BETTER MARKETS
TRANSPARENCY · ACCOUNTABILITY · OVERSIGHT

May 14, 2015

Mr. Robert DeV. Frierson
Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Docket No. R-1510

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Docket No. ID FDIC-2015-0022-0001

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW
Suite 3E-218, Mail Stop 9W-11
Washington, DC 20219

Docket ID FFIEC-2014-0001

Re: Regulatory Publication and Review under the Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA")

Sir or Madam;

Better Markets[1] appreciates the opportunity to comment on the above-captioned joint notice of regulatory review ("Regulatory Review") of the Office of the Comptroller of the Currency ("OCC"), the Board of Governors of the Federal Reserve ("Board"), the Federal Deposit Insurance Corporation ("FDIC") (collectively, "Agencies").

INTRODUCTION AND SUMMARY OF COMMENTS

The Economic Growth and Regulatory Paperwork Reduction Act of 1996 ("EGRPRA") requires the Federal Financial Institutions Examination Council and each appropriate Federal banking regulatory agency represented on the Council to conduct a review of all regulations prescribed by the Council or by any such appropriate Federal banking agency in order to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions with a frequency of 10 years or less. In conducting the review, the Agencies are asked to categorize the regulations (such as consumer regulations,

[1] Better Markets, Inc. is a nonprofit organization that promotes the public interest in the capital and commodity markets, including in particular the rulemaking process associated with the Dodd-Frank Act.

safety and soundness regulations, etc.) and at regular intervals, provide notice and solicit public comment on a particular category or categories of regulations, requesting commentators to identify areas of the regulations that are outdated, unnecessary, or unduly burdensome. In this second request under EGRPRA, the Agencies seek comment on regulations in the following categories: Banking Operations, Capital, and the Community Reinvestment Act.

In response to the first request, many commenters urged the Agencies to undertake a review of rulemakings conducted under the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Such a review would be premature and unwise, as many Dodd-Frank Act reforms have not even been implemented, and those that are in place have had a very limited time to make the intended impact. Review of the Dodd-Frank Act rules should be avoided at least until the next EGRPRA review, at which point the Agencies will have more and better information about the impact of those rules.

If the Agencies do undertake a review of the Dodd-Frank Act rulemakings, their review should not be limited to the impact of regulation on regulated entities but must include a thorough analysis of the benefits of those rules collectively, including specifically the benefits of those rules in avoiding a future financial crisis and the costs, burdens, bailouts, and suffering that would accompany such a crisis.

<u>COMMENTS</u>

A. EGRPRA review should not include the Dodd-Frank Act rulemakings.

The 2008 financial crisis, the worst since the Great Depression, caused massive economic calamities and human suffering across the country and around the world. Housing prices collapsed, wiping out the savings of many Americans and forcing foreclosures at record rates. Unemployment skyrocketed, and tax revenues plummeted while spending on bailouts and social needs exploded, causing the deficit and debt to dramatically increase. The financial crisis will cost the American economy over $13 trillion.[2]

During the financial crisis, home values declined 34 percent through 2011, representing $7 trillion in lost homeowner equity.[3] As a result, real household wealth declined from $74 trillion in July 2007 to $55 trillion in January 2009, representing $19 trillion of evaporated wealth.[4] Real median family net worth fell 38.8 percent, "erasing

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2 See Better Markets, Cost of the Crisis (Sept. 15, 2012), *available at* http://www.bettermarkets.com/cost-crisis.

3 CoreLogic, December Home Price Index Gives First Look at Full-year 2011 Price Changes (Feb. 2, 2012), available at http://www.corelogic.com/about-us/news/corelogic-december-home-price-index-gives-first-look-at-full-year-2011-price-changes.aspx; Board of Governors of the Fed. Reserve Sys., White Paper, The U.S. Housing Market: Current Conditions and Policy Considerations, at 3 (Jan. 4, 2012).

4 Federal Reserve Flow of Funds (Adjusted to 2012 dollars using the personal consumption expenditures chain price index).

almost two decades of accumulated prosperity,"[5] and median family income fell 7.7 percent, from $49,600 to $45,800, between 2007 and 2010.[6]

The stock market fell by more than 50 percent in just 18 months, from October 2007 until March of 2009, representing $11 trillion in evaporated wealth. In March 2009, retirement accounts had lost $3.4 trillion, or 40 percent in value.[7] While there has been a rebound in equities, it is small comfort to the millions of investors who liquidated their positions during the crisis out of sheer panic, the need for funds due to retirement, or the flight to safer investments such as bonds.

In terms of job losses, the financial crisis did more harm to American workers than any single event since the Great Depression. The official unemployment rate peaked at 10.2 percent in October 2009,[8] but under the broadest measure of unemployment (U-6 rate), 17.5 percent of the workforce, representing 26.9 million Americans, was un- or under-employed.[9] At the peak in June 2009, there were an estimated 6.2 unemployed persons per job opening.[10] Such an imbalance pushed the time Americans remained on unemployment to a peak of 40.9 weeks in November 2011.[11] In 2010, 46.2 million Americans were in poverty, the largest number in the 52 years for which poverty estimates have been published by the U.S. Census Bureau.[12] Worst of all, as of December 2009, 8.1 million children—or 1 out of every 9— were living with unemployed parents, just at the time their development required a stable household.[13]

In its attempt to right the economy, the government's efforts caused the debt and deficit to explode. The federal budget deficit increased by nearly *nine times*, going from $160.70 billion in 2007 to $1.14 *trillion* in 2009 as a result of automatic stabilizers and

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5 Board of Governors of the Fed. Reserve Sys., Fed. Reserve Bulletin Vol. 99 No. 2, Changes in U.S. Family Finances from 2007 to 2010: Evidence from the Survey of Consumer Finances 1, 17 (June 2012), available at http://www.federalreserve.gov/econresdata/scf/scf_2010.htm; Binyamin Appelbaum, Family Net Worth Drops to Level of Early '90s, Fed Says, N.Y. Times, June 11, 2012 (emphasis added).

6 Fed. Reserve Bank of St. Louis, FRED Economic Data, Dow Jones Industrial Average (DJIA) (2011), available at https://research.stlouisfed.org/; Peter A. McKay, US Stocks Slip As Early Rally Evaporates; DJIA Down 7, MarketWatch, Mar. 6 2009, http://www.marketwatch.com/story/us-stocks-slip-as-early-rally.

7 Mauricio Soto, Urban Institute, How is the Financial Crisis Affecting Retirement Savings? (Mar. 10, 2009).

8 Bureau of Labor Statistics, U.S. Dept. of Labor, News Release, The Employment Situation – October 2009 (Nov. 6, 2009), available at http://www.bls.gov/news.release/archives/empsit_11062009.pdf.

9 Bureau of Labor Statistics, U.S. Dept. of Labor, News Release, The Employment Situation – October 2009, at Table A-12 (Nov. 6, 2009).

10 Bureau of Labor Statistics, U.S. Dept. of Labor, Job Openings and Labor Turnover Survey Highlights: June 2012, 1 (Aug. 7, 2012).

11 Bureau of Labor Statistics, U.S. Dept. of Labor, News Release, The Employment Situation – July 2012 (Aug. 3, 2012), available at http://www.bls.gov/news.release/pdf/empsit.pdf. Table A-2.

12 U.S. Census, *Income, Poverty and Health Insurance Coverage in the United States: 2010* (Sept. 13, 2011), *available at* https://www.census.gov/newsroom/releases/archives/income_wealth/cb11-157.html.

13 Phillip Lovell & Julia B. Isaacs, Center on Children and Families, Families of the Recession: Unemployed Parents & Their Children, Economic Studies 1 (revised June, 2010), available at http://www.brookings.edu/research/ papers/2010/01/14-families-recession-isaacs.

Congress's massive stimulus.[14] The public debt more than doubled from $8.85 trillion in the first quarter of 2007 to $18.14 trillion in the last quarter of 2014.[15]

In mid-2010, Congress passed and the President signed the Dodd-Frank Act to prevent the economy from again experiencing a financial crisis like the one the U.S. has been experiencing. The Act required the Agencies, as well as other financial regulators, to promulgate rulemakings to implement the Dodd-Frank requirements. Given how recently the law was passed, and how recently some of the rulemakings have been implemented, it is difficult for regulators to assess the impact of those rules.

Furthermore, not all of the rules have been implemented. According to one study, as of March 31, 2015, the Agencies have only finalized 77 of 132 required rulemakings.[16] Thus, the regulatory framework envisioned by the Dodd-Frank Act has not been completely set up, and it is impossible to adequately analyze the efficacy of the rules currently in place. Conducting a review of a framework not yet fully in effect would present an imperfect view of that framework and its ability to protect the public.

Because an analysis of the Dodd-Frank Act rulemakings would provide inadequate information on which the Agencies may make their determinations, they should be excluded from EGRPRA review at this time.

B. *If Dodd-Frank Act rulemakings are included in this EGRPRA review, the agencies must consider the benefits to the public of a stable financial system that does not experience financial crises.*

Wall Street and its many allies and sympathizers are denying and understating the costs of the crisis, primarily to kill, weaken, or avoid financial reform and re-regulation. To protect the American people, financial system, and economy from another financial and economic crisis, financial reform eliminates or limits Wall Street's most reckless trading and investment activities, which also happen to be the most profitable to them and the most risky to taxpayers. That is why Wall Street and its allies are doing everything possible, including spending inordinate amounts of money on lawyers, lobbyists, PR-spinners, campaign contributions, advertising, "studies," trade groups, and many other things, to stop, kill, weaken, or avoid financial reform.

One weapon that Wall Street and its allies are using in an effort to kill financial reform is what they refer to as "cost-benefit analysis," which they insist the financial regulators must use in all financial reform analyses. However, the industry is really advocating for an incomplete and biased version of "cost-benefit analysis" that is no more than a one-sided

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14 FRED Economic Data, Federal Surplus or Deficit, *available at* http://research.stlouisfed.org/fred2/series/FYFSD.

15 FRED Economic Data, Federal Debt: Total Public Debt, *available at* http://research.stlouisfed.org/fred2/series/GFDEBTN.

16 Davis Polk, *Dodd-Frank Progress Report: First Quarter 2015*, http://www.davispolk.com/Dodd-Frank-Rulemaking-Progress-Report/.

"industry-cost only analysis." This effort entirely ignores the costs of the crisis to society and also ignores the benefits of financial reform to society.

If the Agencies do undertake a review of the Dodd-Frank Act rulemakings, they must ensure their analyses are not biased in favor of industry and its industry-cost only approach. Any review of the rules must account for the harms a future financial crisis would impose on the American people and the enormous benefits of avoiding such a scenario through regulation.

CONCLUSION

We hope these comments are helpful.

Sincerely,

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