

Dodd-Frank Repeal: Assessing the Change in the Day-To-Day Activities of Financial Institutions

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The Dodd-Frank Wall Street Reform and Consumer Protection Act became law on July 21, 2010. The law was enacted to provide stronger regulation to the financial industry following the recession of 2008 leading to what some called the worst economic downturn in the United States Economy since the Great Depression. The essence of the Act is to put in place rules and regulations in the Financial Markets in order to avoid another melt-down similar to the one in 2008. This paper investigates what will happen in the day-to-day activities of certain financial markets if the Act is indeed repealed or modified.

INTRODUCTION

The financial collapse in the United States economy in 2008 was a disaster for millions of Americans. Many in Congress believed the collapse was due to lack of regulation and oversight in the United States financial markets. Many believed the major players in the financial markets overstepped sound business practices and engaged in unhealthy practices all in anticipation of reaping huge profits thru their actions.

The primary problem, it seemed, was a lack of a central agency overseeing all financial institutions. This absence of uniform oversight left holes in the regulatory system that allowed questionable lending practices to flourish. (O'Neil 2017).

The Dodd-Frank Wall Street Reform and Consumer Protection Act places the regulation of the financial sector in the hands of the Federal Government. It was named after the primary sponsors of the legislation, Senator Christopher J. Dodd, Democrat from Connecticut, and United States Representative Barney Frank, Democrat from Massachusetts.

Some believe the Acts passed in Dodd-Frank will prevent the Economy from entering into another recession. However, others think that all the rules that are put into place by this law makes it difficult for United States financial markets to compete with the companies of foreign economies and is keeping small businesses from getting loans for ongoing operations.

ARGUMENTS IN FAVOR OF REPEAL

Wallison (2014) summed up the feelings of many detractors by noting: "When the Dodd-Frank Wall Street Reform and Consumer Protection Act took effect on July 21, 2010, it immediately caused a sharp

partisan division. This staggeringly large legislation—2,300 pages—passed the House without a single Republican vote and received only three GOP votes in the Senate. Republicans saw the bill as Obamacare for the financial system, a vast and unnecessary expansion of the regulatory state. Four years later, Dodd-Frank's pernicious effects have shown that the law's critics were, if anything, too kind”.

Representative Jeb Hensarling is one of the big supporters of getting rid of the Dodd-Frank Act. He has a proposal that will not only repeal the Volker Rule but it would get rid of the Durbin Amendment which set a limit on fees that major retailers can charge for the use of the debit card. His plan would replace Dodd-Frank with a more flexible regulatory structure. This new structure would send billions of dollars back to Major shareholders which they would welcome back with open arms. Many people argue that his plan would help smaller banks more than it would larger banks. However, many of the bigger banks have already implemented and have embraced the Dodd-Frank practices.

Some say that Volker Rule should be repealed since the banks are acting as a money market by investing in their own funds (Taube, 2017). Repealing Dodd Frank could indeed help the economy by not having so many regulations and government power over businesses, but it could also make the economy vulnerable to another recession. “The law has added complexity and confusion for consumers and financial intuitions, which is detrimental to the housing market, work force, and free market in general.” (Wyatt 2016).

ARGUMENTS AGAINST REPEAL

A strong argument against repeal is that if this act were repealed, the councils and Bureaus that were created would go with it. The indirect consequences on the market of getting rid of the Consumer Financial Protection Bureau could be disastrous. This agency in a nut shell makes sure the government treats you fairly. It largely helps the American consumers from predatory schemes in mortgages, credit cards, and student loans as well as other areas. This could cause a rise in mortgages being written off and allow delinquencies to go up as well. If the Financial Stability Oversight Council were to go then that could have a significant change on the market. Institutions would be able to use more leverage than they ever have. It would allow instruments such as the CDO's back into the picture which have become less prevalent since the 2008 recession (White 2017).

ACTIONS BY THE HOUSE OF REPRESENTATIVES ON DODD-FRANK

The United States House of Representatives is under the control of the Republicans. Control of the House allowed House Republicans, without one Democratic vote, to take action in June of 2017 to begin the dismantling of Dodd-Frank. Jim Puzanghera, writing for the LA times, noted “The House voted along party lines Thursday (June 8, 2017) to repeal many of the stricter regulations enacted after the 2008 financial crisis, taking the first step in a long-held Republican desire to roll back landmark rules they complain are hurting banks, restricting consumer credit and slowing economic growth.

This House bill is called the Financial Choice Act. It passed the house 233-186 with no democratic support and only one Republican nay. The bill faces an uphill battle in the Senate. Republicans simply may not have enough votes to get the bill passed and to President Trump.

SENATE ACTIONS TO REPEAL DODD FRANK

The Senate is also taking steps to eliminate or severely weaken Dodd-Frank. The SEC foreign payments rule was mandated by Dodd-Frank. The intent was to reduce corruption in energy rich countries by detailing the royalties and other payments that oil, natural gas, coal and mineral companies make to governments. The rule was intended to elicit transparency in these kinds of dealings.

On Feb 3, 2017, the Senate voted 52-47 to repeal this requirement under Dodd-Frank. All Republicans and zero Democrats voted in favor of the bill. Senator Sherrod Brown (Ohio), the top Democrat on the Banking Committee, framed the resolution as a vote for corruption. “The rule they're

trying to repeal protects U.S. citizens and investors from having millions of their dollars vanished into the pockets of corrupt foreign oligarchs,” he said on the floor. “This kind of transparency is essential to combating waste, fraud, corruption and mismanagement.” (Cama, 2017).

Since the vote on Feb 3, 2017, the Senate has been actively looking at changes to Dodd-Frank. The biggest surprise since the 2017 vote is the change from a clearly partisan bill to a bipartisan bill. A number of Democrats have joined all the Republicans in the Senate to move forward with repealing portions of Dodd-Frank.

A handful of Democrats are getting on board with the latest Senate bill with regard to Dodd-Frank because the bill appears to help smaller banks in small communities throughout the United States. The bill exempts these smaller banks, defined as a bank with less than 10 billion in assets, from the Volker Rule. The Volker Rule provides some restrictions on bank investments in hedge funds and high risk investments.

With the support of a number of Democrats, the Senate passed S. 2155 – Economic Growth, Regulatory Relief, and Consumer Protection Act by a vote of 67-31. The bill passed on March 14, 2018.

However, the process continues. Since the House passed bill on Dodd Frank and the Senate passed bill on Dodd-Frank are different, the bill will go to Conference. As of the writing of this paper, the Senate/House Conference has yet to pass and send a bill to the President.

ACTIONS BY THE TRUMP ADMINISTRATION ON DODD-FRANK

On Friday, February 3rd, 2017, President Trump signed an executive order that called for a review of the Dodd-Frank Act by Treasury Secretary Steven Mnuchin. His aim is to have key regulations removed from the law.

Trump had promised to dismantle Dodd-Frank while campaigning last year and recently called it a "disaster." Last year in an interview with Reuters he said, "Dodd-Frank has made it impossible for bankers to function. It makes it very hard for bankers to loan money for people to create jobs, for people with businesses to create jobs. And that has to stop ([http: Reuters](http://Reuters)).

THE SURVEY

In light of the actions by the House, the Senate, and the President, and the continued debate over Dodd-Frank, a survey was taken of people currently employed in the United States financial sector. The demographics were the number of years each participant had been in the financial markets, their position/title, and the size of their institution. The responses noted below are to the question: “How will your day-to-day activities change if Dodd-Frank is repealed”.

SURVEY RESULTS

Position/Title	Years	Size	Response
CEO	30	\$230 million	Our changes would be a more efficient operation that would spend more time banking and less time trying to comply. I think most bankers would tell you that we are banking defensively so as to try to avoid examiner criticism.
Chairman	45	\$750 million	I would have more time to work with loan officers to develop new loan relationships. I would spend less time on regulations that do not benefit the customer and more time on developing customer relationships.
CEO	25	\$232 million	I believe we could focus our energy and resources on the things that make a community bank a community bank. In “Smalltown, USA” we know our customers and want to help families with lending needs and help small businesses grow and become a vital part of our community.

Position/Title	Years	Size	Response
CEO	23	\$280 million	<p>It would allow me to spend more time in the community serving and assisting customers and prospects which I believe, in turn, would allow our bank and community to be more successful and prosperous. I'd spend less time monitoring compliance and trying to figure out how to serve customers within the parameters of over-burdensome regulations.</p> <p>Resources currently committed to compliance would be reallocated to customer products and services that would grow both our bank and the communities we serve.</p>
CEO	35	\$239 million	<p>Yes, it would change day to day activity, but I find it difficult to quantify or predict. I would anticipate less emphasis each day on compliance and keeping up with proposed legislation and regulation.</p>
CEO	Not Provided	\$990 million	<p>We would like to see the rules concerning home loans to be relaxed so that more customers will become eligible for affordable housing. The new standards established in Dodd-Frank were supposed to make it easier for applicants to qualify for a home loan. Quite to the contrary, the new standards made it less likely that an applicant will qualify. In addition, it made the process more time consuming and costly to the customer. Our time usage would change in that we would spend more time serving our customer base and reacting to their needs and less time worrying about compliance.</p>
CEO	35	\$425 million	<p>Relief from Doff-Frank would allow us to devote more time and resources to, once again, serving our customers and our communities. Currently the intensified cost and time required to comply with Dodd-Frank has altered the way a community bank functions. Significant increases in compliance cost, resulting from Dodd-Frank, are either passed on to our customers or realized in reduced profit for bank ownership. If the later, the reduced profitability makes current bank ownership question their investment and ultimately the future of community banking as we know it today.</p> <p>In addition to the increased cost and frustration of compliance, Dodd Frank has placed an undue burden on our lending practices. We as community bankers know our customers and the needs of our customers. We can, and do, make prudent lending decisions that not only create profits for the bank, but just as importantly provides a source of financing for the needs of small business, creating jobs and vitality for small town America. Without Community Banks this particular segment of our country is overlooked and unserved. Dodd-Frank has significantly hampered our ability to serve our customers!</p>
Compliance Officer/SVP	22	\$190 million	<p>As a community banker, I have more than one "hat." The reduction of Dodd Frank compliance would allow me more time to focus on other "hats" I wear. I would add that some of Dodd Frank was needed, but not all. Relief from some of the Consumer Real Estate burden (TRID) would be nice.</p>

Position/Title	Years	Size	Response
Credit Manager/VP	14	\$300 million	<p>Day to day activities would become more efficient. We spend a large part of the day double and triple checking consumer loans- specifically real estate secured loans. With the implementation of Integrated Disclosures came a host of "trip wires" that even our regulators and external compliance auditors can't decipher. According to them, when they try, the CFPB takes months to answer if they answer at all.</p> <p>We also spend a considerable amount of time on consumer loan approvals to avoid Fair Lending violations. Very few customers will fit into an underwriting box. We use an automated underwriting platform, but I'd estimate that only 10% of our applicants meet every qualification. Sometimes, the mitigation process for underwriting exceptions takes more time and research than a \$1,000 loan is worth.</p> <p>The new HMDA rule is troublesome. The data that is going to be collected was expanded from 23 to 48 fields. (The extra 25 fields actually drill out for a total of 110 fields.) It is incredibly granular, and not only will be collected on consumer real estate loans, but commercial loans that are secured by 1-4 family properties. New data collected includes: credit score, appraisal value, loan-to-value, age, and property address. If the data is breached, and I feel confident it will be, it will be a nightmare for financial crime and identity theft. From an operations stance, at the very least, procedure will be dramatically altered and staff will be shifted to accommodate this change. It wouldn't surprise me to have to add staff due to HMDA expansion.</p> <p>Simply put, the cost of compliance for community banks is enormous and a detriment to a bank's bottom line. Eventually, smaller banks won't be able to keep up.</p>
Mkt President	Not Provided	\$436 million	<p>The level of disclosure requirements would dramatically be reduced and our ability to meet borrowers' needs would be simplified. The cost to meet reporting requirements from the compliance standpoint is deeply impacting banks income and in turn borrowers expense. Many banks have almost eliminated home mortgage loans due to the burdensome underwriting requirements and severe penalties for any possible error in disclosures.</p>
Senior Commercial Loan Officer	16	\$1.7 billion	<p>A reduced burden of Dodd-Frank would free up community bankers, like myself, to be more nimble with customers and prioritizing their needs, versus prioritizing compliance checklists. While regulation is important, Dodd-Frank was legislation birthed out of crisis, which is rarely equitable to everyone.</p> <p>They would become less standardized and more on the "know your customer" standards. Dodd-Frank has made it much more difficult to tailor loans and deposit products to customers because regulators will always favor standardized products. A rollback of the burden of Dodd-Frank, would allow me to be more responsive to customer needs.</p>

CONCLUSIONS

Nav Athwal (2017), a contributor to Forbes, summed this issue of repeal up rather nicely. In an article from February of this year he said, “While the Dodd-Frank regulations have proven themselves problematic in many ways, the idea behind the legislation remains a good one.” He goes on to say that without oversight, we could send America back to pre-2008 days of loose regulations and diminishing morals on behalf of some in the financial sector. Without financial regulations, the door is open to “creative” profit making leaving those trying to follow the rules on the sidelines, possibly forcing some into participating in the riskier behaviors that brought our economy to a crawl in the first place.

The idea of confidence needing to be restored to financial markets is not a new one. A quote from President Franklin Delano Roosevelt shows that this same issue took place during after the Great Depression in the 1930s. “After all there is an element in the readjustment of our financial system more important than currency, more important than gold, and that is the confidence of the people. Confidence and courage are the essentials of success in carrying out our plan. We have provided the machinery to restore our financial system; it is up to you to support and make it work,” FDR said in one of his legendary “fireside chats” to people of the United States (Grinder 2015).

Senator Mike Crapo, R-ID, summed up the feelings of many in a tweet dated March 6, 2018. In his tweet, Senator Crapo wrote “Small banks and Credit unions across the country have been crushed by unnecessary regulations for too long. It’s time to provide much needed #Relief4MainStree”. Survey respondents agree Senator Crapo has it right.

The efforts thus far by the House, The Senate, and The President point toward a partial repeal of the current provisions of Dodd-Frank. Some will welcome the partial repeal while others will see this as a step back to the days before the recession of 2008.

REFERENCES

- Athwal, N. (2017). *What Trump's Rollback of Dodd-Frank Means for Marketplace*.
<https://www.forbes.com/sites/navathwal/2017/02/08/what-trumps-rollback-of-dodd-frank-means-for-marketplace-lending/2/#392f87911480>
- Cama, T. (2017). <http://thehill.com/policy/energy-environment/317700-senate-votes-to-repeal-transparency-rule-for-oil-companies>.
- Grinder, B., et al. (2017). The Financial Crisis: Lessons from History. *International Journal of Research in Business and Social Science*, 4.1 (2015): 1-16. *ProQuest*. Web. 26 Feb. 2017.
http://www.reuters.com/article/us-usa-election-trump-exclusive-idUSKCN0Y82JO?feedType=RSS&feedName=topNews&utm_source=twitter&utm_medium=Social
- <https://www.whitehouse.gov/the-press-office/2017/02/03/presidential-executive-order-core-principles-regulating-united-states>
- O’Neill, C. (2017). *What is the Dodd-Frank Act?* <http://www.nolo.com/legal-encyclopedia/what-is-the-dodd-frank-act.html>.
- Puzzanghera, J. (2017). *House votes along party lines to repeal key Dodd-Frank financial reforms*.
<http://www.latimes.com/business/la-fi-dodd-frank-repeal-20170608-story.html>
- Taube, S. (2017). *What is Dodd-Frank and What Happens if it is Repealed?* Retrieved from investmentu:<http://www.investmentu.com/article/detail/53360/what-is-dodd-frank-what-happens-if-repealed#.WPzshYjyviU>
- Wallison, P. J. (2014). Four Years of Dodd-Frank Damage. *The Wall Street Journal*. Dow Jones & Company, 20 July 2014. Web. 22 Apr.
- White, G. B. (2017). Trump Begins to Chip Away at Banking Regulations. *The Atlantic*. Atlantic Media Company, 03 Feb. 2017. Web. 22 Apr.
- Wyatt, B. (2017). Six Years Later Dodd-Frank Has Cost Almost \$40 Billion. *Illinois Manufacturers' Association*. Americans for Tax Reform, 27 July 2016. Web. 05 Mar.