



Managing the Managers: International Coordination of Financial Supervision

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The opinions expressed are as of May 2017 and may change as subsequent conditions vary.



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Financial Regulatory Reforms since 2008

Key Pieces of Financial Legislation / Regulation

Basel Accords
Solvency II
Volcker, Vickers, Liikanen
Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010
European Market Infrastructure Regulation (EMIR)
Markets in Financial Instruments Directive (MiFID II / MiFIR)
SEC Reform of Money Market Funds (2010 and 2014)
OCC Reforms for Short Term Investment Funds (STIF) in 2012
ESMA Guidelines on Money Market Funds in 2010
ESMA Guidelines on ETFs and other UCITS issues in 2012
Alternative Investment Fund Managers Directive (AIFMD)
SEC Rules on Reporting, Liquidity Risk Management, and Swing Pricing in 2016

Key Reforms

Bank Capital, Stress Testing & Liquidity Rules

OTC Derivatives Rules

Improved Cash Investing Rules

Private / Alternative Funds Reporting & Registration

Mutual Fund Rules & Reporting

Post-Crisis Regulatory Reporting Requirements for Asset Management

US

Form PF	Private fund reporting to SEC
Form PQR	Private fund reporting to CFTC
Form PR	Reporting for commodity futures advisors to CFTC
Form N-CR	Money market fund reporting on material events and sponsor support
Form N-MFP	Monthly money market fund reporting on portfolio holdings
LQR reporting to SEC	
Form N-PORT	Monthly mutual fund reporting to SEC on portfolio holdings
Form N-CEN	Annual mutual fund reporting to SEC on census-type information
Form N-LIQUID	Mutual fund reporting if level of illiquid assets exceeds 15% of net assets

Europe

AIFMD	Private fund reporting
MiFID II	Pre- and post-trade reporting
PRIIPS	Pre-contractual disclosure reporting for retail products
SRD	Reporting on portfolio holdings, turnover, and costs
EMIR	Derivatives transaction reporting
SFTR	Securities finance transaction reporting
MMFR	Reporting for cash funds on portfolio holdings and more

Executive Order on Principles for Regulating the US Financial System

- a) Empower Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, and build individual wealth;
- b) Prevent taxpayer-funded bailouts;
- c) Foster economic growth and vibrant financial markets through more rigorous regulatory impact analysis that addresses systemic risk and market failures, such as moral hazard and information asymmetry;
- d) Enable American companies to be competitive with foreign firms in domestic and foreign markets;
- e) Advance American interests in international financial regulatory negotiations and meetings;
- f) Make regulation efficient, effective, and appropriately tailored; and
- g) Restore public accountability within Federal financial regulatory agencies and rationalize the Federal financial regulatory framework.

Source: Presidential Executive Order on Core Principles for Regulating the United States Financial System (Feb. 3, 2017), available at <https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-executive-order-core-principles-regulating-united-states>.

Presidential Memorandum for the Secretary of the Treasury regarding the Financial Stability Oversight Council

“...it is important to ensure that these processes for making determinations and designations promote market discipline and reduce systemic risk. It is equally important to ensure that, once notified by FSOC that it is under review, any entity under consideration for a determination or designation decision is afforded due, fair, and appropriately transparent process...I hereby direct the Secretary of the Treasury to take the following actions:

- i. Report on FSOC Processes.
- ii. Evaluation and Review of the FSOC.
- iii. Temporary Pause of Determinations and Designations.”

Source: Presidential Memorandum for the Secretary of the Treasury regarding the Financial Stability Oversight Council (Apr. 21, 2017), available <https://www.whitehouse.gov/the-press-office/2017/04/21/presidential-memorandum-secretary-treasury>.

CHOICE Act

Targets specific aspects of Dodd-Frank Act while keeping many sections intact.

Major changes to “Too Big to Fail” remedies:

- Increased capital vs. increased regulation
- Bankruptcy instead of orderly liquidation authority
- Eliminate FSOC non-bank SIFI designations

Significant changes to other sections:

- Restructure FDIC into five person commission; change CFPB and FHFA governance
- Eliminate Volcker Rule
- Eliminate Office of Financial Research
- Increase penalties for bad conduct

Largely untouched:

- Title VII – OTC Derivatives Reforms
- Private fund adviser registration
- Custody Rule

CFTC Agenda

“The CFTC must reinterpret its regulatory mission through the following three-part agenda:

- I. Fostering economic growth**
- II. Enhancing US financial markets**
- III. Right-sizing its regulatory footprint”**

– J. Christopher Giancarlo, Acting Chairman, CFTC, Remarks before the International Futures Industry Conference, Mar. 15, 2017

Potential CFTC areas of focus:

- Facilitate new derivatives market technologies and trading methodologies
- Enhance cross-border engagement and equivalence regimes
- Revisit regulatory framework for swaps trading to address fragmentation

SEC Agenda

“I firmly believe that:

- I. Well-functioning capital markets are important to every American;**
- II. All Americans should have the opportunity to participate in, and benefit from, our capital markets on a fair basis, including being provided accurate information about what they are buying when they invest; and**
- III. There is zero room for bad actors in our capital markets.”**

– Jay Clayton, Chairman, SEC, Statement before the Senate Banking Committee, Mar. 23, 2017

Potential SEC areas of focus:

- Capital formation
- Establish fiduciary standard
- Revisit series of SEC rules for asset management
- Propose ETF rule
- Reconsider electronic delivery to mutual fund shareholders

Current Focus of Global Standard Setting Bodies

FSB

- Bank Capital and Liquidity
- CCP Resolution
- Framework for Review of Regulation
- Stress Testing
- Compensation Schemes
- FinTech
- Climate Change

IOSCO

- CCP Resilience and Recovery
- Liquidity Risk Management for Funds
- Use of Derivatives and Leverage for Funds
- Data Privacy and Data Gaps
- Financial Innovation

CPMI

- CCP Resilience and Recovery

OECD

- Base Erosion and Profit Shifting (BEPS)
- Infrastructure Investment
- Investment Stewardship

IMF

- Global Financial Stability Report
- Financial Sector Assessment Program

Conclusions

Global standards can reduce regulatory arbitrage.

Harmonization of data reporting would benefit everyone.

The tsunami of regulation already passed is difficult to digest.

The cumulative impact of regulation has not been assessed.

Constructive outcomes require participation and input from practitioners.

Source: BlackRock. As of Apr. 2017. The opinions and views expressed here are those held by the author as at the time of publication, which are subject to change and are not to be taken as or construed as investment advice.

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