ICI Global

110 Bishopsgate
19th Floor, Suites 19-06 and 19-07
London EC2N 4AY, UK
+44 (0) 207 961 0830
www.iciglobal.org

Suite 715–717, Level 7
Two Exchange Square
8 Connaught Place
Central, Hong Kong
+852 2168 0882

1401 H Street, NW
Suite 1200
Washington, DC 20005, USA
+001 202 326 5800
www.ici.org

28 October 2016

Via European Commission Online Questionnaire

Commissioner Dombrovskis
DG FISMA
European Commission
Rue de la Loi
1049 Brussels
Belgium

Re: Consultation Document: Review of the EU Macro-prudential Policy Framework

Dear Commissioner Dombrovskis,

ICI Global[1] appreciates the opportunity to respond to the Commission's consultation document regarding a review of the European Union (EU) macro-prudential policy framework.[2] As the consultation explains, the current framework has been constructed in a piecemeal fashion since 2008 and largely focuses on the banking sector, which "highlighted the most severe macro-prudential vulnerabilities during the global financial crisis."[3] We applaud the Commission for seeking public input to inform this "first stock-taking" of the framework, including the role of the European Stability Risk Board (ESRB), and for the Commission's willingness to consider reforms that will "deliver a more effective, efficient and flexible framework for the EU."[4]

---

[1] The international program of the Investment Company Institute, ICI Global serves a fund membership that includes regulated funds publicly offered to investors in jurisdictions worldwide, with combined assets of US$20.1 trillion. ICI Global seeks to advance the common interests and promote public understanding of regulated investment funds, their managers, and investors. Its policy agenda focuses on issues of significance to funds in the areas of financial stability, cross-border regulation, market structure, and pension provision. ICI Global has offices in London, Hong Kong, and Washington, DC.

[2] CONSULTATION DOCUMENT, Review of the EU Macro-prudential Policy Framework, 1 August 2016 ("Consultation"), available at http://ec.europa.eu/finance/consultations/2016/macroprudential-framework/docs/consultation-document_en.pdf.

[3] Consultation at 3, 5, 11.

[4] Consultation at 5; response questionnaire, available at http://ec.europa.eu/finance/consultations/2016/macroprudential-framework/index_en.htm.

continued

ICI Global and its members share the Commission's goal of ensuring a strong and resilient financial system for the EU. And we believe in the importance of public institutions being able to monitor across the financial system and identify areas of potential systemic risk. Our responses to the specific questions posed in the consultation reflect that context, and focus on the issue of "whether the current structure and mandate of the ESRB are adequate to ensure effective coordination of national policies and to conduct adequate system-wide risk monitoring."[5] The responses may be summarized as follows:

- We support the ESRB having responsibility for systemic risk monitoring across the EU financial system, as well as "broadening and deepening" the ESRB's analytical resources to facilitate such monitoring in non-bank sectors. This is altogether different from expanding the macro-prudential framework beyond banking—an approach that we strongly oppose (Question 2). This framework is rooted in bank-centric notions of "safety and soundness" and embraces the "smoothing" of financial cycles as essential to preventing and mitigating systemic risk.[6] Outside of banking, that is not the right way to address any potential risks to financial stability. And it would hinder, rather than advance, the EU's goal of developing a "well-functioning and integrated Capital Markets Union"[7]—one that exists alongside the banking sector.

- We strongly believe that the EU should reshape the ESRB, including its composition, mandate and resources (Questions 29-33, 35-38). It is particularly important that the Commission give a greater role within the ESRB to the European Securities Markets Authority (ESMA), the European Insurance and Occupational Pensions Authority (EIOPA) and national regulators in securities and insurance. Their expertise is essential if the ESRB is to be effective in monitoring for risk across the EU financial system.

Objections to the ESRB's planned extension of its mandate

Directly relevant to this consultation is a July 2016 strategy paper in which the ESRB asserts that "macroprudential instruments to address financial stability risks beyond the banking sector should be part of a wider macroprudential policy strategy."[8] The paper—which was not issued for public comment—purports to identify sources of systemic risk from the non-bank financial system and outlines "key tasks" for the ESRB and its members to extend macroprudential policy beyond banking.

This ESRB paper is deeply flawed. The authors—a group that appears not to include a single representative outside of banking—envision addressing "risks across the whole financial

---

[5] Consultation at 9.

[6] *See* Principles of Macroprudential Policy, speech by Vítor Constâncio, Vice-President, European Central Bank, at ECB-IMF Conference on Macroprudential Policy, 26 April 2016, available at https://www.ecb.europa.eu/press/key/date/2016/html/sp160426.en.html.

[7] European Commission, Action Plan on Building a Capital Markets Union, 30 Sept. 2015, available at http://ec.europa.eu/finance/capital-markets-union/docs/building-cmu-action-plan_en.pdf.

[8] ESRB, Macroprudential policy beyond banking: an ESRB strategy paper, July 2016, available at https://www.esrb.europa.eu/pub/pdf/reports/20160718_strategy_paper_beyond_banking.en.pdf.

continued

system with a consistent…set of instruments,"[9] an approach that discounts the fundamental differences between banking and non-bank activities such as asset management. They suggest, for example, that ESRB members and legislative authorities consider the "macroprudential use of liquidity management tools" with regard to Undertakings for Collective Investment in Transferable Securities (UCITS). This suggestion appears to be fundamentally at odds with a fund manager's obligation to act in the best interests of the fund. And the authors proffer this suggestion without offering any evidence that investor redemptions from UCITS could pose risks to the stability of the EU financial system.[10]

This ESRB paper represents a troubling example of bank-dominated regulatory bodies seeking to "export" bank-oriented policies to the asset management sector. We believe it underscores why changes to the ESRB's composition, mandate and resources are necessary to ensure appropriate policy outcomes going forward.

* * * *

We appreciate the opportunity to comment on this important consultation. If you have questions regarding our comments or would like additional information, please contact me at dan.waters@iciglobal.org or +44 2079610831, Patrice Bergé-Vincent, Managing Director, Europe, at patrice@iciglobal.org or +44 2079610833, or Susan Olson, Chief Counsel, at susan.olson@iciglobal.org or +1 202 326-5813.

Yours sincerely,

/s/

Dan Waters
Managing Director

---

[9] *Id.* at 4.

[10] The paper suggests that a market shock could prompt "widespread" redemption requests by UCITS investors that in turn could lead to "fire sales or substantial system-wide liquidity stress." *Id.* at 21. In fact, empirical data regarding the experience of European bond funds during several significant market stress events (such as the European debt crisis in 2011, the 2013 "Taper Tantrum" and the recent "Brexit" vote) show no spike in investor redemptions and no collapse in investor purchases. Net sales of fund shares were either only slightly negative or positive in each of these events. *See Testing the Hypotheses of Stability Risks in Open-End Funds: Empirical Evidence from US, European and Canadian Funds*, appendix included in Letter to Financial Stability Board from Dan Waters, Managing Director, ICI Global, dated 21 Sept. 2016, available at https://www.iciglobal.org/pdf/16_ici_fsb_ltr.pdf.