



Federal Deposit Insurance Corporation
550 17th Street NW, Washington, D.C. 20429-9990

Financial Institution Letter
FIL-31-2018
June 4, 2018

Volcker Rule: Prohibitions on Proprietary Trading and Certain Relationships with Hedge Funds or Private Equity Funds

Summary: The Federal Deposit Insurance Corporation, Federal Reserve Board, Office of the Comptroller of the Currency, Securities and Exchange Commission, and Commodity Futures Trading Commission (collectively, the Agencies) have requested comment on a proposal that would amend the Volcker Rule to provide banking entities with clarity about what activities are prohibited, improve supervision and implementation of the Rule, and simplify compliance.

Statement of Applicability to Institutions with Total Assets Under \$1 Billion: This Financial Institution Letter (FIL) is applicable to all FDIC-insured depository institutions (IDIs) that have, or are controlled by a company that has, \$10 billion or more in total consolidated assets or total trading assets and trading liabilities that are more than 5 percent of total consolidated assets. An addendum is included that describes the legislative changes to the Volcker Rule from the Economic Growth, Regulatory Relief, and Consumer Protection Act.

Distribution:

FDIC-Supervised Banks (Commercial and Savings) and FDIC-Supervised Savings Associations

Suggested Routing:

Chief Executive Officer
Chief Financial Officer
Chief Risk Officer

Related Topics:

[FIL-62-2013: Statement Regarding CDOs backed by TrUPS under the Rules Implementing Section 619 of the DFA.](#)

Attachments:

[Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds Notice of Proposed Rulemaking](#)

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Note:

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Highlights:

- In general, community banks are not subject to the statutory prohibitions of Part 351 or this notice of proposed rulemaking.

The Proposal would:

- Tailor the application of the Volcker Rule based on the size and scope of trading activities of a banking entity, rather than total consolidated assets.
- Require banking entities with significant trading activities of greater than \$10 billion in total trading assets and liabilities (excluding U.S. government obligations) to adopt the six pillar compliance program under Section 351.20 of the proposed Rule and streamline required metrics submissions.
- Allow banking entities with moderate trading activities between \$1 billion and \$10 billion in total trading assets and liabilities (excluding U.S. government obligations) to adopt a simplified compliance program.
- Grant a presumption of compliance to banks with limited trading activities, defined as less than \$1 billion in total trading assets and liabilities (excluding U.S. government obligations), that eliminates the requirement to implement a compliance program under Section 351.20 of the proposed Rule. Banks with limited trading would have no obligation to demonstrate compliance with the Rule on an ongoing basis.
- Require an IDI that has, or is an affiliate of a banking entity that has, moderate or significant trading activity to submit a CEO attestation.
- Retain the current prohibition on covered funds and the related exclusions and exemptions. Retain the 2014 Interim Final Rule on Collateralized Debt Obligations backed by Trust Preferred Securities, which would remain in effect without change.

**The Volcker Rule and the
Economic Growth, Regulatory Relief, and Consumer Protection Act**

The President signed the “Economic Growth, Regulatory Relief, and Consumer Protection Act” (the “Act”) into law on May 24, 2018. Sections 203 and 204 of the Act amends section 13 of the Bank Holding Company Act (“BHC Act”), commonly known as the Volcker Rule. These provisions of the Act are effective immediately.

Section 203 exempts any institution from the definition of a banking entity that “does not have and is not controlled by a company that has (i) more than \$10,000,000,000 in total consolidated assets; and (ii) total trading assets and trading liabilities as reported on the most recent applicable regulatory filing filed by the institution, that are more than 5 percent of total consolidated assets.” Any institution that meets these requirements is exempt from the Volcker Rule.

Section 204 of the Act provides that a “hedge fund or private equity fund may share the same name or a variation of the same name as a banking entity that is an investment adviser to the hedge fund or private equity fund, if (1) such investment adviser is not an insured depository institution, a company that controls an insured depository institution, or a company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978; (2) such investment adviser does not share the same name or a variation of the same name as an insured depository institution, any company that controls an insured depository institution, or any company that is treated as a bank holding company for purposes of section 8 of the International Banking Act of 1978; and (3) such name does not contain the word ‘bank’.”

The Agencies will enforce the 2013 final rule in a manner that is consistent with the amendments to section 13 of the BHC Act with respect to institutions excluded by the statute and with respect to the naming restrictions for covered funds. The Agencies plan to address these statutory amendments outside of the current notice of proposed rulemaking.