility for jurisdictional supervisors;**
2. **There should be a clear transition from an entities-based approach ("EBA") to an activities-based approach ("ABA");**
3. **The methodology and exposures focused on should be appropriate;**
4. **The scope of applicability should be clarified;**
5. **Administration of sector-wide monitoring should be appropriate;**
6. **Concerns with supervisory measurers need to be addressed;**
7. **References to the Risk-based Global Insurance Capital Standard ("ICS") should be removed; and**
8. **The development timeline and approach to implementation should be appropriate.**

## 1. The Holistic Framework should be principles-based and preserve flexibility for jurisdictional supervisors

In general, the Chamber believes the Holistic Framework should be principles-based and provide flexibility for jurisdictional supervisors. Principles employed to guide implementation of the Holistic Framework should be realistic, flexible, and fair to prevent over-regulation while promoting the objective of preserving financial stability. The IAIS should avoid prescriptive approaches and policy measures as jurisdictional regulators should have flexibility to address the risk exposures and transmission channels as appropriate for their market. A principles-based framework acknowledges that jurisdictional supervisors have the legal authority to implement the framework at their discretion and have an in depth understanding of firms and the risks they pose to financial markets. Furthermore, a principles-based framework is more appropriate for empowering jurisdictional supervisors to address concerns with identified systemic risk if they were to arise.

Policymakers in the U.S., including the Department of the Treasury and the National Association of Insurance Commissioners ("NAIC"), have embraced an ABA. The Department of the Treasury has recommended de-designating nonbank firms, instituting due-process reforms for designation authority, and outlined an activities-based approach for systemic risk.[2] The NAIC is engaged in similar work on a parallel track through its Macro Prudential Initiative (MPI).[3] Importantly, they have noted that many of the same tools used for micro-prudential surveillance at the legal entity level are also useful for macro-prudential analysis, suggesting an interest in avoiding redundant data calls.

## 2. There should be a clear transition from an EBA to an ABA

In general, the Chamber supports the incremental shift from an EBA to an ABA for addressing identified systemic risk in the insurance sector. Focusing on a handful of individual firms fails to meaningfully help supervisors identify and mitigate potential threats to global financial stability.

### a. Concerns with EBA to systemic risk

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[2] Report to the President of the United States, Pursuant to the Presidential Memorandum Issued April 21, 2017: Financial Stability Oversight Council Designations. (Rep.). (November 2017). https://www.treasury.gov/press-center/press-releases/documents/pm-fsoc-designations-memo-11-17.pdf

[3] NAIC Financial Stability (EX) Task Force, Macro Prudential Initiative (MP): A Proposed Framework (August 1, 2017), available at https://www.naic.org/documents/cmte_ex_financial_stability_tf_macro_prudential_initiatives.pdf?39

The Chamber supports the decision of the Financial Stability Board (FSB) to refrain from identifying a list of Globally Systemically Important Insurers (G-SIIs) in 2018 and its intention to suspend the identification process until 2022.[4] A bifurcated approach, that describes some firms as systemically important, may create an unlevel playing-field with regulatory cliffs that harms the efficiency of capital markets. The Chamber has previously raised concerns with the methodology for G-SII determinations[5] and has consistently raised concerns regarding entity-based approaches describing them as "blunt tools that have harmed the efficiency of our capital markets" and not improved the ability of regulators to mitigate systemic risk.[6]

**b. Activities-Based Approach Should Replace Entities-Based Approach**

The Chamber supports the development of an ABA and its increased prominence within the Holistic Framework. We are concerned however with the redundant layer of regulation and reporting requirements that will result from the current proposal to include elements of both an ABA and EBA in the Holistic Framework. The development of an ABA should replace the generic entity-based framework, not "complement" it.

The Holistic Framework outlines an objective of transitioning away from the existing EBA, but much of the underlying architecture of the EBA is retained and in some cases expanded upon. In doing so, the IAIS fails to sufficiently acknowledge that the group-wide supervisor, supervisory colleges, and crisis management groups are best positioned to assess the risk a firm presents to financial stability at the jurisdictional or global level.

Rather than retain the EBA infrastructure, entity-level developments or exposures of concern should be addressed through the proposed "sector wide global

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[4] Review of the list of global systemically important insurers (November 21, 2017). *Available at* http://www.fsb.org/2017/11/review-of-the-list-of-global-systemically-important-insurers-g-siis/
[5] Consultation Regarding Global Systemically Important Insurers: Proposed Updated Assessment Methodology (January 25, 2016), available at https://centerforcap.wpengine.com/wp-content/uploads/2016/01/12516-NTNI-Comment-Letter.pdf
[6] Hirschman, D. T. (n.d.). Review of Financial Stability Oversight Council determination and designation processes pursuant to the Presidential Memorandum for the Secretary of the Treasury of April 21, 2017 [Letter written August 15, 2017 to U.S. Secretary of the Treasury, Steven T. Mnuchin]. In U.S. Chamber of Commerce Center for Capital Markets Competitiveness. *Available at* https://www.centerforcapitalmarkets.com/wp-content/uploads/2017/08/CCMC-Comment-on-FSOC-SIFI-Designation-Process.pdf

monitoring" which appropriately intends to rely "to the extent possible, on existing data collections and supervisory reporting requirements to limit the burden for insurers and supervisors." Furthermore, retaining EBA elements in the Holistic Framework fails to recognize the overlap that would exist between the risk exposures (i.e., liquidity, counterparty exposure, etc.) and related policy measures (i.e., enhancements to the Insurance Core Principles (ICPs) and Common Framework for the Supervision of Internationally Active Insurance Groups (ComFrame) that are to be employed for purposes of assessing risk on a cross-sector basis.

### 3. The methodology and exposures focused on should be appropriate

The scope and applicability of the Holistic Framework should be clearly defined while also providing flexibility to jurisdictional supervisors.

The Holistic Framework should avoid bank-centric methodologies. The Chamber has noted, "forcing nonbanks to conform to a regulatory template designed for banks is impracticable and expensive and produces no discernible benefit."[7] The Chamber appreciates the recognition by the IAIS that "banks and insurers vary in their business models, structures, and activities, and that systemic importance can different significantly across sectors."[8]

The number and type of potential systemically risky activities engaged in by insurance groups is likely to be limited, narrowly drawn, and non-insurance in nature. The design of the Holistic Framework should adhere closely to the FSB-accepted definition that systemic risk is the risk of widespread disruption to the financial system and which can cause serious negative consequences for the real economy. The design of the ABA should identify those activities that a firm employs could be material and systemically risk based on this definition. Only those activities clearly identified as systemically should be included in the ABA; there should not be scenarios where it is necessary to disprove the riskiness of other activities that are not clearly enumerated within the Holistic Framework. Furthermore, there is a strong case to be made that the insurance sector stabilizes the economy during instances of market stress.

[7] Page 21, CCMC "Restarting the Growth Engine." https://www.centerforcapitalmarkets.com/wp-content/uploads/2013/08/Restarting-the-Growth-Engine-A-Plan-to-Reform-Americas-Capital-Markets.pdf

The Holistic Framework should also acknowledge measures that reduce systemic risk. The IAIS should clarify that exposure to vulnerability "depends on how such an activity is managed." Existing micro-prudential regulation and supervision, not to mention the risk-management practices of individual firms, may sufficiently address risk and negate the need for certain macro-prudential considerations in the Holistic Framework. Recognition of the role micro-prudential tools can play in achieving macro-prudential objectives and the need for proportionality are positive elements in this regard however, we believe these elements should be expanded upon.

The Holistic Framework states that there may be a systemic impact from exposure to liquidity risk, interconnectedness, lack of substitutability, and "other sources" of risk. We believe the consideration of substitutability and "other sources" (e.g., cyber, climate, etc.) as potential globally systemic risks is inappropriate. To do otherwise suggests special treatment or importance to these risk categories without proper justification for their inclusion. For example, while the "other sources" of risk cited by the consultation can impact the insurance sector, they are both idiosyncratic and limited in nature. The IAIS must conduct further work and analysis to better understand these risks before citing them in the context of identified activities that lead to systemic risk.

**4. The scope of applicability should be clarified**

The concept of proportionality is an important element to the Holistic Framework. It is critical that the IAIS provide enough latitude to jurisdictional supervisors to ensure an appropriate balance is achieved between achieving supervisory objectives and avoiding the imposition of regulatory burdens on firms that do not meaningfully engage in activities that could present systemic risk to the global financial system. The Holistic Framework should not be broadly constructed to include firms that do not engage in those clearly defined limited set of activities or would be material to the firm.

**5. Administration of sector-wide monitoring should be appropriate**

The "global monitoring exercise" by the IAIS as proposed in the Holistic

Framework runs the risk of imposing new regulatory burdens from data collection and appears to open the door for additional firms to systemic risk regulation. The Chamber appreciates reduced focus on application of requirements to individual entities but is compelled to underscore that moving away from this "bright line" approach may inappropriately capture other firms participating in the insurance market.

For the Holistic Framework to succeed and adequately balance the costs and benefits of regulation it must leverage existing jurisdictional practices to the greatest extent possible. The role of the IAIS must be limited to facilitating data collection and to monitoring the marketplace. Specifically, the Chamber believes that the Holistic Framework should largely rely on jurisdictions to share aggregate data and qualitative assessments for their market with the IAIS for purposes of identifying global trends and achieving shared macro-prudential objectives. Such an approach would account for the fact that local regulators are best positioned to assess risks within their market and are ultimately responsible for imposing regulatory standards that would be used to address the identified activities that are systemically risky that are employed by a firm to mitigate the potential build-up or transmission of systemic risk. Furthermore, if data collection by IAIS were not to be on an aggregate level from the local regulators then confidentiality issues would need to be addressed.

**6. Concerns with supervisory measures need to be addressed**

The Chamber has concerns with the broad and loose nature of the proposed powers of intervention. The proposed actions – e.g., restricting business activities, requiring capital add-ons and new reserving requirements, imposing exposure limits, etc. – would have material impacts on any insurer or insurers they were imposed upon as well as markets and consumers more broadly. Such tools should only be considered in extreme circumstances and after an established local supervisory trigger has been breached on a micro-prudential level. Further, the Holistic Framework must establish a clear link between any proposed powers of intervention and the type of exposure / connection to a systemic risk transmission channel that is of concern so stakeholders – including supervisors – can better assess the appropriateness of the proposals.

Similarly, the Chamber also has concerns with the framing of stress testing within the consultation. While we acknowledge the role stress testing can play in illuminating risk exposures, employing this tool comes at a considerable cost to insurers and supervisors. If not employed appropriately stress testing may not delivered the intended insights into risks or worse could give rise to false-positives and/or false-negatives. To avoid such outcomes, we reiterate our view that the Holistic Framework should employ a principles-based approach to preserve flexibility for jurisdictional supervisors and insurers to strike a balance between achieving prudential objectives and the potential costs/benefits of the proposed tools.

**7. Reference to the ICS should be removed**

The Chamber believes references to the ICS as a tool for achieving macro prudential objectives is premature given the developmental nature of the standard and significant concerns that exist regarding the appropriateness of the standard.[9]

Only after the proposed 2020 to 2024 ICS monitoring period, which should entail considerable refinement of the ICS and impact assessments of the framework, would it be appropriate, if ever, for the IAIS to consider if/how the tool may contribute to assessing and mitigating systemic risk at the global level. Considering the preliminary and unproven nature of the ICS, we call on the IAIS to remove all references to it within the Holistic Framework.

**8. The development timeline and approach to implementation should be appropriate**

The Chamber supports the direction the IAIS is moving with the Holistic Framework but we believe that the proposed development timeline is overly ambitious. Continued development of the Holistic Framework must be done in a transparent and flexible manner that allows for the incorporation of feedback from jurisdictional supervisors and stakeholders. The proposed June 2019 consultation on revisions to the ICPs and ComFrame will be an essential step and must address gaps that exist in the current consultation. The substance of these consultations and subsequent application papers may change the Chambers assessment of the appropriateness of the Holistic Framework. In addition, the approach to implementing the Holistic Framework and subsequent jurisdictional assessments to be

[9] The Chamber has previously noted concerns with the development of the Insurance Capital Standard by the IAIS. https://www.centerforcapitalmarkets.com/wp-content/uploads/2016/10/2016-10.19-ISC-Consulation-U.S.-Chamber-of-Commerce-Submission.pdf

conducted by the IAIS present additional elements that will determine its ultimate appropriateness.

## Closing

In aiming to address prudential and financial stability concerns, regulatory standards and policy measures developed by the IAIS must not undermine the ability of the insurance sector to continue to fulfill its vital role for policyholders and the capital markets.

While we commend the IAIS on incrementally shifting its approach to assessing and mitigating global systemic risk in a more appropriate direction, we reiterate our view that various elements of the Holistic Framework remain of concern and must be addressed ahead of its scheduled adoption in November 2019. The Chamber looks forward to further engagement with this IAIS on this important topic.

Sincerely,

Tom Quaadman