



AUSTRALIAN BANKERS'  
ASSOCIATION INC.

Tony Burke  
Director, Industry Policy & Strategy

AUSTRALIAN BANKERS' ASSOCIATION INC.  
Level 3, 56 Pitt Street, Sydney NSW 2000  
p. +61 (0)2 8298 0409 f. +61 (0)2 8298 0402

[www.bankers.asn.au](http://www.bankers.asn.au)

22 April 2013

Mr Robert deV. Frierson  
Secretary  
Board of Governors of the Federal Reserve System  
20<sup>th</sup> Street and Constitution Avenue, N.W.  
Washington, DC 20551  
USA  
[regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov)

Dear Mr Frierson,

**Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organizations and Foreign Nonbank Financial Companies (Docket No. R-1438 and RIN 7100 AD 86)**

Thank you for the opportunity to comment on the Proposed Rule for *Enhanced Prudential Standards and Early Remediation Requirements for Foreign Banking Organizations and Foreign Nonbank Financial Companies*.

The Australian Bankers' Association (ABA) is the peak national body representing 24 member banks that are authorised by the Australian Prudential Regulation Authority (APRA) to carry on banking business in Australia. Members of the ABA include the four major Australian banks, foreign banks that are represented and carry on banking business in Australia as Australian banks and other Australian banks. A number of our members are impacted by the Proposed Rule.

The ABA acknowledges and strongly supports the submissions of the Institute of International Bankers (IIB) and the Institute of International Finance (IIF) on the Proposed Rule. A number of members of the ABA are also members of the IIB and IIF.

**General comments on the proposals**

There are international prudential standards that address capital, liquidity, exposures and leverage. It is the ABA's view that the best way to promote global stability and regulatory effectiveness is to continue the collaboration between regulators and international standard-setting bodies (i.e. Financial Stability Board and the Basel Committee on Banking Supervision) in developing a harmonised, global prudential regulation framework, rather than pursuing individual and potentially conflicting models. The Basel Committee is focused on the effective supervision of international banking groups and has undertaken a lot of work in this area in recent years (through the Core Principles of Effective Banking Supervision), for example in strengthening home-host supervision and through developments in relation to supervisory colleges and cross border resolution.

The ABA notes the policy framework for the Proposed Rule does allow for some flexibility and targets banks with larger US operations. However, it is recommended that there should be greater flexibility in the proposals with regard to countries such as Australia, which have strong and internationally accepted prudential frameworks and follow international regulatory policy.

We also note that the low thresholds in the proposed rule (\$10 billion and \$50 billion) will impose a significant compliance impact on many institutions, and request that the thresholds be reviewed.

### **The Australian context**

Australian banks operate in the US through a number of structures including branches, agencies and subsidiary entities. Some ABA member banks trigger the thresholds in the proposed rule and therefore would be significantly impacted by the proposed requirements.

The proposals do not appear to give recognition to countries such as Australia that already have strong prudential regimes. Australia has a robust prudential framework, with all authorised deposit-taking institutions (ADIs) and conglomerate groups (those which include ADIs) subject to prudential regulation by the Australian Prudential Regulation Authority (APRA).

Australia was one of the first countries to implement the Basel III capital requirements, on 1 January 2013, and will also follow the Basel III liquidity rules. In addition, APRA is currently consulting on proposals for the supervision of conglomerate groups which include governance, risk exposure, capital and risk management requirements for the entire consolidated group. The proposals seek to implement the principles in the final paper issued last year by the Joint Forum on the supervision of conglomerate groups<sup>1</sup> and will address many areas the proposals for Foreign Banking Organisations are aimed at, including capital, liquidity, risk management and stress testing requirements at a group level.

Additionally, it is likely that requirements for Domestically Systemically Important Banks (D-SIBs) will be introduced in Australia. Banks identified as 'systemic' will be required to meet tougher prudential requirements, but would also be impacted by the Proposed Rule.

It is noted that APRA has Memorandums of Understanding ("MOU") with the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency and the Federal Deposit Insurance Corporation, the purpose of which is to ensure that regulators continue to work cooperatively on the development of consistent and effective regulatory rules.

The ABA therefore believes that the Proposed Rule should recognise and support the importance of home country regulation, coordination with home country regulators, and the ongoing development and application of international standards.

### **Concluding remarks**

There is a co-ordinated international response to the issues which the Proposal Rule seeks to address, which has imposed robust supervisory measures. Australia has been at the forefront of efforts to adopt these globally agreed measures.

It is important that there continues to be international coordination with respect to regulation, and the Proposed Rule diverts from the long-standing approach of consolidated supervision by home-country regulators. If the proposals are implemented in their current form, it may well lead to other countries developing their own frameworks, leading to diverging regulatory frameworks, global inconsistency and an unwieldy cross border regulatory regime across the globe.

---

<sup>1</sup> Joint Forum, *Principles for the supervision of conglomerate groups*, 24 September 2012.

Additional constraints will impose additional costs and burdens, many of which are unnecessary in the ABA's view, and may ultimately damage the U.S. financial industry as some FBOs review their operations in the US.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Tony Burke', with a stylized, looped flourish at the end.

---

Tony Burke