‘‘Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds’’

DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency (OCC)
12 CFR Part 44
[Docket No. OCC–2011–0014] RIN 1557–AD44

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM (FRS)
12 CFR Part 248
[Docket No. R–1432] RIN 7100 AD 82

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)
12 CFR Part 351
RIN 3064–AD85

SECURITIES AND EXCHANGE COMMISSION (SEC)
17 CFR Part 255
[Release No. 34–65545; File No. S7–41–11] RIN 3235–AL07

Submitted by Electronic Means
December 19, 2011

To the Agencies:

On November 7, 2011, as posted in the Federal Register, Volume 76, No. 215, Proposed Rules, the OCC, FRS Board, FDIC, and SEC (the Agencies) proposed a lengthy rule to implement the Dodd-Frank Act Section 619 prohibitions and restrict the ability of banking entities and nonbank financial companies to engage in proprietary trading. The Agencies have requested public comment on the potential impacts that the proposal may have on banking entities and are looking for responses to 383 questions.

Enclosed are the public comments of Randel Pilo, a member of the public, and U.S. citizen who has an affected interest via financial holdings within a depository institution, Park Bank, Madison, Wisconsin, an FDIC-regulated bank. The public comments pertain to Questions 1, 2, 4, 142, and 348.

Sincerely,

Randel Pilo

e-signature

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‘‘Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds’’

Public Comments of Randel Pilo

Agencies' Question #1. Does the proposed effective date provide banking entities with sufficient time to prepare to comply with the prohibitions and restrictions on proprietary trading and covered fund activities and investments? If not, what other period of time is needed and why?

Answer #1. **YES.**

Agencies' Question #2. Does the proposed effective date provide banking entities with sufficient time to implement the proposal's compliance program requirement? If not, what are the impediments to implementing specific elements of the compliance program and what would be a more effective time period for implementing each element and why?

Answer #2. **YES**

Agencies' Question #4. Should the Agencies use a gradual, phased in approach to implement the statute rather than having the implementing rules become effective at one time? If so, what prohibitions and restrictions should be implemented first? Please explain.

Answer #4. **NO.**

Facts and Arguments in Support of Answers to Questions #1, #2, and #4

As a member of the general public the answers to the Agencies' questions are definitive, concise, and pragmatic based on the following set of facts as reported to the general public via a variety of financial news outlets, including the FRS. There is no reason to delay the implementation of the ban on proprietary trading by depository institutions. It may actually be appropriate to issue such a ban sooner than later.

First, a delay or phase-in would subvert the will of the people as expressed by Congress in its historic passage of the Dodd-Frank legislation and signed by President Obama in 2010. Second, the damage done by the banking sector in 2007-2008 required President George W. Bush to have Congress enact a nearly $800 billion taxpayer-funded bailout, or TARP, of significant financial institutions that were on the verge of collapse and which could have threatened the entire US economy and financial system. Passage of the Dodd-Frank legislation and the TARP program showed both Congressional and Presidential resolve as expressed by both major political parties to correct imbalances, liquidity, and solvency issues in the country's banking and non-bank system. These actions were done with deliberation and enacted with a promptness which requires the Agencies now to not delay the ban on proprietary trading by depository financial institutions.

Furthermore, any delay or phase-in by the Agencies would contravene the actions already taken by the largest private financial institutions in the country. The financial press reports that Citigroup, Goldman Sachs, JPMorgan Chase, and Bank of America have already closed their proprietary trading.[1] Morgan Stanley has indicated it will have its proprietary trading desk closed in 2012. These large players have for the most part already adopted and put into place appropriate proprietary trading restrictions by simply abandoning the practice. For the Agencies to now delay or phase in any such ban would show utter disregard for the actions of Congress as well as these large financial institutions implementing the clear spirit of the law. Any such delay would further put the US economy at risk.

Lastly, that the issue is of prime importance and that no delay be put in place, we must not forget that the Federal Reserve through its various programs has also extended its balance sheet by nearly $8 trillion in contingent claims, or about one-half the size of the US economy according to Bloomberg.Com.[2] Upon release of the estimates by Bloomberg.Com, the Federal Reserve released its largest estimate of around $1.5 trillion, its first official public aggregate peak estimate.[3] Whichever estimate is accurate, it is for the above reasons, the ban should go into simple effect as Congress desired on July 21, 2012. There should be no delay.

Undoubtedly, the Agencies in this rule making will be overwhelmed with comments from financial institutions and their well-paid, highly-networked, influential agents, expressing reservations about the rulemaking. The Agencies should dismiss such rent seeking as per se not in the national interest. The Congress and the President, jointly, have already expressed the national public interest into law. In 2008, and again in 2010, the will of Congress and the sitting President clearly instructed the Agencies to address systemic problematic issues in the banking system, including now requiring a ban on proprietary trading by the middle of 2012 by FDIC-insured depository institutions, for instance. If Congress and the President are of a different mind today, then it should only be by their actions that any delay or change be contemplated. Until that time, the Agencies should hold to the resolve of banning proprietary trading per current law and show the courage that President TR Roosevelt did over 100 years ago when faced with similar financial panic conditions.

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[1] The following references contain the stated facts with respect to closing proprietary trading:
http://money.cnn.com/2011/10/11/news/economy/fdic_volcker_rule/index.htm
http://www.bloomberg.com/news/2011-10-17/citigroup-plans-to-shutter-proprietary-unit-after-rout-in-equity-trading.html

[2] http://www.bloomberg.com/news/2011-11-28/secret-fed-loans-undisclosed-to-congress-gave-banks-13-billion-in-income.html

[3] Board of Governors of the Federal Reserve System, Letter to the Honorable Spencer Bachus and Honorable Barney Frank, December 6, 2011. According to the FRS, the peak occurred in December 2008.

Should the Agencies need to make changes, the only acceptable changes in a TR Roosevelt manner would be those which tighten any such proprietary trading restrictions, and not changes that would loosen the rule or create loop holes around the Dodd-Frank law. Specifically, a solid brick wall should be constructed among affiliates, and even further, a cease and desist condition on current proprietary trading be put in place immediately, even before the proposed full rule implementation date of July 21, 2012.

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Agencies Question #142. Should the Agencies adopt any exemption from the prohibition on proprietary trading under section 13(d)(1)(J) of the BHC Act? If so, what exemption and why? How would such an exemption promote and protect the safety and soundness of banking entities and financial stability of the United States?

Answer #142. **NO.**

Facts and Arguments in Support of Answer to Question #142

The Agencies should not adopt any exemptions from the prohibition on proprietary trading. The main reason is to give the ban the intended effect of eliminating systemic risk created by proprietary trading to depository financial institutions. Any exemption would again go against the grain of the law that Congress enacted. That said, after an appropriate amount of time, say five to seven years, the Agencies may want to revisit this question and ask if at that time some exemptions may be warranted. But first and foremost is the soundness of banking entities and the financial stability of the United States.

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Agencies Question #348. What are the expected costs and benefits of complying with the requirements of the proposed rule? We seek commenters' estimates of the aggregate cost or benefit that would be incurred or received by banking entities subject to Section 13 of the BHC to comply…..

Answer #348. **Unknowable, but Net Social Cost is Large.**

Facts and Arguments in Support of Answer to Question #348

Question 348 purports to try and obtain estimates from affected interests in order to perform a benefit cost analysis. This is an admirable endeavor, but in this case is actually a meaningless exercise, and any possible net result is actually unknowable, fraught with error and major uncertainty as to precision. First, the entities that will come under the proposed rule of the Agencies should be able to provide rough estimates of their separate costs to comply. Being private interests, they are in no way possible able to quantify the public benefit to the nation of the enactment of the Dodd-Frank Act. Congress actually did so both quantitatively and qualitatively, including applying appropriate subjectivity, when it enacted the legislation.

About the best estimate we have as to overall cost to the nation of the banking panic in 2008-2009 of which the proposed rules will deal with only in part as the Dodd-Frank legislation is far from perfect are the values that the Congress has had to spend to address attendant unemployment and national output issues; to liquefy and place public equity into affected financial interests; plus the amount of contingent claims that the Federal Reserve System has placed on its balance sheet. These values by themselves are actually on the low since they do not include the social costs borne by individuals resulting from the 2008 to 2009 banking panic, the continuing jobs depression, the significant amount of long-term involuntary unemployment, and the ongoing reduction in inflation-adjusted purchasing power and wealth borne by the public.

With respect to any known values are these. The cost values appear to be nearly $800 billion for the TARP bank bailout bill, the nearly $800 billion stimulus plan enacted in 2009 plus any additional programs added such as the cost of extending the payroll tax reduction; and finally, the nearly $2 trillion in contingent claims the Federal Reserve System recently released in a December 6, 2011 letter to Members of Congress Spencer Bachus and Barney Frank.

All of these values are static, and can change dynamically going forward. Whatever estimates the Agencies receive from financial interests should be placed into perspective by the tremendously huge actions undertaken by the Congress, sitting Presidents, and the Federal Reserve System to stabilize the US economy. And, it has only been a stabilize-the-patient action. The future still holds the ultimate verdict on the true cost the nation endured from the losses associated with the 2008-2009 financial panic, which was collectively caused by the banking system and lack of regulatory oversight, and not by ordinary folks living on Main Street.

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General Public Comments of
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