

MEMORANDUM

March 13, 2012

To: File on Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“**Dodd-Frank Act**”)

From: Parisa Haghshenas
Office of Investment Adviser Regulation
Division of Investment Management

Re: Meeting with The Loan Syndications & Trading Association

On March 13, 2012, representatives of the Loan Syndications & Trading Association (“**LSTA**”) and WilmerHale participated in a meeting with Securities and Exchange Commission (“**SEC**”) staff from the Division of Investment Management (“**IM**”), the Division of Trading & Markets (“**TM**”), Division of Corporation Finance (“**CF**”), and the Division of Risk, Strategy and Financial Innovation (“**RF**”).

The representatives of LSTA that were present at the meeting were: Elliot Ganz and Tess Felfe.

The representative of WilmerHale that was present at the meeting was: Yoon-Young Lee.

The following members of IM staff participated in the meeting: Tram Nguyen, Michael Spratt and Parisa Haghshenas.

The following members of TM staff participated in the meeting: Josephine Tao, Elizabeth Sandoe, Gregg Berman, Andrew Bernstein, Amar Kuchinad, Linda Sundberg, Angela Moudy, and Lisa Skrzycki.

The following members of CF staff participated in the meeting: David Beaning, Katherine Hsu, Andrew Schoeffler and Chauncey Lane.

The following member of RF staff participated in the meeting: Adam Glass.

The topic of discussion was the restriction on hedge fund and private equity fund investments under Section 619 of the Dodd-Frank Act. LSTA submitted the attached handout in connection with the meeting.

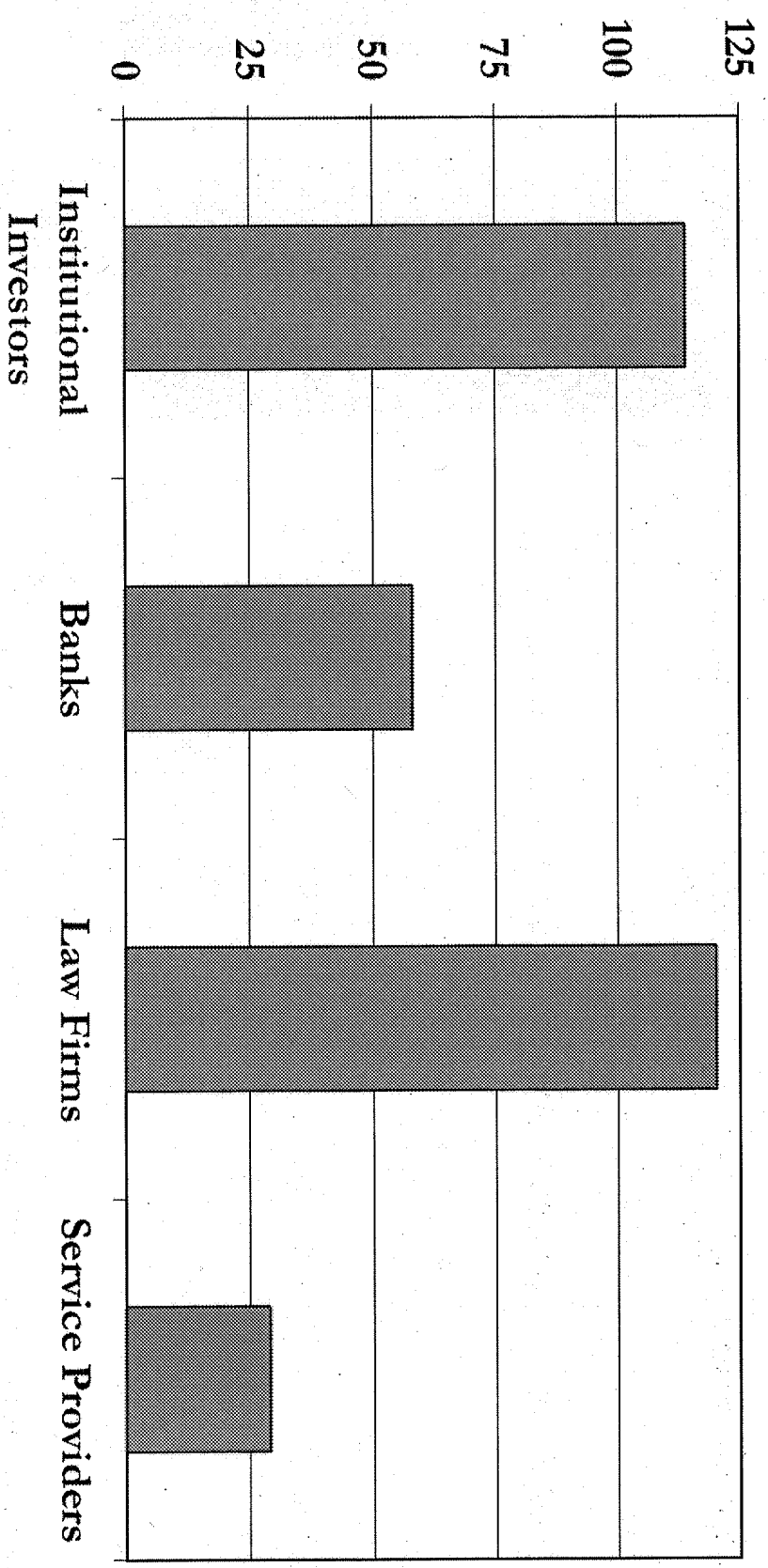
The Volcker Rule:

Challenges and proposed Solutions for the Loan Market

Elliot Ganz – General Counsel, LSTA

Tess Felfe – Assistant General Counsel, LSTA

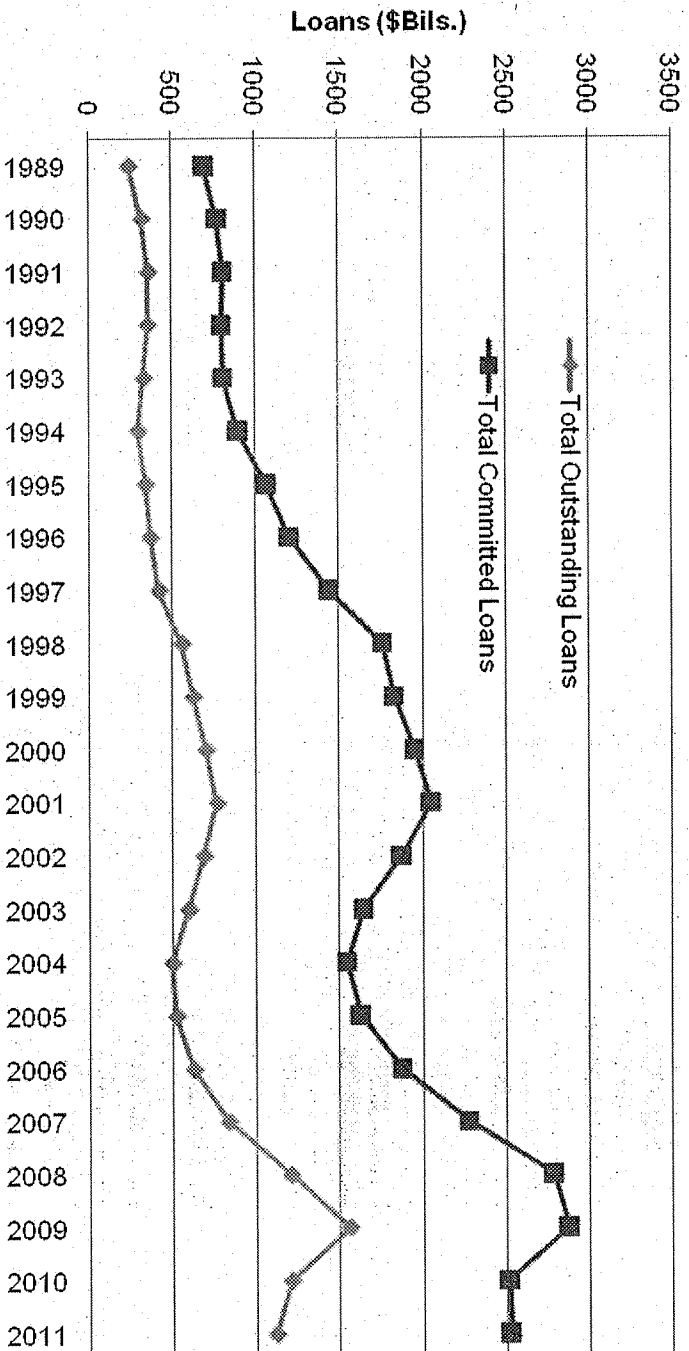
LSTA Member Distribution



LSTA Member Firms include...

SELLSIDE		BUYSIDE				
Bank of America	Bank of NY Mellon	Alcentra	HighBridge	BBT Fund	MFS Investment Mgmt	
Bank of Ireland	Bank of Scotland	Alliance Partners	Highland Capital	Black Diamond	New Mountain Capital	
Barclays Capital	Bank of Oklahoma	Allied Irish Bank	ING Financial Services	Canyon Capital	NY Life	
BMO Nesbitt Burns	Capital One, N.A.	Allstate Investments	ING Investment	Capital Group	North Sea Partners	
BNP Paribas Group	Cobank	Anchorage Advisors	INVERSCO	CapitalSource	Ore Hill Partners	
Cantor Fitzgerald	Commerzbank	Angelo Gordon	Kingsland Capital	Carlson Capital,	ORIX USA Corporation	
Citadel Securities	CIC	Apollo Capital	King Street Capital	Caterpillar Fin Services	Patriarch Partners	
Citigroup	Dexia Credit Local	Ares Mgmt L.P.	KKR Financial LLC	Centerbridge Partners	Paulson and Co.	
Credit Agricole	DZ Bank	Babson Capital	Loomis, Sayles	Churchill Financial	PIMCO	
Credit Suisse	Espirito Santo	Beach Point Capital	McDonnell Investment	CIT Group	Pinebridge Investments	
Deutsche Bank	Fifth Third Bank	Black Rock	Monarch Alternative	CRT Capital	PPM America	
FBR Capital Markets	Key Bank	Blackstone	Neuberger Berman	Davidson Kempner	Princeton Advisory	
Fieldstone Capital	M&T Bank	Blue Mountain Capital	Oak Hill Advisors Inc.	DDJ Capital Mgmt	Seaport Group	
Gleacher & Co.	Natixis	The Carlyle Group	Octagon Credit	Denali Capital	Seix Advisors	
Goldman Sachs	Regions Bank	CIFC	Onex Credit Partners	Deutsche Asset Mgmt	Solus	
Jefferies	Sumitomo Mitsui	Columbia Mgmt	Oppenheimer Funds	DiMaio Ahmad Capital	Standard Bank Limited	
JPMorgan Chase	SunTrust	Credit Suisse Asset Mgt	Prudential Insurance	Doral Bank	State Street	
Knight Libertas	Westdeutsche LB	Crescent Capital Group	Regiment Capital Advisors	EBF & Associates	Stone Harbor	
Macquarie Bank	Wells Fargo	Delaware Investments	Sankaty	Eton Park	Susquehanna Intl Group	
Morgan Stanley	BoTM-MUFI	Eaton Vance Portfolio	Shenkman Capital	EDC	T. Rowe Price	
Oppenheimer & Co.	CIBC World Markets	Elliott Mgmt	Silver Point Capital	First Trust Advisors	Thrivent Financial	
Santander	GE Capital	Feingold O'Keefe Capital	Stone Tower	Guardian Life Ins	Watershed Asset Mgmt	
Scotia Capital	HSBC	Fidelity Investments	Sumitomo Trust & Banking	Guggenheim Partners	Wellington Mgmt	
Société Générale	Mizuho Financial	Fortress Investment Group	Symphony Asset Mgmt	Hillmark Capital Mgmt	Wells Fargo Foothill	
TD Securities	PNC Capital Markets	Franklin Templeton	Third Point LLC	Icahn Associates	Z Capital Partner	
UBS Securities LLC	RBC Capital Markets	Fraser Sullivan	West Gate Horizons	IKB Capital		
US Bank	Intesa SanPaolo	GoldenTree Asset Mgmt	Apidos Capital	Imperial Capital		
ANZ Banking Group		Golub Capital	Artio Global Mgt	Liberty Mutual		
BBVA		Grantham, Mayo	ATB Financial	Lord, Abbott & Co.		
Bank Hapoalim		Halcyon Asset Mgmt	AXA Investment	Magnetar Capital		

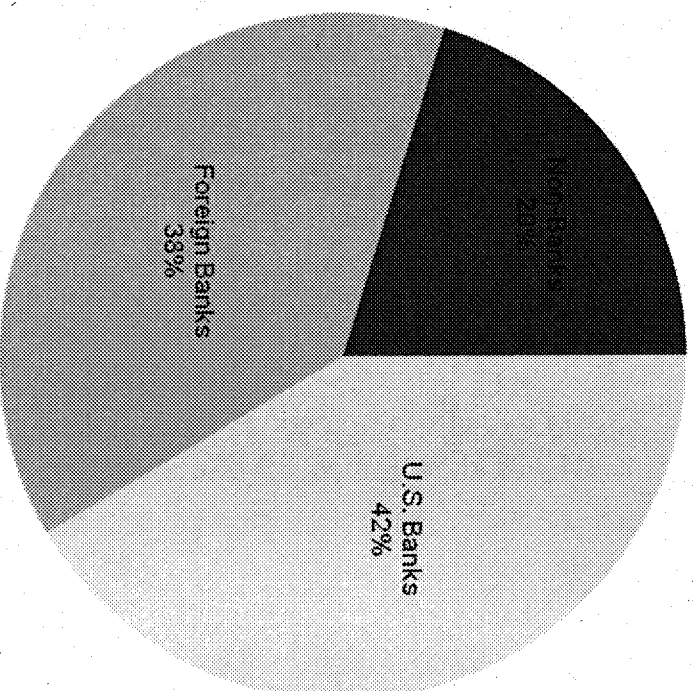
U.S. syndicated loan and loan commitments outstanding



- Syndicated loans are large loans (generally over \$20 million) to companies and are shared among several lenders
- There are two major kinds of syndicated loans
 - Revolving credits – similar to credit cards, they can be drawn, repaid and drawn again
 - Term loans – similar to mortgages, they are drawn once and then repaid over time
- There are more than \$2.5 trillion of loan and loan commitments outstanding, which includes more than \$1 trillion of drawn loans

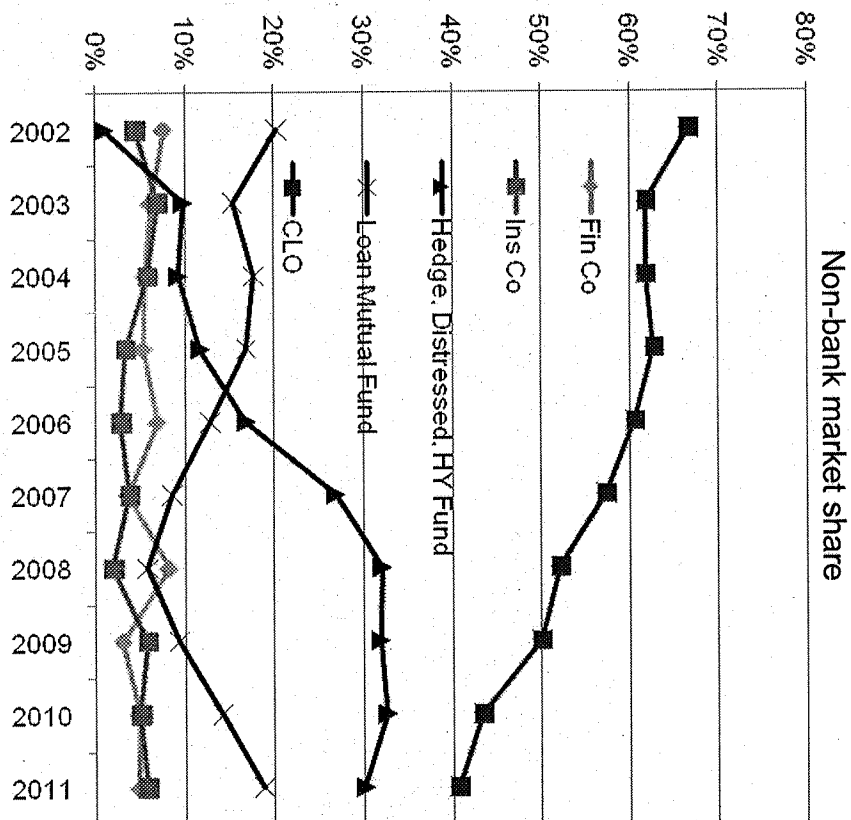
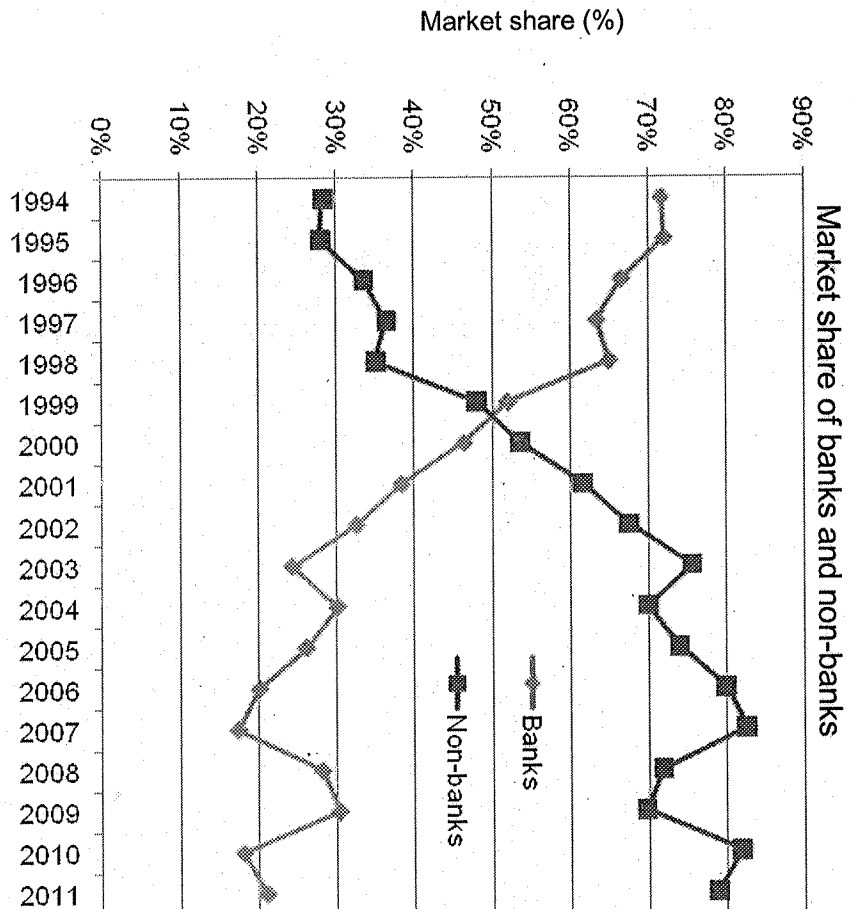
Who is lending?

Share of total syndicated loan and loan commitments



- U.S. corporate borrowers rely on a number of different lenders
- For the investment grade market, borrowers rely mainly on U.S. and foreign banks
- For the non-investment grade market, borrowers increasingly rely on non-bank lenders

Term loan lenders to non-investment grade borrowers have evolved



Source: S&P/Capital IQ/LCD

The Volcker Rule and the Loan Market

- Prohibition on proprietary trading
- Prohibition on the ownership of hedge funds and private equity funds

Proprietary Trading

- Loans are expressly exempt
 - Bridge loans could be indirectly impacted because some securities that refinance bridge loans could be subject to the Volcker Rule
 - The status of assets received in connection with “debt previously contracted” is not clear under the proposal

Prohibition on Ownership of Hedge Funds and Private Equity Funds

- Hedge funds and private equity funds are defined as “Covered Funds”
- Covered Funds are those funds that would be subject to the Investment Advisors Act of 1940 *but for* the exemptions provided by Sections 3(c)(1) and 3(c)(7) of the Investment Company Act
- Most ABS (including CLOs) rely on those exemptions and are swept in as covered funds under the proposed rule *but there is no indication that ABS was targeted by Congress under the Volcker Rule*

Loan Securitization Rule of Construction

- There is an overriding interpretative guideline embedded in the statute mandating that *nothing in the rule limit or restrict the sale or securitization of loans.*
- The proposal does not adequately give effect to this rule of construction

Loan Securitizations

- The definition of “loan securitization” is drawn very narrowly – it does not include CLOs as presently structured
- Despite efforts by the agencies to follow the rule of construction and exempt loan securitizations, they are still considered “covered funds”
 - There is only an exemption from the sponsorship and ownership provisions of the Volcker Rule

Loan Securitizations – Super 23A/B

- Covered Funds – including loan securitizations are subject to “Super 23A/23B” provisions when sponsored by banking entities
- “Covered Transactions” between a sponsor and a covered fund are prohibited
- Structurers might be prohibited from making warehouse loans to CLOs or making markets in CLO assets or liabilities
- Extensive compliance requirements apply
- The backstop conflicts provisions also continue to apply to loan securitizations

The LSTA Proposed Solutions

- ABS was not the intended target of Volcker and should be completely exempted
- The definition of “loan securitization” is drafted too narrowly and should include **all** CLOs
- The Loan Securitization Rule of Construction mandates that all loan securitizations, including CLOs, be carved out of the definition of covered fund
- Conflicts should be covered under the SEC’s “Conflicts of Interest in Certain Securitizations
- Securities that refinance bridge loans should be exempt from the proprietary trading provisions of Volcker
- Assets deriving from DPC should be exempt from Volcker