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June 12, 2018

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Docket No. R-1604; RIN 7100 AF-03

Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street, SW, Suite 3E-218
Washington, DC 20219
Docket ID OCC-2018-0002

Re: Notice of Proposed Rulemaking Relating to the Recalibration of the Regulatory Capital, Enhanced Supplementary Leverage Ratio Standards for GSIBs and their Subsidiary IDIs

Dear Sir or Madam:

The Independent Community Bankers of America (ICBA)¹ appreciate the opportunity to comment on Federal Reserve Board and the Office of Comptroller of the Currency (collectively, the “Banking Agencies”) proposal that would modify the enhanced supplementary leverage ratio standards for U.S. top-tier bank holding companies identified as global systemically important bank holding companies, or GSIBs, and certain of their insured depository institution subsidiaries (“IDIs”). Specifically, the proposal would modify the current 2 percent leverage buffer, which applies to each GSIB, and instead apply a buffer that is equal to 50 percent of the firm’s GSIB risk-based capital surcharge. The proposal also would require a Board-or OCC-regulated insured depository institution subsidiary of a GSIB to maintain a supplementary leverage ratio of at least 3 percent plus 50 percent of the GSIB risk-based surcharge applicable to its top-tier holding company in order to be deemed “well capitalized” under the prompt corrective action rules.

¹ The Independent Community Bankers of America®, the nation’s voice for nearly 5,700 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 nearly 52,000 locations nationwide, community banks employ 760,000 Americans, hold \$4.9 trillion in assets, \$3.9 trillion in deposits, and \$3.3 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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The proposal would affect eight U.S. GSIBs and their IDI subsidiaries. The eight GSIBs include Bank of America Corporation, The Bank of New York Mellon Corporation, Citigroup, Inc., The Goldman Sachs Group, Inc., JP Morgan Chase & Co., Morgan Stanley, State Street Corporation and Wells Fargo & Company.

The proposal would change the uniform 2.0 percent enhanced supplementary leverage ratio (“eSLR”) requirement that would be applicable to a GSIB on a consolidated basis to a firm-specific requirement that would be equal to 50 percent of the GSIB’s risk-based capital surcharge. The maximum GSIB surcharge is currently 3.5 percent, and so for such a GSIB, the eSLR would be reduced from 5 percent to 4.75 percent at the holding company level, and from 6 percent to 4.75 percent at the bank level.

ICBA’s Comments

ICBA strongly supported the eSLR standards for GSIBs and their subsidiary IDIs when it was proposed in 2013 and the GSIB risk-based capital surcharge when it was proposed in 2015.² At that time, we said that implementing these enhanced leverage standards on the largest global banks was crucial to reducing systemic risk and addressing the problem of too-big-to-fail financial institutions in the United States. The GSIBs put the entire global financial system at risk due to their immense size, the complexity of the activities that drive their business model, and the level of risks they undertake. By raising the supplemental leverage ratios, these institutions will be less likely to fail and less interested in growing even bigger.

It is critically important that the GSIBs have sufficient capital available to absorb the losses that will accompany any future financial crisis. Higher capital requirements for these institutions will not only mean a more stable banking system and less risks to the FDIC’s Deposit Insurance Fund, but will also mitigate, to some extent, the competitive advantage these institutions have over community banks. The GSIBs are as large as they have ever been and are steadily increasing their market share and their influence over the entire financial system.

In a recent commentary in the *American Banker* entitled “Relaxing Bank Capital Requirements Would Risk Another Crisis”,³ former FDIC Vice Chairman Thomas Hoenig and former FDIC Chairman Sheila Bair point out the serious problems with reducing the capital requirements of the GSIBs. In their experience, large bank holding companies lower their capital to correspond to any new minimum requirement and distribute the excess to shareholders, or use it to subsidize the expansion of their trading and other nonbank activities, rather than to increase commercial lending. They conclude that “a strong leverage ratio is the best check against excessive risk-taking” and that the Banking Agencies’ proposal if adopted would “weaken system resiliency either to benefit shareholder distributions or to allow these eight largest banks to become even bigger by taking on more leverage and risk.”

² See our [letters](#) to the Banking Agencies dated October 21, 2013 and Jun 12, 2014 on the proposed eSLR standards and our [letter](#) dated March 9, 2015 on the proposed GSIB risk-based capital surcharge.

³ See the [commentary](#) in the *American Banker* on April 26, 2018.

Similarly, FDIC Chairman Martin Gruenberg issued a statement when the proposal was made saying that “strengthening the leverage capital requirements for the largest, most systemically important banks in the U.S. was among the most important post-crisis reforms” and this “simple approach has served well in addressing the excessive leverage that helped deepen the financial crisis.”⁴ Federal Reserve Governor Lael Brainard, who voted against the proposal, stressed in a speech following the issuance of the proposal that it was “premature to revisit the calibration of core capital and liquidity requirements for the large banking institutions” and that we should not let our large banking institutions release the capital and liquidity buffers that they have built so effectively over the past few years.⁵

ICBA opposes the proposal for the same reasons we supported the eSLR standards and the GSIB capital surcharge. Reducing GSIB capital levels would make the GSIBs and their IDI subsidiaries more likely to fail and therefore would put the entire banking system at risk of another financial meltdown. The Banking Agencies acknowledge that if the proposed rule were to be adopted, minimum tier 1 capital requirements would drop by \$9 billion for GSIBs and by \$121 billion for the GSIB IDIs. Since the Federal Deposit Insurance Fund currently has a balance of \$93 billion, one can appreciate the magnitude of this reduction in capital among our largest financial institutions. While it is unclear if the proposed changes to the CCAR Stress Capital Buffer rule would significantly mitigate the GSIB capital reductions, for policy reasons we believe it is important to examine the proposal on its own and not speculate on how other capital rules will interact with it.

The Banking Agencies argue that the standards in the eSLR rule have become a “binding constraint” rather than a backstop to the risk-based standards. They point out, for instance, that the eSLR standard is currently the most binding tier 1 capital requirement for all eight lead IDI subsidiaries of the GSIBs whereas, if the proposal were adopted, the eSLR standard would be the most binding tier 1 capital requirement for three of the covered IDIs.

Furthermore, the Banking Agencies cite concerns from certain banking organizations that the eSLR standard at the IDI subsidiary level has created incentives to reduce participation in or has increased costs for low-risk, low-return businesses. Specifically, banking organizations have stated that the eSLR standard may create disincentives for firms to provide certain banking functions, such as secured repo financing, central clearing services for market participants, and taking custody deposits and that this has an adverse safety and soundness impact on those institutions. In order to decrease incentives for firms to reduce participation in low-risk, low-return businesses and to help ensure that leverage requirements generally serve as a backstop to risk-based capital requirements, the Banking Agencies argue that changes need to be made to the current eSLR standard.

⁴ Chairman Gruenberg issued his [statement](#) on April 11, 2018. The FDIC Board did not vote to approve the proposal.

⁵ See Gov. Brainard’s [speech](#) to the Global Finance Forum on April 19, 2018 entitled “Safeguarding Financial Resilience through the Cycle.”

ICBA believes that such concerns are overblown and that without concrete evidence that the GSIBs are actually reducing their participation in low-risk, low-return businesses, this anecdotal evidence is not very compelling. Furthermore, if the Banking Agencies are so concerned about the current eSLR being a “backstop” rather than a “binding constraint,” the better solution for that problem would be to raise the risk-based capital standards for GSIBs rather than weakening the eSLR standard.

As Chairman Gruenberg pointed out in his statement regarding the proposal, the eSLR standard is an effective check on excessive leverage by the largest financial institutions. It should not be reduced just because it has become a binding constraint rather than a backstop. As one banking capital expert put it recently in the *American Banker*, “the potential risks of lowering the supplemental leverage ratio likely outweigh the risks of having the leverage ratio serve as the banks’ binding constraint. In the latter case, banks might be tempted to enter into riskier activities in order to grow, but reducing the banks’ ability to weather shocks regardless of where they might originate could invite catastrophe.”⁶

Conclusion

Community banks will never forget the impact of the 2008 economic downturn when the looming failure of our largest banks threatened to bring down our entire financial system resulting in a bailout at taxpayers’ expense. While the massive government intervention saved the megabanks, hundreds of community banks failed following the downturn while others were forced to raise significant amounts of capital or merge with healthier institutions in order to survive. The GSIBs, with their immense size, international scope and exposure, and interdependence on one another and desire to take elevated risks, should not be allowed to operate in our financial system without elevated levels of high-quality capital that will be able to absorb credit losses should another economic downturn occur.

ICBA believes the current eSLR standard provides an effective restraint on excessive leverage by the GSIBs and their IDI subsidiaries and should not be changed. We are not concerned that the eSLR is a “binding constraint” on the risk-based capital requirements of these institutions. If the Banking Agencies would like it to be more of a backstop, then they should propose a stricter GSIB capital surcharge rather than reducing the eSLR capital requirements.

We are more concerned with the huge capital reductions--\$121 billion as cited by the Banking Agencies—that would result among the IDI subsidiaries of the GSIBs if the proposal were enacted. Strong capital requirements and a strong leverage ratio are the best check against

⁶ See the [comments](#) of Michael Konczal, a fellow with the Roosevelt Institute, quoted in the *American Banker* article dated May 14, 2018 entitled “Will Capital Plan Cost Big Banks \$400 million or \$121 billion?”

excessive risk-taking by the largest banks. Undermining these protective measures will put the entire financial system at risk.

ICBA appreciates the opportunity to comment on the Banking Agencies' proposal to modify the enhanced supplementary leverage ratio standards for the GSIBs and their IDI subsidiaries. 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