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January 27, 2016

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Re: Assessments: Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; RIN 7100-AE37

Dear Mr. Frierson:

The Independent Community Bankers of America (ICBA)[1] appreciates the opportunity to comment on the Federal Reserve's proposal to require top-tier bank holding companies identified by the Federal Reserve Board as global systemically important banking organizations (covered BHCs) to maintain outstanding a minimum amount of loss-absorbing instruments, including a minimum amount of unsecured long-term debt. The proposal also would require the top-tier U.S. intermediate holding company of a global systemically important foreign banking organization with $50 billion or more in U.S. non-branch assets (covered IHC) to maintain outstanding a minimum amount of intra-group loss-absorbing instruments, including a minimum amount of unsecured long-term debt.

The purpose of the proposal is to promote financial stability by improving the resolvability and resiliency of larger, interconnected U.S. bank holding companies and the U.S. operations of large, interconnected foreign banking organizations. Section 165

[1] The Independent Community Bankers of America®, the nation's voice for more than 6,000 community banks of all sizes and charter types, is dedicated exclusively to representing the interests of the community banking industry and its membership through effective advocacy, best-in-class education and high-quality products and services.

With 52,000 locations nationwide, community banks employ 700,000 Americans, hold $3.6 trillion in assets, $2.9 trillion in deposits, and $2.4 trillion in loans to consumers, small businesses and the agricultural community. For more information, visit ICBA's website at www.icba.org.

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of the Dodd-Frank Act generally authorizes these actions. If adopted, covered BHCs would have to comply with these requirements beginning January 1, 2019.

Background

Under the proposal, a covered BHC would be defined to include any U.S. top-tier bank holding company identified as a global systemically important banking institution (GSIB) under the Federal Reserve's rule establishing risk-based capital surcharges for GSIBs. The eight firms currently identified as U.S. GSIBs are Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup Inc., Goldman Sachs Group, Inc., JP Morgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company.

Under the proposed external "TLAC" requirement, a covered BHC would be required to maintain outstanding total loss absorbing capacity (TLAC) in an amount not less than the greater of 18 percent of the covered BHC's total risk-weighted assets or 9.5 percent of the covered BHC's total leverage exposure. Under the external "LTD" requirement, a covered BHC would be required to maintain outstanding eligible external long-term debt instruments (LTD) in an amount not less than the greater of 6 percent plus the surcharge applicable under the GSIB surcharge rule (expressed as a percentage) of total risk-weighted assets and 4.5 percent of total leverage exposure.

A covered BHC's eligible external TLAC would be defined to be the sum of (a) the tier 1 regulatory capital of the covered BHC issued directly by the covered BHC and (b) the covered BHC's eligible external LTD. A covered BHC's eligible external LTD would generally be defined to be debt that is issued directly by the covered BHC, is unsecured, is "plain vanilla" and is governed by U.S. law.

Eligible external LTD with a remaining maturity of between one and two years would be subject to a 50 percent haircut for purposes of the external LTD requirement, and eligible external LTD with a remaining maturity of less than one year would not count toward the external LTD requirement. The purpose of this restriction is to limit the debt that would meet the external LTD requirement to debt that will be reliably available to absorb losses in the event that the covered BHC fails and enters resolution. According to the Federal Reserve, debt with a remaining maturity of less than one year would not adequately serve this purpose because of the relatively high likelihood that the debt will mature during the period between the time when the covered BHC begins to experience extreme stress and the time when it enters a resolution proceeding. Similarly, the reason for the 50 percent haircut on one to two year debt is because it also lacks some loss-absorbing capacity.

ICBA Comments

ICBA generally supports the proposal to impose an external TLAC requirement and an external LTD requirement on covered BHCs. As we understand it, the calibration of the proposed external TLAC requirement is based on an analysis of the historical loss experience of major financial institutions during the recent financial crisis. The analysis found that the bank holding company with the most severe loss experience incurred estimated losses and recapitalization needs of roughly 19 percent of risk-weighted assets—which is the reason that the TLAC's requirement is just about that percentage of a covered BHC's total risk-weighted assets.

Furthermore, the objective of the proposed external LTD requirement is to ensure that each covered BHC has a minimum amount of eligible external LTD such that, if the covered BHC's going concern capital is depleted and the covered BHC fails and enters resolution, the eligible external LTD will be sufficient to absorb losses and fully recapitalize the covered BHC by replenishing its going-concern capital. According to the Federal Reserve, fulfilling this objective is vital if the single point of entry (SPOE) resolution process is to work.

In an SPOE resolution of a banking organization, only the top-tier bank holding company would enter a resolution proceeding and the losses that caused the banking organization to fail would be passed up from the subsidiaries that incurred the losses and would then be imposed on the equity holders and unsecured creditors of the holding company. Theoretically, the SPOE resolution could avoid losses to the third-party creditors of the subsidiaries and could thereby allow the subsidiaries to continue normal operations, without entering resolution or have to take such extreme actions as an asset fire-sale.

The Federal Reserve is convinced, and we agree, that there needs to be a separate LTD requirement in order to address the too-big-to-fail problem. Unlike existing equity, LTD can be used as a fresh source of capital subsequent to a failure. Unlike common equity, LTD's loss absorbing capacity would not be at substantial risk of volatility or depletion before the covered BHC is placed into a resolution proceeding. We agree that the proposed LTD requirements would enhance the prospects for the successful resolution of a failed GSIB and thereby better address the too-big-to-fail problem than would TLAC requirements alone.

The Federal Reserve estimates that the overall covered BHCs' aggregate shortfall that would result if the TLAC requirement and the LTD requirement are adopted would be approximately $120 billion, or 1.7 percent of aggregate risk-weighted assets. Roughly $65 billion of the aggregate $120 billion shortfall could be filled through the issuance of eligible external LTD in the place of existing near eligible debt, and the remaining $55 billion shortfall could then be filled through the issuance of eligible external LTD in the place of existing deposits or other lower-cost liabilities. The Federal Reserve also

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estimates that this would result in an aggregate increased cost of funding for the covered BHCs of approximately $680 million per year. The Federal Reserve concluded that the macroeconomic costs to the economy would be minimal and that the estimated benefits from the proposal would outweigh the estimated costs.

Regulatory Capital Deduction for Investments in the Unsecured Debt of Covered BHCs

To address the potential contagion stemming from the failure of a GSIB, the proposal would amend the Basel III capital requirements and require a Federal Reserve regulated institution to deduct from its regulatory capital the amount of any investment in unsecured debt issued by a covered BHC. This regulatory capital deduction would discourage other banking institutions from investing in this debt and reduce the risk of contagion spreading to other banking institutions.

Under the Basel III capital rules, if a banking institution has a "non-significant investment" in an unconsolidated financial institution, the institution must deduct its investments in the capital of the unconsolidated financial institution to the extent the institution's investment exceeds 10 percent of the institution's common equity tier 1 capital. The proposal would amend the Basel III capital rules to require an institution with a non-significant investment in a covered BHC to deduct any investment in unsecured debt issued by the covered BHC in the same manner as if the unsecured debt were tier 2 capital using the "corresponding deduction approach."

Since the Basel III rules regarding "corresponding deductions" are very complicated, we recommend that the banking agencies issue specific guidance to community banks on this issue prior to the TLAC rules becoming effective in 2019. Although most community banks do not currently own a substantial amount of unsecured debt issued by covered BHCs, they should be warned of this rule's consequences if they do consider purchasing covered BHC debt and that the rule applies to all unsecured debt issued by a covered BHC and not just debt that is eligible under the TLAC rules. The guidance should explain how the "corresponding deduction" rules work under Basel III and the consequences to an institution's regulatory capital if covered BHC debt is purchased. When Basel III went into effect for community banks, a number of community banks were caught unaware of the complicated rules regarding investments in the capital instruments of unconsolidated financial institutions.

Conclusion

ICBA generally supports the proposal to impose an external TLAC requirement and an external LTD requirement on covered BHCs. We agree with the Federal Reserve that there is a need for both requirements and that the LTD requirement will specifically help

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address the too-big-to-fail problem. Both requirements are also important to the success of the SPOE resolution process.

Since the Basel III capital rules regarding the treatment of capital investments of unconsolidated financial institutions are very complex, we recommend that the banking agencies issue specific guidance to community banks regarding the consequences of purchasing covered BHC debt. Many community banks still do not fully understand these complicated rules and may not realize that the TLAC requirements, which are directed at covered BHCs, also may impact them.

ICBA appreciates the opportunity to comment on the Federal Reserve's proposal to require covered BHCs to maintain outstanding a minimum amount of loss-absorbing instruments, including a minimum amount of unsecured long-term debt. If you have any questions or would like additional information, please do not hesitate to contact me by email at Chris.Cole@icba.org.

Sincerely,
/s/ Christopher Cole

Christopher Cole
Executive Vice President and Senior Regulatory Counsel