

## Partner Dan Berkovitz Addresses Regulations on Banks' Physical Commodities

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WilmerHale Partner Dan Berkovitz appeared on [Platts Energy Week TV](#) to discuss the recent Permanent Subcommittee on Investigations' (PSI) hearing, "Wall Street Bank Involvement with Physical Commodities," held November 20–21. The hearing, which was chaired by US Senator Carl Levin (MI) and followed the Subcommittee's issuance of a report on the topic, examined banks' activities involving physical commodities and the adequacy of current regulations.

Platts TV program host Bill Loveless asked Berkovitz to discuss the Subcommittee's concerns. Berkovitz outlined the reasons banks participate in physical commodity markets, including to support the financing of projects involving physical commodities and to better provide hedging and risk management services to companies in the physical commodity markets. With respect to the Subcommittee's concerns regarding the potential for manipulation and possible unfair trading advantages, Berkovitz explained that these bank activities were stringently regulated by the Federal Reserve and other federal regulatory agencies, such as the Commodity Futures Trading Commission. Further, the Dodd-Frank Act imposed business conduct standards for banks that have significant activities in these markets, including prohibitions against fraud and manipulation.

Loveless also asked about the potential for additional regulation and what to expect in the new Congress. Berkovitz noted that the Federal Reserve was working on a proposed rule to address the capital requirements applicable to banks involved in physical commodity activities. He observed that interest in this area was likely to continue in the new Congress, saying, "In terms of capital requirements on banks and concerns about involvement of banks in commodities, the concerns have been shared on both sides of the aisle, so I expect that Congressional pressure regarding capital requirements and ensuring that banks don't become too-big-to-fail will continue."

Berkovitz joined WilmerHale in 2013 after more than thirty years of government service in the US Senate and several of the nation's key governmental agencies, including the US Commodity Futures Trading Commission, the US Department of Energy, and the US Nuclear Regulatory Commission. He has advised on some of the most significant legislative and regulatory initiatives affecting the nation's financial, commodity and energy markets.