



The Volcker Rule: Impact of the Final Rule on Securitization Investors and Sponsors

On December 10, 2013, the Federal Reserve, FDIC, OCC, SEC and CFTC (the “Agencies”) issued the long-awaited final rule (the “Final Rule”) implementing the Volcker Rule.¹ The Volcker Rule generally prohibits banking entities — a broad term that includes banks, bank holding companies, foreign banks treated as bank holding companies, and their respective affiliates — from (i) engaging in proprietary trading and (ii) acquiring or retaining ownership interests in, or acting as sponsors to, certain hedge funds and private equity funds (“covered funds”). The Final Rule makes significant changes from the Proposed Rule that was published in the Federal Register on November 7, 2011 (the “Proposed Rule”), in response to the large number of comments received on the Proposed Rule. The Final Rule was accompanied by a lengthy preamble (the “Preamble”) providing additional commentary regarding the Final Rule.²

The purpose of this Client Alert is to summarize certain impacts of the Final Rule on banking entities that engage in asset securitization activities as investors, sponsors or providers of credit or liquidity support. In other Client Alerts and Bulletins, we address other aspects of the Final Rule.

Overview of Securitization Impacts

Most of the Volcker Rule effects of concern to banking entities involved with securitizations arise under the second prong of the Volcker Rule — the prohibition on acquiring or retaining ownership interests in, or acting as sponsors to, covered funds. While the stated focus of the covered fund prohibition is to limit the involvement of banking entities with hedge funds and private equity funds rather than with securitizations, many securitization vehicles closely resemble hedge funds and private equity funds structurally, creating a challenge for rulemakers to craft regulations that effectively carve out permissible securitization activities. Recognizing this fact, Congress made clear in the Dodd-Frank Act its intention that the rule not limit or restrict the ability of banking entities to sell or securitize loans.

In the Proposed Rule, the Agencies partially fulfilled the statutory intent to exclude securitizations from the application of the Volcker Rule. However, commenters on the Proposed Rule identified a number of respects in which the Proposed Rule did not adequately exclude from the covered fund restrictions certain securitization structures, investments and activities.

¹ The Volcker Rule was enacted as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act in July of 2010 (the “Dodd-Frank Act”), and is codified as Section 13 of the Bank Holding Company Act, 12 U.S.C. § 1851.

² Our Client Alert on the impact of the Volcker Rule on foreign banking organizations may be accessed at <http://www.mofo.com/files/Uploads/Images/131211-Volcker-Rule.pdf>. Our User’s Guide to the Volcker Rule may be accessed at <http://www.mofo.com/files/Uploads/Images/131223-A-Users-Guide-to-The-Volcker-Rule.pdf>.

In the Final Rule, the Agencies addressed a number of the commenters' concerns, such that the Final Rule more clearly carves out many traditional securitization structures, investments and activities from covered fund restrictions. For example, traditional securitizations backed directly by mortgage loans, auto loans, credit card receivables and student loans are now clearly exempt from Volcker Rule restrictions. Nonetheless, the Final Rule does not exempt all structures, investments and activities that banking entities may consider to be securitization-related. As further described below, many concerns arise under the Agencies' decision reflected in the Final Rule not to exempt certain securitizations in which the underlying financial assets consist in whole or in part of securities or derivatives. For example, certain collateralized debt obligation ("CDO"), collateralized loan obligation ("CLO") and collateralized mortgage obligation ("CMO") structures, resecuritizations and bond repackagings may fall within Volcker Rule restrictions under the Final Rule. Other concerns arise under the definition of a prohibited "ownership interest" in covered funds, which may include interests usually considered to be debt instruments in addition to the equity interests generally considered to represent ownership of an entity.

Banking entities involved in securitization should consider whether their investments and activities are permissible under the Final Rule. If a banking entity has an impermissible investment in, or other impermissible relationship with, a covered fund, it will generally be required to divest its interest or restructure its relationship to come into compliance with the Volcker Rule by July 21, 2015. See "Conformance Period" below.

Banking entities should also consider whether their securitization activities are impacted by the Final Rule's broadly applicable "prudential backstop" and compliance program provisions described below.

Definition of Covered Fund

Banking entities involved with securitizations as investors or sponsors should first determine whether the securitization vehicles with which they are involved fall within the basic definition of "covered fund." If so, the next question will be whether there is an applicable securitization-related exclusion from the covered fund definition. If a securitization issuer is a covered fund with no available exclusion, the banking entity may be subject to Volcker Rule restrictions with respect to the securitization.

Unless a securitization issuer fits within one of the exclusions from the covered fund definition discussed in the following section, the issuer will be a "covered fund" if it (i) would be an investment company under the Investment Company Act of 1940, as amended (the "1940 Act"), but for the exemptions set forth in Section 3(c)(1) or 3(c)(7) of the 1940 Act, (ii) is a commodity pool for which the commodity pool operator has claimed exempt status under the regulations of the Commodity Futures Trading Commission ("CFTC") or that could qualify as such an exempt pool and that satisfies certain other criteria, or (iii) is a foreign issuer that is sponsored by, or which has an ownership interest held by, a U.S. banking entity or an affiliate thereof, and that would be an investment company but for Section 3(c)(1) or 3(c)(7) of the 1940 Act if its securities were offered to U.S. residents, subject to certain exceptions.

For most securitization issuers, the relevant test will be that set forth in clause (i) above – whether the issuer would be an investment company under the 1940 Act but for the exemptions set forth in Section 3(c)(1) or 3(c)(7) of the 1940 Act. While many securitizations do rely on Section 3(c)(1) (securities beneficially owned by 100 or fewer persons) or Section 3(c)(7) (securities owned by "qualified purchasers") for a 1940 Act exemption, many traditional securitization issuers rely instead on Section 3(c)(5)(C) (for certain mortgage-backed securities ("MBS")) or on Rule 3a-7 under the 1940 Act (for MBS and many other types of traditional asset-backed securities (collectively, "ABS")), or other exemptions.³ Thus, investors in, or sponsors of, securitization issuers exempt from the 1940 Act by reason of Section 3(c)(5) or Rule 3a-7 will not be subject to covered fund restrictions. Investors can usually determine the 1940 Act exemption claimed by a securitization issuer by examining the securitization's

³ For example, some issuers rely on Section 3(c)(5)(A) for certain securitizations of consumer receivables or on Section 3(c)(5)(B) for certain securitizations of trade receivables, if applicable requirements are met.

offering documents. Even if a securitization relied on Section 3(c)(1) or 3(c)(7), it may not be a covered fund if another 1940 Act exemption is also available.

Other securitization issuers will need to determine whether they may be considered covered funds under clause (ii) (certain commodity pools) or clause (iii) (certain foreign issuers) of the second preceding paragraph. With respect to clause (ii), it should be noted that the Dodd-Frank Act's definitions of "commodity pool" and "commodity pool operator" are extremely broad and, despite some no-action letter relief from the CFTC, may still include structures often considered to be securitizations, including some collateralized loan note ("CLN") structures and insurance securitization structures.

With respect to clause (iii), the definition of a "foreign issuer" considered a covered fund is complex and a full analysis is beyond the scope of this Client Alert. It is worth noting, however, that the Final Rule clarifies that a foreign bank that maintains a branch, agency or subsidiary in the U.S. is not considered to be located in the U.S., so a foreign bank may generally sponsor a securitization without exposure to covered fund restrictions if all of the ownership interests are offered and sold outside the U.S.

Securitization Related Exclusions from the Covered Fund Definition

Even if a securitization issuer has relied on Section 3(c)(1) or 3(c)(7) for its 1940 Act exemption, it may still be excluded from the covered fund definition. The Final Rule includes 14 express exclusions from the covered fund definition. The exclusions most likely to apply to securitization issuers are those for loan securitizations, qualifying asset-backed commercial paper ("ABCP") conduits, qualifying covered bonds and wholly owned subsidiaries.

Loan securitization exclusion. This exclusion applies to an issuer of ABS if its underlying assets are comprised solely of:

- (1) loans (defined as any loan, lease, extension of credit, or secured or unsecured receivable that is not a security or derivative);
- (2) rights or other assets designed to assure the servicing or timely distribution of proceeds to security holders or related or incidental to purchasing or otherwise acquiring, and holding loans, subject to certain limitations;
- (3) certain interest rate or foreign exchange derivatives that (i) directly relate to the loans in the issuing entity, the related ABS or certain related contractual rights or assets and (ii) reduce the interest rate and/or foreign exchange risks related to such loans, the related ABS or permitted contractual rights or assets;
- (4) certain special units of beneficial interest ("SUBIs") and collateral certificates (which are issued by certain intermediate special purpose vehicles that themselves satisfy the requirements of the loan securitization exclusion); and
- (5) certain securities constituting cash equivalents and securities received in lieu of debts previously contracted with respect to the loans underlying the ABS.

In addition, in order to qualify for the loan securitization exclusion, the issuer may not hold (i) a security, including an ABS, or an interest in an equity or debt security other than as permitted above; (ii) a derivative, other than as permitted above; or (iii) a commodity forward contract.

The Final Rule's express exclusion of securities and derivatives from the definition of "loan" is a feature of the regulation not present in the Proposed Rule, and poses significant issues for many securitization structures. The Agencies stated in the Preamble that "the determination of whether an instrument falls outside the definition of loan because it is a security or a derivative is based on the federal securities laws and the Commodity Exchange Act. Whether a loan, lease, extension of credit, or secured or unsecured receivable is a note or evidence of indebtedness that is defined as a security under the federal securities laws will depend on the particular facts and circumstances, including the economic terms of the transaction." This commentary by the Agencies apparently refers banking entities to existing case law under the federal securities laws, including the Securities Act of 1933 (the "1933 Act") and the Securities Exchange Act of 1934 (the "1934 Act"), which attempts to distinguish loans from securities, and which relies on analyses of facts and circumstances which may be subjective and provide little certainty in close cases. It is also important to note that the case law construing the definition of a "security" under the 1933 Act and the 1934 Act may lead to different results than the case law construing such definition under the 1940 Act.

Qualifying ABCP conduit exclusion. This exclusion applies to an issuer of asset-backed commercial paper (ABCP) if the underlying assets are comprised solely of (i) loans or other assets that would be permissible under the loan securitization exclusion described above, and (ii) ABS that are supported solely by assets permissible under the loan securitization exclusion and are acquired by the ABCP conduit as part of the initial issuance of the securities.

In addition, to qualify for the qualifying ABCP conduit exclusion, a "regulated liquidity provider" (as defined in the Final Rule) must provide a legally binding commitment to provide full and unconditional liquidity coverage with respect to all the outstanding ABCP issued in the event that funds are required to redeem the maturing ABCP.

Qualifying covered bond exclusion. This exclusion applies to an entity that owns or holds a dynamic or fixed pool of assets that covers the payment obligations of covered bonds if such assets or holdings meet the requirements of the loan securitization exclusion. In addition, the covered bonds must be debt obligations that are issued either directly (i) by a foreign banking organization ("FBO")⁴ (in which case, the payment obligations of the covered bonds must be fully and unconditionally guaranteed by the entity that owns the permitted cover pool) or (ii) by the entity that owns the permitted cover pool (in which case, the payment obligations of the covered bonds must be fully and unconditionally guaranteed by an FBO and the issuer of the covered bonds must be a wholly owned subsidiary that satisfies the requirements of the wholly owned subsidiary exclusion (described below) of the FBO.

Wholly owned subsidiary exclusion. This exclusion applies to an entity if all of its outstanding ownership interests are owned directly or indirectly by a banking entity or an affiliate thereof, except that: (i) up to five percent of the entity's ownership interests may be owned by directors, employees, and certain former directors and employees of the banking entity or its affiliates; and (ii) within the five percent ownership interest, up to 0.5 percent of the entity's outstanding ownership interests may be held by a third party if the ownership interest is held by the third party for the purpose of establishing corporate separateness or addressing bankruptcy or insolvency.

This exclusion was added to the Final Rule to clarify that wholly owned "depositors" and other intermediate transferors of assets in a securitization are not considered covered funds. This exclusion is also likely to be very

⁴ For additional information on the impact of the Final Rule on FBOs, see our Client Alert at <http://www.mofo.com/files/Uploads/Images/131211-Volcker-Rule.pdf>.

helpful for banking entities that establish or rely on special purpose funding programs that utilize trust or other tax pass-through vehicles.

Covered Fund Definition – Areas of Concern

While the definition of covered fund and the exclusions from that definition provide a basis for concluding that most mainstream asset securitizations are not covered funds and thus not subject to Volcker Rule restrictions, there are a number of structured finance transactions, commonly thought of as securitizations, that appear not to be covered by the securitization-related exclusions. For the most part, these are structures in which the securities are typically issued in reliance on the exemptions in Section 3(c)(1) or 3(c)(7) of the 1940 Act and which are backed, in whole or in part, by securities or derivatives as opposed to loans. Unless further relief is granted by the Agencies, it appears that the securitization issuers in these types of transactions may well be deemed “covered funds” subject to Volcker Rule restrictions and that banking entities holding ownership interests in such issuers may be required to divest themselves of such interests within the conformance period described below.

Some of the more common types of problem structures are described below.

CDOs backed by securities or derivatives. CDOs are typically issued and offered in reliance on the Section 3(c)(7) exemption under the 1940 Act, and thus fall within the basic covered fund definition. Where the assets underlying the CDO consist in whole or in part of securities or derivatives, the CDO issuer will not fall within the loan securitization exclusion. Common examples are CDOs backed by trust preferred securities (“TruPS”) or ABS.⁵

CLOs that hold debt securities. CLOs (a form of CDO) are typically backed primarily by unsecuritized bank loans. If a CLO consists entirely of unsecuritized bank loans, the CLO issuer would appear to qualify for the loan securitization exclusion from the covered fund definition. However, it is typical in CLO structures that the CLO asset manager is permitted to invest up to a specified percentage of the issuer’s assets in senior secured bonds. Such bonds would generally be considered “securities,” the presence of which in a CLO structure could preclude the availability of the loan securitization exclusion.

Certain CMOs backed by MBS. Many collateralized mortgage obligations (CMOs) are backed by MBS rather than by unsecuritized mortgage loans. Depending on the characteristics of the underlying MBS, such CMOs may or may not qualify for the Section 3(c)(5)(C) exemption under the 1940 Act for certain mortgage-related interests. To the extent these CMOs rely on Section 3(c)(1) or 3(c)(7) for their 1940 Act exemption rather than Section 3(c)(5)(C), they may be considered covered funds.

Resecuritizations and Bond Repackagings. Resecuritizations of previously issued ABS and repackagings of corporate bonds frequently rely on Section 3(c)(1) or Section 3(c)(7) exemptions under the 1940 Act. Since the issuers in these structures principally hold securities rather than loans, they are likely to be considered covered funds.

Synthetic ABS. “Synthetic ABS” are securities structured to perform based on the performance of an underlying reference pool of financial assets, which are not themselves owned by the issuer of the securities. Synthetic ABS depend heavily on derivative instruments in their structures. Since the assets of a synthetic ABS structure consist of interests in these derivative instruments rather than the underlying financial assets (which may well be “loans” in their own right), synthetic ABS issued in reliance on Section 3(c)(1) or 3(c)(7) of the 1940 Act are likely to be considered covered funds.

⁵ On December 19, 2013, the Federal Reserve, OCC and FDIC issued joint guidance essentially confirming that CDOs backed by TruPS may be covered funds if no other exemption or exclusion is available.

Synthetic Structured Products. Often, banking entities will sponsor a trust or other pass-through vehicle that will have as its assets corporate bonds and a series of equity derivatives to replicate the economic experience of a structured product. These trusts or other pass-through vehicles are likely to be considered covered funds if they rely solely on Section 3(c)(1) or 3(c)(7) for their 1940 Act exemptions.

Auction Rate Preferred Securities. Auction rate preferred securities are often issued by entities whose assets may consist of other securities, including municipal bonds and securities issued by Fannie Mae or Freddie Mac. To the extent such auction rate preferred securities are issued in reliance on Section 3(c)(1) or 3(c)(7) of the 1940 Act, the issuers of such securities may not qualify for the loan securitization exclusion because their underlying assets consist of securities rather than loans. Accordingly, such issuers may be considered covered funds.

Funding Vehicles. Some banking entities establish special purposes entities, which may not be wholly owned subsidiaries (and therefore ineligible for the wholly owned subsidiary exclusion), that they use to offer secured debt securities or other debt securities that may or may not benefit from a guarantee. To the extent these funding vehicles rely on Section 3(c)(1) or 3(c)(7) for their 1940 Act exemption, they may be considered covered funds.

Domestic Covered Bonds. The qualifying covered bond exclusion applies only to covered bond issuances sponsored by FBOs. While not commonplace, covered bonds have been and may in the future be issued by U.S. issuers. Such issuers may not be excluded from the definition of covered fund unless another exclusion is available. Any covered bond legislation adopted in the United States may need to address the limitations of the Volcker Rule. Proposed covered bond legislation has contemplated the issuance of the covered bonds directly from an insured institution without the use of a separate entity, which would not raise any issues under the Volcker Rule. However, the proposed legislation also permits covered bonds to be issued by any entity ‘sponsored by’ an insured institution, which could be a problem that would need to be addressed, although exemptions other than Section 3(c)(1) or 3(c)(7) may be available. The structure previously used by U.S. issuers did not rely on Section 3(c)(1) or 3(c)(7) for an exemption from registration under the 1940 Act.

Restrictions Applicable to Covered Funds

If a securitization issuer is determined to be a covered fund, banking entities are prohibited from (i) acquiring “ownership interests” in the securitization issuer, (ii) sponsoring the securitization issuer, and (iii) making loans to, or entering into certain other types of transactions with a securitization issuer for which the banking entity acts as sponsor, investment manager, investment adviser or commodity trading advisor. The prohibitions described in clause (iii) of the preceding sentence are defined in the Final Rule by reference to the restrictions of Section 23A and 23B of the Federal Reserve Act, and are commonly referred to by commenters as the “Super 23A” provisions. These restrictions, among other things, severely limit the ability of banking entities to provide credit and liquidity support to securitizations to which they are related as investors, sponsors or advisors. Additionally, permitted transactions between the banking entity and the securitization issuer must be on market terms.

Recognizing that banking entities will be required, under the Dodd-Frank mandated risk retention rules expected to be adopted by federal regulators in the near future, to retain ownership interests or other forms of risk retention in securitizations they sponsor, the Agencies included in the Final Rule a limited exemption from ownership and sponsorship restrictions to the extent banking entities retain ownership interests in sponsored securitizations not otherwise excluded from the covered fund definition in order to comply with risk retention requirements. This exemption, however, does not exempt banking entities from Super 23A restrictions. Additionally, the exemption does not apply if banking entities retain ownership interests in excess of the required retention under risk retention rules, defeating its utility in situations in which rating agencies or prospective investors require a retention in excess of the regulatory risk retention requirement.

It is important to note that the Final Rule does not “grandfather,” or exempt, structures and investments put in place before the effective date of the Final Rule or before the enactment of the Dodd-Frank Act. Accordingly,

banking entities will need to closely examine their existing securitization investments and relationships, as well as prospective transactions, for compliance with the Volcker Rule.

Definition of “ownership interest”

An ownership interest includes any interest in or security issued by a covered fund that exhibits any of certain characteristics on a current, future or contingent basis, including:

- (1) has the right to participate in the selection or removal of a general partner, managing member, member of the board of directors, investment manager, investment adviser or commodity trading advisor (not including rights of a creditor to exercise remedies in the event of a default);
- (2) has the right under the terms of the interest to receive a share of the income, gains or profits of the covered fund (regardless of whether the right is pro rata with other owners);
- (3) has the right to receive the underlying assets of the covered fund, after all other interests have been redeemed and/or paid in full (the “residual” in securitizations);
- (4) has the right to receive all or a portion of excess spread;
- (5) provides that the amounts payable by the covered fund with respect to the interest could, under the terms of the interest, be reduced based on losses arising from the underlying assets of the covered fund, such as allocation of losses, write-downs or charge-offs of the outstanding principal balance, or reductions in the amount of interest due and payable on the interest;
- (6) receives income on a pass-through basis from the covered fund, or has a rate of return that is determined by reference to the performance of the underlying assets of the covered fund (excluding interests that are entitled to received dividend amounts calculated at a fixed or floating rate); and
- (7) any synthetic right to have, receive or be allocated any of the rights described above (which would not allow banking entities to obtain derivative exposure to these characteristics).

Of particular importance to banking entities engaged in investment banking activities, notwithstanding the general prohibition of a banking entity acquiring an “ownership interest” in a covered fund, a banking entity may acquire such an ownership interest in connection with certain permitted underwriting and market making-related activities.

It is also important to note that the definition of ownership interest in the Final Rule may include interests in a covered fund that might not usually be considered an ownership interest or an equity interest. Of particular concern is the first of the indicia of an ownership interest list above – that the interest has the right to participate in the selection or removal of a general partner, managing member, director, investment manager, investment adviser or commodity trading advisor. Many CLOs and CDOs that may be considered covered funds provide rights to a “controlling class” of senior debt security holders to participate in the designation of investment managers or investment advisers, creating the potential that the holders of even the most senior, highly rated debt securities may be considered to hold “ownership interests.” It is hoped that further regulatory guidance will clarify whether senior debt interests in such structures are susceptible to classification as “ownership interests.”

Definition of “Sponsor”

The Final Rule defines “sponsor” to mean any entity that (i) serves as general partner, managing member, or trustee of a covered fund, or that serves as a commodity pool operator of a covered fund, (ii) selects or controls (or

has employees, officers, or directors, or agents who constitute) a majority of the directors, trustees, or management of a covered fund, or (iii) shares with a covered fund, for corporate, marketing, promotional, or other purposes, the same name or a variation of the same name.

A key question for trustees of ABS issuing trusts (which are typically appointed by the party usually regarded as the sponsor of the securitization) is whether such trustees may themselves be considered “sponsors” of the securitization. In this regard, the Agencies stated in the Preamble that the term “sponsor” includes a trustee that has the right to exercise any investment discretion with respect to the securitization. The Agencies also indicated that for ABS issuers, this would generally not include a trustee that executes decision making, including investment of funds prior to the occurrence of an event of default, solely in accordance with the provisions of a written contract or at the written direction of an unaffiliated party.

Prudential Backstops

Under the Final Rule, as in the Proposed Rule, all the investments and activities permissible under the exemptions discussed above are subject to so-called “prudential backstops.” These “backstops” prohibit an otherwise permitted transaction if the activity or investment would pose a threat to the safety and soundness of the banking entity or the financial stability of the United States or involve or would result in a material conflict of interest. A banking entity would have a material conflict of interest if its interests are materially adverse to the interests of its client, customer or counterparty, unless (i) the banking entity, before engaging in the transaction or activity, makes timely disclosure to the client, customer or counterparty of clear information regarding the conflict or (ii) uses information barriers, such as physical separation of personnel or functions, that address the conflict. The use of such barriers would not mitigate the conflict if the banking entity knows or should have known that such barriers would not be effective in mitigating the material adverse effect of the conflict of interest.

The Final Rule also prohibits a transaction or activity that would result in a material exposure by the banking entity to high-risk assets or high-risk trading strategies.

The Final Rule contemplates that the Agencies will rely on the supervisory process to identify these conflicts, assets and strategies.

Compliance Program

The Final Rule requires banking entities that are engaged in proprietary trading or covered fund investment or sponsorship to establish and maintain a compliance program that is (i) reasonably designed to ensure and monitor their compliance with the Volcker Rule and (ii) tailored to the size and complexity of the banking entity and its covered trading and fund activities. Banking entities that do not engage in proprietary trading or covered fund investment or sponsoring activities (other than trading in U.S. government obligations) are not required to establish a Volcker Rule-specific compliance program.

Banking entities with total consolidated assets of \$10 billion or less that engage in covered proprietary trading or fund activities may satisfy the compliance program requirement by including appropriate Volcker Rule-specific references in their existing compliance policies and procedures. Banking entities with \$10 billion or more in total consolidated assets are required to establish and maintain a separate Volcker Rule compliance program including specific elements set forth in the Final Rule.

Banking entities with \$10 billion or more in total consolidated assets are also required to maintain records documenting the exclusions or exemptions on which they rely for their sponsorship of funds.

The Final Rule’s compliance provisions are extensive, and the details of such provisions are beyond the scope of this Client Alert. Readers interested in a more complete summary of such provisions may wish to consult our

User's Guide to the Volcker Rule at <http://www.mofo.com/files/Uploads/Images/131223-A-Users-Guide-to-The-Volcker-Rule.pdf>.

Conformance Period

The Federal Reserve Board has extended the conformance period for banking entities to be in compliance with the Volcker Rule for one year to July 21, 2015. The Federal Reserve, however, emphasized in its order approving the extension of the conformance period, that each banking entity is expected to engage in good faith efforts, appropriate for its activities and investments, that will result in conformance with the Volcker Rule not later than the end of the conformance period. Moreover, banking entities should not expand activities or make investments during the conformance period with an expectation that additional time to conform those activities or investments will be granted.

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