



Regulatory Compliance Bulletin

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Agencies Adopt Final Rule to Exempt Community Banks From Application of the Volcker Rule

On July 9, 2019, the financial regulatory agencies (the “Agencies”)ⁱ finalized a rule implementing provisions of the Economic Growth, Regulatory Relief, and Consumer Protection Act (“EGRRCPA”), that exempts certain institutions from application of the Volcker Rule.ⁱⁱ

The Volcker Rule is codified at Section 13 of the Bank Holding Company Act of 1956.ⁱⁱⁱ It generally prohibits any banking entity from engaging in proprietary trading or from acquiring or retaining an ownership interest in, sponsoring, or having certain relationships with a hedge fund or private equity fund.

The recently-finalized rule exempts community banks and their controlling entities with \$10 billion or less in total consolidated assets, and total trading assets and liabilities equal to 5 percent or less of total consolidated assets, from application of the Volcker Rule. Securities appropriately classified as available-for-sale and excluded from trading assets on the Call Report will not count toward an institution’s trading assets and liabilities threshold.

The Agencies adopted a recommendation advocated by both the ABA and CBA in their letters commenting on the proposed

rule; to wit, that banks may rely on their most recent Call Reports in calculating their entitlement to the exemption. (The proposed rule had stated that the determination would be based on “available information,” which the ABA and CBA believed to lack predictability.)

The rule exempting certain community banks from application of the Volcker Rule will take effect upon publication in the Federal Register.

ⁱ The OCC, the Federal Reserve System, the FDIC, the Commodity Futures Trading Commission and the SEC were the joint issuers of the final rule.

ⁱⁱ CBA filed a comment letter with the Agencies supporting adoption of the exemption.

ⁱⁱⁱ 12 U.S.C. §1851

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