February 2, 2015

Financial Stability Board
Bank for International Settlements
Centralbahnplatz 2
CH-4002 – Basel
Switzerland

Re: Adequacy of Loss-Absorbing Capacity of Global Systemically Important Banks in Resolution – Consultative Document, dated November 10, 2014

Ladies and Gentlemen:

On behalf of Wells Fargo & Company ("Wells Fargo" or "we"), we appreciate the opportunity provided by the Financial Stability Board ("FSB") to comment on the Consultative Document noted above (the "Proposal", the "Principles" & the "Term Sheet"), which sets out the proposed total loss absorbing capacity ("TLAC") for global systemically important banks ("G-SIBs"). Wells Fargo is supportive of the FSB's goal of ensuring that taxpayers play no role in the potential resolution of these organizations and ensuring that any resolutions necessary will not have a significant impact on the financial stability of the global economy.

We have worked closely with several trade organizations in reviewing the Proposal. We generally share the concerns identified in the joint comment letter filed by The Clearing House Association L.L.C., the Securities Industry and Financial Markets Association, the American Bankers Association, and the Financial Services Roundtable (collectively, the "Associations"). Wells Fargo generally supports the Associations' comment letter.

We are, however, very concerned about the proposed level of the TLAC required, and are writing separately to suggest alternative approaches for calibrating the minimum level of required TLAC to better account for the relative risks each G-SIB's failure may pose to global financial stability. We are also writing to highlight several areas of particular interest to Wells Fargo. Our letter is divided into three main sections. Section I addresses the required amount of external TLAC; section II addresses instruments that are eligible for use as external TLAC; and section III addresses certain miscellaneous items within the Proposal.

I. Comments Pertaining to the Required Amount of External TLAC

Minimum TLAC Requirements - Pillar 1 and Pillar 2 Components [1]

The Proposal sets forth a minimum Pillar 1 external TLAC requirement that will obligate G-SIBs to hold 16-20% of risk-weighted assets ("RWA") in regulatory capital and unsubordinated debt, in addition to G-SIB surcharges and Basel III buffers. Therefore, a G-SIB with no countercyclical

[1] This section is in response to Questions 1 & 3 within the Proposal.

buffer, a standard 2.5% capital conservation buffer, and a 2.5% G-SIB surcharge would effectively be required to hold 21-25% of RWA in TLAC eligible instruments.[2]

Based upon our analysis using publically available information, which is broadly consistent with other estimates available from industry participants, the aggregate shortfall of the U.S. G-SIBs is substantial, ranging from $100 to $333 billion, corresponding with the ranges of 16% to 20%, including the capital conservation buffer and an approximate G-SIB surcharge of 3.0% under the proposed U.S. rules. To put this in perspective, as of 1/28/15, the U.S. G-SIBs had $670 billion in senior debt outstanding, so the shortfalls correspond to 15% and 50% of the current stock of outstanding senior debt. Moreover, the shortfall represents between 90% and 301% of the annual average issuance of holding company senior debt over the last 3 years' by U.S. G-SIBs.

Additional supply of this magnitude in the market will likely result in increased borrowing costs as investors will demand compensation for both the larger supply of debt concentrated in a few names, and for the increased leverage in U.S. G-SIBs (ironically, firms that are primarily deposit-funded will be forced to increase overall leverage). Increased debt costs will, in turn, increase the cost of capital for the consolidated entity. Because banks need to earn their cost of capital to remain viable, this cost will be passed on to bank customers in the form of higher interest rates and fees. Additionally, the increased supply could very well "crowd out" other forms of borrowing, increasing the cost of capital for all firms, not only G-SIBs. Negatively impacting firms that are not the target of this regulation, including non-G-SIBs and corporate borrowers, is an unintended consequence of setting a Pillar 1 requirement that is too high.

While these additional costs could be justified if grounded in empirical analysis and linked to a specific quantifiable risk, the Proposal does not provide information on the methodology employed to establish the 16-20% range and does not set forth an empirical analysis suggesting that the range bears any relationship to historical or hypothetical stress scenarios.

The data that is available suggests that the 16-20% range is set too high. In the U.S., the Federal Reserve conducts annual stress tests through CCAR and DFAST exercises. The 2014 DFAST stress test included a "severely adverse scenario" in which U.S. gross domestic product declined nearly 5%, equity prices declined 50%, and house prices declined 25%. This hypothetical situation also included simultaneous recessions in Europe and Japan, in addition to below-trend growth in emerging economies. The Federal Reserve's projections are explicitly designed to be conservative not only in scenario selection but also incorporate a number of conservative modeling assumptions.[3] Under the Federal Reserve's calculations the estimated capital diminution for the group of large bank holding companies was 4.6%.[4] The proposed TLAC requirements plus capital buffers (21-25% range from above) suggest losses 2.3 to 3.2 times larger than the prospective losses estimated by the Federal Reserve will be incurred prior to recapitalizing a bank to 10.5% total capital (8% Basel III minimum regulatory requirement for total capital plus the capital conservation buffer).[5]

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[2] The 2.5% G-SIB buffer used here is a conservative estimate of the average U.S. G-SIB buffers under the recently released U.S. proposal.

[3] "Dodd-Frank Act Stress Test 2014: Supervisory Stress Test Methodology and Results", Board of Governors of the Federal Reserve System, March 2014, p 2.

[4] Specifically, the aggregate total risk-based capital ratio declined from 15.6% to 11.0%, a 4.6% decline. http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20140320a1.pdf, p 23, 27.

On a retrospective basis, Wells Fargo conducted an externally validated study that estimated the RWA-weighted average of capital consumption as a percent of proxy-Basel III RWA for significant U.S. financial institutions that failed or nearly failed, including Washington Mutual, Lehman Brothers, Continental Illinois, Wachovia, Merrill Lynch, Bear Stearns, and Countrywide. This study concluded that, on average, capital consumption was 7.8%. The proposed TLAC requirement plus capital buffers are 1.3 to 1.9 times larger than these historical losses prior to recapitalizing a bank to 10.5% total capital.

There are several important considerations regarding the use of retrospective studies. First, many observers have correctly pointed out that loss experience during the financial crisis may be understated because losses incurred would have been greater had governments not intervened and provided the support they did, including through capital infusions, asset purchases and debt guarantee programs for banks and non-banks. We acknowledge that a loss avoidance impact of governmental intervention existed, but it is very difficult, if not impossible, to quantify it.

Second, the significant changes in market and banking reform act strongly in the other direction. Changes in risk profiles of G-SIBs, in large part resulting from these reforms, offset and possibly outweigh any understatement of losses resulting from government intervention. Reform is well underway or complete in many areas including liquidity management, limits on large exposures to related counterparties, derivatives (including both margining and clearing of standardized derivatives through central counterparties), expanded data gathering (important to both management and supervisors) and reporting requirements, and improved risk management and governance requirements. Supervisory oversight has also been significantly expanded.

Finally, the choice of firms used to calibrate TLAC-like initiatives is important. The G-SIB's subject to a TLAC requirement are far more diversified business models than the commonly cited outliers -- Countrywide in the United States, Anglo Irish in Ireland and Northern Rock in the United Kingdom. Each was not only a monoline in terms of real estate lending, but, even within real estate lending, had a concentration on weaker credits. Each firm was also subject to a significantly less stringent regulatory regime than G-SIBs are supervised under today.

Beyond calibration, we also have significant concerns about the structure of the proposal since it yields counterintuitive results, causing us to question whether it is sufficiently risk sensitive. A primary goal of regulatory reform efforts has been to address risks that may contribute to the failure of a G-SIB and to incentivize firms to reduce the risks that they pose to the financial system. On page 4, in italics, is an excerpt from the comment letter on this proposal submitted by the Committee on Capital Markets Regulation (the "Committee").[6] The analysis performed by the Committee concludes that a firm's gap to implementation is either unrelated, or inversely

[5] Using the Wells Fargo firm specific results from the 2014 DFAST exercise, which showed a capital diminution of 3.1%, the currently proposed requirement is 3.2 to 4.5 times larger than the prospective losses prior to recapitalizing at 10.5%.

[6] Founded in 2006, the Committee is dedicated to enhancing the competitiveness of U.S. capital markets and ensuring the stability of the U.S. financial system. Our membership includes thirty-seven leaders drawn from the finance, investment, business, law, accounting, and academic communities. The Committee is chaired jointly by R. Glenn Hubbard (Dean, Columbia Business School) and John L. Thornton (Chairman, The Brookings Institution) and directed by Hal S. Scott (Nomura Professor and Director of the Program on International Financial Systems, Harvard Law School). The Committee is an independent and nonpartisan 501(c)(3) research organization, financed by contributions from individuals, foundations, and corporations.

related, to measures of risk commonly used by academics and market participants. See Table 2 below.

We believe it is counterintuitive to impose a TLAC requirement that disproportionately punishes firms whose business models and risk profiles are deemed more desirable and which pose less risk to the financial system. The proposal as written would have precisely that impact.

To remedy the shortcomings in the calibration and risk sensitivity of the structure, we recommend the FSB consider several alternatives:

- Developing an entirely new structure that is demonstrably more risk sensitive, and can be supported by empirical analyses incorporating both prospective and retrospective measures of capital consumption. Just as the G-SIB buffer calculation uses indicators in addition to RWA to determine the systemic risk and buffer requirement of a G-SIB, the TLAC Pillar 1 requirement could be based on additional risk indicators, such as observable market values, to better reflect the risk profile of each G-SIB. Results from any retrospective studies should explicitly consider the significant market and banking reforms that have occurred, differences in highly concentrated versus diversified business models, and the impact of significantly enhanced regulatory regimes.

- Modifying the current structure to establish a Pillar 1 requirement that is supported by empirical analyses as described above, and supplementing it with a Pillar 2 requirement that captures the specific risks posed to the financial system by different G-SIBs.

Table 2: Gap to Implementation is Unrelated to Risk Measures

Firm	*Sh. fall %*	*5Y CDS*	*SRISK%*	*MES*	*Beta*	*Leverage*
BAC	*-0.09*	*109*	*17.51*	*3.32*	*1.21*	*11.44*
BK	*-1.88*	---	*1.01*	*2.68*	*1.06*	*9.10*
C	*-2.41*	*97.5*	*14.71*	*3.18*	*1.26*	*11.37*
JPM	*-5.61*	*90.5*	*19.15*	*3.05*	*1.25*	*11.28*
STT	*-6.06*	---	*1.52*	*3.35*	*1.21*	*9.36*
WFC	*-5.37*	*61.5*	*0.00*	*2.66*	*1.06*	*6.28*
	Kendall Tau	***-0.67***	***-0.07***	***.07***	***.07***	***-0.33***
	Spearman Rho	***-0.80***	***-0.03***	***.14***	***.18***	***-0.37***

- *Table 2 compares U.S. G-SIB TLAC shortfalls to several other measures of risk. SRISK is a measure of systemic risk that was proposed by a group of finance academics, including Robert Engle, a Nobel Laureate. MES, or marginal expected shortfall, is a measure of loss severity used by the same group. Table 2 also includes measures of risk used by market participants, including credit default swap spread, market beta, and leverage. Table 2 reveals that a U.S. G-SIB's gap to implementation is unrelated to these measures of risk. This underscores our concern that regulators should be cautious regarding the minimum TLAC requirement.*

- *Kendall's tau and Spearman's rho are measures used in computer science to evaluate the quality of a ranking algorithm. Both measures take a value between -1 and +1. A value of 1 means the algorithm is perfect. A value of 0 means that the ranking algorithm is effectively random, and unrelated to the natural ordering. A negative value means the algorithm is worse than random.*

II. Comments Pertaining to Instruments Eligible for Use as External TLAC [7]

The Proposal sets out certain eligibility criteria for external TLAC (§s 8-17 of the Term Sheet). Wells Fargo agrees with the Associations' core principles for eligible TLAC in that 1) unsecured debt with an original maturity of greater than 1 year should be subject to bail in and 2) all debt with a remaining maturity greater than 6 months that have an original maturity of over 1 year should be eligible for external TLAC. With that in mind, we would like to emphasize several key issues with the eligibility standards as they have been proposed. If the FSB decides to retain its current language on instrument eligibility, Wells Fargo would request that outstanding unsecured debt obligations issued by the resolution entity be grandfathered as eligible TLAC.

Liabilities that are Pari Passu with Excluded Liabilities

The proposal requires that eligible external TLAC must be "contractually subordinated to all excluded liabilities on the balance sheet of the resolution entity." Wells Fargo shares the Associations' concerns regarding TLAC eligibility. Resolution entities should be permitted to have excluded liabilities that are not structurally or legally senior to external TLAC, but do not pose a threat to financial stability. Also, the final framework should not mandate that all excluded liabilities rank senior to TLAC-eligible liabilities. We agree with the industry that an acceptable framework for excluded TLAC liabilities would allow for both liabilities that must be preferred to eligible TLAC to ensure financial stability [Type I], but also allow for a sub-classification that includes liabilities that rank pari passu with eligible TLAC. These liabilities may be eligible for bail-in during resolution, but would not count as eligible external TLAC [Type II & Type III].[8]

External TLAC Governed by the Law of Another Jurisdiction

The FSB notes that in order for cross jurisdictional resolutions to function effectively, statutory actions taken in one jurisdiction must be recognized in other jurisdictions in which the resolution entity does business.[9] The Term Sheet states that debt issued under the laws of a jurisdiction other than a resolution entity's home jurisdiction and without explicit contractual provisions recognizing the application of resolution tools by the home resolution authority is excluded from eligible TLAC. Regardless of the jurisdiction whose laws govern the debt issuance, principles of comity should cause host country courts to defer to home country resolution regimes in most cases. This is especially true in the U.S. and the U.K..[10] Further, we share the Associations' belief that under a bail-in ruling, a foreign jurisdiction would have difficulty proving a public policy violation that would allow them to overturn home country bail-in actions given the recent emphasis on bail-in provisions in most jurisdictions.

Wells Fargo would also like to emphasize the Associations' comment regarding the mechanical aspects of resolution in the United States. We believe that mandating U.S. G-SIBs' issuance be

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[7] This section is in response to Questions 6 and 9 within the Proposal.

[8] See Associations' comment letter for more discussion on classifications of excluded liabilities.

[9] Financial Stability Board, *Towards full implementation of the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions; Report to the G20 on progress in reform of resolution regimes and resolution planning for global systemically important financial institutions (G-SIFIs)* (11-12-14), p 2.

[10] The Associations' comment letter deals with this issue in Part III.D.

governed by home jurisdiction law is unnecessary given the passive nature of bail-in under U.S. law whereby, in resolution, outstanding liability claims are exchanged for equity interest in the bridge bank holding company. This differs from European bail-in whereby the contractual terms of the liabilities are altered by the resolution authority.

We are also concerned that the proposal may limit the investor base for TLAC eligible instruments that otherwise may be available. If the laws of the local jurisdiction lack a statutory cross-border resolution recognition provision, then the instrument must contain a provision providing that the laws of the issuing resolution entity's home country would govern resolution proceedings. The proposal as written may result in a smaller pool of investors available to purchase eligible TLAC due to various factors such as bond index eligibility and investment committee requirements, which may not permit investments in instruments whose terms are governed by other laws. With a smaller investor base, resolution entities will be forced to reduce their usage of foreign jurisdiction issuances as a funding source, which will reduce investor diversity and concentrate issuances within regions or jurisdictions. This decrease in investor diversity could increase systemic risk as well as risks of contagion due to higher concentration of asset exposures in specific entities. It would also have the effect of amplifying the higher costs and second order effects (crowding out) mentioned earlier.

Derivative Instruments

Wells Fargo would like to emphasize the Associations' concern regarding Term Sheet §12's requirement that derivatives at resolution entities be contractually subordinated to eligible TLAC. As stated by the Associations, we believe the significant reforms to the derivative industry – including enhanced margin requirements and centralized clearing – have mitigated the risk arising from entering into derivative contracts. Further, Wells Fargo uses derivatives to manage interest rate risk and currency exposure as part of its Treasury function. Restricting resolution entities derivative contracts would not only significantly hinder risk management functions, but, coupled with Term Sheet §13's priority provision, it would disallow all senior unsecured debt from inclusion as external TLAC, since the derivative liabilities are pari passu to senior unsecured debt.

Instruments Callable on Demand

The Proposal explicitly excludes from eligible TLAC "any liability that is callable on demand without supervisory approval." We recommend a supervisory approval requirement if the call resulted in the G-SIB's TLAC falling below the required amount. It would also be completely impractical to require G-SIBs to obtain regulatory approval prior to any call of issued liabilities. The contractual opportunity to call such instruments is often times short and the requirement of regulatory approval could compromise the ability to call the instruments and severely impair G-SIBs' ability to manage their businesses. Wells Fargo also agrees with the Associations in that, when a call would result in a G-SIB's TLAC to drop below the required amount, the resolution entity's home regulator should require prior approval. We do not, however, believe it should be a contractual provision required in the issuance documentation.

Structured Notes

We understand and appreciate the FSB's concern that, in order for a debt instrument to be eligible for external TLAC, the value of the debt instrument must be readily and reliably ascertainable in resolution. In addition, the debt instrument needs to be operationally straightforward to bail-in. Applying these criteria (in addition to the basic criteria specified in the Term Sheet), many structured notes have characteristics that are substantially similar to "vanilla" debt instruments. We believe that structured notes should be included as long as they meet the terms outlined in Term Sheet § 12 and § 13 (outside of §12 d).

As noted in the Associations' letter, issuers of structured notes are required to have robust systems in place to value structured notes for regulatory, accounting and market-making purposes, among others. These systems should be capable of providing reliable and readily available valuations and should also be sufficient to address any operational concerns. We believe that this is the case for both structured notes that provide for the unconditional return of principal at maturity or acceleration as well as for structured notes for which principal is at risk. At a minimum, we believe that, for structured notes that provide for the unconditional return of principal at maturity or acceleration, amounts that are unconditionally payable should be included in eligible TLAC.

III. Comments Pertaining to Miscellaneous Items

Deduction of Cross-holdings by G-SIBs of other G-SIB's External TLAC [11]

As proposed, Term Sheet §18 would require that a G-SIB deduct from its eligible TLAC external TLAC issued by G-SIBs "in a manner generally parallel to the existing provisions in Basel III that require a bank to deduct from its own regulatory capital certain investments in the regulatory capital of other banks." Term Sheet §18 further states that "the Basel Committee should further specify this provision, including a prudential treatment for non-G-SIBs." While further detail on this provision will be needed to fully evaluate the impacts, we believe that, at a minimum, exceptions to such a rule should be adopted for underwriting and market making activities. Additionally, in order to ensure this market access is maintained, the Term Sheet should, at a minimum, adopt an exception to §18 that is consistent with the underwriting exception in the Basel III regulatory capital rules.

While we believe that, at a minimum, underwriting and market making exceptions should be included, we further note that the Basel Committee will specify its methodology for this requirement (including possible rules for non-G-SIBs) in future publications. We strongly encourage the FSB and the Basel Committee to release this as a consultative document to ensure all market participants have an opportunity to evaluate potential impacts and provide comment. If this is not addressed, there could be increased market volatility as market makers would sell to reduce the holdings of TLAC eligible bonds of G-SIBs near quarter end measurement dates.

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[11] This section is in response to Question 12 within the Proposal.

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In summary, we believe that TLAC can be an important and useful tool to ensure no taxpayer support is needed to resolve G-SIBs, but that it needs to be implemented carefully to prevent negative impacts to national and global financial markets. We believe that the calibration for external TLAC in the Proposal is not risk sensitive enough. This could be remedied by either making the Pillar 1 calibration more risk sensitive or by lowering the proposed Pillar 1 calibration and incorporating a Pillar 2 component that takes into account the unique risks that the G-SIB presents to the financial system. Once the calibration issue is resolved, along with eligibility issues outlined above and elsewhere are addressed, the FSB rule will provide a suitable international standard as national regulators consider their own rules.

We appreciate your consideration of our comments. We will gladly make ourselves available for any further consultations and/or questions you may have. Please contact me at 415-396-5196 if you have any questions.

Sincerely Yours,

Paul R. Ackerman
Executive Vice President and Treasurer
Wells Fargo & Company