September 7, 2012

Chairman Spencer Bachus
Financial Services Committee
2129 Rayburn HOB
Washington, DC 20515

Re: Request for Public Input on Volcker Rule Alternative

Dear Chairman Bachus:

This letter is submitted in response to your request for public input on the Volcker Rule and legislative alternatives to the rule, which was approved by a House-Senate conference committee on June 24, 2010.[1] We appreciate the opportunity to comment on the Volcker Rule, as Congress intended it to end systemic risk in the banking system and to minimize conflicts of interest between financial institutions and their clients and counterparties.[2] To this end, we urge the Financial Services Committee to work with regulators to implement the rigorous ban on proprietary trading established by the Volcker Rule, as this ban promises to guard against a repeat of the 2008 financial crisis that cost American taxpayers trillions of dollars[3] and resulted in millions of Americans losing their jobs.[4] Alternatively, we encourage the Financial Services Committee to reenact the Glass-Steagall Act of 1933 ("Glass-Steagall") to protect fully U.S. taxpayers from reckless transactions done for a bank's own account, while putting customer deposits and taxpayer money at risk.

This comment letter is divided into three parts. First, it discusses the dire economic costs associated with proprietary trading and how such trading precipitated the 2008 financial crisis. Second, the letter incorporates select arguments from commentators that express our view that a

[1] *Volcker Rule*, N.Y.TIMES (May 10, 2012), *available at* http://topics.nytimes.com/top/reference/timestopics/subjects/v/volcker_rule/index.html?8qa.
[2] Colloquy of Senators Carl Levin and Jeff Merkley, Congressional Record pp. S5894-99 (July 15, 2010), *available at* http://www.gpo.gov/fdsys/pkg/CREC-2010-07-15/html/CREC-2010-07-15-pt1-PgS5870-2.htm [hereinafter "Colloquy"] (explaining that Section 619 is intended to "do three things: prohibit high-risk proprietary trading at banks, limit the systemic risk of such activities at systemically significant nonbank financial companies, and prohibit material conflicts of interest in asset-backed securitizations").
[3] *See The True Cost of the Bank Bailout*, PBS (Sept. 3, 2010), *available at* http://www.pbs.org/wnet/need-to-know/economy/the-true-cost-of-the-bank-bailout/3309/ [hereinafter "PBS"].
[4] Watson Wyatt, *Economic Crisis Brings Job Losses, Delayed Retirement, Benefit Reductions and Stagnant Pay*, Towers Watson (April 2009), *available at* http://www.watsonwyatt.com/us/pubs/insider/showarticle.asp?ArticleID=21003 (observing that the financial crisis sent "unemployment rates spiraling" and that by February 2009 the unemployment rate was 8.1 percent, its highest rate since 1992).

strong Volcker Rule will enhance the U.S. banking system and, subsequently, that members of Congress should embrace the existing rule rather than weaken the protections that the Volcker Rule establishes for U.S. taxpayers, consumers, and financial institutions alike. Third, and finally, in the event that the Financial Services Committee elects to pursue legislative alternatives to the Volcker Rule, the letter argues that the Committee should reenact the clear division between commercial and investment banking institutions established by Glass-Steagall.

I. Proprietary Trading By Too Big To Fail Bank Entities Has Cost American Investors and Taxpayers Trillions of Dollars and Facilitated the 2008 Crisis.

Proprietary trading by Wall Street banks precipitated the 2008 financial crisis that resulted in a near 13-trillion-dollar bailout by American taxpayers[5] of Too Big To Fail financial institutions.[6] As early as 2007, Morgan Stanley lost $9 billion dollars due to bullish bets on complex derivatives related to mortgages[7] and in 2008 American International Group famously lost billions of dollars betting on complex derivatives.[8] Similarly, toward the end of 2008, Merrill Lynch lost nearly $16 billion and Deutsche Bank lost nearly $2 billion due to complex bets on risky securities. Additionally, JPMorgan's recent $9 billion loss[9] on a giant derivatives trade made by its London trading desk—known colloquially as the London Whale[10]—is a stark reminder that proprietary trading by Too Big To Fail financial institutions poses an acute risk to U.S. financial markets and exposes U.S. taxpayers to the risk of future bank bailouts.

Additionally, proprietary trading has resulted in material conflicts of interests that bolstered Wall Street banks' bottom lines at the expense of investors' pocket books.[11] For example, Goldman Sachs created synthetic collateralized debt obligations ("CDOs") that it marketed to investors without disclosing the fact that Goldman was betting that these same financial instruments would fail.[12] Similarly, Morgan Stanley and Deutsche Bank secretly bet

---

[5] PBS, *supra* note 3.
[6] *Volcker Rule*, *supra* note 1.
[7] Efrati, Amir, Susan Pulliam, Serena NG & Aaron Lucchetti, *U.S. Probes Morgan Stanley*, WALL ST. J. (May 11, 2010), *available at* http://online.wsj.com/article/SB10001424052748704250104575238680672738838.html?mod=djemalertNEWS.
[8] *Id.*
[9] Choudhury, Ambereen & Dawn Kopecki, *JPMorgan Slips on Report Trading Loss Widened to $9 Billion*, BLOOMBERG (June 28, 2012), *available at* http://www.bloomberg.com/news/2012-06-28/jpmorgan-slips-on-report-of-trading-loss-widening-to-9-billion.html.
[10] *See* Schaefer, Steve, *JPMorgan Taps New Chief For 'London Whale' Unit* (Sept. 6, 2012) *available at* http://www.forbes.com/sites/steveschaefer/2012/09/06/jpmorgans-cio-makeover-continues-with-new-chief/.
[11] Morgenson, Gretchen & Louise Story, *Banks Bundled Bad Debt, Bet Against It and Won* (Dec. 23, 2009), *available at* http://www.nytimes.com/2009/12/24/business/24trading.html?pagewanted=all.
[12] *Id.* ("Goldman and other firms eventually sued the C.D.O.'s to place unusually large negative bets that were not mainly for hedging purposes, and investors and industry experts say that put the firms at odds with their own clients' interests.); *see also* Efrati, *supra* note 7.

against the individual synthetic CDOs that they had designed and sold to their clients.[13] In the case of Morgan Stanley, the bank allegedly misrepresented certain CDOs—the so-called "Dead Presidents" deals[14]—that were marketed by Citigroup and UBS, and that were structured in such a way that investors were more likely to lose money if the underlying bonds performed poorly.[15] As the mortgage crisis came to a head in Fall 2008, these banks reaped massive profits in fees and gains on the exotic financial products that they had marketed to individuals and institutions who were often less financially savvy than Wall Street Banks. Goldman Sachs, for example, made $310 million from betting against the success of its Hudson Mezzanine CDO, while its investors "suffered huge losses."[16]

II. The Volcker Rule Will Decrease Systemic Risk, Stabilize Market Liquidity, Stamp Out Conflicts of Interest, and Return the Industry to Customer-Oriented Banking.

Congress enacted Section 619 of the Dodd-Frank Wall Street Reform and Consumer Protection Act[17] ("Dodd-Frank")—the Volcker Rule—in July 2010. Congress intended the rule to (1) curb systemic risk in the banking system while preserving market liquidity, thereby terminating taxpayer subsidies of financial institutions that engage in risky, multi-billion dollar proprietary trades;[18] and (2) drastically reduce conflict of interest scenarios in commercial banking, thereby returning commercial banking to the customer-centered transactions that prevailed during the Glass-Steagall period. The Volcker Rule accomplishes these goals by restricting banking institutions' ability to take advantage of the high-powered incentives created by proprietary trading and eliminating the implicit guarantee that the United States government will bail out Too Big To Fail financial institutions.

The Volcker Rule prohibits insured depository institutions and their affiliates from engaging in capital markets activities and then carves out limited exceptions for traditional market activity.[19] Specifically, the Volcker Rule prohibits "banking entities" (i.e., an insured depository institution, a company that controls an insured depository institution, a bank holding company, or any affiliate or subsidiary of the foregoing) from engaging in proprietary trading (i.e., trading on the bank entity's behalf and not on behalf of the customer) [20] unless certain

---

[13] Morgenson, *supra* note 11.
[14] Efrati, *supra* note 7.
[15] *Id.*
[16] Morgenson, *supra* note 11.
[17] Dodd-Frank Act, Pub. L. No. 111-203, 124 Stat. 1376 (2010) [hereinafter "Dodd-Frank Act"].
[18] *See* Senator Jeff Merkley, *Senators: Implement Volcker Rule Without Delay*, Press Release (April 26, 2102), *available at* http://www.merkley.senate.gov/newsroom/press/release/?id=be479aad-bedd-4d04-9dc2-05053255d937.
[19] *See* Skadden, *The Volcker Rule*, 1-2 (no date), *available at* http://www.skadden.com/newsletters/FSR_The_Volcker_Rule.pdf.
[20] Dodd-Frank Act, *supra* note 17, § 619 (adding Section 13 to the Bank Holding Company Act); Davis Polk, *Senate-House Conference Agrees on Final Volcker Rule*, DAVIS POLK REGULATORY TRACKER (June 25, 2010), *available at* http://www.davispolk.com/files/Publication/fc554a6c-

exceptions (e.g., market making, underwriting, hedging, and trading on behalf of customers) are applicable.[21] The rule also prohibits banking entities from acquiring or retaining an interest that exceeds three percent in a hedge fund or private equity fund (collectively referred to as "covered funds").[22] In this respect, the rule relocates risky proprietary trades outside of the U.S. commercial banking system in order to protect American taxpayers from systemic risk while preserving market liquidity by allowing smaller, less interconnected financial institutions to conduct proprietary trades. Additionally, the Volcker Rule ensures the health and vitality of U.S. economy by prohibiting banking entities from conducting transactions or activities that involve a material conflict of interest.

The bulleted points in the following two sections draw extensively from comment letters that have been submitted to the Commodity Futures Trading Commission and Securities and Exchange Commission by Americans for Financial Reform ("AFR")[23] and by Better Markets.[24] The bulleted points reflect our view that the Volcker Rule provides American investors, taxpayers, and banking entities with greater protections and economic opportunities.

A. The Volcker Rule Will Have a Stabilizing Effect on Markets by Decreasing Systemic Risk and Reallocating Market Liquidity.

- The Volcker Rule **radically reduces systemic risk**: "Implemented properly, the Volcker Rule should act as a powerful complement to improved capital rules, not a substitute or distraction from them…The utility of the Volcker Rule's systemic firewall between high-risk trading and depository banks depends upon dramatic strengthening of the bulkheads between these parts of the financial system. By limiting trading book activity to *bona fide,* traditional market making and hedging, the Volcker Rule can ensure that bank exposure is limited to deep, well-understood markets with more reliable liquidity. The restriction of trading book activities to bona fide market making, underwriting, and hedging should result in restricting the total securities inventory at systemically critical banks, since the traditional forms of these activities do not require extensive inventories. This will in turn limit the ultimate potential loss in a stressed market, and therefore

---

8944-445c-bf78-067d27dfd107/Presentation/PublicationAttachment/c05dc6b1-c895-4aac-aafc-919e31d24b78/062510_volcker_final.pdf.

[21] Dodd-Frank Act, *supra* note 20, § 13(d).

[22] Orrick, Herrington & Sutcliffe, *The Impact of the Volcker Rule on the Sponsorship and Ownership of Private Funds by Banking Entities* (Oct. 2012), *available at* http://www.orrick.com/fileupload/4165.pdf; *see also* Commodity Futures Trading Commission, *Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Covered Funds*, 77 Fed. Reg. 8430 (Feb. 14, 2012).

[23] AFR is a coalition of over 250 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups along with prominent independent experts.

[24] Better Markets is a nonprofit organization that promotes the public's interest in the capital and commodity markets, including the rulemaking process associated with the implementation of the Dodd-Frank Act.

reduce propagation of risk across markets with crowded trades and add to the resiliency of the financial system."[25]

- The Volcker Rule **preserves market liquidity** by allowing smaller, non-systemically risky financial institutions (e.g. hedge funds and other covered funds) to continue proprietary trading: "As banking institutions exit proprietary trading [after the implementation of the Volcker Rule], smaller traders such as non-systemically significant broker-dealers and hedge funds have every reason to take proprietary risks that are economically rational absent the implicit public subsidy backing banks and systemically significant financial institutions. The Volcker Rule does not limit the ability of such non-systemically critical institutions to do proprietary trading at all. To the extent that proprietary trading is profitable, capitalist rational actors, like hedge funds, can therefore be expected to replace a substantial share of reasonable (non-excessive) market liquidity."[26] Additionally, to the extent that there is a reduction in liquidity, such a reduction will align market performance with underlying fundamentals (e.g., supply and demand) and prevent the hazardous liquidity cycle of bubble and crash.[27]
- The Volcker Rule's **focus on the substance of the market activities**, and not on the rubrics or titles under which market activities may fall, best ensures that banking entities cannot easily circumvent the rule. Specifically, Congress intended the exceptions to the general ban on proprietary trading (e.g. market making, underwriting, and hedging) to extremely narrow so that banks remain focused on legitimate customer services: "Section 13(d)(2) then immediately qualifies the scope of these permitted activities" by stating "that no transaction or activity may be permitted under the [statutorily exempted] activities in cases where such an activity (a) poses a threat to the safety or soundness of the bank; (b) poses a threat to the financial stability of the United States; (c) creates conflicts of interest with customers; (d) exposes the bank to high-risk assets or trading strategies. Section 13(d)(3) then also states that the regulators shall impose additional capital and quantitative limitations on the [statutorily exempted] activities if such limitations are necessary to ensure the safety and soundness of the bank."[28]
- The Volcker Rule **removes systemic risk from the banking system by largely restricting commercial bank activity to *bona fide* markets**. Market making "means that the [banking] entity makes available price quotes at levels at which the entity is at the same time willing to both buy and sell."[29] Section 4(b)(2) of the proposed Volcker Rule restricts this permissible activity to *bona fide* markets. *Bona fide* markets are markets in which there are demonstrated "(1) the regularity of the publication of quotes, (2) the competitiveness of quotes, (3) [institutions] ready, willing and able to effect transactions at the quoted prices in reasonable amounts and (4) maintaining inventory turnover rates

---

[25] Comment Letter from Americans for Financial Reform regarding Prohibitions and Restrictions on Proprietary Trading, etc. 7 (Feb. 13, 2012), *available at* http://ourfinancialsecurity.org/blogs/wp-content/ourfinancialsecurity.org/uploads/2012/02/AFR-Volcker-RUle-Comment-2-13-12.pdf)[hereinafter "AFR"].
[26] *Id*., at 10.
[27] *Id*., at 8-10.
[28] *Id*., at 4-5.
[29] *Id*., at 26.

in reasonable average amounts."[30] Moreover, there is a "readily discernible exit price"[31] in *bona fide* markets, so that institutions have the freedom to raise capital quickly and, subsequently, to escape systemically risky situations where they are stuck with "toxic" assets that they can neither reliably price nor sell. In this way, the Volcker Rule stop commercial banking institutions from incurring the systemic risk, which can propagate when already illiquid and opaque markets are stressed and begin to degrade (as the subprime housing market did during the 2008 crisis).

B. The Volcker Rule Will Eliminate Anti-Competitive Conflicts and Reorient the Financial Services Industry to Its Traditional Role of Serving Customers.

- The implementation of the Volcker Rule represents a **return to customer-oriented banking** that sharply contrasts with the existing institution-centered approach that too often exposes banks (and therefore customers and taxpayers) to significant and thoroughly inestimable counterparty credit risk whilst putting them in direct and indirect conflicts of interest with their customers. The Volcker Rule's requirement that banks transact mostly in *bona fide* markets, allows banks to reliably assess the market, price their products, and market their products to buyers and sellers alike. In addition, "the concept of the customer and client should be understood as the person or institution served by the banking entity. The *bona fide* market maker or underwriter should be acting in response to customer or client demand, rather than initiate transactions. Initiating transactions is an indicator of proprietary trading."[32] Moreover, "[i]n a *bona fide* market making business, inventory positions should be viewed as a cost of doing business," as "[i]nventory ties up capital and exposes the banking entity to risks. The all-in cost of carrying the entity should be small compared with the revenue of the customer-based component of the market making business."[33] By proscribing proprietary trading and requiring most transactions to occur within the confines of *bona fide* markets, the Volcker Rule restores the customer-oriented approach of Glass-Steagall that made the United States' financial system incredibly resilient and fueled economic growth for a half century.
- The Volcker Rule **prohibits** any "transaction, class of transactions, or activity [that] would involve or result in a **material conflict of interest**…between the banking entity and its clients, customers, or counterparties."[34] As AFR observed: "The reference to 'counterparties' here is particularly telling, as it indicates that Congress wished to restrict conflicts of interest even with respect to sophisticated, arms-length market participants to whom fiduciary duties would typically not apply. This gives a sense of the sweeping and forceful nature of the Section 619 conflict of interest ban."[35] Crucially, Better Markets has noted that eliminating conflicts of interest will create a "transparent, competitive, fair

[30] *Id*. (citing SEC Rule 3-B(8)).
[31] *Id*., at 29.
[32] *Id*., at 32.
[33] *Id*., at 46.
[34] Dodd-Frank Act, *supra* note 20, § 13(b)(2).
[35] AFR, *supra* note 25, at 48.

and risk-reducing marketplace" that will maximize profits for all market players:[36] "If the rules addressing conflicts of interest are not sufficiently restrictive or do not effectively limit the many indirect methods of exerting influence, a marketplace characterized by anti-competitive practices will continue."[37] Accordingly, regulators must be vigilant and oversee institutions' activities closely in order to ensure that anti-competitive practices do not proliferate through conflicts of interests, which harm the very customers that banking institutions are supposed to help.

III. Reinstating Glass-Steagall Would Protect U.S. Taxpayers From Systemic Risk, While Ensuring That U.S. Banks Remain Profitable and Competitive in the Global Marketplace.

Reinstating Glass-Steagall's ban on proprietary trading by commercial banks would provide an effective legislative alternative to implementing the Volcker Rule. Congress passed Glass-Steagall in 1933 in order to reform and restructure the U.S. banking system in the midst of the Great Depression. Specifically, Glass-Steagall separated commercial and investment banks by prohibiting commercial banks from underwriting or dealing in an array of securities.[38] Also, the act established the Federal Deposit Insurance Corporation, which insures bank deposits with a pool of money appropriated from banks.[39] In 1999, Congress passed the Gramm-Leach-Bliley Act, which removed the distinction between commercial and investment banking that was established by Glass-Steagall.[40]

Calls to reenact Glass-Steagall have enjoyed strong bipartisan support in Congress since the 2008 crisis, as the Act had functioned to stabilize the U.S. banking system and protect the U.S. economy and American taxpayers from systemic risk. In December of 2009, Senators John McCain (R-AZ) and Maria Cantwell (D-WA) introduced the Banking Integrity Act of 2009, which sought to amend the Banking Act of 1933 and reenact the ban on proprietary trading originally established by Glass-Steagall.[41] As Senator McCain stated when he co-introduced the bill, "it is time to put a stop to the taxpayer-financed excesses of Wall Street. No single financial institution should be so big that its failure would bring ruin to our economy and destroy millions of American jobs. This country would be better served if we limit the activities of these financial institutions. [Commercial] [b]anks should accept consumer deposits and invest conservatively,

---

[36] Comment Letter by Better Markets, Inc. regarding Requirements for Derivatives Clearing Organizations, Designated Contract Markets, and Swap Execution Facilities Regarding Mitigation of Conflicts of Interest 20 (Nov. 17, 2010), *available at* www.regulations.gov.
[37] Id.
[38] *Glass-Steagall Act*, N.Y.TIMES, *available at* http://topics.nytimes.com/topics/reference/timestopics/subjects/g/glass_steagall_act_1933/index.html.
[39] *Id.*
[40] *Q & A: The Volcker Rule*, WALL ST. J. (June 13, 2012), *available at* http://online.wsj.com/article/SB10001424052702303822204577464661833507038.html.
[41] *Banking Integrity Act of 2009*, S. 2886, 111th Cong., 1st Sess., (2009) http://thomas.loc.gov/cgi-bin/query/z?c111:S.2886.

while investment banks engage in underwriting and sales of securities."[42] Similarly, Senator Cantwell highlighted the fact that "[s]o much U.S. taxpayer-backed money is going into speculation in dark markets that it has diverted lending capital from our community banks and small businesses that depend on loans to expand and create jobs" and emphasized the "bipartisan support for restoring the important safeguards that . . . separate[e] commercial banking from Wall Street investment banking."[43]

There is also growing bi-partisan support in the House of Representatives for reenacting Glass-Steagall as an alternative to the Volcker Rule. For example, Congresswoman Marcy Kaptur (D-OH) recently introduced the "Return to Prudent Banking Act of 2011,"[44] which would amend Glass-Steagall to expand the 1933 Act's original prohibition against proprietary trading. The Return to Prudent Banking Act has 78 bipartisan co-sponsors,[45] including Republican Representatives Walter Jones (R-NC), Roscoe Bartlett (R-MD), Mike Coffman (R-CO), and Rodney Alexander (R-LA).[46] Additionally, the bill has received tremendous support from diverse organization such as unions, business leaders, former politicians, newspapers, and international commentators.[47]

In addition to protecting U.S. taxpayers from the demonstrated risks associated with proprietary trading, the reenactment of Glass-Steagall will guard against bank failures and crises and restore long-term stability and profitability to America's banking system. With the passage of Glass-Steagall "[b]anking crises essentially disappeared . . . without *any* apparent reduction in economic growth" and without any detrimental effect on U.S. banks.[48] These crises only reappeared after bank deregulation began in the 1980s[49] and with the repeal of Glass-Steagall in 1999.[50] As Professor David Moss of Harvard Business School has observed, Glass-Steagall issued forth "nearly 50 years of relative financial calm" and established a "financial system . . . [that] became the envy of the world."[51] Professor Luigi Zingales of the University of Chicago School of Business also observed that "[t]he separation between investment and commercial

---

[42] *Statement by Senator John McCain on Banking Integrity Act of 2009*, (Dec. 17, 2009) http://www.mccain.senate.gov/public/index.cfm?FuseAction=PressOffice.FloorStatements&ContentRecord_id=9ed71565-cee1-0f9e-b9fd-c1643e9abcd0&Region_id=&Issue_id=1172f761-a830-4020-ae1b-7ec3db088fc9.

[43] *Press Release of Senator Cantwell* (May 6, 2010), *available at* http://www.cantwell.senate.gov/news/record.cfm?id=324753.

[44] *Return to Prudent Banking Act of 2011*, H.R. 1489, 112th Cong., 1st. Sess., (2011), *available at* http://thomas.loc.gov/cgi-bin/query/z?c112:H.R.1489:.

[45] *Updated Updated List of CoSponsors for Glass-Steagall* (Aug. 16, 2012), *available at* http://larouchepac.com/node/19643.

[46] *Id*.

[47] *Id*.

[48] Moss, David A., *An Ounce of Prevention*, HARVARD MAGAZINE (Sept.-Oct. 2009), *available at* http://harvardmagazine.com/2009/09/financial-risk-management-plan?page=all.

[49] *See* Colloquy, *supra* note 2, at S5894 ("Beginning in the 1980's, new financial products and significant amounts of deregulation undermined the Glass-Steagall Act's separation of commercial banking from securities brokerage or 'investment banking' that had kept our banking system relatively safe since 1933.").

[50] Moss, *supra* note 48.

[51] *Id*.

banking . . . helps make the financial system more resilient."[52] In this respect, reinstating Glass-Steagall would protect American taxpayers while ensuring that American banks remain competitive.

Finally, the U.S. banking system greatly benefited from the financial reforms enacted by Glass-Steagall. As Professor Moss has stated: "Although critics had warned that the forced separation of commercial from investment banking could undermine the nation's financial system, American financial institutions from Morgan Stanley to Goldman Sachs dominated global high finance for the remainder of the [twenty-first] century."[53] Similarly, Senator Charles Schumer has commented: "American banks complain that Glass-Steagall inhibits profitability, yet from 1983 through 1986 American banks enjoyed greater profitability than their Japanese competitors."[54] Senator Schumer also observed that Glass-Steagall facilitated lending by spreading capital across diverse financial institutions[55] so that the statute ultimately provided American banks with "a competitive advantage in a world where entrepreneurs require ready access to capital."[56]

Sincerely,

I. Michael Greenberger
Law School Professor
University of Maryland
Francis King Cary School of Law
500 W. Baltimore Street
Baltimore, MD 21201
410-706-3846

[52] Zingales, Luigi, *Why I Was Won Over by Glass-Steagall*, FIN. TIMES (June 10, 2012), *available at* http://www.manhattan-institute.org/html/miarticle.htm?id=8202#.UEjqLKNNQqH ("After the 1987 stock market crash, the economy was unaffected because commercial banks were untouched by plummeting equity prices. During the 1990-91 banking crisis, securities markets helped alleviate the credit crunch because they were unaffected by the banking crisis. By contrast, in 2008 the banking crisis and the stock market crisis infected each other, pulling down the entire economy.").

[53] Moss, *supra* note 48.

[54] Senator Charles Schumer, *Don't Let Banks Become Casinos*, N.Y.Times (Aug. 26, 1987), *available at* http://www.nytimes.com/1987/08/26/opinion/don-t-let-banks-become-casinos.html?pagewanted=all&src=pm.

[55] *Id*.

[56] *Id*.

George Waddington, J.D.
Law and Policy Analyst
University of Maryland
Center for Health and Homeland Security