

Volcker Rule: Federal Reserve: Compliance with Volcker Rule Required by July 2014

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Federal Reserve: Compliance with Volcker Rule Required by July 2014

The Federal Reserve has clarified that **banking entities will have until July 21, 2014 to conform to the new Section 13 of the Bank Holding Act of 1956 (the “Volcker Rule”), added by Dodd-Frank Section 619.** Each nonbank financial company will have two years from the date on which it becomes a nonbank financial company supervised by the Fed in which to conform.

The Volcker Rule generally prohibits banking entities 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, subject to certain exemptions. It also provides for nonbank financial companies supervised by the Fed that engage in such activities or have such interests or relationships to be subject to additional capital requirements, quantitative limits, or other restrictions.

The Volcker Rule is scheduled to take effect July 21, 2012. Banking entities and nonbank financial companies will have a two-year grace period in which to conform their activities to the rule. The Fed may extend this period in one-year increments on individual bases, up to three years, if consistent with the purpose of the rule and not detrimental to the public interest.

On February 9, 2011, the Fed issued its final rule implementing the conformance period. Numerous industry participants and commenters, including SIFMA, Bank of New York Mellon, and Credit Suisse, requested clarification of this rule, prompting the Fed to issue a statement of policy on April 19, 2012.

According to this statement, “the Conformance Rule provides each banking entity with a period of 2 years after the effective date of section 13 (*i.e.*, until July 21, 2014) in which to fully conform its activities and investments to the prohibitions and requirements of section 13 and the final implementing rules, unless that period is extended by the Board The Conformance Rule also provides a nonbank financial company supervised by the Board with 2 years after the date the company becomes a nonbank financial company supervised by the Board to comply with any applicable requirements of section 13 of the BHC Act, including any applicable capital requirements or quantitative limitations adopted thereunder, unless that period is extended by the Board.”

In the interim, the Fed expects these banking entities to engage in good-faith efforts to meet the July 2014 deadline, including self-evaluations of activities and investments for conformance, developing and implementing a specific conformance plan, and complying with reporting and recordkeeping rules as adopted by the relevant agencies.

While the CFTC, SEC, FDIC and Office of the Comptroller of the Currency have rulemaking authority under the Volcker Rule, the Fed alone determines the conformance grace period.

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