

September 14, 2017

Mr. Jared Sawyer
Deputy Assistant Secretary, Financial Institutions Policy
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

BY ELECTRONIC MAIL: jared.sawyer@treasury.gov

Re: Meeting with Treasury Department Staff Re Banks and Asset Management

Dear Mr. Sawyer:

On behalf of American Bankers Association (ABA)¹ and its member institutions, my colleagues and I appreciate the opportunity that we had to meet with you and your Treasury Department colleagues to discuss banks and their role in asset management on behalf of customers. We understand that asset management is an important element of financial activity that the Treasury Department is seeking to foster as part of its Core Principles review initiated by President Trump's Executive Order.

In follow up to that meeting, we would like to share with you a summary of key points we raised. Moreover, we stand ready to respond to any questions or provide additional information that would be helpful to you in fulfilling the purpose of the Executive Order

Department of Labor's Fiduciary Rule

As highlighted in a recent ABA survey of our members and stated in numerous comment letters over the years,² the Labor Department's rule on the definition of the term "fiduciary" is overbroad and unworkable for our member banks, to the detriment of bank customers. The rule, due to its vague and complex provisions, imposes tremendous compliance uncertainty and constrains bank customer access to retirement products and services.

Among the many examples of diminished access is the case of bank individual retirement accounts (IRA) that are invested in FDIC-insured deposits products, about which the Labor Department has introduced unnecessary uncertainty. To assist the industry, ABA procured a legal analysis of the statutory exemptions provided to IRA deposit programs. This analysis has significantly resonated with our

¹ The American Bankers Association is the voice of the nation's \$17 trillion banking industry, which is composed of small, regional, and large banks that together employ more than 2 million people, safeguard \$13 trillion in deposits, and extend more than \$9 trillion in loans. A number of these banks offer their retail clients access to investment products through a number of distribution channels including bank trust departments, registered broker-dealers, and registered investment advisers. Many of these banks are also plan service providers, providing trust, custody, and other services for institutional clients, including employee benefit plans covered by the Employee Retirement Income Security Act (ERISA). Our member banks also routinely provide services for retail clients through individual retirement accounts and similar accounts that are covered by the Internal Revenue Code (Code). Learn more at www.aba.com

² See, ABA Letter to DOL Re Fiduciary Rule Request for Information, August 7, 2017, *available at* <https://www.aba.com/Advocacy/commentletters/Documents/DOL-Fiduciary-Rule-RFI-080717.pdf>.

members and with regard to their experiences, showing the need for clarity to allow the customer benefits of these accounts to remain unhindered.

Volcker Rule

Given the significant compliance burden of the Volcker Rule, ABA supports the policy objectives outlined for that rule in the Treasury Department's Core Principles Report of June 2017. Namely, the federal financial agencies have the regulatory authority to define more narrowly the term "covered fund" to capture the appropriate funds and not all other investment funds that may rely on exclusions in the Investment Company Act. Furthermore, the Treasury should facilitate agency coordination in the implementation of the rule, as well as agency revisions to the rule to give its implementation a better focus on the mitigation of systemic risk. We provided to the Treasury Department a white paper on the topic of the Volcker Rule with our views on how it could be improved to remove barriers to economic growth.³

Banks as Participants in Asset Management

We welcomed an opportunity to share with you the many ways in which banks and trust companies participate in asset management. From investment advisers to individuals, institutions, retirement plans, and pooled investment vehicles to acting as custodian of tens of trillions of dollars in assets, banks have a diverse and important role to play. In addition, banks act as corporate trustee on bond indentures for municipal governments and private firms, securities transfer agents, securities lenders, and intermediaries in repurchase agreements, as well as originators, servicers and investors in securitizations.

In many of these activities, banks act as fiduciaries under state or federal law and are examined for compliance with those requirements and for safety and soundness of the institution by state or federal bank regulators. Banks as fiduciaries and as provider of sweep accounts will often facilitate investments in money market mutual funds now subject to new eligibility and net asset value requirements. To the extent that the Securities and Exchange Commission amends the rules governing these funds, our member banks and trust companies must adapt on behalf of their clients and their own investment portfolios. Lastly, we highlighted the importance of bank-maintained common trust funds and collective investment funds, which allow for pooled investing of bank fiduciary accounts and qualified retirement plans, respectively. As fiduciaries to these funds and their investors, banks oversee these as a prudent investor would while managing the attendant compliance, operational, strategic, and reputation risks.

Banks are integral to asset management. We welcome future opportunities to meet and share information with you and your colleagues as the Treasury Department considers issues relevant to the regulation of asset management.

Sincerely,



Cecelia A. Calaby
Senior Vice President

³ ABA Volcker Rule White Paper (2017), available at <https://www.aba.com/Advocacy/Documents/volcker-rule-white-paper.pdf>.