

MEMORANDUM

To: Members of the Committee on Financial Services

From: FSC Majority Staff

Date: January 31, 2014

Subject: February 5, 2014, Full Committee Hearing Entitled “The Impact of the Volcker Rule on Job Creators, Part II”

The Committee on Financial Services will hold a hearing entitled “The Impact of the Volcker Rule on Job Creators, Part II” at 10:00 am on Wednesday, February 5, 2014, in room 2128 of the Rayburn House Office Building. This hearing will build off of the testimony received at the Committee’s January 15, 2014, hearing concerning the Volcker Rule (entitled “The Impact of the Volcker Rule on Job Creators, Part I”). One panel of witnesses will testify at this hearing, including:

- The Honorable Daniel Tarullo, Governor, Federal Reserve Board
- The Honorable Mary Jo White, Chairman, Securities and Exchange Commission
- The Honorable Thomas Curry, Comptroller of the Currency
- The Honorable Martin Gruenberg, Chairman, Federal Deposit Insurance Corporation
- The Honorable Mark Wetjen, Acting Chairman, Commodity Futures Trading Commission

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, its capital markets, and our domestic job-creating businesses. 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 the impact of the interim final rule promulgated by the Agencies on January 14, 2014; the divestiture of investments that are no longer permissible pursuant to the Volcker Rule’s covered fund provisions; and how the Agencies will coordinate Volcker Rule compliance, examinations, interpretation and enforcement.

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>