STEPHEN LEE FINCHER
8TH DISTRICT, TENNESSEE

COMMITTEE ON
FINANCIAL SERVICES

SUBCOMMITTEE ON
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January 28, 2014

The Honorable Thomas Curry
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, S.W.
Washington, D.C 20219

The Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
440 17th Street, N.W.
Washington, D.C. 20219

The Honorable Ben S. Bernanke
Chairman
Board of Governors of the Federal Reserve System
20th and C Streets, N.W.
Washington, D.C 20551

The Honorable Mark Wetjen
Acting Chairman
Commodity Futures Trading Commission
3 Lafayette Center
1155 21s Street, N.W.
Washington, D.C 20581

The Honorable Mary Jo White
Chairman
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C 20549

Dear Comptroller Curry, Chairman Gruenberg, Chairman Bernanke, Acting Chairman Wetjen and Chairman White:

I am very appreciative of your recent efforts to provide relief to banks from the unintended consequences of the Volcker Rule which was released December 10, 2013.

I am writing to request your immediate action to provide additional relief to community banks from the Volcker Rule and the technicalities of the Interim Final Rule (IFR) your agencies adopted on January 14, 2014. Many banks own Trust Preferred Securities (TruPS) that the ***IFR did not exempt*** from the divestiture requirements of the Volcker Rule. These banks continue to face forced and unnecessary Other Than Temporary Impairment (OTTI) losses in their 2013 financial statements that are completely unrelated to the mandates of Dodd Frank or the performance or risk of the individual TruPS. Rather, the losses are solely attributable to the technical language of the IFR and the Volcker Rule.

Specifically, there are banks that own non-exempted TruPS that contain a significant amount of bank collateral but continue to be subject to Volcker divestiture requirements simply because the bank collateral composes less than 50% of the total collateral pool. Although many of the non - exempted TruPS are labeled as "Insurance" TruPS, we have found that there is still a significant amount of bank issued collateral included in these issues. Many of the non–exempted TruPS have been outstanding for 8–10 years and have perfect pay histories, experienced no collateral defaults, and contain 100% performing collateral. However, the technical requirements of the January 14 IFR do not exclude TruPS such as these from the divestiture requirements of Volcker, and divestiture will have to be completed by July 2015. Under the IFR and Generally Accepted Accounting Principles (GAAP) this will trigger unnecessary losses that will be required to be recognized in 2013 financial statements, which have to be filed by January 31, 2014.

I understand that technicalities such as these were not intended by the Congressional mandates of Dodd-Frank and create unnecessary losses on performing TruPS just because the collateral pool is composed of an amount of insurance collateral that may slightly exceed 50% of the overall collateral. Technicalities aside, there is nothing about the risk characteristics or ownership of these TruPS in bank investment portfolios that even remotely falls into the original target of the Volcker Rule; to regulate and limit the speculative nature of proprietary trading desk at large and complex financial institutions.

While Congressional hearings, the results of the comment period, or proposed legislation may ultimately resolve this problem, relief via these avenues will be too late as this form of relief will not occur before banks have to file 2013 Call Reports on January 31, 2014. As such, I respectfully request that you provide immediate relief to banks owning non-exempt TruPS by ***exempting all TruPS acquired prior to December 10, 2013***, and issued prior to May 19, 2010, from the divestiture requirements of the Volcker Rule, in accordance with the original Congressional request to fix this problem in December.

It is imperative that the agencies take action on this prior to January 31, 2014, in order for banks to avoid unnecessary and unintended losses. We look forward to your response.

Sincerely,

Stephen Fincher
Member of Congress