U.S. Chamber of Commerce

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Directorate-General for Financial Stability,
Financial Services and Capital Markets Union
European Commission
1049 Brussels, Belgium

Re: European Commission Targeted Consultation on Assessing the Adequacy of Macroprudential Policies for Non-Bank Financial Intermediation

The U.S. Chamber of Commerce ("Chamber") appreciates the opportunity to comment on the European Commission's ("Commission") Consultation on Assessing the Adequacy of Macroprudential Policies for Non-Bank Financial Intermediation ("Consultation"), which aims to collect input from various stakeholders to support: (i) evaluating the effectiveness of existing macroprudential tools; (ii) reviewing the adequacy of existing microprudential and reporting tools; and (iii) assessing the possibility of introducing new macroprudential tools.

The U.S. Chamber of Commerce[1] is the world's largest business organization. Our members range from small businesses and local chambers of commerce, to leading industry associations and global corporations, to emerging and fast-growing industries driving innovation and progress. Our members represent the various sectors highlighted in this Consultation, many of which are either headquartered in or operate in Europe.

The Chamber has been a leading voice and an active participant in debates surrounding systemic risk and regulatory supervision, and the importance of ensuring the financial stability of our capital markets. For over a decade, the Chamber has strongly supported an activities-based approach to addressing risks to non-bank financial stability in our engagement with the Financial Stability Oversight Council ("FSOC"), Financial Stability Board ("FSB'), International Organization of Securities Commissions ("IOSCO"), and the European Union ("EU") when it first launched the Capital Markets Union. Our thoughtful approach included a 2013 report to the FSOC and U.S. prudential regulators with policy ideas to encourage transparency, due

[1] Chamber of Commerce of the United States of America, European Union Transparency Registration Number 483024821178-51.

process, and data-driven approaches to financial stability oversight.[2] Applying entities-based policies or bank-like regulation to non-banks could make the financial system less competitive and more vulnerable to economic shocks.

We offer the following comments as the Commission assesses Non-Bank Financial Intermediation policies within the EU.

Importance of non-banks in financial markets

Non-bank financial institutions ("NBFIs" or "non-banks") comprise a wide array of diverse sectors with differing business models and risk profiles. We appreciate that the Commission correctly recognizes that NBFIs "play a pivotal role in fostering the diversity of the financial markets structure and contributing to the resilience of the financial system through private risk sharing and reduced overreliance on traditional (relationship) bank lending."[3] Consistent with this statement, any regulatory recommendations made by the Commission should rely on an evidence-based approach that reflects the current macroeconomic reality and considers the important role that regulated entities play in fostering economic growth.

Recent reports from EU experts have focused on the slow pace of growth in the EU and concerns about a growing gap in transatlantic growth, productivity, and innovation. Indeed, the April 2024 report from Enrico Letta explains that during the period 1993 to 2022, GDP per capita in the U.S. has increased by almost 60% versus a less than 30% increase in Europe.[4]

Former European Central Bank President and ex-Italian Prime Minister Mario Draghi's report *"The future of European competitiveness"* recognizes the need to reignite growth in the EU.[5] With the NBFI sector accounting for roughly €42.9 trillion in assets (versus banks' assets at €38 trillion),[6] the non-bank sector will be critical to EU efforts to enhance EU competitiveness and strengthen the EU's Single Market (Capital Markets Union) goals.

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[2] See Financial Stability Oversight Council Reform Agenda found at https://www.uschamber.com/assets/archived/images/documents/files/2013_financial-stability-oversight-council-reform-agenda.pdf.

[3] Consultation, p. 7.

[4] Letta, Enrico. Much more than a market, Part A (April 2024), p. 4, available at https://www.consilium.europa.eu/media/ny3j24sm/much-more-than-a-market-report-by-enrico-letta.pdf.

[5] Draghi, Mario. The future of European competitiveness (September 2024), available at https://commission.europa.eu/document/download/97e481fd-2dc3-412d-be4c-f152a8232961_en?filename=The%20future%20of%20European%20competitiveness%20_%20A%20competitiveness%20strategy%20for%20Europe.pdf.

[6] Consultation, p. 6.

Given the “existential challenge”[7] facing Europe’s larger economic growth objectives, the Chamber encourages the Commission to act with careful deliberation as it evaluates NBFI macroprudential policies. For the business community to thrive and support economic growth, any modified or new regulatory tools impacting NBFIs should be targeted to clearly identified problems, while minimizing burdensome costs.

Prioritizing an activities-based approach and microprudential tools

Over the years, NBFIs across a variety of industry sectors have on their own initiative – or in coordination with their primary regulators in both the U.S. and the EU – made changes to enhance their resilience and resolvability in situations of financial stress. Efforts to increase resilience of non-banks include raising capital and enhancing enterprise-wide risk management as part of more holistic approaches to holding company oversight of operating subsidiaries. Many non-banks have also simplified their legal entity structure to facilitate their resolvability and participated in efforts to enhance applicable insolvency frameworks both in the U.S. and abroad.

Non-banks are already subject to extensive regulation by European regulatory authorities and National Competent Authorities (“NCAs”) throughout the EU. As the consultation explains, since the financial crisis in 2008, the EU has enhanced its microprudential framework and introduced macroprudential oversight for banks and key NFBI sectors. Because NBFIs comprise a wide array of diverse sectors with differing business models and risk profiles, it is common sense that NBFIs should neither be treated the same as banks, nor should they be subject to one-size-fits-all regulatory policy. NBFIs’ primary regulators are best suited to monitor for and mitigate the potential risks associated with the specific products and industries they regulate.

In line with our recommendation to the FSOC, the Commission can best accomplish its mission to identify and respond to threats to financial stability by relying on NBFIs’ primary regulators and on the existing legal frameworks and directives currently in place. Regulation of NBFIs occurs through several EU directives and regulations that already implement certain microprudential and macroprudential tools. Those frameworks include the Alternative Investment Funds Managers Directive (“AIFMD”), Undertakings for Collective Investment in Transferable Securities Directive (“UCITS”), Money Market Fund Regulation (“MMFR”), Solvency II Directive, European Markets Infrastructure Regulation (“EMIR”), Securities Financing Transactions Regulation (“SFTR”), and Capital Requirements Regulation (“CRR”).

Supervision and oversight of NBFIs should be kept within the existing frameworks, with national authorities to be provided with harmonised instruments and tools to minimize fragmentation. The Chamber further recommends that regulators

[7] Draghi Report, p. 1.

prioritize evaluating and enhancing (if a clear problem is identified and supported by data) existing micro-prudential tools that support financial stability before developing additional macroprudential tools. As the Commission considers modifying existing tools or developing new tools, it should consider direct and indirect costs to the financial system, including regulatory costs imposed on financial entities and their customers. Moreover, it is imperative that any economic analysis consider the burden of supervision and regulation on small- and medium-sized NBFIs. In addition, the Commission could encourage the use of regulatory sandboxes so that NBFIs can more easily benefit from technological developments. A simple and adapted regulatory framework, accompanied by specific guidance in this area, would ensure innovation in a crucial sector for EU companies' financing needs.

The Chamber is also concerned about changes the Commission could make to facilitate data-sharing and coordination among EU regulators and NCAs. We recognize that a wide variety of data is collected and reported through the various regulatory frameworks and by NCAs. We encourage the Commission to identify the various streams of data collected through these separate reporting frameworks, and seek a way to streamline that information into a centralized data hub without putting additional reporting burdens on firms. It is essential that the Commission understands the data that regulators and NCAs already have at their disposal, particularly if it is seeking to better understand issues surrounding interconnections in the financial system. We encourage regulators to be more specific and transparent about their plans to identify and evaluate interconnections by providing examples of actions regulators might take and tools utilized in times of market stress.

An activities-based approach to identifying, assessing, and addressing potential risks and threats to non-bank financial stability provides a more measured process through which the regulatory entities can improve the resiliency of various nonbank sectors and activities. Since truly systemic risks will transcend individual companies and are likely to span industries and markets, an activities-based approach will enable the appropriate regulator to identify and address any underlying sources of risk to financial stability.

The Consultation provides several examples of pre-emptive and ex-post macroprudential tools at the EU's disposal in addressing NBFI vulnerabilities and risks.[8] Macroprudential policies should be used sparingly and only if microprudential rules cannot adequately address the financial threat. As we have noted above, applying entities-based policies or bank-like regulation to non-banks could make the financial system less competitive and more vulnerable to economic shocks. Furthermore, consumers could have fewer financial products at their disposal if

[8] Consultation, p. 14.

companies are afraid to innovate under a looming threat of highly burdensome regulations.

Conclusion

We thank you for your consideration of these comments and would be happy to discuss these issues further.

Sincerely,

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