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Congress of the United States
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JOINT ECONOMIC COMMITTEE

January 10, 2011

The Honorable Ben S. Bernanke, Chairman
Board of Governors for the Federal Reserve System
20th Street and Constitution Avenue, Northwest
Washington, D. C. 20551

Dear Chairman Bernanke:

As the Federal Reserve works to implement the major provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act, I want to encourage the swift enactment of a strong Volcker Rule. The Volcker Rule will facilitate an important separation between our commercial and investment banking sector that is critical to the health and stability of our economy. A four year period for conformance is sufficient for bank entities engaged in prohibited proprietary trading or hedge fund activities to come into compliance. I adamantly oppose the Federal Reserve's proposed rule to exercise extensions which would allow these banks up to ten years to engage in risky proprietary trading before having to comply with the Volker Rule.

The success of a well regulated financial sector is evident when one looks at the success of Wall Street for the 60 years after the Banking Act of 1933. Prior to the enactment of this landmark legislation, an unregulated Wall Street led to enormous income inequalities, left consumers unprotected and subject to the whims of the banks, and eventually brought on an epic crash of the stock market in 1929.The Banking Act of 1933 established a new regulatory framework for our banking sector to ensure such a catastrophic event would not be repeated. Perhaps most notably, this legislation included provisions that separated the commercial and banking sector, which became commonly known as the Glass Steagall Act. For the next 60 years, the U.S. enjoyed long periods of growth with minimal exposure to risk from our banking sector. Unfortunately in 1999, Congress passed the Gramm Leach Bliley Act which removed this important separation between commercial and investment banking. Less than a decade after the Glass Steagall protections were repealed, we experienced an economic crisis second only to the Great Depression. Deregulation of Wall Street led to the creation of megabanks -- bank holding companies with several subsidiaries that engaged in a range of activities including commercial banking, investment banking and insurance simultaneously. These emboldened megabanks became highly leveraged and took on excessive risks with federally insured banking deposits that eventually posed systemic risks to our greater economy. No American who seeks to deposit their hard earned dollars should be subjected to the kinds of risks that were commonplace on Wall Street.

In 2008, as the financial crisis exploded, Congress was asked to bailout several major banking institutions because their failure would put the entire U.S. economy in jeopardy. The long term effects of the financial crisis are still being felt throughout this country. The unemployment rate is painfully high and and small businesses across the country remain reluctant to expand and grow. Not coincidentally, the major bank holding companies that received funds through the Troubled Asset Relief Program, including JPMorgan Chase, Bank of America, Wells Fargo, Citigroup, all had both commercial and investment banking businesses. These four banks hold roughly $4 out of every $10 in bank deposits in the entire country. Had these commercial banking institutions been limited in their investment banking activities initially, it is likely that we would have avoided an economic situation where the American people were held hostage by a mammoth financial industry. It is with great urgency that we must bring back the regulations that separate the investment and commercial banking sector. Allowing the industry to continue operating without these important regulations any longer would simply cause undue harm to the financial sector and continue to pose continued and unnecessary risk to the taxpayer.

The financial reform legislation granted the Federal Reserve Board the authority to adopt additional extensions regarding the conformance period for bank entities. The Federal Reserve's proposed rule, Regulation Y, Docket # R-1397, would allow eligible banks up to ten years to conform to the standards set forth by the Volcker Rule, if the bank entity was unable to come into compliance.

I strongly urge the Board to seek conformance from the majority of banking entities within two years from the date of enactment. The American people deserve to see significant change to our financial sector without unnecessary delay. Two years should be a sufficient amount of time for many of these banking entities to get their financial house in order without causing any undue harm to third parties or themselves.

In the case that a banking entity was unable to conform within the given two year period, the Board may permit a one year extension, if necessary, to prevent significant harm to the banking entity or its counterparties.

I support the Board's requirements that an extension must: (1) be submitted in writing to the Board at least 90 days prior to the expiration of the applicable time period; (2) provide the reasons why the banking entity believes the extension should be granted; and (3) provide a detailed explanation of the banking entity's plan for divesting or conforming the activity or investment(s). In addition, I recommend that the bank entity: (4) provide a detailed explanation of how the bank entity attempted to come into compliance under the conformance period and why it was unable to do so. Banking entities should be motivated to come under the conformance period and if they cannot provide sufficient proof that they exhausted all avenues that would have resulted in conformance they should not be permitted an additional extension.

Additionally, the proposed rule seeks to offer an additional five year extension to bank entities that have contractually obligated investments in "illiquid funds." Contractual obligations with other banking entities vary in length. This five year extension cannot guarantee that the bank entity will not be forced to break its contractual obligation, and therefore is unnecessary. To allow for compliance on investments in "illiquid funds," the banking entity would be permitted to file for an additional one-year extension if the entity was primarily engaged in illiquid funds.

This extension would not exceed one year and would maximize the number of years that a banking entity could be within the conformance period at four years. Given that the conformance period is not due to take effect until the sooner of either twelve months after the issuance of final rules or two years after the final passage of the legislation, these banking entities are given ample time to renegotiate these contractual agreements without placing undue harm on either entity.

In summary, I urge the Federal Reserve to bring all bank into conformance within four years. The Volcker Rule was put forth to limit the size of megabanks and to ensure that banking deposits are not subjected to the whims of Wall Street. The elimination of proprietary trading in bank holding companies is an effective means towards that end. If a bank is unable to come into compliance within the two-year period, it may be eligible for a one year extension. To be eligible for an extension, the entity must answer the questions laid out by the Federal Reserve in addition to explaining what they did to attempt to come into compliance. The bank entity may be granted an additional one-year extension if the entity can prove that it is principally invested in illiquid funds and is held by a pre-existing contractual obligation. This would set a maximum conformance period of four years.

The American people have seen what can happen in a decade. Less than ten years after the repeal of the Glass Steagall Act, we had the second largest economic crisis in history. We cannot allow history to continue to repeat itself. If we allow these banking entities up to ten additional years to get their financial house in order, we are subjecting the American people to additional and unnecessary risks. Allowing a maximum of four years for banks to conform to the new laws laid out in the Volcker Rule should be sufficient for an orderly reorganization and will significantly reduce the risks to the American taxpayer.

Sincerely,

Maurice D. Hinchey
Member of Congress