



EVERYTHING MATTERS

## Dodd-Frank Alert: Regulators Take Center Stage



## FINANCIAL SERVICES REGULATORY REFORM SIGNED INTO LAW – NEXT, REGULATORS TAKE CENTER STAGE

On July 21, 2010, in a signing ceremony at the Ronald Reagan building in Washington, DC, President Barack Obama signed into law sweeping financial services legislation – the broadest overhaul of US financial rules since the Great Depression. The reform effort has traveled a tortured legislative path shaped in major part by reaction to one the country’s greatest-ever financial crises.

As noted by *The Wall Street Journal*, the signing of the bill into law “is when the real battle will begin to shape the new rules of Wall Street. The unifying theme of the [legislation] is to hand even more discretion and authority to ...regulators....”

The massive bill provides broad authority for regulators to define details critical to the implementation of the legislation. The rules and definitions ultimately promulgated by regulators could have a significant impact on the operations – and profitability – of businesses affected by the legislation, including many well outside the financial services community. The rulemaking process allows for advance input by affected businesses, and will provide companies with a critical opportunity to help shape the vital details of those rules before they become effective.

To see the entire legislative text, please click [here](#).

The legislation – entitled the Dodd-Frank Wall Street Reform and Consumer Protection Act after Senate Banking Committee Chairman Chris Dodd (D-CT) and House Financial Services Committee Chairman Barney Frank (D-MA) – provides for a new Financial Stability Oversight Council, governmental resolution authority for failing institutions, agency reorganization, a new Consumer Financial Protection Bureau and a federal Insurance Office, and it imposes tougher capital, leverage and liquidity requirements. It also creates new requirements for derivatives, hedge funds, private-equity funds, credit rating agencies, debit card interchange fees and corporate governance, among others. Of particular note are areas *not* addressed by the legislation, including the imposition of absolute size limits on any financial institution, further regulation of Freddie Mac and Fannie Mae (although a study is required), reinstatement of Glass-Steagall’s strict separation of commercial and investment banking or provisions on bank overdrafts or mortgage cramdowns.

We have compiled an overview of the key provisions of this expansive legislation and, importantly, a list of the required rulemakings and the timeframes during which the public (including the business community) can submit its views. Now that the bill has been signed into law, we have updated the rulemaking chart to reflect the actual dates of the rulemakings (which are generally tied to the date of the bill’s enactment). Notwithstanding the extraordinary scope of this legislation, we have attempted to keep these descriptions relatively brief so that you may more quickly determine which topics will be most important to your company. If you have any questions whatsoever, please contact any of us.



**TITLE I: FINANCIAL STABILITY**

- Establishes a new Financial Stability Oversight Council
- Identifies entities potentially subject to increased supervision
- Ensures that large bank holding companies (whose assets exceed \$50 billion) that have received TARP funding cannot avoid ongoing supervision by the Federal Reserve simply by eliminating their bank entities, but will continue to be regulated as significant financial institutions
- Imposes new obligations and restrictions for Covered Nonbank Companies<sup>1</sup>
- Imposes enhanced supervision and prudential standards for all Covered Nonbank Companies and Covered Bank Holding Companies
- Imposes additional requirements for Covered Nonbank Companies, Covered Bank Holding Companies and certain other Bank Holding Companies and Nonbank Financial Companies, and
- Imposes increased leverage and risk-based capital requirements

**Rulemakings**

<b>Federal Reserve Board (FRB)</b>	
<b>July 21, 2011 (1 year after Transfer Date), or such later date (not later than January 21, 2012)<sup>2</sup></b>	<b>Bill Section</b>
FRB to issue regulations requiring all publicly traded Covered Nonbank Companies (within 1 year of final determination) and all publicly traded Bank Holding Companies with total consolidated assets of at least US\$10 billion to establish a risk committee.	§165(h)
FRB authorized to require Covered Bank Holding Companies with total consolidated assets of less than \$10 billion to establish a risk committee.	§165(h)
<b>January 21, 2012 (18 months after enactment)</b>	
FRB to establish standards for Covered Nonbank Companies and Covered Bank Holding Companies, including (1) risk-based capital requirements; (2) leverage limits; (3) liquidity requirements; (4) resolution plan and credit exposure report requirements; and (5) concentration limits.	§165(b)
FRB authorized to establish standards for Covered Nonbank Companies and Covered Bank Holding Companies that may include (1) a contingent capital requirement; (2) enhanced public disclosures; and (3) overall risk management requirements.	§165(b)
FRB authorized to promulgate regulations, subsequent to the Financial Stability Oversight Council’s (the Council) report to Congress under	§165(c)

<sup>1</sup> “Covered Bank Holding Companies” means all publicly traded bank holding companies, and “Covered Nonbank Companies” means all publicly traded nonbank financial companies supervised by the FRB.

<sup>2</sup> Transfer Date is defined by §311 as meaning the date that is 1 year after the date of enactment. The Transfer Date may be extended an additional 6 months by the Secretary of the Treasury.



Section 115(c) regarding contingent capital, requiring Covered Nonbank Companies and Covered Bank Holding Companies to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of financial stress.	
FRB and Federal Deposit Insurance Corporation (FDIC) to establish standards that include a resolution plan and credit exposure report requirements for Covered Bank Holding Companies and Covered Nonbank Companies.	§165(d)
FRB authorized to establish periodic public disclosure requirements for Covered Nonbank Companies and Covered Bank Holding Companies to support market evaluations of risk profile, capital adequacy, and risk-management capabilities.	§165(f)
FRB authorized to issue regulations regarding limit on the amount of short-term debt, inducing off-balance sheet exposures that may be accumulated by Covered Bank Holding Companies and Covered Nonbank Companies.	§165(g)
FRB authorized to issue regulations regarding stress test parameters and consequences.	§165(i)
FRB authorized to promulgate procedures and timelines for complying with the leverage limitation requirement.	§165(j)
FRB, in consultation with the Council and the FDIC, to promulgate regulations establishing early remediation requirements for Covered Nonbank Companies or Covered Bank Holding Companies.	§166
FRB to promulgate regulations to establish criteria for determining whether to require a Covered Nonbank Company to establish an intermediate holding company.	§167
FRB authorized to promulgate regulations to restrict or limit transactions between an intermediate holding company or a Covered Nonbank Company or any subsidiary thereof and its parent company or affiliates that are not its subsidiaries.	§167
FRB to promulgate regulations on behalf of, and in consultation with, the Council, setting forth criteria for exempting certain types or classes of US and non-US nonbank financial companies from FRB supervision.	§170
FRB, FDIC, and the Office of the Comptroller of the Currency (OCC) to establish minimum leverage and risk-based capital requirements and, subject to the recommendation of the Council, develop capital requirements to address risks posed by the activities of depository institutions, depository institution holding companies, and Covered Nonbank Companies.	§171(b)



FRB authorized to establish regulations regarding the application of measures to non-US Covered Nonbank Companies and non-US Bank Holding Companies that the FRB may impose on Covered Nonbank Companies and Bank Holding Companies with US\$50 billion in assets that pose a grave threat to the financial stability of the US.	§1201(d)
<b>Not to take effect until at least July 21, 2013 (3 years after enactment)</b>	
FRB to establish standards that limit credit exposure for Bank Holding Companies and Covered Nonbank Companies.	§165(e)
FRB authorized to issue regulations and orders as may be necessary to administer and carry out credit exposure standards for Bank Holding Companies and Covered Nonbank Companies.	§165(e)
FRB authorized to exempt transactions from definition of “credit exposure” if it finds that the exemption is in the public interest and is consistent with the purpose of the credit exposure limits.	§165(e)
<b>No date given</b>	
FRB to promulgate rule defining “significant nonbank financial company” and “significant bank holding company.”	§102(a)(7)
FRB to promulgate regulations establishing criteria for determining whether a company is “predominantly engaged” in financial activities in the US.	§102(b)

<b>Department of the Treasury</b>	
<b>No date given</b>	
Office of Financial Research to issue rules, regulations and orders in consultation with the Council to assist in (1) collecting data on behalf of the Council and providing such data to the Council and member agencies; (2) standardizing the types and formats of data reported and collected; and (3) assisting member agencies in determining the types and formats of data where member agencies are authorized to collect data.	§153(c)
Office of Financial Research to establish regulations regarding the type and scope of data to be collected by its data center.	§154(a)

<b>Financial Stability Oversight Council</b>	
<b>No date given</b>	<b>Bill Section</b>
Council to adopt rules necessary for the conduct of its business.	§111(e)
Council authorized to recommend to the FRB that it require any Covered Nonbank Company and any Covered Bank Holding Company to maintain a minimum amount of long-term hybrid debt that is convertible to equity in times of stress.	§115(c)(3)
Council authorized to make recommendations to the FRB and FDIC concerning the required resolution plan for Covered Nonbank Companies and Covered Bank Holding Companies.	§115(d)



Council authorized to make recommendations to the FRB and FDIC concerning the advisability of requiring Covered Nonbank Companies and Covered Bank Holding Companies to report periodically on credit exposures.	§115(d)
Council authorized to make recommendations to the FRB prescribing concentration limits for Covered Nonbank Companies and Covered Bank Holding Companies.	§115(e)
Council authorized to recommend to the FRB that it require periodic public disclosures by Covered Bank Holding Companies and Covered Nonbank Companies to support market evaluation of risk profile, capital adequacy and risk-management strategies.	§115(f)
Council authorized to (1) issue recommendations applying new or heightened standards and safeguards to a financial activity or practice conducted by bank holding companies or nonbank financial companies and (2) recommend that the applicable agencies remove the standard.	§120
Council to report to Congress on the recommendations authorized by Section 120, including whether agencies have implemented them, and must make recommendations for legislative changes where there is no Primary Financial Regulatory Agency.	§120

<b>“Primary Financial Regulatory Agency” (PFRA)<sup>3</sup></b>	
<b>No date given</b>	<b>Bill Section</b>
PFRA to promulgate regulations establishing a procedure under which entities under its jurisdiction may appeal a determination by the agency that the standards imposed should remain in effect after Council has recommended removal of standard.	§120

<sup>3</sup> “Primary financial regulatory agency” (PFRA) is defined in § 2(11) as an institution’s appropriate federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, a state insurance authority, the Federal Housing Finance Agency or the Federal Home Loan Bank System, depending on the type of institution.



## TITLE II: ORDERLY LIQUIDATION AUTHORITY

- Establishes an orderly liquidation procedure whereby the Federal Deposit Insurance Corporation (FDIC) can unwind failing systemically significant financial companies, with the goal of having shareholders and unsecured creditors bear losses, while management and culpable directors will be removed
- Empowers the Treasury Department, the FDIC and the Federal Reserve to act together based on a joint determination, reviewable in court, to place a company into the orderly liquidation process where its failure or resolution in bankruptcy could have adverse effects on financial stability
- Allows the FDIC to borrow those funds necessary to liquidate a large, interconnected financial company, where it expects those funds will be repaid from the assets of the company in question (and where the government will be first in line for repayment), and
- Establishes that any shortfall from the sale of an entity’s assets will be repaid first through the clawback of any payments to creditors that exceed liquidation value, and thereafter through assessments on large financial companies based on a risk assessment determination

### Rulemakings

<b>Federal Deposit Insurance Corporation (FDIC)</b>	
<b>No date given</b>	<b>Bill Section</b>
FDIC to issue regulations on the application of the revenue test for purposes of the determination of a “financial company.”	§201(b)
FDIC to promulgate rules governing the termination of receiverships.	§202(d)(5)
FDIC to establish policies governing the use of funds allocated to it under the Title.	§203(d)
FDIC to issue, jointly with the Securities and Exchange Commission, rules on the orderly disposition of broker/dealers.	§205(h)
FDIC to issue rules and regulations to implement the provisions of the Title.	§209
FDIC to establish pertinent interest rates for payment of post-insolvency claims.	§210(a)(7)(D)
FDIC to establish procedures on the maintenance of documents by the agency.	§210(a)(16)(D)
FDIC to impose recordkeeping requirements and regulations on covered financial companies.	§210(c)(8)(H)
FDIC to set forth the definition of “financial institution” for purposes of the role of qualified financial contracts.	§210(c)(9)(D)
FDIC to establish rules on maximum obligation limitations.	§210(n)(7)
FDIC to establish regulations on the pertinent assessment system based on relevant risk assessments.	§210(o)(6)



FDIC to promulgate regulations on recovering compensation from senior executives in the event of a showing of responsibility for failure of the affected company.	§210(s)(3)
FDIC to establish rules on orders of prohibition against affected senior executives relating to unsafe or unsound practices or breaches of fiduciary duty.	§213(d)

<b>District Court (District of Columbia)</b>	
<b>January 21, 2011 (6 months after enactment)</b>	<b>Bill Section</b>
Court to establish rules to ensure the orderly conduct of proceedings relating to the appointment of a receiver for a designated company.	§202(b)

<b>“Primary Financial Regulatory Agency”<sup>4</sup> (PFRA)</b>	
<b>July 21, 2012 (24 months after enactment)</b>	<b>Bill Section</b>
PFRA to jointly prescribe rules on record maintenance pertaining to qualified financial contracts.	§210(c)(8)(H)

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<sup>4</sup> “Primary financial regulatory agency” (PFRA) is defined in § 2(11) as an institution’s appropriate federal banking agency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, a state insurance authority, the Federal Housing Finance Agency or the Federal Home Loan Bank System, depending on the type of institution.



### TITLE III: TRANSFER OF POWERS TO THE OCC, THE FDIC AND THE FEDERAL RESERVE; TERMINATION OF OTS

- Abolishes the Office of Thrift Supervision (OTS):
  - Reassigns its responsibility for the supervision and regulation of federal savings associations to the Office of the Comptroller of the Currency (OCC)
  - Reassigns state savings associations to the Federal Deposit Insurance Corporation (FDIC), and
  - Reassigns savings and loan holding companies (SLHCs) to the Federal Reserve Board (FRB)
- Reassigns the rulemaking authority of the OTS for savings associations to the OCC and FDIC (jointly)
- Reassigns the rulemaking and other authorities of the OTS for SLHCs to the FRB
- Reassigns the rulemaking authority of the OTS under the Home Owners Loan Act with respect to transactions with affiliates and insiders and anti-tying prohibitions to the FRB
- Ensures that the FRB would continue to supervise state member banks and all bank holding companies (BHCs)
- Increases the reserve ratio imposed on insured deposits to not less than 1.35 percent for depository institutions with total consolidated assets exceeding US\$10 billion, and
- Contains a series of savings provisions to ensure that the transfer does not affect the continued validity of rights, duties or obligations of the US or OTS, to ensure the continued validity of all OTS orders, regulations and advisory materials, and to ensure the continuation of lawsuits or other actions commenced by or against OTS

#### Rulemakings

<b>Department of the Treasury</b>	
<b>July 21, 2010 (Transfer Date), or such later date (not later than January 21, 2011)</b>	<b>Bill Section</b>
Secretary of the Treasury authorized to extend the Transfer Date of OTS supervisory responsibilities to OCC, FDIC and FRB by up to 6 months.	§311

<b>Federal Deposit Insurance Corporation (FDIC)</b>	
<b>No date given</b>	<b>Bill Section</b>
FDIC to amend assessment base for federal deposit insurance to use average total assets less tangible equity.	§331

<b>Office of the Comptroller of the Currency (OCC)</b>	
<b>No date given</b>	<b>Bill Section</b>
OCC authorized to adopt rules for the examination, operation and regulation of federal savings associations.	§369(2)



## TITLE IV: REGULATION OF ADVISERS TO HEDGE FUNDS AND OTHERS

- Overhauls current federal regulation of investment advisers, in the most part through the elimination of the private advisers exemption to registration and the elimination of the registration exemption for intrastate advisers who advise private investment companies
- Creates new exemptions from registration, such as those for advisers to venture capital funds and for certain foreign investment advisers; also requires the SEC to create an exemption from registration for any investment advisers that exclusively advise private investment companies and that have less than US\$150 million in assets under management
- Generally raises the threshold for federal registration of investment advisers to those with at least US\$100 million in assets under management and subjects registered advisors to increased recordkeeping requirements
- Permits the SEC to issue rules requiring the registration and examination of investment advisers to private investment companies that reflect the level of “systemic risk” posed by such companies
- Raises the net worth threshold for accredited investors who are natural persons to US\$1 million, excluding the value of their primary residence, and authorizes the SEC to periodically review the definition of accredited investor as it applies to natural Persons, and
- Requires that the “qualified client” standard of US\$750,000 assets under management and US\$1.5 million net worth be adjusted annually for inflation for each of the six years following enactment

### Rulemakings

<b>Securities and Exchange Commission (SEC)</b>	
<b>By July 21, 2011 (Not later than 12 months after enactment)</b>	<b>Bill Section</b>
With the Commodity Futures Trading Commission (CFTC), SEC to issue rules to establish the form and content of reports to be filed by advisers registered with the SEC and CFTC with respect to the private funds they advise.	§406
<b>By July 21, 2011 (Not later than 1 year after enactment)</b>	
SEC to issue final rules to define the term “venture capital fund” for purposes of this subsection; SEC to require such advisers to maintain such records and provide the SEC with such reports as it determines necessary or appropriate.	§407



## TITLE V: INSURANCE

- Establishes a new Federal Insurance Office in the Department of Treasury, which will monitor the insurance industry for systemic risk purposes, consult with the states, coordinate federal policy on international insurance issues (including assisting the Secretary of the Treasury in negotiating relevant international agreements) and advise the Secretary of the Treasury on major insurance policy issues
- Requires the Director of the Federal Insurance Office to submit a report to Congress on the global reinsurance market
- Requires the Director of the Federal Insurance Office to conduct a study and submit a report to Congress on how to modernize and improve the system of insurance regulation in the US, and
- Seeks to streamline and improve the regulation of the nonadmitted insurance and reinsurance markets

### Rulemakings

Secretary of the Treasury	
No date given	Bill Section
Secretary “may” issue “orders, regulations, policies and procedures” to implement duties of new Federal Insurance Office.	§502



## TITLE VI: IMPROVEMENTS TO REGULATION OF BANK HOLDING COMPANIES AND DEPOSITORY INSTITUTIONS

- Establishes a three-year moratorium prohibiting the Federal Deposit Insurance Corporation (FDIC) from granting applications for federal deposit insurance for certain depository institutions that are exempt from the definition of “bank” in the Bank Holding Company Act
- Requires the Comptroller General to conduct a study to determine whether the exemptions for institutions from the definition of “bank” in the Bank Holding Company Act are necessary
- Removes the restrictions imposed under the Gramm-Leach-Bliley Act on the authority of the Federal Reserve Board (FRB) to regulate, examine and take enforcement actions against functionally regulated subsidiaries of bank holding companies
- Requires that bank holding companies that are financial holding companies (and therefore may engage in the expanded financial activities) are well-capitalized and well-managed
- Amends Sections 23A and 23B of the Federal Reserve Act to add additional restrictions on transactions with affiliates; authorizes the FRB to take into account a netting agreement in determining the amount of a covered transaction between a bank and an affiliate; and eliminates the provision permitting banks to engage in covered transactions with financial subsidiaries in an amount greater than 10 percent of the bank’s capital and surplus
- Amends the national bank lending limit to include any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction or securities borrowing transaction
- Prohibits a national bank from converting to a state bank or a state savings association during any period in which it is subject to a cease-and-desist order, formal enforcement order, or memorandum of understanding with the Office of the Comptroller of the Currency (OCC) with respect to a “significant supervisory matter”
- Treats as an extension of credit for purposes of Section 22(h) of the Federal Reserve Act any credit exposure to a person arising from a derivative transaction, repurchase agreement, reverse repurchase agreement, securities lending transaction or securities borrowing transaction, and prohibits an insured depository institution from purchasing an asset from, or selling an asset to, an executive officer, director or principal shareholder of the institution unless the transaction is on market terms
- Authorizes the FRB to issue regulations related to the capital requirements of bank holding companies
- Eliminates the investment bank holding company framework adopted under the Exchange Act, and requires “securities holding companies” that are required by a non-US regulator or provision of non-US law to be subject to comprehensive consolidated supervision to register with and be supervised by the FRB; establishes a process for securities holding companies to register with the FRB to become a “supervised securities holding company,” and
- Implements the “Volcker rule” by requiring the appropriate federal banking agencies, through joint rulemaking and reflecting recommendations by the Financial Stability Oversight Council (based on a required study by the Council), to prohibit proprietary trading and the sponsorship of or investment in



hedge funds or private equity funds by insured depository institutions, companies that directly or indirectly control such institutions, companies that are treated as bank holding companies under the Bank Holding Company Act, and any subsidiaries thereof

**Rulemakings**

<b>Federal Reserve Board (FRB)</b>	
<b>July 21, 2011 (1 year after enactment)</b>	<b>Bill Section</b>
FRB authorized to issue rules to establish capital requirements for bank holding companies and savings and loan holding companies.	§616
<b>October 21, 2011 (15 months after enactment)</b>	
FRB, FDIC and OCC to jointly issue rules implementing the Volcker rule, reflecting the recommendations of the Financial Stability Oversight Council.	§619
FRB to issue rules (reflecting the Financial Stability Oversight Council's recommendations) establishing additional capital requirements and quantitative limits for nonbank financial companies it supervises that engage in activities covered by the Volcker rule.	§619
FRB to issue rules (reflecting the Financial Stability Oversight Council's recommendations) to implement concentration limit on expansion by large financial firms.	§622
<b>No date given</b>	
FRB authorized to issue rules implementing various amendments to Sections 23A and 23B of Federal Reserve Act, including coverage of credit exposure on derivatives and securities lending and borrowing transactions.	§608
FRB authorized to issue rules to implement amendments to insider lending restriction of Section 22(h) of the Federal Reserve Act, covering credit exposure on derivative transactions, repurchase and reverse repurchase agreements, and securities lending and borrowing transactions.	§614
FRB authorized to issue rules to implement requirement that purchases of assets by a bank from, and sales by a bank to, an insider be on market terms.	§615
FRB to adopt capital adequacy and risk management standards for supervised securities holding companies.	§618

<b>Financial Stability Oversight Council</b>	
<b>January 21, 2011 (6 months after enactment)</b>	<b>Bill Section</b>
Council to complete study of the Volcker rule and make recommendations regarding definitions in and modifications of the Volcker rule to FRB, FDIC and OCC.	§619(b)
Council to complete study on effect of concentration limit on acquisitions by large financial companies and make recommendations to FRB for modifications.	§620(e)



## TITLE VII: WALL STREET TRANSPARENCY AND ACCOUNTABILITY

- Mandates a new regulatory oversight regime with respect to the derivatives industry
- Provides additional transparency to derivatives trading to strengthen price discovery and risk management
- Repeals the exemption from Commodity Futures Trading Commission (CFTC) regulation of derivatives transaction execution facilities and boards of trade
- Requires that standardized and other swap transactions be cleared by a derivatives clearing organization (DCO), if not subject to an exemption
- Amends the Commodity Exchange Act to require coordination and joint industry rulemaking between the CFTC, the Securities and Exchange Commission (SEC) and other regulators
- Mandates core business practices and principles for DCOs
- Prescribes margin and capital requirements for swap dealers, major swap participants and DCOs in accordance with consistently applied formulas and models studied and prescribed by the CFTC and/or Securities and Exchange Commission (SEC)
- Defines and creates various categories of swap counterparties with varying levels of oversight, regulation and margin requirements
- Requires and regulates the accumulation and maintenance of swaps data by certain swap dealers and counterparties in swap information repositories and by DCOs
- Prohibits “federal assistance” to certain types of swap dealers and major swap participants, provided that insured depository institutions may receive “federal assistance” if (1) their swap activities are limited to hedging and similar risk mitigating activities and/or (2) they are acting as swap dealers or major swap participants in connection with swaps involving rates or assets that are permissible for investment by a national bank<sup>5</sup> (other than uncleared credit default swaps), and
- Gives the CFTC and SEC broad power to promulgate and amend rules and regulations to reduce systemic risk to the US financial system in the area of derivatives trading

### Rulemakings

<b>Commodity Futures Trading Commission (CFTC)</b>	
<b>October 19, 2010 (90 days after enactment)</b>	<b>Bill Section</b>
CFTC to adopt into final rule to establish reporting requirements for swaps that were entered into before enactment.	§729

<sup>5</sup> Permissible investments for national banks generally are considered to include debt instruments, foreign exchange, and certain precious metals but not equity securities, energy products or agricultural commodities.



<b>January 17, 2011 (180 days after enactment)</b>	
CFTC to adopt rules establishing limits on the control of, or voting rights with respect to, any derivatives clearing organization that clears swaps, or swap execution facility or board of trade designated as a contract market that posts swaps or makes swaps available for trading by a bank holding company with total consolidated assets of US\$50 billion or more, a non-bank financial company supervised by the Board of Governors of the Federal Reserve System, their affiliates, a swap dealer, major swap participant, or person associated with a swap dealer or major swap participant.	§726(a)
CFTC to adopt rules to establish position limits on “exempt commodities” that may be held by any person with respect to contracts of sale for future delivery, or with respect to options on the contracts or commodities traded on, or subject to, the rules of a designated contract market.	§737(a)
<b>April 17, 2011 (270 days after enactment)</b>	
CFTC to adopt a rule to establish position limits on “agricultural commodities” that may be held by any person with respect to contracts of sale for future delivery, or with respect to options on the contracts or commodities traded on, or subject to, the rules of a designated contract market.	§737(a)
CFTC to establish rules implementing commodity whistleblower incentives and protections.	§748
<b>July 21, 2011 (1 year after enactment)</b>	
CFTC to establish rules for a derivatives clearing organization’s request for approval of any group, category, type or class of swaps that the organization desires to clear.	§723(a)
CFTC to establish rules for reviewing a derivatives clearing organization’s clearing of a swap, or a group, category, type or class of swap that it seeks to accept for clearing.	§723(a)
CFTC “may” adopt rules applicable to swap dealers and major swap participants, including registration rules and rules limiting their activities; rules shall require the registration of swap dealers and major swap participants not later than one year from the date of enactment.	§731
<b>No date given</b>	
CFTC to define, by rule or regulation, the term “substantial position” at the threshold that the CFTC determines to be prudent for the effective monitoring, management and oversight of entities that are systemically important or can significantly impact the financial system of the US.	§721(a)
CFTC authorized to adopt a rule to define the terms “commercial risk” and any other term included in an amendment to the Commodity Exchange Act.	§721(b)



CFTC to adopt a rule to further define the terms “swap,” “swap dealer,” “major swap participant” and “eligible contract participant.”	§721(c)
CFTC to prescribe rules it determines to be necessary to prevent abuse of the exceptions and may request information from those persons claiming the clearing exception as necessary to prevent abuse.	§723(a)
CFTC to establish rules mitigating conflicts of interest between swap dealers and major swap participants and derivatives clearing organizations, exchanges or swap execution facilities that clear or execute swaps in which the swap dealer or major swap participant has a material investment.	§725(d)
CFTC to adopt data collection and maintenance requirements for swaps cleared by derivatives clearing organizations that are comparable to the requirements for swap data reported to swap data repositories and swaps traded on swap execution facilities.	§725(e)
CFTC to establish rules to provide for the public reporting of swap transactions and price data.	§727
CFTC to establish rules to govern swap repositories, including data collection and maintenance standards that are comparable to those for derivatives clearing organizations.	§728
CFTC to adopt rules governing persons that are registered under swap data repositories.	§728
CFTC to adopt rules for the registration of swap dealers and major swap participants.	§731
CFTC to adopt rules for swap dealers and major swap participants for which there is no prudential regulator imposing capital and initial and variation margin requirements on all swaps not cleared by a registered derivatives clearing organization.	§731
CFTC to establish rules governing reporting and recordkeeping requirements, daily trading records, business conduct standards, and documentation and back office standards for swap dealers and major swap participants; CFTC to establish rules governing duties of swap dealers and major swap participants.	§731
CFTC to establish rules defining the universe of swaps that can be executed on swap execution facilities.	§733
CFTC to adopt data collection and reporting requirements for swap execution facilities that are comparable to requirements for derivatives clearing organizations and swap data repositories.	§733
CFTC to adopt rules governing the regulation of alternative swap execution facilities.	§733
CFTC to establish aggregate position limits across exchanges, swap execution facilities, foreign boards of trade, and swaps that are not cleared and which may perform a significant price discovery function.	§737(a)



CFTC authorized to adopt rules and regulations that are reasonably necessary to prohibit trading practices that are disruptive of fair and equitable trading.	§747
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<b>Securities and Exchange Commission (SEC)</b>	
<b>October 19, 2010 (90 days after enactment)</b>	<b>Bill Section</b>
SEC to establish an interim final rule governing reporting requirements for security-based swaps entered into prior to enactment.	§766(a)
Transition rules adopted by the SEC shall provide for the reporting to a registered security-based swap data repository or to the SEC no later than either (A) 90 days after the effective date; or (B) such other time after the date of enactment as the SEC may prescribe by rule or regulation for security-based swaps entered into on or after the date of enactment.	§763
<b>January 17, 2011 (180 days after enactment)</b>	
Transition rules adopted by the SEC shall provide for the reporting to a registered security-based swap data repository or to the SEC no later than 180 days after the effective date for security-based swaps entered into prior to the date of enactment.	§763
SEC to adopt rules establishing limits on the control of, or voting rights with respect to, any clearing agency that clears security-based swaps, or on the control of any security-based swap execution facility or securities exchange that posts or makes available security-based swaps, by a bank holding company with total consolidated assets of US\$50 billion or more, a non-bank financial company supervised by the Board of Governors of the Federal Reserve System, their affiliates, a security-based swap dealer, major security-based swap participant, or person associated with a security-based swap dealer or major security-based swap participant.	§765(a)
<b>July 21, 2011 (1 year after enactment)</b>	
SEC to establish rules for clearing agency's submission for review of any group, category, type or class of security-based swaps that the clearing agency seeks to accept for clearing.	§763(b)
SEC to establish rules for reviewing a clearing agency's clearing of a security-based swap, or a group, category, type or class of security-based swaps that it has accepted for clearing.	§763(c)
SEC may prescribe rules applicable to security-based dealers and major security-based swap participants, including rules that limit the activities of non-bank security-based dealers and major security-based swap participants.	§764(a)
SEC to issue rules to provide for the registration of security-based swap dealers and major security-based swap participants.	§764(a)



<b>No date given</b>	
SEC to define, by rule or regulation, the term “substantial position” at the threshold that the Commission determines to be prudent for the effective monitoring, management and oversight of entities that are systemically important or can significantly impact the financial system of the US.	§761
SEC “may” define the term (i) “commercial risk,” (ii) any other term included in an amendment to the Securities and Exchange Act by the legislation, and (iii) the terms “security-based swap,” “security-based swap dealer,” “major security-based swap participant” and “eligible contract participant” with regard to security-based swaps.	§761(b)
SEC may prescribe rules it determines to be necessary to prevent abuse of the “exceptions” to the rules and regulations and may request information from those persons claiming “exceptions” as necessary to prevent abuse.	§763(a)
SEC to adopt rules governing persons that are registered as clearing agencies for security-based swaps.	§763(b)
SEC to adopt data collection and reporting requirements for security-based swap execution facilities that are comparable to requirements for clearing agencies and security-based swap data repositories.	§763(c)
SEC to establish rules governing security-based swap execution facilities.	§763(c)
SEC to establish rules reasonably designed to prevent transactions, acts, practices and courses of business that are fraudulent, deceptive, or manipulative and fictitious quotations.	§763(g)
SEC, as is necessary or appropriate, to adopt rules to establish limits on the size of positions in any security-based swap that may be held by any person.	§763(h)
SEC, as is necessary or appropriate, to adopt rules requiring self-regulatory organizations to adopt rules regarding position limits and rules designed to ensure compliance with SEC requirements.	§763(h)
SEC may establish a rule requiring any person that effects transactions for their own account or for others’ accounts in security-based swaps or uncleared security-based swaps and any loan or group of securities or loans to report such information regarding any positions in such securities or loans.	§763(h)
SEC to establish rules to provide for the public reporting of swap transactions and price data.	§763(i)
SEC to establish rules governing security-based swap data repositories.	§763(i)
SEC to adopt rules for the registration of security-based swap dealers and major security-based swap participants.	§764(a)



SEC to adopt rules for security-based swap dealers and major swap participants for which there is no prudential regulator imposing capital requirements and initial and variation margin requirements on all swaps not cleared by a registered clearing agency.	§764(a)
SEC to adopt rules governing reporting and recordkeeping requirements, daily trading records, business conduct standards, and documentation standards for security-based swap dealers and major security-based swap participants.	§764(a)
SEC to adopt rules governing antitrust consideration for security-based swap dealers and major security-based swap participants.	§764(a)

<b>CFTC and SEC (jointly)</b>	
<b>July 21, 2011 (1 year after enactment)</b>	<b>Bill Section</b>
CFTC and SEC to promulgate the rules and regulations required to prepare for the effective dates of the provisions of the Act.	§712
<b>No date given</b>	
CFTC and SEC (in consultation with the Federal Reserve Board) to adopt rules regarding mixed swaps.	§712(a)
CFTC and SEC to jointly adopt rules requiring maintenance of books and records of swap data repositories and derivatives clearing organizations.	§712(d)
CFTC and SEC to jointly define the terms “swap,” “security-based swap,” “swap dealer,” “security-based swap dealer,” “major swap participant,” “major security-based swap participant,” “eligible contract participant” and “security-based swap agreement.”	§712(d)
CFTC and SEC to jointly adopt rules governing books and records of security-based swap agreements, including daily trading records, for swap dealers, major swap participants, security-based swap dealers and security-based swap participants.	§712(d)
CFTC and SEC to jointly adopt rules governing the maintenance of records of all activities relating to security-based swaps agreement transactions that are not cleared.	§712(d)
CFTC and SEC authorized to adopt rules to collect information concerning the markets for any types of swap or security-based swap and issue a report with respect to any types of swaps or security-based swaps determined to be detrimental to the stability of a financial market or its participants.	§714
CFTC and SEC authorized to adopt rule to jointly exclude any agreement, contract or transaction if the Commissions determine that the exception would be consistent with the public interest.	§721(d)



<b>“Prudential Regulators”<sup>6</sup></b>	
<b>No date given</b>	<b>Bill Section</b>
The prudential regulators, in consultation with CFTC and SEC, must jointly adopt rules imposing capital and initial and variation margin requirements on all swaps not cleared by a registered derivatives clearing organization for swap dealers and major swap participants for which there is a prudential regulator.	§731
The prudential regulators, in consultation with the CFTC and the SEC, must jointly adopt rules imposing capital requirements and initial and variation margin requirements on all security-based swaps not cleared by a registered clearing agency for security-based swap dealers and major security-based swap participants for which there is a prudential regulator.	§764(a)

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<sup>6</sup> Defined in §721 as either the Federal Reserve Board, the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Farm Credit Administration or the Federal Housing Finance Agency.



## TITLE VIII: PAYMENT, CLEARING AND SETTLEMENT SUPERVISION

- Sets forth a specific framework for promoting uniform risk-management standards for systemically important financial market firms and for systemically important payment, clearing and settlement activities conducted by financial institutions

### Rulemakings

<b>Federal Reserve Board (FRB)</b>	
<b>No date given</b>	<b>Bill Section</b>
FRB to prescribe risk management standards, taking into account certain relevant international standards and existing prudential requirements.	§805
FRB authorized to establish rules and guidelines concerning payments and services to designated financial firms.	§806(a)
FRB may impose recordkeeping obligations on designated clearing entities.	§809(b)(3)
The FRB, the Financial Stability Oversight Council and Supervisory Agencies (see below) are authorized to issue rules to administer the authorities granted under these provisions of the statute.	§810

<b>“Supervisory Agency”<sup>7</sup></b>	
<b>No date given</b>	<b>Bill Section</b>
In consultation with the FRB, each agency is to promulgate regulations concerning advance notice to changes to pertinent rules, procedures or operations.	§806(e)

<sup>7</sup> Supervisory Agency means the federal agency that has primary jurisdiction over a designated financial market utility under federal banking, securities or commodity futures laws.



**TITLE IX, SUBTITLE A: INVESTOR PROTECTIONS**

- Establishes an Investor Advisory Committee and an Office of the Investor Advocate in the Securities and Exchange Commission (SEC)
- Requires the SEC to conduct and report on a study on the obligations of brokers, dealers and investment advisers, and authorizes the SEC to conduct rulemakings regarding the appropriate standards of care and disclosure requirements for brokers, dealers and investment advisers and any legal/regulatory gaps
- Streamlines the procedures for the consideration of proposed rule changes by self-regulatory organizations
- Requires the SEC to conduct studies on a number of topics, including: financial literacy; enhancing investment adviser examinations; and improved investor access to registration information about investment advisers and broker-dealers, and
- Requires the Comptroller General to conduct studies on a number of topics, including: mutual fund advertising; the impact of a private right of action for aiding and abetting securities law violations; conflicts of interest related to investment banking and equity and fixed income analysts within the same firm; and financial planners and the use of financial designations

**Rulemakings**

<b>Securities and Exchange Commission (SEC)</b>	
<b>January 17, 2011 (180 days after enactment)</b>	<b>Bill Section</b>
SEC to promulgate rules to streamline the procedures for proposed rule changes by self-regulatory organizations.	§916
<b>No date given</b>	
SEC “may” initiate a rulemaking to address the legal or regulatory standards of care for brokers, dealers, investment advisers and associated persons. SEC is expressly authorized to establish a fiduciary duty for brokers and dealers and to promulgate rules requiring all brokers, dealers and investment advisers to act in the best interests of customers. SEC to “facilitate the provision of simple and clear disclosures to investors” regarding the terms of their relationship with brokers, dealers and investment advisers.	§913(f), (g)
SEC authorized to promulgate rules related to disclosures by brokers and dealers regarding the range of products sold.	§913(g)
SEC to examine and, where appropriate, promulgate rules “prohibiting or restricting certain sales practices, conflicts of interest and compensation schemes for brokers, dealers and investment advisers that the Commission deems contrary to the public interest and the protection of investors.”	§913(g)
SEC to establish procedures requiring a formal response within three months to all recommendations submitted to the SEC by the Investor Advocate.	§915



**Dodd-Frank Alert: Regulators Take Center Stage**

Clarifies SEC's authority to issue rules related to required disclosures by brokers or dealers to retail investors prior to the purchase of investment products.	§919
Not later than 18 months after the SEC's completion of a study on improved investor access to registration information about investment advisers and broker-dealers, SEC to implement any recommendations of the study.	§919B



## TITLE IX, SUBTITLE B: INCREASING REGULATORY ENFORCEMENT AND REMEDIES

- Authorizes the Securities and Exchange Commission (SEC) to issue rules limiting mandatory arbitration clauses in customer contracts with brokers, dealers and investment advisers
- Broadly expands the SEC’s whistleblower program, providing new protections and significant monetary incentives to report
- Expands SEC (and private plaintiff) ability to prosecute Credit Ratings Agency (see next Part for more information)
- Authorizes the SEC to impose collateral bars on “bad actors”
- Requires the SEC to expand rules that disqualify “bad actors,” which include corporations, from offering or selling securities under Regulation D
- Allows nationwide service for subpoenas by the SEC and allows legal actions against persons formerly associated with a regulated or supervised entity
- Establishes new audit requirements and other rules for foreign public accounting firms
- Authorizes the SEC to prosecute persons for aiding and abetting violations of the Securities Act of 1933, the Investment Company Act of 1940 and the Investment Advisors Act of 1940 and establishes “recklessness” in addition to “knowing” acts as the standard of knowledge for aiding and abetting liability
- Authorizes the SEC to impose civil penalties in cease and desist proceedings
- Provides for extraterritorial jurisdiction of the antifraud provisions of federal securities laws and requires the SEC to conduct a study on extraterritorial private rights of action
- Authorizes the SEC to promulgate rules related to enhanced recordkeeping requirements for the custody or use of securities, deposits or credits of registered investment companies and provides the SEC with enhanced examination authority
- Provides for new requirements for beneficial ownership and short-swing profit reporting and establishes new due diligence requirements related to the delivery of dividends, interest and other valuable property rights
- Prohibits manipulative short selling and requires the SEC to issue rules expanding short sale disclosure requirements
- Establishes deadlines for the SEC to complete enforcement investigations and compliance examinations and inspections (with limited exceptions for complex actions), and
- Requires a Government Accountability Office (GAO) study on securities litigation

### Rulemakings

<b>Securities and Exchange Commission (SEC)</b>	
<b>April 17, 2011 (270 days after enactment)</b>	<b>Bill Section</b>
SEC to prescribe rules to implement new whistleblower protections and whistleblower award program.	§924



<b>July 21, 2011 (1 year after enactment)</b>	
SEC to issue rules for the disqualification of Regulation D offerings by persons sanctioned by state securities commissions/authorities or persons convicted of a securities-related felony or misdemeanor.	§926
SEC to issue rules to implement new due diligence requirements for the delivery of dividends, interest and other valuable property rights.	§929W
<b>No date given</b>	
SEC authorized to issue rules related to mandatory arbitration clauses in customer contracts with brokers, dealers and investment advisers.	§921
SEC authorized to set the rate of pay for experts and consultants in the same manner in which it sets the rate of pay for Commission employees.	§929G
SEC authorized to promulgate recordkeeping rules related to the custody or use of securities, deposits or credits of registered investment companies.	§929Q
SEC authorized to promulgate rules shortening the time period for beneficial ownership and short-swing profit reporting.	§929R
SEC to prescribe enhanced disclosure requirements for short sales and to prescribe rules related to the enforcement of the prohibition on manipulative short sales.	§929X

<b>Securities Investor Protection Corporation</b>	
<b>By January 1, 2011</b>	<b>Bill Section</b>
Board of Directors to determine whether an inflation adjustment to the standard maximum cash advance amount is appropriate.	§929H



**TITLE IX, SUBTITLE C: CREDIT RATING AGENCIES**

- Provides for enhanced regulatory standards and reporting requirements for nationally recognized statistical rating organizations (NRSROs) through the establishment of the Office of Credit Ratings within the Securities and Exchange Commission (SEC)
- Requires NRSROs to be examined by the SEC annually, with key findings from the examination made available to the public
- Requires NRSROs to disclose methodologies, the use of third parties for due diligence and ratings track record
- Prohibits certain involvement of various employees within an NRSRO that could create a conflict of interest between the rating of an instrument and other services the NRSRO may perform for the issuer of the instrument
- Creates a private right of action against a credit rating agency for knowing or reckless failure to conduct a reasonable investigation of the facts or obtain analysis from an independent source and subjects NRSROs to “expert liability,” and
- Ends the practice of permitting issuers to shop for ratings

**Rulemakings**

<b>Securities and Exchange Commission (SEC)</b>	
<b>October 19, 2010 (90 days after enactment)</b>	<b>Bill Section</b>
SEC to revise Regulation FD to remove exemption for entities whose primary business is the issuance of credit ratings.	§939B
<b>July 21, 2011 (1 year after enactment)</b>	
SEC to prescribe rules requiring NRSROs to submit annual internal controls reports.	§932(a)(2)(B)
SEC to determine factors to be considered in the suspension or revocation of an NRSRO with respect to a particular class or subclass of securities.	§932(a)(3)(I)
SEC to issue rules to prevent the sales and marketing considerations of an NRSRO from influencing the production of credit ratings from the NRSRO; rule shall provide for (i) exceptions for small NRSROs where such separation is not appropriate; and (ii) suspension or revocation of the NRSRO where a violation of a rule or the standard for separation of sales/marketing and production of credit ratings has occurred.	§932(a)(4)
SEC to prescribe rules regarding the requirements for ratings revisions to be taken by an NRSRO under the look-back requirements for prior ratings.	§932(a)(4)
SEC to establish rules, fines and other penalties related to new reporting and regulation requirements for NRSROs.	§932(a)(8)
SEC also to establish rules requiring each NRSRO to publicly disclose, in a uniform manner, information on the initial credit ratings determined by the NRSRO for each type of obligor, security and money market instrument, as well as subsequent changes to such rating.	§932(a)(8)



SEC to establish rules regarding the procedures and methodologies used for ratings activities, including the requirement to disclose any changes in such methodology.	§932(a)(8)
SEC to establish a form for NRSROs to use in publication of the assumptions underlying a credit rating and information for users of a credit rating to understand such rating.	§932(a)(8)
SEC to establish format and content for certification from due diligence provider in performing services related to an asset-backed securitization, to ensure that providers of due diligence services have conducted a thorough review of data, documentation and other relevant information for an NRSRO to rely on.	§932(a)(8)
SEC to prescribe regulations requiring NRSROs to make publicly available the certification required above in order for the public to determine the adequacy and level of due diligence services provided by the third party.	§932(a)(8)
SEC to issue rules regarding the establishment of an accountability standard for NRSROs and the enforcement and penalty provisions regarding a breach of such standards to the same extent as the standards applicable to registered public accounting firms or securities analysts.	§933(a)
SEC to issue rules that are reasonably designed to ensure that employees of NRSROs performing credit ratings (i) have reasonable training and experience and (ii) are tested for knowledge of the credit ratings process.	§936
SEC to require NRSROs to establish, maintain and enforce written policies and procedures that (i) assess the probability of issuer default; (ii) clearly define and disclose the meaning of symbols used by NRSROs; and (iii) apply such symbols in a consistent manner across all types of instruments on which the symbol is used.	§938(a)
SEC directed to issue rules to prevent improper conflicts of interest arising from employees of NRSROs providing other services to issuers of securities that are unrelated to the issuance of credit ratings.	§939H
<b>July 21, 2012 (2 years after enactment)</b>	
SEC to establish standards for credit-worthiness applicable to ratings under §6(a)(5)(A)(iv)(I) of the Investment Company Act of 1940.	§939(c)
SEC to establish standards for credit-worthiness related to mortgage-related securities, as established under §3(a)(41) and small business-related securities under §3(a)(53) of the Securities and Exchange Act of 1934.	§939(e)
SEC to establish rules, in its sole discretion after completion of a study and report on the credit rating process for structured finance products, to establish a system for the assignment of a NRSRO for a particular issuance of a structured finance product, rather than allowing selection of the NRSRO by the issuer.	§939F(d)



<b>Federal Deposit Insurance Corporation (FDIC)</b>	
<b>July 21, 2012 (2 years after enactment)</b>	<b>Bill Section</b>
FDIC to establish standards of credit-worthiness applicable to ratings requirements under §§28(d) and 28(e) of the Federal Deposit Insurance Act.	§939(a)

  

<b>Department of Treasury and the Federal Reserve Board</b>	
<b>July 21, 2012 (2 years after enactment)</b>	<b>Bill Section</b>
Secretary of Treasury and Federal Reserve Board to jointly establish standards of credit-worthiness applicable to ratings requirements under 12 USC §24a(a)(3).	§939(d)

  

<b>Office of the Comptroller of the Currency (OCC)</b>	
<b>July 21, 2012 (2 years after enactment)</b>	<b>Bill Section</b>
OCC to establish standards of credit-worthiness applicable to ratings requirements under 12 USC §24a(a)(2)(E) and 24a(f)(1).	§939(d)

  

<b>All Federal Agencies</b>	
<b>July 21, 2011 (1 year after enactment)</b>	<b>Bill Section</b>
Each federal agency to review any regulation requiring the use of an assessment of the credit-worthiness of a security or money market instrument and modify such regulation to substitute instead a uniform standard of credit-worthiness established by each federal agency.	§939A(a) - (b)



## TITLE IX, SUBTITLE D: ASSET-BACKED SECURITIZATION REFORMS

- Requires lenders of securitized loans sold in the secondary market (securitizers) to retain an economic interest in a material portion of the credit risk for any asset that the securitizer, through the issuance of an asset-backed security, transfers, sells or conveys to a third party
- Prohibits securitizers from directly or indirectly hedging or otherwise transferring the credit risk that such securitizer is required to retain with respect to any asset (must retain at least 5 percent of credit risk; applies even if securitizer is an insured depository institution)
- Provides a safe harbor for traditionally underwritten residential mortgage loans
- Authorizes the promulgation of regulations to identify permissible forms of risk retention and duration of risk retention and provides for the exemption of securitizations as may be appropriate; regulations will also establish asset classes with different credit retention rules and requirements (such as home mortgages, commercial mortgages, commercial loans, auto loans, etc.)
- Eliminates existing exemptions from reporting and registration of securitizations transactions
- Requires the Securities and Exchange Commission to adopt regulations that require each issuer of an asset-backed security to disclose, for each tranche or class of security, information regarding the assets backing that security:
  - Disclosure of asset-level or loan-level information necessary for investors to independently perform due diligence
  - Asset-level or loan-level data shall include data with unique identifiers relating to loan brokers or originators, the nature and extent of the compensation of the broker or originator of the assets backing the security, and the amount of risk retention of the originator or the securitizer
- Provides an exemption from Sarbanes Oxley attestation requirements under Section 404(b) for small companies (US\$75 million in market capitalization), and
- Requires the SEC to prescribe regulations on the use of representations and warranties in the asset-backed securities market:
  - Credit agencies to include in reports accompanying credit ratings a description of the representations, warranties and enforcement mechanism available to investors and how they differ from representations, warranties and enforcement mechanism in similar issuances
  - Disclosure on fulfilled repurchase requests across all trusts aggregated by originator, so that investor may identify asset originators with clear underwriting deficiencies

### Rulemakings

Securities and Exchange Commission (SEC)	
January 17, 2011 (180 days after enactment)	Bill Section
SEC to promulgate rules regarding the disclosure requirements for assets backing each tranche or class of security.	§942



SEC to promulgate rules regarding the use of representations and warranties in asset-backed securitizations and regarding the disclosure on fulfilled repurchase requests.	§943
SEC to promulgate rules regarding disclosure on fulfilled repurchase requests to identify asset originators with clear underwriting deficiencies.	§943
SEC to promulgate rules regarding registration statement filing requirements for asset-backed securitizations.	§945
<b>April 17, 2011 (270 days after enactment)</b>	
SEC to promulgate rules regarding retention of an economic interest in a portion of the credit risk by securitizers in asset-backed securitizations (together with the Comptroller of the Currency, Federal Reserve, and the Federal Deposit Insurance Corporation (FDIC)).	§941
SEC to promulgate rules regarding retention of an economic interest in a portion of the credit risk by securitizers in residential mortgage-backed securitizations (together with the Comptroller of the Currency, Federal Reserve, FDIC, Secretary of Housing and Urban Development and the Federal Housing Financial Agency).	§941



## TITLE IX, SUBTITLE E: ACCOUNTABILITY AND EXECUTIVE COMPENSATION

- Requires non-binding shareholder vote on executive compensation (say on pay) and golden parachute payments
- Establishes new requirements regarding compensation committee independence and use of compensation consultants and other advisors
- Requires issuers to disclose additional information to shareholders, including a description of executive compensation versus performance and information regarding the ratio of CEO compensation to the compensation of all other employees
- Requires issuers to develop clawback policies related to disclosure of incentive-based compensation and recovery of erroneously awarded compensation
- Requires issuers to disclose whether their employees or directors may purchase financial instruments designed to hedge the market value of the issuer's equity securities
- Requires regulators to prescribe rules requiring disclosure of incentive-based compensation arrangements by "covered financial institutions" and prohibiting such institutions from employing arrangements determined to encourage inappropriate risks, and
- Establishes new rules related to broker non-votes

### Rulemakings

<b>Securities and Exchange Commission (SEC)</b>	
<b>July 21, 2011 (1 year after enactment)</b>	<b>Bill Section</b>
SEC to direct the national securities exchanges and associations to prohibit the listing of issuers (other than certain exempt entities) that do not comply with new requirements for compensation committee independence.	§952
SEC to identify factors that affect the independence of a compensation consultant, legal counsel, or other adviser to a compensation committee of an issuer.	§952
SEC to permit national securities exchanges and associations to exempt categories of issuers from new compensation committee requirements.	§952
<b>No date given</b>	
SEC to promulgate rules regarding disclosure of golden parachute arrangements.	§951
SEC authorized to exempt issuers from new say on pay requirements.	§951
SEC to amend Regulation S-K Item 402 to require description of executive compensation versus performance of the issuer and ratio of CEO to other employee pay.	§953



SEC to direct the national securities exchanges and associations to prohibit the listing of issuers that do not develop a policy related to the disclosure of incentive-based compensation and the recovery of erroneously awarded compensation.	§954
SEC to require issuers to disclose to shareholders whether board members are permitted to hedge against issuer stock.	§955
SEC may determine by rule “significant matters” on which a member of a national securities exchange may not vote without voting instructions from the beneficial owner.	§957

<b>Board of Governors of the Federal Reserve; Office of the Comptroller of Currency;          Board of Directors of the Federal Deposit Insurance Corporation;          Director of the Office of Thrift Supervision; National Credit Union Administration Board;          Securities and Exchange Commission; Federal Housing Finance Agency (jointly)</b>	
<b>April 21, 2012 (9 months after enactment)</b>	<b>Bill Section</b>
Regulators to jointly prescribe regulations requiring disclosure of incentive-based compensation arrangements by “covered financial institutions” and prohibiting such institutions from employing arrangements determined to encourage inappropriate risks.	§956



## TITLE IX, SUBTITLES F-J: MISCELLANEOUS AGENCY AND OTHER IMPROVEMENTS

- Requires a variety of reports on internal controls and procedures at the Securities and Exchange Commission (SEC), including an independent consultant study of the SEC's "internal operations, structure, funding and the need for comprehensive reform"
- Authorizes the SEC to require "proxy access" for shareholder board member nominations
- Requires the SEC to issue rules requiring disclosure regarding an issuer's leadership structure
- Establishes an Office of Municipal Securities within the SEC, requires municipal securities advisors to register with the SEC and subjects advisors to the regulation of the Municipal Securities Rulemaking Board, establishes a fiduciary duty for municipal advisors, alters the composition of the Municipal Securities Rulemaking Board and requires a variety of studies on the municipal securities market
- Authorizes the SEC to require national securities associations to establish and collect a reasonable annual accounting support fee to fund the Governmental Accounting Standards Board and requires a Government Accountability Office (GAO) study on the Governmental Accounting Standards Board
- Allows information sharing between the Public Company Accounting Oversight Board and foreign auditor oversight authorities
- Provides the Public Company Accounting Oversight Board with oversight authority over the auditors of brokers and dealers
- Establishes new rules related to portfolio margining and loans or borrowing of securities;
- Requires a GAO study on proprietary trading
- Establishes a grant program for states for enhanced protection of seniors from misleading or fraudulent marketing
- Strengthens Inspector General accountability and establishes a Council of Inspectors General on Financial Oversight
- Requires a GAO study of person-to-person lending
- Provides an exemption from the Sarbanes-Oxley Section 404(b) auditor attestation requirements for non-accelerated filers, requires the SEC to conduct a study on reducing the compliance burden of Sarbanes-Oxley Section 404(b) for other issuers and requires a GAO study on the impact of these amendments
- Requires states to adopt annuity suitability standards that are at least as strict as the National Association of Insurance Commissioners' model regulations, and
- Requires the SEC to collect transaction fees and assessments designed to recover the cost of the Commission's annual appropriation from Congress



Rulemakings

<b>Securities and Exchange Commission (SEC)</b>	
<b>January 17, 2011 (180 days after enactment)</b>	<b>Bill Section</b>
SEC to issue rules requiring issuers to disclose to investors why the same person serves as CEO and Chairman of the Board or why these positions are held by different persons.	§972
<b>July 21, 2012 (2 years after enactment)</b>	
SEC to promulgate rules designed to increase the transparency of information available to brokers, dealers and investors with respect to the loan or borrowing of securities.	§984
<b>No date given</b>	
SEC authorized to issue rules permitting the use by shareholders of proxy solicitation materials supplied by an issuer for the purpose of nominating individuals to membership on its board of directors, including rules exempting an issuer or class of issuers.	§971
SEC authorized to require national securities associations to establish and collect a reasonable annual accounting support fee to fund the Governmental Accounting Standards Board.	§978
SEC authorized to issue rules related to the loan or borrowing of securities.	§984

<b>Municipal Securities Rulemaking Board</b>	
<b>No date given</b>	<b>Bill Section</b>
Board to implement new rules related to membership composition and membership terms.	§975
Board to implement new rules related to the regulation of municipal advisors.	§975
In conjunction with or on behalf of any federal financial regulator or self-regulatory organization, the Board is authorized to establish information systems and assess reasonable fees to receive or collect information for the purposes of serving as a repository of information from municipal market participants.	§975

<b>Public Company Accounting Oversight Board</b>	
<b>No date given</b>	<b>Bill Section</b>
Board authorized to establish an inspection program for public accounting firms that provide audit reports to brokers or dealers; any rules will be subject to prior approval by the SEC.	§982



<b>Consumer Financial Protection Bureau</b>	
<b>No date given</b>	<b>Bill Section</b>
Office of Financial Literacy to implement new grant program for enhanced protection of seniors from misleading or fraudulent marketing, including determinations related to eligibility criteria and performance objectives.	§989A



## TITLE X: CONSUMER FINANCIAL PROTECTION BUREAU

- Establishes a new, independent bureau (the Bureau), housed within the Federal Reserve, but not subject to its supervision, and authorized to examine and enforce regulations for banks and credit unions with assets that exceed US\$10 billion, as well as all mortgage-related businesses, along with payday lenders, student lenders and other large non-bank financial companies
- Consolidates consumer protection responsibilities that currently reside in a number of federal agencies
- Provides for the Bureau to be headed by an independent director, appointed by the President, confirmed by the Senate, and removable only for cause, with a dedicated budget
- Sets forth authority for the Bureau to write rules for consumer protection that will govern most financial institutions, with authority to initiate investigations and conduct litigation in its own name
- Provides that rules issued by the Bureau are reviewable by the Financial Stability Oversight Council but may be set aside only if such rule would “put the safety and soundness of the US banking system or the stability of the financial system of the US at risk”
- Creates limited preemption solely in cases where a state law enacted to support the objectives of the Bureau significantly interferes with the activities of a national bank; otherwise, creates a federal floor, and
- Establishes an Office of Fair Lending and Equal Opportunity, as well as a Victims Relief Fund funded by civil penalties normally deposited into the Treasury’s general fund

### Rulemakings

<b>Consumer Financial Protection Bureau</b>	
<b>July 21, 2011 (1 year after Transfer Date), or such later date (not later than January 21, 2012)<sup>8</sup></b>	<b>Bill Section</b>
In consultation with the FTC, Bureau to issue initial rule on definition of non-depository covered persons.	§1024(a)(2)
Bureau to propose rule on combined disclosures under Truth In Lending Act and Real Estate Settlement Procedures Act.	§1032(f)
<b>No date given</b>	
Bureau authorized to establish general policies with respect to all executive and administrative functions.	§1012(a)
Director may prescribe rules and issue orders and guidance as necessary or appropriate to enable the Bureau to administer and carry out the purposes and objectives of the federal consumer financial laws and to prevent evasions thereof.	§1022(b)
Bureau to prescribe rules regarding the confidential treatment of information.	§1022(c)(6)

<sup>8</sup> Transfer Date refers to the transfer of functions to the Consumer Financial Protection Bureau under §1062.



Bureau to prescribe rules to facilitate supervision of non-depository covered persons.	§1024(b)(7)
Bureau authorized to prescribe rules related to pre-dispute arbitration clauses in consumer financial product agreements.	§1028(b)
Bureau authorized to prescribe rules defining prohibited unfair, deceptive or abusive acts and practices.	§1031(b)
Bureau authorized to prescribe rules governing disclosures for consumer financial products and services.	§1032(a)-(b)
Bureau to prescribe rules concerning a consumer’s right to obtain information from “covered persons”; Bureau to prescribe standards applicable to covered persons to promote the development and use of standardized formats for information.	§1033
Bureau to establish procedures, after consultation with other federal agencies, on responding to consumer complaints.	§1034
Bureau to prescribe regulations on consultations with state attorneys general on the bringing of civil actions to enforce the provisions of the statute.	§1042(c)
Bureau to prescribe rules on hearing procedures and adjudications.	§1053(d)
Bureau to prescribe rules on the collection of data on loan applications by minority and women-owned businesses.	§1071
Bureau authorized to promulgate regulations identifying unfair practices and providing for an integrated disclosure under the Truth In Lending Act and the Real Estate Settlement Procedures Act in the context of reverse mortgages.	§1076
Bureau authorized to promulgate regulations to establish minimum net worth or surety bond requirements for mortgage loan originators.	§1100

<b>Financial Stability Oversight Council</b>	
<b>July 21, 2011 (1 year after enactment)</b>	<b>Bill Section</b>
Council to prescribe procedural rules related to its review of Bureau rulemakings.	§1023

<b>Federal Reserve Board (FRB)</b>	
<b>April 21, 2012 (9 months after enactment)</b>	<b>Bill Section</b>
FRB to issue final rules establishing standards for electronic debit cards interchange fees which are “reasonable and proportional” to the cost incurred.	§1075
FRB to issue rules on disclosures related to remittance transfers.	§1073



**TITLE XI: FEDERAL RESERVE SYSTEM AND EMERGENCY ASSISTANCE AMENDMENTS**

- Limits the Federal Reserve’s broad authority under section 13 of the Federal Reserve Act for providing assistance in emergency situations
- Increases transparency regarding the Federal Reserve’s programs established under section 13 of the Federal Reserve Act, and
- Establishes new limits on federal guarantees and programs that may be established by federal agencies during times of economic distress

<b>Federal Reserve Board (FRB)</b>	
<b>As soon as possible</b>	<b>Bill Section</b>
FRB to establish regulations, in consultation with the Secretary of Treasury, regarding procedures for providing emergency lending program or facility, or similar liquidity assistance, under section 13 of the Federal Reserve Act.	§1101(a)(6)

<b>Federal Deposit Insurance Corporation (FDIC)</b>	
<b>As soon as possible</b>	<b>Bill Section</b>
FDIC to establish by regulation, after consultation with the Secretary of Treasury, policies and procedures governing the issuances of guarantees for solvent depository institutions and their holding companies during times of economic distress.	§1105(b)



## TITLE XII: IMPROVING ACCESS TO MAINSTREAM FINANCIAL INSTITUTIONS

- Authorizes the Secretary of the Treasury to establish a multiyear program of grants and agreements designed to expand access to mainstream financial institutions
- Authorizes the Secretary of the Treasury to establish multiyear demonstration programs to provide low-cost small loans to consumers as alternatives to payday loans, and
- Authorizes grants to community development financial institutions to enable these institutions to establish reserve funds to operate small dollar loan programs

### Rulemakings

Department of the Treasury	
No date given	Bill Section
Secretary authorized to promulgate regulations to implement and administer grant programs and undertakings to (i) expand access to mainstream financial institutions; (ii) establish demonstration programs to provide alternatives to payday loans; and (iii) create reserve funds to allow community development financial institutions to operate small dollar loan programs.	§1209



### TITLE XIII: PAY IT BACK ACT

- Reduces the overall level of funding available to financial institutions under the Troubled Assets Relief Program (TARP) by additional amounts to an aggregate number that will result in an earlier termination of the TARP program with related revenue savings, and
- Expressly conditions any repurchase of such assets to those institutions expressly determined by the Secretary of the Treasury as necessary to address threats to the economy and to the extent that such amounts are reflective of repayments previously received

#### Rulemakings

None.



## TITLE XIV: MORTGAGE REFORM AND ANTI-PREDATORY LENDING

- Requires lenders to ensure a borrower’s ability to repay
- Prohibits unfair lending practices, including pre-payment penalties and certain rate premiums
- Establishes penalties for irresponsible lending
- Expands consumer protections for high-cost mortgages by lowering the pertinent interest based on determinations and fee trigger definitions, and
- Mandates additional disclosures for consumers acquiring non-traditional mortgages

### Rulemakings

<b>Federal Reserve Board (FRB)</b>	
<b>January 21, 2012 (18 months after Transfer Date), or such later date (not later than July 21, 2012)<sup>9</sup></b>	<b>Bill Section</b>
FRB to issue regulations on compliance with the requirements of these provisions by depository institutions.	§1402
FRB to promulgate regulations concerning steering of consumers to inappropriate mortgages.	§1403
FRB to provide rules on abusive or unfair practices relating to mortgage loans.	§1405
FRB to provide rules on safe harbor practices.	§1412
FRB to issue rules on other practices, including late fees and pay-off amounts.	§1433
FRB to provide regulations, along with other federal regulators, on appraisal requirements.	§1471
FRB to impose independence requirements in the appraisal area.	§1472
FRB to provide further regulations on the operational requirements of appraisal management companies and related topics.	§1473

<sup>9</sup> Transfer Date” refers to the transfer of functions to the Consumer Financial Protection Bureau under §1062.



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