July 1, 2013

Deputy Prime Minister Taro Aso
Minister of State for Finance Services
Government of Japan

Commissioner Michel Barnier
Commissioner for Internal Markets and Services
European Commission

Minister Pravin Gordhan
Minister of Finance
Government of South Africa

Minister Guido Mantega
Ministry of Finance
Government of Brazil

Minister Pierre Moscovici
Ministry of Finance
Government of France

Chancellor George Osborne
Chancellor of the Exchequer
Government of the United Kingdom

Minister Wolfgang Schäuble
Ministry of Finance
Government of Germany

Minister Anton Siluanov
Minister of Finance
Government of Russia

Minister Eveline Widmer-Schlumpf
Finance Minister
Government of Switzerland

Your Excellencies,

We, the undersigned civil society organizations of numerous nations, write in response to your April 18th letter to U.S. Secretary of Treasury Jacob Lew.

In your April 18th letter, you write to Secretary Lew, "as a principle, local regulations should not be extended beyond national borders." Yet the global market in financial derivatives is essentially cross-border and cybernetic. This narrow principle for regulating financial entities whose business is routinely cross-border contradicts the robust multilateralism of your G-20 commitments to prevent cross-border tax evasion and tax crime.[1] Likewise, shared G-20 agreements to reform the oversight of the financial markets speak to a robust multilateral commitment to provide effective oversight of global finance.[2]

Such oversight is urgently needed. Estimates of the damage caused by the global financial crisis of 2008-2009 exceed $60 trillion.[3] In each of our nations, the reality of this damage has been reflected in mass unemployment, home foreclosures, and cutbacks in key public services. The consequences of the lack of proper oversight of financial activities spill across national borders.

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[1] Communiqué, G-20 Finance Ministers and Central Bankers, Washington, DC, April 19, 2013, paragraph 14.
[2] G-20 Leaders' Statement, The Pittsburgh Summit (the "Pittsburgh Communiqué"), Pittsburgh, PA, September 24-25 2009, Paragraph 13.
[3] Haldane, Andrew, "The $100 Billion Question", Comments by Mr Andrew G Haldane, Executive Director, Financial Stability, Bank of England, at the Institute of Regulation & Risk, Hong Kong, 30 March 2010.

For example, European investors, including public entities, paid a heavy price for inadequate U.S. regulation of mortgage securities. And the U.S. Federal Reserve provided trillions in support for European banks (including central banks) to ensure that European entities had the resources to make good on commitments to U.S. counterparties.[4]

Effective regulation of fundamentally international and global financial markets requires that national regulators be able to enforce strong oversight rules for all transactions that seriously impact their economy and their markets, wherever these transactions are nominally located. A failure to embrace this principle will leave the entire global financial system vulnerable to weak regulations in a single host jurisdiction. Financial institutions located in the under regulated jurisdiction will be able to conduct transactions that affect markets across the globe, and other nations will face incentives to reduce their regulatory oversight as well. Yet your letter, as well as other communications from European regulators seeking to push back the scope of U.S. financial regulations, does not advance this crucial principle. If, as you suggest, the reach of national regulation cannot extend beyond national borders, then national regulators will be helpless when faced with the global reach of financial institutions.

Of course, effective regulation is also complemented by multilateral coordination. As you suggest in your letter, the use of substituted compliance should certainly be an option as part of this coordination, but only when different regulatory regimes are demonstrably equivalent and substituted compliance does not create regulatory gaps in financial oversight. This is currently far from being the case. It is therefore urgent that regulators now give first priority to the effectiveness of regulation in controlling risks to financial stability. Regulators must implement their mandate to control threats to national and global financial stability regardless of putative inconveniences to global banks in complying with national regulations.

Unfortunately, your letter appears to place a higher priority on preventing ‘fragmentation’ in global financial markets than on effective management of global financial risks. Since G-20 nations have not yet met their 2009 Pittsburgh commitment to put in place effective derivatives regulation by the close of 2012, the first priority should be to complete this crucial element of financial oversight. Instead, your letter appears aimed at limiting the effective scope of derivatives regulations that are moving toward completion, such as those currently being completed by the Commodity Futures Trading Commission (CFTC) in the United States.

We do not deny that the effective regulation of fundamentally trans-national financial markets presents major challenges, both to individual nations and to international bodies. Yet the path to addressing these challenges does not lie in further delays that prevent any nation from acting until every jurisdiction globally has agreed on a similar approach. Nor does it lie in a futile attempt to use a narrow principle of national sovereignty to regulate banks that operate in dozens of jurisdictions interchangeably. Instead, we urge the international community to coordinate

[4] See Table 8 and Figure 10, Government Accounting Office, “Opportunities Exist to Strengthen Policies and Processes for Managing Emergency Assistance”, GAO-11-696, July, 2011.

around a shared high level of financial oversight, and in the meantime to support the efforts of individual nations to ensure that the scope of their financial regulation properly captures all transactions, wherever conducted, that affect the safety and stability of each national financial system.

Our organizations welcome ongoing opportunities to work with your regulatory bodies to achieve strong and effective regulation of global financial markets. Thank you for your consideration of these remarks.

SIGNATORIES

ActionAid International

AFL-CIO (American Federation of Labor And Congress of Industrial Organizations)

Americans for Financial Reform

Berne Declaration

Center of Concern

The Centre for Research on Multinational Corporations (SOMO)

Centre national de coopération au développement, CNCD-11.11.11

CGIL - Italian General Confederation of Labour

Consumer Federation of America

Global Progressive Forum

IBON International

The International Institute for Monetary Transformation

Institute for Agriculture and Trade Policy (IATP)

Institute for Policy Studies, Global Economy Project

Jubilee Debt Campaign, UK

Kairos Europe (Brussels)

Missionary Oblates - USP (Washington DC)

Oxfam

Red Latinoamericana sobre Deuda, Desarrollo y Derechos – LATINDADD

Stamp Out Poverty

Tax Justice Network

UBUNTU Forum

War on Want

WEED (World Economy, Ecology, and Development)

World Development Movement

Cc: Jacob Lew, Secretary of the Treasury, U.S. Department of the Treasury

Mary Jo White, Chair, Securities and Exchange Commission

Gary Gensler, Chairman, Commodities Futures Trading Commission