

DERIVATIVES - USA

Federal Reserve Board proposes stricter requirements on firms engaging in physical commodity activities

November 09 2016 | Contributed by **Shearman & Sterling LLP**

On September 23 2016 the Federal Reserve Board issued a notice of proposed rulemaking to tighten capital and other regulatory requirements on financial holding companies (FHCs) that participate in physical commodity trading activities, to remove copper from the list of metals that bank holding companies are permitted to own and store as an activity closely related to banking, and to rescind previous orders authorising certain FHCs to engage in energy management services and tolling activities.⁽¹⁾

A Federal Reserve Board staff memo on the proposed rule published on the same day identified 14 FHCs that presently have the authority to engage in various physical commodity activities.⁽²⁾ As justification for the proposed rule, the Federal Reserve Board stated that legal risks associated with physical commodities activities can, at times, exceed the committed capital and insurance policies of the FHC, and that risk, along with other legal and reputational risks, can pose a threat to the safety and soundness of an FHC engaged in physical commodity activities.

In addition, the Federal Reserve Board proposed to rescind specific authorisation of the five FHCs that have been authorised to participate in energy tolling and energy management services. The Federal Reserve Board is reconsidering whether those activities are complementary to financial activities as is physical commodity trading. The Federal Reserve Board indicated that these activities do not support and are not directly related to otherwise permissible commodities derivatives activities or other financial activities. Comments on the proposed rule must be submitted by December 22 2016.

For further information on this topic please contact [Donna M Parisi](#), [Geoffrey B Goldman](#) or [Azam H Aziz](#) at Shearman & Sterling LLP by telephone (+1 212 848 4000) or email (dparisi@shearman.com, geoffrey.goldman@shearman.com or aaziz@shearman.com). The Shearman & Sterling website can be accessed at www.shearman.com.

Endnotes

(1) The text of the proposed rule is available at www.federalreserve.gov/newsevents/press/bcreg/bcreg20160923a2.pdf.

(2) The text of the staff memo is available at www.federalreserve.gov/newsevents/press/bcreg/bcreg20160923a1.pdf.

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