SINCE 1902
CONFERENCE OF STATE BANK SUPERVISORS

VIA E-MAIL

February 18, 2014

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

RE: Single Point of Entry Strategy

Dear Mr. Feldman:

The Conference of State Bank Supervisors (CSBS)[1] appreciates the opportunity to comment on the Federal Deposit Insurance Corporation's (FDIC) notice and request for public comment on the Single Point of Entry (SPOE) strategy designed to implement the agency's Orderly Liquidation Authority established under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).

State regulators strongly support regulatory reform efforts aimed at designing credible resolution mechanisms for systemically important financial institutions (SIFIs) that minimize disruptions to the financial system and the broader economy. Ensuring that all financial entities can be resolved in an effective and orderly manner is a primary objective of Title I and Title II of the Dodd-Frank Act.

During the financial crisis, the bankruptcy process proved to be inadequate for the orderly resolution of large complex financial institutions. The SPOE strategy represents a crucial component to fulfill the intended regulatory architecture of the Dodd-Frank Act– in the event that a SIFI cannot be resolved under the U.S. Bankruptcy Code according to its resolution plan, mechanisms must be in place to ensure that SIFI can be resolved without triggering catastrophic market events. The FDIC's SPOE strategy allows for the failure of a SIFI with losses to shareholders and unsecured creditors, but also allows the organization's essential operations

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[1] CSBS is the nationwide organization of banking regulators from all 50 states, the District of Columbia, Guam, Puerto Rico, and U.S. Virgin Islands. The mission of CSBS is to support the leadership role of state banking supervisors in advancing the state banking system and state financial regulation, benefiting the public by ensuring safety and soundness, promoting economic growth and consumer protection, and fostering innovative state regulation and supervision of the financial services industry.

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and business lines to remain operational. Allowing for failure while maintaining crucial financial market functions and operations will promote financial stability within the system.

State regulators support a diverse banking system that comprises both large and small financial institutions. We support an end to policies that give the largest institutions a funding advantage over their smaller counterparts. Without a credible resolution mechanism, recent evidence suggests that investors believe the government will step in and save a SIFI in the event of insolvency. The International Monetary Fund finds that SIFIs enjoy structural and implied subsidies amounting to an 80 basis point funding advantage.[2] Economists Acharya, Anginer, and Warburton calculate this cost advantage to exceed 100 basis points.[3] If the post-crisis regulatory framework ultimately does not allow for SIFIs to fail, financial reform efforts will only have entrenched the idea of Too Big to Fail (TBTF) institutions and continue to adversely affect smaller banks.

The SPOE strategy envisions an end to the TBTF subsidy as it forces shareholders and unsecured debt holders to absorb parent company losses in the event of insolvency. However, it is crucial that federal regulators require the top-tier holding company to maintain adequate levels of equity and unsecured debt to ensure that new well-capitalized private sector entities will emerge from the SPOE resolution process. Required minimum levels of equity and unsecured debt will serve to strengthen large institutions prior to failure and will promote stability in the broader banking system during the resolution process.

Diversity in the financial services industry is vital to maintaining financial stability, and processes for resolving troubled institutions should promote this diversity as opposed to perpetuating or exacerbating consolidation. Accordingly, while the FDIC SPOE proposal notes that one or more new companies will emerge from the SPOE process, state supervisors firmly believe that the end result should be multiple private sector firms that are less complex, less interconnected, and do not perpetuate the prior firm's threat to financial stability.

The Dodd-Frank Act reflects Congress' intent to preserve the role of the state regulatory system in the post-crisis regulatory framework. Successful implementation of the Dodd-Frank Act hinges upon robust coordination between state and federal regulators. State agencies license, charter, incorporate, and supervise foreign and domestic financial service providers and banking organizations in the United States. Just as the SPOE strategy notes the importance of

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[2] Ueda, Kenichi, and Beatrice Weder di Mauro. "Quantifying Structural Subsidy Values for Systemically Important Financial Institutions." IMF Working Paper, May 2012. Available at: https://www.imf.org/external/pubs/ft/wp/2012/wp12128.pdf

[3] Acharya, Viral, Deniz Anginer, and A. Joseph Warburton. "The End of Market Discipline: Investor Expectations of Implicit State Guarantees." December 2013. Available at: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1961656

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coordinating with foreign regulatory authorities, early and close coordination and collaboration with relevant domestic regulators – particularly state agencies – is also key to a successful and orderly resolution. Advance coordination with state supervisors is particularly imperative when branches and/or control issues involving state supervised foreign banking organizations are involved. To this end, the FDIC's SPOE strategy should clearly articulate the steps the FDIC will take to identify in advance and consult with relevant state and other regulators.

Additionally, many resolution authorities codified in state laws predate Dodd-Frank Act reforms and could conflict with the developing SPOE strategy. Such legal conflicts could arise at the worst possible time and slow down the resolution process, precisely when all regulators need speed, efficiency, and the fewest possible legal hurdles to successfully execute an orderly resolution. Therefore, the FDIC and other federal agencies must engage with state regulatory agencies now to ensure conflicts do not arise later. State and federal engagement and coordination should span the entire life cycle of resolution, from the resolution planning process to the orderly resolution process under the SPOE strategy.

CSBS encourages the FDIC to coordinate with state regulators before and during the process of orderly liquidation. The positive relationship between the states and the FDIC has enhanced the supervisory process and reduced duplicative efforts. State regulators firmly believe that coordination and communication between state and federal regulators will enhance the Orderly Liquidation process.

CSBS appreciates the opportunity to comment on this important initiative and looks forward to continued engagement with the FDIC as it further develops the SPOE strategy and designs its approach to implementing its Orderly Liquidation Authority.

Sincerely,

John W. Ryan
President & CEO