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July 6, 2018

The Honorable Steve Mnuchin
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Ave., NW
Washington, D.C. 20220

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

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, D.C. 20219

The Honorable Jay Clayton
Chairman
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

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

The Honorable Christopher Giancarlo
Chairman
U.S. Commodity Futures Trading Commission
Three Lafayette Centre, 1155 21st Street, NW
Washington, DC 20581

Dear Secretary Mnuchin, Comptroller Otting, Chairman Powell, Chair McWilliams, Chairman Clayton, and Chairman Giancarlo:

Thank you for your review of regulations issued in response to the financial crisis, including the so-called Volcker Rule ("the Rule") implementing Sec. 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act"). Congress has expressed a number of concerns with the Volcker Rule – one issue where there is broad agreement is the Rule's detrimental impact to venture capital funds and the start-up companies that they support. Before the Volcker Rule, banks provided 7% of the dollars invested in venture capital funds and were a reliable source of funding for smaller venture capital funds that are not as attractive to large institutional investors. This regulatory impediment to capital formation is especially challenging to communities outside of major metropolitan areas where the economy has not recovered as quickly and which rely on start-up companies to drive job growth.

The Volcker Rule's current prohibition on financial institutions investing in certain "covered funds" inappropriately includes venture capital. Section 619 of the Dodd-Frank Act includes "prohibitions on proprietary trading and certain relationships with hedge funds and private equity funds" without any mention of venture capital. The Congressional Record clearly demonstrates that venture capital was never intended to be covered. In a colloquy with Senator Boxer, then Chairman Dodd noted, "[Senator Boxer's] understanding is correct. ... I expect the regulators to use the broad authority in the Volcker Rule wisely and clarify that funds that invest in technology startup companies, such as venture capital funds, are not captured under the Volcker Rule and fall outside the definition of 'private equity funds.'"

Regulators could easily resolve this issue by excluding venture capital from the definition of covered funds. For example, the Securities and Exchange Commission has provided a narrow definition for venture capital in rule 203(1)-1 under the Investment Advisers Act.

Fortunately, the Administration recognized these concerns in the Treasury Department's June 2017 Report to the President: A Financial System That Creates Economic Opportunities - Banks and Credit Unions. The Report notes, "Treasury believes that changes to the covered fund provisions can greatly assist in the formation of venture and other capital that is critical to fund economic growth opportunities."[1] I urge you to exclude venture capital from the definition of covered funds. Congress stands ready to work together with you to clarify this regulatory impediment to capital formation for start-up companies.

Very Respectfully,

Randy Hultgren
MEMBER OF CONGRESS

U.S. Department of the Treasury. Report on Banking U.S. Department of the Treasury: A Financial System that Creates Economic Opportunities – Banks and Credit Unions (June 2017).