March 15, 2018

Via Electronic Transmission

Ann E. Misback, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Re: Proposed Supervisory Guidance on Core Principles for Effective Senior Management, the Management of Business Lines and Independent Risk Management and Controls for Large Financial Institutions (Docket No. OP–1594)

Dear Ms. Misback,

We appreciate the opportunity to provide comments to the Board of Governors of the Federal Reserve System ("Board" or "Federal Reserve") in connection with the Board's notice of proposed guidance describing core principles of effective senior management, the management of business lines, and independent risk management and controls for large financial institutions (the "Guidance").[1] As described in the preamble, this proposal is designed to complement the Board's proposed guidance regarding effective boards of directors and to set forth supervisory expectations relevant to the assessment of a large financial institution's ("LFI") governance and controls under the Board's proposed new LFI rating system.

The undersigned regional banks are traditional banking organizations predominantly focused on domestic business activities. Each undersigned bank has assets above or near the $50 billion threshold included in the Proposal, but is modest in size in relation to the U.S. banking sector. Compared to the other institutions that will be subject to the Guidance, namely global systemically important banks ("G-SIBs") and those firms subject to supervision by the Large Institution Supervision Coordinating Committee ("LISCC"), the undersigned institutions are significantly less complex and have been recognized by the Federal Reserve as "Large and Noncomplex Firms."[2]

The undersigned banks submit this letter as a complement to our previous comments regarding the Federal Reserve's proposed new LFI rating system.[3] As stated in our previous letter, we are concerned that the continued and expanded use of the $50 billion asset threshold to identify financial institutions as systemically important and subject to enhanced prudential standards is inappropriate and would add to a growing list of "one-size fits all" prudential regulations. This approach would be inconsistent with recommendations from the U.S. Department of the Treasury ("Treasury")[4] and ongoing efforts in federal

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1 Federal Reserve System, Proposed Supervisory Guidance on Effective Risk Management, 83 Fed. Reg. 1351 (Jan. 11, 2018).

2 *See* Board of Governors of the Federal Reserve System, SR 15-19: Federal Reserve Supervisory Assessment of Capital Planning and Positions for Large and Noncomplex Firms, Dec. 18, 2015.

3 RE: Notice of Proposed Rulemaking – Large Financial Institution Rating System; Regulations K and LL (Docket No. R-1569) (RIN 7100-AE82), *submitted February 15, 2018*.

4 *See* U.S. Dep't of the Treasury, A Financial System that Creates Economic Opportunities: Banks and Credit Unions (June 2017) ("Treasury Report").

financial regulatory agencies and Congress to tailor regulations based upon the level of systemic risk posed by a financial institution.[5]

We support the Board's objective of establishing clear supervisory expectations for risk management, including differentiating expectations for a firm's board of directors and senior management. As the Board has recognized, large and noncomplex firms do not present the same level of risk to the safety and soundness of the financial system as G-SIBs and LISCC firms. However, the Guidance does not distinguish in a meaningful way between these firms and institutions such as the undersigned banks that pose considerably less risk to the financial system. We note that the Guidance makes an attempt to differentiate firms based on complexity in the application of core principles for the management of business lines.[6] However, this distinction does not sufficiently tailor the expectations and requirements for LISCC firms and non-LISCC firms.

Our proposals below include ways in which the Board can further accomplish its goal of providing clear standards for large firms' risk management practices while appropriately tailoring their scope and applicability based on an individual firm's characteristics and risk profile. In that regard, we recommend the Board: (I) reconsider the use of a $50 billion asset threshold in light of industry and legislative developments; (II) avoid duplicative examinations of business lines that are within a regulated bank subsidiary of a noncomplex bank holding company ("BHC"); and (III) revise the Guidance to include only principles-based standards that are adaptable to the unique characteristics of individual firms.[7]

I. The Board should reconsider its use of the $50 billion threshold in light of industry and legislative developments

The Guidance was published for comment during a period of considerable debate by Congress regarding whether the $50 billion asset threshold contained in section 165 of the Dodd-Frank Act remains a viable and accurate measure of systemic risk of a financial institution. Concurrently, legislation has been advanced in both the U.S. Senate and the U.S. House of Representatives to modify section 165.[8] Regardless of whether Congress modifies section 165 to raise the $50 billion threshold or replace it with a risk-based approach, we urge the Board to revisit the scope and application of its Guidance using a more dynamic assessment of risk,[9] or delay its application until Congress acts.

II. The Board should generally rely on the work performed by a bank subsidiary's primary federal regulator when assessing risk management of core business lines

The Guidance would apply the proposed standards for management of business lines to non-LISCC firms' so-called "core" business lines.[10] The Board proposes to examine such business lines using a risk-based approach based on factors such as the business line's size and complexity, recent supervisory

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[5] Treasury and others have recommended that enhanced prudential standards not be applied to less complex institutions and regulatory thresholds should be set using risk-based criteria rather than asset size alone.

[6] *See Proposed Guidance*, 83 Fed. Reg.at 1354, 1358.

[7] We furthermore agree with the comments provided separately by industry trade associations including the American Bankers Association, the Financial Services Roundtable, and The Clearing House Association.

[8] *See* S. 2155, Economic Growth, Regulatory Relief, and Consumer Protection Act, 115th Cong.; see also, H.R. 3312, Systemic Risk Designation Improvement Act, 115th Cong.

[9] For example, the Board might consider an approach to tiering and tailoring regulatory expectations that considers a firm's particular risks and activities such as the systemic indicator scoring system used to identify G-SIBs.

[10] The Guidance describes these "core" business lines as "any business line where a significant control disruption, failure, or loss event could result in a material loss of revenue, profit, or franchise value, or result in significant consumer harm." *See Proposed Guidance*, 83 Fed. Reg. at 1354.

experience, and relative growth and maturity.[11] However, this approach will result in significant supervisory burdens because the scope and application of the Guidance does not defer to or require leveraging of supervisory activities of a subsidiary bank's primary regulator where a core business line is conducted within the bank.

The undersigned regional BHCs operate primarily through one or more insured depository institution subsidiaries, with an average of around 95% of their assets contained within their subsidiary banks. These activities are already examined regularly by the bank's primary federal regulator. Therefore, a separate review by the Board of a core business line that is entirely within the subsidiary bank would be duplicative and unnecessary. Treasury has specifically noted that such "areas of overlap can create confusion and increased costs for supervised entities, as well as increased burdens for the regulatory agencies themselves."[12]

To reduce these supervisory burdens and inefficiencies, the Board should rely on the supervisory work performed by the subsidiary bank's primary federal regulator to the greatest extent possible when assessing the governance and controls of a noncomplex BHC. Combined with the Board's already extensive offsite monitoring activity, the primary supervisor's examinations and findings should be sufficient to enable the Board to form its conclusions regarding a noncomplex BHC's management of core business lines. The final Guidance should explicitly state that the Board will only conduct separate examinations of business line activities within a subsidiary bank in *very limited* circumstances and the Guidance should list those circumstances to ensure consistent application by examiners.

In the limited circumstances where the Board does conduct a review of activities in a noncomplex BHC's subsidiary bank, the Guidance should mandate that the Board's examiners coordinate with the primary regulator for the subsidiary bank. Currently the Guidance states that the Board will "to the extent possible, evaluate a firm's governance and controls in coordination with other relevant Federal and state agencies, particularly the primary regulators of the firm's insured depository institution subsidiaries."[13] However, this language does not provide any clear instruction to examination staff regarding such coordination. To ensure efficiency and reduction of supervisory burdens, the Board should mandate in the Guidance that its examiners coordinate with the subsidiary bank's primary regulator regarding matters such as examination schedule, scope, first day letters, follow-up requests, and communication of findings.[14] The FFIEC's process for Technology Service Provider examinations provides a model for such interagency coordination that provides for one examination conducted by a lead agency and one final examination report.[15]

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11 *See id.*

12 *See* Treasury Report at p.30.

13 *See id.* at 1353.

14 Such an approach is consistent with Treasury's recommendations to address issues with regulatory duplication and overlap, including the recommendation that agencies work together to increase coordination of supervision and examination activities. *See* Treasury Report at 31-32.

15 *See* Federal Financial Institutions Examination Council *IT Examination Handbook – Supervision of Technology Service Providers* (2012) at p.2 "Supervisory policy provides for interagency examinations of TSPs that service insured financial institutions supervised by more than one federal financial institution regulator. The policy is expected to eliminate the need for separate examinations of TSPs by more than one regulator and to result in more efficient use of examiner resources and with less burden to the supervised TSP."

This simpler and more efficient supervisory regime would provide meaningful tailoring and burden reduction for noncomplex LFIs without creating additional risk to the safety and soundness of the financial system.

III. The Guidance should be limited to principles-based standards that allow firms to adapt the Guidance to their structure, activities, and risk profile

The undersigned banks support the Board's efforts to set clear supervisory standards for risk management but we are concerned that the Guidance contains a large number of prescriptive expectations that could restrict otherwise safe and sound practices and lead to a "check the box" compliance exercise. The Board should abandon the granular approach reflected in the detailed standards and rely on the broader, principles-based standards in the Guidance to set supervisory expectations for LFIs' risk-management activities while allowing firms the flexibility to implement the Guidance in a way that best suits their circumstances.

As proposed, the Guidance sets forth sixteen core principles related to effective senior management and the three lines of defense. These high-level principles are consistent with the Board's previous guidance regarding risk management at LFIs and provide sufficient guidance to examiners and the industry regarding sound risk management practices. However, the detailed guidance appended beneath each core principle goes much further. In total, the Guidance contains almost 150 individual expectations for an institution's senior management, business line management, and independent risk management and controls. The practical effect of such granular standards is to encourage a "one-size-fits-all" approach to risk management, as opposed to encouraging practices that are best suited to the activities and structure of an individual firm and the evolving nature of risk management practices.

The Board should revise the Guidance to remove the prescriptive requirements and ensure that the expectations remain appropriately principles-based. Firms should be permitted to design practices that are tailored to the businesses, risks of the organization, and safe and sound banking practices. Further, the Board should seek to ensure that it has provided clear instruction to its examination staff as to how to review a firm's risk-management practices against principles-based Guidance so that it is not enforced as though it were a law or regulation. Deviation from guidance should not result in a regulatory finding or impact supervisory ratings unless such deviation represents a clear unsafe or unsound practice or a violation of the BHC's clear legal or regulatory requirements.

We thank the Board for the opportunity to comment on the Guidance and respectfully ask for consideration of the recommendations and suggestions in this letter.

Sincerely,

BMO Financial Corp.
CIT Group, Inc.
Discover Financial Services
Fifth Third Bancorp
M&T Bank Corporation
Regions Financial Corporation
SunTrust Banks, Inc.