



Financial Services Agency
Government of Japan



Bank of Japan

Mr. Keith A. Noreika
Acting Comptroller of the Currency
Office of the Comptroller of the Currency

September 21, 2017

Re: Notice Seeking Input on the Volcker Rule

Dear Mr Noreika,

We are writing to provide our comments in response to your release dated August 2, 2017 seeking input on revising the Volcker Rule.

We would first like to express our appreciation for the U.S. authorities for revising the rule in 2011, which addressed some of our concerns expressed in the initial consultation process in 2011.

Having said that, we would like to draw your attention to some important remaining issues which we believe should be addressed.

As you are aware, the Volcker Rule is applied uniformly to banks' affiliates and subsidiaries including entities outside of the United States, if the banks have a branch or agency in the U.S.

We believe that home authorities have primary responsibilities for regulation and supervision. The extraterritorial application of the Volcker Rule leads to regulatory overlap by the U.S. and Japanese regulation for Japanese financial institutions, which places an undue and excessive burden on them. Given such a burden, it is desirable that the extraterritorial application be eliminated.

Regarding the issues on which the OCC specifically requests public input, we believe such a burden could be reduced by easing regulations on the following three points.

First, the current rule applies to financial institutions' affiliates and subsidiaries which in nature would not engage in any transactions that may be potentially harmful for the U. S. For example, an IT system affiliate outside of Japan is subject to the Volcker Rule and is obliged to have the necessary compliance structure and governance. We believe that the rule levies an undue regulatory burden on such kinds of affiliates or subsidiaries which pose little risk and should be exempted from the rule.

Second, the Volcker Rule allows foreign banking entities to hold foreign funds under certain condition. However, if a banking entity invests in a fund and exceeds certain quantitative threshold, the Rule regards such a fund as a banking entity, even if the banking entity does not have control over the fund.

While we appreciate the U.S. authorities' no action letter published in July 21, 2017, which addressed this concern, the exemption is only effective for one year and needs to be renewed. We seek a permanent exemption which would rectify the uncertainties on the exemption, thus providing predictability and reducing the regulatory costs for financial institutions. Such action would be in line with the recommendation given by the Treasury report, "*A Financial System That Creates Economic Opportunities - Banks and Credit Unions*," which mentions that the exemption of the Volcker Rule's definition of banking entity should be provided for foreign funds not owned or controlled by a foreign affiliate of a foreign bank with U.S. operations.

Third, in order to be eligible for TOTUS (Trading Outside The United States) treatment, one needs to prove that "personnel of the banking entity or its affiliate that arrange, negotiate or execute" is not located in the U.S. and "the banking entity or its affiliate that arrange, negotiate or execute" is not organized under the U.S. law. However, there is no clear guidance on how this could be proved, which makes the financial institutions' operation difficult. We request that this requirement be clarified.

We sincerely hope that the U.S. authorities will take our comments into account and make the necessary amendments to the Volcker Rule. In addition, we would appreciate it if the U.S. authorities could continue to engage in a dialogue with foreign financial institutions on regulatory and supervisory matters. Lastly, please be assured that the JFSA and the BOJ are committed to supervise and monitor Japanese financial institutions and to ensure that they fully comply with financial regulations of the host countries.

Yours sincerely,



Ryozo Himino
Vice Minister for International Affairs
Financial Services Agency



Atsushi Miyanoya
Executive Director
Bank of Japan

Cc:

Mr. Jerome Powell

Governor

Board of Governors of the Federal Reserve System

Mr. J. Christopher Giancarlo

Chairman

Commodity Futures Trading Commission

Mr. David R. Malpass

Under Secretary

Department of the Treasury

Mr. Martin J. Gruenberg

Chairman

Federal Deposit Insurance Corporation

Mr. Jay Clayton

Chairman

Securities and Exchange Commission