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February 15, 2018

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

Re: Proposed Guidance on Supervisory Expectations for Boards of Directors (Docket No. OP-1570)

Dear Ms. Misback:

UBS appreciates the opportunity to comment on the proposed guidance (the "Proposal") by the Board of Governors of the Federal Reserve System (the "Board") on supervisory expectations for boards of directors. The Proposal helpfully establishes principles intended to focus on the performance of a board's core responsibilities and more clearly distinguish these from the responsibilities of senior management. Our comments are intended to respond to the Board's request for comment on the application of these principles to the boards of intermediate holding companies ("IHCs") of foreign banking organizations ("FBOs"). In addition to this comment letter, UBS has participated in the preparation of comment letters submitted by The Clearing House Association, American Association of Bank Directors, SIFMA, and the Institute of International Bankers and strongly supports their comments and recommendations.

We strongly support the Board's emphasis on the oversight responsibilities of the board of directors and the factors that make boards effective as they execute such oversight responsibilities. As the Board considers how to tailor the Proposal for the unique circumstances of IHC boards, we consider the following four factors to be critical:

- The role of IHC boards of directors relative to the global parent organization, particularly in the context of setting strategy, compensation, succession planning and board composition;
- Board effectiveness should be assessed against core principles to accommodate differing institutional structures or board charters in order to avoid a "check-list" or "one-size-fits-all" approach to evaluating board effectiveness;
- The proposed Large Financial Institution ("LFI") rating system should not apply to IHCs until the proposed guidance on board effectiveness is amended, proposed and finalized to appropriately contemplate governance frameworks employed by IHCs nor should IHCs be held to higher standards that may exist within prevailing supervisory guidance in the absence of a revised proposal; and
- Boards of directors should not be required to provide the Board with a self-assessment of effectiveness as part of the Board's evaluation of board effectiveness, in order to ensure that such assessments retain the candor necessary to improve performance and avoid having these become a check-the-box exercise.

The following sections offer several suggestions for revision of the board effectiveness attributes described in the Proposal. Additionally, we believe that the existing supervisory guidance, interagency initiatives and regulatory requirements should be harmonized with the Proposal, once finalized, to create a consistent standard for effective board governance. We welcome further discussion on these and related issues as you work to finalize the Proposal.

Scope of IHC Board Mandate

Strategy-Setting

As applied to IHCs, the attribute entitled "*Set Clear, Aligned and Consistent Direction*" in the Proposal should consider the process by which business strategy and risk tolerance are considered, developed and implemented within the context of an IHC subsidiary of an FBO. An IHC board sets its strategy and risk tolerance within the context of the overall strategy and risk tolerance determined and set by the board of its sole shareholder, the parent FBO, and does not have independent authority to make ex-post changes in the direction or scope of that strategy or risk tolerance. While the conceptual aspects of this attribute generally align with practices that occur at the foreign parent board and those put forth by the Basel Committee's Corporate Governance Principles for Banks, board effectiveness guidance should ensure that it sufficiently considers that IHCs generally are not in a position to establish a standalone business strategy and risk framework for the IHC. That said, for some organizations, IHC board members may, in fact, serve as senior managers of the global FBO and, in those cases, would be actively engaged in the dialogue on strategy and risk tolerance setting at the global level, as well as, how that would be applied to US-based activities and business lines.

On a more granular level, references to setting "firm-wide" risk limits should be changed to reflect that the IHC board's control and oversight duties are limited to the IHC, on a standalone basis, or the combined US operations. Additionally, the list of significant policies and programs outlined in this attribute implies that the IHC board, as opposed to the parent board, has the authority to be the primary approver of these policies, which may not always be the case. A more effective approach to incorporating the role of the IHC board could consider its review and ratification role of important policies to confirm the alignment with regulatory requirements and supervisory expectations prior to approval or adoption by the parent board.

Compensation and Succession Planning

The attribute entitled, "*Hold Senior Management Accountable*" in the Proposal states that an effective board should establish and approve financial and nonfinancial performance objectives for senior management and approve succession planning. This may be challenging for IHCs, in which the establishment and approval of these items typically occurs at the level of the parent FBO's board in line with firm-wide objectives with input and ongoing support through recommendations and monitoring as appropriate from the IHC board. Executive positions such as the CRO and CAE, as delineated in the Proposal, may not necessarily be within the purview of the IHC board's mandated responsibilities but, in fact, may be subject to independent global senior managers (e.g. Global CRO) or global boards to ensure the efficacy of a firm's segregation of duties framework. Succession planning for key officials identified in the Proposal would equally be subject to the same independence framework. In sum, we feel strongly that the Proposal should not contemplate that IHCs will review and ratify, where appropriate, the financial and nonfinancial performance objectives and succession planning set at the parent level.

Board Composition and Governance Structure

Additionally, the attribute entitled, "*Maintain a Capable Board Composition and Governance Structure*" should be evaluated in light of the composition of IHC boards which may be comprised of a majority of senior or business line management with a minority of independent and non-executive directors. With respect to IHCs, the final guidance should acknowledge that decisions about board composition and governance structure are ultimately made by its sole shareholder, the parent FBO, through an established director nominating and approval framework that is subject to the review and oversight of the parent FBO's home country regulator.

"Checklist" Approach

Although helpful in context, we believe that the examples provided in the Proposal imply a checklist approach to evaluating board effectiveness, which we feel would not take into account differences in firms' structures and operations. For example, while we are generally supportive of the concepts expressed in the attribute entitled "Support the Independence and Stature of Independent Risk Management and Internal Audit", the statement that *"an effective board can identify specific instances or decisions where the independence and stature—or lack thereof— of the independent risk management and internal audit have materially impacted business deliberations, decisions, practices, and/or the firm's strategy,"* suggests a litmus test for board effectiveness and could compel examiners to scrutinize board documentation and minutes to specifically identify such instances. Instead, the attribute should eliminate this "metric" and should rely upon other supervisory guidance that focuses on assessing the effectiveness of independent risk management functions and internal audit and evaluate the oversight and review/challenge role of the board with respect to these functions' resources and adherence to internally defined standards and alignment with industry practices and supervisory expectations.

In addition, the attribute entitled, *"Set Clear, Aligned, and Consistent Direction"* within its description of an effective board's assessment of significant policies, programs and plans relative to the firm's strategy, risk tolerance and risk management capacity includes a list of "significant" policies and programs, which includes "the firm's capital plan, recovery and resolution plans, audit plans, enterprise-wide risk management policies, liquidity risk management policies, compliance risk management program, and incentive compensation and performance management programs." This delineation of specific policies and programs infers a "check-list" requirement that all firms require their boards to review and assess these types of policies, programs and plans, rather than a more flexible, principles-based approach that would take into account the differing roles and responsibilities between senior management and the board and its subcommittees that may exist across IHCs and FBOs.

Finally, consistent with the overall theme that there is no "one-size-fits-all" for a board's composition or governance structure, the Proposal and guidance provided to supervisory examination teams should reinforce that a firm's board, regardless of whether it is a bank holding company or an IHC, must have discretion and flexibility as to its composition, how it conducts its meetings and the size and number of board committees, and have comfort that its decisions in this regard will not be measured against an inflexible set of criteria.

Self-Assessments

With regard to board self-assessments, we feel that there should not be a requirement or expectation that they be shared with the Board. We are not opposed to, and we have in the past, shared the high level results of board self-assessments with the Board, but the sharing of specific questions and responses may have a chilling effect on board member responses and defeat the goal of candid self-assessments, particularly if such assessments were to become one of the principal bases for the supervisory evaluations of a board's effectiveness under the proposed LFI rating system.

Proposed LFI Rating System

With regard to the proposed LFI rating system, we strongly believe that the guidelines for effective board governance for IHCs should be developed, proposed and finalized prior to the application of the LFI rating system to IHCs. Further, the Board should take measures to avoid situations where IHCs might be subject to more stringent standards than those implied by the Proposal and potentially result impede the equality of competitive opportunity and treatment of FBOs. In the absence of final board effectiveness guidance for IHCs, it would be difficult for IHCs to implement and align with supervisory expectations contemplated within the "Governance and Controls" component of the rating system, particularly the relationship between the board of director and subcommittees and senior management.

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We appreciate the opportunity to provide our views and respectfully request that the Board consider our suggestions on the Proposal. We feel strongly that the final guidance issued by the Board should account for the unique circumstances surrounding governance structures of IHC subsidiaries of FBOs operating in the United States.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom Naratil', written in a cursive style.

Tom Naratil
President, Americas
CEO, UBS Americas LLC
Co-President, Global Wealth Management
Group Executive Board, UBS Group AG

Cc: IHC Board of Directors
Michael Crowl, Americas General Counsel
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