

ADVISORY | Financial Institutions

April 20, 2012

FEDERAL RESERVE CLARIFIES VOLCKER RULE CONFORMANCE PERIOD REGULATION

On April 19, 2012, in response to requests for “confirmation that activities conducted and investments made during the conformance period would not be subjected to the requirements of the implementing rules during the conformance period,” the Federal Reserve Board issued a Statement of Policy¹ that “clarifies” the Board’s February 2011 Volcker Rule conformance period regulation.

The April 19, 2012 Statement of Policy “confirms that banking entities by statute have two years from July 21, 2012, to conform all of their activities and investments to section 619, unless that period is extended by the Board.”² Thus, banking entities have until July 21, 2014, to conform their activities and investments to the prohibitions and requirements of the Volcker Rule.

During this two-year “conformance period,” however, entities covered by the Volcker Rule are expected to “engage in good-faith planning efforts . . . to enable them to conform their activities and investments to the requirements of section 619 and final implementing rules by no later than the end of the conformance period.”³ These “good-faith planning efforts” include:

- “evaluating the extent to which the banking entity is engaged in activities and investments that are covered by section 13 of the BHC Act;”
- “developing and implementing a conformance plan that is as specific as possible about how the banking entity will fully conform all of its covered activities and investments with section 13 of the BHC Act and any final implementing rules by July 21, 2014, unless that period is extended by the Board;”
- taking into account “the statutory provisions in section 13 of the BHC Act as they will apply to the activities and investments of the banking entity at the end of the conformance period as well as any applicable implementing rules adopted in final by the primary financial regulatory agency for the banking entity;” and
- “complying with reporting or recordkeeping requirements if such elements are included in the final rules implementing section 13 of the BHC Act and the agencies determine such actions are required during the conformance period.”⁴

¹ Board of Governors of the Federal Reserve System, Statement of Policy Regarding the Conformance Period for Entities Engaged in Prohibited Proprietary Trading or Private Equity Fund or Hedge Fund Activities (April 19, 2012), available at <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20120419a1.pdf>.

² *Id.* at 1.

³ *Id.*

⁴ *Id.* at 6.

Covington regularly advises entities subject to the Volcker Rule with respect to evaluation of Volcker Rule conformity and compliance in light of existing activities and corporate structure. If you have any questions concerning the material discussed in this client advisory, or would like to discuss how the Volcker Rule's implementation may impact your organization, please contact any of the following members of our practice focusing on the Volcker Rule:

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