ARVEST®

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EXECUTIVE SECRETARY

Legislative and Regulatory Activities Division
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Ms. Ann E. Misback
Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Mr. Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429

Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Mr. Christopher Kirkpatrick
Secretary
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Re: Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Certain Interest in, and Relationships with, Hedge Funds and Private Equity Funds – Docket No. OCC-2018-0010 (OCC); Docket No. R-1608 (Federal Reserve); RIN 3064-AE67 (FDIC); File Number S7-14-18 (SEC); RIN 3038-AE72 (CFTC)

Ladies and Gentlemen:

Arvest Bank ("Arvest") is an Arkansas state-chartered bank, a member of the Federal Reserve Bank of St. Louis and a member of the Federal Deposit Insurance Corporation. Arvest operates a retail banking business through bank branches in Arkansas, Kansas, Missouri and Oklahoma. Total consolidated assets at June 30, 2018 were $18.7 billion.

The core business of Arvest is accepting deposits and extending credit to individuals, businesses and other commercial customers. The primary activities subject to the Volcker Rule are hedging of longer term fixed-rate loans to borrowers, hedging of interest rate exposure in the consumer mortgage origination pipeline and operating an inventory account within the banks' securities brokerage subsidiary to accommodate customer trades. The lending instruments used are standard interest rate swaps and forward contracts. All of these activities are directly related to facilitating customer-initiated transactions.

American Bankers Association ("ABA")

Arvest is a member of ABA and participated in and contributed to the development of ABA's comment letter dated October 17, 2018. As such, we are supportive of the recommendations included therein.

Arvest Points of Interest

With respect to the proposed changes to the Volcker Rule, Arvest has identified several provisions considered to warrant special emphasis.

1. Trading Account Definition

    The Volcker Rule defines "trading account" in context of (a) a rebuttable presumption of "intent," (b) a "market risk capital" activity and (c) a "dealer" activity. The proposed change would eliminate the consideration of "intent" and substitute an "accounting prong" which would treat "available for sale" ("AFS") securities as trading assets. We believe this is contrary to the general nature and use of AFS securities.

    AFS securities portfolios arose in large part out of earlier marketplace concerns that companies were "gains trading" by selectively selling securities carried at historical cost thus creating gains and leaving securities with values less than market remaining in the portfolio. The result was the creation of a "held to maturity" bucket where the intent and ability to hold had to be demonstrated and an AFS bucket that is marked-to-market. Companies chose between the two buckets based on their particular situation, but many made use of the AFS bucket to avoid the uncertainty of, at some point, not being able to show intent and ability to hold thus triggering adverse accounting consequences. The use of AFS certainly does not mean "intent to sell." In fact, securities held for trading are reported separately from AFS with changes in market value flowing through income.

    The proposed changes appear to replace one accounting judgement (i.e., what is a trading asset) with another accounting judgement (i.e., intent of ability to hold.)

    Banks very often hold AFS securities for long periods with no plans or intention to sell except to provide liquidity the in rare event of some shortfall in deposits or other source of funding.

    The core definition of trading as commonly recognized is contained in the instructions for Schedule RC-D of FFIEC Forms 031/041 ("call reports") as follows:

    a. "...(b) acquiring or taking positions in...principally for the purpose of selling in the near term or otherwise with the intent to resell in order to profit from short-term price movements..."

It is entirely possible that a bank could end up under the rule as proposed being subject to the compliance system requirements of the Volcker Rule simply because they chose a book accounting method for reasons totally unrelated to "trading" or that they carry excess liquidity in short-term AFS securities rather than in other earning assets (say overnight fed funds). This is a very onerous result for no appreciable safety and soundness or other risk management benefit.

We recommend not eliminating the "intent" prong and not using the "accounting prong." We support the recommendations on page 6 in the ABA Comment Letter with ways to improve the existing 60-day rebuttable presumption.

2. Loan-Related Swaps

One of the most important roles of banks is to meet the credit needs of its customers. Extending credit requires the bank to accept certain risk exposures most notably the risk of not collecting principal and interest (i.e., credit risk) and the risk of lower than expected (even negative) margins due to rising funding costs (i.e., interest rate risks). Lenders apply underwriting standards in an attempt to manage credit risk to an acceptable level. However, interest rate risk is driven by the general economic environment over which the lender has no control. When interest rates are relatively low, borrowers typically demand longer terms at fixed rates. Lenders generally cannot absorb large amounts of that type interest rate risk, so use of hedging strategies become attractive.

Hedging can allow the bank to meet the demands of borrowers (i.e., long term fixed rates) while providing the bank a variable rate asset through use of an industry standard interest rate swap. For some banks, the use of interest rate swaps to hedge fixed rate loans is the primary reason the bank is subject to the Volcker Rule.

The use of interest rate swaps can vary to meet the needs of the customer. In one instance, the bank can make a fixed rate loan, then hedge the interest rate risk with a rate swap to an upstream counter party. The borrower gets the desired fixed rate loan and the bank offsets with a floating rate swap.

In another case, a borrower may have a floating rate loan that the borrower wishes to convert to a fixed rate. The bank can enter into a rate swap with the customer to effectively convert the floating rate loan to a fixed rate, then hedge the bank's now fixed rate swap with an upstream rate swap to convert to floating. This strategy can save time by not having to re-underwrite the loan and save the expense to the borrower of additional appraisals, inspections, etc.

Rate swaps are often thought of in relation to making loans but can be used to address other interest rate risk exposures in a similar manner for the bank and/or the customer. Whether a "one way swap" or a "back to back swap," there are standard financial tools used by banks to manage its own risk or help customers manage their risks. Due to the exposure to running afoul of the Volcker Rule, time is now spent on costly "belt and suspenders" compliance analysis and documentation of specific transactions to provide assurance the provisions of the Volcker Rule are met. As a result, swap transaction costs to borrowers (such as from higher pass-through of external legal fees) arise and potential delays being able to close a loan which could have its own adverse impact due to market interest rate changes.

We support the comments on page 9-10 of the ABA Comment Letter as to exclusion of loan-related swaps entirely, no requirement for simultaneous offsetting swaps with a counterparty and defining loan-related swaps to include matched book derivative positions. This change in the Volcker Rule would be expected to streamline using swaps with less time spent on paperwork for documentation of compliance and more time spent on helping borrowers and better managing economic risk.

3. Three-Tiered Compliance System

Given that trading assets and liabilities are heavily concentrated in a few institutions with sophisticated trading operations, the vast majority of banks should be excused entirely from required compliance systems. Where a smaller banks' trading activities present an inordinate risk to the particular bank, general safety and soundness supervision authority should be more than sufficient to address the issues. A bank of Arvest's size makes up only about .1% of the industry which is a very low level for which extraordinary regulatory measures such as the Volcker Rule compliance program should be applied.

While there is a certain attraction for use of a percent of capital delineation, it also has its problems due to the differing risk of different mixes of trading assets and liabilities involved.

A useful middle ground could be setting a dollar threshold that (a) would cover a desired industry exposure (such as the 95% level) and (b) exclude lower risk positions such as matched derivative books and loan-related rate swaps. Certainly AFS securities should not be included as trading assets and liabilities for reasons previously stated.

Note that exclusion of loan-related swaps from the Volcker Rule compliance system does not remove the need to have appropriate management controls over swap activities for purposes of general risk management guidelines.

4. CEO Attestation

While the purpose of the CEO Attestation, which is not required by the underlying law, is not clear, the practical effort of the proposal is to actually extend the Attestation to banks without significant levels of trading and which are not required to provide the Attestation under current rules. This would result in a significant and costly expansion of the compliance system in order to be able to support the Attestation. We are not aware of any particular safety and soundness issues arising under the Volcker Rule that the Attestation, whether by the CEO or another C-level officer, would mitigate.

We recommend not requiring the Attestation for any except those institutions with the most significant levels of trading activities where the compliance program would still be required under the proposed rule.

5. <u>Onsite Prudential Examiner as Key Agency</u>

Arvest is not presently affected by this issue as the Federal Reserve is the primary bank supervisor of both the bank and its holding company. Certainly there are benefits in having a consistent examination of Volcker Rule compliance.

However, the issue may be more about inconsistency in standards applied. It would seem desirable to have the regulatory agency responsible for field examinations of the bank to be the lead agency with respect to the given bank with responsibility to consult as needed with other regulators on specific issues and matters for interpretation.

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We appreciate the opportunity to comment on the proposed changes. We are concerned that the workings of these proposed changes if implemented will, especially for banks with less complex covered activities, result in increased burden in both time and expense without any appreciable benefit in bank supervision, risk reduction or safety and soundness improvements.

Sincerely,

[redacted]

J. Robert Kelly
Executive Vice President

cc: Ms. Candace Franks
Commissioner Arkansas State Bank Dept.

Ms. Julie Stackhouse
Federal Reserve Bank of St. Louis