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COMMITTEE ON FINANCIAL SERVICES
CHAIRMAN
SUBCOMMITTEE ON FINANCIAL INSTITUTIONS AND CONSUMER CREDIT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

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August 3, 2012

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
20th and C Streets, NW
Washington, DC 20551

Dear Chairman Bernanke:

We write to address the Federal Reserve Board's proposed rule on the prudential supervision of non-bank systemically important financial institutions.

As you know, sections 165 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) requires the Federal Reserve Board to promulgate rules and regulations establishing enhanced prudential standards for bank holding companies with consolidated assets of $50 billion or more as well as nonbank financial companies that are designated by the Financial Stability Oversight Council. These standards include enhanced risk-based capital and leverage requirements, liquidity requirements, risk management requirements; resolution plan and credit exposure report requirements; and concentration limits.

Section 165(b)(3)(a) specifically directs the Federal Reserve Board to "take into account differences among non-bank financial companies supervised by the Board of Governors and bank holding companies..." when developing the prudential standards. Despite these statutory requirements, the Federal Reserve Board proposed a rule on January 5, 2012 that gives little distinction between the prudential standards required for bank holding companies and the non-bank firms that are designated as systemically important.

On May 16, 2012 the Financial Institutions and Consumer Credit Subcommittee held a hearing to learn more about the impact that systemic designation will have on a non-bank firm. Mr. Gibson, Director, Division of Banking Supervision and Regulation for the Federal Reserve Board stated in his written testimony that:

"As we made clear in the proposal, however, the Federal Reserve may tailor the application of the enhanced standards to different companies on an individual basis or by category, taking into consideration each company's capital structure, riskiness, complexity, financial activities, size,

and any other risk-related factors that the Federal Reserve deems appropriate. Working out the exact details of how enhanced prudential standards will apply to nonbank financial companies will certainly require a thoughtful and iterative analysis of each designated company over time. Once the Council designates one or more nonbank financial companies, the Federal Reserve is committed to thoroughly assessing the business model, capital structure, and risk profile of each designated company and tailoring the application of the enhanced standards to each company on an individual basis or by category, as appropriate. The Federal Reserve will also give careful consideration to the appropriate transition period required for newly designated nonbank financial companies to comply with the enhanced prudential standards and other regulatory requirements."

While we do not question that some non-bank financial companies will be designated as systemically important, and agree that determining the appropriate prudential standards for non-bank financial companies presents unique challenges, we are concerned that making these determinations after a firm is designated may be problematic. During our hearing it was clear that the standards developed in the January 5th proposed rule are "bank-centric." Tailoring standards after a firm is designated does not resolve the degree of uncertainty for non-financial firms. Will a firm have to adhere to the broad prudential standards for systemically important firms and then revise their business models as the Federal Reserve Board "tailors" their prudential standards? What affect will fundamentally changing business models have on a firm's ability to serve its customers? These are legitimate questions that need to be addressed as the proposed rule is finalized.

We urge the Federal Reserve Board to consider the unique features of non-bank firms as the rule is finalized. Non-bank firms need prudential standards different from the bank capital regime; therefore we encourage the Board to craft a rule that will allow for the prudential supervision of SIFIs to be tailored to the unique business structure of each type of covered company.

Thank you in advance for your consideration of this request.

Sincerely,

Shelley Moore Capito, M.C.

Carolyn Maloney, M.C.