

FINANCIAL STABILITY REFORM

(as of March 23, 2010)

Numerous government agencies are responsible for regulating financial institutions. Commentators have noted that without a governing body to oversee the various agencies, we remain vulnerable to regulatory gaps and oversight failures. The House recently passed legislation creating a council to oversee financial institutions.

	The Wall Street Reform and Consumer Protection Act of 2009, passed by the House on December 11, 2009	Senate Discussion Draft released by Senator Dodd on November 10, 2009	Senate Draft Bill: Restoring American Financial Stability Act, released by Senator Dodd on March 15, 2010
Council Creation	<ul style="list-style-type: none"> - Creation of Financial Services Oversight Council <ul style="list-style-type: none"> - Chaired by Secretary of Treasury - Voting members consist of heads of federal financial regulatory agencies (Treasury, Federal Reserve, OTS,¹ OCC, SEC, CFTC, FDIC, Federal Housing Finance Agency, National Credit Union Administration, and Consumer Financial Protection Agency) - Federal Reserve to act as agent for the Council - Non-voting members consist of the Director of the Federal Insurance Office, a state insurance commissioner, a state banking commissioner, and a state securities commissioner - Act by majority vote and be subject to audit and evaluation by GAO 	<ul style="list-style-type: none"> - Creation of Agency for Financial Stability <ul style="list-style-type: none"> - Chaired by a presidential appointee who is subject to Senate confirmation - Members consist of heads from federal agencies (Treasury, SEC, FIRA, Federal Reserve, FDIC, CFPA, CFTC, independent member appointed by President with insurance experience) - Members serve six-year terms - Not regulators, have rule-making authority only 	<ul style="list-style-type: none"> - Creation of Financial Stability Oversight Council <ul style="list-style-type: none"> - Chaired by Secretary of Treasury - Voting members consist of heads of federal financial regulatory agencies (Treasury, Federal Reserve, OCC, SEC, CFTC, FDIC, Federal Housing Finance Agency, Bureau of Consumer Financial Protection, and independent member with insurance expertise appointed by President and confirmed by Senate) - Federal Reserve to act as agent for the Council - Director of newly-created Office of Financial Research will serve in an advisory capacity as a non-voting member - Act by majority vote and be subject to audit and evaluation by GAO
Council Authority	<ul style="list-style-type: none"> - Monitor financial marketplace and identify threats to stability - Make formal recommendations and subject financial companies and financial activities to stricter prudential standards provided that the standards do not supersede consumer or investor protection laws under state and federal law (on both an industry wide basis and on an individual firm basis if firm is a Designated Company) - Subject Designated Companies to stricter 	<ul style="list-style-type: none"> - Monitor financial marketplace and identify threats to stability and regulatory gaps - Make formal recommendations and subject financial companies and financial activities to stricter prudential standards - Authority to take action to mitigate systemic risk and to request reports and information from all financial companies to assess financial market and potential threats - Require BHCs with a minimum of \$10 billion to 	<ul style="list-style-type: none"> - Monitor financial marketplace and identify threats to stability and regulatory gaps - Make formal recommendations and subject financial companies and financial activities to stricter prudential standards - Authority to take action to mitigate systemic risk and to request reports and information from all financial companies through the Office of Financial Research to assess financial market and potential threats

¹ OTS will serve on council until its functions are transferred to the OCC.

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| <p>requirements and oversight by Federal Reserve</p> <ul style="list-style-type: none"> - Catch-all authority to take action to mitigate systemic risk - Request reports and information from all financial companies to assess financial market and potential threats | <p>establish risk committees</p> | <ul style="list-style-type: none"> - Resolution authority over agency disputes - Require BHCs with a minimum of \$10 billion and nonbank financial companies to establish risk committees - Act with 2/3 vote and an affirmative vote of the Chairperson with respect to determinations that a nonbank financial company or a foreign nonbank financial company should be supervised by the Board of Governors, and subject to heightened standards, if such entity would pose risk to financial stability - Act with 2/3 vote and an affirmative vote of the Chairperson to impose conditions on, or limit activities of, BHCs with over \$50 billion in assets or nonbank financial companies if such activities pose a systemic risk |
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| <p>Other</p> <ul style="list-style-type: none"> - Significant market developments and details regarding the 50 largest financial institutions reported to Congress semi-annually - Financial institutions can appeal Council requirement to implement stricter standards - Authority for FDIC to create emergency guarantee program upon 2/3 vote of Council - Limit Bank Holding Company Act exemption to credit card banks and trust-only banks - Broader powers given to Federal Reserve | <ul style="list-style-type: none"> - Significant market developments and recommendations reported semi-annually to Congress - Limit Federal Reserve emergency loans mostly to healthy firms, not failing firms - Financial institutions can appeal Agency requirements to implement stricter standards - FIRA registration and exam authority | <ul style="list-style-type: none"> - Creation of Office of Financial Research - Financial companies and nonbank financial companies can appeal Council requirement to implement stricter standards - Study on feasibility, benefits, costs, and structure of a contingent capital requirement for nonbank financial companies - Recommendations to Board of Governors and federal regulators regarding concentration limits, public disclosures, credit exposure, maintenance of long-term hybrid debt convertible to equity and general financial information reports - If the applicable agency chooses not to implement any recommendation provided by the Council, it must provide a report explaining its rationale |
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