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March 28, 2011

VIA FEDERAL eRULEMAKING PORTAL

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Attn: Jennifer J. Johnson

Re: Docket No. R-1405; RIN No. 7100-AD64: Notice of Proposed Rulemaking Regarding Definitions of “Predominantly Engaged in Financial Activities” and “Significant” Nonbank Financial Company and Bank Holding Company (12 CFR Part 225)

Dear Ms. Johnson:

The American Insurance Association (AIA) appreciates this opportunity to submit comments on the Federal Reserve Board’s Notice of Proposed Rulemaking (NPR) regarding the definitions of “Predominantly Engaged in Financial Activities” and “Significant” Nonbank Financial Company and Bank Holding Company (12 CFR Part 225). The proposal was published, Friday, February 11, 2011 in Volume 76, No. 29, of the Federal Register, at pages 7731-7740, and is statutorily compelled by sections 102(a)(7) and (b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

AIA represents approximately 300 major U.S. insurance companies that provide all lines of property-casualty insurance to U.S. consumers and businesses, writing more than \$117 billion annually in premiums. AIA’s members have a substantial interest in this NPR, specifically the definition of “Significant Nonbank Financial Company.” It is critical to AIA that this definition be both appropriate and not subject to any misunderstanding by insurers, their customers, the public and the regulatory community itself. In this connection, we believe that the regulation should make clear that there is a crucial difference between a company that has been determined to be “significant” based solely on its size, and a company that has been determined to be “systemic” and thus subject to heightened prudential regulation by the Federal Reserve Board (Board). A failure to clearly make this distinction will almost certainly cause confusion in the marketplace and potentially damage the competitive position of “significant” companies that have not been determined to be “systemic” and are unlikely ever to be brought under the Board’s supervision.

In this regard, AIA notes that there has been widespread misunderstanding of the Board's proposal reported in the financial press and elsewhere.¹ The distinction between the definition of a "significant" nonbank financial company and a "systemically important" nonbank financial company (i.e., one that has been designated by the Financial Stability Oversight Council (FSOC) for supervision by the Board) has been lost on many financial industry participants and observers. It is of critical importance for the Board to clarify the point that a nonbank financial company is not automatically regarded as systemically important and subject to Section 113 designation for heightened prudential supervision simply because it possesses total consolidated assets of \$50 billion or more.

We believe that this necessary distinction can be clarified by refining the proposed definition of "significant nonbank financial company" to clearly distinguish between a "significant" company based on size and a "systemically significant" company based on its selection for Board supervision.

The NPR's definition set forth in section 225.302(b) reads as follows:

"(b) Significant nonbank financial company. A 'significant nonbank financial company' means—

- (1) Any nonbank financial company supervised by the Board; and
- (2) Any other nonbank financial company that had \$50 billion or more in total consolidated assets (as determined in accordance with the applicable accounting standards) as of the end of its most recently completed fiscal year."²

We recommend that this definition in section 225.302(b) be amended to read as follows:

"(b) Significant nonbank financial company. A 'significant nonbank financial company' means—

- (1) a systemically significant nonbank financial company supervised by the Board, as defined in section 225.300(d); and
- (2) Any other nonbank financial company that had \$50 billion or more in total consolidated assets (as determined in accordance with the applicable

¹ See, e.g., Jim Puzanghera, "Federal Reserve proposes rules for designating 'systemically important' companies," Los Angeles Times (February 9, 2011) ("The Fed is designing the rules for the Financial Stability Oversight Council, a new panel of top regulators set up by the Wall Street reform law to monitor the financial system for major threats. Under the proposal, banks and non-bank financial firms would be considered 'significant' and subject to greater oversight if they have more than \$50 billion in total consolidated assets."), available at <http://articles.latimes.com/2011/feb/09/business/la-fi-fed-rules-20110209>; Kerri Panchuk, "Fed opens comment on Dodd-Frank regulation of nonbank firms," HousingWire Magazine (February 8, 2011) ("A firm, under the rules, would automatically be significant and subject to more regulatory authority if it has \$50 billion or more in total consolidated assets or is considered systemically important to the overall financial system, the Fed said."), available at <http://www.housingwire.com/2011/02/08/fed-opens-comment-on-dodd-frank-regulation-of-nonbank-firms>.

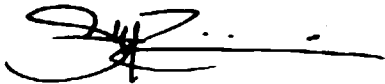
² 76 Fed. Reg. at 7740.

accounting standards) as of the end of its most recently completed fiscal year and is not supervised by the Board.”

We believe this approach will make it clear that a company that is defined by Board rule as “significant” because of its combined asset size is wholly different than a company that is determined by the FSOC to be “systemic” and therefore subject to Board supervision as outlined in Subtitle C of Title I of the Dodd-Frank Act. Defining a company as “significant” is a simple mechanical, accounting matter. Determining that a company should be placed under Board supervision, however, is a matter that involves consideration of numerous statutory criteria that are the subject of a separate FSOC rulemaking and involves a substantially more complex inquiry into a company’s potential to general systemic risk and its financial vulnerability.³

We hope the Board will make every reasonable effort to prevent any confusion about the enormous difference between the two terms and processes. This clarity can be furthered by cleanly separating these two concepts, as we have proposed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. Zielezienski', with a long horizontal flourish extending to the right.

J. Stephen (“Stef”) Zielezienski
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³ Indeed, AIA has submitted extensive comments on the FSOC’s proposed rule implementing Section 113 of the Dodd-Frank Act.