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February 24, 2012

The Honorable Ben Bernanke
Chairman
Board of Governors of the Federal Reserve
System
Twentieth and Constitution Avenue, NW
Washington, DC 20551

The Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 Seventeenth Street, NW
Washington, DC 20429

The Honorable John Walsh
Acting Comptroller
Comptroller of the Currency
250 E Street, SW, Room 9048
Washington, DC 20219

The Honorable Mary Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

The Honorable Gary Gensler
Chairman
U.S. Commodity Futures Trading Commission
1155 21st Street, NW
Washington, DC 20581

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

I write to express some concerns about certain aspects of the joint proposed rule implementing
Section 619 of the Dodd-Frank Consumer Protection and Wall Street Reform Act (hereinafter
“the Volcker Rule”).

To be clear, I support your efforts to temper excessive risk taking at our nation’s major financial
institutions. It is nonetheless my hope that the final version of the Volcker Rule is consistent
with congressional intent and minimizes any disruptions to common commercial and financial
transactions.

At the outset, I have some concerns that the proposed rule may unintentionally chill basic market
making activities, which are explicitly permitted under the Volcker Rule. As you know, the
proposed rule highlights seventeen measurements that a financial institution must calculate
regarding its market making activities. It also contains a list of qualitative criteria that an
institution must satisfy. Some aspects of the proposed rule, however, could potentially work to
place an institution at risk of an enforcement action for undertaking proprietary trading even if it
satisfies both the metrics and the qualitative criteria. It is my hope that the final rule will provide
a greater degree of certainty as to what constitutes permissible market making activities. This is

particularly important for institutions that are making a good faith attempt to comply with the Volcker Rule. Without greater clarity on questions of compliance, a final rule may unintentionally disrupt traditional hedging and market making activities.

Similarly, it is my hope that the regulators can implement consistent supervisory procedures when enforcing the Volcker Rule. If one regulator determines that a set of transactions constitutes permissible market making, another regulator should not be able to characterize the same set of transactions as improper proprietary trading. Such coordination is critical for the proper functioning of our financial markets.

I also ask that you work to refine the breadth of the covered fund definition as it pertains to joint ventures and other acquisition vehicles that occur commonly in commercial transactions. As the proposed rule notes, the definition of a covered fund “could potentially include within its scope many entities and corporate structures that would not usually be thought of as a ‘hedge fund’ or ‘private equity fund.’” The proposed rule goes on to acknowledge that entities such as joint ventures, acquisition vehicles and other widely-utilized corporate structures “are generally not used to engage in investment or trading activities.” If the final rule prohibits companies that are somehow affiliated with insured depository institutions from forming joint ventures or other acquisition vehicles, it may become substantially more expensive and complicated to engage in an otherwise common merger or acquisition. All the while, such a prohibition would have little, if any, bearing on Congress’ intended goals of the Volcker Rule.

A final rule should also permit financial institutions to invest in venture capital funds. Venture capital funds lack the size and interconnectedness of the type of investment vehicles that Congress contemplated in crafting the Volcker Rule. They also play an important role in our economy at a time when it has become increasingly difficult for smaller and mid-size companies to obtain access to capital.

Finally, it is my hope that the final rule will permit insurance companies to obtain ownership interests in certain covered funds for their general accounts. As you know, under various state laws, insurance companies are already required to diversify their investments and are restricted in the categories of investments that they may hold. These various state laws are aimed at minimizing excessive risk taking, which overlap with the goals of the Volcker Rule. Without such an ability to invest in certain covered funds, insurance companies may have difficulty finding alternative investment vehicles to fund their products. Such a prohibition may also run counter to the intent of Congress, which sought to exempt insurance companies from the restrictions set forth in the Volcker Rule.

I understand the important goal of reducing excessive risk in our financial system. Moving forward, I look forward to working with you to ensure that the Volcker Rule is implemented in a manner that reduces such risk while being consistent with congressional intent.

Thank you in advance for your consideration.

Sincerely,

A handwritten signature in purple ink, appearing to read "Michael F. Bennet". The signature is fluid and cursive, with a distinct flourish at the end.

Michael F. Bennet
U.S. Senator