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

Sir:

We would like to submit a public comment regarding the Notice of Proposed Rulemaking, dated December 12, 2012, *Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organizations and Foreign Nonbank Financial Companies*. Docket No. 1438 and RIN 7100 AD 86.

Overall, the proposal is well conceived and should improve the architecture of foreign bank supervision in the United States. It recognizes many new foreign bank supervision realities and tries to deal with them, while minimizing regulatory burden on smaller FBO presences in the United States.

However, we would like to point out that this could also be an opportunity to close the foreign parallel bank loophole and place foreign parallel bank arrangements under the supervision of the Board of Governors of the Federal Reserve System.

Foreign parallel banks are bank ownership structures where one or more banks in the United States are affiliated by common ownership, *through natural persons or their instrumentalities*, with banks in one or more foreign countries. There are many of these ownership structures spread throughout the United States. These foreign parallel bank ownership arrangements do not come under the present technical definition of a FBO. But because of the close ownership ties, they can act like one. These parallel bank structures can avoid Federal Reserve supervision altogether.

Here is one example: two of the largest private-sector banks in Venezuela, Mercantil Servicios Financieros CA (MSF) and Banesco Banco Universal CA (BBU), both have commercial bank affiliates headquartered in Coral Gables, Florida --- Mercantil Commercebank, N.A. and Banesco (USA). Through intermediate holding companies, Mercantil Commercebank N.A. is directly owned by MSF and both MSF and Mercantil Commercebank N.A. are subject to full supervisory oversight as a FBO by the Federal Reserve Bank of Atlanta.

Banesco (USA), on the other hand, is beneficially owned by the owner of BBU in Venezuela, Juan Carlos Escotet. Since there are no direct *corporate* connections between BBU and Banesco (USA), and since Banesco (USA) is a state non-member bank without a U.S. bank holding company, the Banesco-related entities, BBU and Banesco (USA), are not subject to Federal Reserve FBO oversight.

It comes down to an issue of fairness and equal treatment for the two U.S. domiciled banks in this example. In the arena of FBO supervision, home country bank supervisors are expected to have a robust program of comprehensive consolidated supervision (CCS). The state of that home country supervision program feeds into the Fed's Strength of Support Assessment (SOSA) for each FBO. If a country has not been conferred CCS status by the Federal Reserve, the Fed will typically disallow any entry of new foreign banks into the United States or constrain significant expansion of existing foreign bank presences in the U.S. Venezuela does not have CCS status and it is not likely to receive such status in the intermediate future.

So Venezuela's present CCS status impacts bank supervisory deliberations on any significant expansion plans by Mercantil Commercebank, N.A. Banesco (USA), on the other hand, can expand subject only to State of Florida and the FDIC approvals. The Fed, its CCS criteria, and its SOSA process being totally out of the picture.

Structures not subject to Federal Reserve supervision, through the use of foreign parallel banks, is a loophole in the foreign bank supervision fabric. A loophole that could become more attractive as prudential standards for FBOs become stricter, such as those now being proposed in the Notice of Proposed Rulemaking.

Thank you for the opportunity to comment.

Ron Lindhart
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