

## BANKING ALERT

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### Community Banks Get Some Relief from the Requirements of the Volcker Rule

In a move that should offer some relief to community banks, five federal financial regulatory agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission and the Commodity Futures Trading Commission), have approved an interim final rule that exempts trust-preferred securities (TruPS) that back collateralized debt obligations (CDOs) held by qualifying community banks from the application of some portions of the Volcker Rule.

The final Volcker Rule, approved by regulators in December 2013, generally prohibited banking entities from engaging in the short-term proprietary trading of securities and derivatives for their own account and barred them from having certain relationships with hedge funds or private equity funds. Included within the range of funds covered by the regulations were TruPS CDOs.

Application of the Volcker Rule to TruPS CDOs would have forced many banks, including smaller community banks, to treat the TruPS CDO holdings as impaired and write down the value or sell the holdings entirely. The American Bankers Association ultimately filed a lawsuit to block the provision from going into effect. In addition, some lawmakers also called on the regulators to revise the rule to minimize the effect on community banks.

On January 14, 2014, in a quick response to the concerns of the banking community, the regulators announced the first revision to the Volcker Rule in the form of an interim final rule. The revision will allow some smaller banks to retain their interests in TruPS CDOs, though there are conditions to the exemption. The interim final rule exemption only applies when all of the following requirements are met:

- The TruPS CDOs have been issued by banks with less than \$15 billion in assets;
- The TruPS CDOs have been established before May 19, 2010; and
- The bank must have acquired the TruPS CDOs prior to December 10, 2013.

It is expected that implementation of the interim final rule (effective April 1, 2014, following a 30-day period for public comment) will allow community banks to avoid taking millions of dollars in unexpected write downs.

Adherence to the many requirements of the Volcker Rule will remain a complex matter for many community banks. For further information on the interpretation or implementation of both the Volcker Rule and the interim final rule, please contact **Mark D. Belongia** at 312.582.1605 or [mbelongia@ralaw.com](mailto:mbelongia@ralaw.com).