

Statement of
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Acting Comptroller of the Currency
Before the Subcommittees on
Capital Markets and Government Sponsored Enterprises
And
Financial Institutions and Consumer Credit
U.S. House of Representatives
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Chairmen Garrett and Capito, Ranking Members Waters and Maloney, and members of the Subcommittees, I appreciate the opportunity to appear today to provide an update on the work of the Office of the Comptroller of the Currency in connection with section 619 of the Dodd-Frank Act, commonly known as the “Volcker Rule.” As you have heard, the OCC, Federal Reserve, FDIC and SEC published our implementing regulation on November 7, 2011.

The legislation itself is complex, and its impact and the impact of its implementing rules will have significant consequences for the operations of our nation’s banking firms and the financial system as a whole. Recognizing these considerations, and to enable commenters to react to the CFTC’s subsequently-proposed rule to implement section 619, the OCC, Federal Reserve, FDIC and SEC recently extended the deadline for submitting comments on our proposal by one month, to February 13th. We are hopeful that this extension will give the public more time to evaluate the proposal and provide robust comments.

As described in my written statement, the agencies’ proposal implements the prohibitions, restrictions, permitted activity exceptions, backstops, and rules of construction of

section 619. This combination of statutory provisions alone is quite complex. The proposed rule also establishes requirements for statutorily permitted activities and interprets many of the permissible activity provisions conservatively, including, in particular, the provisions for underwriting, market-making-related activities, and risk-mitigating hedging. Admittedly, the proposal's approach for implementing these statutorily-permitted activities introduces a number of operational complexities in an effort to be precise in drawing distinctions between permissible and prohibited activities.

The proposed rule also requires banking entities engaged in any permitted activity to develop and implement a compliance program that addresses internal policies and procedures, internal controls, a management framework, independent testing, training, and record-keeping. The extent of these requirements escalates depending on the volume of the activity.

It has been noted by many that the proposal contains an unusually large number of questions. While the number of questions may seem daunting, they were driven by our desire to understand what may be quite complicated and significant consequences of elements of the proposal and to provide a sound legal basis for adjusting key areas of the rule where the agencies deem that necessary.

As the regulator of many of the banks that will be most affected by the Volcker Rule, the OCC is particularly concerned with how to strike the right balance in identifying and preventing impermissible activities without undermining activities that are safe, sound and profitable; that help to reduce a bank's overall risk profile; and that contribute to healthy and liquid markets. We also recognize the compliance burdens on banking entities of all sizes arising from the proposal and therefore will be keenly interested in whether comparably effective compliance results could be achieved through less burdensome approaches.

We appreciate the concerns raised about the potential burden of the proposed regulation in addition to the Volcker Rule statutory provisions. To date, the OCC has completed an assessment of the impact of the proposal on OCC-regulated entities under the Unfunded Mandates Reform Act and the Regulatory Flexibility Act. We are also soliciting extensive comments on the full economic impact of the proposal, including its impact on market-making and liquidity, costs of borrowing by businesses and consumers, and the prices of financial assets. We have strongly encouraged comments on these issues and hope that the extended comment period will facilitate thoughtful and robust responses.

The letter of invitation also solicits views on whether the proposal places U.S. banking entities at a competitive disadvantage. Competitive consequences here have various sources. There are competitive consequences that follow from provisions of the statute that reflect legislative choices made by Congress that may differ from approaches adopted in other jurisdictions. These differences are based on policy as well as risk management grounds and it is not unique for the U.S. and other jurisdictions to have differences on such issues. Second, the manner in which the provisions of the statute are implemented by regulation can affect its competitive impact. This is why we have welcomed comments on the impact of the proposed rulemaking on the competitiveness of U.S. banking entities, as well as comments on the flexibilities that may exist in the statutory requirements.

I appreciate the opportunity to update the Committee on the work we have done to implement the Volcker Rule. This is very much a work in process. We appreciate your concerns, and will certainly keep the Committee advised of the status of this rulemaking effort. I am happy to answer your questions.