MEMORANDUM

TO: File
FROM: Division of Trading and Markets
RE: Meeting with representatives from Barclays
DATE: November 17, 2011

On November 17, 2011, staff from the Division of Trading and Markets, Division of Investment Management, Division of Corporation Finance, Division of Risk, Strategy, and Financial Innovation, the Office of Compliance Inspections and Examinations, the Office of General Counsel, and counsel from the Chairman's office met with the following representatives of Barclays – Emma Bailey, Adam Brown, Patrick Durkin, Alex Guest, Fred Orlan, Allison Parent, and Eric Yoss.

The participants primarily discussed issues regarding the exemption for trading in government obligations, the criteria for permitted market making activities, the framework for monitoring permitted hedging activities, the impact of the restrictions on non-U.S. activities, and quantitative metrics. In addition, Barclays provided a handout to the Staff as a supplement to the discussion.

Attachment

BARCLAYS CAPITAL

Discussion on Proposed Volcker Rule

November 2011

Introduction

- The proposed rule represents a coordination of the regulatory challenges and the need to limit negative market impacts.
- The proposal issued on October 11, 2011 contains a number of principles that we support, including but not limited to:
  - Preserving banks' role in client facilitation activities, such as market making and underwriting
  - Recognizing the differences among liquid and illiquid asset classes
  - Emphasizing risk-based compliance monitoring
  - Acknowledging the marketplace's use of a portfolio-based approach for mitigating risk
  - Emphasizing internal monitoring in coordination with regulators
- At the same time, several provisions of the proposed rule may result in negative market impact in certain asset classes and adverse economic consequences for US investors and issuers.
- Today's discussion will focus on improvements to five elements of the proposed restrictions on proprietary trading:

A. Exemption for trading in government obligations
B. Criteria for permitted market making activities
C. Framework for monitoring permitted hedging activities
D. Impact of restrictions on non-US activities
E. Quantitative metrics

Exemption for US government obligations should be expanded to include futures on US Treasuries

Rationale for expanding exemption to US Treasury futures

- **Safety and Soundness**
  - Treasury futures play an important role in the market liquidity and price discovery of the Treasury cash market, such that the two products are intrinsically linked[1]. When people say the Treasury market is the most liquid in the world, they are referring to the combination of US Treasury cash instruments, and Treasury futures
    - Futures account for over 55% of overall Treasury volume, and comprise over 75% of volume in long-dated maturities
    - Failure to exempt Treasury futures will distort price discovery and reduce liquidity in the Treasury cash market
    - An exemption for Treasury futures is necessary in order to give effect to the intent behind statutory exemption for US Treasury cash instruments
- **No incremental risk to banking entities**
  - The return profile of trading a cash Treasury is almost identical to trading a Treasury future, so there is no additional risk being created by exempting futures
    - On the contrary, failure to exempt Treasury futures would require banks to take extra risk as a result of being unable to trade the futures commensurate with the cash instrument
- **Consistent with existing exemptions**
  - Exempting Treasury futures is consistent with existing exemptions for US government debt and repurchase contracts, as Treasury futures mirror the characteristics of those two instruments in a single instrument
- **Hedging exemption is inadequate**
  - Existing hedging exemption would adversely affect how Treasury futures are used in connection with the Treasury auctions to allow primary dealers to participate in auctions at aggressive levels
  - Dealers may be reluctant to participate as they currently do if ambiguity exists around the use of futures as a method for distributing risk over time – resulting in reduced Treasury liquidity and/or wider spreads

1. Brandt, M.W., K. A. Kavajecz, and S. E. Underwood (2007). "Price Discovery in the Treasury Futures Market," *Journal of Futures Markets* 27, 1021-51.

Some market making criteria will damage markets without advancing the purpose of the rule

Current Requirements for Permitted Market Making Activities

1. Internal compliance program must be established
2. Trading desk holds itself out as being willing to buy and sell on a regular or continuous basis
3. Activities should be designed not to exceed the reasonably expected near-term demands of clients, customers, or counterparties
4. The banking entity has all of the appropriate dealer registrations to transact in that activity
5. Activity is designed to generate revenues primarily from fees, commissions, bid/ask spreads or other income not attributable to asset appreciation or hedging
6. Compensation arrangements of market-making personnel are not designed to reward proprietary risk-taking
7. Activity must be consistent with the commentary, provided in Appendix B of the proposal, that speaks to the principles distinguishing market making from prohibited proprietary trading

Recommendations

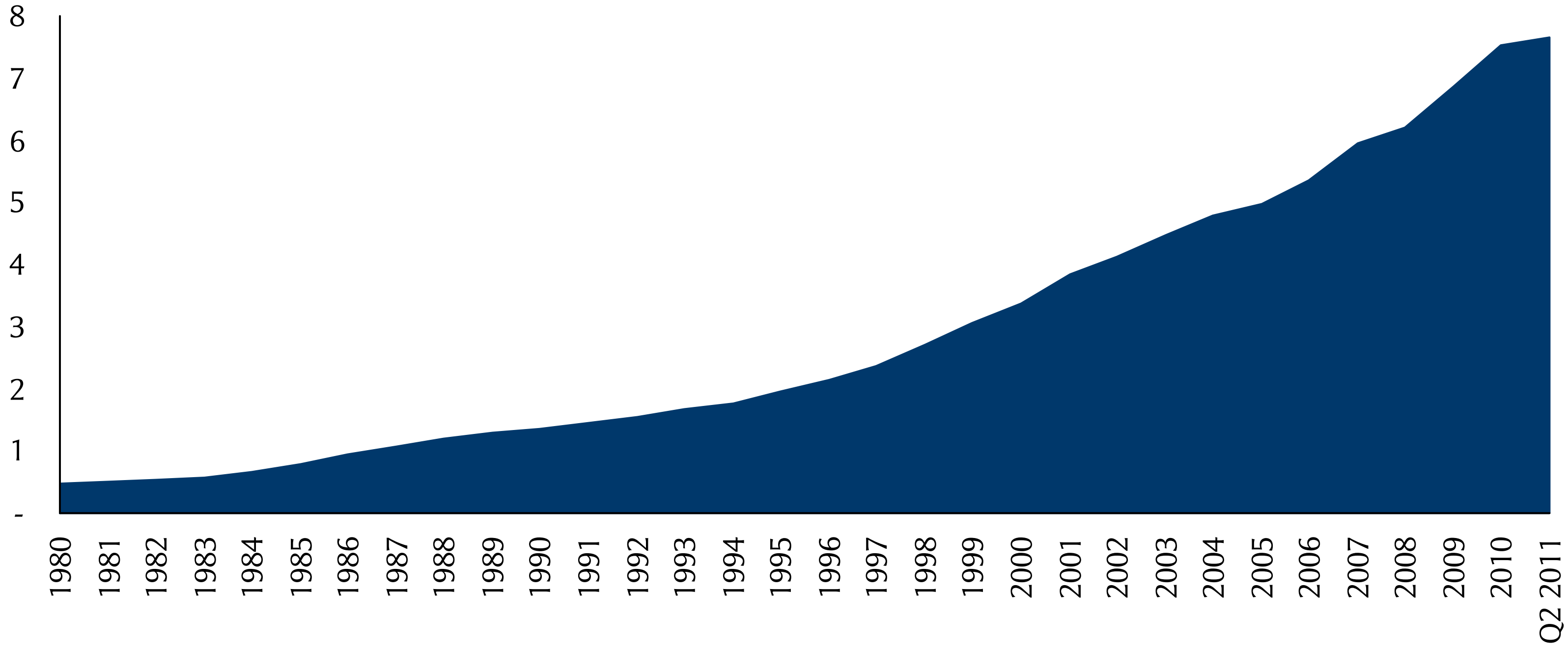
- Requirements should account for principal trading and derivative trading markets, including:
  - Assumption of principal risk, a fundamental aspect of making markets, may result in asset appreciation as markets move
  - Unpredictable time horizons in which customer demand materializes
- Regulations should account for the fact that two-sided markets do not exist for all instruments, particularly those in more illiquid markets

Suggested Modifications to Requirements

2. Trading desk holds itself out as being willing to buy and sell on a regular and continuous basis to the extent two sided markets are made in a given instrument
3. Activities should be designed not to exceed the reasonably expected ~~near-term~~ demands of clients, customers or counterparties
5. Activity is designed to generate revenues primarily from fees, commissions, bid/ask spreads or other income attributable to satisfying reasonably expected customer demand ~~not attributable to asset appreciation or hedging~~

Agencies should be careful to not disrupt the credit markets, which has been a significant funding source for corporates and has over $7 TN outstanding

Outstanding US corporate bond market debt outstanding ($ TN)



Source: SIFMA

Hedging requirements should not discourage market making or risk mitigation

Current Requirements for Permitted Hedging

1. The hedging trade is made in accordance with internal compliance program
2. The trade hedges one or more specific risks arising in connection with individual or aggregate positions
3. The hedge reasonably correlates to the risk it is intending to mitigate
4. The hedge does not give rise to significant incremental exposures that are not also hedged
5. The hedge is monitored on ongoing basis to confirm (i) compliance with the policy, (ii) maintenance of reasonable correlation, and (iii) mitigation of any significant subsequent exposure arising from the hedge
6. Compensation arrangements of person performing the risk-mitigating hedging activities are designed not to reward proprietary risk-taking
7. Additional documentation requirements for hedges established at a different level than the underlying transaction

Recommendations

- Requirements should allow banks to leverage existing effective risk-monitoring procedures, focusing on:
  - Trading within risk and position limits
  - End of day monitoring
- Approach should be consistent with market making compliance framework:
  - Be cost-effective to implement and not place undue burden on regulatory examiners
  - Require a manageable amount of data that allows examiners to supervise activities effectively

Suggested Modifications to Requirements

2. The trade is reasonably expected to hedge~~s~~ one or more specific risks that is expected to aris~~eing~~ in connection with individual or aggregate positions
3. The hedge is reasonably expected to correlate~~s~~ to the risk it is intending to mitigate
4. The hedge does not give rise to significant incremental exposures that are not ~~also hedged~~ within the desk's pre-established risk limits
5. The ~~hedge~~ risk exposure of the desk is monitored on an ongoing basis to confirm:
   - Compliance with the policy
   - Maintenance of reasonably expected correlation
   - Mitigation of any significant subsequent exposure arising from the hedge

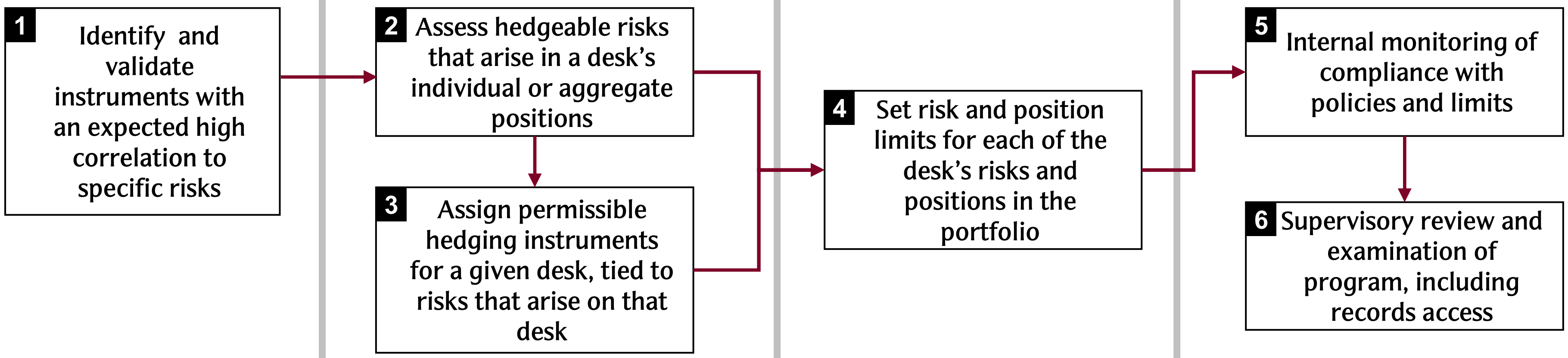
Illustrative framework for monitoring compliance with hedging exemption

I. Establish correlation

II. Identify hedgeable risks and permissible hedging instruments

III. Set risk and position thresholds

IV. Enforce internally with external oversight



1 Trading desks and risk management identify hedging instruments with an expected high correlation to specific risks

- These analyses will be refreshed on a regular basis

2 A desk's *hedging policies and procedures* will set forth those risks that arise in connection with the individual and aggregate positions that the desk trades with clients, for example:

- Market risk, credit risk, greeks (e.g. beta, gamma, vega)

3 The *hedging policies and procedures* will provide each desk with permissible hedging instruments, which will vary for different desks based on findings from steps 1 and 2

4 Risk management, in coordination with the business head, will establish risk and position limits that cannot be exceeded without specific pre-approval

- Limits will be updated on a regular basis, based on a review of the desk's activities and underlying market conditions
- Limits will be subject to periodic internal and regulatory audit

5 Internal compliance and risk management function monitors compliance with permitted hedging parameters and limits

- Investigations into potentially non-compliant activities
- Violations must be promptly documented, addressed, and remedied
- Internal audit will test overall framework on a periodic basis

6 Regulatory agencies review end-of-day reports and metrics of the activities at a desk's portfolio level and of risk exposures in relation to limit thresholds

Narrow interpretation of the "solely outside of the United States" exemption and failure to exempt non-US sovereign debt invite negative consequences

Discourages international lending activity in the US

- Proposed foreign exemption discourages non-US banks from establishing a lending presence in the US because Volcker would apply to activities undertaken off-shore with US persons

Invites reciprocity from international regulators

- Non-US sovereign debt does not benefit from the exemptions provided to US Treasuries and liquidity is compromised in both US and off-shore markets
- Application is unduly invasive and operates in excess of equivalent existing home country regulatory regimes
- Offshore banks that offer liquidity in non US sovereign debt to US persons will be subject to additional Volcker compliance protocols offering no apparent public policy benefit

Disrupts US access to international markets

- To offshore banks, US persons present a less favorable customer profile than equivalent non-US person customers, for whom providing services will not trigger Volcker compliance framework.
- US asset managers and corporates seeking risk management and hedging products in non-US local markets are disadvantaged relative to domestic participants
  - Implementation costs resulting from overseas Volcker compliance will likely be reflected in the pricing quoted to these clients
  - International banks subject to the Volcker restrictions may stop transacting with US counterparties from their non-US offices altogether to avoid imposition of the Volcker market making compliance framework

Quantitative market making metrics should be reduced to those that are most effective at tracking compliance with the permissible activities

Market Making Surveillance Metrics

g	▪ ‣ Define acceptable levels of risk relative to specific market and size of client franchise	▪ / – , y size, horizontal comparison limited; subset of risk limits ▪ VaR Exceedance – Does not reveal intent, only accuracy of model ▪ Risk Factor Sensitivities – Does not reveal intent, varies by franchise size; subset of risk limits
Source-of-Revenue	▪ Comprehensive P&L Attribution ‣ Define expected levels of portfolio P&L relative to specific market, market performance and size of client franchise	▪ Comprehensive P&L - Redundant ▪ Portfolio P&L - Redundant ▪ Fee Income and Expense – Redundant; relevant only to demonstrate existence of client revenue ▪ Spread P&L – Redundant; relevant only to demonstrate existence of client revenue
Revenue-Relative-to-Risk	▪ Skewness of Portfolio P&L and Kurtosis of Portfolio P&L ‣ Define expected levels relative to specific market, market performance	▪ Volatility of Comprehensive P&L and Volatility of Portfolio P&L – Redundant and less descriptive than skewness and kurtosis ▪ Comprehensive P&L to Volatility Ratio and Portfolio P&L to Volatility Ratio – Redundant and less descriptive than skewness and kurtosis ▪ Unprofitable Trading Days Based on Comprehensive and Portfolio P&L – Creates lower liquidity in volatile markets
Customer-Facing	▪ Inventory Risk Turnover ‣ Define expected levels relative to specific market; may be low where required to warehouse risk ▪ Customer-Facing Trade Ratio ‣ Modify to Ratio of Risk Metric rather than # of trades	▪ Spread P&L – Redundant with Comprehensive P&L Attribution ▪ Inventory Aging -- Redundant with Inventory Risk Turnover
Payment of Fees, Commissions and Spreads		▪ Pay-to-Receive Spread Ratio – Does not meaningfully reveal intent