

**TESTIMONY OF MARK P. WETJEN  
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BEFORE THE  
U.S. HOUSE COMMITTEE ON FINANCIAL SERVICES  
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Good morning Chairman Hensarling, Ranking Member Waters and members of the Committee. Thank you for inviting me to today's hearing on Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), otherwise known as the Volcker Rule. I am honored to testify as Acting Chairman of the Commodity Futures Trading Commission (CFTC). I also am pleased to join my fellow regulators in testifying today.

Congress directed the CFTC to implement Section 619 of Dodd-Frank, which prohibits or places restrictions on certain types of financial activities conducted by "banking entities" and certain financial companies supervised by the Federal Reserve Board. For the CFTC, the Volcker Rule was one of the last remaining rulemakings required by Dodd-Frank. Most of the CFTC's rulemaking responsibilities are complete and have been, or are in the process of being, implemented.

**CFTC Progress on Financial Reform**

Due to Dodd-Frank and the efforts of my colleagues and staff at the CFTC, today there is both pre-trade and post-trade transparency in the swaps market where it did not exist before. The public now can see the price and volume of swap transactions in real-time, and the CFTC's Weekly Swaps Report provides a snapshot of the market each week. The most liquid swaps are being traded on regulated platforms and exchanges, with a panoply of protections for those depending on the markets, and regulators themselves have a new window into the marketplace through swap data repositories.

Transparency, of course, is helpful only if the information provided to the public and regulators can be usefully employed. Therefore, the CFTC also is taking steps to protect the integrity of that data and ensure that it continues to be reliable and useful for surveillance, systemic risk monitoring, and the enforcement of important financial reforms, including the Volcker Rule.

These transparency rules complement a number of equally important financial reforms. For example, the counterparty credit risks in the swaps market have been reduced as a large segment of the swaps market is now being cleared. Additionally, nearly 100 swap dealers and major swap participants have registered with the CFTC, bringing their swaps activity and internal risk-management programs under the CFTC's oversight for the first time.

As it has put these reforms in place, the CFTC has consistently worked to protect liquidity in the markets and ensure that end-users can continue using them to hedge risk, as Congress directed. The CFTC, in short, has completed most of its initial mandate under Dodd-Frank

and has successfully ushered in improvements to the over-the-counter derivatives market structure for swaps, while balancing countervailing objectives.

### **Leadership from the U.S. Department of the Treasury and Coordination within the Financial Regulatory Community on the Volcker Rule**

The Volcker Rule was exceptional on account of the unprecedented coordination among the five financial regulators.

Congress required the banking regulators to adopt a joint Volcker Rule, but it also provided that the market regulators, the Securities and Exchange Commission (“SEC”) and the CFTC, need only coordinate with the prudential banking regulators in their rulemaking efforts. One of the hallmarks of the final rule is that the market regulators went beyond the congressional requirement to simply coordinate. In fact, the CFTC’s final rule includes the same rule text as that adopted by the other agencies. Building a consensus among five different government agencies was no easy task, and the level of coordination by the financial regulators on this complicated rulemaking was exceptional.

This coordination was thanks in no small part to leadership at the Department of the Treasury. Secretary Lew, Acting Deputy Secretary Miller, and others have been instrumental in keeping the agencies on task and seeing this rulemaking over the finish line. Along with the other agencies, the CFTC received more than 18,000 comments addressing numerous aspects of the proposal. CFTC staff hosted a public roundtable on the proposed rule and met with a number of commenters. Through weekly inter-agency staff meetings, along with more informal discussions, the CFTC staff and the other agencies carefully considered the comments in formulating the final rule.

### **Differences with Proposal**

The agencies were responsive to the comments when appropriate, which led to several changes from the proposed Volcker Rule I would like to highlight.

The final Volcker Rule included some alterations to certain parts of the hedging-exemption requirements found in the proposal. For instance, the final rule requires banking entities to have controls in place through their compliance programs to determine whether hedges remain reasonably correlated with an underlying position. The final rule also requires ongoing recalibration of hedging positions in order for the entities to remain in compliance.

Additionally, the final rule provides that hedging related to a trading desk’s market-making activities is part of the trading desk’s financial exposure, which can be managed separately from the risk-mitigating hedging exemption.

Another modification to the proposal was to include under “covered funds” only those commodity pools that resemble, in terms of leverage and investor base, a typical hedge fund.

### **CFTC Volcker Rule Implementation and Enforcement**

The CFTC estimates that, under its Volcker regulations, it has authority over more than 100 registered swap dealers and futures commission merchants (“FCMs”) that meet the definition of “banking entity” in the Volcker Rule. In addition, under Section 619, some of these banking entities may be subject to oversight by other regulators. For example, a joint FCM/broker-dealer would be subject to both CFTC and SEC jurisdiction and in such circumstances, the CFTC will monitor the activities of the entity directly and also coordinate closely with the other functional regulator(s).

In this regard, Section 619 of the Dodd-Frank Act amended the Banking Holding Company Act to direct the CFTC itself to write rules implementing Volcker Rule requirements for banking entities “for which the CFTC is the primary financial regulatory agency” as that term was defined by Congress in Dodd Frank. Accordingly, as Congress directed, the CFTC’s final rule applies to entities that are subject to CFTC registration and that are banking entities, under the Volcker provisions of the statute.

To ensure consistent, efficient implementation of the Volcker Rule, and to address, among other things, the jurisdiction issues I just mentioned, the agencies have established a Volcker Rule implementation task force. That task force will also be the proper vehicle to examine the means for coordinated enforcement of the rule. Although compliance requirements under the Volcker Rule do not take effect until July 2015, the CFTC is exploring now whether to take additional steps, including whether to adopt formal procedures for enforcement of the rule. As part of this process, I have directed CFTC staff to consider whether the agency should adopt such procedures and to make recommendations in the near future.

### **Volcker Rule: Lowering Risk in Banking Entities**

The final Volcker Rule closely follows the mandates of Section 619 and strikes an appropriate balance in prohibiting banking entities from engaging in the types of proprietary trading activities that Congress contemplated when considering Section 619 and in protecting liquidity and risk management through legitimate market making and hedging activities. In adopting the final rule, the CFTC and other regulators were mindful that exceptions to the prohibitions or restrictions in the statute, if not carefully defined, could conceivably swallow the rule.

Banking entities are permitted to continue market making—an important activity for providing liquidity to financial markets—but the agencies reasonably confined the meaning of the term “market making” to the extent necessary to maintain a market-making inventory to meet near-term client, customer or counterparty demands.

Likewise, the final rule permits hedging that reduces specific risks from individual or aggregated positions of the banking entity.

The final Volcker Rule also prohibits banking entities from engaging in activities that result in conflicts of interest with clients, customers or counterparties, or that pose threats to the safety and soundness of these entities, and potentially therefore to the U.S. financial system.

The final Volcker rule also limits banking entities from sponsoring, owning “covered funds,” which includes hedge funds, private equity funds or certain types of commodity pools, other than under certain limited circumstances. The final rule focuses the prohibition on certain types of pooled investment vehicles that trade or invest in securities or derivatives.

Finally, and importantly, the final Volcker Rule requires banking entities to put in place a compliance program, with special attention to the firm’s compliance with the rule’s restrictions on market making, underwriting and hedging. It also requires the larger banking entities to report key metrics to regulators each month. This new transparency, once phased-in, will buttress the CFTC’s oversight of swap dealers and FCMs by providing it additional information regarding the risk levels at these registrants.

### **The CFTC Needs Additional Resources to Effectively Monitor Compliance with the Volcker Rule**

To be effective, the CFTC’s oversight of these registrants requires technological tools and staff with expertise to analyze complex financial information. On that note, I am pleased that the House and Senate have agreed to an appropriations bill that includes a modest budgetary increase to \$215 million for the CFTC, lifting the agency’s appropriations above the sequestration level that has been challenging for planning and orderly operation of the agency. The new funding level is a step in the right direction. We will continue working with Congress to secure resources that match the agency’s critical responsibilities in protecting the safety and integrity of the financial markets under its jurisdiction. We need additional staff for surveillance, examinations, and enforcement, as well as investments in technology, to give the public confidence in our ability to oversee the vast derivatives markets.

### **TruPS Interim Final Rule**

Even with resource constraints, though, the CFTC has been responsive to public input and willing to explore course corrections, when appropriate. With respect to the Volcker Rule, the CFTC, along with the other agencies, last month unanimously finalized an interim final rule to allow banks to retain collateralized debt obligations backed primarily by trust-preferred securities (TruPS) issued by community banks. The agencies acted quickly to address concerns about restrictions in the final rule, demonstrating again the commitment of the agencies at this table to ongoing coordination. In doing so, the CFTC and the other agencies protected important markets for community banks, as Congress directed.

### **Conclusion**

The Volcker Rule is an important piece of the Dodd-Frank Act’s regulatory regime and, in conjunction with provisions of Title VII, promises to limit risk taking and encourage appropriate risk management for firms operating in the U.S. financial system.

Thank you again for inviting me today. I would be happy to answer any questions from the panel.