BVCA

10 September 2012

Banking Reform Bill Team
HM Treasury
1 Horse Guards Parade
SW1A 2HQ

By email: banking.commission@hmtreasury.gsi.gov.uk

Dear Sirs,

Re: BVCA Regulatory Committee response to HM Treasury White Paper on Banking Reform: delivering stability and supporting a sustainable economy

This response to the HM Treasury White Paper on Banking Reform: delivering stability and supporting a sustainable economy is made by the British Private Equity and Venture Capital Association ("BVCA").

The BVCA is the industry body and public policy advocate for the private equity and venture capital industry in the UK. The BVCA Membership comprises over 250 private equity, midmarket and venture capital firms with an accumulated total of approximately £32 billion funds under management; as well as over 250 professional advisory firms, including legal, accounting, regulatory and tax advisers, corporate financiers, due diligence professionals, environmental advisers, transaction services providers, and placement agents.

In order to focus our response appropriately we have provided a summary of the issues we consider to be relevant to our industry rather than addressing each of the questions separately.

The BVCA supports the work of HM Treasury in seeking to provide a stable banking sector and working to support the economy. Private equity and venture capital firms play an important role in supporting the UK economy by providing finance, oversight and strategic direction for UK businesses. As such, it is important that any proposals intended to stimulate and support the economy do not restrict or limit the work of private equity and venture capital firms.

Prohibiting investment firms from using ring-fenced banks will reduce the pool of banks from which investment firms can choose when arranging banking services. Although the White Paper suggests that ring fencing will increase competition within the banking sector, the reduction in the number of available providers, and the limits on the services that banks are able to provide to certain types of firms, has the potential of reversing this perceived benefit. This may, in turn, increase the costs and administrative burden associated with the provision of banking services

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meaning those private equity and venture capital firms caught by the proposals will have less available funds to invest into the UK economy.

We note this issue is mitigated to a limited degree by the proposed exemption for fund managers classified as "sub-threshold" managers under the Alternative Investment Fund Managers Directive ("AIFMD") and we support this exemption. However, there will remain a large number of firms which are not eligible to benefit from this exemption. Private equity and venture capital firms invest their funds into private limited companies (with a small number of exceptions) and have limited, if any, direct exposure to or impact on the wider financial markets. It is therefore difficult to conceive of how the failure of a private equity or venture capital firm could trigger wider systemic problems. Furthermore, a number of private equity and venture capital firms do not actively manage funds and act in a purely advisory capacity to overseas managers directing money from third countries into the UK. Therefore, based on the same principles of proportionality and risk limitation which engendered the exemption for sub-threshold firms, and to ensure that private equity and venture capital firms are able to conduct business without unnecessary restrictions, we consider that all such firms should be exempt from the restrictions on using ring-fenced banks. In any event, at least those private equity and venture capital firms which would be defined as a sub-threshold firm were they within the scope of AIFMD, together with those private equity and venture capital firms that are an SME, should be exempted from the restrictions on using ring-fenced banks.

It is also essential to distinguish between a private equity/venture capital firm, the funds managed or advised by them and their portfolio companies. Portfolio companies of private equity/venture capital firms include companies within all sectors of the economy. They are not grouped with the fund or with the investment firm and the insolvency of a portfolio company would not (and does not) affect the viability of the investment firm or of other companies into which the relevant fund has invested. The portfolio companies into which firms invest will frequently fall into the definition of an "SME". It is important, therefore, that any proposals which seek to prevent private equity and venture capital firms from using ring-fenced banks do not extend to their portfolio companies. If such companies were prevented from using retail banks for their banking requirements they would be put at a competitive disadvantage against other companies with different forms of financial backing. This would, in turn, be harmful to such businesses and therefore to the wider UK economy.

We would be happy to discuss any of the issues we have raised in this letter.

Yours faithfully

Margaret Cham

Margaret Chamberlain
Chair - BVCA Regulatory Committee