American Bankers Association
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Secretariat
Basel Committee on Banking Supervision
Bank for International Settlements
CH-4002
Basel, Switzerland

Re: Consultative Document: *Strengthening the resilience of the banking sector*

Ladies and Gentlemen:

The American Bankers Association[1] (ABA) welcomes the opportunity to comment on the consultative document (CP) published by the Basel Committee on Banking Supervision (Committee or BCBS), *Strengthening the resilience of the banking sector*. We share the goals of the Committee to improve the banking sector's ability to absorb shocks arising from financial and economic stress whatever the source, thus reducing the risk of spill over from the financial sector to the broader economy.

We are, however, concerned with the potential macroeconomic impacts of adoption of the CP in its present form, especially when combined with other initiatives of the Committee, and initiatives that have been advanced in other fora, including the Financial Stability Board, the accounting standards setters, and national legislatures and sectoral regulators. We believe that insufficient attention has been given to the potential cumulative impact of these various initiatives and the unintended consequences that may result therefrom.

Secondly, we are concerned with the ability of the Committee and national regulators to apply the proposed rules in a manner that would not distort international competitiveness. That is, given different accounting and regulatory schemes across countries, it may be difficult to implement the proposed rules in a manner that does not result in very different capital requirements for banks conducting a similar business. We understand the Committee's interest in minimizing areas of national discretion, but we caution that, in certain respects, a fair degree of national discretion will be essential to providing rules that are broadly comparable in their impact on capital requirements across jurisdictions.

A related issue of comparability of treatment arises with respect to the quantitative impact study (QIS) that is planned for the first half of 2010. We understand that most, but not all, jurisdictions will be basing the QIS on a comparison of the current Basel II rules with the rules proposed under the CP and the July 2009 Enhancements to the

[1] "The American Bankers Association represents banks of all sizes and charters and is the voice for the nation's $13 trillion banking industry and its two million employees."

Basel II Framework (July 2009 Enhancements).[2] However, certain jurisdictions that are in the process of implementing Basel II will make the comparison based on Basel I rules. This could seriously compromise the results of the QIS and, thus, the proper calibration of the capital requirements.

Thirdly, we have comments and suggestions with respect to specific aspects of the CP, including with respect to:

- the proposed treatment of netting and margin agreements to reduce exposure amounts for purposes of calculating the leverage ratio;
- the inclusion of off-balance sheet exposures in the leverage ratio;
- certain deductions from tier 1 capital, including financial exposures that would be subject to deduction above a 10 percent threshold;
- the phase-out of hybrid instruments from tier 1 capital;
- the establishment of capital buffers;
- the treatment of bonuses in capital conservation best practices; and
- the treatment of securitisation exposures.

Macroeconomic Impact

The ABA has serious concerns about the potential macroeconomic impact of the CP, given the current state of the United States and global economies. A precipitous increase in required levels of capital through a much more limited definition of tier 1 capital, the phase-out of hybrid capital instruments, the inclusion of additional assets on banks' balance sheets as a result of recent accounting changes, and the need to maintain buffers in addition to minimum requirements, would be expected to result in a substantial reduction in the ability of banks to perform their core intermediation functions and provide capital to the broader economy through loans, investments, and trading activities. This will impact bank customers and counterparties through higher costs of borrowing, investing, and trading and, thus, reduce the ability of banks to serve as an engine of economic recovery from a deep recession. These increased costs and the lower supply of bank intermediation activities will translate into lower levels of domestic and global economic growth.

Moreover, there is an additive effect when one considers other proposals that could constrain bank intermediation activities and growth. The BCBS has published for comment a consultative document on liquidity that would require the maintenance of a ratio of narrowly defined liquid assets to net cumulative cash outflows that are estimated based on conservative run-off factors. In addition, a longer-term minimum net stable funding ratio would be calculated based on conservative funding source haircuts and factors that reflect the amount of the asset that could be monetized. In a number of jurisdictions, consideration is being given to the imposition of a tax on banks to offset the cost of current national interventions and/or to fund the cost of any future

[2] See *Enhancements to the Basel II Framework*, Basel Committee on Banking Supervision, July 2009.

interventions. The proposals in the CP, when considered in concert with the heightened liquidity standards under consideration by the BCBS, proposals for tax schemes, and other proposals under consideration in various national and international fora, could have a significant negative impact of the ability of the global economy to recover from the current recession and on global growth rates for many years.[3] We strongly urge the Committee to utilize all available resources to study the potential cumulative impact on global growth of the CP and other initiatives. Only by studying this cumulative impact will the Committee be able to take appropriate steps to coordinate regulatory reforms based on a robust cost/benefit analysis of the cumulative impact.

We urge a careful phase-in and appropriate grandfathering provisions for the new capital standards that take into consideration the impact of those changes on the markets and global economy during various stages of implementation. We encourage strongly a measured approach and continuous monitoring of the impact of changes in order to minimize unintended consequences and market disruptions.

With respect to individual banks, the cumulative impact of the CP and other initiatives likely would be higher costs of capital and lower returns that would make it difficult to attract and retain investors, creating a banking sector less resilient to future shocks. The very narrow definition of tier 1 capital would likely inhibit efficient forms of bank financing. There is an acknowledged "announcement effect" that translates increases in required bank capital levels and tightening of bank prudential standards into lower ratings and share prices, even before those changes are implemented and despite the announcement of grandfathering or transitional provisions. For bank customers, both consumers and businesses, the cumulative impact would mean lower levels of lending and investment by banks, because ultimately, a bank unable to raise sufficient capital must shrink or consolidate. These effects could be more pronounced for low-margin intermediation activities, thus impacting the availability of banking products and services to customers that may have few alternative sources, such as small business and low- and moderate-income consumers.

We respectfully request that the Committee consider the cumulative impact of the CP and other proposals through the QIS process and provide the industry with the opportunity to better contribute towards the data collection needed to produce a robust QIS by extending the study through 2010. In addition, we respectfully request that the BCBS commit to publish a second consultative document after the completion of the QIS and provide banks with an appropriate period of time in which to assess a comprehensive proposal that would include proposed calibration levels. We would suggest a minimum 120-day consultative period for this purpose.

While this would postpone the ultimate adoption of new rules, we respectfully submit that the two-year transition period contemplated by the CP, which has a goal of implementation by end-2012, is unrealistically brief given the current state of the global economy and projections for near-term improvement. In the United States, the market

[3] Specific comments related to the securitization markets are included under the heading, *International Competitiveness and Comparability of Treatment*.

with which the ABA is most familiar, both private and public sector economists are projecting high levels of unemployment persisting at least through 2011. The Federal Reserve's forecasted unemployment rate for 2010 is 9.6 percent, largely consistent with private sector estimates of just over 10 percent, and the Federal Reserve forecast for 2011 is 8.6 percent. Given that the full employment unemployment rate in the United States is 5.4 percent, it is clear that the United States is facing a protracted recovery, at least with respect to consumer demand. This protracted level of higher unemployment also can be expected to translate into continued higher levels of consumer delinquencies that will constrain bank earnings and capital and, thus, banks' ability to meet demand for credit and investments.

International Competitiveness and Comparability of Treatment

As is widely acknowledged, significant differences exist between the accounting standards employed in various BCBS jurisdictions. These accounting differences can have marked impacts on the calculation of required capital across banks that are conducting similar business activities and, thus, impose competitive distortions on the global banking industry. For example, differences between U.S. Generally Accepted Accounting Principles (U.S. GAAP) and International Financial Reporting Standards (IFRS) exist with respect to the fair value measurement of financial instruments, the recognition of impairment losses and subsequent recoveries on available-for-sale (AFS) securities, and the ability of banks to recognize portfolio hedges and netting agreements. The ABA welcomes efforts underway to achieve greater convergence of international accounting standards. In the meantime, however, it is necessary to consider carefully, through the QIS exercise and otherwise, the impact of disparate accounting rules and guidance on the calibration of required levels of capital in order to mitigate competitive distortions.

Moreover, it is important to retain a significant degree of national discretion in the implementation of the revised capital rules, at least until greater convergence of accounting standards is achieved. We understand and support the Committee's interest in uniform capital rules across jurisdictions; however, at present, it is a goal not fully attainable because of disparate regulatory and accounting regimes. In order to maintain international competitiveness across jurisdictions and facilitate a level playing field, we would urge the Committee to provide national regulators with the discretion to adjust the rules to reflect legitimate differences in regulation and accounting. We understand that the Committee has in the past reviewed informally the exercise of national discretion; perhaps a more formal review mechanism would provide Committee members with the assurance that this discretion would not be misused to provide an advantage to a particular jurisdiction.

We have specific concerns regarding comparability of treatment in the QIS exercise. We understand that most, but not all, jurisdictions will be basing the QIS on a comparison of the current Basel II rules with the rules proposed under the CP and the June 2009 Enhancements. However, certain jurisdictions that are in the process of implementing Basel II will make the comparison based on Basel I rules. It is widely acknowledged that the Basel I rules are insufficiently risk-sensitive and granular. Basing the QIS in part on Basel I rules would distort the results of the study and the subsequent calibration of the capital charges proposed under the CP. Moreover, even if based on the Basel II rules, we note that banks in some jurisdictions are still in the process of implementing Basel II and models are at various stages of development. Therefore, any conclusions reached from the QIS process are very likely to be seriously flawed. We strongly suggest that the Committee consider these concerns and state publicly how it intends to compensate for the lack of comparability of data in the QIS exercise.

Specific Comments on the CP

Treatment of Netting and Margin Agreements in Calculating the Leverage Ratio. We understand the Committee's interest in a leverage ratio in order to establish a floor on bank leverage, with the goal of promoting the stability of the sector and the broader economy. However, we have concerns about the overly conservative treatment of netting and margin agreements to reduce exposures in the calculation of the leverage ratio under the CP. We also believe that the inclusion of off-balance sheet exposures in the leverage ratio at a 100 percent credit conversion factor would not reflect appropriately the risks of many of these exposures, based either on the risk profile of the exposure or the presence of risk mitigation, or both, that reduce the bank's risk.

Under Paragraphs 206 and 215 of the CP, a "no netting" rule is proposed for the calculation of exposures, notwithstanding the existence of legally enforceable netting and margin agreements, including those entered into pursuant to standard agreements created by the International Swaps and Derivatives Association (ISDA) that have been used for several years and have been demonstrated to be reliable and enforceable in bankruptcy or a similar proceeding without the agreement being stayed or avoided. Moreover, in many jurisdictions, netting and margining agreements are afforded lower regulatory capital requirements if the bank meets certain prudential standards designed to reduce the risk to the bank, including collateralization and daily mark-to-market and margining requirements.

A "no netting" rule would prevent banks that enter into repurchase, derivatives, securities financing, and similar contracts from recognising the risk-reducing benefits of standardised agreements and prudential requirements. This would disincent prudent risk management practices for these types of contracts and would constrain banks' ability to enter into these contracts. Moreover, firms not subject to bank capital and other prudential requirements could enter into these markets, to the detriment of market participants that would lose the benefit of transacting with experienced and regulated bank counterparties. Indeed, we have serious concerns that a "no netting" rule could create significant distortions in and disruptions to the markets for repurchase, derivatives, securities financing, and similar contracts – markets that are very large, very deep, and very important to the global economy. The ABA strongly encourages the Committee to reconsider the "no netting" rule in order to permit netting under circumstances that demonstrate an appropriate reduction of risk. Specifically, we would encourage the Committee to consider an approach that would permit netting under contracts that provide for an appropriate right of setoff that is enforceable at law in the relevant jurisdiction.

Similarly, Paragraph 206 of the CP would not recognize physical or financial collateral, guarantees, or credit risk mitigation in calculating on-balance sheet exposure amounts for purposes of the leverage ratio. This proposal, if adopted, would run counter to prudent risk management practices and unduly constrain the ability of banks to engage in lines of business in which they have participated profitably and at relatively low risk. We strongly encourage the Committee to reconsider its position with respect to the recognition of financial collateral, guarantees, and credit risk mitigation in the calculation of the leverage ratio.

Inclusion of Off-Balance Sheet Exposures in the Leverage Ratio. Paragraph 233 of the CP proposes the inclusion of all off-balance sheet exposures in the calculation of the leverage ratio, at a 100 percent credit conversion factor. We understand the Committee's concern about the potential for moving assets off-balance sheet in order to reduce regulatory capital charges and the lack of robustness of certain risk transfer mechanisms that may mask the true degree of risk retained by the bank or give rise to actual or implicit recourse to the bank. However, we do not believe the solution to these concerns is to include all off-balance sheet exposures in the leverage ratio at a 100 percent conversion factor. Rather, off-balance sheet assets should be the subject of a separate ratio that would emphasize the cash flow characteristics of these assets instead of applying an automatic 100 percent conversion factor.

Off-balance sheet exposures with historically low risk profiles, such as short-term, self-liquidating trade-related and transaction-related contingencies, commitments that the bank has the unilateral right to cancel, and repurchase, derivatives, securities financing, and similar contracts that are supported by the risk-reducing benefits of standardised agreements and prudential requirements discussed above should be exempted from the calculation of any leverage ratio. Trade- and transaction-related contingencies are less risky forms of lending relative to other products as they generally are self-liquidating transactions upon the export or import of the goods or services. Unduly penalising these transactions with a 100 percent credit conversion factor that does not reflect their relative risk and would cause banks to cease to provide these transactions or increase the cost of these transactions, to the detriment of global trade activity.[4]

We also encourage the Committee to consider the interplay between the CP and the consultative document on liquidity standards and metrics.[5] In particular, assets considered liquid assets under the liquidity proposal should not be subject to a leverage ratio. Including these low-yielding assets in a leverage ratio would be a double impact on banks' capital and earnings.

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[4] Additional information on the trade finance impacts of the Basel CP can be found in the Bankers Association for Finance and Trade – International Financial Services Association (BAFT-IFSA) comment letter to the Basel Committee.

[5] *Consultative Document: International Framework for liquidity risk measurement, standards, and monitoring*, Basel Committee on Banking Supervision, December 2009.

Deductions from Tier 1 Capital. We understand that the comments received by the Committee on the proposed deductions from tier 1 capital will vary based on the regulatory regime to which a bank is subject. We urge the Committee to recognize the need for national regulators to exercise a degree of national discretion in tailoring these deductions in recognition of the nature of the asset and its relative risk profile. In all cases, deductions from tier 1 capital should be paired with a corresponding deduction from risk-weighted assets in order to avoid double counting.

We favor the netting of associated deferred tax liabilities from the deduction of intangibles, as proposed in Paragraph 97 of the CP. We have concerns, however, with the full deduction from capital of mortgage servicing rights (Paragraph 97) and deferred tax assets (Paragraphs 98 and 99) and the elimination of the inclusion of up to 45 percent of pre-tax net unrealised holding gains on AFS equity securities (Paragraph 96).

It is commonly accepted that mortgage servicing rights have value to the servicing bank due to the present value of the expected net future cash flows from servicing assets. There is an active market for mortgage servicing assets, even in stress scenarios, and valuation information is readily and publicly available. Indeed, experience in the recent market turmoil demonstrates the capital-sustaining value of mortgage servicing rights, in which values were maintained and durations extended. An overly conservative treatment could reduce incentives for banks to hold those assets and, thus, reduce sources of bank value in a procyclical manner. Reduced incentives for banks to hold mortgage servicing assets would disincent banks from selling or securitizing loans, thus reducing the availability of mortgage credit or shifting mortgage activity to the unregulated sector. The recent foreclosure crisis in the United States has shown dramatically the need to keep mortgage lending activity in the prudentially supervised banking sector.

We believe that experience shows that deferred tax assets net of conservatively established valuation allowances and net unrealised holding gains on AFS securities are, at least in substantial part, realizable assets that should be includable in tier 1 capital.[6] A draconian treatment of deferred tax assets could create disincentives for prudent provisioning, counter to the interests of the Committee and the banking industry. We would encourage the BCBS to study these issues in greater detail, perhaps with inquiries to leading international accounting firms that may have aggregated data that would support the realizability of these assets against future earnings.

The CP would deduct in full from tier 1 capital unrealized losses on investment securities. This proposal does not reflect the often temporary nature of unrealized losses that are reversed as market conditions improve. The deduction of losses related

[6] We note that the ABA and The Clearing House Association, LLC provided information to the U.S. banking regulators in support of the proposition that deferred tax assets are realizable assets in a September 25, 2009 letter to the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Office of Thrift Supervision.

to non-credit factors such as rate moves would increase substantially the volatility of capital, and send misleading signals to the markets about the long-term value of the assets. Even during periods of stress, mark-to-market losses may bear little resemblance to actual losses or other-than-temporary impairments. We would, therefore, encourage the Committee to reconsider this treatment and postpone the recognition of unrealized losses until a time at which they become other-than-temporary impairments or actual losses.

<u>Financial Exposures Subject to Deduction</u>. Paragraph 101 of the CP would attempt to limit the double counting of capital in the banking sector and wider financial system by requiring the deduction from tier 1 capital of investments in the capital of other banks, other financial institutions, and other entities that exceed a 10 percent threshold. The treatment would apply to both banking book and trading book exposures, netting would be strictly limited, and a look-through approach would apply to index securities.

We have a number of concerns with this proposal. First, a definition of "financial institution" is not provided and could be construed very broadly to cover a wide range of firms in which banks traditionally invest. We understand the concern of the Committee with reciprocal cross-holdings of securities in other banks and investments in bank affiliates. We believe that the deduction from tier 1 capital should be limited to these particular holdings. Secondly, the scope of the proposal is overbroad insofar as it includes trading book positions, securities acquired through underwriting activities, and holdings of index securities and mutual funds. The impact of the inclusion of trading book positions, combined with the changes to the trading book regime published by the Committee,[7] is unclear and warrants serious study through the QIS. If adopted as proposed, banks undoubtedly would be required to make significant changes to their investment and trading portfolios, which could have a disruptive impact on the bank and the broader markets. Thirdly, the look-through requirement for index funds would be burdensome on banks without a clear corresponding benefit to financial stability. Finally, the inability to net short positions would overstate the risk of the position to the bank and unnecessarily complicate netting calculations.

We also note that the calculation of capital charges for equity exposures was the subject of intensive discussions and empirical work in the publication of the revised Basel framework.[8] We do not believe that the treatment of equity exposures to financial institutions has been shown to be deficient so as to warrant the extent of the changes proposed in the CP.

<u>Phase-out of Hybrid Instruments from Tier 1 Capital</u>. The ABA encourages the Committee to reconsider the phase-out of hybrid securities from tier 1 capital[9] or, at a minimum, provide a lengthy transition period to allow banking organizations to realign their capital structures. We are acutely aware of the Committee's concerns about

[7] *Revisions to the Basel II market risk framework*, Basel Committee on Banking Supervision, July 2009.
[8] *International Convergence of Capital Measurement and Capital Standards, a Revised Framework*, Basel Committee on Banking Supervision, June 2004.
[9] Paragraphs 15, 76, and 77 of the CP.

downgrades of hybrid securities during recent market disruptions. However, properly structured, hybrid instruments do provide a level of loss absorption in times of stress at a lower cost of issuance than common equity. Hybrid instruments that are perpetual or long-dated, non-cumulative, and that provide the issuer with the option to defer payments over a significant period of time can provide a bank with a significant cushion against loss. Providing banks with the ability to raise loss-absorbing capital through properly structured hybrid instruments would provide a cost-effective, tax-advantaged vehicle to raising a capital cushion. The current limits on inclusion in tier 1 capital, required regulatory approval of any call of the instrument, and regulatory authority to require deferral protect the bank's capital base and allow hybrid instruments to help a bank remain a going concern.

In making a final determination about the future of hybrid instruments as well as other changes to the types of instruments that are includable in tier 1 capital, the Committee should consider carefully the tax implications across jurisdictions. Preferential tax treatment in selected jurisdictions is a significant source of competitive inequity.

If the Committee decides to proceed with a phase-out of these instruments, we urge the consideration of a lengthy transition period to allow banking organizations to realign their capital structures. This is particularly necessary given the current state of the economic cycle and near-term projections, as discussed above, as well as the relatively high cost of capital to banks at the present time. While the determination of an appropriate phase-out period is not a scientific exercise, our members believe that a minimum 10-year phase-out period would be appropriate.

<u>Establishment of Capital Buffers</u>. The CP outlines a proposal to ensure that banks build up capital buffers outside periods of stress, which can be drawn down as losses are incurred. We support the concept of capital buffers and recognize their important role and benefits in times of stress. Banks are already establishing bank-specific, tailored capital buffers through the Pillar 2 internal capital assessment process and, therefore, a specifically calibrated "one-size-fits-all" buffer is not necessary and could have a detrimental impact.

We appreciate that the Committee has endeavoured not to impose constraints for entering the buffer range that would be so restrictive as to result in the range being viewed as establishing a new minimum capital requirement.[10] However, we are concerned that investors and other market participants would view the minimum capital requirement, plus the buffer, as the new *de facto* minimum required capital for a bank. Therefore, we encourage the Committee to refrain from using specific percentages for the capital conservation range, as is proposed in Paragraph 258 of the CP.

We would encourage the Committee to continue to treat the issue of capital buffers under Pillar 2. A Pillar 2 approach could use the current requirements as starting points to which buffers could be added based on the results of scenario-based stress tests.

[10] Paragraph 257 of the CP.

Taking a Pillar 2 approach allows a more tailored approach that better reflects the particular risks of an individual bank.

We also encourage the Committee to allow the inclusion of the allowance for loan and lease losses (ALLL) and similar valuation adjustments as a component of the buffer. This would be an effective tool to combat procyclicality and would incent the growth of the ALLL and similar adjustments in more robust economic conditions. It would also help to address the issue of excessive growth in the ALLL as a result of accounting changes that have created significant growth in on-balance sheet assets at banking organizations.

<u>The Treatment of Bonuses in Capital Conservation Best Practices</u>. The CP sets forth proposed capital conservation best practices[11] that include rebuilding drawn down buffers through reductions in dividends, share buy-backs, and staff bonuses. We agree that appropriate measures should be taken to rebuild buffers and that reductions in discretionary payments can play a role in restoring drawn-down capital levels. However, we note that there is considerable work underway in other fora with respect to executive compensation more generally and staff bonuses in particular. We would encourage the Committee to refrain from adding these issues to the discussion of capital adequacy.

<u>Securitization Exposures</u>. The June 2009 Enhancements apply higher risk weights to resecuritization exposures under both the internal ratings-based (IRB) and standardized approaches. Under the standardized approach, the minimum credit conversion factor for liquidity facilities has been increased from 20 to 50 percent. The favourable treatment of general market disruption liquidity facilities in the IRB approach is eliminated. Banks must apply new operational criteria for credit analysis as a prerequisite to using the Basel II risk weights; failure to use the criteria results in the deduction from capital of the exposure.

We understand the concerns of the Committee with respect to the contributory role of certain securitization structures in recent market disruptions. We agree that retained interests and recourse agreements should be fully and explicitly recognised in capital calculations. However, we caution that the extensive revisions set forth in the June 2009 Enhancements, combined with other significant changes to the capital and accounting rules, including new consolidation rules that have increased significantly on-balance sheet exposures, could have a serious negative impact on the global securitization market and on banks' ability to provide credit. This would have a deleterious effect on the global recovery and on prospects for future growth.

We are also concerned with the continued use of external ratings in setting regulatory capital requirements and with a "cliff effect" that has become pronounced with respect to the risk weighting of some securitization structures, the ratings of which have been downgraded. Various securities held by banks, including mortgage backed securities (MBS) and asset-backed securities (ABS), have their risk-weighted assets determined

[11] See Paragraph 248 et. seq. of the CP.

by external ratings. The recent financial crisis has demonstrated that these ratings have not been a good estimate of risk, as evidenced by the large number of securitizations that have been downgraded, many of them by multiple notches at a time. When investments held by banking organizations are downgraded below BB- per the Basel II rules, an excessively severe capital charge is imposed that has a strongly procyclical "cliff effect" and can cause a capital risk weighting to go from 100 percent to 1250 percent, regardless of the actual performance of the security and regardless of the existence of subordinate positions that absorb losses before that banking organization is exposed to loss. This is particularly troublesome for securities that were originally rated AAA/AA that become subject to a 1250 risk weight despite the continuation of underlying structural protections. Performance of these securities under stress has not been as poor as implied by a 1250 percent risk weight. We would encourage the Committee to consider this draconian "cliff effect" in its final deliberations on the CP. We urge the use of bank-developed cash flow analysis, with oversight by the appropriate regulatory body, as a more appropriate method of determining capital requirements for securitizations.

The higher risk weights for securitization exposures, the impact of expanded mark-to-market accounting, and the shift to an expected loss (EL) paradigm for provisioning can be expected to have a significant impact on the cost of securitizing assets, with significant potential knock-on effects on the global credit markets. For banking organizations that follow U.S. GAAP, these effects would be compounded by recent U.S. GAAP accounting changes that require the movement on balance sheet of heretofore off-balance sheet exposures. The additional capital "tax" on securitizations would create an incentive for banks to favor other forms of investment over lending activities. Given that, generally, larger firms have a competitive advantage in accessing the capital markets over smaller firms, this could have a disproportionately negative impact on small business. Therefore, we urge the Committee to review carefully the cumulative impact of the various changes that could impact the securitization markets.

A question of timing also arises with respect to the changes to rules governing securitization exposures. The July 2009 Enhancements require banks to comply with the revised requirements by the end of 2010. We submit that, given the extensive changes to the capital regime now proposed, along with other initiatives to revise prudential requirements and standards, it would be more appropriate to conform the timing of the changes to the securitization rules to the timing of other changes to the capital rules when the consultative process is finalized.

We appreciate the opportunity to comment on the CP and would be pleased to answer any questions that our comments may raise.

Respectfully submitted,

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