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United States Senate

WASHINGTON, DC 20510-3205

January 25, 2012

Honorable Ben Bernanke
Chairman, Board of Governors
Federal Reserve System
Twentieth and Constitution Avenue, NW
Washington, DC 20551

Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, DC 20429

Honorable Gary Gensler
Chairman
Commodities Futures Trading Commission
21st St NW
Washington, DC 20581

Honorable Mary Schapiro
Chairman
Securities and Exchange Commission 1155
100 F Street, NE
Washington, DC 20549-0100

Honorable John Walsh
Acting Comptroller of the Currency
U.S. Department of the Treasury
250 E Street, SW, Room 9048
Washington, DC 20219

Dear Chairman Bernanke, Acting Chairman Gruenbam, Chairman Schapiro, Chairman Gensler, and Acting Comptroller Walsh,

I write to you in regard to your recent proposed rules to implement Section 619 of the Dodd-Frank Act, commonly known as the Volcker Rule. This provision poses many unique challenges to regulators and I appreciate your diligent efforts to draft rules that conform to the underlying goals of the legislation while preserving the ability of financial institutions to perform essential services for their customers. However, there are a number of areas in which the proposed rules leave unanswered questions over the implementation and enforcement of the proposal.

One of the challenges of the proposed rules is in the number of regulatory agencies engaged in rulemaking and oversight. Your agencies all represent important voices in the development and design of this rule, however the potential for inconsistent enforcement across various regulatory agencies is troubling. As the rule is implemented, do you anticipate designating a principle entity to oversee the implementation and enforcement of Section 619, or would this task be left to individual prudential regulators? Regardless of the approach, it is important for the success of the proposal to achieve a uniform approach to enforcement to ensure that we do not advantage certain entities or create opportunities for regulatory avoidance.

Another area that remains unclear is the level at which reporting and enforcement will occur. The draft rules call for enforcement at the "smallest unit of organization." Would this mean individual traders or trading desks? A granular enforcement level of that nature would create a substantially different standard than one focused at a larger picture. Additionally, such a standard may require additional build time to develop the reporting mechanisms to enable such a standard. At the least, greater clarity of the unit of enforcement is needed to assess the level at which the standards proposed by the rule will be applied.

In crafting this legislation, Congress sought to balance the need of financial institutions to hold assets in order to maintain liquidity in the marketplace with the restrictions imposed by the rule. The ability of firms to continue to make markets, particularly in less liquid markets where buyers and sellers are not always immediately available, is important for the continued competitiveness of the US financial industry and the broader strength of the US economic system which relies on deeply liquid financial markets. As you proceed with the final rule, I encourage you to continue to strive to strike this important balance to ensure that our financial institutions remain both safe and competitive.

Thank you for your continued efforts to ensure the strength and stability of the US financial system. Effectively implementing Section 619 and the other provisions of the Dodd-Frank Act is essential to protect our financial system and the consumers and businesses who rely on it and I look forward to working with you to do so.

Sincerely,

Kirsten E. Gillibrand
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