SPEECHES & TESTIMONY

Statement of Commissioner Quintenz in Support of Amendments to the Volcker Rule

September 16, 2019

I support today's targeted amendments to the Volcker Rule, which I believe will simplify firms' compliance with the statutory ban on proprietary trading and improve the agencies' supervision of banking entities. Based upon the agencies' implementation experience since 2013, it has become apparent that the rule as originally adopted has resulted in ambiguity over permissible activities, an overbroad application, and unnecessarily complex compliance processes. The revised rule before us today tailors and simplifies the rule to enable banking entities to effectively provide traditional banking services to their clients in a manner that is consistent with the statute.

Adopting a risk-based approach, the revised rule tailors the scale of a banking entity's compliance program to be commensurate with the firm's size and level of trading activities. Under the final rule, the most stringent compliance requirements apply to those entities with the most significant amount of trading activities, while banks with simpler business models and more limited trading operations would be subject to tiered compliance requirements tailored to the complexity and scope of their activities. As a result, firms with little or no activity subject to the Volcker Rule's prohibitions will face lower compliance costs and reduced regulatory burdens. However, because activity implicated by the Volcker Rule is concentrated in a small number of banks, the agencies estimate that, even under this tiered approach, approximately 93% of the trading assets and liabilities in the U.S. banking system would continue to be held by firms subject to the strictest compliance standards.

The final rule also clarifies and simplifies the application of the short-term intent prong. Under the 2013 rule, the purchase (or sale) of a financial instrument by a banking entity was presumed to be for the trading account if the banking entity held the financial instrument for fewer than sixty days (or substantially transferred the risk of the financial instrument within 60 days of purchase or sale). In practice, firms have found it difficult to rebut the presumption, with the result that the short term intent prong has captured many activities that should not be included in the definition of proprietary trading. The final rule addresses this issue by reversing the rebuttable presumption, providing that the purchase or sale of a financial instrument presumptively lacks short-term trading intent if the banking entity holds the financial instrument for 60 days or longer. In addition, the final rule includes new or expanded exclusions from the definition of proprietary trading for liquidity management programs, certain customer-driven swaps, error trades, and certain traditional banking activities, such as the hedging of mortgage servicing rights. These modifications clarify the scope of permissible activities and ensure that the application of the proprietary trading ban is not overbroad.

I believe today's final rule serves as an example of effective cooperation among five regulators: the CFTC; the Securities and Exchange Commission; the Federal Reserve Board; the Office of the Comptroller of the Currency; and the Federal Deposit Insurance Corporation. The agencies have come together to address many of the unintended consequences of the prior rule, while continuing to comply with statutory requirements. Finally, I would like to thank the staff of the Division of Swap Dealer and Intermediary Oversight for their efforts on this matter.