Sarah A. Miller
Chief Executive Officer
E-mail: smiller@iib.org

INSTITUTE OF INTERNATIONAL BANKERS

299 Park Avenue, 17th Floor
New York, N.Y. 10171
Direct: (646) 213-1147
Facsimile: (212) 421-1119
Main: (212) 421-1611
www.iib.org

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The Honorable Mike Crapo
Chairman
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Chairman Crapo and Ranking Member Brown:

The Institute of International Bankers (IIB) supports the Committee's bipartisan initiative to identify legislative proposals that will foster U.S. economic growth. We appreciate the opportunity to highlight for the Committee a few of our key priorities from the perspective of our members' U.S. operations. These priorities are driven in particular by the desire to improve the U.S. legislative financial services framework in a manner that more effectively and efficiently permits financial institutions to expand their lending in the United States, including in support of addressing the significant challenges presented by the country's infrastructure needs, and better serve U.S. consumers and businesses while at the same time maintaining a safe and sound system and reinforcing financial stability.

Significantly, the U.S. operations of internationally-headquartered banks make important contributions to U.S. economic growth, serving consumers and businesses across the country. Collectively, our members hold in the U.S. approximately $5 trillion in bank and nonbank assets, fund over 27% of all commercial and industrial bank loans made in the U.S. and constitute 3 of the top ten agriculture lenders. Of immediate import, our members fund 71% of infrastructure loan volume made over the last 5 years. Our members also serve as important sources of market liquidity in that they underwrite 1/3 of all U.S. dollar-denominated securities, constitute 14 of the 23 primary dealers and 42 of the 104 registered swap dealers. Our members operate in all fifty states and employ over 200,000 full-time employees in the U.S. We and our members welcome the Committee's focus on seeking ways to further encourage these growth-enhancing activities.

IIB members' U.S. operations take a variety of forms, including insured depository institution subsidiaries, branches and agencies, broker-dealers, swap dealers, and, for those with extensive U.S. non-branch businesses, the "Intermediate Holding Companies" (IHCs) required under the Federal Reserve's Regulation YY. Like their U.S.-headquartered counterparts, these entities are regulated by a variety of U.S. authorities, including the FDIC, Federal Reserve, OCC, SEC, CFTC, CFPB and State authorities.

The Dodd-Frank Act has been the key driver of the post-crisis regulatory framework, and, as such, should receive careful consideration in any discussion of how financial regulation affects economic growth. Given its dramatic impact on the structure and conduct of our members' U.S. operations, and the concomitant impact on their ability to contribute to U.S. economic growth, Dodd-Frank plays a key role in determining our priorities. We share the view expressed by many that the time is ripe to review Dodd-Frank and its impact on economic growth.

As discussed below, we agree with former Federal Reserve Board Governor Tarullo and others that the various bank size thresholds established under Dodd-Frank would benefit from reconsideration in light of the experience with these provisions to date.

In addition, it is important that the Committee stress the need for harmonization and consistency of approach amongst regulators here in the U.S. and, to the extent possible, with other countries. This is an issue of key importance to all internationally active banks, including foreign banking organizations (FBOs). Harmonization and consistency of regulations support both wider and deeper U.S. capital markets and greater efficiencies that allow regulated firms to focus on business activities supporting economic growth. Harmonization and consistency is not incompatible with strong and robust regulation.

As well, any legislative and regulatory measures taken to address the financial industry's cybersecurity defenses must be designed and implemented in a manner that ensures the greatest degree of coordination and consistency as possible. A well-defended financial system is an essential precondition to promoting economic growth and is fundamental to protecting consumers and other market participants.

SIFI Threshold and SIFI Tailoring

The IIB shares the concerns that have been expressed regarding what is commonly referred to as the $50 billion "SIFI threshold" and, accordingly, has long supported legislation to modify that threshold in a manner that more effectively achieves the statutory purpose of Section 165 while, at the same time, promoting economic growth. Because the $50 billion SIFI threshold determines the applicability of the enhanced prudential standards prescribed under Section 165 and is measured on the basis of global assets, it has resulted in application of those standards to more than 100 FBOs, as compared to 26 U.S.-headquartered banks, notwithstanding that for the significant majority of these FBOs their U.S. operations have under $10 billion in total assets in the United States. This discrepancy runs counter to the purpose of Section 165, which is to "prevent or mitigate risks to the financial stability of the United States . . .", and it misallocates resources from lending activity that promotes economic growth to unproductive compliance exercises.

As a result of the overinclusion of FBOs, considerably more time is spent complying with enhanced prudential standards than is warranted or necessary. For example, all FBOs subject to

the SIFI threshold are required to file a living will, even though many have no "critical operations" in the U.S., and their "material entities" are inconsequential to the financial stability of the United States. In addition, the significant regulatory resources spent reviewing these plans could, we submit, be put to better use elsewhere.

Separately, yet not dissimilarly to the issue faced by domestic banks approaching the $50 billion threshold, the threshold has had a chilling effect on the U.S. operations of foreign banks, as $50 billion in U.S. assets is the centerpiece for application of the more stringent enhanced prudential standards imposed by the Federal Reserve Board under Section 165. For example, if an FBO has over $50 billion in U.S. non-branch assets, it is required under Regulation YY to restructure virtually all of its U.S. non-branch operations under an IHC. The IHC must be separately capitalized from its parent, and its capital adequacy is assessed without regard to the strength of its parent's capital. These structural and regulatory requirements have a limiting effect on the ability of FBOs to provide more lending and increased services in the U.S., given the cost of forming an IHC and more especially the ongoing limitations imposed by having to operate in isolation from the parent.

In connection with the implementation of the regulations under Section 165 we have witnessed a precipitous drop in the assets of FBOs operating in the U.S. In 2015, FBO banking and broker-dealer assets declined by $500 billion. Notably, the significant decline in 2015 in U.S. banking assets of FBOs was one of only five yearly decreases in the last 35 years, and the only decrease not related to a recession. This reduction in assets which, we would submit, is largely due to the full panoply of Section 165 regulations coming on-line, has served to limit FBOs' ability to support U.S. economic growth, with diminished benefits to U.S. consumers and businesses. It also serves to concentrate activities and the risks associated therewith in other domestic financial sector participants, including the lesser regulated financial services sector.[1]

We suggest the following principles as guideposts for legislation the Committee may consider to address these concerns:

- both the threshold for application of the Section 165 enhanced prudential standards and the application of the standards themselves should be modified to more accurately reflect the risk a firm poses to the U.S. financial system; and

- with respect to FBOs, these assessments should be based on their U.S. operations.

[1] Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17240, 17279 (March 27, 2014) ("In response to commenters' assertions that the final rule will concentrate activities in unregulated financial institutions, the Board will continue to monitor the migration of risk from the regulated banking system to unregulated entities, and to inform its policy decisions with the results of its monitoring.").

Harmonization

Derivatives. Coordination and consistency among regulatory authorities, both domestically and internationally, are critical to ensuring that regulations are implemented in a manner that most efficiently achieves the desired regulatory purpose while maintaining appropriate incentives for economic growth. These principles are reflected in the provisions of Section 712 and Section 752 of the Dodd-Frank Act, but their implementation in practice has been uneven, as evidenced, for example, by different approaches taken domestically by the SEC and CFTC regarding dealer registration, trade reporting, business conduct, margin, and capital requirements, and the difficulties encountered internationally with the implementation of a substituted compliance framework.

Cybersecurity. Outside of Dodd-Frank, another area that could benefit from greater coordination and consistency among regulators is cybersecurity. In this critical area firms are subject to multiple frameworks, and some firms are subject as well to state-level requirements designed without regard to potential conflicts or inconsistencies with the developing federal framework. Compliance with the multitude of cybersecurity frameworks is not resulting in better protected institutions, but rather diverting the attention of cybersecurity professionals within firms from actively enhancing cybersecurity defenses to establishing policies, procedures and protocols that contribute little to these efforts but nevertheless are called for by the various standards and/or regulatory requirements. This approach may in fact make firms less secure from cyberattacks, which may have very serious consequences for their ability to support economic growth and protect consumers and other market participants.

Both of these areas merit close consideration by the Committee in connection with its economic growth initiative.

We appreciate your consideration of our suggestions and welcome the opportunity to discuss them further with you and your colleagues as this important effort progresses.

Sincerely,

Sarah A. Miller
Chief Executive Officer