

Collected Remarks by Chairman Bernanke and Governor Tarullo Regarding Margin Requirements for Non-Financial End-Users

I. Senate Banking, Housing and Urban Affairs Committee Holds Hearing on Mitigating Systemic Risk Through Wall Street Reforms

July 11, 2013

TESTER: Just to be clear, would eliminating this mandatory margin requirement have any impact on the Fed's ability to set appropriate capital or prudential standards regarding institutions' outstanding book of derivatives trades?

TARULLO: Simply, simply removing that provision would not Senator, so long as it didn't go further and affirmatively say that we couldn't put prudential requirements in an appropriate circumstance.

TESTER: Super. What other checks and balances exist to enable the Fed to address any safety and soundness concerns that could arise from swaps transactions involving non-financial end users?

TARULLO: Well we have two basically, we obviously have a general safety and soundness authority and when we see things that are being done in unsafe and unsound fashion, we can seek a change in that, that is actually the way we try to navigate the Scylla and Charybdis of the legislative language and the legislative intent is to set up something which tries to track good risk management but your right, our reading of the statute said that we couldn't simply exempt it, but I don't think anybody certainly at the Fed has believed that we needed anything additional in the legislation, and if the intent of Congress was not to affect the end users, the vast majority of whom are posing no systemic risk whatever, then we have no problem with the change.

TESTER: And setting aside all of the tools at the Fed's disposal, clarifying this exemption from mandatory margin for non-financial end users would NOT impact the ability of financial institutions to set margin standards based on their credit assessment of counterparties that are non-financial end users, would you agree with that statement?

TARULLO: Senator, I think that your intent, if I understand it correctly, is basically just to change the current law so that there is no instruction from Congress to the regulator saying you have to put some sort of margin requirement in with end users

TESTER: Correct, with the non-financial end users.

TARULLO: Right, exactly. Limited to that, it would not impinge on the ability of any entity to do its own risk management, would not impinge on our ability to use our full panoply of supervisory tools.

TESTER: So, banks would still have the ability to set margin requirements, but there wouldn't be a requirement to impose mandatory margin where an institution wouldn't normally be required to. Okay good. Given all of the other mechanisms at the Fed's disposal in setting capital and prudential standards regarding these transactions in a more targeted fashion, is there any reason why the Fed would also need the statutory authority to impose mandatory margin on non-financial end users?

TARULLO: No sir.

TESTER: Thank you very much. We need to get this done. I think we need to deal with this issue very, very soon. It's unfortunate that we're going to see \$5-\$6 billion sucked out of the economy as non-financial end users begin setting aside or raising funds to meet these unintended consequences....

II. Senate Banking, Housing and Urban Affairs Committee Holds Hearing on the Semiannual Federal Reserve Monetary Policy Report Congress

February 26, 2013

CRAPO: I want to talk with you briefly about Dodd- Frank reform. If we were able to achieve some bipartisan consensus on steps to improve Dodd-Frank, what are some of the provisions that you think need clarification, or improvement for reconsideration?

BERNANKE: Well, first as a general matter, Senator, Dodd-Frank is a very big, complicated piece of legislation that addresses many different issues. And I'm sure there are many aspects of it that could be improved in one way, or another. I recall in fact, that you yourself had a bill five or six years ago on reg reform and simplification...

CRAPO: That's right.

BERNANKE: ... which was a bipartisan effort to find ways to reduce costs without losing the purposes of the regulation. And I think something along those lines would be very doable in this context. The Federal Reserve would certainly be willing to work with you closely. In terms of specifics, we'd want to do the work of course, but you mentioned in your opening remarks, the end user issue? Clarity on what Congress would like us to do about end users, for example. Another area, which is proving difficult is the push out provision for derivatives.

And I think more generally, I think we all agree that the burden of regulation falls particularly heavy on small community banks, which don't have the -- you know the resources to manage those regulations very effectively. So I would say as a general proposition that we ought to work together to try to find ways to lower that regulatory burden on those smaller institutions.

CRAPO: Well, thank you, Mr. Chairman. I appreciate your -- your advice and your expression of willingness to work with us on these, and others as we move forward to -- to try and improve our regulatory climate.

III. Senate Banking, Housing and Urban Affairs Committee Holds Hearing on the Semiannual Federal Reserve Monetary Policy Report Congress

July 17, 2012

CRAPO: Thank you, Mr. Chairman.

Chairman Bernanke, ever since Dodd-Frank conference, there's been a debate about whether non-financial end users were exempt from margin requirements. Then Chairman Dodd and Chairman Lincoln acknowledged that the language for end users was not perfect, and tried to clarify the intent of the language with a joint letter.

In the letter they stated the legislation does not authorize the regulators to impose margin on end users, those exempt entities that use swaps to hedge or mitigate commercial risk.

In April 2011, prudential regulators issued a joint proposal that would in fact require non-financial end users to post margin to their bank counterparties.

CRAPO: According to the proposed rule, the proposal to require margins stems directly from what they view to be a legal obligation under Title VII. Recently I offered an amendment with Senator Johanns to fulfill Congressional intent by providing an explicit exemption for margin requirements for non-financial end users that qualify for the clearing exemption. The amendment is identical to the House bill which passed the House by a vote of 370 to 24.

Is it accurate in your opinion, that regardless of congressional intent, the banking regulators view the plain language of the statute as requiring them to impose some kind of margin requirement on non-financial end users unless Congress changes the statute?

BERNANKE: We believe that the statute does require us to impose some type of margin requirement. We tried to mitigate the effect as much as possible by allowing for exemptions when the credit risk associated with the margin was viewed as being sufficiently small. So many small end users would be exempt in practice.

CRAPO: Do you agree that the nonfinancial end users hedging does not contribute to systemic risk, that the economy, the economic benefits from their risk management activity -- excuse me -- that the economy benefits from their hedging activity and that it's appropriate for Congress to provide an explicit exemption for margin requirements for nonfinancial end users that qualify for the clearing exemption?

BERNANKE: I certainly agree that nonfinancial end users benefit and that the economy benefits from the use of -- of derivatives. It seems to be the sense of a large portion of the Congress that that exemption should be made explicit. And speaking for the Federal Reserve, we're very comfortable with that proposal.

CRAPO: Well, thank you, Mr. Chairman.