



UNIVERSITY OF MARYLAND
SCHOOL OF LAW

November 5, 2010

The Honorable Timothy Geithner
Secretary of the Treasury
Chairman, Financial Stability Oversight Council
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220

Re: Public Input for the Study Regarding the Implementation of the Prohibitions on Proprietary Trading and Certain Relationships with Hedge Funds and Private Equity Funds.

Dear Mr. Chairman:

Thank you for the opportunity to comment on Public Input for the Study Regarding the Implementation of the Prohibitions on Proprietary Trading and Certain Relationships with Hedge Funds and Private Equity Funds.¹ It is imperative that Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act,² also known as the “Volcker Rule,” be consistent with the legislative intent. In light of this, I will direct your attention to the following articles and comment letters, which are in support of my view that regulators should implement a strong Volcker Rule to reduce systemic risk and to minimize conflicts of interest.

(1) A comment letter submitted by Senator Tom Harkin, in which states “Fully enforcing [the Volcker Rule] will be essential to restore integrity to our financial system.”³

(2) A comment letter signed by 14 senators, in which states “Despite having just emerged as a nation from the worst financial crisis since the Great Depression, powerful interests will seek to weaken the Merkley-Levin Volcker Rule protections. We in Congress resisted those efforts and provided you with a clear mandate and broad authority to act.”⁴

¹ 75 Fed. Reg. 61,758 (Oct. 6, 2010), available at <http://www.gpo.gov/fdsys/pkg/FR-2010-10-06/pdf/2010-25320.pdf>.

² Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010).

³ Comment Letter from Tom Harkin, U.S. Senate, to the Financial Stability Oversight Council (Oct. 22, 2010) (on file with www.regulations.gov).

⁴ Comment Letter from Senators Jeff Merkley, Carl Levin, Dick Durbin, Tom Harkin, John Kerry, Dianne Feinstein, Bill Nelson, Sherrod Brown, Claire McCaskill, Jim Webb, Robert Casey, Sheldon Whitehouse, Bernie Sanders, and Mark Udall to the Financial Stability Oversight Council (Oct. 28, 2010) (on file with www.regulations.gov).

(3) A comment letter submitted by the Council of Institutional Investor, citing Investors' Working Group's "U.S. Financial Regulatory Reform: The Investors' Perspective," which states that "Proprietary trading creates potentially hazardous exposures and conflicts of interest, especially at institutions that operate with explicit or implicit government guarantees. Ultimately, banks should focus on their primary purposes, taking deposits and making loans."⁵

(4) Joseph Stiglitz, a recipient of the Nobel Memorial Prize in Economic Sciences, has said, "A 21st-century financial system needs a new set of restrictions to reduce both these risks and the risks of conflicts of interest. That is why it is essential that the 'Volcker rule' and the restrictions on excessive risk-taking and conflicts of interest be as strong as possible."⁶

(5) Professor Simon Johnson, the Ronald A. Kurtz Professor of Entrepreneurship at MIT Sloan School of Management, has recently said, "We need a real firewall between custodian banks and the funds with which they are connected in any form. The Volcker Rule, if properly and rigorously applied, can do just that."⁷

I do not repeat here the thoughtful analysis within each of the above referenced comments. Instead, I incorporate by reference the detailed substance of those documents each of which fully endorse the intent and thrust of the Volcker Rule.

Sincerely,

A handwritten signature in blue ink that reads "Michael Greenberger". The signature is fluid and cursive, with the first name "Michael" being larger and more prominent than the last name "Greenberger".

Michael Greenberger, J.D.
Law School Professor
University of Maryland School of Law

⁵ Comment Letter from Council of Institutional Investor to the Financial Stability Oversight Council (Oct. 28, 2010) (on file with www.regulations.gov) (citing Investors' Working Group, U.S. Financial Regulatory Reform: The Investors' Perspective 3 (July 2009), available at [http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20\(July%202009\).pdf](http://www.cii.org/UserFiles/file/resource%20center/investment%20issues/Investors'%20Working%20Group%20Report%20(July%202009).pdf)).

⁶ Joseph Stiglitz, *Reach equals grasp on banking bill*, POLITICO.COM (June 7, 2010), available at <http://www.politico.com/news/stories/0610/38214.html>.

⁷ Simon Johnson, *Will the Volcker Rule Survive The Midterm Elections?*, THE BASE SCENARIO (Nov. 4, 2010), available at <http://baselinescenario.com/2010/11/04/will-the-volcker-rule-survive-the-midterm-elections/>.