June 21, 2019

Via Electronic Mail

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
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Washington, D.C. 20219

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

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, D.C. 20249

Re: Prudential Standards for Large Foreign Banking Organizations; Revisions to Proposed Prudential Standards for Large Domestic Bank Holding Companies and Savings and Loan Holding Companies (FRB Docket No. R-1658, RIN 7100-AF45)

Proposed Changes to Applicability Thresholds for Regulatory Capital Requirements for Certain U.S. Subsidiaries of Foreign Banking Organizations and Application of Liquidity Requirements to Foreign Banking Organizations, Certain U.S. Depository Institution Holding Companies, and Certain Depository Institution Subsidiaries (Docket ID OCC–2019-0009, RIN 1557-AE63; FRB Docket No. R-1628B, RIN 7100-AF21; FDIC RIN 3064-AE96)

Ladies and Gentlemen:

Santander Holdings USA, Inc. ("SHUSA") appreciates the opportunity to comment on: (1) the notice of proposed rulemaking issued by the Board of Governors of the Federal Reserve System (the "Federal Reserve") regarding proposed changes to the enhanced prudential standards ("EPS") for large international banks;[1] and (2) the notice of proposed rulemaking issued by the Federal Reserve, the Office of Comptroller of the Currency ("OCC") and the Federal Deposit Insurance Corporation ("FDIC"), referred to collectively as the "Agencies," regarding proposed changes to the applicability thresholds for certain regulatory capital and liquidity requirements.[2]

<u>Santander US Background</u>

SHUSA, which is headquartered in Boston, MA, is a wholly-owned subsidiary of Banco Santander, S.A. ("Santander"). Founded in 1857, Santander is a geographically-diversified retail and commercial bank that serves more than 125 million customers in 10 core markets in Europe, Latin America, and the U.S.

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[1] 84 Fed. Reg. 21988 (May 15, 2019)
[2] 84 Fed. Reg. 24296 (May 24, 2019)

SHUSA is the intermediate holding company ("IHC") for Santander's U.S. businesses and, on a consolidated basis, comprises more than 17,500 employees, 5.2 million customers and assets of over $135 billion. SHUSA's subsidiaries include: Santander Bank, N.A., a leading retail and commercial bank; Santander Consumer USA Holdings, Inc., a national auto finance company; Banco Santander International of Miami; Banco Santander Puerto Rico; and Santander Investment Securities Inc. of New York.

Executive Summary

SHUSA shares the Agencies' goal of a regulatory framework that more closely aligns rules for foreign-owned banks ("FBOs") with those applicable to domestic banks and, in each case, the risks posed to the U.S. financial system. SHUSA believes the proposals are consistent with this goal and generally align the regulatory framework for FBOs with the proposed framework for large U.S. BHCs. SHUSA further believes the proposed framework would promote a more level playing field between banks that share a similar business model, resolution strategy, and risk-profile.

Under the proposed framework, SHUSA would be designated as a Category IV FBO, subject to "reduced capital, liquidity, and risk management requirements that reflect their more limited risk profile." SHUSA believes this categorization is appropriate in light of our systemic risk indicators, size, and business model.

SHUSA commends and supports the Agencies' ongoing efforts to assess the impact of regulations while exploring alternatives to improve regulatory simplicity, transparency, and efficiency. In recognition and furtherance of these shared goals, and of the principles of national treatment and equality of competitive opportunity between foreign and domestic banking organizations,[3] below we include for consideration two recommendations related to the timing of Capital Plan submissions and implementation of the overall proposals for FBOs.

Comments on Proposed Rulemaking

As context for our recommendations, we begin with a brief overview of Santander's business model, alignment with and support for the FBO prudential regulatory framework, and risk profile.

Decentralized Subsidiary Business Model

Santander's subsidiary-oriented business model is well-established, deployed in the countries in which Santander operates, and optimal for a multiple-point-of-entry ("MPOE") resolution strategy. The main strengths of Santander's business model include, but are not limited to:

Legal Form & Supervision

- Santander businesses are organized in distinct subsidiaries operating in different jurisdictions.
- Each subsidiary is primarily supervised by host country authorities.

Governance

- Governance structures are established and maintained at the subsidiary level.

[3] In the case of FBOs, the Federal Reserve is required to "give due regard to the principle of national treatment and equality of competitive opportunity," Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5365(b)(2).

- Separate boards of directors include independent directors, in addition to other local internal controls.
- Subsidiary executives manage subsidiaries' risk based on local board-approved risk appetite statements consistent with the local business needs and economic environment.
- Santander establishes country and regional heads for specific geographic regions.

Funding

- Each subsidiary manages its own capital and liquidity as well as its access to markets.
- Capital and liquidity standards are met at the parent and local levels independently.
- Generally, subsidiaries do not depend on subsidiary and/or parent interconnectivity – this limits contagion risk and aids host country resolution.
- Santander has limited intragroup positions.

Resolution

- The MPOE resolution strategy facilitates resolution of local subsidiaries by having a host country lead the resolution process.
- The strategy creates natural firewalls in financial crises, containing the financial disruption within the local entities rather than transmitting it outside of the jurisdiction and weakening affiliates.

Support for FBO Prudential Regulatory Framework

The strengths of Santander's decentralized business model and MPOE resolution strategy are consistent with the overarching goal of the post-crisis regulatory framework for FBOs, i.e., to mitigate risks to U.S. financial stability posed by these firms. In recognition of this shared goal, SHUSA has previously endorsed a number of key prudential regulatory proposals.

Santander supported the establishment of an IHC requirement for FBOs, noting at that time the proposal was aligned with Santander's decentralized operating model.[4]

Santander also supported the Federal Reserve's total loss absorbing capacity ("TLAC") proposal, noting that the "establishment of the TLAC framework would advance the Board's goal of ensuring sufficient resources are available in the U.S. to facilitate the resolution of covered entities and mitigate risks to U.S. financial stability arising from the failure of such entities."[5]

Santander applauded the Federal Reserve's decision in its final rule to provide resolution-entity IHCs (such as SHUSA) with the same ability to raise its TLAC and LTD externally from the markets as was provided to domestic BHCs – specifically noting that such firms were "analogous."

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[4] SHUSA Comment Letter on Notice of Proposed Rulemaking on Enhanced Prudential Standards and Early Remediation for Foreign Banking Organizations and Foreign Nonbank Financial Companies (April 30, 2013).

[5] SHUSA Comment Letter on Notice of Proposed Rulemaking on Total Loss-Absorbing Capacity, Long-Term Debt, and Clean Holding Company Requirements for Systemically Important U.S. Bank Holding Companies and Intermediate Holding Companies of Systemically Important Foreign Banking Organizations; Regulatory Capital Deduction for Investments in Certain Unsecured Debt of Systemically Important U.S. Bank Holding Companies; Proposed Rule, 80 Fed. Reg. 229 (Nov. 30, 2015).

In this way, the TLAC rule marked an important milestone in the Board's efforts to tailor FBO regulation in a way that reflects a firm's business model and resolution strategy. The Agencies' current proposal builds on this approach to regulatory tailoring by emphasizing consideration of the U.S. systemic risk profile of covered institutions.

U.S. Risk Profile
SHUSA, including its subsidiaries present relatively low risk to U.S. financial stability, as evidenced by the Banking Organization Systemic Risk Indicators published by the Federal Financial Institutions Examination Council ("FFIEC") in November 2018.[6]

Systemic Importance: SHUSA ranks 30th among the 41 largest U.S. BHCs and IHCs. SHUSA's score (10 basis points) is lower than the average score of the domestic BHCs (11 bps) projected to be subject to Category IV standards under the Agencies' regulatory tailoring proposals released in October 2018 ("Category IV domestic BHCs").

Size: SHUSA score is tied for 31st among all included firms and 11th out of 12 included IHCs. SHUSA's score (16 bps) is lower than the average score of Category IV domestic BHCs (20 bps) and all included firms (57bps)

Interconnectedness: SHUSA's score ranks 28th among all included firms. SHUSA's score (41 bps) is lower than the average scores of Category IV domestic BHCs (51bps), all included IHCs (59 bps), and all included firms (178 bps)

Substitutability: SHUSA's score ranks 24th among all included firms. SHUSA's score (39 bps) is higher than the average score of Category IV domestic BHCs (15 bps), but lower than the average scores of all included IHCs (189 bps) and all included firms (399 bps).

Complexity: SHUSA's score ranks 30th among all included firms. SHUSA's score (17 bps) is lower than the average of score of Category IV domestic BHCs (29 bps), all included IHCs (77 bps), and all included firms (243 bps).

Cross Jurisdictional Activity: SHUSA's score is tied for 24th among all included firms. SHUSA's score (4 bps) is higher than the average scores of Category IV domestic BHCs (3 bps), but lower than the averages of all included IHCs (15 bps) and all included firms (80 bps).

The importance of these risk factors, particularly with respect to the development and application of more stringent prudential standards, is underscored in the "Tailored Application" section of EPS, under which the Board is authorized to "differentiate among companies on an individual basis or by category, taking into consideration their capital structure, riskiness, complexity, financial activities (including the financial activities of their subsidiaries), size, and any other risk-related factors that the Board of Governors deems appropriate."[7]

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[6] Data Source: Banking Organization Systemic Risk Report—FR Y-15; Reporting Date: December 31, 2017; FFIEC Date Posted: November 2018

[7] Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5365(b)(2).

Recommendations

SHUSA respectfully submits for the Agencies' consideration the following recommendations on the proposals for FBOs.

Recommendation 1: Provide greater flexibility with respect to the timing of Capital Plan submissions. In the Federal Reserve proposal, the Board asks how it should consider providing U.S. IHCs with additional flexibility in their capital plans.[8] While we acknowledge the administrative benefit of fixing a single date for the submission deadline (annual or biennial depending on Category), allowing for flexibility on submission and "as of" dates would be beneficial. Firms could better align on- and off-cycle stress testing exercises with their respective strategic planning cycles, improving the quality of and alignment between stress tests and strategic planning activities. Providing this flexibility is also consistent with the Agencies' goal of regulatory framework simplicity, transparency, and efficiency.

Recommendation 2: Align the implementation timeframes of the Agencies' proposals for domestic BHCs and IHCs. The proposal for FBOs/IHCs should be finalized and become effective at the same time as the domestic proposal. Aligning these dates is consistent with the objective of "creating a level playing field between foreign banks operating in the United States and domestic firms of similar size and business models, and giving due regard to the principle of national treatment."[9]

Conclusion

SHUSA appreciates the Agencies' continuing commitment to advancing the shared goal of increasing the efficiency of the firms without compromising the strong resiliency of the financial sector. We believe these proposals, which seek to tailor prudential requirements for FBOs in a way that reflects a firm's business model, resolution strategy, and risk profile, are an important step toward that goal.

Please do not hesitate to contact me at (617) 757-5470 or Jesse Villarreal, our Head of Government Relations and Public Policy, at (617) 346-7424.

Sincerely,

Michael Lipsitz

Michael Lipsitz
Senior Executive Vice President and Chief Legal Officer
Head of Legal and Corporate Affairs
Santander Holdings USA, Inc.

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[8] 84 Fed. Reg. 21988 (May 15, 2019): "Question 33: What are the advantages and disadvantages of conducting a supervisory stress test every other year, rather than annually, and eliminating the company-run stress testing requirement for purposes of Category IV standards? What would be the advantages or disadvantages of the Board conducting supervisory stress tests for these U.S. intermediate holding companies on a more frequent basis? How should the Board consider providing U.S. intermediate holding companies with additional flexibility in their capital plans?"

[9] Opening Statement on Proposals to Modify Enhanced Prudential Standards for Foreign Banks and to Modify Resolution Plan Requirements for Domestic and Foreign Banks by Vice Chair for Supervision Randal K. Quarles (April 8, 2019).