Senator Jeff Merkley & Senator Carl Levin

PROP Trading Act: Making Banking Boring Again

High-risk bets, also known as proprietary trades, directly contributed to the financial crisis as "too big to fail" financial institutions gambled heavily – and lost. Taxpayers should never again be left with the costs of Wall Street's bad bets.

To make banking boring again, Senators Jeff Merkley and Carl Levin have introduced the Protect our Recovery through Oversight of Proprietary (PROP) Trading Act which will:

Restrict Proprietary Trading by Banks and Large Non-Banks

- Bar taxpayer-insured banks and their affiliates and subsidiaries from engaging in proprietary trading.

- Bar taxpayer-insured banks and their affiliates and subsidiaries from investing in or sponsoring a hedge fund or private equity fund.

- Require large, interconnected nonbank financial institutions to maintain additional capital to discourage high-risk activities and subject them to strict quantitative limits on such proprietary trading and investing in or sponsoring a hedge fund or private equity fund.

- Direct the Board of Governors and the FDIC, in consultation with the SEC and CFTC, to issue rules to implement the prohibitions or restrictions.

- Direct the appropriate regulators to issue rules that rein in high-risk trading in covered firms, while allowing for traditional client-oriented services, such as:
  - Purchasing and selling government obligations,
  - Underwriting and market-making to serve clients,
  - Risk-mitigating hedging activities,
  - SBA small business investment company investments, and
  - Other activities that do not result in material conflicts of interest, holdings of high-risk assets or high-risk trading strategies, threats to safety and soundness, or pose a threat to U.S. financial stability.

- Permit banks and bank holding companies to continue to provide advisory services to hedge funds as long as they maintain arms-length transactions and do not create a taxpayer bailout risk through their relationship.

Prohibit Conflicts of Interest by Underwriters

- Prohibit any underwriter of an asset-backed security from engaging in transactions that create material conflicts of interest with respect to the securities being sold, and direct the SEC to issue rules implementing this conflict of interest prohibition.