

115TH CONGRESS  
2D SESSION

# H. R. 4790

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IN THE SENATE OF THE UNITED STATES

APRIL 16, 2018

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

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## AN ACT

To amend the Volcker rule to give the Board of Governors of the Federal Reserve System sole rulemaking authority, to exclude community banks from the requirements of the Volcker rule, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Volcker Rule Regu-  
3 latory Harmonization Act”.

4 **SEC. 2. RULEMAKING AUTHORITY UNDER THE VOLCKER**  
5 **RULE.**

6 (a) IN GENERAL.—Paragraph (2) of section 13(b) of  
7 the Bank Holding Company Act of 1956 (12 U.S.C.  
8 1851(b)(2)) is amended to read as follows:

9 “(2) RULEMAKING.—

10 “(A) IN GENERAL.—The Board may, as  
11 appropriate, consult with the Comptroller of the  
12 Currency, the Federal Deposit Insurance Cor-  
13 poration, the Securities and Exchange Commis-  
14 sion, or the Commodity Futures Trading Com-  
15 mission to adopt rules or guidance to carry out  
16 this section, as provided in subparagraph (B).

17 “(B) RULEMAKING REQUIREMENTS.—In  
18 adopting a rule or guidance under subpara-  
19 graph (A), the Board—

20 “(i) shall consider the findings of the  
21 report required in paragraph (1) and, as  
22 appropriate, subsequent reports;

23 “(ii) shall assure, to the extent pos-  
24 sible, that such rule or guidance provide  
25 for consistent application and implementa-  
26 tion of the applicable provisions of this sec-

1           tion to avoid providing advantages or im-  
2           posing disadvantages to the companies af-  
3           fected by this subsection and to protect the  
4           safety and soundness of banking entities  
5           and nonbank financial companies super-  
6           vised by the Board; and

7           “(iii) shall include requirements to en-  
8           sure compliance with this section, such as  
9           requirements regarding internal controls  
10          and recordkeeping.

11          “(C) AUTHORITY.—The Board shall have  
12          sole authority to issue and amend rules under  
13          this section after the date of the enactment of  
14          this paragraph.

15          “(D) CONFORMING AUTHORITY.—

16                 “(i) CONTINUITY OF REGULATIONS.—  
17                 Any rules or guidance issued under this  
18                 section prior to the date of enactment of  
19                 this paragraph shall continue in effect  
20                 until the Board issues a successor rule or  
21                 guidance, or amends such rule or guidance,  
22                 pursuant to subparagraph (C).

23                 “(ii) APPLICABLE GUIDANCE.—In per-  
24                 forming examinations or other supervisory  
25                 duties, the appropriate Federal banking

1 agencies, the Securities and Exchange  
2 Commission, and the Commodity Futures  
3 Trading Commission, as appropriate, shall  
4 update any applicable policies and proce-  
5 dures to ensure that such policies and pro-  
6 cedures are consistent (to the extent prac-  
7 ticable) with any rules or guidance issued  
8 pursuant to subparagraph (C).”.

9 (b) CONFORMING AMENDMENTS.—Section 13 of the  
10 Bank Holding Company Act of 1956 (12 U.S.C. 1851)  
11 is amended—

12 (1) by striking “the appropriate Federal bank-  
13 ing agencies, the Securities and Exchange Commis-  
14 sion, and the Commodity Futures Trading Commis-  
15 sion,” each place it appears and inserting “the  
16 Board”;

17 (2) by striking “appropriate Federal banking  
18 agencies, the Securities and Exchange Commission,  
19 and the Commodity Futures Trading Commission”  
20 each place it appears and inserting “Board”;

21 (3) in subsection (c)(5), by striking “Notwith-  
22 standing paragraph (2)” and all that follows  
23 through “provided in subsection (b)(2),” and insert-  
24 ing “The Board shall have the authority”; and

25 (4) in subsection (d)(1)—

1 (A) in subparagraph (F)(ii)—

2 (i) by striking “the appropriate Fed-  
3 eral banking agencies” and inserting “the  
4 Board”; and

5 (ii) by striking “have not jointly” and  
6 inserting “has not”; and

7 (B) in subparagraph (G)(viii), by striking  
8 “appropriate Federal banking agencies, the Se-  
9 curities and Exchange Commission, or the Com-  
10 modity Futures Trading Commission,” and in-  
11 serting “Board,”.

12 **SEC. 3. ENFORCEMENT; ANTI-EVASION.**

13 (a) IN GENERAL.—Subsection (e) of section 13 of the  
14 Bank Holding Company Act of 1956 (12 U.S.C. 1851(e))  
15 is amended to read as follows:

16 “(e) ENFORCEMENT; ANTI-EVASION.—

17 “(1) APPROPRIATE FEDERAL BANKING AGEN-  
18 CY.—Notwithstanding any other provision of law ex-  
19 cept for any rules or guidance issued under sub-  
20 section (b)(2), whenever the appropriate Federal  
21 banking agency has reasonable cause to believe that  
22 a banking entity or nonbank financial company su-  
23 pervised by the Board has made an investment or  
24 engaged in an activity in a manner that either vio-  
25 lates the restrictions under this section, or that

1 functions as an evasion of the requirements of this  
2 section (including through an abuse of any permitted  
3 activity), such appropriate Federal banking agency  
4 shall order, after due notice and opportunity for  
5 hearing, the banking entity or nonbank financial  
6 company supervised by the Board to terminate the  
7 activity and, as relevant, dispose of the investment.

8 “(2) SECURITIES AND EXCHANGE COMMISSION  
9 AND COMMODITY FUTURES TRADING COMMISSION.—

10 “(A) IN GENERAL.—Notwithstanding any  
11 other provision of law except for any rules or  
12 guidance issued under subsection (b)(2), when-  
13 ever the Securities and Exchange Commission  
14 or the Commodity Futures Trading Commis-  
15 sion, as appropriate, has reasonable cause to  
16 believe that a covered nonbank financial com-  
17 pany for which the respective agency is the pri-  
18 mary Federal regulator has made an investment  
19 or engaged in an activity in a manner that ei-  
20 ther violates the restrictions under this section,  
21 or that functions as an evasion of the require-  
22 ments of this section (including through an  
23 abuse of any permitted activity), the Securities  
24 and Exchange Commission or the Commodity  
25 Futures Trading Commission, as appropriate,

1 shall order, after due notice and opportunity for  
2 hearing, the covered nonbank financial company  
3 to terminate the activity and, as relevant, dis-  
4 pose of the investment.

5 “(B) COVERED NONBANK FINANCIAL COM-  
6 PANY DEFINED.—In this paragraph, the term  
7 ‘covered nonbank financial company’ means a  
8 nonbank financial company (as defined in sec-  
9 tion 102 of the Financial Stability Act of 2010)  
10 supervised by the Securities and Exchange  
11 Commission or the Commodity Futures Trading  
12 Commission, as appropriate.”.

13 (b) RULE OF CONSTRUCTION.—Nothing in this sec-  
14 tion shall be construed to abrogate, reduce, or eliminate  
15 the backup authority of the Federal Deposit Insurance  
16 Corporation authority under the Dodd-Frank Wall Street  
17 Reform and Consumer Protection Act (12 U.S.C. 5301  
18 et seq.), the Federal Deposit Insurance Act (12 U.S.C.  
19 1811), or Federal Deposit Insurance Corporation Im-  
20 provement Act of 1991.

21 **SEC. 4. EXCLUSION OF COMMUNITY BANKS FROM VOLCKER**  
22 **RULE.**

23 Section 13(h)(1) of the Bank Holding Company Act  
24 of 1956 (12 U.S.C. 1851(h)(1)) is amended—

1           (1) in subparagraph (D), by redesignating  
2 clauses (i) and (ii) as subclauses (I) and (II), respec-  
3 tively, and adjusting the margins accordingly;

4           (2) by redesignating subparagraphs (A), (B),  
5 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-  
6 spectively, and adjusting the margins accordingly;

7           (3) in the matter preceding clause (i), as so re-  
8 designated, in the second sentence, by striking “in-  
9 stitution that functions solely in a trust or fiduciary  
10 capacity, if—” and inserting the following: “institu-  
11 tion—

12                   “(A) that functions solely in a trust or fi-  
13 duciary capacity, if—”;

14           (4) in clause (iv)(II), as so redesignated, by  
15 striking the period at the end and inserting “; or”;  
16 and

17           (5) by adding at the end the following:

18                   “(B) that does not have and is not con-  
19 trolled by a company that has—

20                           “(i) more than \$10,000,000,000 in  
21 total consolidated assets; and

22                           “(ii) total trading assets and trading  
23 liabilities, as reported on the most recent  
24 applicable regulatory filing filed by the in-



1                   stitution, that are more than 5 percent of  
2                   total consolidated assets.”.

Passed the House of Representatives April 13, 2018.

Attest:   KAREN L. HAAS,  
*Clerk.*