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Progress of Volcker Rule Implementation

Require	Status
Metrics Reporting	Many suggest using Expected Shortfall to replace the Value-at-Risk (VaR) measurements. VaR is flaw because of its impending problem of not able to tell when, not situational, and VaR is often too normalized that over-fit the model. In the meanwhile, banks should compute and report VaR and Stress VaR consistently with Fed Reg. Capital requirements (12 CFR Part 208 and 225). Yet, banks face computation challenges, including the determination of stressed period/ dynamic re-calibration, and additional complications for foreign banks (e.g. "EU institution may have an exception, where a different stressed period at a subsidiary's level may be determined if the stressed period defined for the group is not considered relevant to the subsidiary's portfolio…"). In short, the above proves that Volcker compliance cannot be effectively deal with using metrics.
Covered Funds ($66 billion of impermissible assets per OCC)	Banks are supposed to identify and divest all covered funds held after 12/31/2013 by 7/21/2015. In fact, the industry in large are waiting for Bloomberg to launch a tool called CFID to help identify if they may have any impermissible assets. A briefing note by SIA partner already pointed out "the tool itself has not yet proven to provide significant added value, especially for certain American banking entities and Foreign Banking Organizations with significant covered funds activities outside of the United States." FAQ#17 also states that, "the Agencies staffs do not believe it would be reasonable for a trading desk to rely on … would not convey sufficient information … to determine whether a security is issued by a covered fund". Regulatory relief/ extension (2017 deadline) is only for covered fund prior to 12/31/2013, and the 2022 transition period (for a stable run-off) exemption has to be obtained on a fund-by-fund list basis. Therefore, the extension and exemption aren't applicable to fund after 12/31/2013. Without an effective tool to identify covered funds, it is doubtful that banks can assure they have no new acquiring or reacquiring of covered funds since 7/21/2015 per the Rule requirements.
Proprietary trading ban compliance program	Most banks have RENTD determined every 3 to 6 months, rather than considering the right amount of trade at the right time daily. It's a problem for banks to regurgitate Risk Appetite Statement as RENTD. "CEO blindsided about added risky position" could be a potential violation for exceed of "reasonable" inventory. Per OCC interim exam procedures, banks should have "a system of internal controls reasonably designed to monitor compliance with and to prevent the occurrence of activities or investments prohibited by the regulations". In fact, most system enhancements are related to overhaul of the legacy, BCBS239 data aggregation, and/or pulling data for metrics reports (i.e. major in the minors). Trading desk control may have added an army of staffs to invade the operations, but we don't see any "real-time" preventive risk control automations. Risk, compliance, and legal counsels are hesitated whenever they hear the term "real-time". They claimed not enough resources to monitor queue of warning signals for possible misconducts. At a result, risk practices remain passive and manual for after-the-fact investigations, rather than proactive to prevent violations.
Independent Testing & CEO Attestation	The 3rd line of defense's assessment is largely based on a review of bank's governance policies and procedures. Like an art collector appreciating an art piece, the document may be well articulated but not necessarily enforceable. Compliance program lacks sufficient emphasis on how various exemptions may be "qualified". Sample testing can't effectively identify if proprietary trades may have slipped through a compliance program. Banks may only want to stuff their trades into "market making exemption" in good times, but not willing to bear market makers' responsibilities to regularly provide liquidity in bad times. "Selective timing" to get in-and-out of market are suspicious activities that needs closer attention. Given the "guilty until proven otherwise" clause under the Volcker Rule, banks can't be sure that they have used the correct exemption for each transaction, despite large banks' CEO have already attested their compliance on or before 3/31/2016. False attestation can be criminally prosecuted, and we have suggested how different degrees of violations may be determined.