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To: Interested Parties
From: Jeff Gohringer, Communications Director, Better Markets
Re: What You Need to Know About the $50 Billion Threshold Ahead of This Week's Senate Banking Hearing
Date: Tuesday, March 17, 2015 (Updated July 6, 2015)

The crash of 2008 was the biggest financial crash since 1929 and directly caused the worst economy since the Great Depression of the 1930s. Those twin calamities are going to cost the US more than $12.8 trillion dollars. Preventing that from happening again depends on financial reform being strong, comprehensive and durable and that depends, in large measure, on the ability to tailor enhanced prudential standards on the handful of largest, riskiest, and most complex banking organizations, which pose the greatest threat to Americans' savings, jobs and homes.

One widely agreed upon lesson of the 2008 financial crisis was that the largest U.S. banks lacked sufficient capital and liquidity, were too reliant on short-term debt, were overly leveraged, and did not have adequate risk management systems. Another lesson was, as Fed Chair Janet Yellen explained, "the traditional framework for supervising and regulating major financial institutions and assessing risks contained material weaknesses."

By allowing the Fed to impose enhanced standards on a very small number of the very largest banks in the country (less than 40 out of about 6,500), the Dodd-Frank Act addresses these weaknesses directly. The enhanced standards also directly benefit thousands of community banks across the country by leveling the playing-field by limiting the funding and other advantages that very large banks gain as a result of their size and the perception that they would receive a bailout in a crisis.

Congress granted to the Fed and other regulators broad discretion to tailor implementation of the Dodd-Frank Act, and the regulators are using this authority judiciously, focusing on the most dangerous activities at the few banks that pose the biggest threats. The $50 billion threshold is merely the beginning of the analysis of what the Fed might -- or might not -- require upon a closer look at one of those largest banks. Those requirements are based on size, complexity, activities and other factors that lead to varying risk profiles for banks above $50 billion. For that reason, before taking the consequential step of amending the law to modify the $50 billion threshold, policymakers should ask those seeking to change the $50 billion threshold to demonstrate that both:

(1) a specific requirement of the statute is inappropriate and causing demonstrable, independently verifiable damage to the U.S. economy and financial stability, and

(2) the only means to fix such a requirement is through legislative changes, rather than, for example, the Fed appropriately exercising the discretion already provided for by the law.

If such a test is met, it would then be appropriate for Congress to consider amending the statute. But even then, Congress should only amend the statute to the extent that it addresses the specific issue(s) that meet the two-pronged test outlined above because removing the threshold entirely or raising it across the board could significantly harm the ability of the Fed to protect the economy from a future crisis caused by a very large bank.

As the chart below proves, the $50 billion threshold already limits the Fed's review to a very small number of banks in the U.S. As a result, the $50 billion threshold is a reasonable mechanism to begin the process of evaluating a bank to determine if it should be subject to enhanced prudential standards, which ones and to what extent:

Size of Institution	Number of Institutions
$2 Trillion and Over	2
$1 Trillion and $2 Trillion	2
$500 Billion to $1 Trillion	2
$400 Billion to $500 Billion	1
$300 Billion to $400 Billion	4
$200 Billion to $300 Billion	2
$100 Billion to $200 Billion	11
$50 Billion and $100 Billion	9
$10 Billion and $50 Billion	54
$1 Billion and $10 Billion	Approximately 580
$1 Billion and Below	Approximately 5830

Source: FDIC and Federal Financial Institution Examination Council as of March 31, 2015 (updated from December 31, 2014)

In the absence of a statutory threshold, the Fed would have to undertake a much wider analysis of many, many more U.S. banks to determine whether or not to apply enhanced prudential standards. That would leave the Fed with the option to either review every bank in the country, cease bank-by-bank reviews and apply enhanced standards inflexibly, or establish a different means to target evaluations, which may or may not be more limited than the $50 billion threshold in the Dodd-Frank Act.

Given these choices, it seems likely that the Fed would establish its own mechanism for determining whether or not a bank would be subject to a review to determine whether or not to impose enhanced standards. For this reason, eliminating the threshold entirely would both impose a higher burden on the thousands of community and mid-sized banking organizations in the country that are currently exempt from review, and result in less predictability and less tailored standards for those subject to such higher standards.

That's why the Mid-Sized Bank Coalition of America recently wrote to Congress that, "eliminating a clear line of exemption in favor of [complete] regulatory discretion will, by definition, introduce uncertainty, lack of clarity and, quite possibly, a higher cost of doing business. Specifically, we fear that this would invite [or require] regulators to extend rules that are designed for the largest financial institutions in the world to banks that could not remotely present a threat to the U.S. economy, even under the worst of circumstances – precisely the reason the $50 billion line of exemption was adopted in the first place."

Clearly, it is in the interest of all parties – banks, Congress, regulators, and the public – to maintain a statutory threshold that triggers consideration of enhanced standards. Raising the threshold across the board would have the potential to needlessly, and unnecessarily, limit the Fed's ability to protect the U.S. economy. $50 billion is already a significant limitation on the number of institutions that could be subject to enhanced standards. If policymakers simply raise the threshold to a higher level without this type of careful analysis, it could potentially stop regulators from taking the steps necessary to protect the financial system and economy from the failure of a very large bank.

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