Deutsche Bank

The Changing Regulatory Landscape

Conference Call
28 July 2010

Passion to Perform

Agenda

1 Frank Kelly, Head of Government Affairs – Americas

2 Andrew Procter, Global Head of Government & Regulatory Affairs

Landmark Moments in US Financial History

Year	Event
1785	— The US adopts decimal coinage system and the Dollar is chosen as the money unit for the United States
1791	— The First Bank of the United States is created, providing national currency and acting as the government's fiscal agent
1863	— National Bank Act establishes a system of national charters for banks
1913	— Imposition of the federal income tax on individuals and corporations — Federal Reserve Act divides country into 12 districts, each with a federal reserve bank
1932-33	— Series of new bills to rescue the economy: Glass-Steagall Act, Emergency Bank Act (prevents Fed collapse), Gold Standard abolished; restructuring of the Federal Reserve — Regulatory measures: introduction of deposit insurance, the FDIC, and the SEC
1999	— Gramm-Leach-Bliley Act (also known as the Financial Services Modernization Act of 1999) repeals Glass-Steagall Act of 1933
2010	— **Dodd-Frank Wall Street Reform and Consumer Protection Act**

The passage of the Dodd-Frank Act represents the most comprehensive US financial reform since the 1930s

Dodd-Frank Wall Street Reform and Consumer Protection Act:
20 key areas of focus

Rules for Government / Regulators

1. Financial Stability Oversight Council
2. Ending Too-Big-To-Fail (Unwind Authority)
3. The Federal Reserve
4. Bank Supervision

Rules for Banks / Corporates

5. Enhanced Prudential Standards
6. Volcker Rule
7. Bank Capital
8. OTC Derivatives
9. Foreign Financials
10. Insurance

Rules for Investors

11. Securitization
12. Executive Compensation & Corporate Governance
13. SEC and Investor Protection
14. Credit Rating Agencies
15. Hedge Funds and Private Equity Funds
16. Municipal Securities

Rules for Consumers

17. Consumer Financial Protection Bureau
18. Other Consumer Protections
19. FDIC Deposit Insurance

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20. Other Provisions of the Dodd-Frank Act

We have focused our efforts in this presentation on 20 key areas that span over 2,319 pages in the actual legislation

Summary Conclusions

- ✓ The final bill is sweeping in its scope and impact, and is especially tough on the Big Banks (Wall Street)
- ✓ Most provisions result in significant downward pressure on profitability, upward pressure on capital, and increased system stability
- ✓ Although the legislation moves further down the path of ending Too-Big-to-Fail, it fails to eliminate this risk
- ✓ The Federal Reserve has emerged as a much more powerful regulator than had been contemplated just months ago
- ✓ GSE reform (Fannie, Freddie) is the most notably absent issue in the bill
- ✓ On a relative basis, hedge funds, insurance companies, and the credit rating agencies emerged largely unscathed from the legislation
- ✓ New regulations in the derivatives market are significant, and will likely make it more expensive for companies to hedge macro-economic uncertainty at a time when volatility in the market is very high (margin and capital demands on liquidity)
- ✓ Throughout the bill, a significant amount of discretion is given to a broad range of regulators to write the detailed rules in the years ahead (we are not done!)
- ✓ The complexity, ambiguity and timing of substantially higher capital requirements will have a negative impact on lending in the economy
- ✓ Opportunities for global regulatory arbitrage could be significant
- ✓ Many non-U.S. emerging market jurisdictions will likely be more attractive opportunities than the U.S. for financial sector growth and investment
- ✓ Once implementation is complete, credit markets should respond very positively to the reduction in leverage, increased stability, and higher capital levels

A close examination of the Dodd-Frank Act reveals that the often repeated notion
that "banks dodged a bullet" is simply not true.
Rather, a few small victories merely softened the blow on the most draconian proposals.
To be sure, the final bill is sweeping in its scope and impact.

A Plethora of New Agencies

Eliminated Agencies

— **Office of Thrift Supervision** (standalone)

Selected New Agencies

— **Consumer Financial Protection Bureau** (“independent” with the Fed)
— **Financial Stability Oversight Council** (stand-alone)
— **Federal Insurance Office** (Treasury)
— **New Offices of Minority and Women Inclusion** (banking and securities regulators)
— **Investor Advisory Committee** (stand-alone; to advise SEC)
— **Office of Investor Advocate** (SEC)
— **Office of Credit Ratings** (SEC)
— **Credit Rating Agency Board** (SEC)
— **Office of Financial Literacy**
— **Office of Financial Research** (Treasury)
— **Office of Housing Counseling** (HUD)
— **Office of Fair Lending and Equal Opportunity** (Fed)
— **Office of Financial Protection for Older Americans** (Fed)

While the OTS is the only significant existing U.S. Government agency to be eliminated …

…the legislation would create a massive increase in the number of new agencies within the U.S. financial regulatory oversight architecture.

In addition, thousands of new employees will be needed across a full range of existing U.S. regulatory agencies.

Over 500 Rules and Studies Still to Come

Summary of Mandated Rulemaking and Studies by Agency

Agency	Rulemaking	Studies
Bureau of Consumer Financial Protection	24	4
Commodities Futures Trading Commission (CFTC)	61	6
Financial Stability Oversight Council	56	8
Federal Deposit Insurance Corporation (FDIC)	31	3
Federal Reserve	54	3
Federal Trade Commission (FTC)	2	0
Government Accountability Office (GAO)	0	23
Comptroller of the Currency (OCC)	17	2
Office of Financial Research	4	1
Securities and Exchange Commission (SEC)	95	17
Treasury	9	1
Total	**243**	**67**

US Chamber of Commerce Estimate

- 533 rulemakings
- 60 studies
- 70 reports

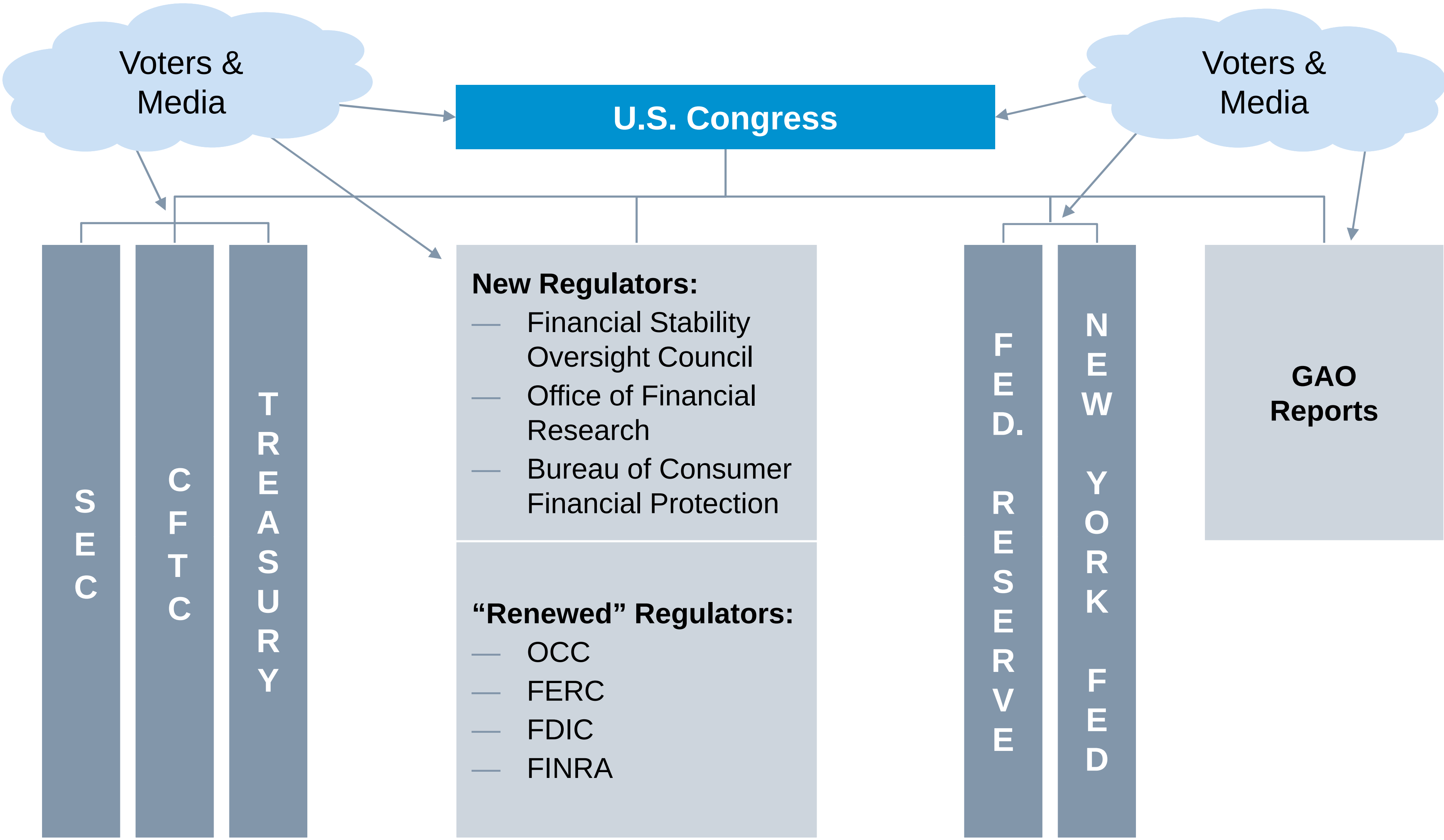
Over 240 rules are **required** to be written by 11 different regulators, mostly within the next 18 months. The U.S. Chamber of Commerce notes that the **potential** number of new rule makings and studies is actually well in excess of 500.

Timing and Implementation Schedule

Topic	Timing and Implementation Considerations
Consumer Financial Protection Bureau	— Within 18 months (possible extension to 24 months)
Volcker Rule	— Within 2 years
Capital Requirements	— **Risk-based capital and leverage**: Within 18 months — **Phase-out of Trust Preferred**: 5 years (2013 – 2016)
OTS elimination	— Within 15 months
Rating agencies	— Within 1 year
Hedge funds and PE funds	— Within 1 year
Securitization	— 1 year after publication of the final rules for RMBS — 2 years for most other securities
Derivatives	— **Generally:** In 360 days — **Swap push-out**: Generally, within 2 years (possible extensions)

Gradual phase-in periods should mitigate much of the initial shock to the U.S. economic and financial system

Why Rulemaking Won’t Be Simple…



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Higher quality capital standards

Significant uncertainty on the shape of future regulation along with any proposed implementation timetable

Basel 2.5

New Trading Book rules
- Correlation trading
- Trading book securitisation
- Stressed Value at Risk
- Incremental risk charge

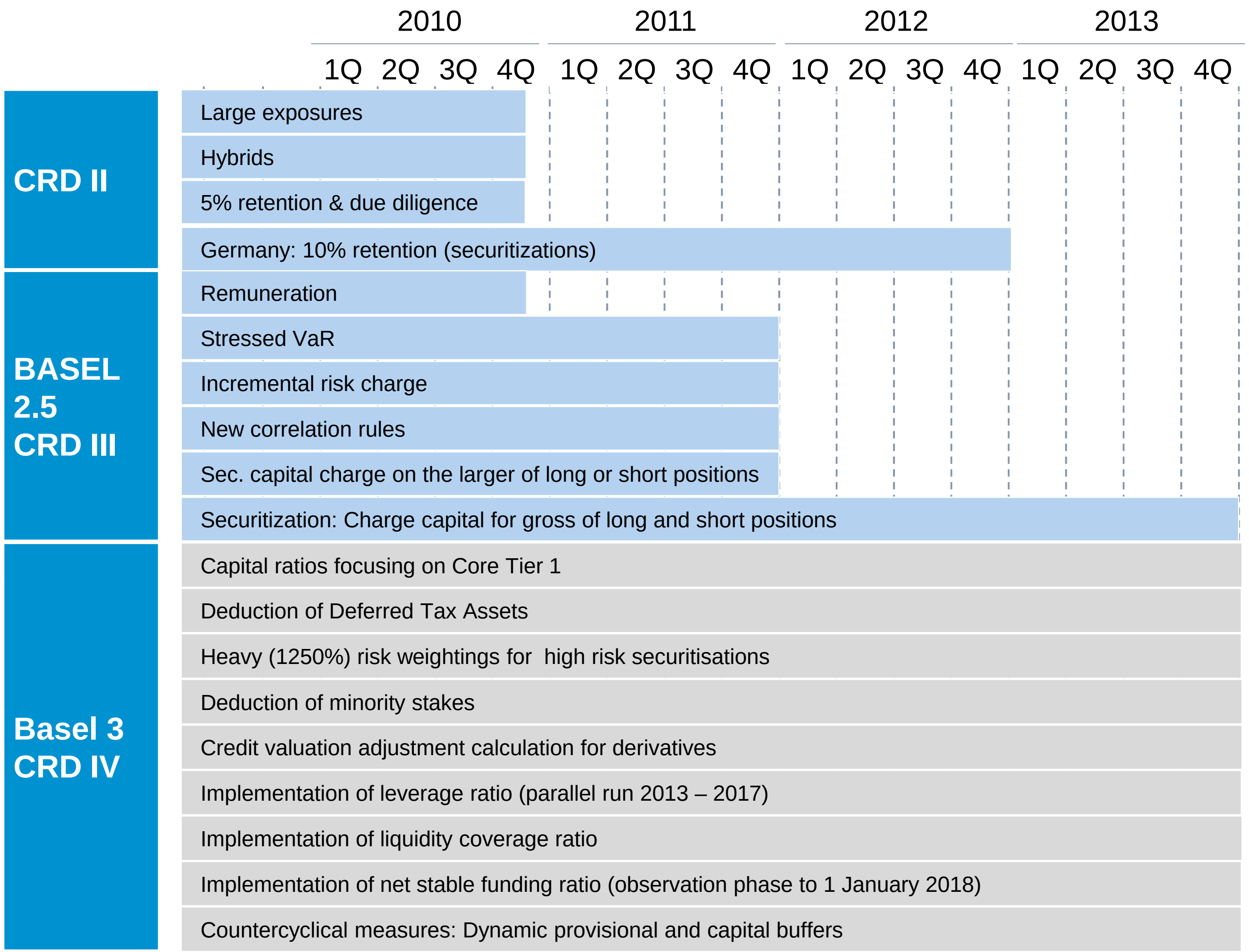
Basel 3

New Capital Rules
- Capital Deductions (DTA, Pension Plans, Minority Interests)
- Treatment of equity positions
- Tighter definition of capital
- Holding of capital buffers

New Liquidity Rules
- Liquidity Coverage Ratio (LCR)
- Net Stable Funding Ratio

Leverage Ratio

Expected Basel implementation timeline



G-20 Communique

"We agreed that all members will adopt the new standards and these will be phased in over a timeframe that is consistent with sustained recovery and limits market disruption, with the aim of implementation by end-2012, and a transition horizon informed by the macroeconomic impact assessment of the Financial Stability Board (FSB) and BCBS.

Phase-in arrangements will reflect different national starting points and circumstances, with initial variance around the new standards narrowing over time as countries converge to the new global standard."

Timeline certain
Timeline uncertain

Changing supervisory practices
Strengthening markets in the name of financial stability

The supervisory framework will change but more importantly so will many supervisory practices

Changes to the framework	**Micro-prudential supervision** — Strengthened micro-prudential supervision through enhancing the colleges model of supervision — More centralised rule-making in the European Union — Special rules for systemic relevant banks: living wills, TBTF **Macro-prudential supervision** — The introduction of macro-prudential supervision geared towards preventing the emergence of asset bubbles and financial instability

Many proposals are in the pipeline that will have fundamental impacts on trading activities

Short selling	— Proposal for a planned European regime in the Autumn — Enhanced transparency with powers for regulators to intervene
Volcker Rule	— The US will ban proprietary trading or investing in or sponsoring hedge funds or private equity funds — The EU not expected to follow. Unclear the precise extent of any extra-territorial implications of the US action

Improving over-the-counter derivatives markets

Industry led initiatives to enhance market infrastructure well underway. Differences between the EU and US likely in some instances

Clearing

- Central clearing for eligible trades
- Joint responsibility across CCP's (central counterparty) / regulators / dealers to determine what is eligible
- Focus on robustness of CCP's
- More stringent rules on bilateral collateral arrangements

Transparency

- An acceptable level of pre-trade price discovery available to OTC market users
- Greater post-trade transparency required to all derivative asset classes
- No restrictions on execution channels for eligible execution venues in the EU
- Greater drive for on-exchange trading in the US
- All trades reported to global trade repositories for each asset class

Standard-ization

- Recognition that product standardisation in most cases is unnecessary
- Drive to standardise the processes and legal frameworks around derivatives

UK Regulatory Architecture: Future Structure

Consumer Protection and Markets Authority

Responsible for investor protection and conduct of business.
(Listing and company reporting?)

Bank of England

Responsibility for macro-prudential supervision and oversight of micro-prudential supervision

Economic Crime Agency

Responsible for serious crime/enforcement
(Details of proposal still to be published)

Prudential Regulation Authority

Subsidiary of Bank of England
Responsible for day to day supervision

Financial Policy Committee

Chaired by M. King
(Governor of BoE)
Responsible for macroeconomic and financial stability

Banking Commission

Headed by John Vickers
Aims to review banking system; focus on reducing systemic risk
To look into division of retail and investment banking
Finding by Sept. 2011

Additional information

#1 – Financial Stability Oversight Council

Overview

— **New agency to monitor systemic risk and make recommendations to regulators**

Details

— Council of 10 voting members, chaired by US Secretary of Treasury (outlined on following page)

— **Responsibilities**

  — Identify threats to financial stability and gaps in regulation

  — Facilitate coordination across Federal and State agencies

— Strong systemic oversight role
— Limited enforcement power
— Can only make recommen-dations

Financial Stability Oversight Council

Recommend to Fed for heightened standards as companies grow in size and complexity, with greater requirements for companies threatening stability	With a 2/3rds vote, can require non-bank financials to go under the authority of the Fed	With a 2/3rds vote, can approve Fed's decision to compel asset sales	With a 2/3rds vote (must incl. Treasury Sec, Chairman of Fed and FDIC Chairman), can prohibit federal assistance to swaps entities regardless of exemptions

— **"Office of Financial Research" created within Treasury**

  — Staffed with accountants, economists, lawyers, former supervisors and specialists providing technical expertise

  — Collects and analyzes critical data which will be made public in periodic reports to Congress

"Hotel California" provision

— **No evasion**

  — Large bank HoldCos that received TARP cannot drop bank charter to evade Fed supervision

#1 – Financial Stability Oversight Council (continued)

- Strong systemic oversight role
- Limited enforcement power
- Can only make recommendations

Financial Stability Oversight Council Members	
10 Voting Members	**5 Nonvoting Members**
1. Chair: US Treasury Secretary	1. Office of Financial Research (OFR)
2. Federal Reserve Chairman	2. Federal Insurance Office (FIO)
3. Comptroller of the Currency (OCC)	3. State banking supervisor
4. Consumer Financial Protection Bureau (CFPB)	4. State insurance commissioner
5. Securities and Exchange Commission (SEC)	5. State securities commissioner
6. Federal Deposit Insurance Corporation (FDIC)	
7. Commodities Futures Trading Commission (CFTC)	
8. Federal Housing Finance Agency (FHFA)	
9. National Credit Union Administration (NCUA)	
10. Independent member named by the President	

#2 – Ending Too-Big-To-Fail (Unwind Authority)

Overview

- **FDIC gains additional new power to unwind large failing financial firms**
- **However, generally more alignment of unwinds with the bankruptcy code (than the more ad hoc powers permitted in the bank resolution statutes)**

Details

- More powers for FDIC
- More transparency for creditors
- Weakens "Government uplift" support in bank credit ratings (critical issue with investors)

- **Orderly Unwind and Liquidation Mechanism**
  - Requires Treasury, FDIC and Federal Reserve to agree a company is in financial distress
  - Treasury must either obtain the consent of company's board of directors, or an order from the US District Court for the District of Columbia, authorizing the appointment of the FDIC as receiver
  - Shareholders and unsecured creditors will bear losses (more aligned with provision of bankruptcy code than had been the case previously), and management removed
  - FDIC may recover up to 2 years of compensation from senior executives substantially responsible for financial company failure
- **Taxpayer funds will not be used to rescue failing financial companies**
  - The costs of unwinding failing firms will be borne by the financial industry through fees imposed after a firm collapses via a fee assessed on financial firms with assets > $ 50 billion
  - During liquidation, the FDIC can borrow only the amount of funds that it expects to be repaid from the assets of the company being liquidated; government first in line for repayment
- **Funeral plans**
  - Large, complex institutions must periodically submit plans for own unwind
- **Bankruptcy**
  - Most large financials that fail are expected to be resolved through the bankruptcy process

#3 – The Federal Reserve

Overview

- **The Federal Reserve becomes the preeminent financial regulator with a broadened supervisory scope and will be subject to the most transparency in its 96-year history**

Details

- **Consumer Protection**
  - Will house the new Consumer Financial Protection Bureau
- **Systemic Regulation**
  - Will work closely with new Financial Stability Oversight Council to set tougher standards for disclosure, capital and liquidity that will apply to banks as well as non-bank financial companies
- **Transparency**
  - Fed will have to disclose counterparties and information of 13(3) and discount window lending and open market transactions, with specified time delays
- **Limits on Fed's Section 13(3) Emergency Lending Authority**
  - Treasury must approve any lending program
  - Emergency lending to "individual" entities prohibited
  - Collateral must be sufficient to protect taxpayers from losses
- **Limits on debt guarantees**
  - To prevent bank runs, the FDIC can guarantee debt of solvent, insured banks after meeting onerous approval requirements from the Fed, FDIC, Treasury, the President and Congress

- Directly aimed at preventing future Fed activity analogous to its role in the Bear Stearns and AIG failures

#3 – The Federal Reserve (continued)

Overview

— **The Federal Reserve faces new rules on governance and will be subject to ongoing audits**

Details

— **Governance**

— GAO to conduct study on current system for appointing directors and identify measures to improve reserve bank governance, within 12 months of the date of enactment

— Eliminates the role of bankers in picking presidents at the Fed's 12 regional banks:

Class A Directors	Class B Directors	Class C Directors
— Elected by member banks to represent member banks	— Elected by district member banks to represent the public	— Appointed by the Board of Governors to represent the public
— **Will no longer vote for presidents**	— **Will elect presidents**	— **Will elect presidents**

— **Accountability**

— GAO will conduct a 1-time audit of all Fed 13(3) emergency lending during the financial crisis, with report submitted to Congress within 12 months of enactment

— GAO will have authority to audit 13(3) and discount window lending, and open market transactions

— **Supervision**

— The Fed will keep its existing bank supervisory powers of both large and small banks

— Creates a **Vice Chairman for Supervision**, member of the Board of Governors of the Fed designated by the President, who will develop policy recommendations

#4 – Improving Bank Regulation

— Largely systemic focus

Financial Stability Oversight Council (FSOC)

- Newly created agency responsible for systemic risk
- Provide recommendations for capital and leverage requirements
- Prevent systemic risk from threatening the financial system
- **10 voting members**: Treasury Secretary, Fed Reserve Chairman, Comptroller of the Currency, CFPB, SEC, FDIC, CFTC, FHFA, NCUA, independent member named by the President
- **5 non-voting members**: OFR, FIO, state banking regulator, insurance regulator, securities regulator

— Largely institutional focus

Federal Reserve

- Bank holding companies and state banks that are members of the Federal Reserve system
- Retains oversight role on over 5,800 small and midsize banks

Federal Deposit Insurance Corp (FDIC)

- State banks and thrifts that are **not** members of the Federal Reserve System

Office of Comptroller of the Currency (OCC)

- National banks and federal thrifts of all sizes

Office of Thrift Supervision

- ~~Supervisory oversight of thrifts~~

ELIMINATED

#4 – Improving Bank Regulation (continued)

Overview

- **Eliminates:** OTS
- **Keeps**: Fed, FDIC, OCC
- **Creates**: FSOC

Details

- **Clear and streamlined supervision**
  - OTS abolished, with authority transferred to OCC; thrift charter preserved
  - Elimination of regulatory overlap (less arbitrage on regulatory supervision)
  - Clear lines of responsibility among regulators on supervision
- **Charter Conversions**: banks cannot convert charter to avoid an enforcement action (unless both the old regulator and new regulator do not object)
- **Volcker Rule**: prohibition on prop trading and restrictions on investments in hedge funds
- **Stronger lending limits**: credit exposure from derivatives transactions included in banks' lending limits
- **Supervision of holding company subsidiaries**: requires the Fed to examine non-bank subsidiaries that are engaged in activities that the subsidiary bank can do on the same schedule and in the same manner as bank exams
- **Intermediate holding companies**: allows use of intermediate holding companies by commercial firms that control grandfathered unitary thrift holding companies to better regulate the financial activities, but not the commercial activities
- **Interest on business checking**: authorizes banks to pay interest on corporate checking accounts, effective one-year from the date of enactment
- **Dual banking system**: preserved; state banking system that governs most community banks will continue to exist

#5 – Enhanced Prudential Standards

Overview

- **Enhanced prudential standards for systemically important non-bank financial companies and interconnected bank holding companies**

Details

- **Discourage excessive growth and complexity**
  - Financial Stability Oversight Council to make recommendations for increasingly strict rules for companies that grow in size and complexity
- **Volcker Rule**
  - Prohibits banks from prop trading and restricts fund sponsorship
- **Risk-based capital requirements**
  - Establishes a floor for capital that cannot be lower than the standards in effect today
- **Stricter leverage limits and liquidity requirements**
  - Financial Stability Oversight Council can impose 15:1 debt-to-equity ratio to mitigate threats to stability
- **Stress Tests**
  - Requires stress tests to be conducted by the Fed but does not specify frequency
- **Concentration limits**
  - Credit exposures to non-affiliates cannot exceed 25% of capital stock and surplus
- **Resolution plan and credit exposure reporting**
- **Risk committees**
  - Required for systemically important, publicly traded non-bank financial companies, as well as publicly traded bank holding companies, with total consolidated assets > $10 billion

New U.S. capital and leverage requirements will influence international discussions on capital adequacy guidelines (Basel III standards)

#6 – Volcker Rule: Overview

Overview

- **Intended to limit bank activity in higher risk businesses such as proprietary trading, hedge fund and private equity businesses**

Key Provisions

Proprietary trading prohibited	**Securitization activities limited (conflicts of interest)**
Investments in and sponsorship of hedge funds and private equity funds restricted (3% rule)	**M&A restrictions (10% rule)**

Applicability

- **Applies to banks, their affiliates and companies treated as a Bank Holding Company**
  - Will only apply to US subsidiaries of foreign companies that have systemically important operations in the United States or that receive Bank Holding Company treatment
  - Excludes foreign trading by foreign companies
- **Application to systemically important non-bank financials**
  - Above restrictions (proprietary trading, investment funds) do **not** apply; however, higher capital and other quantitative criteria applied

#6 – Volcker Rule (Continued): Propriety Trading Restrictions

- Banks are prohibited from engaging in proprietary trading
- Language stringently defined in the legislation rather than leaving flexibility with the regulators as earlier versions had contemplated
- GAO study on prop trading to be produced within 15 months of date of enactment

Exemptions From the Ban on Proprietary Trading

1. Investments in US government, agency, state or municipal debt(1)
2. Investments in small business investment companies
3. Market-making related activities
4. Risk-mitigating hedging activities
5. Activities on behalf of customers
6. Activities conducted by a banking entity solely outside the US, unless the banking entity is directly or indirectly controlled by a banking entity in the US
7. Activities by regulated insurance companies

The definition of proprietary trading in the final bill is critical to assessing its ultimate impact on trading revenue

Proprietary Trading (defined): *"The term 'proprietary trading', [...] means engaging as a principal for the trading account of the banking entity or non-bank financial company supervised by the Board in any transaction to purchase or sell, or otherwise acquire or dispose of, any security, any derivative, any contract of sale of a commodity for future delivery, any option on any such security, derivative, or contract…"*

- Dodd-Frank Act

(1) Includes Fannie Mae, Freddie Mac, Ginnie Mae, Federal Home Loan Banks, Farm Credit System securities

#6 – Volcker Rule (Continued): Other Key Provisions

Fund Investments and Sponsorship

— **Hedge fund and private equity fund investments and sponsorship (3% Rule)**
- — Banks can provide no more than 3% of the fund's capital
- — Banks cannot invest more than 3% of their Tier 1 capital
- — Banks can sponsor and act as a trustee/general partner/management member of funds as long as it is done for bona fide trust, fiduciary, or investment advisory services
- — Banks are prohibited from bailing out a fund in which they are invested

Securitization

— **Securitization**
- — Firms cannot underwrite an asset-backed security that will result in a conflict of interest
- — Exemptions for activities designed to reduce the risks of an underwriter, provide liquidity or related to market-making

Addresses recent fraudulent conduct **alleged** in SEC lawsuit against Goldman Sachs

Concentration Limits

— **Concentration limits – M&A restrictions (10% Rule)**
- — No mergers that would result in a company with liabilities greater than 10% of the total liabilities of all financial companies at the end of the prior calendar year

Notable Studies

— **Studies**
- — Study by the Council on how to effectively implement the Volcker Rule will conclude within 6 months of the date of enactment
- — Within 18 months of enactment, the appropriate Federal banking agencies must jointly review the activities that a banking entity may engage in under federal and state law and consider whether additional restrictions, including those to concentration limits, are necessary

#7 – Bank Capital

Overview

— **Federal Reserve establishing enhanced leverage and risk-based standards and capital requirements for systemically important firms**

Details

Collins Amendment

Timing and applicability of capital requirements outlined on the following page

— **Trust preferred (TruPS) and hybrid securities excluded from Tier 1 capital**
  - For banks with assets < $ 15 billion, existing TruPS grandfathered
  - TARP preferred issuances grandfathered, regardless of the size of the institution

— **Minimum capital and leverage ratios**
  - Establishes a floor for capital that cannot be lower than the standards in effect today
  - Requirements will apply to:
    - US insured depository institutions
    - US bank holding companies
    - US intermediate holding companies of foreign banks
    - Thrift holding companies
    - Systemically important non-bank financials
  - Fed must include off-balance sheet activities in calculating new capital requirements
  - Must address risks relating to derivatives, securitized products, financial guarantees, securities borrowing and lending, repos, concentrations in assets where values are model-driven
  - New capital requirements must be countercyclical

Dodd-Frank Floor for Capital and Leverage Requirements[1]

	Minimum risk-based capital ratios		Minimum leverage ratio
	Tier 1 capital	Total capital	
Well capitalized	6%	10%	5%
Adequately capitalized	4%	8%	4%

(1) Currently applicable capital and leverage ratios for insured depository institutions will set the floor for new requirements

— **Contingent Capital**
  - No specific contingent capital requirements
  - Within the next 2 years, Council must conduct study on the feasibility, benefits, costs and structure of a contingent capital requirement

#7 – Bank Capital (continued)

Timing and Applicability of "Collins Amendment" Capital Requirements		
	Regulatory capital deductions (e.g., hybrid exclusions from Tier 1)	**Leverage ratios and risk-based capital ratios**
Banks with assets > $15 billion	Phased in from Jan 1, 2013 to Jan 1, 2016; no impact for first 2 years and incremental phase-in 1/3rd per year starting Jan 1, 2013	Effective when new requirements are implemented, which will be within 18 months
Banks with assets < $15 billion	Grandfathered (effectively)	Effective when new requirements are implemented, which will be within 18 months
Thrift holding companies with assets > $15 billion	Phased in from Jan 1, 2013 to Jan 1, 2016	5 years after enactment
Thrift holding companies with assets < $15 billion	Grandfathered (effectively)	5 years after enactment
Intermediate US holding companies of foreign banks	Effective 5 years after enactment	5 years after enactment
Non-bank financials	Phased in from Jan 1, 2013 to Jan 1, 2016 (systemically important non-bank financials may be exempt by the Federal Reserve)	Effective when new requirements are implemented, which will be within 18 months
Mutual holding companies	Grandfathered (effectively)	Effective when new requirements are implemented, which will be within 18 months (unless thrift holding company)

— **Exemptions**
- — Foreign parents
- — Federal home loan banks
- — Banks with assets < $ 500 million
- — Holding companies of industrial banks, credit card banks and trust banks
- — Systemically important non-bank financials **may** be exempt by the Federal Reserve

In general, the elimination of trust preferred as Tier 1 capital will be phased in from Jan 1, 2013 …
…while new leverage and capital requirements will be implemented within 18 months.
All entities listed in the table are subject to the leverage and risk-based capital ratios.

Source: Davis Polk & Wardell: Collins Amendment – Minimum Capital and Risk-Based Capital Requirements, June 28, 2010.

#8 – OTC Derivatives: Overview

Overview

— **Comprehensive set of new rules to reduce counterparty risk and increase transparency**

— **While the Dodd-Frank Act establishes the broad outline of regulation, most of the details will be determined by the regulators (CFTC and SEC) in the months ahead**

Key Issues

1. Central clearing	**5. Capital requirements**
2. Exchange trading	**6. Margin requirements**
3. "Major swap participant"	**7. Post trade reporting**
4. Swaps push-out provision	**8. FX swaps**

Lincoln Amendment → 4. Swaps push-out provision

Important Distinctions:

— **Capital and margin requirements:** Between dealers/ major swap participants, and end users

— **Central clearing by end-users**: Between financial and non-financial companies

#8 – OTC Derivatives (Continued): Key Provisions

Key issue	High-level Considerations
1. Central clearing	— **Financial companies:** Required to centrally clear (existing swaps grandfathered) — **Non-financial companies:** **Not** required to centrally clear (exempt) — **Captive finance subsidiary companies: Not** required to centrally clear (exempt), but only if business exists to predominantly serve an industrial parent (and not judged to be a major swap participant) — **Implications**: Liquidity demand of high initial margin; *daily* variance margin, cash "form" of margin
2. Exchange trading	— Generally speaking, the Dodd-Frank Act focuses more on the importance of central clearing than exchange trading — **Requirement:** If no exchange or swap execution facility (SEF) lists the swap for trading, then the swap may be transacted with central clearing only (non-financials exempt from clearing and exchange) — **Implications**: Inability to customize (important to hedge strategy and accounting treatment)

3. Major swap participant (MSP)
 	
Possible to be designated a MSP for certain classes of swaps, and not others
	— Designation for entities that:
	  — maintain a substantial net position in swaps (except to hedge risk or benefit plan);
	  — whose outstanding swaps create substantial counterparty exposure **that could have adverse effects on the financial stability of the U.S. banking system or financial markets; or**
	  — is a financial entity that is high leveraged, not subject to capital requirements
	— **Implications**: If applicable, will be subject to a high degree of regulatory oversight, including capital and margin requirements and business conduct standards

4. Swaps push-out	— Banks will have to move certain swaps trading operations into separately capitalized, non-bank affiliates — **Exemptions**: Hedging own risk, interest rate swaps, FX, and certain metals (gold, silver, etc) — **Implications**: For end-users, could mean less liquidity and higher counterparty risk in commodities, CDS and equity linked derivatives

#8 – OTC Derivatives (Continued): Key Provisions

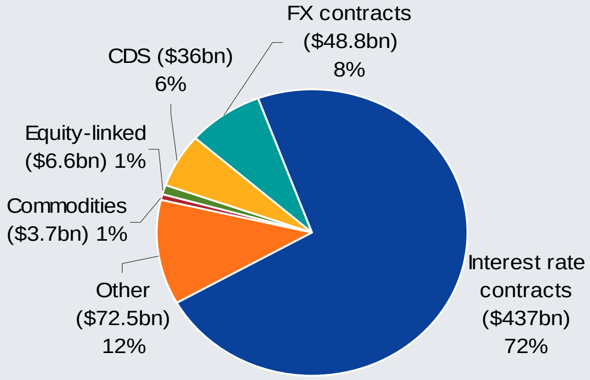
Key issue	High-level Considerations
5. Capital requirements	— Conservative capital requirements for dealers and major swap participants — Higher capital requirements for dealers for counterparty credit risk on OTC positions — **Implications**: — For banks/ dealers, less profitability, higher capital demands, and reduced credit appetite — For end-users, higher capital costs likely to be “passed thru” to some degree
6. Margin requirements This possibility has become an issue of strong political debate	— Regulators could set minimum margin requirements for non-cleared (OTC) swaps (although may allow more flexibility on “form” to permit non-cash collateral) — Regulators also likely to set stringent minimum margin requirements for clearinghouses — **Implications**: — For financials, sharply higher liquidity demands on cleared swaps — For non-financials, possibility of higher liquidity demands if regulators decide to regulate (and elevate) OTC margin standards
7. Post trade reporting	— Most swaps will be subject to “real-time” price and volume reporting requirements — No exemptions (will apply to both centrally cleared and OTC swaps) — **Implications**: more price transparency; possibly less liquidity on certain transactions
8. FX Swaps	— Prior drafts of legislation had given an exemption to clearing for FX swaps — The Dodd-Frank Act would not exempt FX swaps from central clearing, **unless the U.S. Secretary of the Treasury determines otherwise** (creates ambiguity on future treatment) — **Implications**: — For financials, would incur the liquidity demands of central clearing on FX swaps — For non-financials, less impact since exempt, but could negatively impact market liquidity

#8 – OTC Derivatives (Continued): Swaps Push-Out

- **Prohibits federal assistance to swaps entities (Section 716)**
- "**Swaps entities**" defined as Swap Dealer or Major Swap Participant
- "**Federal assistance**" defined to include FDIC insurance and Fed borrowing
  - Effectively prevents banks from acting as swaps entities
  - However, banks can have affiliates that are swaps entities
  - → **Will result in banks spinning-off trading of certain swaps into separately capitalized, non-bank entities**
- **Regulators to set prudential standards for swaps entities**
  - Must consider expertise and oversight systems, financial strength, and risk controls of entity
- **Includes language that taxpayers will not suffer any losses as a result of the derivatives provisions of the Dodd-Frank Act**

Importantly, the bill does not appear to either explicitly prohibit, or explicitly permit, guarantees of such affiliate by the Holding Company

Breakdown of Derivatives Market



Exemptions from Push-out Provision

- **Hedging own risk**
- **Interest rate swaps (72% of market)**
- **Foreign exchange swaps (8% of market)**
- **Coins, gold, silver and other metals**

Importantly, over 80% of the derivatives market will be exempt from the new swaps push-out provision. Will primarily impact CDS, commodities and equity-linked swaps.

Source: Bank of International Settlements (BIS) (December 2009). Wall Street research (December 2008).

#9 – Foreign Financials

Overview

- **Will impact foreign financials operating in the United States**
- **Most significant new development:** Collins Amendment impact on capitalization of U.S. subsidiaries of foreign financials

Key issue	Considerations
Capital Requirements (Collins Amendment)	— Exemptions from Federal Reserve's capital adequacy guidelines under SR-01-01 guidelines no longer valid, causing US bank subsidiaries of foreign financials to be subject to new risk-based capital and leverage requirements as well as regulatory capital deductions (5-year phase in)
Enhanced Prudential Standards	— Systemic risk provisions apply - US financial activities of foreign companies can be subjected to supervision and enhanced prudential standards — Funeral plans will apply to US bank subsidiaries; foreign parents likely required to complete unwind plans for other entities in other jurisdictions as well as for the parent given several regulators globally have adopted living will requirements
Securitization	— Securitization retention rule applies to US bank subsidiaries of foreign financials
Derivatives/ Swaps push-out	— Various anti-evasion provisions built into the derivatives title in particular — Swaps push-out provision will apply to US bank subsidiaries of foreign financials — The EU is not expected to implement similar restrictions
Volcker rule	— Will apply to US subsidiaries of foreign companies that have systemically important operations in the United States or that receive Bank Holding Company treatment — Limits on proprietary trading exclude foreign trading by foreign companies

#10 – Insurance

Overview

- **Creation of a Federal Insurance Office, but with little enforcement power**
- **Mandates study for potential future changes in insurance regulation (see below)**

Details

- **Federal Insurance Office**
  - Federal Insurance Office created within the Treasury

Federal Insurance Office

Monitor the insurance industry and identify regulatory gaps	Gather information about the insurance industry, including access to affordable insurance products	Recommend to the Financial Stability Council insurers that should be treated as systemically important	Serve as a uniform, national voice on insurance matters for the US on the international stage	Streamline regulation of surplus lines insurance and reinsurance through state-based reforms

- **Study for further regulation**
  - Federal Insurance Office required to submit, within 18 months, a report to Congress on improving US insurance regulation
- **Volcker Rule**
  - Activities by regulated insurance companies are exempt from the ban on proprietary trading
- **Derivatives**
  - Excluded from swaps desk push-out as long as they are not a swaps dealer

- No enforcement power
- Coordinating and information gathering body
- Will conduct a study on potential future changes in insurance regulation
- Could be a stepping stone toward the idea of a federal insurance charter

#11 – Securitization

Overview

- **Tries to align the interests of issuers of asset-back debt with ABS investors and reduce the risks posed by asset-backed securities**

Details

- **Risk retention ("skin in the game")**
  - Lenders required to hold at least a 5% stake in the asset-backed debt they structure and sell
  - Regulators will have flexibility to tailor risk-retention rules to specific products
  - Retained credit risk may not be hedged
  - Importantly, 5% will not be a first loss piece, but rather a "vertical slice" which will have meaningful accounting implications
- **Exemptions**
  - Qualified residential mortgage carveout
    - All of the assets that collateralize the ABS must be qualified residential mortgages
    - Federal banking agencies, the SEC, the Secretary of HUD and the Director of the FHFA to jointly define the term "qualified residential mortgage"
  - Loans guaranteed by the Federal Housing Administration, US Department of Agriculture, and US Department of Veterans Affairs
- **Disclosure**
  - Requires issuers to disclose more information about the underlying assets and to analyze the quality of the underlying assets

Key carveout for mortgage market

#12 – Executive Compensation & Corp Governance

Overview

— **Requires greater disclosure on compensation and provides shareholders with a say on pay and corporate affairs**

Details

- **Pay and performance disclosure requirements**
  - historical relationship between executive compensation and financial performance of company
  - median annual compensation of all employees and annual compensation of the CEO
  - disclose of whether employees can hedge the value of equity securities
- **Say on Pay**
  - Gives shareholders the right to a non-binding vote on executive pay and golden parachutes
- **Nominating directors**
  - SEC has the authority to grant shareholders the proxy access to nominate directors (Has been a contentious issue)
- **Clawback**
  - Requires public companies set policies to take back executive compensation if it was based on inaccurate financial statements that don't comply with accounting standards
- **Enhanced compensation oversight for the financial industry**
- **Exchange listing requirements**
  - Independent compensation committee: companies must have a compensation committee consisting of independent directors, authorized to engage compensation consultants and other advisors
  - Majority vote required for directors: directors must be elected by a majority of votes cast
- **Risk committees**
  - Publicly traded non-bank financial companies and bank holding companies with total consolidated assets > $ 10 billion must have risk committees
  - Fed may impose requirement on companies with assets < $ 10 billion

#13 – SEC and Investor Protection

Overview

Details

- **Several measures have been taken to increase investor protection and improve the management and accountability of the SEC**

- **Broker-dealers giving investment advice**
  - SEC has authority to raise standards for broker-dealers who give investment advice
  - SEC can hold brokers-dealers to **fiduciary duty** similar to investment advisors' standard, after completing study into the effectiveness of regulatory standards for brokers and investment advisers
- **Securities lending**
  - SEC to develop rules increasing transparency of information available regarding securities lending
- **Investor protection**
  - Establishes **Investor Advisory Committee**: advise SEC on its regulatory priorities and practices
  - Establishes **Office of Investor Advocate**: identify areas where investors have significant problems dealing with the SEC and provide them assistance
- **Whistleblower rewards and protection**
  - Encourages people to report securities violations, creating rewards of up to 30% of funds recovered
- **Improvements to the management of the SEC**
  - Outside consultant study of the SEC and annual assessment of SEC's internal supervisory controls
  - GAO review of SEC management every three years; SEC response due within 90 days of GAO report including recommendations on improvement human resource allocation
  - GAO report to Congress every 3 years on SEC's oversight of securities associations
  - Establishment of employee hotline to collect suggestions for improvements and allegations of misconduct by SEC employees; annual report on feedback due to Congress by Inspector General
- **SEC Funding**
  - SEC will continue to have its budget approved by appropriators
  - Access to up to $ 100 million every year to cover expenses

Other mandated studies

- Financial literacy of retail investors (SEC)
- Mutual fund advertising (GAO)
- Conflicts of interest between securities underwriting and securities analysts at the same firm (GAO)
- Investor access to information about investment advisers and broker-dealers (SEC)
- Financial planners (GAOs)

#14 – Credit Rating Agencies

Overview

- **Credit rating agencies, including Standard & Poor's, Moody's, Fitch and McGraw-Hill, escaped from the legislation relatively unscathed**

Details

- **Ends shopping for ratings of asset-backed securities**
  - SEC conducting 2-year study **(Credit Rating Agency Board Study)** to create a new mechanism preventing ABS issuers from picking the agency they think will provide the highest rating
  - If the SEC cannot determine how to match raters with firms while eliminating rating agency conflicts, the SEC will appoint a panel to establish a random process matching raters with financial firms
- **Structured finance products**
  - SEC to establish a self-regulatory organization **(Credit Rating Agency Board)** which will designate existing credit rating agencies as qualified to provide initial ratings for structured finance products
- **Office of Credit Ratings**
  - Created within SEC to administer rules, promote accuracy in ratings and ensure ratings are not unduly influenced by conflicts of interest
  - Will conduct an annual review of each credit rating agency and make key findings public
  - Ability to fine raters
  - Authority to deregister a rating agency for providing bad ratings over time
- **Disclosure**
  - Agencies required to disclose their methodologies, use of third parties for due diligence and ratings track record
  - Elimination of rating agency exemption from fair disclosure rule: SEC will revise Regulation FD to remove the exemption for credit rating agencies within 90 days of the date of enactment
- **More stringent threshold of evidence when bringing lawsuit against credit rater**
  - Investors required to demonstrate they were intentionally misled

Effectively restores the defeated Franken Amendment if 2 year study is inconclusive

Substantive development

#14 – Credit Rating Agencies (continued)

Details

- **Conflicts of interest**
  - Prohibits compliance officers from working on ratings
  - Requires a review when an employee begins working for an underwriter of a security subject to a rating by that agency
  - Requires a report to the SEC when rating agency employees being working for a company that was rated by the agency within the past year
- **Board of directors**
  - Requires at least half the members of boards to be independent, with no financial stake in ratings
  - Directors serve a fixed term up to 5 years and compensation is not linked to business performance
- **Additional Studies:**

Independent Professional Analyst Organization Study Comptroller General study on creating an organization to establish standards and ethics code for rating agency professionals	**Standardization Study** SEC study on establishing standardized ratings terminology and market stress conditions used to evaluate ratings
Alternative Business Model Study Comptroller General study of compensation alternatives for rating agencies	**Independence Study** SEC study on independence of rating agencies and effect on ratings issued

#15 – Hedge Funds and Private Equity Funds

Overview

- **Few onerous provisions beyond SEC registration for funds > $150 million**
- **Potentially much more onerous regulations for funds judged to be systemically important**

Details

- **SEC registration**
  - Hedge and private equity funds with assets >$150 million will be forced to register with the SEC
  - Registration subjects funds to periodic inspections by SEC examiners
  - Exemptions: include venture capital funds and advisers and advisers to private equity funds
- **Information reporting**
  - Required to report information to the SEC about trades and portfolios that is "necessary for the purpose of assessing systemic risk posed by a private fund"
  - Data will be shared with systemic risk regulator and SEC will report to Congress annually on how it uses this data to protect investors and market integrity
- **Systemic risk**
  - Fund placed under Fed supervision if it is determined to have grown too large or too risky
- **Conflicts of interest**
  - Funds must hire a chief compliance officer and set up policies to avoid conflicts of interest
- **State supervision**
  - Increases the asset threshold for federal regulation of investment advisers from $30 million to $100 million, resulting in more entities being under state supervision
- **Study on self-regulatory organization**
  - GAO to complete a study on feasibility of forming a self-regulatory organization to oversee private funds and submit a report regarding the same to Congress within 1 year of the date of enactment
- **Other mandated studies**
  - Short selling (SEC)
  - Accredited investor status (SEC)

Significantly higher regulatory requirements for funds with such designation

#16 – Municipal Securities

Overview

- **Requires SEC registration for municipal advisors and efforts to create transparency for municipal securities market**

Details

- **Registration and oversight of municipal advisors**
  - Requires registration and oversight of persons engaged in the municipal securities market
  - Carve-outs for registered investment advisers, lawyers, and broker-dealers acting as underwriters, but **not** for credit rating agencies and accountants
- **Municipal Securities Rulemaking Board**
  - Majority of board members cannot be affiliated with broker-dealers, municipal dealers or advisors
  - Rulemaking authority expanded to cover over broker-dealers, municipal securities dealers and municipal advisors with respect to the issuance of municipal securities, investment of proceeds of municipal offerings or derivatives on municipal securities
- **Fiduciary duty**
  - Imposes a fiduciary duty on advisors to ensure that they adhere to the highest standard of care when advising municipal issuers
- **Studies:**
  - GAO to study the value of enhanced municipal issuer disclosure, with report due within 1 year after the date of enactment
  - GAO to study municipal securities markets and issue report on how to improve transparency, fairness and liquidity within 180 days of the date of enactment
  - SEC to study the role of the Governmental Accounting Standards Board in the municipal securities markets and GASB funding, with report due within 270 days of the date of enactment

#17 – Consumer Financial Protection Bureau

Overview

- **Independent authority created with broad sweeping powers within the Federal Reserve, with the specific mandate of consumer protection on financial products**

Details

Significant new bureau with broad, sweeping and "independent" power

- **Independent head, budget and rule writing authority**
  - Established within the Federal Reserve (i.e., not an independent agency)
  - Director appointed by the President and confirmed by Senate
  - Dedicated budget paid by the Federal Reserve system
  - Authority to write rules for consumer protections governing all financial institutions – banks and non-banks – offering consumer financial products or services
- **Accountability and authority**
  - Consolidates responsibilities previously held by various bank regulators, making 1 office accountable for consumer protections
  - Fed cannot prevent Consumer Bureau from issuing a rule
  - Financial Stability Oversight Council, by a 2/3rds vote, can overturn a Bureau rule
  - State attorneys-general empowered to enforce certain rules issued by the Bureau
- **Scope**
  - Banks with assets > $ 10 billion, all mortgage-related businesses, payday lenders, student lenders, large non-bank financials
  - Exemption: Auto dealers
  - No authority over SEC-registered and CFTC-registered persons
- **Educates**
  - Creates Office of Financial Literacy

#18 – Other Consumer Protections

Overview

— **Enhanced policing of businesses for credit-card and mortgage-lending abuses, with increased regulatory scrutiny on a full range of consumer-facing products**

Details

Durbin Amendment

— **Interchange fees**
  — Fed has authority to limit interchange, or "swipe" fees, that merchants pay for debit-card transactions
  — Fed to ensure fees are "reasonable and proportional"
  — Retailers can offer discounts based on form of payment and refuse credit cards for purchases < $10
  — Merchants will be permitted to route debit-card transactions on more than one network

— **Credit Score**
  — Gives consumers free access to their credit score if their score negatively affects them in a financial transaction or a hiring decision

— **Mortgage reform**
  — Institutions must ensure borrowers can repay loans they are sold
  — Prohibits incentives that encourage lenders to steer borrowers into more costly loans
  — Prohibits pre-payment penalties
  — Establishes penalties for irresponsible lending
  — Expands protections for high-cost mortgages
  — Requires additional disclosures for consumers on mortgages, including requiring disclosure of maximum a consumer could pay on a variable rate mortgage
  — Establishes an **Office of Housing Counseling** within HUD to boost homeownership and rental housing counseling

Tackling the effects of the mortgage crisis

Neighborhood Stabilization Program

Provides $ 1 billion to States for rehabilitating foreclosed properties

Emergency Mortgage Relief

Provides $ 1 billion for loans to unemployed homeowners to help cover mortgage payments until they are reemployed

Foreclosure Legal Assistance

Authorizes grants for legal assistance related to home ownership preservation and foreclosure prevention

FDIC #19 – FDIC Deposit Insurance

Overview

— **Changes to deposit insurance**

Details

Retail Deposit Insurance Limits	Small Institution Deposit Insurance
— **Permanently increases the deposit insurance limit to $ 250,000** — Make the increase retroactive to cover the period from January 1, 2008 to October 3, 2008 when the limit was first temporarily raised — Eliminate the 1.5% hard cap on the Deposit Insurance Fund, giving the FDIC discretion to decide whether to rebate any excess over that amount — Thrift charter preserved	— **Extends unlimited deposit insurance on “non-interest bearing transaction accounts” for 2 years (through Dec 31, 2013)** — Slightly more narrow in scope than the TAG program enacted during the financial crisis — Congressional Budget Office to estimate government cost savings if program were made permanent

#20 – Other Provisions of the Dodd-Frank Act

- **Increases to the FDIC DIF Reserve Ratio**
  - FDIC reserve ratio of the Deposit Insurance Fund will increase from 1.15% to 1.35% of insured deposits by September 30, 2020, raising ~$ 6 billion (banks with assets < $ 10 billion exempt)
- **Amendments to Sarbanes-Oxley Act**
  - **Sox Section 404(B) Exemption:** permanent exemption from Sarbanes-Oxley Act's Section 404(b) auditor attestation requirements for small companies (< $75 million market capitalization)
  - **Foreign auditor oversight:** enables information to be shared with foreign auditor authorities without waiving confidentiality as long as confidentiality is ensured
- **Preemption:** the OCC is allowed to preempt state laws if they "prevent or significantly" interfere with the business of banking
- **Equity-indexed annuities exempt from SEC oversight**: treated as insurance products and therefore under the regulation of insurance regulator rather than SEC
- **Restriction on use of US funds for foreign governments**: requires a review of IMF loans to countries where public debt is greater than GDP and opposition to loans unlikely to be repaid
- **Provision regarding Congo Minerals**: manufacturers disclosure on source of minerals originating from the Democratic Republic of Congo and requirement for State Department to issue a strategy for addressing trade of conflict minerals
- **Reporting requirements for coal and mine safety**
- **Extraction industry provisions**: requirements for greater transparency including public disclosure on payments related to the commercial development of natural resources

Cautionary statements

This presentation contains forward-looking statements. Forward-looking statements are statements that are not historical facts; they include statements about our beliefs and expectations and the assumptions underlying them. These statements are based on plans, estimates and projections as they are currently available to the management of Deutsche Bank. Forward-looking statements therefore speak only as of the date they are made, and we undertake no obligation to update publicly any of them in light of new information or future events.

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