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THE VOLCKER RULE: NEW EXCLUSION FOR QUALIFYING VENTURE CAPITAL FUNDS

On June 25, 2020, the federal agencies responsible for implementing section 619 of the Dodd-Frank Act, known as the “Volcker Rule,” issued a final rule amending the “covered funds” provisions of the regulations permitting banking entities to engage in certain activities that the agencies concluded do not raise concerns that the Volcker Rule was intended to address. In this article, the author provides an overview of the new “qualifying venture capital fund” exclusion which has facilitated significant investments in minority- and women-owned funds and businesses.

By Eric M. Diamond *

In light of a number of recent tragic events, including the death of George Floyd in May 2020, many major banking organizations have announced significant commitments to help address racial and social inequalities, and advance economic opportunities, in the United States.¹ A new exclusion under the Volcker Rule

for “qualifying venture capital funds” adopted in 2020 has allowed banking organizations to fulfill these commitments in a way that has been largely precluded since the enactment of the Dodd-Frank Act.

This article provides an overview of the new qualifying venture capital fund exclusion and explores the benefits that the exclusion has provided both to banking entities and the minority- and women-owned funds and businesses that they support. The article also briefly discusses the legislative and regulatory history regarding the treatment of venture capital funds under the Volcker Rule.

¹ See, e.g., Fabrice Coles, *BPI Testimony Before the Subcommittee on Diversity and Inclusion, U.S. House Committee on Financial Services, “The Legacy of George Floyd: An Examination of Financial Services Industry Commitments to Economic and Racial Justice,”* BANK POL’Y INST. (June 28, 2021), <https://bpi.com/bpi-testimony-the-legacy-of-george-floyd-an-examination-of-financial-services-industry-commitments-to-economic-and-racial-justice/>; Lauren Weber, *Companies Have Promised \$35 Billion Toward Racial Equity. Where Is the Money Going?* WALL ST. J. (Dec. 21, 2020), <https://www.wsj.com/articles/companies-have-promised->

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