



Commodity Futures Trading Commission

Office of Public Affairs

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CFTC Division of Swap Dealer and Intermediary Oversight Responds to Frequently Asked Questions Regarding Certain Requirements under Section 13 of the Bank Holding Company Act of 1956 and Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds

Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act added a new section 13 to the Bank Holding Company Act of 1956 ("BHC Act"), commonly referred to as the Volcker rule, that generally prohibits insured depository institutions and any company affiliated with an insured depository institution from engaging in proprietary trading and from acquiring or retaining ownership interests in, sponsoring, or having certain relationships with a hedge fund or private equity fund. These prohibitions are subject to a number of statutory exemptions, restrictions, and definitions.

The Commodity Futures Trading Commission ("CFTC") is working closely with the other agencies charged with implementing the requirements of section 13, including the Federal Reserve Board, Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, and the Securities and Exchange Commission (each an "Agency" and collectively with the CFTC "the Agencies"). While these frequently asked questions ("FAQs") apply to banking entities for which the CFTC has jurisdiction under section 13 of the BHC Act, they have been developed by staffs of the Agencies and substantively identical versions will appear on the public websites of each Agency.

Treasury STRIPS

1. Are interest-only and principal-only STRIPS of notes and bonds issued by the U.S. Treasury considered "obligations of, or issued or guaranteed by, the United States" under 17 C.F.R. § 75.6(a)(1) of the final rule implementing section 13 of the BHC Act? Is the same true for securities reconstituted from STRIPS of U.S. Treasury notes or bonds?

Yes. Under the Department of the Treasury's Separate Trading of Registered Interest and Principal of Securities program, eligible Treasury securities are authorized to be separated into principal and interest components and transferred separately.¹ These separate principal and interest components are also referred to as "STRIPS." Like the fully constituted security, payments of principal and interest under these STRIPS are backed by the full faith and credit of the United States.² Thus, the interest-only and principal-only components are obligations of, or issued or guaranteed by, the United States that would qualify for the exemption provided under § 75.6(a)(1) of the final rule implementing section 13 of the BHC Act.

¹ 31 C.F.R. § 356.4.

² See 51 Fed. Reg. 29085, 29088-89 (Aug. 14, 1986) (OCC interpretive ruling citing Memorandum from Walter T. Eccard, Assistant General Counsel for Banking and Finance, Department of the Treasury, to Jordan Luke, Deputy Chief Counsel (Policy), OCC (May 29, 1986)); *accord* Call Report Glossary, at A-14b (Dec 2014) ("Even after the interest or principal portions of U.S. Treasury STRIPS have been separately traded, they remain obligations of the U.S. Government.").

In addition, Treasury regulations allow financial institutions and government securities brokers or dealers to reassemble corresponding STRIPS into their fully constituted form.³ This reconstituted security is also an obligation of, or issued or guaranteed by, the United States under § 75.6(a)(1) of the final rule.

30-Day Metrics Reporting During the Conformance Period

2. On what date do banking entities that currently are subject to metrics reporting under Appendix A of the final rule implementing section 13 of the BHC Act need to start reporting metrics within 10 days of the end of each calendar month?

The final rule implementing section 13 of the BHC Act required certain of the largest banking entities to report metrics for July 2014 data beginning in September 2014.⁴ In particular, § 75.20(d)(3) of the rule provides that, unless the appropriate Agency notifies the banking entity in writing that it must report on a different basis, banking entities with \$50 billion or more in trading assets and liabilities must report the information required by Appendix A for each calendar month within 30 days of the end of the relevant calendar month and beginning with information for the month of January 2015, within 10 days of the end of each calendar month.

The Agencies have received five months of metrics submissions to-date. Several banking entities that currently are subject to metrics reporting have requested that the Agencies maintain the 30-day period for reporting the required metrics through July 2015 (the end of the conformance period for proprietary trading activities). Banking entities have argued that additional time is needed to allow them to implement systems and processes in order to ensure overall data integrity and reliability.

The purpose of the shortened reporting schedule is to allow for more effective supervision of banking entities for compliance with section 13 and the final rule.⁵ Staffs of the Agencies believe that, during the period firms are building their compliance programs, delaying the shortened reporting period is consistent with that purpose. Accordingly, banking entities required to report metrics may report such information within 30 days of the end of the relevant calendar month through the report of metrics for the month of July 2015. This means that metrics for the month of July 2015 must be reported within 30 days of the end of the month, or August 31, 2015. Beginning with metrics for the month of August 2015, banking entities must submit metrics within 10 days of the end of the month. As a result, metrics for the month of August 2015 must be reported by September 10, 2015.

³ 31 C.F.R. § 356.31(d); *see also* <http://www.treasurydirect.gov/instit/marketablestrips/strips.htm>.

⁴ *See* 75 C.F.R. § 75.20(d)(2). Staffs of the Agencies previously issued an FAQ stating that a banking entity with trading assets and liabilities of at least \$50 billion, as calculated under § 75.20(d)(1), must begin to measure and record the required metrics on a daily basis starting July 1, 2014 and report its daily metrics recorded during the month of July by September 2, 2014. *See* <http://www.federalreserve.gov/bankinforeg/volcker-rule/faq.htm#1>.

⁵ *See* 79 Fed. Reg. 5808, 6037 n.2695.