To amend the Volcker rule to give the Board of Governors of the Federal Reserve System sole rulemaking authority, to exclude community banks from the requirements of the Volcker rule, and for other purposes.
A BILL

To amend the Volcker rule to give the Board of Governors of the Federal Reserve System sole rulemaking authority, to exclude community banks from the requirements of the Volcker rule, and for other purposes.
Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Volcker Rule Regulatory
Harmonization Act”.

SEC. 2. RULEMAKING AUTHORITY UNDER THE VOLCKER
RULE.

(a) In General.—Paragraph (2) of section 13(b) of
the Bank Holding Company Act of 1956 (12 U.S.C.
1851(b)(2)) is amended to read as follows:

“(2) Rulemaking.—

“(A) In general.—The Board may, as ap-
propriate, consult with the Comptroller of the
Currency, the Federal Deposit Insurance Cor-
poration, the Securities and Exchange Commis-
sion, or the Commodity Futures Trading Com-
mission to adopt rules or guidance to carry out
this section, as provided in subparagraph (B).

“(B) Rulemaking Requirements.—In
adopting a rule or guidance under subparagraph
(A), the Board—

“(i) shall consider the findings of the
report required in paragraph (1) and, as
appropriate, subsequent reports;
“(ii) shall assure, to the extent possible, that such rule or guidance provide for consistent application and implementation of the applicable provisions of this section to avoid providing advantages or imposing disadvantages to the companies affected by this subsection and to protect the safety and soundness of banking entities and nonbank financial companies supervised by the Board; and

“(iii) shall include requirements to ensure compliance with this section, such as requirements regarding internal controls and recordkeeping.

“(C) AUTHORITY.—The Board shall have sole authority to issue and amend rules under this section after the date of the enactment of this paragraph.

“(D) CONFORMING AUTHORITY.—

“(i) CONTINUITY OF REGULATIONS.—Any rules or guidance issued under this section prior to the date of enactment of this paragraph shall continue in effect until the Board issues a successor rule or guidance,
or amends such rule or guidance, pursuant to subparagraph (C).

“(ii) APPLICABLE GUIDANCE.—In performing examinations or other supervisory duties, the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission, as appropriate, shall update any applicable policies and procedures to ensure that such policies and procedures are consistent (to the extent practicable) with any rules or guidance issued pursuant to subparagraph (C).”.

(b) CONFORMING AMENDMENTS.—Section 13 of the Bank Holding Company Act of 1956 (12 U.S.C. 1851) is amended—

(1) by striking “the appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission,” each place it appears and inserting “the Board”; 

(2) by striking “appropriate Federal banking agencies, the Securities and Exchange Commission, and the Commodity Futures Trading Commission” each place it appears and inserting “Board”;
(3) in subsection (c)(5), by striking “Notwithstanding paragraph (2)” and all that follows through “provided in subsection (b)(2),” and inserting “The Board shall have the authority”; and

(4) in subsection (d)(1)—

(A) in subparagraph (F)(ii)—

(i) by striking “the appropriate Federal banking agencies” and inserting “the Board”; and

(ii) by striking “have not jointly” and inserting “has not”; and

(B) in subparagraph (G)(viii), by striking “appropriate Federal banking agencies, the Securities and Exchange Commission, or the Commodity Futures Trading Commission,” and inserting “Board,”.

SEC. 3. ENFORCEMENT; ANTI-EVASION.

(a) In General.—Subsection (e) of section 13 of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(e)) is amended to read as follows:

“(e) ENFORCEMENT; ANTI-EVASION.—

“(1) APPROPRIATE FEDERAL BANKING AGENCY.—Notwithstanding any other provision of law except for any rules or guidance issued under subsection (b)(2), whenever the appropriate Federal banking
agency has reasonable cause to believe that a banking
entity or nonbank financial company supervised by
the Board has made an investment or engaged in an
activity in a manner that either violates the restric-
tions under this section, or that functions as an eva-
sion of the requirements of this section (including
through an abuse of any permitted activity), such ap-
propriate Federal banking agency shall order, after
due notice and opportunity for hearing, the banking
entity or nonbank financial company supervised by
the Board to terminate the activity and, as relevant,
dispose of the investment.

“(2) SECURITIES AND EXCHANGE COMMISSION
AND COMMODITY FUTURES TRADING COMMISSION.—

“(A) IN GENERAL.—Notwithstanding any
other provision of law except for any rules or
guidance issued under subsection (b)(2), when-
ever the Securities and Exchange Commission or
the Commodity Futures Trading Commission, as
appropriate, has reasonable cause to believe that
a covered nonbank financial company for which
the respective agency is the primary Federal reg-
ulator has made an investment or engaged in an
activity in a manner that either violates the re-
strictions under this section, or that functions as
an evasion of the requirements of this section (including through an abuse of any permitted activity), the Securities and Exchange Commission or the Commodity Futures Trading Commission, as appropriate, shall order, after due notice and opportunity for hearing, the covered nonbank financial company to terminate the activity and, as relevant, dispose of the investment.

“(B) COVERED NONBANK FINANCIAL COMPANY DEFINED.—In this paragraph, the term ‘covered nonbank financial company’ means a nonbank financial company (as defined in section 102 of the Financial Stability Act of 2010) supervised by the Securities and Exchange Commission or the Commodity Futures Trading Commission, as appropriate.”.

(b) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to abrogate, reduce, or eliminate the backup authority of the Federal Deposit Insurance Corporation authority under the Dodd-Frank Wall Street Reform and Consumer Protection Act (12 U.S.C. 5301 et seq.), the Federal Deposit Insurance Act (12 U.S.C. 1811), or Federal Deposit Insurance Corporation Improvement Act of 1991.
SEC. 4. EXCLUSION OF COMMUNITY BANKS FROM VOLCKER RULE.

Section 13(h)(1) of the Bank Holding Company Act of 1956 (12 U.S.C. 1851(h)(1)) is amended—

(1) in subparagraph (D), by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively, and adjusting the margins accordingly;

(2) by redesignating subparagraphs (A), (B), (C), and (D) as clauses (i), (ii), (iii), and (iv), respectively, and adjusting the margins accordingly;

(3) in the matter preceding clause (i), as so redesignated, in the second sentence, by striking “institution that functions solely in a trust or fiduciary capacity, if—” and inserting the following: “institution—

“(A) that functions solely in a trust or fiduciary capacity, if—”;

(4) in clause (iv)(II), as so redesignated, by striking the period at the end and inserting “; or”; and

(5) by adding at the end the following:

“(B) that does not have and is not controlled by a company that has—

“(i) more than $10,000,000,000 in total consolidated assets; and
“(ii) total trading assets and trading liabilities, as reported on the most recent applicable regulatory filing filed by the institution, that are more than 5 percent of total consolidated assets.”.
A BILL

To amend the Volcker rule to give the Board of Governors of the Federal Reserve System sole rulemaking authority, to exclude community banks from the requirements of the Volcker rule, and for other purposes.

APRIL 5, 2018

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed.