



April 12, 2018

Dear Representative:

On behalf of Americans for Financial Reform, we are writing to urge you to vote against HR 4790, which is being considered on the House floor this week.¹ This bill would undermine the implementation of the Volcker Rule (Section 619 of the Dodd-Frank Act) by giving sole rulemaking authority for the rule to the Federal Reserve, and by entirely exempting banks under \$10 billion from Volcker Rule restrictions on proprietary trading.

The Volcker Rule was passed in response to the experience of the 2008 financial crisis. In 2007-2008 big banks experienced hundreds of billions of dollars in unexpected losses due to markdowns of securities held for proprietary trading purposes. Bank relationships with external funds and securitization vehicles – such as the credit hedge funds that triggered the failure of Bear Stearns and the bank-originated “toxic” mortgage securitizations that helped crash the economy – also played an enormous role in the crisis. After evaluating this experience, Congress acted to ban banking organizations within the public safety net from proprietary speculation on trading markets, restricting them to forms of trading designed to serve customer needs, such as market making and underwriting. The Volcker Rule also prevents banks from owning or investing in external funds that could engage in activities similar to proprietary trading.

HR 4790 contains several measures that would significantly weaken implementation of the Volcker Rule. First, the bill would grant sole rulemaking authority for Volcker implementation to the Federal Reserve, as opposed to the multiple agencies that currently have responsibility.

Delegating sole rulemaking authority to the Federal Reserve would cut the Federal Deposit Insurance Corporation (FDIC) entirely out of the implementation of the rule. Yet a core purpose of the Volcker Rule is to prevent deposit insurance funds from being used to finance speculative trading. The FDIC is the custodian and institutional protector of the deposit insurance fund. HR 4790 would entirely eliminate their role in writing and interpreting the rule. This would greatly weaken the interpretation of the rule and its enforcement. The FDIC does not directly oversee any of the largest trading banks or trading desks, so eliminating the FDIC’s role in rulemaking would effectively eliminate them from implementation of the Volcker Rule. Defining the Federal Reserve as the sole rulemaking agency would also have the effect of significantly speeding up and facilitating the Trump Administration’s announced agenda of weakening Volcker Rule restrictions on proprietary trading.

Make no mistake, cutting the FDIC out of Volcker Rule rulemaking and giving sole authority to the Federal Reserve serves the agenda of the largest trading banks such as Goldman Sachs and JP Morgan, who wish to see the Volcker Rule weakened. It is not a coincidence that HR 4790 grants sole rulemaking authority to an agency whose leadership has already expressed their views that the Volcker Rule should be weakened, rather than to an agency such as the FDIC which has historically been a more forceful

¹ Americans for Financial Reform is an unprecedented coalition of more than 200 national, state and local groups who have come together to reform the financial industry. Members of our coalition include consumer, civil rights, investor, retiree, community, labor, faith based and business groups. A list of AFR members is available at <http://ourfinancialsecurity.org/about/our-coalition/>

advocate of limiting bank trading practices. It is also no coincidence that large banks are lobbying for a single regulator under the Trump Administration, which has expressed its view that the Volcker Rule should be weakened, rather than under the previous Administration.

HR 4790 would also entirely exempt banks with under \$10 billion in assets from Volcker Rule restrictions on proprietary trading. While the great majority of community banks do not engage in proprietary trading, it simply does not make sense to say that community banks may trade for their own account with publicly insured deposits while larger banks may not. As FDIC Vice-Chair Thomas Hoenig has said in opposing this policy change, “I think this would be a loophole. It does open a door, if you are oriented to use deposits to speculate.”² Instead of an exemption, smaller banks should be granted a rebuttable presumption that they are not proprietary trading – an assumption that they do not require a bureaucratic compliance regime for the rule, but one which could be overturned if regulators found evidence that the bank was actually proprietary trading. This would get rid of any compliance process, but prevent the use of an exemption as a loophole.

We urge you to reject HR 4790 and preserve the Volcker Rule’s protections against the use of public funds to finance speculative trading.

Sincerely,

Americans for Financial Reform

² Tracy, Ryan, “Exempting Small Banks from Volcker Rule is Popular, but Not with Their Regulator”, Wall Street Journal, December 26, 2017. <http://on.wsj.com/2EMDBPG>