



February 15, 2012

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Robert E. Feldman, Executive Secretary *comments@fdic.gov*
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
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Office of the Comptroller of the Currency *regs.comments@occ.treas.gov*
250 E Street, SW
Washington, DC 20219

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

Fed Docket No. R-1432 and RIN 7100 AD 82
FDIC RIN 3064-AD85
OCC Docket ID OCC-2011-0014 and RIN 1557-AD44

Dear Sir and Madam:

The Covered Funds provisions contained in the “Volcker Rule” portion of the Dodd-Frank Act¹, as they apply to community bank holding companies (those with consolidated assets under \$10 billion), are overly burdensome, and more importantly, are simply unnecessary because bank holding companies are not afforded access to federal deposit insurance from the FDIC or liquidity facilities from the Federal Reserve. As a result, there is no need to protect a federal government “safety net” that simply doesn’t exist at the bank holding company level.

¹ Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, commonly referred to as the “Volcker Rule.” The Covered Funds provisions are covered in Subpart C of proposed regulations implementing the Volcker Rule, and prohibit banking entities (including bank holding companies) from sponsoring or investing in private equity or hedge funds (“Covered Funds”); however, commercial banks that have trust, fiduciary or investment advisory services can sponsor or invest in covered funds, subject to severe percentage ownership limitations.

Furthermore, community bank holding companies with consolidated assets under \$10 billion, both historically and presently, have minimal investments in Covered Funds (private equity and hedge funds), thereby questioning the need for the additional regulations imposed by the “Volcker Rule” provision of the Dodd-Frank Act. Indeed, as illustrated in the discussion that follows, assumed losses realized on 100% of the investments in Covered Funds for such companies would have a negligible impact on the companies’ capital adequacy.

Additionally, through a rational and prudent investment policy, a community bank holding company could enhance both current earnings and future equity capital by investing in private equity and hedge funds. However, since the vast majority of community banks do not provide trust, fiduciary or investment advisory services, under the proposed regulations implementing the Volcker Rule the parent bank holding companies of such community banks would be barred from investing in private equity or hedge funds altogether. Restricting or essentially eliminating the ability of community bank holding companies to invest in private equity or hedge funds is inconsistent with the goal of providing bank holding companies with the necessary tools to serve as a source of strength for their respective subsidiary bank(s).

Regulatory Overkill

An analysis of financial data filed by bank holding companies on Form FR Y-9², reveals that community bank holding companies (those with consolidated assets under \$10 billion) have invested a total of only \$1.5 billion in nonbank subsidiaries and other debt/equity securities (securities other than those issued by the U.S. Treasury, U.S. Government and State and political subdivisions). Investments in Covered Funds, to the extent there are any such investments, are included in the \$1.5 billion amount.

The total \$1.5 billion investment in nonbank subsidiaries and other debt/equity securities represents less than one-tenth of one percent of the total consolidated assets of these community bank holding companies, and less than 1% of these community bank holding companies’ aggregate equity capital (excluding U.S. Treasury Capital) of \$190 billion. If community bank holding companies perchance lost their entire \$1.5 billion investment (a likelihood that, of course, will never occur), the consolidated equity ratio (non-U.S. Treasury equity capital as a percent of consolidated total assets) for these community bank holding companies would drop from 9.64% to 9.56% (9.64%, less 0.08%); an inconsequential, and hardly threatening, diminishment in capital adequacy.

Another way to assess the magnitude of the non-bank investments made by community bank holding companies is in terms of the average total dollars of non-bank investments as compared to the average total dollars of holding company equity capital (excluding U.S. Treasury Capital). Community bank holding companies with under \$10 billion in consolidated assets average: \$428 million in consolidated assets, \$41 million in total non-U.S. Treasury equity capital, and only \$334 thousand in non-bank investments.

In large measure, community bank holding companies conservatively retain equity at their subsidiary banks. And when assets are amassed at the parent company level, funds typically are invested in

² As of June 30, 2011 for bank holding companies filing FR Y-9SP (generally, those with consolidated total assets under \$500 million), and as of September 30, 2011 for bank holding companies filing FR Y-9LP.

securities issued by the U.S. Treasury, U.S. Government and State and political subdivisions, loaned to private borrowers and other financial institutions, or placed back in their respective subsidiary banks as deposits. Investments in Covered Funds are minute, comparatively speaking, and represent an extraordinarily minimal risk factor for community bank holding companies. Investments in Covered Funds do not presently, and are unlikely in the future to constitute a meaningful, much less risky, percentage of parent company assets.

The chart below summarizes this information:

	Small BHCs Filing Y-9SP	BHCs Filing Y-9LP with Consolidated Assets Under \$10B	Filing Y-9SP & BHCs Filing Y-9LP with Consolidated Assets Under \$10B - {Community BHCs}	Top-Tier BHCs Filing Y- 9LP with Consolidated Assets \$10B or Greater
Inv in NonBank Subs:Equity (\$000)	\$ 566,621			
Other Debt & Equity Secs (\$000)		\$ 975,868		\$ 18,204,488
Inv in NonBank Subs:Equity / Other Debt & Equity Secs (\$000)	\$ 566,621	\$ 975,868	\$ 1,542,489	\$ 18,204,488
Total Assets of Parent Hold Co (\$000)	\$ 65,568,737	\$ 163,613,960	\$ 229,182,697	\$ 3,022,515,219
Total Equity of Parent Co (\$000)	\$ 58,142,763	\$ 139,980,234	\$ 198,122,997	\$ 1,443,285,128
Less: Total U.S. Treasury Capital Purchase Program Issuances	\$ (1,226,893)	\$ (6,519,034)	\$ (7,745,927)	\$ (17,137,115)
Total Equity of Parent Co (Less U.S. Treasury Capital) (\$000)	\$ 56,915,870	\$ 133,461,200	\$ 190,377,070	\$ 1,426,148,013
Total Consolidated Assets (\$000)	\$ 609,224,827	\$ 1,365,840,862	\$ 1,975,065,689	\$ 15,263,807,717
Number of BHCs Included in Composite	3,684	934	4,618	72
Inv in NonBank Subs:Equity / Other Debt & Equity Secs:				
-- as % of Total Assets of Parent Hold Co	0.86%	0.60%	0.67%	0.60%
-- as % of Total Equity of Parent Hold Co (Less U.S. Treasury Capital)	1.00%	0.73%	0.81%	1.28%
-- as % of Total Consolidated Assets	0.09%	0.07%	0.08%	0.12%
Total Equity of Parent Co as % of Total Consolidated Assets	9.34%	9.77%	9.64%	9.34%
Average Per BHC				
-- Inv in NonBank Subs:Equity / Other Debt & Equity Secs (\$000)	\$ 154	\$ 1,045	\$ 334	\$ 252,840
-- Total Equity of Parent Hold Co (Less U.S. Treasury Capital) (\$000)	\$ 15,449	\$ 142,892	\$ 41,225	\$ 19,807,611
-- Total Consolidated Assets (\$000)	\$ 165,370	\$ 1,462,356	\$ 427,689	\$ 211,997,329

Inconsistent with the FRB's "Source of Strength" Doctrine

Community bank holding companies are never likely to make Covered Funds a major component of their investment strategy. Furthermore, with bank regulators demanding greater capital cushions at subsidiary banks, community bank holding companies are even less likely to amass large non-bank investments at the parent bank holding company level. And to the extent that such investments are made by a bank holding company with funds provided through dividends from its bank subsidiary, such funds would necessarily represent excess capital at the bank subsidiary level.

With investment yields at record lows (and based on recent pronouncements by the FRB, likely to remain so through at least the end of 2013), community bank holding companies need alternative

investment options that will allow them to safely invest available funds at the parent company level in order to achieve a greater yield relative to what they would otherwise achieve investing in a traditional investment mix (securities issued by the U.S. Treasury, U.S. Government and State and political subdivisions, or loans extended to other financial institutions in the form of repurchase agreements). Realizing greater yields on investable funds, utilizing a prudent and safe investment policy, would serve to improve the yield on investable funds and, thus, the profitability of the parent company. This, in turn, would improve the ability of community bank holding companies to serve as a source of strength for their respective subsidiary bank(s).

Private equity and hedge funds that are prudently, if not conservatively managed, do exist; and, numerous funds have historical performance records that validate this assertion. In short, there is no need to restrict investments by community bank holding companies simply because those investments are in private equity and hedge funds – especially if such funds have demonstrated price stability during the recent periods of extreme market volatility. Without question, private equity and hedge funds could represent valid and safe investment options for community bank holding companies.

Therefore, community bank holding companies should have the ability, without additional, unnecessary regulatory restrictions, to invest in Covered Funds, subject to, of course, a rational and sound investment policy reviewed by a company's Board of Directors and available for inspection by FRB examiners. Furthermore, regulations have existed for some time regarding non-bank investments made by bank holding companies. And as far as we are aware, in spite of the recent large losses on non-bank investments incurred by the larger super-regional and multi-national banking companies, no one has taken the position that these existing regulations were inadequate or deficient regarding non-bank investments made by holding companies of community banks.

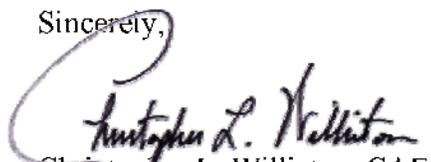
Proposed Solution

The Covered Funds provisions contained in the "Volcker Rule" of the Dodd-Frank Act, as applied to all banking entities, including community bank holding companies, represents a broad-brush solution to an assumed problem that has never existed at community bank holding companies in the past, doesn't exist now, and furthermore will likely never exist in the future. However, community bank holding companies should have the ability to invest in private equity and hedge funds, subject to a sound and prudent internal investment policy that governs each bank holding company's investment decisions.

The Independent Bankers Association of Texas believes that bank holding companies with consolidated assets under \$10 billion should be exempted from the Covered Funds provisions under the Dodd-Frank Act.

Thank you for this opportunity to comment.

Sincerely,



Christopher L. Williston, CAE
President and CEO