Public Statements & Remarks

Dissenting Statement of Commissioner Rostin Behnam Regarding Revisions to the Volcker Rule

June 25, 2020

I respectfully dissent as to the Commission's decision to finalize additional revisions to the Volcker Rule. As we approach the ten year anniversary of the Dodd-Frank Act, [1] and cautiously begin mapping a path out of the current pandemic, I believe it is a good time to reflect on the lessons learned from the 2008 financial crisis, the efficacy of our responses, and whether our objectives have changed, or just our perspective. One of the many critically important provisions of the Dodd-Frank Act is the Volcker Rule. The Volcker Rule, in simple terms, contains two basic prohibitions: (1) banking entities may not engage in proprietary trading; and (2) banking entities cannot have an ownership interest in, sponsor, or have certain relationships with a covered fund.

Last September, the Commission, along with other Federal agencies (the "Agencies"), [2] approved changes that significantly weakened the prohibition on propriety trading by narrowing the scope of financial instruments subject to the Volcker Rule. [3] I did not support those changes. [4] Today, the Commission, again in tandem with the Agencies, completes the dismantling that began in 2018, [5] and votes to significantly weaken the prohibition on ownership of covered funds. Again, I cannot support these changes.

I voted against the 2018 proposal, and earlier this year, voted against the proposal that strikes the final blow today. [6] In voting against the 2020 proposal, I quoted the late Paul Volcker's letter to the Chairman of the Federal Reserve, which he penned last September, when the Agencies approved the changes breaking down the proprietary trading prohibition. [7] Mr. Volcker warned that the amended rule "amplifies risk in the financial system, increases moral hazard and erodes protections against conflicts of interest that were so glaringly on display during the last crisis." [8] Mr. Volcker's words apply equally well to the changes that the Commission finalizes today regarding covered funds—particularly the erosion of the existing protections regarding conflicts of interest.

As the tenth anniversary of the Dodd-Frank Act sadly coincides with a different kind of crisis, I think it is critical to take a hard look at how far we have come in ten years, and how well markets have adapted to carefully crafted policy intended to create a more resilient financial system. Chipping away, particularly at a time of great uncertainty, risks a reversion to the past, when in fact, we should only be looking forward.

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[1] Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

[2] The Office of the Comptroller of the Currency, Treasury; the Board of Governors of the Federal Reserve System; the Federal Deposit Insurance Corporation; and the Securities and Exchange Commission.

[3] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 84 FR 61974 (Nov. 14, 2019).

[4] *Id.* at 62275.

[5] *See* Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 83 FR 33432 (proposed July 17, 2018).

[6] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 85 FR 12120, 12204 (proposed Feb. 28, 2020).

[7] *Id.*

[8] Jesse Hamilton and Yalman Onaran, “Volcker the Man Blasts Volcker the Rule in Letter to Fed Chair,” Bloomberg (Sep. 10, 2019), https://www.bloomberg.com/news/articles/2019-09-10/volcker-the-man-blasts-volcker-the-rule-in-letter-to-fed-chair .

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