

United States Senate

February 16, 2012

The Honorable Ben S. Bernanke
Chairman, Board of Governors
Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, DC 20551-0001

The Honorable Martin J. Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429-0002

The Honorable Mary L. Schapiro, Chairman
Securities and Exchange Commission
100 F Street, N.W.
Washington, DC 20549-1090

The Honorable Gary Gensler, Chairman
Commodity Futures Trading Commission
1155 21st Street, N.W.
Washington, DC 20581-0001

COMMENT

The Honorable John G. Walsh
Acting Comptroller of the Currency
Administrator of National Banks
250 E Street, S.W., Mail Stop 2-3
Washington, DC 20219-0002

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SECRETARY

Dear Chairman Bernanke, Acting Chairman Gruenberg, Chairman Schapiro, Chairman Gensler, and Acting Comptroller Walsh:

I am writing to express my concerns with the recently proposed regulations jointly issued by your respective agencies to implement the "Volcker Rule" provisions outlined in Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 12 U.S.C. § 5301. While I support the agencies' efforts to interpret and implement Section 619, I would ask the agencies to clarify how these proposed regulations will affect certain investments made by insurance companies.

During debate of the Dodd-Frank Act, Congress determined that the Volcker Rule should "appropriately accommodate the business of insurance." Section 13(d)(1)(F) of the Bank Holding Company Act enumerates "permitted activities," which includes permission for investments "by a regulated insurance company directly engaged in the business of insurance for the general account of the company and by any affiliate of such regulated insurance company," as provided for and regulated under state insurance investment laws.

Unfortunately, there is some ambiguity as to whether the permitted activity for insurance allows for an insurance company to use its general account to invest in a covered fund. Therefore, before finalizing this rule, I urge the agencies to clarify its impact on general account investments by insurers in covered funds. I am not aware of anything in the Dodd-Frank Act directing that these types of general account investments should be curtailed; and naturally, my position is that the final rule should conform to Congressional intent.

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As a former insurance company executive and Director of the Nebraska Department of Insurance, I urge the agencies to keep in mind that insurers are subject to state insurance investment laws which promote the safety and soundness of insurance companies by imposing strict limits on the proportion of an insurer's investments that may be invested in a particular asset and asset class. State insurance laws also impose diversification requirements on insurers, compelling insurers to hold their investments in a diversified portfolio and constraining insurers from taking excessive investment risks. Most important, these state statutory limitations already apply to investments in covered funds by the insurance company for its general account.

In conclusion, I strongly encourage the agencies to make clear that regulated insurance companies are permitted to continue their general account investments in covered funds, within the limits allowed under insurance investment laws.

Thank you for your consideration of this request. Should any of you have questions or require additional information, I would be happy to discuss this issue further.

Sincerely,

A handwritten signature in dark ink, appearing to read "E. Benjamin Nelson". The signature is fluid and cursive, with a long horizontal stroke at the end.

E. Benjamin Nelson
United States Senator

EBN:amm