CREDIT SUISSE

October 17, 2018

Via Electronic Mail

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Re: "Proprietary Trading" Portions of the Joint Notice of Proposed Rulemaking Implementing Revisions to the Volcker Rule: Federal Reserve Docket No. R-1608 and RIN 7100-AF 06, OCC Docket No. OCC-2018-0010 and RIN 1557-AE27, FDIC N 3064-AE67, SEC File no. S7-14-18 and RIN 3235-AM10, and CFTC RIN 3038-AE72

Ladies and Gentlemen:

Credit Suisse appreciates the opportunity to provide comments to the Board of Governors of the Federal Reserve System ("the Federal Reserve"), the Federal Deposit Insurance Corporation ("the FDIC"), the Office of the Comptroller of the Currency ("OCC"), the Securities and Exchange Commission ("SEC") and the Commodity Futures Trading Commission ("CFTC" and, together, "the Agencies") on the "proprietary trading" portions of their Joint Notice of Proposed Rulemaking Implementing Revisions to the Volcker Rule ("the Proposed Rule").[1] Credit Suisse's comments on the "covered funds" provisions of the Volcker Rule are set forth in a separate comment letter, which should be read in conjunction with this submission.

[1] 83 Fed. Reg. 33,432 (July 17, 2018).

We recognize that the proprietary trading restrictions of the Volcker Rule were intended to limit speculative, non-customer driven trading by banks and their affiliates in order to enhance the solvency and resilience of banks during times of financial crisis and to limit systemic risk of contagion. While we are supportive of these goals, we do not believe the current Implementing Regulations[2] are an effective mechanism for achieving them. In fact, there is evidence that suggests the Rule inhibits economic growth and vibrant financial markets by reducing the liquidity of the markets and constraining capital formation.

We commend the Agencies for the steps they have taken with in the Proposed Rule to address concerns with the existing regulations, in particular by modifying the TOTUS exemption to focus on the risks to the U.S. financial system. In our comment letter, we discuss the areas of the Proposed Rule that we think enhance the current framework and also point out areas where we see room to improve the Proposed Rule. We present the following specific recommendations:

1. **Trading Outside The United States ("TOTUS"):** The Agencies should adopt the modifications to the current TOTUS requirements in accord with the Proposed Rule.
2. **Accounting Test:** The Agencies should not implement the proposed "accounting test" because it is overly broad, is not aligned with Section 13's definition of "trading account" and would result in unnecessarily classifying more activities as proprietary trading. The Agencies should consider other alternatives like removing the current purpose test entirely and relying on the market risk capital and status tests alone.
3. **Liquidity Management:** The Liquidity Management exclusion should be modified as proposed to include physically-settled FX swaps and forwards and cross-currency swaps, and also include non-deliverable FX forwards and interest rate derivatives.
4. **Risk-Mitigating Hedging ("RMH"):** The RMH exemption should be modified to presume that a trading desk is in compliance with the requirements of the RMH exemption if it is conducting its activities in compliance with its internal risk limits and the banking entity's risk management program, so long as such risk limits and risk management program incorporate the RMH exemption requirements. The RMH exemption should also be revised in a manner that permits firm-wide "macro hedging."
5. **Reasonably Expected Near Term Demand ("RENTD") of Customers:** The Agencies should implement their proposal that presumes a banking entity is in compliance with the statutory requirement that permitted market-making and underwriting activities are designed not to exceed the RENTD if it conducts such activities in conformance with internal risk limits. However, the Agencies should not adopt the proposed requirements that would necessitate banking entities to promptly report breaches of internal risk limits and permanent and temporary increases to internal risk limits.
6. **Bona-Fide Error Trades:** The Agencies should adopt the proposed explicit exclusion from the definition of proprietary trading for bona-fide error trade and associated correcting transactions but eliminate the proposed requirement for error accounts to be managed by personnel independent from traders responsible for the errors.
7. **Loan-Related Swaps:** The Agencies should adopt their proposal to exclude loan-related swaps from the definition of proprietary trading.
8. **Volcker Tailoring:** The Agencies should adopt their proposal to eliminate Appendix B and permit greater discretion to banking entities with significant trading activities to tailor their compliance programs to the size and complexity of its activities and the structure of its businesses.

[2] See "Proprietary Trading and Certain Interests in and Relationships with Covered Funds", 79 Fed. Reg. 5,536 (January 31, 2014) (setting forth the "2013 Rule Preamble" and the text of the "2013 Rule").

9. **Metrics:** With respect to metrics, the Agencies should:
    a. Grant a generous conformance period to meet the requirements of the revised Volcker Rule, along with additional time to adhere to the new technical specifications in metrics reporting.
    b. Not adopt the requirement that metrics data be submitted in XML format.
    c. Extend the deadline for metrics data submission to 30 days following the end of each calendar month.
    d. Provide a single acknowledgement of submission file acceptance or rejection across all receiving Agencies.
    e. Not adopt the additional proposed monthly reporting obligations related to "trading desk information" and "quantitative measurements."
    f. Replace the Customer-Facing Trade Ratio with the proposed Part C(6) "Transaction Volumes" schedule, but remove the requirement to report intracompany and inter-affiliate trades, and clarify how block transactions should be counted.
    g. Replace the Derivative Aging metric with the proposed Part C(5) "Positions" schedule, but remove the requirement to report the Market Values of Derivative positions (while keeping the Notional Values).
10. **Inter-agency Process:** The Agencies should enter into an interagency agreement delegating responsibility for interpretation and guidance relating to the Implementing Regulations to a single agency. In addition, the Agencies should agree that an institution's primary regulator should be charged with conducting any Volcker examination of that institution.
11. **Riskless Principal:** The riskless principal prong of the "Trading on Behalf of Customer" exemption in the Implementing Regulations should be clarified to confirm it includes activity involving all financial instruments.

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We thank the Agencies for consideration of our comments. If you have any questions, please do not hesitate to contact the undersigned, or Jessica Mandel (jessica.mandel@credit-suisse.com).

Sincerely,

Brian Chin
CEO, Global Markets Division

1. Permitted Trading Activities of a Foreign Banking Entity

- **We applaud the proposed changes to the exemption for non-U.S. banks Trading Outside the United States ("TOTUS").**

Credit Suisse supports the proposed changes to the TOTUS exemption. The Proposed Rule would remove many of the cumbersome requirements of the TOTUS exemption, including the requirement that prohibits a non-U.S. banking entity purchasing or selling a financial instrument from transacting with or through a U.S. entity. There is no risk to the U.S. operations of a non-U.S. bank if one of its non-U.S. branches or affiliates transacts with a U.S. client or counterparty. We support all of the other proposed changes to the TOTUS exemption in the Proposed Rule. We think the Proposed Rule supports the principles of the Volcker Rule by focusing the restrictions in the TOTUS exemption on the risks to U.S. financial institutions and U.S. financial stability and eliminating unnecessary requirements that interfere with a non-U.S. bank's non-U.S. trading activities.

For a non-U.S. institution like Credit Suisse, the Volcker Rule currently covers many of our entities and trading desks located outside the United States - over 40% of the Credit Suisse trading desks that report metrics are located completely outside the United States and over 70% of the trading books reporting metrics reside in legal entities outside the United States. Clearly the Volcker statute was not intended to have such an extensive extraterritorial scope.

A specific example of the Volcker Rule's extraterritorial overreach is that trades between two entities located outside the U.S., involving no U.S. personnel, can still bring a non-U.S. entity into scope. For example, if Credit Suisse AG Singapore Branch (or any other non-U.S. branch or affiliate) trades with a non-U.S. client, but the Credit Suisse AG Singapore Branch hedges that position with a U.S. bank, then Credit Suisse AG Singapore Branch comes into scope of the regulations. Even if all personnel facilitating each leg of these transactions are located in Asia (on the Credit Suisse, client and U.S. bank sides), Credit Suisse AG Singapore Branch would still not be able to leverage the TOTUS exemption in its current form due to a single hedge trade facing a U.S. bank holding company.

This cannot be the intended result when the U.S. regulators crafted the rule. Since the intent of the Volcker Rule is to prevent U.S. taxpayers from supporting such trading activities, the regulation should only apply to the non-U.S. institution's U.S. affiliates and branches. Clearly, Credit Suisse and its affiliates and branches outside the United States would not receive support from U.S. taxpayers and are more appropriately regulated in Switzerland and the applicable jurisdiction in which the affiliate or branch is located. Indeed, the Proposed Rule would eliminate just this type of extraterritorial over breadth.

The Proposed Rule appropriately recognizes the reality of global trading by expanding the exemption for trading by foreign banking entities. The revisions to the TOTUS exemption correctly focus on where the economic risk of the trading activity resides. So long as the economic risk of the position resides outside the United States, restrictions on who and how a transaction is arranged, negotiated, or executed, how financing is provided, and how transactions facing U.S. entities are entered into are simply irrelevant to the Volcker Rule.

Recommendation: Credit Suisse commends the Agencies for proposing to modify the TOTUS exemption and supports the revisions in the Proposed Rule.

2. The Proposed Accounting Prong of the "Trading Account" Definition

- **The "accounting test" set forth in the Proposed Rule should not be implemented. As proposed, the test exceeds statutory authority by increasing the universe of trades captures by the Volcker Rule. We believe regulatory means could be satisfied with a two prong standard (market risk capital and dealer prongs respectively) and that final rules should remove the accounting prong entirely. Alternatively, the Agencies could modify the purpose test by providing banking entities more flexibility in rebutting the 60-day presumption.**

Credit Suisse appreciates the Agencies' efforts to develop an objective and workable standard to replace the "short-term intent prong"[3] of the "trading account" definition. Unfortunately, the newly proposed test is excessively broad and its adoption would have adverse consequences, resulting in more problems than it solves. As proposed, the new test would capture a wide swath of trades, including all derivatives, entered into for any purpose, regardless of how long the position is held. Further, many of the trades that would now be captured, were previously exempted by the intent prong of the Volcker Rule. For example, positions that hedge a banking entity's long-term liabilities were typically considered out of scope. These would now be swept into the new prong. We believe this goes far beyond the statutory mandate, which captures positions entered into "principally for the purpose of selling in the near term or otherwise with the intent to resell in order to profit from short-term price movements".[4] This overreach would complicate a banking entities' ability to make long term strategic investments that are necessary to meet safety and soundness requirements, such as availability of liquid, readily-marketable and investment-grade corporate bonds that are held as high-quality liquid assets and long term derivatives that act as bona fide hedging positions.

Lastly, we note that the accounting test is based on accounting standards. Accounting standards are not designed to address, and have no relationship to, short-term speculative trading.

Recommendation: Credit Suisse recommends that the "accounting test" set forth in the Proposed Rule should not be implemented. The test is overly broad, not aligned with Section 13's definition of "trading account" and would result in unnecessarily classifying more activities as proprietary trading. Its inclusion in the trading account definition would have serious unintended consequences, and the Agencies should consider other alternatives like removing the current purpose test entirely and relying on the market risk capital and status tests alone.

[3] The "short-term intent prong" of the trading account definition includes any account used by a banking entity to purchase or sell one or more financial instruments principally for the purpose of: (A) short-term resale; (B) benefitting from actual or expected short-term price movements; (C) realizing short-term arbitrage profits; or (D) hedging one or more positions resulting from the purchases or sales of financial instruments described above. Volcker Rule § _.3(b)(1)(i).

[4] 12 U.S.C. § 1851(h)(6).

3. The Liquidity Management Exclusion

- **The Liquidity Management exclusion should be expanded to permit the use of any financial instrument as long as it is purchased or sold pursuant to a written liquidity management plan.**

Credit Suisse supports the Proposed Rule's expansion of the exclusion from proprietary trading for liquidity management activities to include physically-settled FX swaps and forwards and cross-currency swaps. We recommend further expansion of the liquidity management exclusion to include additional financial instruments, particularly interest rate derivatives and non-deliverable FX forwards, which are also used for liquidity management purposes. Due to the narrowness of the current liquidity management exclusion, Credit Suisse has not been able to use the current liquidity management exclusion. The Agencies would continue to have the protections of the parameters of the liquidity management program to ensure that such financial instruments, including interest-rate derivatives and non-deliverable FX forwards, are used for bona fide liquidity management purposes and not for the purpose of short-term resale or gain.

Recommendation: Credit Suisse recommends that the liquidity management exclusion be modified as proposed to include physically-settled FX swaps and forwards and cross-currency swaps, as well as other financial instruments, particularly interest-rate derivatives and non-deliverable FX forwards. Such an expansion is appropriate since those financial instruments are used for bona fide liquidity management purposes.

4. Permitted Risk-Mitigating Hedging Activities

- **We generally support the proposed revisions as they reduce regulatory risk and documentation requirements. Proposed changes align with previous Credit Suisse comment letters where we addressed the risk-mitigating hedging ("RMH") exemption.**

Credit Suisse supports the Proposed Rules to revise the RMH exemption requirements. In addition, Credit Suisse requests the following enhancements be included in the final revisions, which will address long-standing challenges in the application of the RMH exemption. These recommendations are in line with the thematic approach the Agencies have taken regarding the proposed changes to the market-making ("MM") and underwriting exemptions.

Currently, compliance with the RMH exemption is determined for each desk on a trade-by-trade basis, rather than on the basis of the desk's overall activities. This requirement for a trade-by-trade analysis is unlike the requirements for hedging under the MM exemption, which applies to and limits the desk's activity in the aggregate. Therefore, we support the Agencies' proposal to remove the correlation analysis requirement and recommend that the Agencies clarify that compliance with the RMH exemption is based on an analysis of a trading desk's activity in the aggregate. Approaching the RMH exemption in this manner would be consistent with the Volcker Rule's approach to hedging related to transactions entered into pursuant to the MM exemption. Inconsistency in treatment of hedge positions between the MM exemption and the RMH exemption (i.e., aggregate desk metrics for MM vs. individual trade analysis for RMH) has made regulatory compliance implementation and maintenance more burdensome, impractical, challenging and costly.

Second, we recommend, consistent with the Agencies' thematic approach to the Reasonably Expected Near-Term Demands of Clients, Customers, and Counterparties ("RENTD") under the MM and underwriting exceptions, that a trading desk be presumed in compliance with the RMH exemption requirements if it conducts such activity in compliance with existing internal risk limits that conform with the RMH exemption requirements.

Third, we recommend clarification of the RMH exemption requirement that such activity "does not give rise, at the inception of the hedge, to any significant new or additional risk that is not itself hedged contemporaneously in accordance with this section." We propose that such requirement be amended to permit macro and portfolio hedging by the banking entity, which may not occur "contemporaneously" with the inception of the hedging position nor occur at the desk where the risk is booked (so long as any exposure during that interval remains within permitted internal risk limits applicable to the desk and the firm as a whole). Such flexibility would be thematically in line with the Agencies' proposed RENTD presumption for the MM and underwriting exceptions; it would look to a trading desk's compliance with the banking entity's internal risk limits and risk management requirements as the basis to determine compliance with the RMH exemption requirements.

Fourth, we recommend clarification with respect to the requirement that the hedging activity "is designed to reduce or otherwise significantly mitigate and demonstrably reduces or otherwise significantly mitigates *one or more specific, identifiable risks* . . ." (emphasis added). As we recommended above, we propose that the RMH exemption be revised to permit an analysis of a trading desk's risk-mitigating hedging in the aggregate. Accordingly, the "specific, identifiable risks" requirement should also be clarified such that it can be satisfied by reliance on a trading desk's compliance with its internal risk limits and the banking entity's risk management program, assuming that the banking entity's risk management

program incorporates the requirements of the RMH exemption. In addition, in order to facilitate firm wide macro hedging, it should be clarified that specified and identifiable risks for a desk can be identified by proxy through reliance on the banking entity's aggregated risk metrics used for firm-wide macro hedging.

In addition to relieving individual trading desks of the burden of complying with additional requirements on top of existing risk limits and the banking entity's risk management program, implementing the foregoing recommendations would permit macro hedging and the reliance on central hedging activities of the banking entity (which is how banking entities actually manage their risks). Centralized hedging is common practice to effectively and efficiently manage risk exposures within banking entities. Unlike MM hedging, which is implemented to manage customer inventory and necessarily occurs at the trading desk level, actual risk hedging that relies on the RMH exemption is often performed by a central trading desk (e.g., xVA, portfolio management) unrelated to the trading desks that originate risk (e.g., loan origination). The RMH exemption should be modified to accommodate such centralized hedging to permit macro hedging by trading desks to hedge based on aggregated risk measures, rather than to track back to specifically identified positions, so long as it can be demonstrated that the risk of the individual positions has been adequately mitigated.

Recommendation: Credit Suisse recommends that the RMH exemption be modified to presume that a trading desk is in compliance with the requirements of the RMH exemption if it is conducting its activities in compliance with its internal risk limits and the banking entity's risk management program, so long as such risk limits and risk management program incorporate the RMH exemption requirements. Moreover, the RMH exemption should be revised so that the exemption would allow risks to be aggregated in a manner that permits firm-wide macro hedging by a centralized risk management desk within the banking entity.

5. Reasonably Expected Near-Term Demands of Clients, Customers, and Counterparties ("RENTD") Limits

- **We strongly support the proposed presumption that a banking entity is in compliance with RENTD if such activities are conducted in compliance with an organization's internal risk limit framework.**

The Agencies should implement the proposed presumption of RENTD based on compliance with internal risk limits. The Proposed Rule would create a presumption that a banking entity is in compliance with the statutory requirement that permitted market-making and underwriting activities are designed not to exceed the RENTD limits if it conducts such activities in compliance with internal risk limits. An Agency could rebut this presumption if it determines that the trading desk is engaging in activity that is not based on RENTD. We strongly support this provision of the Proposed Rule.

As noted by the Agencies with respect to the market-making permitted activity, compliance with RENTD under the 2013 Final Rule is "complex and costly" and banking entities "must engage in a number of complex and intensive analyses to meet the 'demonstrable analysis' requirement." In addition, the Agencies accurately note in the Preamble to the Proposed Rule that the 2013 Final Rule's requirements "do not provide bright line conditions under which trading can clearly be classified as permissible market making." We agree with the Agencies that the 2013 Final Rule's approach to complying with the RENTD requirement has proven problematic for banking entities.

The Agencies should not adopt the proposed requirements under the market-making and underwriting permitted activities that would necessitate trading desks to promptly report breaches of internal risk limits and permanent and temporary increases to internal risk limits. This would present additional and unnecessary compliance burdens while not materially enhancing the oversight capabilities of the Agencies.

Limit breaches are not out of the ordinary or indicative of impermissible proprietary trading and such breaches may even occur from to time within trading desks with effective and well-functioning controls. Furthermore, affirmative notifications of these breaches may overwhelm the Agencies with information, and the new limit-increase and breach-reporting requirements would not make available to the Agencies any information that is not already available to them through existing processes.

Recommendation: Credit Suisse recommends that the Agencies implement the provision in their proposal that presumes a banking entity is in compliance with the statutory requirement that permitted market-making and underwriting activities are designed not to exceed the RENTD if it conducts such activities in conformance with internal risk limits. However, the Agencies should not adopt the proposed requirements that would necessitate banking entities to promptly report breaches of internal risk limits and permanent and temporary increases to internal risk limits.

6. Error Trades Exclusion

- **We support the proposed exclusion for bona fide error trades; however, we think the requirement that the error account be managed by personnel independent from the traders responsible for the error is too onerous.**

Credit Suisse supports the Proposed Rule's concept of an exclusion from the definition of proprietary trading for error trades and associated correcting transactions. However, we think the requirement that the error trades be "separately managed" by personnel independent from the traders who made the error is too onerous and challenging to implement because those same traders are typically closely involved in the associated correcting transactions. We do not think the additional requirement is necessary because banking entities maintain robust supervisory compliance programs that monitor traders' activities and have established Volcker compliance programs to monitor compliance with Volcker, which together would prevent personnel from using these accounts to evade the prohibition on proprietary trading.

Recommendation: Credit Suisse recommends that the Agencies provide an explicit exclusion from the definition of proprietary trading for bona fide error trade and associated correcting transactions but eliminate the proposed requirement for error accounts to be managed by personal independent from traders responsible for the errors.

7. Loan-Related Swaps

- **We support the new exemption for loan-related swaps.**

Credit Suisse believes it is appropriate to treat loan-related swaps as permissible under the market-making exemption especially in situations where the bank regularly stands ready to buy and sell loan-related swaps and holds itself out to accommodate end-user customer requests to enter into loan related swaps. The bank is in a specialized position to serve as a market maker, because it is an active participant in both the loan and derivative markets. In this position it can efficiently and effectively enter into a correlated swap with another market participant to hedge or offset the customer loan-related swap. The bank regularly stands ready and holds itself out to accommodate end-user customer demand and mitigate risk in the loan and derivative markets. Although the swaps may be infrequent, they nevertheless are important in given market circumstances to assist end-user customers to reduce certain risks they face in customary corporate loan transactions.

A banking entity standing ready to transact in either direction on behalf of customers in such swaps should be eligible for the market-making exemption, even if it more frequently encounters demand on one side of the market and less frequently encounters demand on the other side for such products. The market is well served by a bank who regularly stands ready to buy and sell loan-referenced or loan-related swaps and holds itself out to serve as a market maker to accommodate end-user customer and loan market participants' requests for loan-related swaps. It is strategically placed in the market to source the other side of an end-use customer loan-related swap. Such a bank, that frequently may see demand on one side of the market, is strategically positioned in the market to locate and source the offsetting trade to create an efficient and effective market in loan-related swaps. This helps to produce an orderly market in the corporate loan and derivative markets.

This scenario for the treatment of loan-related swaps is workable, because it is probably the most efficient model to effect orderly market making for corporate loan-related swaps in the loan and derivative markets. There is an argument for excluding loan-related swaps from the definition of proprietary trading, because these derivatives are based on corporate loans, which are themselves already exempt or non-covered products. Also, loan-related swaps are risk-reducing derivatives meant to assist end-user customers and loan market participants to manage the risks of investing in corporate loans. A bank that holds itself out as a market maker acts in a manner that further mitigates the risk for institutional end-users in this market. This adds weight to the argument that loan-related swaps should be exempt.

Loan-related swaps should be defined as swaps that are entered into by end-user customers and loan market participant banks to assist them in managing their loan-related risks and introduce risk mitigation into the corporate loan and derivative markets. Parameters should include the following: the swap references a single loan; the end-user customer's swap counterparty is a bank; and the bank counterparty regularly holds itself out to serve as a market maker in the loan-related swaps market.

Recommendation: Credit Suisse recommends that the Agencies should exclude loan-related swaps from the definition of proprietary trading.

8. Tailoring of Volcker Compliance Program

- **The Agencies should adopt their proposal to eliminate Appendix B and permit greater discretion to banking entities with significant trading activities to tailor their compliance programs to the size and complexity of their activities and the structure of their businesses.**

Credit Suisse welcomes that the Proposed Rule would provide greater discretion to banking entities with significant trading activities to tailor their compliance programs to the size and complexity of their activities and the structure of their businesses. The components outlined in Appendix B provide useful guidance on how a compliance program can be structured, but these components should not be mandatory requirements in all instances.

Recommendation: Credit Suisse supports the Proposed Rule's elimination of Appendix B and recommends that the Agencies afford greater discretion to banking entities with significant trading activities to tailor their compliance programs to the size and complexity of their activities and the structure of their businesses.

9. Metrics

- **We are supportive of the removal of less valuable metrics; however, some of the alternative metrics suggested in the Proposed Rule would create challenges.**

Credit Suisse welcomes the Proposed Rule's limitation of certain metrics to market-making and underwriting desks, the elimination of inventory-aging data for derivatives, and the replacement of the customer-facing trade ratio with a new "transaction volume" metric. As highlighted in previous public comments, we do not believe that aging is a useful measure of derivatives activities due to the inherent tenors of these contracts, and customer-facing measures are most relevant to market-making and underwriting activities and much less useful in assessing risk-mitigating hedging and government-obligation trading activities.

We recommend that The Agencies grant banking entities an adequate transition period from the effective date of any Revised Final Rule to conform their activities to the Revised Final Rule, as the proposed changes will result in material modifications to banking entities' existing monitoring and reporting systems and infrastructure.

With regards to Part C(5) "Positions" within the Draft Technical Specifications, we recommend that the Agencies remove items 98 and 99 (i.e., market value measurements for derivatives) from the proposed schedule. Credit Suisse's trading businesses find the notional value measure alone to be most useful and sufficient in assessing the size of our derivative inventory for Volcker-monitoring purposes.

In relation to Part C(6) "Transaction Volumes" within the Draft Technical Specifications, we recommend that the Agencies remove items 112 through 119 (i.e., intra-company and inter-affiliate trades) from the proposed schedule. Our view is that, similar to the approach taken in other regulations issued pursuant to the Dodd Frank Act, transactions between affiliated trading desks or between a trading desk and an affiliated non-trading business should be considered excluded from the definition of "proprietary trading" and therefore outside the scope of the Volcker Rule's prohibitions and reporting requirements. This would also be consistent with how internal transactions are currently excluded when reporting the Customer Facing Trade Ratio panel.

Credit Suisse does not support the proposed change in the report submission format to XML. We have continued to invest in our Volcker metrics reporting framework since 2014 to continuously improve and make our processes more efficient, and believe the benefits will not outweigh the costs associated with making this change. Therefore, we recommend the agencies retain the existing .DAT format used for submissions, and accommodate the new metrics into the same format.

Additionally, we appreciate the recognition by the Agencies of the difficultly in meeting the requirement that metrics data be reported within 10 days of the end of each calendar month. However, we recommend the Agencies amend the submission schedule to permit banking entities to report metrics data within 30 days of the end of each calendar month so reviews with trading desks may be completed adequately prior to the submission. If this is not feasible, the Agencies could consider requiring firms to submit such metrics data within 20 days (as proposed), but explicitly permitting re-submissions to account for data errors and adjustments.

We recommend that upon submission, a single acknowledgement of the technical acceptance or rejection (e.g., in case of file format inconsistencies) of the metrics be issued to the submitting banking

entity on behalf of all receiving Agencies. This will help in determining whether or not a resubmission is required.

Finally, Credit Suisse believes the Proposed Rule's revision of Appendix A to require the monthly submission of "trading desk information," "quantitative measurements" and a narrative statement would be a costly and burdensome obligation for banking entities. While Credit Suisse currently includes a narrative statement with our monthly metric submission, the Proposed Rule vastly expands the scope of the information requested and may provide little value to the Agencies in their efforts to assess the metrics data for its effectiveness in monitoring compliance with the Volcker Rule.

Recommendations: With respect to metrics reporting, Credit Suisse recommends the Agencies:

(1) Grant a generous conformance period to meet the requirements of the Proposed Rule, along with additional time to adhere to the new technical specifications in metrics reporting.
(2) Replace the Customer-Facing Trade Ratio with the proposed Part C(6) "Transaction Volumes" schedule, but remove the requirement to report intra-company and inter-affiliate trades, and clarify how block transactions should be counted.
(3) Replace the Derivative Aging metric with the proposed Part C(5) "Positions" schedule, but remove the requirement to report the Market Values of Derivative positions (while keeping the Notional Values).
(4) Do not adopt the requirement that metrics data be submitted in XML format.
(5) Extend the deadline for metrics data submission to 30 days following the end of each calendar month.
(6) Provide a single acknowledgement of submission file acceptance or rejection across all receiving Agencies.

Finally, Credit Suisse recommends the Agencies not adopt the additional proposed monthly reporting obligations related to "trading desk information" and "quantitative measurements."

10. Designate a Lead Volcker Rule Regulator

- **The Agencies should delegate the responsibility for interpretation and guidance to a single agency. In addition, the banking entity's primary regulator should be charged with conducting the Volcker examination of the banking entity.**

The Statute's delegation of rulemaking and enforcement jointly to five separate U.S. financial regulators has resulted in a lack of transparency, inefficiencies and uncertainties in the marketplace. Although the Statute requires the Agencies to consult and coordinate to ensure consistent implementation, the Statute does not articulate how the Agencies should coordinate interpretation, examination and enforcement of the Volcker Rule. This has left the marketplace and regulated entities in a state of uncertainty due to the significant level of interpretative guidance required.

The existing inefficient and ambiguous approach has left market participants in a position of uncertainty with respect to numerous interpretative issues. While the Agencies previously have issued 21 FAQs ("Frequently Asked Questions"), they have failed to act on numerous guidance requests from market participants. This lack of guidance leads to significant uncertainty when market participants are unsure how to comply with a certain provision of the regulation.

One example of this uncertainty and inefficiency occurred in March 2017. As market participants commenced filing their annual CEO attestations, rumors circulated in the marketplace that one or all the Agencies would no longer accept any knowledge qualifications in the language of the attestation. Despite requests from industry organizations, the Agencies did not issue an FAQ clarifying the matter. Numerous market participants, uncertain as to the validity of the rumor, filed their CEO attestations only to have them subsequently rejected because the language used in the attestation was not acceptable to one of the Agencies.

This is not an insignificant issue. Credit Suisse, like most banking entities, supports its CEO attestation through a comprehensive global sub-certification process whereby control owners and several layers of supervisors certify to the design and operating effectiveness of their Volcker controls. It is important to know how the attestation should be phased to ensure the sub-certifications are consistent and ensure that this process properly supports the CEO's review and attestation. If the Agencies, or a single agency, wanted to eliminate qualifying language in the CEO attestation then that information should have been provided to the marketplace well in advance of the CEO attestation filing date (Credit Suisse's annual Volcker sub-certification process, for example, commences in September, 6 months before the CEO attestation is signed and filed with the Agencies). In this particular instance, Credit Suisse formally was advised after submitting its CEO Attestation that the language had to be revised. Fortunately, we assessed that such revision remained supported by the extensive and vast sub-certification of controls that had been carried out over the previous 6 months.

We note that the U.S. House of Representatives recently passed a bill by a large bipartisan majority that would designate a single Volcker regulator.[5] Regardless of whether such a statutory change occurs or not, we recommend that the Agencies agree to designate a lead regulator responsible for interpretation and guidance issues. We also recommend that a banking entity's primary regulator be responsible for conducting the Volcker examination of the banking entity.

[5] H.R. 4790, "The Volcker Rule Regulatory Harmonization Act," passed the U.S. House of Representatives on April 13, 2018 by a margin of 300-104. The bill would grant the Federal Reserve Board sole rulemaking authority and provide that examination and enforcement be conducted solely by the institution's primary federal regulator.

Recommendations: We recommend that the Agencies enter into a formal written interagency statement on Volcker Rule interpretation that: (i) delegates to a single agency the responsibility for interpretation and guidance and (ii) provides that the institution's primary regulator will be charged with conducting the Volcker examination of the banking entity.

11. Other Issues

- **The Agencies should clearly state that the "riskless principal" prong of the trading on behalf of customers exemption should apply to all financial instruments, including over the counter ("OTC") derivatives.**

As we wrote in our comment letter to the OCC in 2017,[6] the Implementing Regulations should clearly state that the riskless principal prong of the trading on behalf of customers exemption should apply to all financial instruments, including OTC derivatives in which the bank retains counterparty risk. Riskless principal transactions in OTC derivatives are similar to those in cash securities in that the banking entity: (i) is generally compensated through fees and commissions; and (ii) contemporaneously enters into offsetting trades to accommodate a client.

In riskless principal trades for cash securities transactions; the security is purchased by a market maker with an existing contract to immediately sell to its client. The analogue of entering into a client OTC derivative trade on a "riskless" basis would be for the market maker to enter into a back-to-back OTC derivative transaction, whereby the market maker is net market-risk neutral as a result of the two offsetting transactions. These types of offsetting risk exposures should be viewed as equivalent to riskless principal trades. In our view, as long as the banking entity is not generating profit and loss from market movements and the offsetting OTC derivatives are designed to offset the position risk, these transactions should satisfy the riskless principal prong of trading on behalf of customers.

Recommendation: Credit Suisse recommends that the riskless principal prong of the "Trading on Behalf of Customer" exemption in the Implementing Regulations should be clarified to confirm that it includes activity involving all financial instruments.

[6] Credit Suisse Letter in Response to Docket ID. OCC-2017-0014 "Request for Public Input on Proprietary Trading and Certain Interests in and Relationships with Covered Funds (Volcker Rule); Letter on Proprietary Trading Issues," September 21, 2017. Available at: https://www.regulations.gov/document?D=OCC-2017-0014-0062.