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The Honorable Mike Crapo
U.S. Senate
239 Dirksen Office Building
Washington, DC 20510

The Honorable Sherrod Brown
U.S. Senate
713 Hart Office Building
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

We appreciate the opportunity to respond to your March 20th, 2017 request seeking legislative proposals to foster economic growth. In order to respond to this request, we conducted an internal review of the many regulations governing our industry. While most of these regulations serve an important function in safeguarding our system, many are duplicative, overlapping and often overreaching. We have identified many areas that might be ripe for reform; however, we have chosen to focus on two areas for reform that we believe could have wide ranging for our customers, the industry and the economy overall.

Systemic Risk Designation

The current system for determining whether a bank is systemically important relies on an arbitrary asset threshold which is far too low and does not take into account the various factors that actually determine risk. Regulation should be tailored to better reflect a financial institution's risk profile. This ensures that smaller institutions are not overregulated in a way that impacts their ability to serve their customers and grow the economy.

Regional banks are a cornerstone of the American financial system, since their focus is largely on consumer and commercial lending. By comparison, the six largest banks in the United States have a cumulative asset size of $10T, where the next 29 banks have a cumulative asset size of roughly half that.

Under a $50B asset threshold to determine systemic risk, regional banks are lumped in with the largest money center banks; which engage in high levels of risky trading activity and are more than 6x as large as the largest regional bank. Indeed, using the Federal Reserve's systemic indicator score[1], if one added

[1] The Fed systemic indicator score is calculated by considering the asset size, interconnectedness, substitutability, complexity and cross-jurisdictional activity of an institution. Those individual scores are then weighted and totaled, with total assets receiving the highest weight (20%).

ALL of the 29 regional bank scores they would not equal the score of the largest money center bank. The simple reality is that these regional banks do not pose a risk to the system and applying rules designed for large, complex firms impose real, burdensome costs to customer, the banks and the economy when applied to middle-market lenders. These rules curtail our consumer and commercial lending, and restrict our ability to operate competitively.

In lieu of this arbitrary asset threshold, BMO Financial Group strongly supports the approach applied in H.R. 6392, the Systemic Risk Designation Improvement Act, which passed the U.S. House on a bipartisan basis in December of last year. This bill replaces the arbitrary asset threshold for designating a bank systemically important with a risk-based approach based on a bank's size, complexity, interconnectedness, global activity and substitutability. In addition, implementing this approach would be quite easy as the Federal Reserve currently calculates a bank's systemic risk by gathering data through the Y-15 Form and assigning each bank a systemic indicator score. By determining an institution's risk to the financial system through this more nuanced approach, regulation will be appropriately tailored to ensure stability in the system while still promoting economic growth.

A copy of the language from H.R. 6392 is attached here as Appendix A.

The Volcker Rule

The Volcker Rule plays a significant role in safeguarding a bank's capital from excessive risk by banning speculative trading activities. Contrary to some, we believe that the rule is necessary and do not support an outright repeal. However, we believe that the rule as implemented exceeds its intended scope and sweeps in many activities that are not speculative in nature. In addition, the rule covers foreign activities that are not supported by or a threat to a bank's U.S. capital or the U.S. system. This overly broad application of the rule provides no measurable benefit to the stability of the U.S. financial system while adding significant costs and impeding a bank's ability to raise capital for its clients.

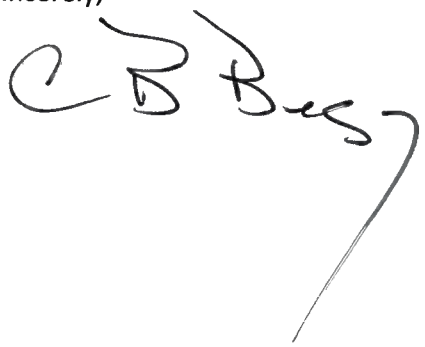
We believe that the following changes could be made to improve the Rule while still achieving its intended purpose:

- Assign regulatory oversight of the Volcker Rule to one regulatory body, rather than five;
- Amend the definition of "banking entity" to cover only the operations of U.S. domiciled bank holding companies, IHCs of FBOs, and their subsidiaries.
- Amend the definition of "proprietary trading" to remove the intent-based focus of the definition and to exclude government securities from the definition of "financial instrument;"
- Amend the definition of "covered fund" to limit it to only true hedge funds and private equity funds engaged in proprietary trading;
- Eliminate the so-called "backstop provisions;"
- Eliminate the CEO attestation requirement;
- Redefine the Appendix A Metrics scope, while also removing the corresponding reporting requirements.

Further details on our proposed changes to the Volcker Rule are included in Appendix B.

I appreciate your consideration of these issues. We believe that each of these reforms provides a way to better supervise the banking system and foster economic growth by better aligning these rules with their intended purposes and allowing greater efficiency. We hope you find the attached Appendices helpful and if you have any additional questions, please do feel free to contact me.

Sincerely,



Appendix A – Legislative Text of H.R. 6392

To amend the Dodd-Frank Wall Street Reform and Consumer Protection Act to specify when bank holding companies may be subject to certain enhanced supervision, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Systemic Risk Designation Improvement Act of 2017".

SEC. 2. TABLE OF CONTENTS.

The table of contents for the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.) is amended by striking the item relating to section 113 and inserting the following:

"Sec. 113. Authority to require enhanced supervision and regulation of certain nonbank financial companies and certain bank holding companies.".

SEC. 3. REVISIONS TO COUNCIL AUTHORITY.

(a) PURPOSES AND DUTIES.—Section 112 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5322) is amended in subsection (a)(2)(I) by inserting before the semicolon ", which have been the subject of a final determination under section 113".

(b) BANK HOLDING COMPANY DESIGNATION.—Section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) is amended—

(1) by amending the heading for such section to read as follows: "**AUTHORITY TO REQUIRE ENHANCED SUPERVISION AND REGULATION OF CERTAIN NONBANK FINANCIAL COMPANIES AND CERTAIN BANK HOLDING COMPANIES**";

(2) by redesignating subsections (c), (d), (e), (f), (g), (h), and (i) as subsections (d), (e), (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (b) the following:

"(c) BANK HOLDING COMPANIES SUBJECT TO ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS UNDER SECTION 165.—

"(1) DETERMINATION.—The Council, on a nondelegable basis and by a vote of not fewer than 2/3 of the voting members then serving, including an affirmative vote by the Chairperson, may determine that a bank holding company shall be subject to enhanced supervision and prudential standards by the Board of Governors, in accordance with section 165, if the Council determines, based on the considerations in paragraph (2), that material financial distress at the bank holding company, or the nature, scope, size, scale, concentration, interconnectedness, or mix of the activities of the bank holding company, could pose a threat to the financial stability of the United States.

"(2) CONSIDERATIONS.—In making a determination under paragraph (1), the Council shall use the indicator-based measurement approach established by the Basel Committee on Banking Supervision to determine systemic importance, which considers—

"(A) the size of the bank holding company;

"(B) the interconnectedness of the bank holding company;

"(C) the extent of readily available substitutes or financial institution infrastructure for the services of the bank holding company;

"(D) the global cross-jurisdictional activity of the bank holding company; and

"(E) the complexity of the bank holding company.

"(3) GSIBS DESIGNATED BY OPERATION OF LAW.—Notwithstanding any other provision of this subsection, a bank holding company that is designated, as of the date of enactment of this subsection, as a Global Systemically Important Bank by the Financial Stability Board shall be deemed to have been the subject of a final determination under paragraph (1).";

(4) in subsection (d), as so redesignated—

(A) in paragraph (1)(A), by striking "subsection (a)(2) or (b)(2)" and inserting "subsection (a)(2), (b)(2), or (c)(2)"; and

(B) in paragraph (4), by striking "Subsections (d) through (h)" and inserting "Subsections (e) through (i)";

(5) in subsections (e), (f), (g), (h), (i), and (j)—

(A) by striking "subsections (a) and (b)" each place such term appears and inserting "subsections (a), (b), and (c)"; and

(B) by striking "nonbank financial company" each place such term appears and inserting "bank holding company for which there has been a determination under subsection (c) or nonbank financial company";

(6) in subsection (g), as so redesignated, by striking "subsection (e)" and inserting "subsection (f)";

(7) in subsection (h), as so redesignated, by striking "subsection (a), (b), or (c)" and inserting "subsection (a), (b), (c), or (d)"; and

(8) in subsection (i), as so redesignated, by striking "subsection (d)(2), (e)(3), or (f)(5)" and inserting "subsection (e)(2), (f)(3), or (g)(5)".

(c) ENHANCED SUPERVISION.—Section 115 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5325) is amended—

(1) in subsection (a)(1), by striking "large, interconnected bank holding companies" and inserting "bank holding companies which have been the subject of a final determination under section 113";

(2) in subsection (a)(2)—

(A) in subparagraph (A), by striking "; or" at the end and inserting a period;

(B) by striking "the Council may" and all that follows through "differentiate" and inserting "the Council may differentiate"; and

(C) by striking subparagraph (B); and

(3) in subsection (b)(3), by striking "subsections (a) and (b) of section 113" each place such term appears and inserting "subsections (a), (b), and (c) of section 113".

(d) REPORTS.—Section 116(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5326(a)) is amended by striking "with total consolidated assets of $50,000,000,000 or greater" and inserting "which has been the subject of a final determination under section 113".

(e) MITIGATION.—Section 121 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5331) is amended—

(1) in subsection (a), by striking "with total consolidated assets of $50,000,000,000 or more" and inserting "which has been the subject of a final determination under section 113"; and

(2) in subsection (c), by striking "subsection (a) or (b) of section 113" and inserting "subsection (a), (b), or (c) of section 113".

(f) OFFICE OF FINANCIAL RESEARCH.—Section 155 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5345) is amended in subsection (d) by striking "with total consolidated assets of 50,000,000,000 or greater" and inserting "which have been the subject of a final determination under section 113".

SEC. 4. REVISIONS TO BOARD AUTHORITY.

(a) ACQUISITIONS.—Section 163 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5363) is amended by striking "with total consolidated assets equal to or greater than $50,000,000,000" each place such term appears and inserting "which has been the subject of a final determination under section 113".

(b) MANAGEMENT INTERLOCKS.—Section 164 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5364) is amended by striking "with total consolidated assets equal to or greater than $50,000,000,000" and inserting "which has been the subject of a final determination under section 113".

(c) ENHANCED SUPERVISION AND PRUDENTIAL STANDARDS.—Section 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5365) is amended—

(1) in subsection (a), by striking "with total consolidated assets equal to or greater than $50,000,000,000" and inserting "which have been the subject of a final determination under section 113";

(2) in subsection (a)(2)—

(A) by striking "(A) IN GENERAL.—"; and

(B) by striking subparagraph (B);

(3) by striking "subsections (a) and (b) of section 113" each place such term appears and inserting "subsections (a), (b), and (c) of section 113"; and

(4) in subsection (j), by striking "with total consolidated assets equal to or greater than $50,000,000,000" and inserting "which has been the subject of a final determination under section 113".

(d) CONFORMING AMENDMENT.—The second subsection (s) (relating to "Assessments, Fees, and Other Charges for Certain Companies") of section 11 of the Federal Reserve Act (12 U.S.C. 248) is amended—

(1) by redesignating such subsection as subsection (t); and

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "having total consolidated assets of $50,000,000,000 or more;" and inserting "which have been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act; and";

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B).

SEC. 5. EFFECTIVE DATE; RULE OF APPLICATION.

(a) EFFECTIVE DATE.—The Financial Stability Oversight Council may begin proceedings with respect to a bank holding company under section 113(c)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as added by this Act, on the date of the enactment of this Act, but may not make a final determination under such section 113(c)(1) with respect to a bank holding company before the end of the 1-year period beginning on the date of the enactment of this Act.

(b) IMMEDIATE APPLICATION TO LARGE BANK HOLDING COMPANIES.—During the 1-year period described under subsection (a), a bank holding company with total consolidated assets equal to or greater than $50,000,000,000 shall be deemed to have been the subject of a final determination under section 113(c)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

SEC. 6. EXISTING ASSESSMENT TERMINATION SCHEDULE.

(a) TEMPORARY EXTENSION OF EXISTING ASSESSMENT.—

(1) IN GENERAL.—Each bank holding company with total consolidated assets equal to or greater than $50,000,000,000 and which has not been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) shall be subject to assessments by the Secretary of the Treasury to the same extent as a bank holding company that has been subject to such a final determination.

(2) LIMITATION ON AMOUNT OF ASSESSMENTS.—The aggregate amount collected pursuant to paragraph (1) from all bank holding companies assessed under such paragraph shall be $115,000,000.

(3) EXPEDITED ASSESSMENTS.—If necessary, the Secretary of the Treasury shall expedite assessments made pursuant to paragraph (1) to ensure that all $115,000,000 of assessments permitted by paragraph (2) is collected before fiscal year 2018.

(4) PAYMENT PERIOD OPTIONS.—The Secretary of the Treasury shall offer the option of payments spread out before the end of fiscal year 2018, or shorter periods including the option of a one-time payment, at the discretion of each bank holding company paying assessments pursuant to paragraph (1).

(5) ASSESSMENTS TO BE MADE IN ADDITION TO ANY OTHER ASSESSMENTS.—The assessments collected pursuant to paragraph (1) shall be in addition to, and not as a replacement of, any assessments required under any other law.

(b) USE OF ASSESSMENTS.—Of the total amount collected pursuant to subsection (a)—

(1) $60,000,000 shall be transferred to the Financial Stability Oversight Council to pay for any administrative costs resulting from this Act and the amendments made by this Act, of which the Financial Stability Oversight Council shall distribute $20,000,000 to the Board of Governors of the Federal Reserve System, $20,000,000 to the Federal Deposit Insurance Corporation, and $20,000,000 to the general fund of the Treasury; and

(2) $55,000,000 shall be transferred to the Federal Deposit Insurance Corporation to pay for any resolution costs resulting from this Act and the amendments made by this Act.

(c) TREATMENT UPON DETERMINATION.—A bank holding company assessed under this section shall no longer be subject to such assessments in the event it is subject to a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323). Any prior payments made by such a banking holding company pursuant to an assessment under this section shall be nonrefundable.

(d) RULE OF CONSTRUCTION.—A bank holding company deemed to have been the subject of a final determination under section 113 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5323) under section 5(b) shall not be subject to assessments under subsection (a) solely by operation of section 5(b).

SEC. 7. RULE OF CONSTRUCTION.

Nothing in this Act or the amendments made by this Act may be construed as broadly applying international standards except as specifically provided under paragraphs (2) and (3) of section 113(c) of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as added by section 3.

Appendix B – Proposed Changes to the Volcker Rule

Amendment A: Agency Oversight
Issue: Currently, regulatory authority pertaining to the Volcker Rule (the "Rule") falls on five regulatory agencies: FRB, OCC, FDIC, SEC and CFTC. This overlapping authority with respect to interpretations and guidance, as well as examinations and supervision, is inefficient and requires unnecessary time and effort, on the part of banks as well as regulators, to ensure compliance.
Solution: Establish the Fed as the lead regulator with respect to the Rule, responsible for implementing, interpreting and enforcing the Rule.

Amendment B: Definition of "Banking Entity"
Issue: The current definition of "Banking Entity" includes the worldwide operations of in-scope financial institutions, including all of their affiliates and subsidiaries, regardless of location or business. Such extra-territorial reach is overly broad and, as a result, the Rule is not appropriately tailored to accomplish its goals in an efficient and effective manner. Regulating the non-U.S. operations of a bank's non-US affiliates and subsidiaries is beyond the scope of the Rule's stated intentions.
Solution: Amend the definition of "banking entity" to limit it to U.S. domiciled holding companies, IHCs of FBOs and their subsidiaries.

Amendment C: Definition of "Proprietary Trading"
Issue: As currently drafted, the Rule defines Proprietary Trading largely by reference to the purpose for which the banking entity bought or sold a security, requiring banks to determine the intent behind a particular trade. The definition of "Trading Account," vital for determining what constitutes proprietary trading, refers to buying or selling a security "principally for the purpose of" short term resale or short term gain as a result of actual or expected short-term price movements. A purpose-based or intent-based approach to determining whether a bank is engaging in proprietary trading is a fundamental flaw since determining intent in a complex financial environment is extremely difficult and impossible to objectively measure. Such difficulties, in combination with the limitations that the Rule places on client-related activities (such as underwriting), have been tied to decreased liquidity in the market.
Solution: Amend the definition of "Proprietary Trading" to remove the intent-based aspect of the definition.

Amendment D: Definition of "Covered Fund"
Issue: In order to prohibit banking entities from indirectly engaging in prohibited proprietary trading, the statutory text prohibits investments in, and sponsorship of, hedge funds and private equity funds. The Rule, however, uses the defined term "Covered Funds" and defines that term more broadly than traditional hedge funds and private equity funds that engage in trading that would be considered proprietary trading. Covered funds are determined through a complex method that reaches beyond the intent of the statute, and does not add any value from a risk management perspective.
Solution: Amend the definition of "covered fund" to more appropriately tailor such definition to only include true hedge funds and private equity funds that engage in proprietary trading.

Amendment E: Backstop Provisions
Issue: The "backstop provisions" included in the Rule intend to prevent a material conflict of interest with customers, whether or not a bank is conducting an activity under a Rule exemption or exclusion that involves a high risk activity. Banks already have in place comprehensive policies to prevent these exact conflicts of interest as mandated by previous regulations; therefore, the compliance procedures mandated by the Rule are redundant and unnecessary.

Solution: Instruct the appropriate regulators to amend, or otherwise issue guidance, to remove the backstop provisions of the Rule.

Amendment F: CEO Attestation

Issue: The Rule requires that the CEO attest in writing annually that appropriate processes are in place to enforce, maintain and review the compliance program associated with the Rule. This requirement is an unnecessary compliance burden that serves little purpose in relation to Rule adherence.

Solution: Instruct the appropriate regulators to amend, or otherwise issue guidance, that would remove the CEO attestation requirement from the Rule.

Amendment G: Appendix A Scope and Requirements

Issue: Appendix A requires banks to measure seven metrics daily and report these monthly to the five regulators that jointly oversee the Rule. This report has unspecified benefits for the regulators, and could easily be requested as part of ongoing supervision.

Solution: Instruct the appropriate regulators to amend, or otherwise issue guidance, to remove the monthly reporting requirement of Appendix A Metrics.