

United States House of Representatives
Committee on Financial Services
Washington, D.C. 20515

March 15, 2011

Members of the Financial Stability Oversight Council
c/o The Honorable Timothy F. Geithner
Secretary of the Treasury and Chairman
Financial Stability Oversight Council
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Dear Council Members:

We are writing to request information about the use and application of comments submitted to the Financial Stability Oversight Council (FSOC) regarding the study prepared under section 619 of the Dodd-Frank Act, the so-called Volcker Rule. We have serious concerns about the potential impact that the Volcker Rule could have on the U.S. economy and believe that the regulators responsible for implementing the Volcker Rule should not propose regulations for public comment until those consequences have been fully assessed. We are concerned that the study conducted pursuant to section 619 did not consider many significant issues raised in the more than 1,400 comment letters filed.

In this regard, we note that one of the undersigned (the current Chairman of the House Financial Services Committee), filed a comment letter in response to question 10 posed by the FSOC, asking: "How should the international context be considered when implementing the Volcker Rule?" In that letter, Chairman Bachus explained how unilateral U.S. adoption of a prohibition on proprietary trading or investing in hedge funds or private equity funds in the United States could negatively affect (i) the U.S. economy, including the availability of capital necessary to support investment and job creation; (ii) the competitiveness of U.S. markets, including the risk that financial services-related business would respond to the Volcker Rule by moving offshore; and (iii) the stability and integrity of U.S. markets, by pushing activities prohibited by the Volcker Rule into unregulated markets (so-called "shadow banking") and promoting jurisdictional or regulatory arbitrage.

However, it appears that the commentary offered by Chairman Bachus and others on the international implications of the Volcker Rule were not meaningfully considered by FSOC because there is no discussion of these issues in the study. The only reference to these concerns that we could find appeared on page 11 of the study in the context of a discussion of the definition of market making. In that discussion, the FSOC observed in passing that "some commenters voiced strong concern that a restrictive definition of market making might damage U.S. markets and place U.S. banking entities and their customers at a competitive disadvantage internationally." It is disappointing that FSOC chose not to address this issue in the study at a time when the impact of public policy on U.S. jobs and the economy are of vital importance to the American people.

Because of the importance of these issues, it is critical that Congress and the public understand before the rulemaking process moves forward whether and to what extent FSOC was able to consider and assess these issues and whether any conclusions, even if only preliminary in nature, might have been reached. Accordingly, we have set forth below questions and requests for information, the answers to which will help us better understand FSOC's deliberations with regard to these issues. Also, because the Dodd-Frank Act requires the regulators to issue final rules implementing the Volcker Rule within 9 months of the study, we respectfully request that you provide your responses to the questions and document requests below on a rolling basis rather than waiting until all questions have been answered and all documents have been collected to submit a consolidated response.

We would appreciate your response to these questions and requests by March 31, 2011.

For the period January 2009 to the present:

1. Please provide us with copies of any documents or communications (including, but not limited to, comment letters received but not publicly disclosed by the FSOC, and studies created by or otherwise provided to the FSOC by the federal financial regulatory agencies), that relate to the impact that U.S. adoption of the Volcker Rule or similar proposals would have on:
 - a. The U.S. economy, including, but not limited to: the availability of credit; job creation, either in the financial services industry or in the economy more broadly; the availability of capital to support business development, expansion and investment; the strength of the U.S. real estate market, small businesses, new industries, and other sectors that have historically been financed by private investment funds of the kind covered by the Volcker Rule; and income diversification of banking entities.
 - b. The competitiveness of U.S. markets, including, but not limited to: the risk that financial services-related business could move offshore; the possibility of capital flight to non-U.S. jurisdictions; the liquidity of U.S. capital markets, including market making and other activities that banking entities are permitted to engage in under the Volcker Rule; and how trading activities fit into the core business plans of global banking organizations.
 - c. The stability and integrity of U.S. markets, including but not limited to, whether Volcker Rule implementation will lead to:
 - i. activities prohibited by the Volcker Rule migrating to unregulated markets and thereby promoting the development of a shadow banking sector to carry out the types of proprietary trades or investments in hedge funds or private equity funds prohibited by the Volcker Rule; or

- ii. regulatory arbitrage, as banking and non-banking firms seek to take advantage of less restrictive regulations in non-U.S. jurisdictions, including whether U.S. firms might seek to change their domiciles to avoid the Volcker Rule.
2. Please provide us with copies of any documents or communications received by FSOC that relate to or provide views, opinions, insights, or thoughts on either (i) the Volcker Rule or (ii) a regulatory prohibition on proprietary trading or investing in hedge funds or private equity funds regardless of whether the term "Volcker Rule" is used.
3. With respect to the Study, were any FSOC Members, FSOC Staff and/or FSOC Member Agencies given responsibility for investigating or studying the issues identified in question 1?
4. In his letter to the FSOC, Chairman Bachus discussed the fact that other countries have been reluctant to follow the U.S. lead and adopt restrictions similar to those imposed by the Volcker Rule. Please provide us with any documents or communications received by FSOC concerning whether:
 - a. non-U.S. jurisdictions have (i) begun to implement, (ii) have undertaken to or are contemplating implementing, or (iii) are being asked by the United States to implement regulations similar to the Volcker Rule;

To the extent that any non-U.S. jurisdictions have begun to implement, are contemplating implementing, or are being asked by the United States to implement rules similar to the Volcker Rule, please provide us with copies of any documents, including draft legislation, draft regulations, studies, or any other documents that have been provided to the United States by foreign jurisdictions in connection with these efforts and any responses provided to those non-U.S. jurisdictions by the United States and any subsequent follow-up.
 - b. the United States has made or has developed plans to make any requests to any non-U.S. jurisdictions to implement regulations similar to the Volcker Rule and, if so, copies of such requests, copies of any documents or communications received from any non-U.S. jurisdiction in response to such requests, and any subsequent follow-up.
 - c. non-U.S. jurisdictions may delay legislation or regulation implementing laws, rules and/or regulations which, in whole or in part, are identical or similar to the Volcker Rule, pending observation, or any analysis, of the costs/benefits to the United States of Volcker Rule implementation.
5. Please provide us with any cost-benefit analyses and any documents or communications relating to such cost-benefit analyses undertaken by and in the custody, possession, or control of the FSOC concerning implementation of the Volcker Rule or similar proposals, including, but not limited to any cost-benefit analyses relating to any of the issues identified in questions 1 and 6.

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6. Please provide us with any documents or communications in the custody, possession, or control of the FSOC regarding coordination of implementation of the Volcker rule across the FSOC Member agencies.

If you or your staff have any questions, please contact Mark Epley of the Committee staff at 202-226-4375.



SPENCER BACHUS
Chairman

Sincerely,



RANDY NEUGEBAUER
Chairman
Subcommittee on Oversight &
Investigations