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Senator Orrin HATCH
Chairman of the U.S. Senate Finance Committee,
Chairman of the Joint Committee on Taxation

Senator Mike ENZI
Chairman of the U.S. Senate Committee on Budget

Senator John CORNYN
Member of the Senate Committee on Finance,
Chair of the Subcommittee on International Trade, Customs, and Global Competitiveness

Senator John THUNE
Chairman of the U.S. Senate Committee on Commerce, Science, and Transportation,
Member of the Senate Committee on Finance

Senator Rob PORTMAN
Member of the Senate Committee on Finance,
Chair of the Subcommittee on Taxation and IRS Oversight

Senator Tim SCOTT
Member of the Senate Committee on Finance,
Chair of the Subcommittee on Fiscal Responsibility and Economic Growth

Senator Pat TOOMEY
Member of the Senate Committee on Finance,
Chair of the Subcommittee on Health Care

Congressman Kevin BRADY
Chairman of the House Committee on Ways and Means,
Vice-Chairman of the Joint Committee on Taxation

Congressman Devin NUNES
Member of the House Committee on Ways and Means

Congressman Peter ROSKAM
Member of the House Committee on Ways and Means

Congresswoman Diane BLACK
Member of the House Committee on Ways and Means

Congresswoman Kristi NOEM
Member of the House Committee on Ways and Means

Subject: U.S. Tax Reform

Dear Honorable Members of the U.S. Congress,

The U.S. legislators are about to adopt a corporate tax reform which is significant and may have far-reaching consequences for the financial industry, both domestically and abroad, for investments in the United States and for international trade and financial markets.

Because Europe is the first partner of the United States in these areas, European Governments, the Commission and the European banking industry, with all due respect to the U.S. tax sovereignty, are closely monitoring the on-going debate on the Senate and House tax bills. Considering the very negative impact some elements of the proposals may have on financial institutions and markets, European stakeholders are extremely concerned by the potential outcome of this legislative process.

In a letter dated 11 December, the Finance Ministers of Germany, France, the United Kingdom, Italy and Spain (the "EU G-5") called on the US Treasury to respect the international obligations to which it has signed-up, including the non-discrimination clause embedded in U.S. double tax Treaties.

The letter also refers to the OECD which it considers as the right forum for the development of consistent international tax principles to tackle double taxation and double non-taxation at the same time. In the light of the recommendations made by the OECD to address base erosion and profit shifting, the EU G-5 Finance Ministers argue that some elements of the proposed U.S. tax reform – including the Base Erosion and Anti-Abuse Tax provisions contained in the Senate Bill - are not targeted to abusive arrangements and hence appear to serve a purely territorial approach. These proposals would impose punitive measures on foreign financial institutions operating in the U.S., would contravene international Treaties and would be in breach with international standards and World Trade Organization (WTO) rules.

Echoing the EU G-5 letter, the European Commission called on the U.S. Treasury in a letter dated 12 December to reconsider pushing through some elements of the tax bill which it considers would seriously hamper trade and investment flow between the US and EU economies.

The European Banking Federation (EBF) would like to add its voice to the serious concerns expressed by the EU G-5 and the Commission. European banks are extremely concerned by the proposed interest expense limitations and by the proposed excise tax and anti-abuse tax that may hit outbound payments made by US-based financial institutions to their affiliates. As currently drafted, these provisions may have a major distortive impact on financial markets and could severely affect the U.S. operations of foreign financial institutions which play a significant role in helping foster the U.S. economic growth.

The EBF notes that the base erosion proposals do not provide any carve-out for financial undertakings, hence disregarding the fact that for financial institutions interest expenses may be compared to their "costs for goods sold". As currently drafted, we also note that the legislation would impose tax on the interest paid by foreign banks on their regulatory capital (e.g., interest on T-LAC debt in the banking industry). In other words, foreign banks which are required by the U.S. banking regulations to issue their debt outside of the United States at the parent company level, would now be taxed on the interest paid to their parent institutions. This will significantly increase cost of doing business in the U.S. for foreign banks.

We would very much appreciate if the extremely serious concerns shared by all major stakeholders in Europe could be taken into consideration. We would like to think that the ongoing legislative process will result in a robust U.S. corporate tax system that preserves the interests of international trade and financial markets.

Yours sincerely,

Wim MIJS
Chief Executive Officer