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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

December 17, 2014

VIA U.S. MAIL & EMAIL (Jennifer.C.Gallagher@frb.gov)

The Honorable Janet Yellen
Chair
Board of Governors of the Federal Reserve System
Twentieth and Constitution Avenue, N.W.
Washington, D.C. 20551

**RE: Advanced Notice of Proposed Rulemaking
Related to Physical Commodities
Docket No. 1479 and RIN 7100 AE-10**

Dear Madam Chair:

In January 2014, the Board of Governors of the Federal Reserve System (“Federal Reserve”) requested public comment on whether it should issue a proposed rule to impose new restrictions on physical commodity activities conducted by financial holding companies to ensure those activities are conducted in a safe and sound manner and in accordance with law.¹ On April 16, 2014, I submitted comments supporting issuance of the proposed rule.

Last month, the Senate’s Permanent Subcommittee on Investigations, which I chair, concluded a two-year investigation into bank involvement with physical commodities, after developing case studies for the three financial institutions with the most extensive physical commodity activities: Goldman Sachs, Morgan Stanley, and JPMorgan Chase. On November 20, 2014, we released a 400-page report, *Wall Street Bank Involvement with Physical Commodities*, detailing our investigation, findings, and recommendations. In addition, on November 20 and 21, 2014, the Subcommittee held two days of hearings in which we took testimony from the three institutions, experts, and regulators, including the Federal Reserve.

The Subcommittee’s investigation examined multiple aspects of financial holding company involvement with physical commodities, including the nature, extent, and dollar value of those physical commodity activities, where the activities took place within the financial institutions, attendant risks and risk management efforts, existing restrictions, and market and trading impacts. The investigation detailed examples of physical commodity activities undertaken pursuant to the complementary, grandfather, and merchant banking authorities in the Bank Holding Company Act, as modified by the Gramm-Leach-Bliley Act. It also provided indepth information on specific commodity activities, including trading uranium, mining coal, warehousing aluminum, copper and other metals, operating oil and natural gas storage and

¹ See “Complementary Activities, Merchant Banking Activities, and Other Activities of Financial Holding Companies related to Physical Commodities,” Docket No. R-1479, RIN 7100 AE-10, 79 Fed. Reg.3329 (1/21/2014).

pipeline facilities, constructing a compressed natural gas facility, and managing electrical power plants. It also examined the nature and impact of size limits on physical commodity activities. In addition, it raised concerns about financial holding company involvement with market manipulation and with using non-public information from physical commodity activities to trade in the related commodity financial markets.

Because the Subcommittee's investigation is directly relevant to the Federal Reserve's deliberations on the proposed rule, provides data on issues being considered in connection with the proposed rule, and provides ample support for imposing new restrictions to reduce risks and conflicts of interest and protect the separation of banking and commerce in the context of financial holding company involvement with physical commodities, this letter asks that the enclosed copy of the report be made part of the administrative rulemaking record. In addition, the letter requests that the Subcommittee's full hearing record be made a part of the administrative rulemaking record after a bound copy is produced by the Government Printing Office and supplied by the Subcommittee by the end of the year. These materials will provide the Federal Reserve with a detailed factual foundation as well as bipartisan findings and recommendations related to understanding the physical commodity activities being undertaken by financial holding companies, the related risks, and the scope, impact, and deficiencies of existing restrictions.

Thank you for this opportunity to submit this additional information for the rulemaking record.

Sincerely,



Carl Levin
Chairman
Permanent Subcommittee on Investigations

Enclosure