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Proposal:	1432 (RIN 7100 AD 82) Reg. V V - Proprietary Trading and Certain Interests In, and Relationships
Subject:	Volcker Rule -- Prohibitions and Restrictions on Proprietary Trading and Certain Interests In, and R

Comments:

Restrictions on Proprietary Trading and Certain Interests in,
and Relationships with, Hedge Funds and Private Equity Funds

Docket ID OCC-2011-14

Submitted by : Alfred Brock
Number of Specific Questions for Comment Responding to : 218
Please use the title "Restrictions on Proprietary Trading and Certain Interests in and Relationships with Hedge Funds and Private Equity Funds" to facilitate the organization and distribution of the comments.

Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds for submittal regarding these items : Docket ID OCC-2011-14 and Docket No. R-1432 and RIN 7100 AD 82 and File Number S7-41-11.

The following are my comments on a proposed rule that would implement Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank Act") which contains certain prohibitions and restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund.

Question 1. Does the proposed effective date provide banking entities with sufficient time to prepare to comply with the prohibitions and restrictions on proprietary trading andcovered fund activities and investments? If not, what other period of time is needed and why?

Yes the proposed effective date provides banking entities with sufficient time to prepare to comply and then actually comply with the prohibitions and restrictions on proprietary trading and covered fund activities and investments.

Question 2. Does the proposed effective date provide banking entities with sufficient time to implement the proposal's compliance program requirement? If not, what are the impediments to implementing specific elements of the compliance program and what would be a more effective time period for implementing each element and why?

The proposed effective date provides banking entities with sufficient time to implement the proposal's compliance program requirement especially in view of the fact that many of the proscribed behaviors and activities can be forgiven on an individual basis by the regulating authorities.

That is a problem that should be addressed. There should be no allowances for avoiding the prohibitions and restrictions.

Question 3. Does the proposed effective date provide banking entities

sufficient time to implement the proposal's reporting and recordkeeping requirements? If not, what are the impediments to implementing specific elements of the proposed reporting and recordkeeping requirements and what would be a more effective time period for implementing each element and why?

The proposed effective date provides banking entities sufficient time to implement the proposal's reporting and recordkeeping requirements because these records are already being kept in one form or another by the banking entities.

The problem is the manner in which they will be collected and scrutinized by the Federal and State Agencies that will be drawn into this charade. The banking entities need to cease proprietary trading and covered fund activities and investments

Question 4. Should the Agencies use a gradual, phased in approach to implement the statute rather than having the implementing rules become effective at one time? If so, what prohibitions and restrictions should be implemented first? Please explain.

No, the Agencies should not use a gradual, phased in approach to implement the. The Agencies need to implement the statute immediately.

It is recommended, however, that an outside Agency, like the Government Accounting Office, be set immediately to review the activities of the Agencies in order to determine if there are any plans for hiring more workers to carry out the work they should have been doing all along.

It is also recommended that the Government Accounting Office be set to ensure that the Agencies are not overlapping in their responsibilities and creating double or triple work while reducing efficiency in their own operations.

Question 5. Is the proposed rule's definition of banking entity effective? What alternative definitions might be more effective in light of the language and purpose of the statute?

The proposed rule's definition of a banking entity appear to be effective. If any clarification needs to be made by the Agencies at this time it is again a matter for the Government Accounting Office to look into.

Question 6. Are there any entities that should not be included within the definition of banking entity since their inclusion would not be consistent with the language or purpose of the statute or could otherwise produce unintended results? Should a registered investment company be expressly excluded from the definition of banking entity? Why or why not?

There are no entities currently identified in the statute that should not be included. As for a registered investment company - if it is operating as a bank or owns a bank or is controlled by a bank then that this is a forbidden operation.

It is recommended that Finance Companies that are operated by industrial companies like GE Financial, GM, Ford and Chrysler Automotive also be included as their activities often cross back and forth between providing financial services for the company to selling and controlling bonds issues,

stocks and running banking and investment services.

Question 7. Is the proposed rule's exclusion of a covered fund that is organized, offered and held by a banking entity from the definition of banking entity effective? Should the definition of banking entity be modified to exclude any covered fund? Why or why not?

The proposed rule's exclusion of a covered fund offered and held by a banking entity from the definition of a banking entity is not effective if it means that the bank may hold that fund and profit from it or cause it to profit from the operations of the bank or knowledge and information that the bank has.

The definition of banking entity should not be modified any more than it has been.

Question 8. Banking entities commonly structure their registered investment company relationships and investments such that the registered investment company is not considered an affiliate or subsidiary of the banking entity. Should a registered investment company be expressly excluded from the definition of banking entity? Why or why not? Are there circumstances in which such companies should be treated as banking entities subject to section 13 of the BHC Act? How many such companies would be covered by the proposed definition?

The main purpose and intention of the statute appears to be to a reasonable individual to stop banks from running registered investment companies - so even though on paper it is not an affiliate or subsidiary of the bank they have been acting that way with the result that our financial and economic house has been thrown into disarray.

A registered investment company, if it is doing business closely with a bank or was created by the bank to perform certain functions, or if the registered investment company creates a bank to perform certain functions - that is apparently disallowed under the statute. Any attempt by the Agencies to avoid this important work should be acknowledged by the Agencies so that the American public can see how poorly they are being served.

Question 9. Under the proposed rule, would issuers of asset-backed securities be captured by the proposed definition of "banking entity"? If so, are issuers of asset-backed securities within certain asset classes particularly impacted? Are particular types of securitization vehicles (trusts, LLCs, etc.) more likely than others to be included in the definition of banking entity? Should issuers of asset-backed securities be excluded from the proposed definition of "banking entity," and if so, why? How would such an exclusion be consistent with the language and purpose of the statute?

Issuers of asset-backed securities - like those used in industry to finance development are not banking entities. However, if the banking entity of an industrial company like GE, GM, Ford or Chrysler - insists on providing this service then they should be prohibited from doing it. Reasonable valuation of funds and property owned by and financed by a company like GE, GM, Ford or Chrysler will not be correctly valued by that company for itself. The result is clear with what happened with the billions in worthless bonds issued by General Motors.

In that case they actually sold worthless bonds to their employees through direct debit from their check. That is the sort of behavior the Agencies are charged with

stopping.

Question 10. What would be the potential impact of including existing issuers of assetbacked securities83 in the proposed definition of "banking entity" on existing issuers of assetbacked securities and the securitization market generally? How many existing issuers of assetbacked securities might be included in the proposed definition of "banking entity"? Are there ways in which the proposed rule could be amended to mitigate or eliminate potential impact, if any, on existing asset-backed securities84 without compromising the intent of the statute?

The potential impact on including existing issuers of asset-backed securities (and please note the Agencies have spelled 'asset-backed' in two different ways in this document) is less than the damage that will be done by allowing them to continue on their careening path.

The question of how many existing issuers of asset-backed securities might be included in the proposed definition of "banking entity" is surprising to me. Which of the companies and individuals asked this question would have the answer? Is the question directed at city, state or national level? Any private company having the correct answer to this question would have to be asked how they came about that information. As for the Agencies asking this question - it is clear that their grasp of the situation or their willingness and ability to work with it is seriously lacking.

Question 11. What would be the legal and economic impact to an issuer of asset-backed securities of being considered a "banking entity"? What additional costs would be incurred in the establishment and implementation of a compliance program related to the provisions of the proposed rule as required by § __.20 of the proposed rule (including Appendix C, where applicable)? Who would pay those additional costs?

There is no way to determine the legal and economic impact to an issuer of asset-backed securities of being considered a 'banking entity'. The costs for allowing these companies to continue behaving any way they please has already been made evident.

This question, in my opinion, appears to be a leading question. In any case the establishment of a compliance program only serves to benefit the Agencies or any individual Agency and provides opportunity not only for confusion imposed on financial workers but opens the very real possibility of malfeasance. If the banking entity is not behaving properly there is no reason to believe they would expose themselves by submitting documents proving it on a regular basis through a compliance program. This is not a reasonable response to the difficulty.

This question causes me to question the intent of these proceedings. Clearly these activities must be stopped but to ask how much they might cost if they are stopped - after they have cost this nation trillions of dollars through lost productivity, bail-outs and loss of good faith - is an indication that the Agencies may not be predisposed to carrying out the work that has been put forth for them to do.

Question 12. If the ownership requirement under the proposed rule for credit risk retention (section 15G of the Exchange Act) combined with the control inherent in the position of servicer or investment manager means that more

securitization vehicles would be considered affiliates of banking entities, would fewer banking entities be willing to (i) serve as the servicer or investment manager of securitization transactions and/or (ii) serve as the originator or securitizer (as defined in section 15G of the Exchange Act) of securitization transactions? What other impact might the potential interplay between these rules have on future securitization transactions? Could there be other potential unintended consequences?

There is no reason to believe that the ownership requirement under the proposed rule would decrease the likelihood that banking entities would service or act as investment managers of securitization transaction. In fact the business may increase and competition would weed out the incompetent because rather than performing the work as if they are on a factory floor churning out what is necessary in order for the bank to produce a paper profit - the financial workers would be required to assist in the work that would bring out correctly securitized transactions. The banks would take the place that is reserved for them and be removed from operations in which they cannot continue to operate in without tainting the product.

This question seems to misunderstand the process for originating and securitizing business transactions for the benefit of business. I cannot put my finger on it definitively but it seems that the way this question is framed it seems like the Agencies have either become comfortable with the disoriented status quo or they lack the experience and knowledge of banking and investment that would make such a question unnecessary.

As for what other impacts might the potential interplay between these rules have on future securitization transactions - that is an open ended question. There is no correct answer for it. Anyone can claim it will have negative impacts or positive impacts. The destruction has already been made by not having the rule in place. The impact of the rule will be to bring order out of the purposeful chaos that has erupted around us.

Question 13. Are the proposed rule's definitions of buy and purchase and sale and sell appropriate? If not, what alternative definitions would be more appropriate? Should any other terms be defined? If so, are there existing definitions in other rules or regulations that could be used in this context? Why would the use of such other definitions be appropriate?

The proposed rule's definitions of buy and purchase and sale and sell are appropriate. There are no alternative definitions necessary at this time. There are none in current use that would be more appropriate. No other terms should be defined. There are no other existing definitions in other rules or regulations that could be used in this context - those being used are sufficient and meet the need. The use of other definitions, in fact, would not be appropriate. It would be an abridgement of logic and would cause undue confusion the like of which we see all around the financial industry at this time.

The Agencies request comment on the proposed rule's approach to defining trading account. In particular, the Agencies request comment on the following questions:

Question 14. Is the proposed rule's definition of trading account effective? Is it over- or under-inclusive in this context? What alternative definition might be more effective in light of the language and purpose of the statute? How would such definition better identify the accounts that are intended to be covered by

section 13 of the BHC Act?

The proposed rule's definition of 'trading account' is effective and precise. It is neither over- or under-inclusive in this context. There is no alternative definition that might be more effective in light of the language and purpose of the statute. There is no reason believe that such definition would better identify the accounts intended to be covered by section 13 of the BHC Act.

Question 15. Is the proposed rule's approach for determining when a position falls within the definition of "trading account" for purposes of the proposed rule from when it must be reported in the "trading account" for purpose of filing the Call Report effective? What additional guidance could the Agencies provide on this distinction? Are there alternative approaches that would be more effective in light of the language and purpose of the statute? Is this approach workable for affiliates of bank holding companies that are not subject to the Federal banking agencies' market Risk Capital Rules (e.g., affiliated investment advisers)? If not, why not? Are affiliates of bank holding companies familiar with the concepts from the Market Risk Capital Rules that are being incorporated into the proposed rule? If not, what steps would an affiliate of a bank holding company have to take to become familiar with these concepts and what would be the costs and/or benefits of such actions? Is application of the trading account concept from the Federal banking agencies' Market Risk Capital Rules to affiliates of bank holding companies necessary to promote consistency and prevent regulatory arbitrage? Please explain.

It is apparent that there are more questions than are listed. Many of these questions contain several questions.

As for Question 15 - the proposed rule's approach for determining when a position falls within the definition of "trading account" for purposes of the proposed rule from when it must be reported in the "trading account" for purpose of filing the Call Report is quite effective.

There is no reason for the Agencies to provide any guidance at all on this distinction. At this time and time forward it is strongly recommended that the Agencies confine themselves to their duties and actually carry them out rather than interfering in rule making procedures designed to partially correct their own errant ways.

This approach is workable for bank holding companies not subject to the Federal banking agencies' market Risk Capital Rules.

Most of the affiliates of bank holding companies should be, like most American citizens are familiar with the concepts from the Market Risk Capital Rules that are being incorporated into the proposed rule. If they are not it is a simple matter to inform them of them by simple notice.

Application of the trading account concept from the Federal banking agencies' Market Risk Capital Rules to affiliates of bank holding companies is not necessary to promote consistency. As for preventing regulatory arbitrage it is strongly advised that the Agencies be reduced in size and their duties more closely scrutinized moving forward. Much of the blame for the present state of financial disarray can be traced to the Agencies' own actions and inaction - if you seek example then consider Fannie Mae and Freddie Mac and the position they have taken in the financial industry. It is because of

assistance from and neglect of oversight by the Agencies that those two governments sponsored enterprises rode roughshod over logic and foresight nearly catapulting the entire nation's economic livelihood into a ditch from which we would not have been able to climb out of.

Question 16. Is the manner in which the Agencies intend to take into account, and substantially adopt, the approach used in the Market Risk Capital Rules and related concepts for determining whether a position is acquired with short-term trading intent effective?

The manner in which the Agencies intend to take into account, and substantially adopt, the approach used in the Market Risk Capital Rules and related concepts for determining whether a position is acquired with short-term trading intent effective. If, however, there are changes in the methods that the Agencies intend to use then serious problems including abuse may occur. The best way to ensure that failure does not occur is to choose one Agency and one Agency alone to determine whether a position is acquired with short-term trading intent. The way it is proposed now can lead to one or more agencies having one more positions on a simple matter. That is contrary to the intent of the statute and should be avoided.

The difficulty is in the bureaucratic structure of the Agencies. They coalesce, as they are doing now, when it is convenient to slow or change a course of events that can threaten their existence while not providing any improved level of service to the citizens of the United States.

Question 17. Should the proposed rule's definition of trading account, or its use of the term "short-term," be clarified? Are there particular transactions or positions to which its application would be unclear? Should the proposed rule define "short-term" for these purposes? What alternative approaches to construing the term "short-term" should the Agencies consider and/or adopt?

The proposed rule's definition of trading account, or its use of the term "short-term," should not be clarified any further. The Agencies, with this question, are echoing the famous statement by Bill Clinton before a Grand Jury - ""It depends on what the meaning of the word 'is' is."

The question "Are there particular transactions or positions to which its application would be unclear?" would be totally dependent on the meaning of phrase and in this case on which of the Agencies is using the term.

I do not think there should be any further definitions for "short-term". We then arrive at the question, "What alternative approaches to construing the term "short-term" should the Agencies consider and/or adopt?" This question again makes me wonder if large parts of this questioning process are intended to be a stalling game. The first question in Question 17 was enough - further attempts at clarifying the question tend to confuse the matter even further to the point of absurdity.

Question 18. Are there particular transactions or positions to which the application of the proposed definition of trading account is unclear? Is additional regulatory language, guidance, or clarity necessary?

There are no presently available transactions or positions to which the application of the proposed definition of trading account is unclear. There is no need for additional regulatory language.

The point of the statute is to terminate the flights of fancy that have taken hold in the marketplace and have so badly infected the Agencies that the employees at the Agencies are now being led by experience in the market rather than by financial necessity.

There is no reason that a bank should own a company or farm work to a closely integrated company that would take all the loans it is writing - often with fanciful information in order to make the loans appear legitimate - and then tie those loans up into securities which are then rated by closely related ratings companies that are paid for the service by the companies or banks and then offer those securities to the general public for sale.

What needs to be clarified is which one of the Agencies will be driven from its regulatory position and back to reality first.

Question 19. Is the exchange of variation margin as a potential indicator of short-term trading in derivative or commodity future transactions appropriate for the definition of trading account? How would this impact such transactions or the manner by which banking entities conduct such transactions? For instance, would banking entities seek to avoid the use of variation margin to avoid this rule? What are the costs and benefits of referring to the exchange of variation margin to determine if positions should be included in a banking entity's trading account? Please explain.

The exchange of variation margin can be considered more than a potential indicator of short-term trading in derivative or commodity future transactions so it is appropriate for the definition of trading account.

It would impact such transactions or the manner by which banking entities conduct such transactions in such a way as to ensure that unfair business practices, restriction of trade, forgery and incompetence are forced from the market.

It may well be that banking entities would seek to avoid the use of variation margin to avoid this rule and that would be a good thing. If they just change the name of what they are doing and use different forms to do it as they have been doing with many other regulations then that would be a bad thing.

There are no true additional costs and benefits of referring to the exchange of variation margin to determine if positions should be included in a banking entity's trading account. It should just be done.

It should be done to ensure that criminal activity and incompetence are driven from the marketplace instead of encouraged as the Agencies seem to have been doing.

Question 20. Are there particular transactions or positions that are included in the definition of trading account that should not be? If so, what transactions or positions and why?

There are no particular transactions or positions that are included in the definition of trading account that should not be.

Question 21. Are there particular transactions or positions that are not included in the definition of trading account that should be? If so, what transactions

or positions and why?

There are no particular transactions or positions that are not included in the definition of trading account that should be.

Question 22. Is the proposed rule of construction for positions acquired or taken by dealers, swap dealers and security-based swap dealers appropriate and consistent with the purpose and language of section 13 of the BHC Act? Is its application to any particular type of entity, such as an insured depository institution engaged in derivatives dealing activities, sufficiently clear and effective? If not, what alternative would be clearer and/or more effective?

The proposed rule of construction for positions acquired or taken by dealers, swap dealers and security-based swap dealers appropriate and consistent with the purpose and language of section 13 of the BHC Act.

Its application to any particular type of entity, such as an insured depository institution engaged in derivatives dealing activities, is sufficiently clear and effective.

Question 23. Is the rebuttable presumption included in the proposed rule appropriate and effective? Are there more effective ways in which to provide clarity regarding the determination of whether or not a position is included within the definition of trading account? If so, what are they?

The rebuttable presumption included in the proposed rule is appropriate and effective.

There are no more effective ways in which to provide clarity regarding the determination of whether or not a position is included within the definition of trading account.

Question 24. Are records currently created and retained that could be used to demonstrate investment or other non-trading purposes in connection with rebutting the presumption in the proposed rule? If yes, please identify such records and explain when they are created and whether they would be useful in connection with a single transaction or a category of similar transactions. If no, we seek commenter input regarding the manner in which banking entities might demonstrate investment or other non-trading intent. Should the Agencies require banking entities to make and keep records to demonstrate investment or non-trading intent with respect to their covered financial positions?

If there are records that could potentially be used to demonstrate investment or non-trading purposes in connection with rebutting the presumption (the rebuttal presumption) in the proposed rule then they would need to be introduced in a court of law so that judge or judge and jury can decide if they rebut the presumption that : ".any account used to acquire or take a covered financial position that is held for sixty days or less is a trading account under the first prong, unless the banking entity can demonstrate that the position was not acquired principally for short-term trading purposes.". Question 24 either appears to be a fishing expedition by the Agencies or representatives of the Agencies to attempt to undermine the rule or it demonstrates again why this rule must be put in place as the Agencies have lost all contact with financial realities.

As for the no portion of the question - it is not clear what the Agencies are

asking for in regards to producing evidence of items that do not exist - apparently the Agencies are seeking suppositions and imaginative answers to their question rather than facts and information that can be used to make a correct determination.

As for the Agencies requiring banking entities to make and keep records to demonstrate investment or non-trading intent with respect to their covered positions - banking entities need to be excluded from this behavior in the first place. In the second place they should keep records so that when they are brought to court for violating the order it will be easier to prosecute and fine them for their abrogation of their financial duties.

The second part of the question regarding whether or not banking entities should keep records of these transactions is like asking whether or not pharmacies should keep track of their purchases and sales of controlled substances. If we look at the question from a wider perspective and consider that the Agencies are wondering if banking entities should keep records on illegal activities then the answer is a qualified 'YES' - but it will be hard to convince them to do so just as it hard to convince drug dealers to keep records of their transactions.

Question 25. How should the proposed trading accoun