BIPARTISAN POLICY CENTER

DODD-FRANK

PROGRESS, CHALLENGES AND SOLUTIONS

July 21, 2014 marks the fourth anniversary of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank) becoming law. While much of the law remains to be fully implemented and its impact analyzed, a number of its provisions have resulted in progress for U.S. financial regulation. Still, challenges need to be overcome to achieve the goals of making the financial system more stable, more able to promote economic growth, and better at protecting consumers. In addition to highlighting key areas where Dodd-Frank made progress, we offer solutions to Congress and regulators to address the challenges that remain and improve upon what Dodd-Frank has started.

TOP TEN AREAS WHERE DODD-FRANK MADE PROGRESS

1 Created SIFI resolution authority

Tackles the “too-big-to-fail” problem by making it possible for large institutions to fail without threatening the financial system or requiring taxpayer bailouts (Title II)

2 Increased capital requirements

Makes banks safer and more able to withstand shocks

3 Mandated oversight of the entire financial system

Provides better monitoring of banks and non-banks by creating a multi-agency system of macro-prudential regulation through the creation of Financial Stability Oversight Council (FSOC) and Office of Financial Research (OFR), and by making Federal Reserve Board the lead regulator for systemically important financial institutions (SIFIs)

4 Improved oversight of complex financial products

Improves the safety of financial markets and provides better information for markets and regulators through greater transparency and regulation of derivatives

5 Enhanced consumer protection

Provides for independent and improved consumer protection by creating the Consumer Financial Protection Bureau (CFPB)

6 Provided ways to monitor systemic risks

Improves the information available to regulators to monitor systemic risk by creating the OFR

7 Established federal insurance oversight

Fosters federal expertise and ensures a voice on insurance issues through the Federal Insurance Office

8 Extended consumer protection authority to non-banks

Improves consumer protection and levels the playing field between banks and non-banks

9 Eliminated the Office of Thrift Supervision

Reduces regulatory arbitrage and streamlines regulation

10 Enhanced authority to restrict risky activities in addition to firms’ safety and soundness

Gives systemic regulators more authority to restrict dangerous products and practices

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TOP TEN SOLUTIONS FOR CONGRESS TO IMPROVE UPON DODD-FRANK

1 Raise the SIFI Threshold for Banks

Focus regulatory resources on the largest institutions that pose the greatest potential systemic risk by moving the asset size threshold for enhanced supervision of bank holding companies (BHCs) from a hard-and-fast $50 billion limit to a more flexible $250 billion level

2 Create New Bankruptcy Authority

Provide another strong tool to help end "too-big-to-fail" by amending the Bankruptcy Code to make bankruptcy a viable alternative to Dodd-Frank's Orderly Liquidation Authority

3 Tailor Standards for Non-Banks

Provide more appropriate regulation by ensuring that the Federal Reserve Board can properly set different prudential standards, including capital requirements, for non-banks that are subject to enhanced supervision requirements

4 Align Too-Big-to-Fail Authorities

Better coordinate the process to wind down failed financial institutions without cost to taxpayers by aligning living wills under Dodd-Frank's Title I with the reality of Orderly Liquidation Authority under Title II

5 Fix the Swaps Push-Out Rule

Avoid conflicting regulatory approaches by postponing the effective date for the swaps push-out provision, which would require banks to move all derivatives into non-bank affiliates, pending an assessment of whether the Volcker Rule fixes the problem

6 Improve the CFPB

Provide more consistent oversight of consumer lending activities by granting the CFPB authority over auto dealer lending activities and better oversight of the CFPB by assigning it an independent inspector general

7 Make the OFR Independent

Improve the ability of the OFR to "call it like it sees it" and "sound the alarm bell" on systemic threats by making the OFR a truly independent agency outside of the Treasury Department

8 Create a Single Capital Markets Regulator

Reduce confusion, turf battles, and regulatory gaps in capital markets regulation by merging the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC)

9 Establish a Federal Insurance Charter and Regulator

Protect taxpayers and avoid bank-centric regulation of insurance companies by creating an optional federal insurance charter that would be mandatory for SIFI insurance companies, and a federal insurance regulator to oversee firms holding that charter

10 Ensure Independent Funding

Give independent financial regulators the resources necessary to implement financial reform and make them less susceptible to political pressures by establishing independent funding sources for all agencies and removing them from the congressional appropriations process

TOP TEN SOLUTIONS FOR REGULATORS TO IMPROVE UPON DODD-FRANK

1 Create a Consolidated Exam Force

Prudential regulators should improve regulation by establishing a pilot program for a common bank examiner pool that provides for a unified examination and reporting process

2 Increase FSOC Transparency

The FSOC should allow market participants to make more informed decisions by releasing further information about its decision-making process, beginning with more detailed minutes similar to that reported by the Federal Open Market Committee

3 Set SIFI Bail-In Rules

The Federal Reserve Board should make financial institutions safer and processes for market participants more predictable by setting long-term debt holding requirements that will better enable large financial institutions to absorb losses

4 Converge Resolution Planning Processes

The Federal Deposit Insurance Corporation (FDIC) and Federal Reserve Board should use existing authority to help move toward a process to wind down too-big-to-fail institutions without cost to taxpayers by converging the living will and single-point-of-entry processes

5 Implement Volcker the Right Way

Agencies should take account of real-world conditions by coordinating implementation of Volcker Rule regulations in a way that is phased-in and updated iteratively based on data and metrics

6 Improve CFPB Process

The CFPB should provide greater opportunity for input from all stakeholders by pursuing more policies through the rulemaking process rather than through individual orders and guidance

7 Clarify Orderly Liquidation

The FDIC should make the resolution process more predictable for investors, debtors, and other stakeholders by issuing a policy statement on the single-point-of-entry-strategy, including a statement that the strategy will be the presumptive path for resolving failed institutions

8 Assess International Impact

The FSOC should strengthen the global financial system and improve coordination among U.S. and international regulators by conducting an assessment of the cross-border impacts of Dodd-Frank's rules and regulations

9 Coordinate Capital Markets Regulation

The CFTC and SEC, two agencies with at-times overlapping and blurred lines of jurisdiction, should improve coordination between them by holding joint board meetings

10 Improve CFPB Data Collection and Storage

The CFPB should enhance the quality of its data security for institutions and consumers. It should also improve coordination internally and with other regulators on data requests