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The Fed's Physical Commodities ANPR

April 28, 2014 | Client Update | 2-minute read

On January 21, 2014, the Federal Reserve published an Advance Notice of Proposed Rulemaking (ANPR) announcing that it had commenced a review of the authority of U.S. and foreign financial holding companies (FHCs) to engage in physical commodities activities under the Bank Holding Company Act of 1956. The ANPR invited public comment on whether the public benefits of physical commodities activities continue to outweigh their potential risks in light of recent developments related to environmentally sensitive commodities, such as oil, natural gas and nuclear power. It also asked whether physical commodities activities continue to be complementary to one or more permissible financial activities in light of recent announcements by certain FHCs to sell or scale back their physical commodities businesses. Finally, the ANPR invited public comment on whether the permitted physical commodities activities involve conflicts of interest, anticompetitive behavior or other potential adverse effects that are not adequately addressed by existing law. The deadline for comments was April 16, 2014.

As of 5:00 p.m. on Friday, April 25, 2014, 181 comment letters on the ANPR had been posted by the Federal Reserve on its website. 56 letters were submitted by organizations, senators or law professors, and 125 by individuals, some anonymously. The letters submitted by the first group, along with a letter submitted by an individual from the second group that provided particularly detailed comments, are summarized and hyperlinked in the newsletter attached to our memorandum.

If you have any questions regarding the matters covered in this publication, please reach out to any of the lawyers listed below or your usual Davis Polk contact.

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