

APRIL 4, 2018

**RULES COMMITTEE PRINT 115–67**  
**TEXT OF H.R. 4790, VOLCKER RULE**  
**REGULATORY HARMONIZATION ACT**

[Showing the text of H.R. 4790, as ordered reported by the  
Committee on Financial Services.]

1 **SECTION 1. SHORT TITLE.**

2       This Act may be cited as the “Volcker Rule Regu-  
3 latory Harmonization Act”.

4 **SEC. 2. RULEMAKING AUTHORITY UNDER THE VOLCKER**  
5 **RULE.**

6       (a) **IN GENERAL.**—Paragraph (2) of section 13(b) of  
7 the Bank Holding Company Act of 1956 (12 U.S.C.  
8 1851(b)(2)) is amended to read as follows:

9               “(2) **RULEMAKING.**—

10                       “(A) **IN GENERAL.**—The Board may, as  
11 appropriate, consult with the Comptroller of the  
12 Currency, the Federal Deposit Insurance Cor-  
13 poration, the Securities and Exchange Commis-  
14 sion, or the Commodity Futures Trading Com-  
15 mission to adopt rules or guidance to carry out  
16 this section, as provided in subparagraph (B).

1           “(B) RULEMAKING REQUIREMENTS.—In  
2           adopting a rule or guidance under subpara-  
3           graph (A), the Board—

4                   “(i) shall consider the findings of the  
5                   report required in paragraph (1) and, as  
6                   appropriate, subsequent reports;

7                   “(ii) shall assure, to the extent pos-  
8                   sible, that such rule or guidance provide  
9                   for consistent application and implementa-  
10                  tion of the applicable provisions of this sec-  
11                  tion to avoid providing advantages or im-  
12                  posing disadvantages to the companies af-  
13                  fected by this subsection and to protect the  
14                  safety and soundness of banking entities  
15                  and nonbank financial companies super-  
16                  vised by the Board; and

17                  “(iii) shall include requirements to en-  
18                  sure compliance with this section, such as  
19                  requirements regarding internal controls  
20                  and recordkeeping.

21           “(C) AUTHORITY.—The Board shall have  
22           sole authority to issue and amend rules under  
23           this section after the date of the enactment of  
24           this paragraph.

25           “(D) CONFORMING AUTHORITY.—

1                   “(i) CONTINUITY OF REGULATIONS.—  
2                   Any rules or guidance issued under this  
3                   section prior to the date of enactment of  
4                   this paragraph shall continue in effect  
5                   until the Board issues a successor rule or  
6                   guidance, or amends such rule or guidance,  
7                   pursuant to subparagraph (C).

8                   “(ii) APPLICABLE GUIDANCE.—In per-  
9                   forming examinations or other supervisory  
10                  duties, the appropriate Federal banking  
11                  agencies, the Securities and Exchange  
12                  Commission, and the Commodity Futures  
13                  Trading Commission, as appropriate, shall  
14                  update any applicable policies and proce-  
15                  dures to ensure that such policies and pro-  
16                  cedures are consistent (to the extent prac-  
17                  ticable) with any rules or guidance issued  
18                  pursuant to subparagraph (C).”.

19                  (b) CONFORMING AMENDMENTS.—Section 13 of the  
20                  Bank Holding Company Act of 1956 (12 U.S.C. 1851)  
21                  is amended—

22                         (1) by striking “the appropriate Federal bank-  
23                         ing agencies, the Securities and Exchange Commis-  
24                         sion, and the Commodity Futures Trading Commis-

1 sion,” each place it appears and inserting “the  
2 Board”;

3 (2) by striking “appropriate Federal banking  
4 agencies, the Securities and Exchange Commission,  
5 and the Commodity Futures Trading Commission”  
6 each place it appears and inserting “Board”;

7 (3) in subsection (c)(5), by striking “Notwith-  
8 standing paragraph (2)” and all that follows  
9 through “provided in subsection (b)(2),” and insert-  
10 ing “The Board shall have the authority”; and

11 (4) in subsection (d)(1)—

12 (A) in subparagraph (F)(ii)—

13 (i) by striking “the appropriate Fed-  
14 eral banking agencies” and inserting “the  
15 Board”; and

16 (ii) by striking “have not jointly” and  
17 inserting “has not”; and

18 (B) in subparagraph (G)(viii), by striking  
19 “appropriate Federal banking agencies, the Se-  
20 curities and Exchange Commission, or the Com-  
21 modity Futures Trading Commission,” and in-  
22 serting “Board.”

1 **SEC. 3. ENFORCEMENT; ANTI-EVASION.**

2 (a) IN GENERAL.—Subsection (e) of section 13 of the  
3 Bank Holding Company Act of 1956 (12 U.S.C. 1851(e))  
4 is amended to read as follows:

5 “(e) ENFORCEMENT; ANTI-EVASION.—

6 “(1) APPROPRIATE FEDERAL BANKING AGEN-  
7 CY.—Notwithstanding any other provision of law ex-  
8 cept for any rules or guidance issued under sub-  
9 section (b)(2), whenever the appropriate Federal  
10 banking agency has reasonable cause to believe that  
11 a banking entity or nonbank financial company su-  
12 pervised by the Board has made an investment or  
13 engaged in an activity in a manner that either vio-  
14 lates the restrictions under this section, or that  
15 functions as an evasion of the requirements of this  
16 section (including through an abuse of any permitted  
17 activity), such appropriate Federal banking agency  
18 shall order, after due notice and opportunity for  
19 hearing, the banking entity or nonbank financial  
20 company supervised by the Board to terminate the  
21 activity and, as relevant, dispose of the investment.

22 “(2) SECURITIES AND EXCHANGE COMMISSION  
23 AND COMMODITY FUTURES TRADING COMMISSION.—

24 “(A) IN GENERAL.—Notwithstanding any  
25 other provision of law except for any rules or  
26 guidance issued under subsection (b)(2), when-

1           ever the Securities and Exchange Commission  
2           or the Commodity Futures Trading Commis-  
3           sion, as appropriate, has reasonable cause to  
4           believe that a covered nonbank financial com-  
5           pany for which the respective agency is the pri-  
6           mary Federal regulator has made an investment  
7           or engaged in an activity in a manner that ei-  
8           ther violates the restrictions under this section,  
9           or that functions as an evasion of the require-  
10          ments of this section (including through an  
11          abuse of any permitted activity), the Securities  
12          and Exchange Commission or the Commodity  
13          Futures Trading Commission, as appropriate,  
14          shall order, after due notice and opportunity for  
15          hearing, the covered nonbank financial company  
16          to terminate the activity and, as relevant, dis-  
17          pose of the investment.

18                   “(B) COVERED NONBANK FINANCIAL COM-  
19                   PANY DEFINED.—In this paragraph, the term  
20                   ‘covered nonbank financial company’ means a  
21                   nonbank financial company (as defined in sec-  
22                   tion 102 of the Financial Stability Act of 2010)  
23                   supervised by the Securities and Exchange  
24                   Commission or the Commodity Futures Trading  
25                   Commission, as appropriate.”.

1 (b) **RULE OF CONSTRUCTION.**—Nothing in this sec-  
2 tion shall be construed to abrogate, reduce, or eliminate  
3 the backup authority of the Federal Deposit Insurance  
4 Corporation authority under the Dodd-Frank Wall Street  
5 Reform and Consumer Protection Act (12 U.S.C. 5301  
6 et seq.), the Federal Deposit Insurance Act (12 U.S.C.  
7 1811), or Federal Deposit Insurance Corporation Im-  
8 provement Act of 1991.

9 **SEC. 4. EXCLUSION OF COMMUNITY BANKS FROM VOLCKER**  
10 **RULE.**

11 Section 13(h)(1) of the Bank Holding Company Act  
12 of 1956 (12 U.S.C. 1851(h)(1)) is amended—

13 (1) in subparagraph (D), by redesignating  
14 clauses (i) and (ii) as subclauses (I) and (II), respec-  
15 tively, and adjusting the margins accordingly;

16 (2) by redesignating subparagraphs (A), (B),  
17 (C), and (D) as clauses (i), (ii), (iii), and (iv), re-  
18 spectively, and adjusting the margins accordingly;

19 (3) in the matter preceding clause (i), as so re-  
20 designated, in the second sentence, by striking “in-  
21 stitution that functions solely in a trust or fiduciary  
22 capacity, if—” and inserting the following: “institu-  
23 tion—

24 “(A) that functions solely in a trust or fi-  
25 duciary capacity, if—”;

1           (4) in clause (iv)(II), as so redesignated, by  
2           striking the period at the end and inserting “; or”;  
3           and

4           (5) by adding at the end the following:

5                   “(B) that does not have and is not con-  
6                   trolled by a company that has—

7                           “(i) more than \$10,000,000,000 in  
8                           total consolidated assets; and

9                           “(ii) total trading assets and trading  
10                          liabilities, as reported on the most recent  
11                          applicable regulatory filing filed by the in-  
12                          stitution, that are more than 5 percent of  
13                          total consolidated assets.”.

