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June 4, 2015

Honorable Thomas E. Perez
United States Secretary of Labor
200 Constitution Ave., NW
Washington, DC 20210

Dear Secretary Perez:

Recently, it was announced that five of the world's biggest banks — JPMorgan Chase, Citigroup, Barclays, UBS and Royal Bank of Scotland —pleaded guilty to criminal charges that they acted in concert to manipulate international interest rates and foreign currency exchange. By changing, on a daily basis, global benchmarks used to set foreign exchange and interest rates, these banks over a period of several years bilked billions of dollars from unsuspecting companies, institutional investors, and in some cases, individuals by altering rates in their favor. Four of the banks—JP Morgan Chase, Citigroup, Royal Bank of Scotland and Barclays also pleaded guilty to felony antitrust violations.

This is not the first time that these banks have had problems with the law. Both JP Morgan and Citibank have been held liable for mortgage securities fraud. JP Morgan has also been involved in “London Whale” trading, the Robo-Signing scandal, electricity market manipulation, and municipal bond trading fraud. For UBS, this was the third criminal settlement in six years.

It is our understanding that some if not all of these banks will be seeking waivers from the Department of Labor in order to keep managing money in the private pension market. Specifically, some of the banks will need DOL waivers if they continue managing pensions as a Qualified Professional Asset Manager. Such asset managers are exempt from a wide range of prohibitions under The Employee Retirement Income Security Act. The exemptions allow managers to conduct sophisticated transactions for clients in the pension-fund market.

As the department considers these waiver requests, ICBA hopes that the public will have an opportunity to comment and to request an administrative hearing before an exemption is granted. ICBA believes these banks should be denied their waiver requests to continue managing pensions as QPAMs because of their criminal and antitrust violations as well as their prior conduct that contributed to the recent economic downturn.

ICBA is also concerned about the overall inconsistent enforcement policy among regulators that treats the megabanks differently from the community banks. If a community bank was to plead guilty of criminal violations, at a minimum, the regulators would have insisted that senior management resign as well as some or all of the board of directors. However, if a large bank commits a crime and even if the bank has been subject to multiple violations of the law, all the bank receives is a fine and a slap on the wrist. There are no changes in the management or the board, and the bank continues functioning as if nothing has happened.

ICBA urges the Department of Labor to deny the request of these banks to continue managing pensions as QPAMs because of their criminal and antitrust violations. There should not be one set of enforcement procedures for the large banks and another for the rest of the industry. No bank should be too big to fail nor too big to jail.

Sincerely,

President/CEO

The Nation's Voice for Community Banks.®

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1615 L Street NW, Suite 900, Washington, DC 20036-5623 | 800-422-8439 | FAX: 202-659-1413 | Email: info@icba.org | Website: www.icba.org