

CHAMBER OF COMMERCE
OF THE
UNITED STATES OF AMERICA

R. BRUCE JOSTEN
EXECUTIVE VICE PRESIDENT
GOVERNMENT AFFAIRS

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WASHINGTON, D.C. 20062-2000
202/463-5310

January 13, 2014

The Honorable Shelley Moore Capito
U.S. House of Representatives
Washington, DC 20515

The Honorable Jeb Hensarling
U.S. House of Representatives
Washington, DC 20515

Dear Representatives Capito and Hensarling:

The U.S. Chamber of Commerce, the world's largest business federation representing the interests of more than three million businesses of all sizes, sectors and regions, as well as state and local chambers and industry associations, and dedicated to promoting, protecting, and defending America's free enterprise system, thanks you for sponsoring H.R. 3819 the "Fairness for Community Job Creators Act." This bill would correct an unintended consequence of the Volcker Rule, and the Chamber asks that H.R. 3819 be amended to address another issue that may impair financing necessary for businesses to grow and operate.

While the full effects and impacts of the Volcker Rule will not be known until the end of the conformance period on July 21, 2015, the application of the final rules is already having unintended consequences with Collateralized Loan Obligations (CLOs).

CLOs provide over \$300 billion in financing to thousands of businesses. The Volcker Rule implementing regulations use an excessively broad definition of "ownership interest." This definition determines whether a bank owns an interest in a covered fund, like a hedge fund, that must be divested under Volcker. In the final version of the Rule regulators acted without prior notice and far exceeded the requirements of the statute by defining "ownership interest" to not only include equity in such a fund, but also the "right to participate in the election or removal" of the investment manager. In so doing, regulators swept certain bank bond portfolios into a prohibition directed at hedge fund ownership.

As a result many banks could be forced to sell off debt like CLOs. CLO notes are clearly debt, not equity, and have a long track record of stable and steady performance. The historic default rate of CLOs is under 1.5 percent and the loss given default is much lower than that. These are assets that withstood the stress of the financial crisis and continue to trade at or close to par.

Banks currently own about \$70 billion worth of CLO debt. Efforts to restructure this amount of debt will be overwhelming. This will remove a major source of liquidity from the CLO market, and make it harder for business that need the CLO market for loans to find the financing that they need to operate, grow, and create jobs. And we should be mindful of the fact that CLOs provide financing to businesses that cannot access the debt markets affordably, if at all. For many of these companies term loan financing is their only recourse.

The Fairness for Community Job Creators Act is an important vehicle to address the unintended consequences of the Volcker Rule, and the Chamber respectfully requests that H.R. 3819 be amended to address the CLO issue. This would allow businesses to retain an important form of financing needed to grow and create jobs. The Chamber strongly supports H.R. 3819, and looks forward to working with you on this important issue.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Josten". The signature is fluid and cursive, with a large initial "R" and a long, sweeping tail.

R. Bruce Josten