

[Banking and Finance Law Daily Wrap Up, BANKING OPERATIONS—Fed seeks feedback on physical commodity activities by FHCs, \(Jan. 14, 2014\)](#)

Banking and Finance Law Daily Wrap Up

[Click to open document in a browser](#)

By John Filar Atwood

The Board of Governors of the Federal Reserve System (Board) issued an advance notice of proposed rulemaking to solicit public comments on issues related to physical commodity activities conducted by financial holding companies (FHCs). The Board said that it is studying whether additional restrictions would help ensure that physical commodities activities are conducted by financial holding companies in a sound manner and pose no threat to financial stability. The Board will accept comments through March 15, 2014.

In the [notice](#), the Board stated that the activities under review include physical commodities activities that have been found to be “complementary to a financial activity” under Sec. 4(k)(1)(B) of the Bank Holding Company Act (BHCA), investment activity under BHCA Sec. 4(k)(4)(H), and physical commodity activities grandfathered under BHCA Sec. 4(o).

Background. Financial holding companies are permitted to engage in a limited amount of physical commodity trading activity that the Board has determined to be complementary to various financial activities under the BHCA. In addition, the BHCA authorizes bank holding companies to make merchant banking investments in any type of non-financial company, including a company engaged in activities involving physical commodities. In the Gramm-Leach-Bliley Act, Congress authorized several companies to continue to engage in a broad range of physical commodity activities under grandfathering authority after these firms became bank holding companies.

According to the Board, bank holding companies have expanded their reliance on these authorities in the past few years to increase their activities involving physical commodity trading, and some securities firms that engaged in substantial physical commodity activities were acquired by or became bank holding companies. During that time, there have been developments involving physical commodity activities that suggest that the risks of conducting these activities are changing and the steps that firms may take to limit these risks are more limited, the Board noted.

In light of these developments, the Board decided to review the scope of the activities that it has authorized under BHCA Sec. 4(k)(1)(B) to ensure that they continue to be activities complementary to a financial activity and do not pose substantial risks to depository institutions or the financial system generally. The Board is also seeking feedback on whether it is appropriate to impose limitations or conditions on the conduct of physical commodity activities by bank holding companies and their subsidiaries.

Topics covered. In a [press release](#), the Board said that the advance notice covers a number of topics, including the nature of risks that physical commodity activities could pose to the safety and soundness of financial holding companies and to financial stability more broadly. It also covers the potential conflicts of interest and other adverse effects of engagement by financial holding companies in physical commodity activities, and the potential risks and benefits of imposing additional capital requirements or other restrictions on the commodity activities of financial holding companies.

RegulatoryActivity: BankHolding BankingOperations FederalReserveSystem SecuritiesDerivatives