U.S. Chamber of Commerce

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Chief Counsel's Office
Office of the Comptroller of the Currency
400 7th St. SW, Suite 3E-218
Washington, DC 20219

Re: Office of the Comptroller of the Currency ("OCC") Request for Feedback on "Principles for Climate-Related Financial Risk Management for Large Banks" (Docket ID OCC-2021-0023)

Dear Chief Counsel:

The U.S. Chamber of Commerce ("the Chamber") appreciates the opportunity to share our views in response to the Office of the Comptroller of the Currency ("OCC" or "agency") request for feedback on "*Principles for Climate-Related Financial Risk Management for Large Banks*" ("principles").

The Chamber has been a leader in the conversation on environmental, social, and governance ("ESG") topics for nearly a decade, encouraging industries to work with investors on standards to meet investor interests and reflect the unique circumstances and contexts of industries and businesses. We continue to actively collaborate with our members and other stakeholders to promote practices, policies, and technology innovations across industry and government that address our shared climate challenges, particularly to reduce greenhouse gas emissions to the lowest levels possible at the pace of innovation.

Having been engaged on ESG topics across all industries, the Chamber is also a ready participant in conversations about the impacts of climate change on our financial system and believe there is much common ground on these issues. While the Chamber is supportive of the overall goals of the OCC as we move toward a carbon-free economy, we also support the development of market-driven solutions to these problems. As we noted in a 2020 report, "the fundamental challenge we face today is to preserve the ability of American companies to grow, innovate, and drive prosperity

under a system of free and fair capitalism. The Chamber—through its Project Growth and Opportunity or "Project GO"—is committed to identifying practical, sustainable ways to address socio-economic challenges."[1] As a part of this effort, the Chamber, in 2019, released principles for ESG reporting that are both material and industry specific.[2]

As the OCC pursues acting on these principles, it is important to understand the actions of other regulators regarding climate risk. In March 2021, the Securities and Exchange Commission (SEC) solicited public input on the state of climate change reporting for public companies and is expected to propose a rulemaking soon that mandates a certain level of climate change reporting for all public companies listed in the United States. Other regulators around the world are also prioritizing the development and implementation of a standardized reporting regime for climate risks. The Basel Committee on Banking Supervision (BCBS) is currently accepting comments on a proposal it issued in late 2021 on climate-related financial risk for banks. As noted in this request, the OCC plans to issue forthcoming guidance on climate risk "that would distinguish roles and responsibilities of boards of directors (boards) and management, incorporate the feedback received on the principles, and consider lessons learned and best practices from the industry and other jurisdictions." We applaud the OCC for its stated intention to incorporate feedback from stakeholders and urge you in any future guidance to collaborate with other regulators at home and abroad who are taking these similar steps on climate risk.

Regarding the aforementioned request for public input by the SEC, the Chamber has communicated to the SEC some of the current efforts of public companies regarding voluntary climate disclosure, along with the results of a Summer 2021 survey conducted by the Chamber's Center for Capital Markets Competitiveness (CCMC), Nasdaq, Nareit, The Real Estate Roundtable, National Investor Relations Institute, TechNet, BIO, and Silicon Valley Leadership Group that sought to learn more about current practices and the outlook for climate change and ESG reporting from the public company perspective.

The survey is intended to inform policymakers as they consider the impacts that new mandates for climate change and other ESG disclosures would have on public companies and their shareholders and can be instructive to the OCC as it

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[1] *Restarting the Growth Engine: A Plan to Reform America's Capital Markets*, U.S. Chamber of Commerce Center for Capital Markets Competitiveness (November 2020). ccmc_growthengine_final.pdf (uschamber.com)

[2] *ESG Reporting Best Practices*, U.S. Chamber of Commerce Project GO (2019). https://www.projectgo.com/esg-reporting-best-practices/

pursues climate action related to banks. Notably, the survey found that over the last decade, most companies have increased the amount of climate change disclosure they provide, with 59% reporting that they are disclosing more information about climate change since the SEC issued its 2010 Commission-level guidance on climate change disclosures. Nearly two-thirds (63%) of companies reported regularly communicating with shareholders regarding the evolving risk of climate change, while nearly half (46%) have increased the level of detail in climate change reporting due to shareholder input. About 73% of companies report that the time and expenses they dedicate to meeting investor demand regarding climate change and ESG have increased over the last five years, with 37% reporting that time and expenses grew "significantly." Companies overwhelmingly (82%) agreed with the following statement: "Companies should be afforded the flexibility to determine how 'ESG' issues apply to them and what material information they should be required to disclose."[3]

It is also critical to point out that in any forthcoming guidance on climate-related financial risk, the OCC should not recommend moving capital away from industries or sectors that may have more environmental risk. The OCC has a responsibility to focus on the safety and soundness of national banks and federal savings associations. Directing capital away from politically disfavored industries is not just illegal; it can be dangerous for our entire economy. Indeed, such an approach would lead to wide swings in regulation as political Administrations change, undermining confidence in our banking system. We encourage the OCC to limit its focus on supporting financial institutions in their assessments of climate risks only for safety and soundness purposes.

Responses to OCC Principles and Questions

In the comments below, the Chamber addresses certain aspects of climate-related financial risk management for banks and answers specific questions posed in the guidance.

Governance

The need to understand the exposure and impact of climate-related financial risk is important, but the outline of governance in the principles is short on specific requirements and instead gives a high-level review of expectations for bank management. While the request mentions that a bank's board and management should demonstrate "appropriate understanding of climate-related financial risk

[3] Climate Change Public Company Perspective & ESG Reporting Climate Change Public Company Perspective – Center for Capital Markets Competitiveness

exposures," it seems to be left to the OCC's discretion to determine what is appropriate. As we have mentioned, the Chamber supports market-driven solutions, and many public companies—including banks—are already demonstrating a significant understanding of these risks.[4] Institutions are also integrating climate-related policies and responsibilities throughout their organizations. Further guidance from the OCC should take into account these efforts and the deep understanding of climate risks that banks already possess.

Strategic Planning

The Chamber commends the OCC for recognizing that "the incorporation of material climate-related financial risks into various planning processes is iterative as measurement methodologies, models, and data for analyzing these risks continue to evolve and mature over time" and for noting that "any climate-related strategies, including any relevant corporate social responsibility objectives, should align with and support the bank's broader strategy, risk appetite, and risk management framework." Climate-related risk is one of a host of risks, and banks must institute different strategies to prepare for each type of risk in any strategic planning. We urge that in any forthcoming guidance, the OCC not place an undue emphasis on climate-related risks over others in a bank's overall risk strategy.

Liquidity Risk

The guidance directs banks to "assess whether climate-related financial risks could affect liquidity buffers and, if so, incorporate those risks into their liquidity risk management and liquidity buffers." Banks already incorporate these risks into their risk management profile. With already stringent liquidity requirements in place for banks, the Chamber cautions the OCC against issuing any guidance that would unnecessarily burden banks with increased liquidity requirements, thus impairing banks' ability to meet customer needs. As noted above, banks consider all forms of risk, and climate-related risk is only one of a host of risks they must weigh.

Legal/Compliance Risk

As with any new regulations, legal and compliance risks will increase for banks as they are required to incorporate climate risk into their overall risk profile. This will be particularly acute for banks that have instituted a massive increase in legal and

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[4] See for example the Chamber's report on materiality of corporate disclosures. Essential Information: Modernizing Our Corporate Disclosure System. U.S. Chamber of Commerce Center for Capital Markets Competitiveness (2017). https://www.centerforcapitalmarkets.com/resource/essential-information-modernizing-our-corporate-disclosure-system/

compliance staff in the wake of the regulatory barrage following the implementation of the Dodd-Frank Act. In any forthcoming guidance, the OCC should weigh the implications of future regulatory actions on banks' compliance efforts. Such compliance costs are regressive to the size of an institution. This is important to note as mid-size banks are important providers of financing for main street businesses.

The guidelines also note that any consideration of risks by banks should include "possible fair lending concerns if the bank's risk mitigation measures disproportionately affect communities or households on a prohibited basis such as race or ethnicity." The Chamber notes that banks are acutely aware of the potential impacts of their risk mitigation efforts and are committed to instituting risk measures that do not disproportionately affect any particular communities, including their obligations under the Community Reinvestment Act (CRA) and applicable fair lending laws.

Below, we address specific questions posed in the OCC principles:

Question 1: Are there additional categories of banks (i.e., based on asset size, location, business model) to which these principles should apply?

From a national bank perspective, the Chamber does not feel that these principles should apply to other categories of banks. The choice of a $100 billion threshold already encapsulates a significant number of banks and will encompass more as banks grow organically and as the industry continues to consolidate. In any event, the Chamber urges coordination with other bank regulators to ensure that these principles are applied fairly and evenly regardless of bank category.

Question 2: How could future guidance assist a bank in developing its climate-related financial risk management practices commensurate to its size, complexity, risk profile, and scope of operations?

The Chamber applauds the OCC for its intention to maintain a risk-based approach to supervision and to "appropriately tailor any resulting supervisory expectations to reflect differences in banks' circumstances such as complexity of operations and business models." In future guidance, the OCC should recognize that banks have differing risk profiles and needs based on their size and structure. We believe that appropriate tailoring should be included in any future guidance for banks related to climate risk based on size, complexity, risk profile, and scope of operations.

Question 3: What challenges do banks face in incorporating these principles into their risk management systems? How should the OCC further engage with banks to understand those challenges?

Compliance issues are always among the biggest challenges in implementing new policies and procedures at any financial institution. Even when banks undertake these changes voluntarily, which many are doing, the transition costs and burdens are significant. As the OCC plans to issue future guidance on climate risk, banks would likely welcome engagement with the agency. This request for feedback, along with other public interaction with banks, will provide the OCC opportunities to better understand the challenges banks face in incorporating climate risk into their risk management systems.

Question 5: How do banks determine when climate-related financial risks are material and warrant greater than routine attention by the board and management?

Banks and other financial institutions are making investments in more climate-smart, modern, resilient infrastructure to reduce overall risks over the asset life cycle. Companies that have operations or products dependent on natural resources or are geographically at risk to climate impacts are often highlighting material implications in disclosures.

From a climate risk perspective, banks take into consideration the plausibility and certainty of a risk to determine materiality. Risks that meet these criteria will warrant greater attention by boards and management. If a bank determines that risks are speculative and distant, they generally will not consider them material or give them heightened scrutiny.

Question 9: How do banks currently consider the impacts of climate-related financial risk mitigation strategies and financial products on households and communities, specifically LMI and other disadvantaged communities?

Banks are acutely aware that their risk mitigation strategies could impact communities and are focusing on building resilience as part of investments. A major strategic focus of banks is compliance with CRA. Under CRA, banks are required to consider the impact of their business decisions on low-to-moderate income (LMI) and other disadvantaged communities. Allowing banks to receive CRA credit for climate risk mitigation activity in LMI communities would be an attractive way to promote responsible climate policies and transition to cleaner investments while also furthering the investment goals of the CRA.

Question 10: What, if any, specific climate-related data, metrics, tools, and models from borrowers and other counterparties do banks need to identify, measure, monitor, and control their own climate-related financial risks? How do banks currently obtain this information? What gaps and other concerns are there with respect to these data, metrics, tools, or models?

Regarding data, the Chamber commends the OCC for its acknowledgment that "data, risk measurement, modeling methodologies, and reporting continue to evolve at a rapid pace." A major point of concern for Chamber members is the fact that, while data is foundational, it is currently very immature. Since collection of climate data is in its early stages, banks are still trying to determine what data needs to be collected and do not have a complete understanding of what is useful. Data will improve over time, but the Chamber requests that the OCC explicitly appreciate that current data collection practices are not at their end state. Banks have a strong desire to comply with supervisory expectations and requirements, but there is a need for phasing or an iterative process in the early stages as each bank determines what is useful. Long lead times should be permitted, and the Chamber asks that regulators provide banks latitude in any forthcoming guidance regarding data collection.

Another major concerns banks have regarding data, disclosures, and reporting is the audience for the data. Banks would want to know if the information they provide will be private and only for regulators' use, or if it will be made public.

The OCC should also use any data that is collected and reported to international regulators. Coordination by these agencies is key to reducing burdens on banks to provide redundant information. This will streamline requirements for banks and help avoid duplicative, time-consuming efforts to comply with the demands of multiple regulators.

Question 12: Scenario analysis is an important component of climate risk management that requires assumptions about plausible future states of the world. How do banks use climate scenario models, analysis, or tools and what challenges do they face?

Banks engage in "scenario analysis," but banks define the term in a variety of ways, and this request does not attempt to bring clarity by defining the term. In any forthcoming guidance, the Chamber requests that the OCC clarify what is meant by "scenario analysis," as it is an ambiguous term that could encompass many different types of planning. Additionally, the Chamber asks the OCC to clarify who will be responsible for conducting scenario analysis: will the OCC be conducting the analysis, or will the responsibility fall to banks or third parties?

The Chamber does not believe that scenario analysis should be tied to capital or liquidity requirements. Scenario analysis should only be used to help understand potential risks to a bank's balance sheet and inform its overall risk management strategy.

It is important to note that the SEC is also exploring scenario analysis requirements. The SEC Chair has made reference to requiring "scenario analysis" on how a business might adapt to the range of possible physical, legal, market, and economic changes that the company could contend with in the future related to climate. As with all other aspects of this guidance, in any attempts by the OCC to implement scenario analysis, the OCC should coordinate with regulators who are pursuing similar goals to avoid duplicative regulatory requirements for banks.

Question 13: What factors are most salient for the OCC to consider when designing and executing scenario analysis exercises?

For any future design or execution of scenario analysis, the OCC should follow the appropriate notice-and-comment requirements of the Administrative Procedure Act ("APA"). New policies related to climate-related financial risk should be made only after weighing the costs and benefits of the chosen course, with justification for new policies being made clear to affected parties and the public. Public notice and comment are a vital component of rulemaking and should guide all regulatory efforts. Clear communication with banks is important, and banks should have fair and advanced notice of their disclosure and compliance obligations. We encourage the OCC to provide fair notice, expressly communicate its expectations, and adhere to the APA.

Conclusion

As the OCC reviews the current landscape of climate-related risk for banks, and considers possible new guidance, it must recognize the remarkable progress that has already been achieved through market-based approaches and practices and increased communication between banks and their customers. The business community has made building climate-smart, modern, resilient infrastructure among our top priorities. Any proposals related to climate risk for banks should afford banks the flexibility to adequately adopt disclosures that are appropriate, considering a bank's particular business, operations, and financial performance.

The Chamber appreciates the opportunity to comment and stands ready to constructively work with you on these issues going forward.

Sincerely,

Tom Quaadman
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Center for Capital Markets Competitiveness
U.S. Chamber of Commerce