

Union Calendar No. 474

115TH CONGRESS
2^D SESSION

H. R. 4790

[Report No. 115-621]

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.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2018

Mr. HILL introduced the following bill; which was referred to the Committee on Financial Services

APRIL 5, 2018

Additional sponsors: Mr. FOSTER, Mr. GOTTHEIMER, and Mr. HULTGREN

APRIL 5, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on January 12, 2018]

A BILL

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,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Volcker Rule Regulatory*
5 *Harmonization Act”.*

6 **SEC. 2. RULEMAKING AUTHORITY UNDER THE VOLCKER**
7 **RULE.**

8 *(a) IN GENERAL.—Paragraph (2) of section 13(b) of*
9 *the Bank Holding Company Act of 1956 (12 U.S.C.*
10 *1851(b)(2)) is amended to read as follows:*

11 *“(2) RULEMAKING.—*

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

19 *“(B) RULEMAKING REQUIREMENTS.—In*
20 *adopting a rule or guidance under subparagraph*
21 *(A), the Board—*

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

1 “(ii) shall assure, to the extent possible,
2 that such rule or guidance provide for con-
3 sistent application and implementation of
4 the applicable provisions of this section to
5 avoid providing advantages or imposing
6 disadvantages to the companies affected by
7 this subsection and to protect the safety and
8 soundness of banking entities and nonbank
9 financial companies supervised by the
10 Board; and

11 “(iii) shall include requirements to en-
12 sure compliance with this section, such as
13 requirements regarding internal controls
14 and recordkeeping.

15 “(C) *AUTHORITY.*—The Board shall have
16 sole authority to issue and amend rules under
17 this section after the date of the enactment of this
18 paragraph.

19 “(D) *CONFORMING AUTHORITY.*—

20 “(i) *CONTINUITY OF REGULATIONS.*—
21 Any rules or guidance issued under this sec-
22 tion prior to the date of enactment of this
23 paragraph shall continue in effect until the
24 Board issues a successor rule or guidance,

1 or amends such rule or guidance, pursuant
2 to subparagraph (C).

3 “(ii) *APPLICABLE GUIDANCE.*—In per-
4 forming examinations or other supervisory
5 duties, the appropriate Federal banking
6 agencies, the Securities and Exchange Com-
7 mission, and the Commodity Futures Trad-
8 ing Commission, as appropriate, shall up-
9 date any applicable policies and procedures
10 to ensure that such policies and procedures
11 are consistent (to the extent practicable)
12 with any rules or guidance issued pursuant
13 to subparagraph (C).”.

14 (b) *CONFORMING AMENDMENTS.*—Section 13 of the
15 *Bank Holding Company Act of 1956 (12 U.S.C. 1851)* is
16 *amended*—

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

21 (2) by striking “appropriate Federal banking
22 agencies, the Securities and Exchange Commission,
23 and the Commodity Futures Trading Commission”
24 each place it appears and inserting “Board”;

1 (3) *in subsection (c)(5), by striking “Notwith-*
 2 *standing paragraph (2)” and all that follows through*
 3 *“provided in subsection (b)(2),” and inserting “The*
 4 *Board shall have the authority”; and*

5 (4) *in subsection (d)(1)—*

6 (A) *in subparagraph (F)(ii)—*

7 (i) *by striking “the appropriate Fed-*
 8 *eral banking agencies” and inserting “the*
 9 *Board”; and*

10 (ii) *by striking “have not jointly” and*
 11 *inserting “has not”; and*

12 (B) *in subparagraph (G)(viii), by striking*
 13 *“appropriate Federal banking agencies, the Secu-*
 14 *rities and Exchange Commission, or the Com-*
 15 *modity Futures Trading Commission,” and in-*
 16 *serting “Board.”*

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

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

21 “(e) **ENFORCEMENT; ANTI-EVASION.—**

22 “(1) **APPROPRIATE FEDERAL BANKING AGEN-**
 23 **CY.—***Notwithstanding any other provision of law ex-*
 24 *cept for any rules or guidance issued under subsection*
 25 *(b)(2), whenever the appropriate Federal banking*

1 *agency has reasonable cause to believe that a banking*
2 *entity or nonbank financial company supervised by*
3 *the Board has made an investment or engaged in an*
4 *activity in a manner that either violates the restric-*
5 *tions under this section, or that functions as an eva-*
6 *sion of the requirements of this section (including*
7 *through an abuse of any permitted activity), such ap-*
8 *propriate Federal banking agency shall order, after*
9 *due notice and opportunity for hearing, the banking*
10 *entity or nonbank financial company supervised by*
11 *the Board to terminate the activity and, as relevant,*
12 *dispose of the investment.*

13 *“(2) SECURITIES AND EXCHANGE COMMISSION*
14 *AND COMMODITY FUTURES TRADING COMMISSION.—*

15 *“(A) IN GENERAL.—Notwithstanding any*
16 *other provision of law except for any rules or*
17 *guidance issued under subsection (b)(2), when-*
18 *ever the Securities and Exchange Commission or*
19 *the Commodity Futures Trading Commission, as*
20 *appropriate, has reasonable cause to believe that*
21 *a covered nonbank financial company for which*
22 *the respective agency is the primary Federal reg-*
23 *ulator has made an investment or engaged in an*
24 *activity in a manner that either violates the re-*
25 *strictions under this section, or that functions as*

1 *an evasion of the requirements of this section*
2 *(including through an abuse of any permitted*
3 *activity), the Securities and Exchange Commis-*
4 *sion or the Commodity Futures Trading Com-*
5 *mission, as appropriate, shall order, after due*
6 *notice and opportunity for hearing, the covered*
7 *nonbank financial company to terminate the ac-*
8 *tivity and, as relevant, dispose of the investment.*

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

17 **(b) RULE OF CONSTRUCTION.**—*Nothing in this section*
18 *shall be construed to abrogate, reduce, or eliminate the*
19 *backup authority of the Federal Deposit Insurance Corpora-*
20 *tion authority under the Dodd-Frank Wall Street Reform*
21 *and Consumer Protection Act (12 U.S.C. 5301 et seq.), the*
22 *Federal Deposit Insurance Act (12 U.S.C. 1811), or Federal*
23 *Deposit Insurance Corporation Improvement Act of 1991.*

1 **SEC. 4. EXCLUSION OF COMMUNITY BANKS FROM VOLCKER**

2 **RULE.**

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

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

8 *(2) by redesignating subparagraphs (A), (B),*
9 *(C), and (D) as clauses (i), (ii), (iii), and (iv), re-*
10 *spectively, and adjusting the margins accordingly;*

11 *(3) in the matter preceding clause (i), as so re-*
12 *designated, in the second sentence, by striking “insti-*
13 *tution that functions solely in a trust or fiduciary ca-*
14 *capacity, if—” and inserting the following: “institu-*
15 *tion—*

16 *“(A) that functions solely in a trust or fidu-*
17 *ciary capacity, if—”;*

18 *(4) in clause (iv)(II), as so redesignated, by*
19 *striking the period at the end and inserting “; or”;*
20 *and*

21 *(5) by adding at the end the following:*

22 *“(B) that does not have and is not con-*
23 *trolled by a company that has—*

24 *“(i) more than \$10,000,000,000 in*
25 *total consolidated assets; and*

1 “(ii) *total trading assets and trading*
2 *liabilities, as reported on the most recent*
3 *applicable regulatory filing filed by the in-*
4 *stitution, that are more than 5 percent of*
5 *total consolidated assets.*”.

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