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United States Senate

WASHINGTON, DC 20510

July 26, 2012

The Honorable Timothy Geithner
Secretary
United States Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20229

Dear Secretary Geithner,

It is clear that the dangers presented by the existence of "too big to fail" megabanks require examination. Recent events, including Libor manipulation and significant trading losses at JPMorgan, provide further evidence that certain Wall Street megabanks are too big to manage and too big to regulate. It is no wonder that the chorus of those calling to downsize our nation's megabanks has increased in recent months – from financial executives, current and former regulators, and a growing number of my Senate colleagues. As you know, the former Chief Executive Officer of Citigroup, who helped engineer the passage of the Gramm-Leach-Bliley Act, yesterday called for the biggest banks to be broken up. I urge you to reconsider your position on this issue as well.

The President argued in January 2010 that we must "prevent the further consolidation of our financial system," because "[t]he American people will not be served by a financial system that comprises just a few massive firms."[1] I could not agree more. Unfortunately, the Federal Reserve Bank of Dallas has observed that "huge institutions still dominate the industry—just as they did in 2008."[2]

Mergers have led three of the four largest megabanks to grow by an average of more than $500 billion.[3] As the Financial Stability Oversight Council (FSOC), which you chair, notes in its annual report, "[a]s of the first quarter of 2012, the 10 largest banks held 52 percent of industry assets, worth approximately 47 percent of GDP, compared with 45 percent of industry assets, worth approximately 40 percent of GDP at the end of 2006."[4] The combined assets of the six largest U.S. banks are now twice as large as the rest of the top 50 U.S. banks combined, and, according to the Federal Reserve Bank of New York, have a combined 14,420 subsidiaries.[5]

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[1] Remarks by the President on Financial Reform, Jan. 21, 2010 *available at* http://www.whitehouse.gov/the-press-office/remarks-president-financial-reform.
[2] Harvey Rosenblum, "Choosing the Road to Prosperity: Why We Must End Too Big to Fail—Now" 21, Federal Reserve Bank of Dallas 2011 Annual Report.
[3] *See* Simon Johnson & James Kwak, 13 BANKERS: THE WALL STREET TAKEOVER AND THE NEXT FINANCIAL MELTDOWN 180 (Pantheon, 2010).
[4] Financial Stability Oversight Council, 2012 Annual Report 142 (2012).
[5] Asset calculation based upon FFIEC data for the six largest bank holding companies by assets, excluding assets of Metlife; *see also* Dafna Avraham, Patricia Selvaggi, & James Vickery, *A Structural View of U.S. Bank Holding Companies*, 18 ECON. POLICY REV. 7, Table 1 (July 2012).

You have argued in the past that the U.S. financial system is less concentrated than those of most European countries, but the global financial crisis demonstrated that the models of nations like the United Kingdom or Switzerland were not successful. Both of those nations have learned from their mistakes and are currently considering more significant reforms to their banking sectors – through either walling off, or "ringfencing," institutions' investment banking activities or imposing 19 percent capital requirements. It is time for U.S. policymakers to embrace more robust reforms.

The Dodd-Frank Wall Street Reform and Consumer Protection Act is a modest step in the right direction. And while enhanced capital requirements for megabanks are necessary and appropriate, it is clear to me that more steps must be taken to protect the health and safety of the financial system. Until such steps are taken, if regulators continue to insist that they are up to the task of regulating trillion-dollar Wall Street megabanks, then they must be held accountable for either their actions or their inactivity in the face of Wall Street's transgressions.

I am concerned that, in its settlement with Barclays, the U.K.'s Financial Services Authority (FSA) found that "Barclays had no (or inadequate) systems and controls that related specifically to its LIBOR … setting processes during the Relevant Period. There were several relevant opportunities for Barclays to review its systems and controls however Barclays did not carry out any review on these occasions."[6] According to Barclays, this lack of systems and controls was a global problem that included trading practices at its bank affiliate in New York. Relevant bank and financial market regulators participating in the President's Working Group on Financial Markets were briefed in 2008 about concerns regarding Barclays' LIBOR process, yet none of these agencies detected the deficiencies discovered by the FSA. It also appears that no other U.S. LIBOR reporting banks were examined for similar deficiencies.

This shows once again that trillion-dollar global banks that engage in trading and capital markets activities require a level of scrutiny that regulators have been either unwilling or unable to apply. It suggests to me that these megabanks are too big to regulate. *Do you agree with me, or do you believe that regulators are capable of overseeing trillion-dollar institutions with many different lines of business and thousands of diverse subsidiaries spread across many countries and continents?* Please explain your answer.

Thank you for your attention to this important matter, and I look forward to your prompt response.

Sincerely,

Sherrod Brown

Sherrod Brown
United States Senator

[6] Financial Services Authority, Final Notice 122702 at 34, June 27, 2010, *available at* http://www.fsa.gov.uk/static/pubs/final/barclays-jun12.pdf.