M&T Bank

One M&T Plaza, Buffalo, NY 14203
Treasury Division

February 10, 2012

Ms. Jennifer J. Johnson, Secretary
Board of Governors of the
Federal Reserve System
20th Street and Constitutional Avenue NW
Washington, DC 20551

Office of the Comptroller of the Currency
250 E Street SW, Mail Stop 2-3
Washington, DC 20219

Mr. Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th Street NW
Washington, DC 20429
Attention: Comments

Ms. Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street NE
Washington, DC 20549-1090

Mr. David A. Stawick
Secretary of the Commission
Commodity Futures Trading Commission
Three Lafayette Centre
1155 21st Street, NW
Washington, DC 20581

By Electronic Mail or Regular Mail
Re: Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds Docket No. R-1432 and RIN 7100-AD82 (Federal Reserve); Docket No. OCC-2011-0014 (OCC); RIN 3064-AD85 (FDIC); File No. S7-41-11 (SEC); RIN: 3038–AC[•] (CFTC)

Ladies and Gentlemen:

M&T Bank Corporation[1] ("M&T") appreciates the opportunity to comment on the proposed regulations issued by the Board of Governors of the Federal Reserve System ("FRB"), the Office of the Comptroller of the Currency ("OCC"), the Federal Deposit Insurance Corporation ("FDIC"), the Securities and Exchange Commission ("SEC") and the Commodities Futures Trading Commission ("CFTC") (collectively, the "Agencies") to implement the so-called "Volcker Rule" in Section 619 of the Dodd-Frank Wall Street Reform and Consumer

[1] M&T (NYSE Symbol MTB) is a financial holding company headquartered in Buffalo, New York, with assets of approximately $78 billion as of December 31, 2011. M&T is predominantly composed of two insured depository institutions, is not globally interconnected, and has limited nonbanking operation. Thus, M&T poses little, if any, systemic risk.

Protection Act of 2010 ("Dodd-Frank").[2] M&T is committed to providing traditional banking services—deposits, loans, and trust and asset management services—to households and to businesses of all sizes (primarily small and middle-market nonfinancial firms). Our primary mission is to serve our clients and our local communities and we are not one of the complex or globally interconnected financial firms that much of Dodd-Frank was intended to address.

We believe that one of the primary congressional purposes in enacting the Volcker Rule was to eliminate risky proprietary trading activities for institutions that benefitted from federally insured deposits. At the same time, we do not believe that Congress intended for the Volcker Rule to impose significant compliance burdens on regional banking organizations like M&T that are not engaged in such risky proprietary trading activities. Because the Proposed Rule would impose such significant compliance programs, we felt it was important to highlight the concerns of a regional bank that operates a very basic capital markets operation where all transactions are customer driven and market risk is hedged generally at its inception.

M&T, like most regional banks, provides certain traditional ancillary services to their commercial loan clients, such as interest rate swaps and foreign exchange transactions to hedge our borrowers' exposures. In order to manage the market risk created by these borrower originated hedges, M&T engages in common, plain vanilla hedging transactions. Unlike the risky proprietary trading transactions targeted by the Volcker Rule, which increase risk to the institution, the deposit insurance fund and the banking system, our hedging activities serve to manage and reduce these risks.

Our paramount concern is that the Proposed Rule would require M&T and similar organizations to develop and implement, in extremely short order, compliance, internal controls, record-keeping and reporting regimes simply to "prove a negative" -- that we are not engaged in impermissible proprietary trading. Certain aspects of the Proposed Rule, especially those that impose overly burdensome compliance cost structures on regional banks that continue to provide these ancillary services to their commercial loan clients, may inadvertently create incentives to further concentrate hedging activity in a handful of already dominant financial institutions. A worse unintended consequence would be a regulatory framework that adversely alters the relationship between these commercial end-users and their regional bank credit providers, to the detriment of the borrowers and their local and regional economies.

Compliance program requirements should be tailored to each institution's risk profile. We believe that the programmatic compliance requirements in Appendix C and the covered trading reporting and record keeping requirements in Appendix A of the Proposed Rule are not

---

[2] Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds, 76 *Federal Register* 68,846 (Nov. 7, 2011) (FRB, OCC, FDIC and SEC) and http://www.cftc.gov/ucm/groups/public/@newsroom/documents/file/federalregister011112c.pdf (CFTC rule to be published in the Federal Register) (collectively, "Proposed Rule").

appropriate for regional banks like M&T that do not engage in the type of proprietary trading activities that the Volker Rule was intended to prohibit. Accordingly, these "market making" businesses of a regional bank that historically evolved as an ancillary business to the bank's primary commercial lending operation, scaled appropriately to safely and efficiently accommodate a modest volume of transactions for the bank's own commercial customers, face a significant regulatory cost burden.

We do not believe it is appropriate that a regional bank with average gross trading assets and liabilities of more than $1 billion be required to comply with the metrics in Appendix A and the compliance program as required in Appendix C. Unlike the large money center institutions, regional banks like M&T that don't have large trading activities and are not engaging in the proprietary trading activities that the Volker Rule is intended to target do not have a large trading base over which to spread their costs resulting from these compliance requirements. By their nature these costs are largely fixed rather than variable, making the compliance burden much more punitive on regional banks. Noteworthy is the fact that regional banks generally do not operate proprietary systems, nor do they have dedicated software programmers to modify systems, as do the money center banks. Indeed regional banks will likely face further competitive disadvantage in the race to upgrade systems that meet compliance standards.

In determining which banking organizations must comply with the requirements specified in Appendix A and Appendix C, we believe that utilizing a $1 billion gross trading average assets and liabilities threshold captures a universe of banking institutions that goes well beyond any group that poses systematic market risk, and recommend the threshold be increased. Per the chart below, raising the threshold to $5 billion would still capture banking organizations that account for almost 99% of total trading assets and over 98% of total average trading liabilities. Even raising the threshold to $10 billion or $15 billion still captures at least 98% of total average trading assets and over 97% of total trading liabilities.

Banking Organizations with Average Trading Assets and Liabilities of:	**Percentage of Average Trading Assets**	**Percentage of Average Trading Liabilities**
$1 billion or more	99.6	99.6
$5 billion or more	98.7	98.2
$10 billion or more	98.2	97.6
$15 billion or more	98.0	97.1

Source: SNL Financial[3]

[3] Note: The figures above represent the average amount of trade account assets and trading liabilities for 6320 regulated bank holding companies, commercial banks and savings banks for each quarter ending in September and December of 2010 and March, June and September 2011.

We therefore respectfully request that the Agencies consider raising the $1 billion threshold in the Proposed Rule. This would allow traditional commercial banking operations like M&T, which do not engage in risky proprietary trading, to establish an appropriate and cost-effective compliance program scaled to its risks and activities.

M&T would also like to acknowledge the comment letter on the Proposed Rule being submitted by a group of several other regional banks[4] (the "Regional Bank Comment Letter"). M&T endorses many of the points made in the Regional Bank Comment Letter, including the following:

- The concerns raised about the ability of regional banks to continue to invest in and sponsor public welfare funds.

- The suggestions that the Agencies can and should modify the Proposed Rules to allow banking entities to trade in any security that qualifies as a "municipal security" under the Securities Exchange Act of 1934 ("1934 Act"),[5] an expansion also supported by the Municipal Securities Rulemaking Board in its letter, dated January 31, 2012.[6] This would avoid what we believe would be the inadvertent effect of prohibiting banking entities from trading in the wide range of tax-exempt municipal securities that are issued by agencies or instrumentalities of a State or local government, or the issuers of debt through state or local agencies or municipalities to finance healthcare, educational or infrastructure projects.

- The request that the threshold for compliance programs should exclude SBICs and public welfare funds, as well as covered fund relationships that will be terminated during the conformance period.

- The comment that a banking entity that exceeds the thresholds established by the final rules for trading assets and liabilities, on the one hand, or covered fund relationships, on the other hand, should be subject to only those aspects of Appendix C that relate to the entity's proprietary trading activities or covered fund activities, respectively.

- The request that the Agencies provide banking entities with at least one year after the final rules become effective to implement compliance programs.

---

[4] Signatories to the Regional Bank Comment Letter are anticipated to include, among others, The PNC Financial Services Group, Inc., U.S. Bancorp, SunTrust Banks, Inc., and BB&T Corporation.

[5] *See* 15 U.S.C. § 78c(a)(29).

[6] Comment letter to the Agencies from the Municipal Securities Rulemaking Board, dated January 31, 2012.

M&T Bank

One M&T Plaza, Buffalo, NY 14203
Treasury Division

- The comment that the Agencies should take all necessary steps to ensure that banking organizations are able to take advantage of the statute's extended conformance periods for exiting investments in illiquid private equity funds.

In closing, we urge the Agencies in adopting final rules implementing the Volker Rule to establish rules scaled to the size and risks of the affected institutions. Should any of the Agencies or members of your staff find it helpful to visit a regional bank's trading desk and operations facilities as a point of comparison with the operations of a money center bank or Wall Street dealer, please do not hesitate to contact Michael Quinlivan, at mquinlivan@mtb.com or by phone at (716) 842-4615, to make arrangements and to discuss in greater detail any of the points in this letter.

We appreciate the opportunity to comment on this proposal.

Sincerely,

Douglas A. Sheline
Senior Vice President and Assistant Treasurer