



Sarah A. Miller
Chief Executive Officer
E-mail: smiller@iib.org

INSTITUTE OF INTERNATIONAL BANKERS

299 Park Avenue, 17th Floor
New York, N.Y. 10171
Direct: (646) 213-1147
Facsimile: (212) 421-1119
Main: (212) 421-1611
www.iib.org

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regs.comments@federalreserve.gov

Ann E. Misback
Secretary
Michael S. Gibson
Director, Division of Banking Supervision and Regulation
Mark E. Van Der Weide
General Counsel
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Re: Request for an Adjustment to the Timing and Method for Proposing and Adopting Guidance on Supervisory Expectations for Boards of Directors, a Large Financial Institution Rating System and Effective Senior Management and Risk Management

Dear Ms. Misback and Messrs. Gibson and Van Der Weide:

We are writing with a pressing concern regarding the way in which the Board has issued for comment its recent proposals (1) providing guidance on the Board's supervisory expectations for effective boards of directors (the "Board Effectiveness Proposal" and such guidance the "BE Guidance"),¹ (2) introducing a proposed new ratings system for large financial institutions, or "LFIs" (the "LFI Rating Proposal"),² and (3) proposing guidance describing core principles of effective senior management, the management of business lines, and independent risk management and controls for LFIs³ (the "Management Proposal" and, together with the Board Effectiveness Proposal and the LFI Ratings Proposal, the "Proposals").

In short, the Board has provided a workable sequence and timing to review and comment comprehensively on the Proposals together as they apply to U.S.-headquartered bank holding companies ("U.S. BHCs"), but the same opportunity has not been provided with respect

¹ 82 Fed. Reg. 37219 (Aug. 9, 2017).

² 82 Fed. Reg. 39049 (Aug. 17, 2017).

³ 83 Fed. Reg. 1351 (Jan. 11, 2018).



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to the FBO-related aspects of the Proposals. We recommend below adjustments to the process to address this concern.

As the Board has recognized, the development of guidance for effective boards of directors, senior management, business line management, and independent risk management and controls for FBOs involves complexities not present for U.S. BHCs. These complexities chiefly stem from the fact that the U.S. operations of FBOs are part of global banking organizations, which themselves are subject to supervision and regulation by home country authorities on a consolidated basis, as well as home country corporate governance and other legal requirements. These considerations, coupled with the need to consider carefully and address directly and clearly the potential extraterritorial reach of the Board's oversight, call for a deliberate approach that gives FBOs meaningful opportunities to comment.

Last August, the Board published for comment the Board Effectiveness Proposal, which, it stated, would not apply to IHCs established pursuant to Regulation YY. Instead, the Board stated that it "anticipates proposing guidance on board effectiveness for IHCs at a later date"⁴ and specifically requested comments on how the BE Guidance proposed for U.S. BHCs should be adapted to apply to IHC boards of directors. The IIB appreciates this measured approach, which will enable the Board the opportunity to develop guidance that appropriately and with due deliberation takes into account both the distinctive status of IHCs, vis-à-vis U.S. BHCs, as *intermediate* holding company subsidiaries of parent banks headquartered outside the United States and the particular governance challenges presented by vesting IHC boards with responsibility for their FBO's combined U.S. operations, which include U.S. branches that are not part of the IHC.

Today, the IIB submitted a letter addressing the IHC aspects of the Board Effectiveness Proposal (the "BE Guidance Letter"), and we look forward to commenting on a future proposal that is tailored specifically to the circumstances of IHCs. However, until that future guidance is proposed for comment, the IIB necessarily is unable to assess the Board Effectiveness component in relation to the LFI Rating Proposal and the Management Proposal.

In conjunction with issuance of the Board Effectiveness Proposal last August, the Board published the LFI Rating Proposal. In that Proposal, the Board indicated that the new LFI Rating System would apply to IHCs, but the Proposal left considerable uncertainty regarding how the Governance and Controls component of the new rating system would apply inasmuch as the Board at that time had not issued any guidance regarding how the two aspects of that component – Board Effectiveness and the management of core business lines and independent risk management and controls – would apply to IHCs. Today, the IIB submitted comments on the LFI Rating Proposal.

⁴ 82 Fed. Reg. at 37219, note 1.



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Last month, however, the Board published for comment the Management Proposal, which, in contrast to the Board Effectiveness Proposal, applies to FBOs' combined U.S. operations (including their U.S. IHCs, as applicable). Yet the Management Proposal provides only limited explanation of how the proposed guidance would apply to FBOs and raises significant questions regarding what the Board intends. For example, the Management Proposal does not address how the Board's expectations of IHC boards of directors would relate to the expectations of senior management and an independent risk management function, since the Board has not yet published a Board Effectiveness proposal for IHCs. The IIB is consulting with its members on the Management Proposal and will submit comments on the Proposal.

The Board's most recent extension of the comment periods for the Board Effectiveness and LFI Rating Proposals has provided approximately 45 days to consider the relationships among those two proposals and the Management Proposal before the deadline for submitting comments on the first two. The review of the Proposals as they apply to U.S. BHCs is based on fully-developed proposals designed specifically with the business models of these firms in mind. In contrast, as discussed above, the LFI Rating and Management Proposals do not comprehensively address how they apply to the specific circumstances of FBOs' U.S. operations, and the applicability of the BE Guidance to IHCs remains to be determined. We would respectfully submit that this process has not provided a sufficient opportunity to comment on the FBO-related aspects of the Proposals.

There is a straightforward way to address these concerns. The Board should, at a minimum:

- extend the comment period for the Management Proposal to end sixty days after the publication of a Board Effectiveness Proposal for IHCs.

However, we believe a more comprehensive response is called for to enable submission of meaningful comments on how all three Proposals should be adapted for FBOs, and thereby promote the Board's comprehensive assessment of the Proposals. In this context, the Board should:

- issue a Board Effectiveness Proposal for IHCs;
- issue a new Management Proposal for FBOs that specifically and comprehensively addresses the Board's expectations for FBOs in these areas, and allow comment on the governance component of the LFI Rating System in light of the FBO-specific proposals;⁵ and

⁵ Ideally, the Board would issue a single proposal that covered all topics together as they relate to FBOs, but if the timing issues are addressed in the way we suggest then separate proposals would be workable.



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- finalize all three proposals as applicable to FBOs together, with a single effective date.

Under this approach, and as we explain further in our BE Guidance Letter, once the LFI Rating Proposal is adopted in final form, the existing LFI supervision framework would remain in place for IHCs with respect to the governance component thereunder until the BE Guidance and Management Proposals, appropriately adapted for FBOs, are finalized.

The IIB looks forward to working with Board staff in the development of practical approaches to these issues that accomplish the Board's supervisory objectives. We would welcome the opportunity to meet with you and your colleagues to discuss our concerns. In the meantime, please contact the undersigned if we can be of further assistance.

Sincerely,

A handwritten signature in black ink that reads "Sarah A. Miller". The signature is fluid and cursive, with the first name "Sarah" being the most prominent part.

Sarah A. Miller
Chief Executive Officer