Appendix B – Summary of Key Points Raised by Commenters

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Alon USA Energy, Inc.	End-User	• Alon is an independent refinery owner and marketer of petroleum products in the United States that transacts with FHCs to hedge against normal and expected price volatilities. • Notes that the market is dominated by a relatively small number of participants in each commodity sector and explains that accessing the physical commodities markets would be difficult without FHCs. • FHCs provide Alon's businesses with a well-regulated and creditworthy counterparty that provides them with a suite of different products. • Alon fears that additional regulation will lead to the departure of FHCs from the physical commodities space which could lead to less regulated entities assuming a larger role and/or lead to market illiquidity.
Apache Corp.	End-User	• Apache is a U.S. independent oil and gas corporation that relies on commodities and related derivatives markets to manage its business risks. • Notes that the ANPR does not address the benefits that FHCs provide to end-users in the physical commodities markets. • FHCs allow end-users to transact in the physical commodities markets at the specific points in time in which they need to do so and can customize trades to each end-user's specific needs. End-users are comfortable transacting with FHCs because they are already well-regulated entities.

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Calpine Corp.	End-User	• Calpine is a large independent wholesale power company that operates many natural gas-fired power plants in the United States. Calpine is susceptible to the volatility of spot gas and power prices, which it manages by entering into hedging transactions with FHCs. • In order to enter into advantageous hedging transactions, Calpine frequently transacts with FHCs because they are transparent, well-capitalized, stable, and versatile enough to provide a wide range of products and services. • Calpine is concerned that any attempt to limit FHCs' activities could diminish liquidity in the market and reduce Calpine's ability to manage its risks.
Cheniere Energy, Inc.	End-User	• Cheniere is involved in the development and operations of liquefied natural gas terminals and transacts in the physical commodities markets to manage its risks. • Cheniere is concerned that additional regulation could hasten the process of additional FHCs exiting the physical commodities marketplace. • Cheniere is a concerned that if FHCs exit the physical commodities markets, there will be a reduction in A-rated investment counterparties and counterparties that can customize physical commodities products.
Converse and Company, Inc.	End-User	• Converse is a coal brokerage and logistics company that transacts with FHCs to hedge its risk to price volatility in the coal markets. • FHCs provide Converse with well-regulated, creditworthy counterparties that offer a full suite of financial services. • The imposition of additional regulation may deter FHCs from participating in the physical commodities space. • FHCs' departure from these markets could reduce liquidity, thus increasing the costs for end-users to manage their risks.

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Delek U.S. Holdings Inc.	End-User	• Delek is an integrated energy business focused on petroleum refining and selling both crude and refined oil; FHCs assist Delek in mitigating certain risks associated with its business. • FHCs are uniquely situated to assist Delek with its risk mitigation needs by retaining title to crude and refined oil when not in Delek's possession and recommending customized hedging trades to Delek. • Delek believes that additional restrictions on FHCs with respect to physical commodities will lead to FHCs departing from these markets and resulting in a more illiquid market. • Delek prefers to transact with FHCs as they are "well regulated" and more credible; transacting with other market participants may increase Delek's counterparty risk.
EP Energy LLC	End-User	• EP Energy is an independent exploration and production company that acquires and develops onshore oil and natural gas properties and is in the business of selling oil, natural gas, and natural gas liquids from the properties it acquires. FHCs assist EP in mitigating EP's risk to normal and expected price volatilities. • FHCs provide EP with well-regulated and creditworthy counterparties that EP can transact with as needed. • FHCs have become a critical element of the physical commodities markets as they have "largely supplanted the oftentimes less dependable trading companies that dominated the marketplace in the early 2000s." • Additional regulation could lead to FHCs departing from the markets and lead to more illiquid markets and/or less or unregulated entities assuming a larger role. EP does "not want to return to the early 2000's when unregulated, sometimes less-than-dependable traders, ruled the day."

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Murray Energy Corp.	End-User	• Murray is a privately owned coal company that is in the business of selling coal and regularly enters into long term contracts with FHCs, providing for the sale of coal. • Murray believes that there is no evidence to support the position that FHCs post substantial risks to the safety and soundness of depository institutions or the financial system generally. • Additional regulation will likely lead to FHCs exiting the physical commodities market, which would remove well-regulated counterparties from the markets and could lead to unregulated entities from assuming FHCs' market roles. • FHCs exiting these markets will remove a very important counterparty of Murray's that would limit its ability to provide reliable and affordably energy to the public.
Noranda Aluminum, Inc.	End-User	• Noranda is a vertically integrated producer of aluminum that hedges its price risk with FHCs. • Believes that the physical commodities marketplace is "dominated by a relatively small number of participants" and FHCs provide it with a "well-regulated counter-party/market-maker" with which it can transact. • FHCs further provide Noranda with a full "suite of services, including funding, financing, and hedging products." • Noranda fears that additional regulation of FHCs' physical commodities activities will deter them from participating in the commodities markets, threatening its ability to manage risks.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Novelis Inc.	End-User	• Novelis is an aluminum rolled products producer without an upstream business to supply inputs and is exposed to fluctuating metal prices; having multiple FHCs participating in this market helps keeps hedging costs low and stable and provides Novelis with well- regulated counterparties. • When metal is available at favorable prices, Novelis may ask an FHC to purchase those metals and provide them to Novelis when it needs them. FHCs also act as intermediaries between Novelis and geographically distant smelters and move inventory from Novelis to these smelters. If FHCs are restricted from engaging in these types of transactions, Novelis' cash flows and liquidity could be adversely affected. • Novelis does believe that FHCs should be restricted from combining ownership of physical metals and commodities trading with ownership of storage facilities of physical commodities as it is a detriment to the aluminum market and opens up risk of manipulation on the London Metals Exchange.
NRG Energy, Inc.	End-User	• NRG is a power company that provides electricity through various affiliates and transacts with FHCs in the physical commodities markets for hedging purposes and also for project finance. For either purpose, NRG pledges its non-cash assets as collateral and doing so does not "produce[] the sorts of adverse safety and soundness and systemic financial outcomes that are described in the ANPR." • FHCs are desirable counterparties as they are well-regulated, tend to be well-capitalized, have the financial strength to enter into long-term relationships, have superior access to capital markets, and often develop lasting relationship with their counterparties. • FHCs' presence in these markets "adds to market stability and transparency in ways that participation from other participants that don't have these characteristics cannot." Further regulation is likely to drive FHCs out of these markets.

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PBF Energy Inc.	End-User	• PBF Energy is a large independent refiner that operates refineries in America and believes that FHCs allow end-users to efficiently hedge the risks associated with their businesses. • PBF believes that FHCs not being able to participate in these markets would make it "very difficult" for end-users of physical commodities to efficiently hedge their risks. • Given their "size, sophistication, and business model," FHCs allow end-users to transact in the physical commodities markets when they need to do so; FHCs also can customize trades to "to the specific needs of each end-user." • FHCs ability hold title to physical commodities also allows end-users to use FHCs' services to assist with their day to day business needs, "from sourcing raw materials, to delivering refined materials to the point of sale without arranging for independent financing or engaging in additional risk mitigation."
Talos Energy LLC	End-User	• Talos Energy, an end-user of physical commodities, is concerned that the ANPR does not address the many benefits FHCs provides end-users with respect to physical commodities and is also concerned that the Federal Reserve has not fully considered the impact additional regulation on FHCs will have in these markets. • FHCs are uniquely situated to serve end-users in these markets because they are in the business of making markets, are able to customize trades to each end-users' specific needs, and are well regulated. • End-users are also able to use FHCs to conduct their own day-to-day businesses because FHCs are authorized to hold title to physical commodities, which allows FHCs to both source raw materials to end-users and also deliver refined materials to the point of sale. This ability obviates the need for end-users to arrange for independent financing or engaging in additional risk mitigation.

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United Parcel Service Inc.	End-User	• UPS is a package distribution company that transacts with FHCs to hedge against fuel price volatility as UPS is reliant on fuel for its aircraft and delivery vehicles. • The imposition of additional regulation on FHCs will likely lead to their departure from the markets, which will reduce liquidity, result in less-regulated or unregulated, counterparties assuming a large role, and thus make it difficult for UPS to efficiently hedge its risks. • The imposition of additional regulation is unnecessary as FHCs have managed the risks identified in the ANPR appropriately for as long as they have been allowed to participate in these markets.
Denham Capital Management LP	Private Equity Firm with end-user operating companies	• Denham is an energy and resources private equity firm that has portfolio companies that transact with FHCs to mitigate the risks associated with their businesses. • Denham is concerned that the imposition of additional regulation could lead to FHCs departing these markets, which could threaten the businesses of its portfolio companies. • Denham's portfolio companies rely on FHCs because they are in the business of making markets when the portfolio companies need them and also offer Denham's portfolio companies customized trades, which can improve risk mitigation techniques. • To the extent other businesses replace FHCs, they will likely be less regulated and less creditworthy than FHCs; Denham's portfolio companies are "unlikely [to] have confidence in these counterparties equal to that which" they have in FHCs.

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Energy Capital Partners and EquiPower Resources Corp.	Private Equity Firm with end-user operating companies	• ECP is a private equity firm which focuses on building and improving the energy infrastructure across the United States; EquiPower is its wholly owned subsidiary that manages and operates power generation facilities across America. • EquiPower transacts with FHCs to manage its energy commodity price risk, and FHCs also provide EquiPoiwer with a "wide range of lending and financial advisory services which are much more informed and sophisticated because of the FHCs' participation in the physical commodities markets." • States that "the examples of natural disaster and isolated casualty events cited in the ANPR did not result in any type of financial crisis or the contagion effects that are of concern to the [Federal Reserve]." • FHCs' market presence also makes them more effective at managing their risk to the "commodity-based companies that they serve from a lending perspective."
Central Plains Energy Project[1]	Municipal End-User	• Central Plains is a natural gas joint action supply agency and its primary purpose is to acquire long-term gas supplies to serve portions of the requirements of its members. • To purchase these supplies, Central Plains has transacted with an FHC in one thirty-year transaction and one twenty-year transaction, which has saved Central Plains' members and other customers "millions of dollars in reduced natural gas commodity prices. Central Plains hopes to enter into another long term transaction with an FHC in the "near future." • FHCs are the most creditworthy counterparties with which Central Plains has the opportunity to transact business; because they are well-regulated, they approach their commercial obligations with "strict adherence to requirements of their contracts."

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Chelan County Public Utility District, et al.[2]	Municipal End-User	• The authors of this letter are publicly-owned electric utilities that manage their price and volumetric risk, in part, by entering into hedging transactions with FHCs. • There is already a shortage of creditworthy counterparties with which to conduct physical and financial energy transactions. • Additional regulation of FHCs may deter them from participating in these markets which could reduce liquidity and make it more difficult for the authors to transact in physical commodities. Existing regulations are sufficient to discourage FHCs from engaging in prohibited activities.
Clark Mobile Counties Gas District and The Black Belt Energy Gas District[3]	Municipal End-User	• CMC and Black Belt are participants in the marketplace for long-term gas supplies and these supplies are "essential to enable the Districts to meet the needs of their customers for reliable, secure, firm natural gas deliveries at reasonable and competitive prices." • CMC and Black Belt enters into gas prepayment transactions with FHCs, which is a service that they do not believe could, or would, be "replicated by other industry participants, at least not under market conditions that have prevailed over at least the past eight years." • FHCs are the most creditworthy counterparties with which they have the opportunity to transact business, they are well regulated, are experienced and sophisticated, and "[s]hort-term benefit has never trumped the preservation of longer-term relationships in [their] experience with [FHCs]." • Does not believe that the incidents referenced in the ANPR resulted in FHC's commodities businesses having any exposure.

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The Tennessee Energy Acquisition Corporation[4]	Municipal End-User	• Tennessee Energy is a joint action gas supply agency that provides wholesale sales service to its associated municipalities and transacts with FHCs in both gas prepayment transactions and also in the commodity swap marketplace to hedge its risks. • Tennessee Energy has completed two 20-year gas prepayment transactions with an FHC that has saved its associated municipalities and other customers millions of dollars in reduced gas prices and are pursuing another transaction with the same FHCs that it hopes to close in 2014. • FHCs are the most "creditworthy counterparties with which [Tennessee energy has] an opportunity to transact business" and any additional regulation that would lead to FHCs unable to participate in these markets would be harmful to Tennessee Energy. • The disasters identified in the ANPR did not pose risk of catastrophic loss to FHCs.
American Gas Association, et al.[5]	End-User Trade Association	• The authors are trade associations that represent members who use physical commodities and commodity derivatives to manage the underlying risks associated with their businesses. • Additional regulations on FHCs' ability to transact in physical commodities could negatively affect non-financial companies "ability to access efficient, transparent, liquid markets" and would likely lead to reduced liquidity in these markets. • FHCs offer a large range of services and transact in other asset classes as well, "allowing end users to efficiently manage their counterparty relationships and credit support obligations." • Forcing FHCs to leave these markets would compound the already existing challenges for commercial businesses to appropriately hedge their underlying risks.

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America's Natural Gas Alliance, et al.[6]	End-User Trade Association	• The authors are trade associations that represent members that are engaged in natural gas and oil production and FHCs allow these members to manage their risk and maintain the ability of their cash flows. • These members routinely enter into "physically-settled derivative transactions relating to the price of natural gas" and FHCs are the leading providers of these types of products. • FHCs have substantial market expertise and can meet these members' needs and additional regulation could lead to a retreat by FHCs from these markets. • FHCs are already subject to prudential regulation with respect to their physical commodities businesses, and there has not been "to date a significant commodity-related event that has caused FHCs the sort of 'tail risk' that the ANPR describes."
Coalition of Physical Energy Companies[7]	End-User Trade Association	• The members of the coalition are physical energy companies that produce, process, and merchandise energy commodities. To properly engage in the "production of electricity, natural gas, natural gas liquids, crude oil, and refined products," the members of the coalition require counterparties to "provide risk management services, purchase output, deliver product, and provide financing;" FHCs currently are the only market participants that can perform these functions. • The members also value FHCs because they are creditworthy and can sustain long-term transactions, have strong compliance cultures, are well-regulated, possess sophisticated risk management structures, and have longstanding relationships with the members. • The environmental catastrophes identified in the ANPR could have a negative effect on an FHC if it operated a facility that faced such a disaster but FHCs currently operate only as lenders to these facilities and are thus not subject to those types of risks.

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Electric Power Supply Association	End-User Trade Association	• EPSA represents leading competitive power suppliers, including generators and marketers and its members are active participants in the physical commodities and commodity derivatives markets primarily in order to hedge their commercial risks. • EPSA members consistently face decisions as to whether they should keep, retire, upgrade, or repower power generation facilities and the ability to secure multi-year hedges is a significant factor in making this decision. • FHCs provide EPSA members with creditworthy counterparties with which they can hedge their commercial risks and FHCs also provide increased competition, which provides increased liquidity in these markets. • If FHCs depart from these markets, EPSA members will be left with limited options to hedge their risks, including transacting with less regulated entities at higher costs. Moreover, FHCs departing from these markets will lead to reduced liquidity and will make it more difficult to value forward prices in the energy and capacity markets.
International Wrought Copper Council	End-User Trade Association	• IWCC is the international trade association for the wire and brass mill industry. It has more than 150 member companies and their subsidiaries which are estimated to account for the global majority of annual copper consumption. • IWCC expresses concern with the consequential effect on delivery of metals (notably copper) from LME warehouses. They note that LME warehouses seem to serve the non-physical industry. • IWCC believes the reforms introduced by LME will not fully resolve the issue for the copper industry and recommends the “relevant authorities to fully investigate the possible links between warehouse ownership and excessive metals stocks” and to take action if necessary.

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Interstate Natural Gas Association of America	End-User Trade Association	• INGAA is a trade organization comprised of 25 members that represent the vast majority of interstate natural gas transmission pipeline companies in the U.S. and comparable companies in Canada. INGAA's members transport natural gas and operate storage facilities and provide those services to local gas utilities, large end-users and other shippers like natural gas producers and marketers. • Proposed "new restrictions on FHCs' ability to transact in the physical commodities markets could negatively impact nonfinancial companies' ability to access efficient transparent, liquid markets for managing their day-to-day physical commodity and related operational needs." • Commercial market participants could be left with fewer, more expensive options for purchasing physical commodities and mitigating commercial risk. Regional and specialty markets have small numbers of participating dealers and commercial participants rely on FHCs to make markets.
National Association of Corporate Treasurers[8]	End-User Trade Association	• NACT represents companies (like those signed on to the letter) that are end-users of physical commodities and commodity related derivatives. • Notes that the ANPR does not address the "many benefits FHCs provide to end-users" and expresses concern that the Federal Reserve "has not fully considered the impact any additional regulation on FHCs in this area will have on such companies." • FHCs are unique in that they can serve "the distinct needs of end-users of physical commodities and likely cannot be replaced by other market participants." FHCs make markets, allow end-users to transact efficiently, customize trades and are well regulated. • NACT does not see any risks to safety and soundness as a result of FHCs' activities; however, they do see a risk of driving FHCs out of this space. Additional regulation will make it more difficult for end-users to hedge and serve their customers.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
U.S. Chamber of Commerce Center for Capital Markets Competitiveness[9]	End-User Trade Association	• The Chamber is the world's largest business organization representing more than three million U.S. businesses and professional organizations of all sizes and in every economic sector. • Notes the significant and important role that banks play in providing commodity hedges to Main Street companies so that they can manage their risks. • If banks left the commodity derivatives markets, end-users' ability to manage risks would be seriously impeded. End-users would likely be forced to tie-up capital in holding physical inventories and hedging options would become less useful and more expensive.
U.S. Chamber of Commerce Center for Capital Markets Competitiveness and Institute for 21st Century Energy	End-User Trade Association	• The Chamber is the world's largest business organization representing more than three million U.S. businesses and professional organizations of all sizes and in every economic sector. Many non-financial members transact in the physical commodity and commodity derivatives markets. • Transacting with FHCs is essential for the Chamber's members because FHCs are "well-regulated, well-capitalized, highly-liquid counterparties that have the capacity to enter into highly customized transactions, designed specifically to match the size and duration of a company's exposure to a particular commodity." • Discusses the several adverse effects on end-users if FHCs are no longer allowed to engage in physical commodities activities, including lost revenue, increased costs, less regulated counterparties and operational complexity. • Explains that just as their member counterparties "transact in 'physical' markets like Treasuries to balance their positions and price their interest rate derivative offerings, swap dealers that make markets in commodity derivatives rely on their ability to transact in physical commodities to offer those hedging products to end users."

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American Council of Life Insurers	Financial Trade Association	• ACLI has more than 300 members that represent more than 90% of the assets and premiums of the life insurance and annuity industry. • Provides background on life insurance companies' ownership of physical commodities, noting that their limited engagement in physical commodities is outside the scope of the Federal Reserve's ANPR. • Argues that proposals that evolve from the Federal Reserve's ANPR do not apply to life insurance companies due to "fundamental differences in their products from banks, the associated long-term horizon of those products, and regulatory standards that limit life insurers' acquisition of physical commodities."
Clearing House Association LLC, et al.	Financial Trade Association	• FHCs' successful experience in managing risk associated with all types of merchant banking activities for a fifteen year period evidences that the current regulatory structure is effective and sufficient. • The risks cited in the ANPR are the same risks that the FHCs have appropriately managed since Congress granted this merchant banking authority to FHCs. • The doctrine of corporate separateness was specifically contemplated in the adopting release of the final merchant banking rule and therefore the ANPR calling it into question is unjustified. This doctrine helps insulate FHCs from certain of the risks mentioned in the ANPR. • The potential areas for enhancement that the ANPR identifies would only hamper the ability of FHCs to make merchant banking investments. In certain circumstances, these enhancements could actually increase the risk associated with such activities.

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Financial Services Roundtable	Financial Trade Association	• FSR represents 100 integrated financial services companies providing banking, insurance, and investment products and services to the American consumer. FSR has signed on to the joint trade association comment letter with SIFMA; however, this comment letter addresses specific questions relating to insurance companies. • Explains that the Federal Reserve would have "no legal policy basis" for extending restrictions to insurance companies and it would conflict with "the extensive regulatory system to which insurance companies are subject under state law."
Futures Industry Association	Financial Trade Association	• FIA is the leading trade organization for the futures, options and OTC cleared swaps market. Their members, their affiliates and their customers are active participants in the physical commodity and commodity derivatives markets. • Explains that end-users and the market would be negatively affected by additional restrictions on FHCs' physical commodities activities. • The "demonstrable public benefits" of FHCs engaging in complementary activities outweigh the potential adverse effects, if any. Notes that as principals to end-users in commodity transactions, FHCs can efficiently absorb risk and effectively act as counterparties to market participants who might not naturally match in the marketplace. • The Federal Reserve does not provide evidence of an FHC being harmed by any particular catastrophic events relating to physical commodities. • FIA notes that financial crisis clearly evidences the risks to the financial system from an increasing reliance on unregulated institutions; FHCs are highly regulated, making them credit-worthy counterparties.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Institute of International Bankers	Financial Trade Association	• The IIB is a trade association that is devoted to exclusively representing and advancing the interests of internationally-headquartered banking/financial institutions operating in the United States. • Argues that foreign banks would be disproportionately affected by any limitations on physical commodities activities (particularly with respect to capital requirements, customer expectations and organizational inefficiencies). • Explains that "[f]oreign banks, as additional participants in the U.S. physical commodities market, add to the market's capacity to serve customers and bring liquidity to the U.S. market from their trading operations outside the United States."
International Swaps and Derivatives Association, Inc.	Financial Trade Association	• ISDA is trade organization of participants in the global OTC derivatives markets. It has over 800 member institutions from 64 countries that include a broad range of market participants. • FHCs focus on intermediation and they provide a valuable service to customers – one that direct market participants may not be able to satisfy in a comparable manner. • FHCs enhance liquidity and transparency, promote price integrity, offer a source of high quality credit and provide end-users with access to increased physical supply options and risk management alternatives. • By participating in both the physical and financial segments of the commodities markets, FHCs can assist in lowering the risk profiles and costs for their customers.

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Private Equity Growth Capital Council	Financial Trade Association	• PEGCC is an advocacy, communications and research organization established to develop, analyze and distribute information about the private equity and growth capital investment industry and its contributions to the global economy. Its members include the world's leading private equity and growth capital firms. • FHCs play an important role as intermediaries to portfolio companies that are producers or consumers of commodities and in the commodities markets more broadly. The market making role of FHCs is particularly important in thinly-traded, less liquid markets. • FHCs participation in both the financial and physical markets helps to support price convergence for the two markets, making them more efficient. The transactions that FHCs engage in "substantially enhance the robustness and liquidity of these markets" which promotes "more accurate and stable pricing" of commodities.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter

Securities Industry and Financial Markets Association ("SIFMA"), et al.[10]	Financial Trade Association	• The associations believe that the "public benefits of continuing to permit FHCs and their non-bank affiliates to engage in physical commodities activities greatly outweigh the potential risks of those activities, whether conducted under the complementary, grandfathering or merchant banking authorities."
		  ◦ FHCs' engaging in these activities allows the public greater convenience as FHCs provide a full range of commodity-related services, increased competition, and gains in efficiency.
		  ◦ Allowing FHCs to continue to engage in these activities will likely result in increased liquidity, increased price convergence between the cash and derivatives markets, more transparent markets, more economic financing of inventories, reliable supplies, allowing smaller businesses to expand their scale and geographical reach, and enabling more startups through FHC merchant banking activities, among other things.
		• The tail risks associated with FHCs' current activities with respect to physical commodities do not pose any unique and/or more significant risks than any of the other permissible banking and financial activities conducted by FHCs.
		• FHCs generally only transact in commodities as intermediaries and thus do not maintain a net directional position of a size that would be material. The risk is further limited as FHCs are already constrained in the amount of physical commodity exposure they can assume under current regulations.
		• FHCs' record in managing these risks is evidenced by the fact that none of the FHCs allowed to participate in the physical commodities markets "has ever suffered a material loss as a result of any discharge of environmentally sensitive physical commodities."
		• Physical commodities activities may have mitigated the contagion from the financial crisis of 2008 as they allowed FHCs to be more diversified.
		• The Complementary Commodities Activities remain complementary to otherwise permissible activities, including entering into derivatives contracts or providing commodity advisory services. Taking physical delivery of physical commodities is an essential complement to commodity derivative activities.
		• The associations attach a Joint Memorandum of Law, prepared by four law firms, which concludes that "appropriately limited investment and trading activities relating to environmentally sensitive commodities present limited environmental liability risk" to FHCs, and "well-established doctrines of corporate separateness protect FHC groups from liability for investments in enterprises that engage in environmentally sensitive activities."
		• The associations attach a study, prepared by four law firms, regarding "Practices for Limiting Environmental Liability and Ensuring that Legal Entity Separateness Will Be Respected."
		• The associations attach a memorandum, prepared by Holman Fenwick Willan, which summarizes potential risks arising to FHCs in jurisdictions outside of the United States, including a summary of potentially applicable international conventions.
		• The associations attach a document prepared by four law firms that "contains a recommended process for evaluating, estimating and establishing safeguards against the risks of potential legal liabilities under non-U.S. law arising out of cross-border commodities activities as well as the effectiveness of those safeguards."
		• The associations attach a report by Operational Riskdata eXchange Association which details operational risk loss data (reported by its 66 member banking organizations) with respect to disaster and public safety, and the report notes that the "average loss event in this category was EUR 14,570."
		• The associations attach a report published by IHS Global Inc. on the role of banks in physical commodities markets and the benefits to the American economy of banks participating in these markets.

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<tr><th>Commenter
(click on name of commenter for full letter)</th><th>Type of Entity</th><th>Key Points Raised in Comment Letter</th></tr>
<tr><td>The Goldman Sachs Group, Inc.</td><td>FHC</td><td>
FHCs provide substantial benefits to consumers, commodity producers, investors, financial markets and the broader economy by their participation in physical commodities markets and making merchant banking investments. The comment letter discusses the benefits of FHCs involvement in this space, including “assisting companies in transferring risks relating to price exposures, resolving mismatches in timing, grade and location between commodity assets and liabilities and obtaining an important source of financing in and investment capital.”
FHCs that engage in physical commodities activities and make merchant banking investments in companies engaged in commodities activities “should maintain a robust program designed to address potential risks associated with these activities and investments.” Notes the Federal Reserve can provide guidance on such risk management programs.
Suggests four key elements of a risk management framework for an FHC :

“Prohibit participation in operational decision-making that is the province of the owner or operator of facilities in which the commodities are stored or transported,
require appropriate diligence prior to selecting facilities or operators used to store or transport commodities calibrated to take into account the specific nature of such arrangements,
require the design and maintenance of contingency policies designed to prevent FHC personnel from becoming involved in the management of an environmental accident, and
review the sufficiency of policies and procedures on both operational risk and reputational risk grounds, periodically and as warranted by new developments and activities.”

Explains that FHCs engaging in physical commodities activities “do not present unique risks that are not otherwise addressed by the policies and procedures that [FHCs] maintain to ensure the appropriateness of [FHCs’] participation in these markets, as well as by the regulations governing such participation.”
Notes that environmental risks associated with intermediation activities are limited and can be managed through risk management programs. Further notes that “the risk of market contagion in regards to commodities is in fact small, given that any one environmental incident is unlikely to coincide with similar events involving other FHCs.”
With respect to merchant banking, Goldman Sachs believes that because there are increased risks associated with an investor assuming routine decision-making authority for environmental matters at the portfolio company, it is appropriate to require an FHC to engage a third party to assume operational responsibility for such matters. Notes that further restrictions on holding periods and additional capital requirements are not needed.
The comment letter highlights several reasons why FHCs are better than potential “replacement” counterparties in the physical commodities markets, including, among other things, stringent prudential oversight, infrastructure and capability to offer more economical terms, and being better capitalized and financially stable.
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Morgan Stanley	FHC	• Notes that complementary, merchant banking and grandfather activities should all be conducted in a safe and sound manner and subject to risk management controls, including for environmental, legal or other operational risks, and that Morgan Stanley conducts much of its commodities activities under Section 4(o)'s legal authority. • Explains "that it would be error to conclude, based on the announcement of the proposed sale of its oil merchanting business, either that Complementary Commodities Activities are not necessary to ensure competitive equity between FHCs and competitors conducting commodities derivatives or other financial activities, or that the relationship between commodities derivatives and physical commodities markets (or the relationship between participants in such markets) may not be as close as previously claimed or expected." • Notes numerous public benefits of FHCs in the commodities markets (such as certainty about the costs of inputs and outputs).

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Wells Fargo & Company	FHC	• Explains that physical commodity services are limited and truly complementary. Wells Fargo's counterparties benefit because of the transparency and creditworthiness of Wells Fargo. • Current regulations adequately insulate Wells Fargo from liability, noting that they have not faced any of the types of tail risks identified in the ANPR. • Discusses the benefits of merchant banking activities, from Wells Fargo's own experience, for "a wide variety of non-financial companies across a broad spectrum of market segments." • The diverse portfolio of merchant banking investments has increased the safety and soundness of Wells Fargo by producing "attractive risk-adjusted returns" and enabling them "to expand customer and client relationships in a range of industries, resulting in new financial opportunities." • Wells Fargo has never faced any colorable veil-piercing claims tied to its merchant banking activities and notes that shortening of the 10 year holding period would encourage riskier investments.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter

Aon Risk Solutions	Other Financial Entity	• Aon represents clients in all industry sectors, including commodity traders that are owned by FHCs, and provides them with comprehensive risk management and employee benefit solutions, including acting as an insurance broker. Their letter focuses on the traditional risks that trading physical commodities poses to owners of those commodities and how those risks can be mitigated, especially by insurance.
		• Refutes the Board's statement in the ANPR that just because an event has not happened to date, it does not reduce the probability that such event may occur.
		    • Aon notes that, for example, "the oil industry and commodity trading charters, and the P&I Clubs, and regulators, have done much to improve the risk profile for carriage of oil and petroleum products."
		    • "The growth of insurance products and their increasingly more competitive terms is an indication of the insurance markets opinion that the risks associated with commodity trading activity are low and improving risk profile."
		• "[I]n practical terms commodity trader risk, mostly, if not 100% involves the transport or storage of commodities. The size of one exposure loss does not come close to the size of exposures in an offshore oil well, such as the Deepwater Horizon loss."
		• "In our experience, commodity traders are quite able to protect their exposures arising from chartering, storing and transporting commodities, as well as cargo ownership through a liability policy" provided by specialist marine insurance and related markets.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
CME Group	Other Financial Entity	• CME Group is the parent company of leading global markets for listed and cleared derivatives, including those based on physical commodities. • Curtailing FHCs from participating in the physical commodities markets will diminish net liquidity and weaken the price convergence for physical delivery futures contracts. Intermediary services provided by FHCs broadly benefit end-users. • Urges the Federal Reserve not to restrict FHCs' physical commodities activities including the ability to directly or indirectly own, store and transport physical commodities.
Sunesis Capital, LLC	Other Financial Entity	• Sunesis Capital is a hedge fund based in San Francisco. • Notes that a number of adverse effects have arisen in the metals markets (and could appear for other commodities) due to FHCs owning physical metal, trading in derivatives and owning official LME storage warehouses. • Contends that the American taxpayer is subsidizing FHC activity in the commodities markets causing higher prices on everyday goods as a result of FHCs' access to the discount window.
TIAA-CREF Financial Services	Other Financial Entity	• TIAA is a life insurance company operating on a not-for-profit basis and CREF issues variable annuities and is an investment company registered with the SEC under the Investment Company Act of 1940. • There is "no compelling legal or policy basis for extending" limitations on physical commodities activities to insurance companies that are affiliated with savings and loan holding companies. Any such proposed extension would be "inappropriate and in conflict with the extensive regulatory system to which insurance companies are subject under state law."

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Robert Hockett, Professor of Law, Cornell University Law School	Academic	• Argues that the Federal Reserve should condition further FHC involvement in physical commodities markets upon compliance with a disclosure regime that allows for the tracking and monitoring of the physical and derivatives markets. Explains that the Federal Reserve should track and monitor bank/FHC involvement in the derivatives and physical commodities markets with a view of possible manipulation. • If the Federal Reserve permits continued FHC involvement in physical commodity markets, it should limit the quantitative and proportional extent of such involvement to ensure it remains a comparatively small part of the FHC's activities.
Saule T. Omarova, George R. Ward Associate Professor of Law, University of North Carolina School of Law	Academic	• Urges the Federal Reserve to refrain from acting solely or mainly on the basis of, or in response to industry comments on the ANPR, urging the Federal Reserve to expand its focus to "governability" issues. States that a thorough and targeted fact-finding exercise should be undertaken. • Notes that concerns with potential conflicts of interest and misuse of market power deserve the Federal Reserve's heightened attention, both because of their systemic implications and the traditionally central role of antitrust considerations to U.S. BHCs. • States that arguments saying that FHCs' physical commodities activities have not caused, or are not likely to cause, any systemic financial crisis are flawed because such arguments deny legitimacy to prospective, preventative regulation. • Argues that the Federal Reserve should use all of its formal and informal powers to prevent potential over-extensions of the grandfather provisions. The comment letter also emphasizes the significance of enhanced reporting and monitoring of merchant banking investments, particularly in the energy and commodities sectors. • Contends that FHCs are not necessarily more transparent or effectively supervised in their capacity as physical commodity traders as nonbank commodity trading houses.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Senator Sherrod Brown and Senator Elizabeth Warren	United States Senate	• The Senators argue that the Federal Reserve should us its authority to clarify and narrow its prior interpretations of complementary authority – specifically, narrowing the scope of complementary activities to those that have not been shown to have negative impacts on consumers, end users and the functioning of commodities markets generally. • Contend that commercial commodities and energy activities expose Federal Reserve-regulated financial institutions to unprecedented and unmanageable financial, legal, environmental and reputational risks. Argue that the Federal Reserve should use its BHC Act legal authority to address systemic risk. • Recommend that the Federal Reserve improve transparency and disclosures to enable the public to engage in this issue. • Explain that risks from environmental hazards, resource unavailability, catastrophic risks, etc., have resulted in minimal damage for now, but some argue that FHCs have been fortunate to date. • Recommend that the Federal Reserve conduct a review of merchant banking activities and institute specific safeguards. Further recommend that the Section 4(o) grandfather authority be interpreted in as narrow a manner as possible and apply heightened prudential standards to such grandfathered activities. • Argue that “shadow” players should not be a significant concern, noting that the CFTC maintains authority to police fraud and manipulation in the commodities markets regardless of the party engaging in such behavior, and should the activities of nonbanks create systemic risk, the FSOC could designate such firms as systemic.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter

Senator Carl Levin	United States Senate	• Senator Levin suggests that the Federal Reserve issue a proposed rule that would, among other things:
		    • Limit the scope of commodities activities that are "complementary" to derivatives with physical delivery and spot transactions directly linked to the physical settlement of a derivative and tighten standards for the Board's review of applications for complementary activities.
		    • Construe Section 4(o) more narrowly and coordinate limits on physical commodity holdings.
		    • Limit merchant banking holding periods and place additional restrictions on FHC management of portfolio companies.
		    • Clarify how market manipulation concerns and conflict of interest issues should be taken into account when determining whether to approve physical commodity applications.
		• The comment letter notes that a proposed rule should clarify the heightened standards the Board should follow in evaluating complementary activities and provides several suggestions for such heightened standards.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Americans for Financial Reform	Public Interest	• AFR is a coalition of more than 200 national, state, and local groups who advocate for reform of the financial industry. Their members include consumer, civil rights, investor, retiree, community, labor, faith-based and business groups along with prominent independent experts. • Believes in the elimination or the significant reduction of commodity ownership from bank portfolios. • Urges the Federal Reserve to focus on "public benefit and safety" and not "profitability." Notes that the Federal Reserve should be mindful that better pricing by FHCs could come from implicit public subsidies that may materialize in the case of heavy losses. • Contends that the grandfather authority raises safety and soundness concerns that the Federal Reserve should look into and narrow. • Argues that merchant banking investments should be subject to stringent safety and soundness tests and "fulfill the statutory requirement of true independence."

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Better Markets	Public Interest	• Better Markets is a non-profit organization that promotes the public interest in capital and commodity markets. • Argues that the Federal Reserve must make explicit the precise nature of those activities determined to be "complementary" to financial business and the specific methodology under which such determinations are performed. Better Markets contends that the law does not permit FHCs to engage in indisputably non-financial ventures. • Suggests that the Federal Reserve should coordinate with other regulators, noting that the Federal Reserve is "ill-equipped to review, determine and opine upon the specific risks associated with the ownership or operation of various commodity businesses." • Contends that conflicts of interest may arise when FHCs own physical commodity investments, noting, among other things, an "unacceptable level of risk and market manipulation stemming from a lack of expertise, conflict of interest and interconnectedness." • Argues that there are "unacceptable risks associated with a FHC's exposure to a commodity business" which could be "calamitous" for the FHC, and potentially, the economy. • Contends that the Section 4(o) grandfather provision should be eliminated and that the 10-year holding period for merchant banking investments should be restricted.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Commodity Markets Oversight Coalition	Public Interest	• CMOC is a non-partisan alliance of agriculture, energy and transportation industry groups and other organizations that represent commodity-dependent American businesses, end-users and consumers. • Recommends that the Federal Reserve examine the questions in the ANPR and take action as necessary "to safeguard commercial businesses and industries, protect the integrity of the financial system and the broader economy, and close the door to potential market manipulation." • Recommends disclosure to regulators of "types of commodities, volumes and storage locations that are owned or leased by FHCs or their subsidiaries."
Institute for Agriculture and Trade Policy	Public Interest	• IATP is a U.S. nonprofit, nongovernmental organization that works locally and globally at the intersection of policy and practice to ensure fair and sustainable food, farm and trade systems. • Argues that the Federal Reserve should terminate FHCs' participation in complementary activities. If not terminated, the Federal Reserve should limit the aggregate market value of complementary activities and must find that owning, storing, transporting and trading physical commodities does not pose substantial risk to the safety and soundness of depository institutions generally. • Suggests that FHCs should submit to the Federal Reserve quarterly independent estimates of costs of environmental transportation, personal injury and death, public health, reputational and legal liabilities associated with trading, storage and delivery of "complementary activities," as well as annual insurance policies.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
New America Foundation's Markets, Enterprise and Resiliency Initiative	Public Interest	• New America Foundation is a nonprofit, nonpartisan public policy institute. • Argues that commodity markets are manipulated by "inside" information by executing financial trades based on information in the physical markets that the company controls. • Mentions a forthcoming report that documents commodity markets in the U.S. remain highly susceptible to "this sort" of manipulation. • The arguments do not appear limited to FHCs' participation in the physical commodities markets, noting that eliminating banks' ability to own physical commodity assets and move physical commodity goods will serve as a "vital first step."

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Occupy the SEC	Public Interest	• Occupy the SEC is a group of concerned citizens, activists and financial professionals "that work to ensure that financial regulators protect the interests of the public, not Wall Street." • Recommends that the Federal Reserve rescind its complementary physical commodity orders and require total divestment of holdings in order to limit legal, reputational and environmental risks. Absent a complete restriction, recommend the Federal Reserve should "limit trading in the most volatile trading such as energy markets and certainly the most risky energy-related activities, such as refining, storing and transporting fuel." ◦ If the Federal Reserve chooses to limit FHCs' physical commodities activities, the restrictions should include: reporting and disclosure, capital requirements, and various prudential limitations, including a heightened role for internal bank examiners. • Suggests that the Federal Reserve should not put too much reliance on capital or liquidity requirements, as they are "likely to be ineffective in assessing the possibility of rare and severe risks, dissuading conduct during a speculative boom, or ensuring liquidity during an environmental crisis." ◦ Argues that there is no evidentiary support that there are market benefits to BHCs and FHCs participation in the physical commodities markets, and that all they have done is engage in anti-competitive and manipulative practices that "have had a deleterious effect on resource allocation and on end users of commodities." • Expresses concern that the government and public will be responsible for cleanup of accidents involving FHC physical commodity trading. Argues that the Federal Reserve should have done an Environmental Impact Study. • With respect to merchant banking activity, recommends "extraordinary restrictions on active management, heightened bank examination, limiting the term for which an investment is held, and other prudential restrictions." Should also have prohibitions against the appointment of executives and directors of portfolio companies and broader restrictions of target companies for investment purposes.

Commenter (click on name of commenter for full letter)	Type of Entity	Key Points Raised in Comment Letter
Public Citizen	Public Interest	• Recommends that the Board bar FHCs from owning commodities associated with catastrophic risk. • Contends that FHCs have an information advantage creating conflicts of interest. • Argues for rigorous safety and soundness criteria for Section 4(o) grandfather activity, noting that the grandfather clause constitutes an advantage for such firms. • Argues that the Federal Reserve should restrict any ownership of commodities sought through the merchant banking authority by using its safety and soundness powers, and that merchant banking capital should be at levels of a traditional commodity firm.
The Other 98%	Public Interest	• The Other 98% is a non-profit organization and grassroots network of activists that focuses on "economic injustice, undue corporate influence, and making America work not just for the elite, but also for the other 98% of us." • Urges the Federal Reserve either to revoke past orders authorizing complementary activities or at least significantly expand the oversight and restrictions of such activities. Suggests several ways in which the Federal Reserve can increase its oversight over complementary activities if it decides not to revoke such orders. • Claims that the Federal Reserve should examine the information advantages that FHCs may have in the physical commodities markets. Argues that there is "real harm to the public as these powerful FHCs engage in manipulative practices that end up costing consumers and end users alike." • Draws conclusions about the environmental risks of the physical commodities markets. Suggests that the Federal Reserve should insist on an Environmental Impact Statement before any new complementary activity that carries the risk of environmental disasters is approved. • Argues that FHCs should only be permitted to make passive private equity investments in commercial companies if that investment does not exceed 5% of voting shares of the company it is investing in.

(Footnotes)

1 Central Plains Energy Project is formed by three member municipalities: Metropolitan Utilities District of Omaha, Nebraska; Municipal Gas Utility of Cedar Falls, Iowa; and City of Hastings, Nebraska, d/b/a Hastings Utilities.

2 Authors of this letter include the Chelan County Public Utility District, Clark Public Utilities, Cowlitz County Public Utility District, Public Utility District #2 of Grant County, Eugene Water and Electric Board, Klickitat County Public Utility District, Lewis County Public Utility District, Pend Oreille County Public Utility District #1, Snohomish County Public Utility District, and Tacoma Power.

3 Clark Mobile Counties Gas District and The Black Belt Energy Gas District are each formed by the same three member municipalities: the City of Jackson, Alabama; the Town of Grove Hill, Alabama; and the City of Thomasville, Alabama.

4 The Tennessee Energy Acquisition Corporation has 22 associated municipalities located in West, Middle, and East Tennessee, all of which are Tennessee local government units created by, or pursuant to authority granted by the Tennessee General Assembly. They are: the City of Clarksville; the City of Springfield; the West Tennessee Public Utility District; the Greater Dickson Gas Authority; the Town of Linden; the City of Waynesboro; the City of Savannah; the City of Lexington; the City of Ridgetop; the City of Bolivar; the Bedford County Utility District; the Town of Selmer; the Town of Centerville; the City of Hohenwald; the Harriman Utility Board; the Natural Gas Utility District of Hawkins County; Marion Natural Gas System; Rockwood Water and Gas System; Oak Ridge Utility District; the City of Henderson; the Town of Collinwood; and Horton Highway Utility District.

5 The trade associations signed onto this letter include the American Gas Association, American Public Gas Association, Electric Power Supply Association, National Rural Electric Cooperative Association, U.S. Chamber of Commerce Center for Capital Markets Competitiveness, and U.S. Chamber of Commerce Institute for 21st Century Energy.

6 The trade associations signed onto this letter include America's Natural Gas Alliance, the American Gas Association, and the American Exploration & Production Council.

7 The comment letter lists the end-user members of the Coalition of Physical Energy Companies as: Apache Corporation; EP Energy LLC; Enterprise Products Partners, L.P.; Iberdrola Renewables, Inc.; Kinder Morgan; MarkWest Energy Partners, L.P.; Noble Energy, Inc.; Shell Energy North America (US), L.P.; SouthStar Energy Services LLC; and Targa Resources.

8 The following end-user members of the National Association of Corporate Treasurers signed the comment letter: Air Products and Chemicals, Inc.; Anadarko Petroleum Corporation; Apache Corporation; Armstrong World Industries, Inc.; The Boeing Corporation; Blythe, Inc.; The Dow Chemical Company; FMC Corporation; The Hershey Company; The HollyFrontier Companies; Honeywell International Inc.; PCS Nitrogen Fertilizer, L.P.; Portland General Electric Company; and Republic Services.

9 The comment letter references and attaches an October 1, 2013 letter to former Chairman of the Federal Reserve, Ben Bernanke, discussing the importance of banks as counterparties in the physical commodities markets. That letter was signed by 32 end-user companies: Alon USA Energy, Inc.; America's Natural Gas Alliance; Anadarko Petroleum Corporation; Apache Corporation; BNSF Railway; Calpine Corporation; Delek US Holdings; Desert Power Electric Cooperative; Devon Energy Corporation; Dynegy; Electric Power Supply Association; Energy Capital Partners; EP Energy Corporation; FMC Corporation; Georgia Energy Cooperative; GreyStone Power Corporation; HCA; LS Power; Luminant Energy Company LLC; Midstates Petroleum Company, Inc.; Murray Energy Corporation; Newfield Exploration Company; Noble Energy Inc.; Northeastern REMC; NRG Inc.; Oglethorpe Power Corporation; Owens Corning; Talos Energy LLC; The Boeing Company; U.S. Chamber of Commerce; UPS; Walton EMC; Wyoming Refining Company.

10 SIFMA submitted the comment letter jointly with The American Bankers Association, Financial Services Forum, Financial Services Roundtable and Institute of International Bankers.