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COMPETITIVE ENTERPRISE INSTITUTE
Advancing Liberty from the Economy to Ecology

March 11, 2019

The Honorable Jerome Powell
Chairman
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

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

The Honorable Joseph Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Washington, DC 20219

The Honorable Jay Clayton
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549

The Honorable J. Christopher Giancarlo
Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

Dear Ladies and Gentlemen:

As conservative and free-market organizations concerned with reducing red tape that is holding back American entrepreneurs, consumers, and investors, we urge the above regulatory agencies to reconsider the proposed implementation of the Volcker Rule and instead grant the broad regulatory relief that President Trump and Congress intended.

Like much of the Dodd-Frank Act of 2010 from which it came, the Volcker Rule was a flawed and unnecessary response to the financial crisis. It has imposed substantial burdens on industry, predicted to be as high as $4 billion in regulatory costs, while damaging financial market liquidity, raising the cost of credit for both businesses and consumers.

That is why Congress passed a key piece of financial legislation to reform the rule, known as the Economic Growth, Regulatory Relief, and Consumer Protection Act of 2018. That Act was in part based on a 2017 Treasury Department report that advocated lifting the Volcker Rule from small and mid-sized American banks, as well as banks of all sizes that engage in limited asset trading.

The Act also represents a legislative compromise between the House, which passed a full repeal of the Volcker Rule under the Financial CHOICE Act, and the Senate, which initially introduced a more limited reform.

The financial reform bill was one of President Trump's key legislative victories and a critical part of his record as one of the most deregulatory presidents in modern history. It was also the first significant piece of financial reform passed since Dodd-Frank. Therefore, it is imperative that the regulatory agencies charged with implementing the statutory amendments faithfully execute the mandates set forth by Congress.

Yet, despite the clear mandate from Congress and the president, the above federal regulators have simply ignored the text of the legislation. While the legislation provides exemptions to the Volcker Rule for banks under $10 billion in assets ***or*** banks that engage in limited asset trading, the proposed rule would instead exclude only those banks that are under $10 billion in assets ***and*** engage in limited asset trading.

Instead of following the clear text of the law, regulators are attempting to implement much less regulatory relief than what Congress intended. The effect of changing the "or" to an "and" is substantial: it would mean that the Volcker Rule would continue to burden not just Wall Street behemoths, but many traditional banks serving their communities. This would constrain these banks' ability to reward savers and lend to consumers and small businesses.

Agencies do not have the authority to promulgate a regulation that conflicts with the underlying law. To do so is an illegal encroachment on Congress' legislative power. As Rep. Blaine Luetkemeyer (R-MO), a member of the House Financial Services Committee, wrote in a letter to the above regulatory agencies, "the agencies chose to rephrase the statutory language in a manner that completely changed the meaning of the law that was enacted by Congress and signed by the President."

As a matter of law and policy, it is crucial that the above regulatory agencies implement the correct statutory mandate as laid out in the Economic Growth, Regulatory Relief, and Consumer Protection Act.

The below-signed organizations respectfully submit that the proposed rule be revised to exclude banks with $10 billion or less in total consolidated asset ***or*** banks of all sizes that engage in limited asset trading.

Some of the signatories will be sending separate comment letters elaborating further on ways to reform the rule.

Sincerely,

Kent Lassman
President & CEO
Competitive Enterprise Institute

Grover G. Norquist
President
Americans for Tax Reform

Phil Kerpen
President
American Commitment

Norman Singleton
President
Campaign for Liberty

Richard Manning
President
Americans for Limited Government

Timothy Lee
Vice President
Center for Individual Freedom

Tom Schatz
President
Citizens Against Government Waste

Ashley N. Baker
Director of Public Policy
The Committee for Justice

Matthew Kandrach
President
Consumer Action for a Strong Economy

Jason Pye
Vice President of Legislative Affairs
FreedomWorks

Seton Motley
President
Less Government

Harry C. Alford
President
National Black Chamber of Commerce

David Williams
President
Taxpayers Protection Alliance