

United States House of Representatives
Committee on Financial Services
2129 Rayburn House Office Building
Washington, D.C. 20515

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: January 10, 2014

Subject: January 15, 2014, full committee hearing entitled “The Impact of the Volcker Rule of Job Creators, Part I”

The Committee on Financial Services will hold a hearing entitled “The Impact of the Volcker Rule of Job Creators, Part I” at 10:00 am on Wednesday, January 15, 2014, in room 2128 of the Rayburn House Office Building. This will be a one-panel hearing including the following witnesses:

- The Honorable Ken Bentsen, President and CEO, SIFMA
- Elliot Ganz, General Counsel and Executive Vice President, Loan Syndications and Trading Association
- Charles Funk, President and CEO, MidWest One Bank, Iowa City, IA
- Dave Robertson, Partner and Director, Treasury Strategies
- Prof. Simon Johnson, MIT Sloan School of Management

Background

Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Pub. L. No. 111-203)—popularly known as the “Volcker Rule” after its chief proponent, former Federal Reserve Board Chairman Paul Volcker—prohibits U.S. bank holding companies and their affiliates from engaging in “proprietary trading” and from sponsoring hedge funds and private equity funds. Proponents of the Volcker Rule generally assert that the rule is needed to prevent speculative, excessively risky activity by insured depository institutions. The Volcker Rule’s detractors contend that proprietary trading played little to no part in causing the 2008 financial crisis. They also argue that drawing a line between “proprietary trading” and permissible market-making activity (i.e., taking the other side of a customer’s securities trade and holding that position because there is not a readily available market for it at that time) is exceedingly difficult—if not impossible—making the Volcker Rule unworkable and potentially harmful to U.S. capital markets.

The Dodd-Frank Act directs certain regulatory agencies to promulgate regulations to implement the Volcker Rule. Accordingly, in October 2011 and January 2012, five regulatory agencies — the Federal Reserve, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity

Futures Trading Commission (collectively, the “Agencies”) — proposed the Volcker Rule for public comment. The proposal sought comment from market participants on nearly 400 topics and propounded 1,300 specific questions. Regulators received more than 18,000 comment letters. On December 10, 2013, the Agencies, operating under a year-end deadline imposed by Treasury Secretary Jacob Lew, voted to approve a final regulation implementing the Volcker Rule. The final rule totals 932 pages.¹

While the final rule becomes effective April 1, 2014, the conformance period is delayed until July 21, 2015. As noted above, the final Volcker Rule generally exempts bank holding companies and their affiliates’ market-making activities — as well as certain transactions used to hedge risk — from the prohibition on proprietary trading. Beginning on June 30, 2014, banking entities with \$50 billion or more in consolidated trading assets and liabilities must begin reporting on the key quantitative measures that regulators will monitor to distinguish between permissible market-making or hedging and impermissible proprietary trading. Banks with at least \$25 billion, but less than \$50 billion, in consolidated trading assets and liabilities would become subject to this requirement on April 30, 2016. Those with at least \$10 billion, but less than \$25 billion, in consolidated trading assets and liabilities would become subject to the requirement on December 31, 2016.

This hearing will examine the impact of the Volcker Rule on the U.S. economy and its capital markets. Among other things, the hearing is likely to examine the effect of the Volcker Rule on the ability of financial institutions to own tranches of collateralized debt obligations backed by trust preferred securities and how H.R. 3819, the Fairness for Community Job Creators Act, would modify the Volcker Rule’s applicability to financial institutions that hold such ownership interests.

¹ The text of the final Volcker Rule, the preamble, the Volcker Rule’s applicability to community banks and other supporting documents can be accessed at:

<http://www.federalreserve.gov/aboutthefed/boardmeetings/20131210openmaterials.htm>