The Dodd–Frank Wall Street Reform and Consumer Protection Act: Accomplishments and Shortcomings

Suk Hi Kim
University of Detroit Mercy

Connor Muldoon
University of Detroit Mercy

After the Great Depression of 1930s, the United States created a bank regulatory system that ensured a panic-free period of 75 years, but this quiet period finally ended in December 2007. The Right blames government intervention in financial markets, low interest rates, and easy credit, while the Left blames free market excess, greed, and deregulation. Although many explanations have been offered on the causes of the latest financial crisis, most views fall into two theories, fundamental and panic. The AIG, Bear Stearns, and Lehman Brothers failures were at the heart of this financial crisis and economic downturn. Like causes of other major financial crises, the flawed financial system and the market overreaction (the irrational behavior of investors) to the failures of a few large financial institutions combined to trigger the most severe financial crisis since the 1930s. The sharp, synchronized fallout of real economic activity that occurred in the fall of 2008 is unprecedented. Consequently, in July 2010 Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act relating to the financial sector and President Obama signed it into law. This article consists of the following four sections. First, it discusses the causes of the Great Recession. Second, it summarizes the major points of the Act. Third, it discusses the objectives of the law. Fourth, it attempts to assess the effectiveness of the law in preventing future crises.

INTRODUCTION

The Great Recession of 2007–9 constitutes the most significant economic event since the Great Depression of the 1930s. In many countries, the real economic costs—costs in terms of reduced production, shrunken investment, and lost income and profits—exceeded those of any previous post-"Great" depression. However, the U.S. financial sector stands out in this latest crisis. The collapse of major financial firms, the decline in asset values and consequent destruction of paper wealth, the interruption of credit flows, the loss of confidence in firms and credit market instruments, the fear of default by counterparties, the intervention by governments and central banks—all were extraordinary both in their scale and scope. The U.S. shadow banking system played a significant role in the financial crisis that began in August 2007. The shadow banking system is a system of financial institutions that mostly look like normal banks: they borrow short term in rollover debt markets, leverage their borrowings significantly, and lend and invest in longer-term and illiquid assets. (Acharya et el. 2009) Unlike normal banks, however, the shadow banking system is much less regulated.

Consequently, in July 2010 Congress passed the Dodd–Frank Wall Street Reform and Consumer Protection Act (henceforth the Dodd–Frank Act) relating to the financial sector and President Obama signed it into law. Just about everyone considers the Act as the most significant overhaul of the U.S. financial regulatory system since the Great Depression. This article consists of the following four sections. First, it discusses the causes of the Great Recession. Second, it summarizes the major points of the Act. Third, it discusses the two objectives of the law: (1) to limit the risk of contemporary finance, usually known as the shadow banking system; and (2) to limit the damage caused by the failure of a large financial institution. Fourth, it attempts to assess the effectiveness of the law in preventing future crises.

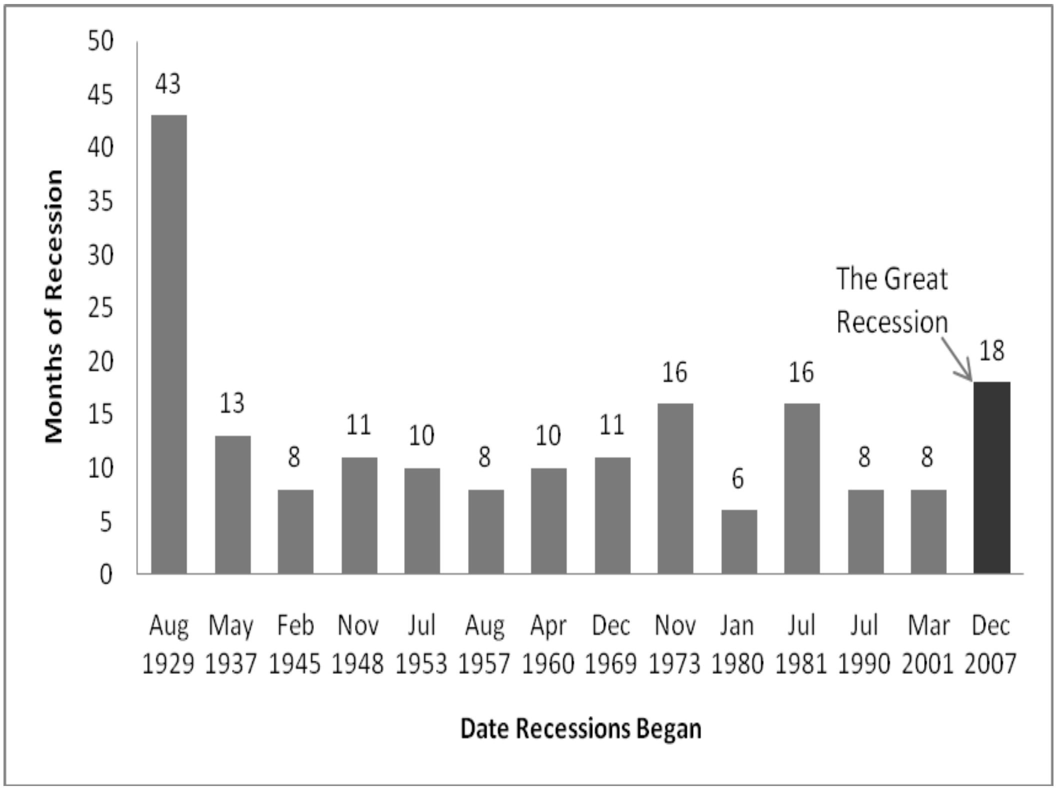
THE CAUSES OF THE GREAT RECESSION

Why did so few of the brightest minds in finance not only fail to predict the crash, but also argue that it was impossible? Before the 2008 crash, most Wall Street analysts believed that the markets were "efficient"—that investors were reasonable and always operated in their self-interest. Most of the time, these assumptions of classical economics work. But in extreme situations, people panic and conventional theories collapse. When communism collapsed in 1990, some Western economists and policy-makers declared that the triumph of capitalism over socialism had solved the central problem of depression prevention for all practical purposes. (Krugman, 2009) However, this conclusion turned out to be premature, because major industrialized countries and regions such as Japan, the European Union, and the United States (U.S.) have faced their own severe economic problems since 1990.

The collapse of the Soviet Union in 1991, along with the unusually strong performance of both the U.S. economy and its stock market from the mid-1980s to the mid-2000s, elevated the U.S. to an unsurpassed level of economic, military, and cultural power. However, in the late 2000s, the U.S. faced its first wave of decline since the 1950s, a phenomenon largely triggered by its external economic problems, the Iraq and Afghanistan wars, budget deficits, and the subprime mortgage crisis. The U.S.-originated financial crisis has hit the global economy hard and terrified many people around the world. Although the recession officially ended in June 2009, continuous uncertainty seems the most appropriate term to describe today's circumstances. The subprime mortgage crisis, investment bank failures, falling home prices, and tight credit pushed the U.S. into a great recession by mid-2008. GDP contracted until the third quarter of 2009, making this the deepest and longest downturn since the 1930s (see Figure 1).

The U.S. deregulation of its financial institutions was carried out under the provisions of the Depository Institutions Deregulation and Monetary Control Act of 1980 and Garn–St. Germain Depository Institutions Act of 1982. Consumers had reaped the benefits of such deregulation for many years, but some experts blame the U.S. deregulation of its financial institutions for the U.S.-originated global credit crisis of the late 2000s. The financial market had become increasingly competitive, as a number of deregulation efforts in recent years opened these markets to more financial organizations and institutions. For example, the Gramm–Leach–Bliley Financial Services Modernization Act of 1999 repealed the last vestiges of the Glass–Steagall Act of 1933, thereby eliminating the last barrier between commercial and investment banks. Such deregulation and extra pressure on banking regulators for lax policies enabled depository financial institutions and nondepository financial institutions to engage in each other's businesses more aggressively. These new opportunities, structured investment vehicles that borrowed short and invested long, had initially made U.S. financial institutions highly profitable, but they eventually caused many financial institutions to lose most of their value on highly leveraged assets. Such reckless and unsustainable lending practices resulted from the deregulation and securitization of real estate mortgages in the U.S. The result has been a large decline in the capital of many banks and U.S. government–sponsored enterprises, and tightening credit around the world, which has resulted in the worst recession since the 1930s.

FIGURE 1
COMPARISON OF DURATION OF US RECESSIONS OVER THE PAST 70 YEARS



The Great Depression of the 1930s forced the U.S. to create a bank regulatory system, which was followed by a panic-free period of 75 years, considerably longer than any other such period in U.S. history. When this stable period finally ended in 2007, the ensuing financial crisis did not begin in the traditional system of banks and depositors, but instead was centered in a new shadow banking system. The shadow banking system performs the same functions as the traditional banks, but they are either lightly regulated or are not regulated at all. The shadow banking system, or shadow financial system, consists of nondepository banks and other financial entities (e.g., investment banks, hedge funds, mortgage brokers, money market funds, and insurers) that grew in size dramatically after the year 2000 and played an increasingly critical role in lending businesses the money necessary to operate. Furthermore, the deregulation of the financial industry and lax policies by regulators enabled the shadow banking system, as well as depository financial institutions, to engage in off-balance-sheet instruments, such as asset-backed securities, collateralized debt obligations, repurchase agreements, swaps, and others, all of which are broadly known as derivatives. By June 2008, the U.S. shadow banking system was approximately the same size as the traditional U.S. depository banking system. The equivalent of a bank run occurred within the shadow banking system during 2007–9, when investors stopped providing funds to (or through) many entities in the system. Disruption in the shadow banking system is a key component of the ongoing economic problems around the world. (Noeth & Sengutpa, 2013)(Jones, n.d.)

To prevent this type of crisis in the future, through regulation and other means, it is important to identify one key cause of the crisis, although there may be multiple causes. The identification of the cause is perhaps the most critical part of the analysis, because a failure to identify it correctly may yield wrong solutions to the problem. It looks as though a series of deregulations for financial institutions and Congress's failure to regulate the contemporary finance sector (i.e., the shadow banking institutions and OTC-traded derivatives) trigged the crisis. The deregulation of the depository financial institutions and the lack of regulation for the shadow banking system allowed all types of financial institutions to engage in unregulated derivatives, which eventually led to the crisis.

Table 1 shows the notional value of derivatives in 2007; this notional value of about $550 trillion was about 40 times as large as the 2007 U.S. gross national product. One noteworthy item in the table is the credit default swap (CDS), which has received a lot of attention during the recent U.S. financial crisis. This swap is the newest type of swap, and is a subset of a new class of instruments known as "synthetic equity." The CDS is some sort of insurance, in which the investor in the CDS makes a series of payments to the seller and receives a payoff if its bond or loan undergoes a default. By doing so, the risk of default is transferred from the holder of the fixed-income security to the seller of the swap. The CDS was once widely acclaimed as an example of financial innovation. However, the subprime mortgage crisis in the U.S. during 2007–9 triggered massive losses in many financial institutions with CDS contracts. A prominent example is the world's largest insurer, AIG, which was bankrupted and forced to seek government assistance mainly due to massive losses from its credit default swaps. The famous inventor Warren Buffett has called the CDS a "financial weapon of mass destruction."

TABLE 1
THE NOTIONAL VALUE OF DERIVATIVES IN 2007

	Value (U.S.$ billions)
Exchange-traded derivatives	
Interest rate futures	26,787
Currency futures	159
Equity futures	1,133
Interest rate options	44,308
Currency options	133
Equity options	8,103
Over-the-counter derivatives	
Currency contracts	60,091
Interest rate contracts	346,937
Equity contracts	9,202
Commodity contracts	7,567
Credit-default swaps	42,580

Source: The Bank for International Settlement.

"A financial firm borrows billions of dollars to make big bets on esoteric securities. Markets turn and the bets go sour. Overnight, the firm loses most of its money, and Wall Street suddenly shuns it. Fearing that its collapse could set off a full-scale market meltdown, the U.S. government intervenes and encourages private interests to bail it out. The firm isn't Bear Stearns — it was Long-Term Capital Management (LTCM), the hedge fund based in Greenwich, Connecticut, and the rescue occurred in 1998, 10 years before the latest crisis peaked in 2008." (Lowenstein, n.d.) In 1997, Professors Robert Merton and Myron Schols received the Nobel Prize in economics for their groundbreaking work on derivatives. These two professors and a number of top portfolio managers in the country founded the LTCM in 1994, but it failed during the Asian financial crisis of 1998. This failure received worldwide attention at the time, because it was the largest-ever hedge fund failure, and it was managed by geniuses and top portfolio managers.

The LTCM fiasco momentarily shocked Wall Street out of its complacent trust in financial models, and was replete with lessons, for Washington as well as for Wall Street. But the lessons were ignored, and in the next decade they were repeated, with far more harmful consequences. Instead of learning from the past, Wall Street re-enacted it in larger form, in the mortgage debacle cum credit crisis.

A SUMMARY OF THE DODD-FRANK ACT

It is not easy for anyone to summarize the huge Dodd–Frank Act (which runs to 2,319 pages). Even worse, the Act has put a considerable burden on the financial regulators who have to work out the details in order to implement its vision. It may take years for the regulators and Congress to complete several hundred rule-making procedures; in addition, the regulatory process will produce many more pages than the text of the Act itself. Nevertheless, the key elements of the new legislation include a variety of points relating to the prevention of a future crisis. (Kroszner & Friedman, 2011) Some of these points are summarized below (for a longer summary of the law's implementation, see Appendix A):

1. The creation of a new Financial Stability Oversight Council, comprising existing regulators, to be responsible for overseeing any financial institution or set of market circumstances determined to be likely to result in risk to the overall economy.
2. A reallocation of banking oversight responsibility among the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation, among other changes, requiring the Federal Reserve Board to supervise nonbank financial companies "that may pose risk to the financial stability of the U.S. in the event of their material financial distress."
3. Authority for regulators to impose enhanced size- and risk-based capital and liquidity standards for those institutions deemed systematically important, and heightened capital requirements more generally, including authority to require bank holding companies with assets exceeding $50 billion to have convertible equity as part of their capital structure.
4. Authority for the Financial Stability Oversight Council to require systematically important nonbank financial companies and large, "interconnected" bank holding companies to establish "resolutions plans"—that is, ready-at-hand plans for their orderly resolutions in the event of illiquidity or insolvency.
5. A requirement for regulators to implement regulations for banks, their affiliates, and holding companies, along lines proposed by former Federal Reserve chairman Paul Volker, to prohibit proprietary trading, investment in and sponsorship of hedge funds and private equity funds, and to limit relationships with hedge funds and private equity funds. Nonbank financial institutions supervised by the Fed also face restrictions on proprietary trading and hedge fund and private equity investments.
6. A requirement that banks securitizing loans retain at least 5 percent of the credit risk of the created securities on their own balance sheet.
7. Authority for the relevant government agencies to undertake prompt and orderly resolution, outside the ordinary corporate bankruptcy procedures, of failing bank holding companies or other financial institutions.
8. A requirement intended to result in most swap contracts, including credit default swaps (the form of derivative that led to the demise of AIG in 2008, forcing the government to provide $182 billion of assistance), being settled through a centralized clearing house, thereby providing market-wide information and enhancing transparency.
9. The creation of a new Bureau of Consumer Financial Protection, empowered to establish and enforce the applicable standards, with some notable exceptions (e.g., auto dealers providing financing for car purchases), to any person or institution selling a "consumer financial product or service."

THE OBJECTIVES OF THE DODD-FRANK ACT

Contrary to critics' charges that the Dodd–Frank Act is an incoherent mess, its summary in the above section shows two clear objectives: the first being to limit the risk of contemporary finance—what critics call the shadow banking system—and the second being to limit the damage caused by the failure of a large financial institution. (Skeel, 2011)

The Act tackles the first task by putting new regulatory structures in place for both the instruments and the institutions. The principal instruments in this case are financial derivatives. A derivative is a contract between two parties, whose value depends on changes in the value of a commodity, an interest rate, or almost anything else, or on the occurrence of some specified event (such as a company's default). An airline company may buy an oil derivative—a contract under which it will be paid if the price of oil has risen at the end of the contract term—to hedge against changes in oil prices. Many airline companies frequently use such oil derivatives to hedge against widely fluctuating oil prices.

The Act requires derivatives to be cleared and traded on exchanges. To clear a derivative, the parties arrange for a clearinghouse to back up both parties' performance on the contract. If, for example, the financial institution that had sold Delta Airlines an oil derivative failed, the clearinghouse would pay the utility company the difference between the current price and the original price, or would pay for the utility company to buy a substitute contract. If the same derivative were exchange traded, it would have standardized terms and it would be purchased on an organized exchange, rather than negotiated privately between the financial institution and the utility company. Clearing reduces risk for each of the parties directly, while exchange trading reduces the risk to them and to the financial system indirectly, by making the derivatives market transparent.

The Dodd–Frank Act tackles the second task by subjecting those financial institutions likely to cause system-wide problems in the event of their failure to more intensive regulation. The Act puts a special emphasis on banks, bank holding companies, and nonbank financial institutions with at least $50 billion in assets that a new Financial Stability Oversight Council deems to be systematically important. A total of large 34 banks (i.e., Citigroup and Bank of America), and a number of bank holding companies, with more than one commercial bank somewhere in the network (i.e., Goldman Sachs and Morgan Stanley) automatically quality for such intensive regulation. In addition, insurance companies such as AIG will be included only if the Council identifies them as systematically important. The Act instructs the regulators to require that these systematically important companies keep a larger buffer of capital than ordinary financial institutions, to reduce the danger that they will fail.

The Act's first objective is to limit risk before an institution or market collapses. Its second objective is to limit the destruction caused in the event that a systematically important institution does in fact fail, despite everyone's best efforts to prevent that from happening. Congress has enacted a new insolvency framework—the Dodd–Frank resolution rules. If the regulators find that a systematically important financial institution has defaulted or is in danger of default, they can file a petition in the federal court in Washington, D.C., to commence resolution proceedings, and then appoint the Federal Deposit Insurance Corporation (FDIC) as a receiver to take over the financial institution for the purpose of liquidating it. It is important to note that the FDIC has undertaken such actions for ordinary commercial banks for many years. Like the New Deal reforms, which led to the establishment of the FDIC and the Security and Exchange Commission (SEC), among other things, the Dodd–Frank Act creates several new regulators to achieve these two objectives, including the Financial Stability Oversight Council and the Consumer Financial Protection Bureau.

The two objectives of the Act discussed above are the most important of the reforms, but there are several others that deserve some attention. First, the Act contains a provision that gives the SEC the power to require a company to include shareholder nominees for directors along with the company's nominees when it sends proxy materials to all of its shareholders before its annual meeting. Second, the Act requires companies to give their shareholders a nonbinding vote on the compensation packages of the company's directors and top executives. Third, the Act requires the financial regulators to change the many rules that require entities such as pension funds and insurance companies to buy securities that are certified as investment grade by a credit rating agency. This provision is designed to diminish the pressure to rely on credit rating agencies: removal of the artificial demand for credit-rated securities is expected to significantly improve the credit-rating process. Finally, the Act requires hedge funds to register with the SEC for the first time. In the past, hedge funds were excluded from the security laws and related regulations that would otherwise require disclosure and oversight. Under the new legislation, hedge fund advisors must now register and make themselves available for periodic inspections.

THE SHORTCOMINGS OF THE DODD-FRANK ACT

In signing the Dodd–Frank Wall Street Reform and Consumer Protection Act, President Obama issued a smilingly straightforward prediction about the effectiveness of the Wall Street reform section of the Act: “The American people will never again be asked to foot the bill for Wall Street’s mistakes. There will be no more taxpayer-funded bailouts. Period.” Some researchers argue that we cannot trust the president’s statement, for three major reasons. (Kane, 2011) First, the president was careful not to include “mistakes” made by Congress or incentive-conflicted managers of federal agencies and government-sponsored enterprises in his first sentence. Second, his second sentence reassures taxpayers, but neglects low-income categories of American people, who are likely to be harmed by crises in a number of ways. Finally, the president did not clarify whether he meant to exclude indirect taxpayer funding such as guarantees.

They argue that that Congress has ignored or underestimated the fundamental causes of the crisis: the regulation-induced shadow banking system, the SEC’s lax oversight of securities, credit rating, investment management firms, the defector corruption of regulatory capture accomplished through bargaining for campaign contributions and post-government job opportunities, and subsidies to leveraged risk-taking offered in derivatives. (Kane, 2011) Other critics charge that the objectives of the Act are right on target, but the problem is with how they are handled. In other words, these charges about the Act are based on the two themes that emerge from the 2,000 pages of the legislation: (1) *ad hoc* intervention by regulators, rather than a more predictable, rules-based response to crises; and (2) government partnership with the largest financial institutions. These two could dangerously distort American finance, making it more politically charged, less vibrant, and further removed from basic rule-of-law principles than ever before in modern American financial history. (Skeel, 2012)

The first theme, *ad hoc* intervention by regulators, puts responsibility for avoiding future crises squarely on the competence and good intentions of future regulators. The presumption that regulators can succeed year after year in this task—in the face of perverse congressional pressures and recruitment procedures—is wishful thinking that could account for the president’s rosy forecast. In addition to the regulators having to complete several hundred rules, along with many one-time reports and periodic reports, in the two years after the enactment of the legislation, a system of *ad hoc* interventions by regulators is divorced from basic rule-of-law constraints. The unconstrained regulatory discretion reaches its zenith with the new resolution rules for financial institutions in distress. The basic expectations of the rule of law—that the rules will be transparent and knowable in advance, and that important issues should not be left to the whim of the regulators—are subverted by this framework. This tendency is not limited to end-of-life issues, but the Act invites *ad hoc* intervention with healthy financial institutions as well.

The second problem with the legislation is government partnership with the largest Wall Street banks and financial institutions. The Act singles out two groups of financial institutions for special treatment: (1) banks with a minimum of $50 billion in assets; and (2) nonbank financial institutions designated by the new Financial Stability Oversight Council as systematically important. Because they are special and will not be allowed to fail, they will have a competitive advantage over other financial institutions. They will be able to borrow money more cheaply, for instance, than financial institutions that are not in these groups. The Act also gives the regulators a variety of mechanisms that they can use to channel political policy through the dominant institutions. This partnership works in both directions: special treatment for the Wall Street giants and new political levers for the government.

REPUBLICAN RESISTANCE AFTER THE ACT WAS SIGNED

The political resistance to the Act can be separated into to tactics: litigation and legislation.

Litigation began in 2012 when a lawsuit was brought to the US District Court for the District of Columbia, with several plaintiffs including the states of Oklahoma, South Carolina, and Michigan. In 2013, the States of Alabama, Georgia, Ohio, Nebraska, Montana, Texas, and West Virginia joined the suit. The plaintiffs' alleged that the Dodd-Frank Act was unconstitutional and should be declared invalid. On August 1, 2013 a US District Judge dismissed the suit. This case's outcome strengthened the Consumer Financial Protection Bureau and an appeal of the dismissal appears unlikely at this time. (Anthony et. al, 2013)

Having failed to overturn the Act in the courts, the Republicans attempted to repeal parts of the Dodd-Frank Act through legislation. This effort began March 17th, 2015 with the House Budget Committee targeting the funding of several of the act's regulatory bodies. However this effort faces two major obstacles: First, the Act's architects funded several its regulatory bodies through the Federal Reserve, protecting them from this sort of political budget management; second, if any legislation makes it through the house and eventually to the President, it will likely be vetoed. (Calabria, 2011)

CONCLUSION

The Dodd–Frank Act is the most ambitious and far-reaching overhaul of financial regulation since the 1930s. The Act was born of the severe financial crisis of 2007–9 and the Great Recession that followed. It attempts to fix parts of the financial architecture that failed in the crisis. Ever since Congress passed the Act and the president signed in June 2010, it has been denounced by some for not going far enough to curb the risky behavior of financial institutions, and condemned by others for going too far and hampering innovation and efficiency in financial markets.

The Act along with other regulatory reforms by the SEC, the Federal Reserve System, and other regulators, as well as financial reforms being put in place in other parts of the world, is going to alter the structure of the financial markets in profound ways. Many observers say that the Act provides much-needed improvements in financial regulations, but that it falls far short of what could have been achieved.

Most experts agree that the Act includes many provisions relevant to shadow banking. For example, hedge funds must register with the SEC, much of the over-the-counter derivatives trading will be moved to exchanges and clearing houses, and all systematically important financial institutions will be regulated by the Federal Reserve System. Moreover, retail financial lenders will be subject to consistent federal-level regulation. These and other provisions of the legislation will be helpful in preventing future crises. However, the problem has to do with the regulators and politicians who will issue the detailed rules and enforce them. If we can trust them, the next crisis will not be as big as the latest one. Rather than actually legislating, Congress vested most decision-making power under Dodd–Frank in unelected bureaucrats. In 2010 journalists noted that the Act requires the regulators to issue 385 regulations, but only a small proportion of them have been finalized thus far. Thus, some critics say that we cannot trust both the regulators and the politicians, for a variety of reasons. (Lynch, 2015) As of February 2015, aspects of the regulations are still being drafted and presented to congress, with no end in sight. A comprehensive timeline of the Act's implementations is included in Appendix A. (SEC, n.d.)

REFERENCES

Acharya, V., Cooley, T., Richardson, M., & Walter, I. (2009). *The Repurchase Agreement (Repo) Market* (p. 319). Cambridge, MA: The MIT Press.

Anthony, D., Wingsfield, A., & Fitzgerald, P. (2013, October 1). Newsletter - TerraLex Connections - Leading Lawsuit Challenging The Dodd-Frank Act Dismissed. Retrieved February 11, 2015.

Calabria, M. (2011, July 20). Dodd-Frank: Missed opportunity. Retrieved November 1, 2011.

Jones, H. (n.d.). Shadow' banks face 2015 deadline to comply with first global rules. Retrieved August 29, 2013.

Kane, E. (2012). MISSING ELEMENTS IN US FINANCIAL REFORM: A KÜBLER-ROSS INTERPRETATION OF THE INADEQUACY OF THE DODD-FRANK ACT. *Journal of Banking and Finance, 36*(3), 654-661.

Kroszner, R., & Friedman, B. (2011). Introduction. In *Reforming US financial markets: Reflections before and beyond Dodd-Frank ; the Alvin Hansen Symposium on Public Policy, Harvard University* (pp. Xii-xiv). Cambridge, MA: MIT Press.

Krugman, P. (2009). Chapter 1: The Central Problem has been Solved. In *The return of depression economics and the crisis of 2008*. New York: W.W. Norton.

Lowenstein, R. (n.d.). Long-Term Capital Management: It's a short-term memory. Retrieved November 13, 2011.

Lynch, S. (2015, March 17). House Republicans take aim at Dodd-Frank in budget plan. Retrieved March 19, 2015, from http://www.reuters.com/article/2015/03/17/us-financial-regulation-housebudget-idUSKBN0MD1ZA20150317

Noeth, B., & Senguta, R. (2013, October 8). Is Shadow Banking Really Banking? *The Regional Economist, Federal Reserve Bank of St. Louis.*

Roe, M. (2011). The Derivatives Market's Payment Priorities as Financial Crisis Accelerator. *Stanford Law Review, 63*(3), 539-539.

SEC. (n.d.). Implementing Dodd-Frank Wall Street Reform and Consumer Protection Act — Accomplishments. Retrieved February 11, 2015, from https://www.sec.gov/spotlight/dodd-frank/accomplishments.shtml#chrono

Skeel, D. (2011). Chapter 5 Banking Reform: Breaking Up Was Too Hard to Do. In *The new financial deal: Understanding the Dodd-Frank Act and its (unintended) consequences*. Hoboken, NJ: Wiley.

APPENDIX A

TIMELINE OF THE DODD-FRANK ACT IMPLEMENTATION (JULY 2010 THROUGH FEBRUARY 2015)

Month-Year	Date	Event
Jul-10	27	Sought Public Comment on Fiduciary Duty Study: The Commission sought comment regarding a study it will conduct into the Obligations of Brokers, Dealers, and Investment Advisers.
Aug-10	13	Sought Public Comment on Swap Definitions
	20	Commission staff, jointly with the CFTC staff, held roundtable on clearing organization and execution facility governance and conflicts
Sep-10	1	Adopted Interim Rule Regarding the Registration of Municipal Advisors
	9	Eliminated Broker Discretionary Voting on Executive Compensation Matters
	15	Commission staff, jointly with the CFTC staff, held roundtable on swap and security-based swap matters
		Adopted rules to conform the Internal Control Audit Requirements for Smaller Companies to a provision of the Dodd-Frank Act that specifies that the auditor attestation requirement does not apply to non-accelerated filers
		Rescinded rules that administered the Commission's insider trading bounty program: In its place, the Act provided the Commission with new authority to reward whistleblowers with original information that leads to successful Commission enforcement actions of cases not limited to insider trading

	24	The Commission issued interpretive guidance regarding applicable auditing standards for the performance of audits of brokers and dealers pending further Commission rulemaking and PCAOB standards-setting in this area
	27	Established Employee Hotline to the Office of the Inspector General of the SEC
	29	The Commission revised Regulation FD to remove an exemption for entities whose primary business is the issuance of credit ratings
	30	Approved Municipal Securities Rulemaking Board Rule Change Regarding Board Membership: The Commission approved a rule change to amend MSRB Rule A-3 to comply with the Dodd-Frank Act
Oct-10	4	Proposed rules regarding the use of representations and warranties in the asset-backed securities market
	12	Proposed New Family Office Definition: The Commission proposed a new rule that would help those managing their own family's financial portfolios determine whether their "family offices" can continue to be excluded from the Investment Advisers Act of 1940
	13	Proposed Rules to Mitigate Conflicts of Interest Involving Security-Based Swaps
		Proposed rules regarding asset-backed securities' issuers' responsibilities to conduct and disclose a review of the assets
		Adopted Interim Rule to Require Reporting of Security-Based Swaps
	14	Requested Public Comment for SOX Section 404(b) study
	15	Awarded Independent Consultant Contract to perform study of SEC organization and operations
	18	Proposed rules regarding votes on executive compensation and "golden parachute" arrangements
	22	Commission staff, jointly with the CFTC staff, held roundtable on issues related to clearing of credit default swaps
	25	Solicited Public Comment on transnational securities fraud
	29	SEC staff issued a report to Congress related to the Securities Whistleblower Incentives and Protection program
Nov-10	3	The Commission proposed a rule to help prevent fraud, manipulation, and deception in connection with security-based swaps
		Proposed Whistleblower Incentives and Protection Program
	19	Proposed Rules to Outline Obligations of Security-Based Swap Repositories
		Proposed Rules on Security-Based Swap Reporting
		Proposed Rules to Improve Oversight of Investment Advisers
		Adopted an extension of temporary rules providing exemptions for eligible credit default swaps issued by certain clearing agencies
		Proposed rules regarding exemptions for advisers to venture capital funds and private fund advisers with less than $150 million in assets under management. The proposed rules would also define "venture capital fund"
Dec-10	3	Requested Public Comment on a Study Mandated Section 719(b)
	7	Proposed Rules Joint Rules with CFTC to Define Swap Related Terms
	10	Commission staff, jointly with the CFTC staff, held roundtable on issues related to capital and margin for swaps and security-based swaps
	15	Proposed Rules Regarding Disclosure by Resource Extraction Issuers
		Proposed Rules Regarding Disclosure of Mine Safety Information
		Proposed Rules Regarding Disclosure Related to “Conflict Minerals”

		Proposed Rules Regarding the End-user Exception to Mandatory Clearing of Security-based Swaps
		Proposed Rules Regarding Mandatory Clearing of Security-based Swaps
	17	Requested Comment for Credit Rating Standardization Study
	20	Proposed Permanent Rule Requiring Municipal Advisors to Register with SEC
Jan-11	6	Proposed rules regarding suspension of reporting obligations for certain classes of asset-backed securities. The proposed rules would permit suspension of the reporting obligations when there are no longer asset-backed securities of the class sold in a registered transaction held by non-affiliates of the depositor
	14	Proposed Rule for the Timely Acknowledgment and Verification of Security-Based Swap Transactions: The Commission voted to propose a rule governing the way in which certain security-based swap transactions are acknowledged and verified by the parties who enter into them
		Adopted streamlined procedural rules regarding filings by self-regulatory organizations
		Issued Report to Congress regarding the need for enhanced resources for investment adviser examinations and enforcement
	20	Adopted rules regarding asset-backed securities' issuers' responsibilities to conduct and disclose a review of the assets: The rules require issuers of asset-backed securities to conduct a review of the assets underlying those securities and make certain disclosures about those reviews
		Adopted rules regarding the use of representations and warranties in the asset-backed securities market: The rules require issuers of asset-backed securities to disclose the history of the requests they received and repurchases they made related to their outstanding asset-backed securities
	21	Issued Report to Congress regarding the study of the obligations of brokers, dealers and investment advisers
	25	Adopted rules concerning shareholder approval of executive compensation and "golden parachute" compensation arrangements. The new rules specify that say-on-pay votes required under the Dodd-Frank Act must occur at least once every three years and that companies are required to hold a "frequency" vote at least once every six years in order to allow shareholders to decide how often they would like to be presented with the say-on-pay vote
		Proposed rule to revise the "accredited investor" standard. The proposed amendments would exclude the value of an individual's primary residence in calculating net worth when determining accredited investor status and would clarify the treatment of any indebtedness secured by the residence in the net worth calculation
	26	Proposed joint rules with CFTC regarding reporting by investment advisers to private funds and certain commodity pool operators and commodity trading advisors. The proposed SEC rule would require investment advisers registered with the SEC that advise one or more private funds to file Form PF with the SEC
		Completed study of ways to improve investor access to information about investment advisers and broker-dealers
Feb-11	1	Established the Office of Whistleblower
	2	Proposed rules regarding the registration and regulation of security-based swap execution facilities (SEFs) as well as rules implementing the 14 core principles for security-based SEFs
	9	The Commission proposed to remove credit ratings as one of the conditions for companies seeking to use short-form registration when registering securities. The proposal is the first in a series of SEC proposals to remove references to credit ratings within Commission rules and replace them with alternative criteria

Mar-11	2	Proposed revisions to rules that rely on credit ratings as an assessment of credit worthiness, and replace them with alternative criteria
		Proposed rules (jointly with other regulators) regarding disclosure of, and prohibitions of certain, executive compensation structures and arrangements at "covered financial institutions"
		Proposed rules for securities-based swaps clearing agencies. The proposed rules would establish standards for operation and governance
	3	Proposed a rule establishing minimum standards for the operation, governance, and risk management practices of registered clearing agencies, including clearing agencies designated as systemically important
	10	Reported to Congress on SEC organizational issues
	17	Proposed Readoption of Beneficial Ownership Rules as they relate to Security-Based Swaps
	18	Proposed revisions to rules regarding due diligence for the delivery of dividends, interest, and other valuable property to missing securities holders: The proposed changes would expand a requirement to search for missing securityholders to broker-dealers
	30	Proposed rules (jointly with other agencies) regarding risk retention by securitizers of asset-backed securities
		Proposed rules regarding exchange listing standards for compensation committee independence
	31	Proposed rules (jointly with other regulators) regarding disclosure of, and prohibitions of, certain executive compensation structures and arrangements at certain financial institutions
Apr-11	8	Reported to Congress, jointly with the CFTC, on a study regarding the feasibility of requiring the derivatives industry to adopt standardized computer-readable algorithmic descriptions
	19	Requested public input on a study on financial literacy and investor education efforts: The study will assess retail investors' financial literacy and identify the most effective public and private investor education efforts
	22	Issued a report to Congress regarding reducing the costs to smaller issuers (with market capitalization between $75 million and $ 250 million) for complying with §404(b) of the Sarbanes-Oxley Act of 2002, while maintaining investor protections
	27	Proposed rules, jointly with the CFTC, defining key terms used in the Act with respect to products
		Proposed revisions to rules that rely on credit ratings as an assessment of credit worthiness, and replace them with alternative criteria
May-11	10	Requested public input to assist study on the rating process for structured finance products and associated conflicts of interest
		Proposed rules to raise certain dollar thresholds that need to be met before investment advisers can charge their clients performance fees
	16	Implemented Employment Transition Report System for NRSROs to electronically submit and for the Commission to make publicly available on the Commission's website certain employment transition reports
	18	Proposed rules regarding ratings symbols
		Proposed rules establishing training, experience and competence standards and a testing program for NRSRO analysts
		Proposed rules establishing fines and other penalties for certain violations of law
		Proposed rules requiring certification by third parties retained for the purpose of conducting due diligence related to asset-backed securities

		Proposed rules regarding credit ratings procedures and methodologies
		Proposed rules regarding transparency of NRSRO ratings performance
		Proposed technical amendments to NRSRO Rules to conform text, terms and definitions in the Rules to amendments to text, terms, and definitions in the Securities Exchange Act of 1934
		Proposed rules regarding NRSRO reports of internal controls over the ratings process, preventing sales and marketing activities from influencing the production of ratings, providing for a report to the Commission and "look-back" when an entity subject to a rating employs a person who previously worked for the NRSRO
	25	Adopted rules to implement a Whistleblower Incentives & Protection Program
		Proposed rules disqualifying the offer or sale of securities in certain exempt offerings by certain felons and others similarly situated
Jun-11	8	Readopted beneficial ownership rules as they relate to security-based swaps to preserve public disclosure requirements for beneficial owners of security-based swaps
	9	Proposed exemptions for security-based swaps issued by certain clearing agencies
	15	Provided guidance designed to remove any uncertainty about requirements that will apply to derivatives transactions as of the one-year effective date of Title VII
	22	Adopted rules and form changes to implement the transition of mid-sized investment advisers (between $25 and $100 million in assets under management) from SEC to State regulation, as provided in the Act
		Adopted rules defining "family office"
		Adopted rules to implement an exemption from registration
	29	Proposed rules establishing external business conduct standards for security-based swap dealers and major security-based swap participants
	30	Provided letter in lieu of report to Congress on Office objectives, and report by Ombudsman
Jul-11	1	Adopted an extension of temporary rules providing exemptions for eligible credit default swaps issued by certain clearing agencies
		Adopted an interim final rule exempting certain securities-based swaps from registration
		Established the Office of Minority & Women Inclusion
	20	Requested public comment jointly with the CFTC, for a study on swap regulation and clearinghouse regulation in the United States, Asia, and Europe
	21	Reported to Congress a review of existing references to credit ratings in statutes and regulations
		Reported to Congress, jointly with the CFTC and the Federal Reserve Board, on improving the common framework for designated clearing entity risk management
	26	Re-proposed rules that would replace credit ratings as eligibility criteria for asset-backed issuers seeking to use "short form" registration
	27	Adopted rules to remove credit ratings as eligibility criteria for companies seeking to use "short form" registration when registering securities for public sale
Aug-11	17	Adopted rules regarding suspension of reporting obligations for certain classes of asset-backed securities
	31	Published order making annual adjustment to registration fees, effective Oct. 1, 2011
Sep-11	1	Issued report to Congress describing actions to implement an independent consultant's recommendations

	19	Proposed rules to prohibit material conflicts of interest between those who package and sell asset-backed securities and those who invest in them
	30	Published an annual report summarizing NRSRO inspections, findings, and responses
Oct-11	12	Proposed rules regarding the registration and regulation of security-based swap dealers and major security-based swap participants
		Proposed rules to implement prohibition on proprietary trading and prohibit certain relationships with hedge funds and private equity funds
	18	Conducted Staff Roundtable on Disclosure Related to "Conflict Minerals"
	31	Adopted rules requiring advisers to hedge funds and other private funds to report information for use in monitoring systemic financial risk
Dec-11	21	Sent report and certification to Congress on internal supervisory controls
		Adopted rules regarding disclosure of mine safety information
		Adopted rules to revise the "accredited investor" standard
Feb-12	1	Delivered to Congress jointly with CFTC a report on how swaps are regulated in the United States, Asia, and Europe to identify areas of regulation that are similar and other areas of regulation that could be harmonized
	15	Adopted rules to adjust the threshold used to determine who is a "qualified client" of a registered investment adviser
	28	Issued proposed rules and guidelines to help prevent identity theft
Mar-12	30	Issued second report to Congress describing actions to implement an independent consultant's recommendations
	30	Adopted exemptions for security-based swaps issued by certain clearing agencies
Apr-12	9	Established new Investor Advisory Committee
	10	Submitted a report to Congress on the activities of the Office of Minority and Women Inclusion
	11	Delivered to Congress the Commission's Study on the Cross-Border Scope of the Private Right of Action Under Section 10(b) of the Securities Exchange Act of 1934
	18	Adopted rules, jointly with the CFTC, defining key terms used in the Act with respect to swap-market intermediaries
May-12	4	Approved Municipal Securities Rulemaking Board Rule Change Regarding Standards of Conduct by Municipal Underwriters
	14	Implemented recommendations contained in study on ways to improve access of investors to registration information regarding investment advisers and broker-dealers
Jun-12	18	Established the Office of Credit Ratings
	20	Adopted rule requiring exchange listing standards regarding compensation committee independence and disclosure of compensation consultant conflicts
	28	Adopted rules regarding mandatory clearing of security-based swaps
		Adopted rules regarding the process that designated clearing agencies will use to provide notice of proposed changes
Jul-12	6	Adopted rules defining key terms: The rules, adopted jointly with the CFTC, define key terms used in the Act regarding certain derivative products
Aug-12	2	Establish and staff the Office of Municipal Securities
	22	Adopted rules regarding disclosure by resource extraction issuers

		Adopted rule regarding "conflict minerals" disclosure
	30	Provided to Congress a study regarding financial literacy among retail investors
Sep-12	7	Report to Congress on standardization within certain elements of the credit rating process
Oct-12	17	Issued third report to Congress describing actions to implement an independent consultant's recommendations
	18	Proposed capital, margin, and segregation requirements for security-based swap dealers and major security-based swap market participants
	22	Adopted a rule establishing minimum standards for the operation, governance, and risk management practices of registered clearing agencies, including clearing agencies designated as systemically important
Nov-12	15	Published second annual report summarizing NRSRO inspections, findings, and responses
Dec-12	18	Provided to Congress a study on the rating process for structured finance products and the feasibility of an assignment system
Jan-13	14	Approved exchange rules establishing listing standards concerning compensation advisers and listing standards that require each member of a listed issuer's compensation committee to be an independent member of the board of directors
	16	Adopted revisions to rules regarding due diligence for the delivery of dividends, interest, and other valuable property to missing securities holders
Apr-13	10	Issued final rules to help prevent identity theft
	24	Submitted a report to Congress on the activities of the Office of Minority and Women Inclusion
May-13	1	Proposed rules and interpretative guidance for cross-border security-based swap activities
Jul-13	10	Adopted rules to disqualify felons and other "bad actors" from offering or selling securities in certain exempt offerings
	25	Issued annual report to Congress on use of data collected from advisers to hedge funds and other private funds to aid in monitoring system financial risk
Aug-13	28	Issued revised proposed rules, jointly with other agencies, regarding risk retention by securitizers of asset-backed securities
Sep-13	18	Proposed rules regarding disclosure of pay ratios
		Adopted rules for the registration of municipal advisors
Nov-13	21	Issued report to Congress on credit rating agency independence
Dec-13	10	Adopted, jointly with other regulators, rules to implement a prohibition on proprietary trading and certain relationships with hedge funds and private equity funds
	24	Published third annual report summarizing NRSRO inspections, findings, and responses
	27	Adopted rules regarding use of credit ratings by broker-dealers
		Adopted rules regarding use of credit ratings required under Investment Company Act rules and disclosure forms
Jan-14	14	Approved, jointly with other federal regulators, an interim final rule to permit banking entities to retain interests in certain collateralized debt obligations backed primarily by trust preferred securities
Feb-14	12	Establish and staff the Office of Investor Advocate
Mar-14	12	Proposed rules to enhance the oversight of systemically-important clearing agencies or those that engage in complex transactions, such as security-based swaps

Apr-14	17	Proposed rules to establish recordkeeping, reporting, and notification requirements for security-based swap dealers and major security-based swap participants
Jun-14	5	Submitted a report to Congress on the cost and benefits of real time reporting on short sale positions
	25	Adopted rules and interpretative guidance for cross-border security-based swap activities
Aug-14	27	Adopted rules that replace credit ratings as eligibility criteria for asset-backed issuers seeking to use "short form" registration
		Adopted rules that standardized asset-level information for ABS backed by residential mortgages, commercial mortgages, auto loans and leases, debt securities, and resecuritizations of those asset classes
		Adopted rules regarding NRSRO reports of internal controls over the ratings process
		Adopted rules establishing technical amendments to NRSRO Rules to conform text, terms and definitions in the rules to amendments to text, terms, and definitions in the Securities Exchange Act of 1934
		Adopted rules regarding transparency of NRSRO ratings performance
		Adopted rules requiring certain steps be followed when adopting or revising credit ratings procedures and methodologies, and providing for disclosure of certain information to accompany the publication of a rating
		Adopted rules requiring third parties retained for the purpose of conducting due diligence related to asset-backed securities to provide a certification containing specified information to the NRSRO that is producing a rating for the ABS
		Adopted rules establishing training, experience and competence standards and a testing program for NRSRO analysts
		Adopted rules regarding ratings symbols
Oct-14	20	Adopted rules, jointly with others, regarding risk retention by securitizers of asset-backed securities
Feb-15	9	Proposed rules regarding hedging by employees and directors
	11	Proposed rules regarding the reporting and dissemination of security-based swap information
		Adopted rules regarding the reporting and dissemination of security-based swap information
		Adopted rules regarding the registration of security-based swap data repositories