

December 18, 2013

The Honorable Ben Bernanke
Chairman
The Federal Reserve Board of Governors
20th and Constitution Avenue, NW
Washington, DC 20551

The Honorable Marty Gruenberg
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

The Honorable Thomas Curry
Comptroller
Office of the Comptroller of the Currency
250 E Street, SW, Room 9048
Washington, DC 20219

The Honorable Mary Jo White
Chairman
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Gary Gensler
Chairman
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Chairmen Bernanke, Gensler, Gruenberg, White and Comptroller Curry:

Last week, your agencies adopted final rules implementing Section 619 of the Dodd-Frank Act, commonly referred to as the Volcker Rule. Since the release of the final rules, I have begun hearing concerns regarding unintended consequences of the nearly 1,000 page final rule and its preamble. These concerns primarily involve certain definitions and compliance standards. I would greatly appreciate to hear from each of you regarding how you intend to address these concerns.

Small entity concerns. Regulators assured community banks and others that they would not be subject to market disruptions or have to implement new costly compliance programs. However, upon reading the final rules, a number of community banks and small and mid-sized entities were taken by surprise at the provisions in the final rules that pertain to bank ownership of securitized products such as collateralized loan obligations (“CLOs”) and collateralized debt obligations (“CDOs”), including those backed by trust-preferred securities (“TruPs”). The final Volcker rule’s definition of “covered fund” appears to capture securitization vehicles such as CDOs and CLOs, thereby prohibiting a banking entity from having an ownership interest in these products to the extent that the product is comprised of anything other than loans.

As a result, some community banks and other entities have begun the process of divesting in order to comply with the Volcker rule. This is estimated to cost these small and mid-sized entities at an estimated cost of hundreds of millions of dollars. Accordingly, I respectfully request that you issue prompt appropriate guidance to assist these firms in complying with the Volcker rule without having to divest these holdings at an exorbitant loss or having to spend millions of dollars to be in compliance.

Supervision and enforcement. It also is very unclear to what extent the agencies will coordinate in the supervision and enforcement of the final rules. For example, the Securities and Exchange Commission ("SEC") has jurisdiction over market making activities, but, as a practical matter, prudential banking regulators examiners may provide frontline oversight of trading desk activity on a daily basis. I am concerned that the agencies have not properly considered how this dual oversight will function in practice without causing additional confusion and uncertainty in the markets. To further highlight the confusion, at a briefing held by senior agency staff for Congressional offices, many questions regarding coordination and oversight by the multitude of regulators were left unanswered. The issue of coordination of supervisory and enforcement efforts is extremely important for the rule to work as intended and therefore needs clear and distinct direction. I ask that you provide a detailed explanation about the agencies' intended coordination on the implementation of supervision and enforcement programs.

Overall, these unintended regulatory consequences and the ambiguous coordination of supervision and enforcement could have been readily addressed in a re-proposal before the rules became final. Unfortunately, that did not happen. In addition, more thorough and robust economic analyses for the regulatory proposals would have helped regulators to understand whether community banks and other entities would face disproportionate compliance costs. Now that the rules have been finalized it is important that appropriate regulatory guidance be provided expeditiously.

I look forward to receiving more information on how your agencies intend to resolve these concerns and possible other uncertainties the final rules will have on community banks and other entities.

Sincerely,



Mike Crapo
United States Senator