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United States Senate

COMMITTEE ON BANKING, HOUSING, AND
URBAN AFFAIRS

WASHINGTON, DC 20510-6075

February 4, 2016

The Honorable Janet Yellen
Chair
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551

Dear Chair Yellen:

The risks of commodities trading, financing, and physical ownership are by now well documented. In 2007, the Chief Financial Officer of Goldman Sachs said that commodities are, “a dangerous business to be in even if you are expert.”¹ In 2013, Morgan Stanley’s CEO reportedly said that the catastrophic risk associated with physical storage and transportation is, “a risk we just can’t take[.]”² While the size and nature of bank holding companies’ (BHCs) commodities holdings and trading activities appears to have undergone some recent changes, commodities markets and related financial activities still pose significant risks. In recent months, commodities trading firms have experienced pressure from funding markets, and BHCs typically operate with greater leverage than do commodities firms and have potential exposures that reach well beyond those of commodities firms. That is why I write today to urge the Board of Governors of the Federal Reserve System (the Board) to move forward with rules to address BHCs’ commodities activities.

In 2013 and 2014, the Senate Banking Subcommittee on Financial Institutions and Consumer Protection (FICP) held two hearings on the issue of BHCs’ physical commodities activities. More than two years ago, the Board announced an Advanced Notice of Proposed Rulemaking (ANPR) on BHC commodities activities – the day before the second FICP Subcommittee hearing.³ At that hearing, the Director of the Board’s Division of Bank Supervision and Regulation testified that the Board is “committed to using [its] supervisory and regulatory authorities to the maximum extent possible to protect financial holding companies and the financial system from the safety and soundness risks or other potential adverse effects of

¹ Michael J. Moore, *How Congress Helped Save Goldman Sachs From Itself*, BLOOMBERG, Sept. 28, 2015, available at <http://www.bloomberg.com/news/articles/2015-09-29/how-congress-helped-save-goldman-sachs-from-glencore-envy>.

² Christian Berthelsen & Justin Baer, *Morgan Stanley Scales Down Commodities*, WALL ST. J., Dec. 18, 2013, available at <http://www.wsj.com/articles/SB10001424052702304173704579264452411520552>.

³ See Complementary Activities, Merchant Banking Activities, and Other Activities of Financial Holding Companies Related to Physical Commodities, 79 Fed. Reg. 3329 (Jan. 21, 2014) available at <https://www.gpo.gov/fdsys/pkg/FR-2014-01-21/pdf/2014-00996.pdf>. The comment period closed on April 16, 2014. See Complementary Activities, Merchant Banking Activities, and Other Activities of Financial Holding Companies Related to Physical Commodities, 79 Fed. Reg. 12414 (Mar. 5, 2014) available at <https://www.gpo.gov/fdsys/pkg/FR-2014-03-05/pdf/2014-04742.pdf>. The comment letter to the ANPR submitted by one of my Senate colleagues and I is available here: http://www.federalreserve.gov/SECRS/2014/May/20140506/R-1479/R-1479_041614_124552_376253020070_1.pdf.

combining banking and physical commodities activities in a single corporate enterprise.”⁴ I am concerned that the Board has failed to live up to this commitment.

In November 2014, Governor Dan Tarullo told the Senate Permanent Subcommittee on Investigations that he anticipated the Board would issue a Notice of Proposed Rulemaking in the first quarter of 2015.⁵ In February 2015, you told the House Financial Services Committee that the Board would likely propose rules by the end of the 2015 calendar year.⁶ Now, in February 2016, the Board has still taken no action despite repeated assurances it would do so.

The recent disruptions in various markets underscore the risks commodities present for BHCs. Given there is no way to predict how long the supply and demand imbalances across the commodity markets will persist or how severely they will impact the banking sector,⁷ it is past time for the Board to propose rules for BHC commodity-related activities. I urge you to do so without any further delay.

Thank you for considering my views on this important matter.

Sincerely,



Sherrod Brown
United States Senator

⁴ Statement of Michael S. Gibson, Director, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, before the Subcommittee on Financial Institutions and Consumer Protection, Committee on Banking, Housing, and Urban Affairs, U.S. Senate 10, Jan. 15, 2014, available at <http://www.banking.senate.gov/public/cache/files/6f518988-341a-4629-9e07-3fa81148ddc4/33A699FF535D59925B69836A6E068FD0.gibsonstestimony11514f1cp.pdf>.

⁵ See Permanent Subcommittee on Investigations, Committee on Homeland Security and Government Affairs, U.S. Senate, Wall Street Bank Involvement in Physical Commodities 120, Nov. 21 & 22, 2014 available at <https://www.gpo.gov/fdsys/pkg/CHRG-113shrg91522/pdf/CHRG-113shrg91522.pdf>.

⁶ See Committee on Financial Services, U.S. House of Representatives, Monetary Policy and the State of the Economy 12-13, Feb. 25, 2015, available at <http://financialservices.house.gov/uploadedfiles/114-4.pdf>.

⁷ See, e.g., Mikael Holter, Christopher Langner & Ranjeetha Pakiam, *Commodity Rout Prompts Moody's to Put 175 Ratings on Review*, BLOOMBERG, Jan. 22, 2016, available at <http://www.bloomberg.com/news/articles/2016-01-22/commodity-rout-spurs-moody-s-to-put-dozens-of-ratings-on-review>; see also Scott Patterson, Ese Erheriene & John Miller, *For Mining Chiefs, Doomsday Scenarios Could Become Reality*, WALL ST. J., Jan. 29, 2016, available at <http://www.wsj.com/articles/for-mining-chiefs-doomsday-scenarios-could-become-reality-1454045416>.