10 Years Later: The Dodd-Frank Act

Center Forward Basics

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Overview

The Dodd-Frank Wall Street Reform and Consumer Protection Act more often referred to as Dodd-Frank, is major legislation that was signed by President Barack Obama in July 2010. Designed in the aftermath of the "Great Recession," the legislation affects nearly every aspect of the United States financial system, from the operations of banks, investment, private equity and hedge fund firms to the administration of mortgages and credit cards. As we approach the 10-year anniversary of Dodd-Frank's passage, we examine its impact on the U.S. financial system and proposed changes to improve the Act.

What has worked?

Since its passage in 2010, the Dodd-Frank Act made the U.S. financial system safer, more resilient, and resulted in enhanced protections for investors. The financial system has continued to grow stronger as a result of the U.S. Treasury Department recommendations to recalibrate and tailor portions of the law. The bill's House author Rep. Barney Frank (D-MA) stated at an event commemorating the 10th anniversary that "the bill itself has held up very well under the Trump administration. For all the denunciations of the bill…in fact the economy, the banking system functioned very well."

In the beginning of June 2020, the National Bureau of Economic Research announced that the U.S. economy is in a recession due to growing unemployment numbers and decreased economic output directly stemming from the COVID-19 pandemic. While the coronavirus tested the resilience of the financial sector and the reforms of the Dodd-Frank Act, overall, the capital markets proved to be strong and have performed well during times of unprecedented volatility. Currently, banks are a source of strength for the economy and are well capitalized. Therefore, they have been in positions to lend to individuals, households, and businesses both large and small.

During the past 10 years, Title VII of the Dodd-Frank Act has implemented positive changes to the financial market. Specifically, it has resulted in the mandatory clearing of over-the-counter (OTC) derivatives, the mandatory exchange trading of all mandatorily cleared swaps on a designated contract market (DCM) or Swap Execution Facility (SEF), and margin requirements for non-cleared swaps. Overall, Title VII has improved capital requirements and regulatory reporting for the swap dealers and major swap participants.

Future Improvements

While some provisions of the Dodd-Frank Act have been adjusted and changed during the last 10 years, there are many suggestions to further improve the act.

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Center Forward brings together members of Congress, not-for profits, academic experts, trade associations, corporations and unions to find common ground. Our mission: to give centrist allies the information they need to craft common sense solutions, and provide those allies the support they need to turn those ideas into results.

In order to meet our challenges we need to put aside the partisan bickering that has gridlocked Washington and come together to find common sense solutions.

For more information, please visit www.center-forward.org

Key Facts

- **Title VII of the Dodd Frank Act:** imposes a broad regulatory regime for swaps and securities-based swaps. It is administered by both the Commodities Futures Trading Commission (CFTC) and the Securities and Exchange Commission (SEC).
- **Overcapitalization**: occurs when a company has issued more in debt and equity than its assets are worth.

Some of the suggestions include:

- Refining US bank capital rules to:
    - Ensure they do not apply overly conservative and unrealistic assumptions to capital market activities including in Supervisory Stress Testing.
    - Provide needed flexibility in capital requirements so that during periods of severe market dislocations, financial institutions have the capacity to effectively intermediate the US government's financial stability programs in the capital markets. During the COVID-19 pandemic, the Federal Reserve had to change the Supplementary Leverage Ratio (SLR) to free up balance sheet capacity so that banks could intermediate the Federal Reserve's COVID-19 programs to stabilize market conditions.
- Maintaining Regulation Best Interested Standard. In June 2019, the Securities and Exchange Commission (SEC) adopted Regulation Best Interest (Reg BI), which requires broker-dealers to act in the best interest of their retail customers when making a recommendation of any securities transaction or investment strategy involving securities to a retail customer. Reg BI will require and clarify that broker-dealers and investment advisers only recommend financial products to their customers that are in their customers' best interests; help investors understand and compare services offered, identify any potential conflicts of interest and financial incentives between the broker-dealer and the product, and create more consistency in the level of protections. Reg BI has a compliance date of June 30, 2020. Some argue it may hurt investors and broker-dealers, others believe that it will enhance investor protection and contribute to increased professionalism among financial service providers. Most recently, the U.S. Department of Labor clarified the standard with regard to investment professionals when providing advice to investors, along with a proposal to further align conduct with the standard under Reg BI.
- Maintaining an activities-based approach for identifying and addressing risks to financial stability for non-banks including asset managers, non-bank broker dealers, and insurance companies. In December 2019, the Financial Stability Oversight Council (FSOC) voted to implement an "activities-based" approach to identifying and addressing potential risks to financial stability. This increases transparency, improves due process, and fairness of the designation process and also ensures that the FSOC can identify risks to the financial stability of the U.S. Additionally, many propose that the market regulators should be the primary regulator of the capital markets, not the Federal Reserve in order to ensure that capital markets are not regulated like banks.
- Avoiding market fragmentation. Although many of the Dodd-Frank rules have made the markets and banking system more resilient, the global nature of financial markets, particularly securities and derivatives require that national jurisdictions avoid fragmentation that could give rise to financial stability concerns and inhibit capital formation and cross-border financial activities. U.S. regulators should continue to work cooperatively with global counterparts to avoid unnecessary conflicting or uncompetitive rules.

Conclusion

As we approach the 10-year anniversary of Dodd-Frank's passage, it is important to examine the impact on Americans and the U.S. financial system. Many believe that a landmark law like this should be improved and revised to reflect the past decade in order to preserve an economy that works for all Americans.

Links to Other Resources

- CRS Report - The Dodd-Frank Wall Street Reform and Consumer Protection Act: Systemic Risk and the Federal Reserve
- CRS Report - Financial Stability Oversight Council (FSOC): Structure and Activities
- The Federal Reserve - Federal Reserve Board formalizes previously announced one-year conformance period extension for certain Volcker rule legacy fund investments
- The Federal Reserve - Volcker Rule Overview

- Securities and Exchange Commission - Regulation Best Interest
- SIFMA - Rebalancing the Financial Regulatory Landscape
- SIFMA - Fixing the Volcker Rule
- SIFMA - OTC Derivatives
- SIFMA - Best Interest Standard
- Third Way - Why Capital Markets Matter
- U.S. Treasury Department - A Financial System That Creates Economic Opportunities: Banks and Credit Unions