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June 27, 2013

The Honorable Ben Bernanke  
Chairman  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue N.W.  
Washington, D.C. 20551

Dear Chairman Bernanke,

We write in regards to the expansion of large banks into what had traditionally been non-financial commercial spheres. Specifically, we are concerned about how large banks have recently expanded their businesses into such fields as electric power production, oil refining and distribution, owning and operating of public assets such as ports and airports, and even uranium mining.

Here are a few examples. Morgan Stanley imported 4 million barrels of oil and petroleum products into the United States in June, 2012.<sup>i</sup> Goldman Sachs stores aluminum in vast warehouses in Detroit as well as serving as a commodities derivatives dealer.<sup>ii</sup> This “bank” is also expanding into the ownership and operation of airports, toll roads, and ports.<sup>iii</sup> JP Morgan markets electricity in California.

In other words, Goldman Sachs, JP Morgan, and Morgan Stanley are no longer just banks – they have effectively become oil companies, port and airport operators, commodities dealers, and electric utilities as well. This is causing unforeseen problems for the industrial sector of the economy. For example, Coca Cola has filed a complaint with the London Metal Exchange that Goldman Sachs was hoarding aluminum. JP Morgan is currently being probed by regulators for manipulating power prices in California, where the “bank” was marketing electricity from power plants it controlled. We don’t know what other price manipulation could be occurring due to potential informational advantages accruing to derivatives dealers who also market and sell commodities. The long shadow of Enron could loom in these activities.

According to legal scholar Saule Omarova, over the past five years, there has been a “quiet transformation of U.S. financial holding companies.” These financial services companies have become global merchants that seek to extract rent from any commercial or financial business activity within their reach.<sup>iv</sup> They have used legal authority in Graham-Leach-Bliley to subvert

the “foundational principle of separation of banking from commerce”. This shift has many consequences for our economy, and for bank regulators. We wonder how the Federal Reserve is responding to this shift.

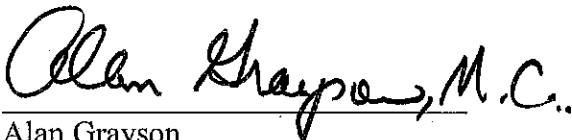
It seems like there is a significant macro-economic risk in having a massive entity like, say JP Morgan, both issuing credit cards and mortgages, managing municipal bond offerings, selling gasoline and electric power, running large oil tankers, trading derivatives, and owning and operating airports, in multiple countries. Such a dramatic intertwining of the industrial economy and supply chain with the financial system creates systemic risk, since there is effectively no regulatory entity that can oversee what is happening within these sprawling global entities.

Our questions are as follows:

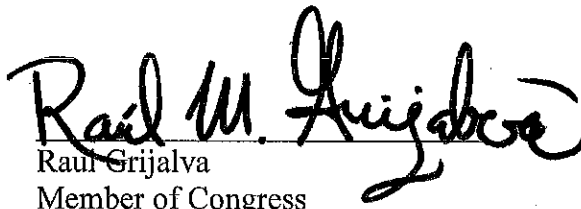
- 1) What is the Federal Reserve’s current position with respect to allowing Goldman Sachs and Morgan Stanley to continue trading in physical commodities and holding commodity-related assets after the expiration of the statutory grace period during which they, as newly registered bank holding companies, must conform all of their activities to the Bank Holding Company Act of 1956? What is the legal justification for this position?
- 2) Has the Federal Reserve been investigating the full range of risks, costs, and benefits – to the national economy and broader society – of allowing these institutions (and, possibly, other large financial holding companies) to engage in trade intermediation and commercial activities that go far beyond pure financial services? If so, please share the results of your investigation. If not, why not?
- 3) What types of data do you collect about the regulated financial holding companies’ non-financial activities? How does the Federal Reserve interact with non-bank regulators who are in charge of overseeing the areas and markets in which banking institutions conduct their non-financial activities?
- 4) How do your examiners review, monitor, and evaluate banking organizations’ management of potential conflicts of interest between their physical commodity businesses and their derivatives trading?
- 5) If such an entity were to become insolvent, what complications are likely to arise in resolving a company with such a range of activities? Please share your analysis on the implications of resolution authority on the commercial activities of systemically important financial institutions. Please describe how these banks approach this issue in their resolution plans (or “living wills”).
- 6) When your examiners work within these large institutions, what framework do they use to, say, consider the possibility that a bank run could ensue from a massive public oil spill by a Goldman Sachs-owned oil tanker or a nuclear accident at a plant owned by a bank?
- 7) Does this relatively new corporate structure contribute to the likelihood of industrial supply shocks?

Thank you for your attention to this matter.

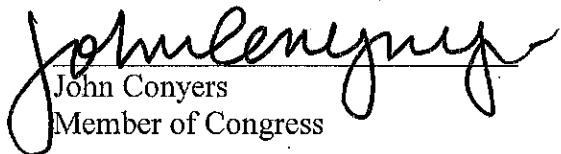
Sincerely,

  
Alan Grayson, M.C.

Alan Grayson  
Member of Congress

  
Raul M. Grijalva

Raul Grijalva  
Member of Congress

  
John Conyers

John Conyers  
Member of Congress

  
Keith Ellison

Keith Ellison  
Member of Congress

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<sup>i</sup> <http://www.morganstanley.com/about/ir/shareholder/10k2012/10k2012.pdf>

Morgan Stanley, according to its investment documents, is engaged "in the production, storage, transportation, marketing and trading of several commodities, including metals (base and precious), agricultural products, crude oil, oil products, natural gas, electric power, emission credits, coal, freight, liquefied natural gas and related products and indices. In addition, we are an electricity power marketer in the U.S. and own electricity generating facilities in the U.S. and Europe; we own TransMontaigne Inc. and its subsidiaries, a group of companies operating in the refined petroleum products marketing and distribution business; and we own a minority interest in Heidmar Holdings LLC, which owns a group of companies that provide international marine transportation and U.S. marine logistics services."

<sup>ii</sup> <http://www.goldmansachs.com/investor-relations/financials/current/10k/2012-10-K.pdf>

Goldman Sachs, according to its own recent investment reports, is engaged in "the production, storage, transportation, marketing and trading of numerous commodities, including crude oil, oil products, natural gas, electric power, agricultural products, metals (base and precious), minerals (including uranium), emission credits, coal, freight, liquefied natural gas and related products and indices."

<sup>iii</sup> *ibid*

<sup>iv</sup> "The Merchants of Wall Street: Banking, Commerce, and Commodities" Omarova, Saule, University of North Carolina at Chapel Hill School of Law

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