

Davis Polk

Volcker Rule Materials

April 20, 2012

**DPW Interim Conformance
Rule Guidelines Memo**

Volcker Rule Conformance Period Guidelines

Yesterday, the Federal Reserve issued [guidelines](#) clarifying when banking entities must bring their activities, investments, relationships and transactions into conformance with the Volcker Rule.

Key Guidelines:

- **Conformance Required by the End of the Conformance Period.** The Federal Reserve confirmed that banking entities “must conform” their activities, investments, relationships and transactions to the Volcker Rule “by no later than the end of the conformance period,” which is July 21, 2014 or such later date as specified by the Federal Reserve.
 - No longer required to conform activities “as soon as practicable” after the statutory effective date.
- **During Conformance Period:**
 - **Good-Faith Conformance Efforts Required.** “[E]very banking entity . . . is expected to engage in good-faith efforts . . . that will result in the conformance of all of its activities and investments . . . by no later than the end of the conformance period.”
 - **Mandatory Elements.** These good-faith conformance efforts include:
 - **Evaluation of Covered Activities and Investments.** “[E]valuating the extent to which the banking entity is engaged in activities and investments that are covered by section 13 of the BHC Act”; and
 - **Conformance Plan.** “[D]eveloping and implementing a conformance plan that is as specific as possible about how the banking entity will *fully conform* all of its covered activities and investments . . . by July 21, 2014, unless that period is extended by the [Federal Reserve].”
 - **Potential Elements.** These good-faith conformance efforts *may* include “complying with *reporting or recordkeeping* requirements [*but only*] if such elements are included in the final rules implementing section 13 of the BAC Act *and* the agencies determine such actions are required during the conformance period.”

Key Takeaways:

- **During the Conformance Period**
 - **Proprietary Trading.** Absent further regulatory guidance, we believe that these guidelines mean that a banking entity may engage in proprietary trading during the conformance period, as long as the banking entity makes good-faith efforts to evaluate and fully conform its proprietary trading activities to the Volcker Rule and its implementing regulations by the end of the conformance period.
 - **Covered Funds.** Absent further regulatory guidance, we believe that these guidelines mean that a banking entity may acquire and retain ownership interests in, sponsor and enter into covered transactions with, both new and existing covered funds during the conformance period, as long as the banking entity makes good-faith efforts to evaluate and fully conform these activities, investments and transactions to the Volcker Rule and its implementing regulations by the end of the conformance period.

Systemically Important Nonbank Companies:

- **No guidance for systemically important nonbank financial companies.** The Federal Reserve confirmed that it would not consider imposing any additional capital requirements, quantitative limits or other restrictions on systemically important nonbank financial companies until criteria for designations of such companies, or designations themselves, have been issued.

If you have any questions regarding the matters covered in this publication, please contact any of the lawyers listed below or your regular Davis Polk contact.

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