

**Meeting between Federal Reserve Board Staff
and Representatives of the ABA Securities Association
September 28, 2010**

Participants: Mark Van der Weide, Molly Mahar, Kieran Fallon, Pat White and Jeremy Newell (Federal Reserve Board)

David Bloom (SunTrust Banks, Inc.); Hugh Conroy and Carl Howard (Citigroup, Inc.); Robert Goldenberg (UBS Bank USA); Beth Haddock (Brown Brothers Harriman); Kathleen Juhase (JPMorgan Chase & Co.); James Keller (PNC); Robert Lendino (BB&T); Kevin MacMillan (Bank of America); Matthew McGrory (Wells Fargo & Company); Mark Steffensen (HSBC Securities (USA) Inc.); Robert J. Sussman (The Bank of New York Mellon); Simon Zornoza (State Street); Sara Kelsey and Martin E. Lybecker (WilmerHale); Sally Miller, Cristeena Naser, and Carolyn Walsh (ABA Securities Association).

Summary: Staff of the Federal Reserve Board met with representatives of the ABA Securities Association (the “ABASA”) and its member institutions on September 28, 2010. At the meeting, the representatives principally discussed the following provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”): (i) amendments to Sections 23A and 23B of the Federal Reserve Act made by section 608 *et seq.* of the Dodd-Frank Act; (ii) restrictions on proprietary trading and private fund activities under section 619 of the Act (commonly known as the “Volcker Rule”); and (iii) restrictions on the swap activities of depository institutions under section 716 of the Dodd-Frank Act. The ABASA discussed their views on each of these topics and particular issues raised for banking organizations that engage in securities-related activities and operations.

With respect to the amendments to Sections 23A and 23B of the Federal Reserve Act made by section 608 *et seq.* of the Dodd-Frank Act, and in particular changes to the treatment of inter-affiliate derivatives thereunder, the ABASA expressed concern that these new restrictions could limit enterprise-wide risk management practices that depend, in part, on derivative transactions between a bank and its affiliates to limit the aggregate risk of banking organizations. The ABASA also presented their views regarding: (i) additional difficulties that may arise if, as a result of certain provisions of Title VII of the Dodd-Frank Act, banks are required to pass some or all of their derivative trades with customers to an affiliated futures commission merchant for clearing, and (ii) the apparent breadth of the new definition of affiliate with respect investment funds.

With respect to the Volcker Rule, the ABASA expressed concern that section 619’s definition of “hedge fund and private equity fund,” which incorporates by reference funds that are excluded from the definition of “investment company” under the Investment Company Act pursuant to sections 3(c)(1) or 3(c)(7) thereof, was expansive and included a number of legal entities, such as securitization vehicles, that they do not believe are within the scope of what is commonly understood to be a hedge fund or private equity fund. The ABASA also provided their views regarding the potential application of section 619(f)’s restriction on relationships with certain hedge funds and private equity funds to custody and other services often provided to such

funds in the ordinary course of business. The ABASA also shared its views regarding: (i) the difficulty of establishing clear, bright lines differentiating proprietary trading and market making and (ii) the scope of the exceptions contained in section 619 for hedging activities and trading in certain government securities.

With respect to section 716, the ABASA discussed the extent to which section 716's restrictions on bank swap activities by their terms apply only to insured depository institutions but not their subsidiaries.

A copy of the handout provided by the ABASA at the meeting is attached below.



ABASA Lawyers Committee Meeting with Federal Reserve Board Staff

September 28, 2010

11:00 a.m. – 12:30 p.m.

**Federal Reserve Board, Room B-4001
20th Street and Constitution Avenue, NW
Washington, DC 20551**

AGENDA

- I. Discussion of implementation issues that have arisen in connection with preparing to comply with various provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Specifically, implementation issues in connection with:
 - a. Preparing to comply with amendments to Rule 23A/B (Section 608 et seq.) mandated by the Dodd-Frank Act
 - b. Preparing to comply with Volcker Rule (Section 619) of the Dodd-Frank Act
 - c. Preparing to comply with Pushout Rule (Section 716) of the Dodd-Frank Act

- II. Discussion of the Federal Reserve Board's coordination and interfacing with other regulators post Dodd-Frank Act