



Five Federal Financial Regulators Exclude Community Banks From Volcker Rule Regulations

Federal financial regulators issued a rule excluding community banks from the Volcker Rule regulations. This rule conforms the regulations to similar statutory changes enacted in May 2018.

On July 9, 2019, the Board of Governors of the Federal Reserve System, U.S. Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, and U.S. Securities and Exchange Commission ("Agencies") issued a [final rule](#) to exclude community banks from the Agencies' regulations implementing the Bank Holding Company Act's prohibitions and restrictions on proprietary trading and certain interests in, and relationships with, hedge funds and private equity funds ("Volcker Rule").

The Volcker Rule generally prohibits "banking entities" from engaging in proprietary trading or acquiring or retaining any equity, partnership, or other ownership interest in, or sponsoring a hedge fund or a private equity fund. The [Economic Growth, Regulatory Relief, and Consumer Protection Act](#) ("EGRRCPA"), enacted in May 2018, amended the relevant statutory definition of "insured depository institution" for purposes of the Volcker Rule's "banking entity" definition to exclude a bank that does not have—and is not controlled by a company that has: (i) more than \$10 billion in total consolidated assets; and (ii) total trading assets and trading liabilities that are more than 5% of total consolidated assets.

The EGRRCPA also amended the Volcker Rule name-sharing restrictions to generally permit a hedge fund or private equity fund organized and offered by a banking entity to share the same name or variation of the same name as a banking entity that is an investment adviser to the fund. The EGRRCPA provisions were effective upon enactment. For additional information, see Jones Day's [June 2018 White Paper](#).

The Agencies' July 2019 rule amends the regulatory definition of "insured depository institution" in § __.2(r) (which is referenced in the "banking entity" regulatory definition) to conform to the "banking entity" statutory definition changes. As a result, an insured depository institution and its affiliates are not subject to the Volcker Rule regulations if the bank has, and every entity that controls it has, \$10 billion or less in total consolidated assets and total consolidated trading assets and liabilities of 5% or less of total consolidated assets. The rule also amends the name-sharing regulatory restriction in § __.11(a)(6)(i) to conform to the name-sharing statutory restriction changes. As a result, a hedge fund or private equity fund sponsored by a banking entity may share the same name or variation of the same name with a banking entity that is an investment adviser to the fund, subject to certain conditions. This is relevant to one criteria of a Volcker Rule exception permitting the organizing and offering of a covered fund.

The regulatory changes will be effective as of the date of publication of the final rule in the *Federal Register*.



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