Banking and Finance Law Daily Wrap Up, TOP STORY—Fed proposes loosening up Volcker Rule restrictions, (May 30, 2018)

Banking and Finance Law Daily Wrap Up

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The Federal Reserve Board has proposed amendments to regulations implementing Volcker Rule restrictions on the ability of banking entities to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. The proposal was developed jointly with the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Commodity Futures Trading Commission.

The proposed amendments are intended to clarify what activities are prohibited, focus requirements on entities with large trading operations, and simplify regulatory requirements. Specifically, the proposal would, among other changes:

- tailor the rule's compliance requirements based on the size of a firm's trading assets and liabilities, with the most stringent requirements applied to firms with the most trading activity;
- provide more clarity by revising the definition of "trading account" in the rule, in part by relying on commonly used accounting definitions;
- clarify that firms that trade within appropriately developed internal risk limits are engaged in permissible market making or underwriting activity;
- streamline the criteria that apply when a banking entity seeks to rely on the hedging exemption from the proprietary trading prohibition;
- limit the impact of the Volcker rule on the foreign activity of foreign banks; and
- simplify the trading activity information that banking entities are required to provide to the agencies.

After five years of experience in applying the Volcker Rule, Federal Reserve Board Chair Jerome Powell views the proposal as a way to tailor requirements so firms that do modest amounts of trading will face fewer demands. Similarly, Fed Vice Chair Randal K. Quarles emphasized that categorization of three tiers of firms based on trading activity levels in the proposal will align compliance requirements with the level of trading activity.

"Rather than requiring banking institutions to undertake specific quantitative analyses prescribed by the regulators, the proposed revisions would require banking institutions to establish internal risk limits to achieve the principle of not exceeding the reasonably expected near-term demands of customers, subject to supervisory review," Fed Governor Lael Brainard added.

Two information collections were issued with the proposal—Information Schedules and a Quantitative Measurements Daily Schedule.

There will be a 60 day comment period.

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