

# COMMITTEE ON CAPITAL MARKETS REGULATION

2009 FINANCIAL CRISIS REPORT  
SCORECARD

## 2009 FINANCIAL CRISIS REPORT SCORECARD EXECUTIVE SUMMARY

### Important Instances Where CCMR Recommendations Were Followed

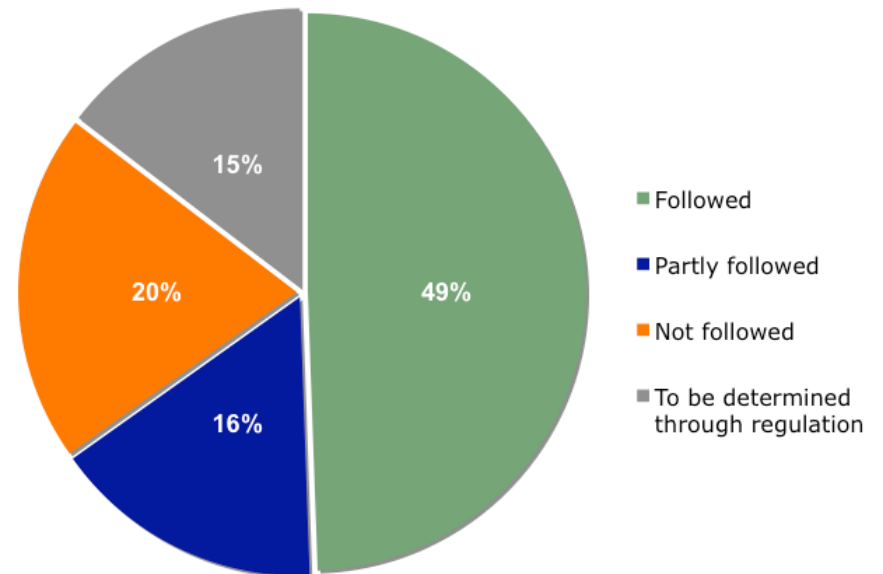
- Give the Fed broad authority over clearinghouses
- Mandate centralized clearing for standardized, liquid contracts
- Increase capital requirements for CDSs that are not centrally cleared
- Maintain and strengthen the leverage ratio
- Adopt confidential reporting requirements for hedge funds
- Do not pre-fund the Orderly Liquidation Fund
- In the case of Fed emergency lending, require full collateralization of loans and disclosure of accepted collateral
- Amend Regulation AB to increase loan-level disclosures
- Supplement FVA with dual presentation of market and credit values
- Enable the IMF to play an early warning role

### Important Instances Where CCMR Recommendations Not Followed

- Consolidate the regulatory structure to retain only two or three regulatory bodies; establish USFSA
- Do not require the Fed to get Treasury Secretary approval before doing emergency lending
- Do not have a Volcker Rule
- Do not require the FDIC to get advance Congressional approval to guarantee debt to combat systemic risk
- Relax private equity acquisition standards for banks under BHCA and SLHCA
- Provide strong overrides on the new consumer agency in matters of systemic risk
- Do not establish the CFPB within the Fed

### Summary Statistics

- 89 total recommendations, of which:
  - 44 followed
  - 14 partly followed
  - 18 not followed
  - 13 to be determined through regulation



## 2009 FINANCIAL CRISIS REPORT SCORECARD

### Key

"5/09" CCMR May 26, 2009 Report "The Global Financial Crisis: A Plan for Regulatory Reform"  
 "3/10" CCMR March 4, 2010 Letter "Re: Centralized Clearing and Exchange Trading of Derivative Contracts"  
 "4/10" CCMR April 26, 2010 Letter "A Blueprint for Compromise"  
 "6/10" CCMR June 14, 2010 Letter "Re House-Senate Finance Bill Reconciliation Process"  
 "DF" Dodd-Frank Wall Street Reform and Consumer Protection Act, Pub. L. No. 111-203

<b>Rec.</b>	<b>Source</b>	<b>Recommendation</b>	<b>Actions Taken</b>	<b>Citation</b>	<b>Recommendation Followed?</b>	<b>Regulatory Action Required?</b>
<b>General Recommendations</b>						
1.	5/09 (1)	Regulate on principle				
2.	5/09 (2)	Perform cost/benefit analysis on proposed regulations	Numerous provisions in Dodd-Frank require studies of costs and benefits of proposed regulatory actions. However, the bill's focus is on studies rather than compelling in regulation.	See, e.g., DF §§ 115(c)(1); 123(a)(1); 417(a)(2)(A); 1022(b)(2)(A)(i).	Step in our direction	Yes
<b>Credit Default Swaps and Derivatives</b>						
3.	4/10 (3) 6/10 (2A)	Give the Fed broad authority over derivatives regulations	Dodd-Frank gives the Fed broad ultimate authority over many derivatives regulations, but the CFTC and the SEC maintain jurisdiction for institutions not designated by the FSOC as systemically important. Although the Fed is a key player in regulations concerning clearinghouses, the FSOC has the final vote with those institutions.	DF § 712(a) (CFTC and SEC authority); DF § 805(a) (Fed authority over systemically important institutions).	Mostly	Yes
4.	4/10 (3) 6/10 (2E)	Allow federal regulators to support "swaps entities" in emergencies	Although the Dodd-Frank bill ostensibly bans swaps entities from Federal assistance, the broad exceptions to this provision for swaps affiliates of insured depository institutions and for insured depository institutions that limit their swaps activities to hedges and certain market making activities effectively ensure that swaps entities will be able to use federal support in emergencies.	DF § 716(a) (rule); DF § 716(c) (affiliate exception); § 716(d) (limited activities exception).	Yes	No
5.	6/10 (2F)	Do not impose fiduciary duties on swaps dealers in transactions with government or pension plan counterparties	Dodd-Frank does not impose fiduciary duties, but does apply heightened standards that require dealers to act in the best interests of government, pension plan, or endowment counterparties and make additional disclosures when acting as counterparties to such entities.	DF § 731.	Yes	Yes
6.	5/09 (3)	Do not ban CDS contracts	Dodd-Frank does not ban CDS contracts.		Yes	No
7.	5/09 (4) 3/10 (1)	Mandate centralized clearing for standardized, liquid contracts	Dodd-Frank requires centralized clearing for standardized, liquid contracts.	DF § 723(a)(3).	Yes	Yes

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8.	3/10 (2d)	Allow the Fed to determine which contracts must be centrally cleared	Dodd-Frank defines which contracts must be centrally cleared, and requires that, on an ongoing basis, the CFTC and the SEC review all swaps to determine which should be exempt from clearing requirements. That said, the Fed will have substantial influence through its authority to make recommendations to the functional regulators, supervision over the major dealers and the power to grant, with conditions, discount window access to the clearinghouses	DF § 723(a)(3); DF § 763(a).	Partly	Yes
9.	3/10 (3h) 4/10 (3)	When firms whose activities give rise to substantial net credit exposure do not qualify for clearinghouse membership, they should be required to centrally clear their trades	Dodd-Frank requires that all trades be centrally cleared, with exceptions made if no clearing organization clears a particular swap and if one counterparty is not a financial entity and is using a swap to hedge commercial risk. However, regulators can still require central clearing if certain criteria are satisfied.	DF § 723(a)(3).	Largely consistent, though our proposal has fewer exceptions to the clearing requirement than Dodd-Frank does	Yes
10.	3/10 (2c) 4/10 (3) 6/10 (2C)	Do not provide a blanket exemption of foreign exchange contracts from clearing requirements (only provide a blanket exemption for contracts with maturities up to 1 month)	Dodd-Frank subjects all foreign exchange contracts (options, forwards, and swaps) to the same new swaps regulation, regardless of the tenor.	DF § 721(a)(21).	Partially consistent with our proposal except for 1 month or less contracts	Yes
11.	3/10 (3b) 4/10 (3)	Require that all institutions that exceed certain net exposure thresholds be made clearinghouse members if qualify for membership	Dodd-Frank does not have provisions for mandatory clearinghouse membership. Instead, it has mandatory clearing and requires that clearinghouse membership standards be "objective" and "publicly disclosed," and "permit fair and open access."	DF § 723(a)(3) (mandatory clearing); DF § 725(c) (requirements for membership standards).	No	Yes
12.	3/10 (3d)	Grant access to those on the buy-side who wish to use central clearing on reasonable and non-discriminatory terms	Dodd-Frank requires that clearinghouse usage standards provide clearing participants objective, transparent, and fair and open access.	DF § 725(c).	Yes	Yes

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13.	3/10 (3j) 4/10 (3)	Require that dealers disclose collateral arrangements and offer counterparties the opportunity to segregate initial margin	Dodd-Frank requires that derivatives dealers segregate initial margin and disclose margining practices to clients.	DF § 724(c).	Yes on disclosure, no on requiring segregation	Yes (for exceptions to general rule)
14.	5/09 (5) 3/10 (7b)	Increase capital requirements for CDSs that are not centrally cleared	Dodd-Frank mandates capital requirements for all swaps entered into by any swap dealer or major swap participant. In addition, the bill calls for higher capital requirements for non-cleared swaps than for centrally cleared swaps.	DF § 731.	Yes	Yes
15.	3/10 (4c)	Make regulators monitor clearinghouses to ensure adequate margin requirements	Dodd-Frank mandates that all clearing organizations provide functional regulators all information (including details of margin requirements) "necessary to conduct oversight of the derivatives clearing organization."	DF § 725(c).	Yes	Yes
16.	3/10 (4b)	Organize clearinghouses according to asset class	Dodd-Frank does not organize clearinghouse assets according to asset class.		No	No
17.	5/09 (7)	Establish 1-2 international clearing facilities	International coordination efforts have not yet progressed to this level. Also unclear whether US could require such facilities.		Not done	N/A
18.	5/09 (8) 4/10 (3)	Adopt a CDS reporting system (like TRACE system for corporate bonds)	Dodd-Frank requires that each party in a swap report the swap to a data repository or, if no repository will accept the swap, the CFTC or the SEC. The bill mandates real-time public reporting by clearing organizations and requires that the SEC and the CFTC provide aggregate data on swaps that are not centrally cleared. An exception to the real-time reporting requirement is made for block trades.	DF § 727; DF § 766(a).	Yes	Yes
19.	3/10 (5b) 4/10 (3)	Allow a modest delay in reporting most trades to reduce cost through a bunching procedure	Dodd-Frank does not provide for this delay; for most non-block trades, regulators are required by statute to implement rules requiring real-time reporting, defined as reporting "as soon as technologically practicable after the time at which the swap transaction has been executed."		No	No
20.	3/10 (5c) 4/10 (3)	Allow more delayed reporting for relatively large derivatives trades	Dodd-Frank requires that the CFTC and the SEC issue a rule on this matter.	DF § 727.	Permitted through regulation	Yes
21.	3/10 (4d)	Do not limit clearinghouse ownership	Dodd-Frank requires that the CFTC and SEC consider adopting rules on this matter for swaps and security-based swaps, respectively	DF § 726(a); DF § 765(a)	Yes but CFTC or SEC could do	Yes

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22.	4/10 (3)	Give regulators authority to ensure non-discriminatory clearinghouse membership standards	Dodd-Frank includes a non-discriminatory provision, but gives clearinghouses "reasonable discretion" in satisfying it.	DF § 723(a)(3); 725(c).	Yes	Yes
23.	5/09 (9) 3/10 (6a) 4/10 (3) 6/10 (2B)	5/09 Report recommended requiring exchange trading for certain high-volume CDSs; Subsequent letters recommended only encouraging exchange trading where appropriate	Dodd-Frank requires that all swaps that face mandatory central clearing must be traded on an exchange unless no exchange will list the swap.	DF § 723(a).	Consistent with our 5/09 report but not subsequent letters	Yes
<b>Capital Regulation</b>						
24.	5/09 (10) 3/10 (7c)	Adopt activity-specific capital standards for institutions that have lender-of-last-resort Fed access; Do not restrain regulators in determining appropriate capital requirements	Dodd-Frank gives authority to the FSOC to recommend that bank regulators impose capital requirements on large, interconnected banks and NBFCs regulated by the Fed (which can vary by institution). Regulators' discretion is somewhat circumscribed, however, because the new capital standards cannot be lower than existing capital standards.	DF § 115(a)-(b); DF § 171(a)-(b).	Yes, aside from floor requirement	Yes
25.	5/09 (13)	Hold large institutions to higher solvency standards	Dodd-Frank gives bank regulators authority to issue new capital requirements for large banks and interconnected NBFCs regulated by the Fed. These new risk-based capital requirements must be at least as high as existing risk-based capital requirements.	DF § 171(b)(1)-(2).	Yes, aside from floor requirement	Yes
26.	6/10 (1B)	Do not impose bank capital requirements on nonbank financial companies (NBFCs)	Dodd-Frank gives authority to the FSOC to recommend bank-like capital requirements (to be imposed by the Fed) on large, interconnected banks and NBFCs regulated by the Fed. Dodd-Frank also grants the Fed authority to impose additional capital requirements on NBFCs that engage in proprietary trading or invest in hedge or private equity funds. There is no requirement, however, that NBFC capital requirements be quantitatively the same as bank capital requirements.	DF § 115(a)-(b); DF § 171(a)-(b); DF § 619.	Yes	Yes

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27.	5/09 (15)	Maintain and strengthen the leverage ratio	Dodd-Frank gives bank regulators authority to issue new leverage ratio capital requirements for insured depository institutions and their holding companies, and systemically important nonbank financial institutions. These new leverage ratio capital requirements must be at least as high as existing leverage ratio capital requirements. Separately, Basel III proposes a supplementary minimum leverage ratio of 3%, though the final level has not yet been set.	DF § 171(b)(1).	Yes	Yes
28.	5/09 (11)	Leave "steady state" risk-based capital calibration unchanged	Dodd-Frank gives bank regulators authority to issue new risk-based capital requirements for institutions regulated by the Fed. These new risk-based capital requirements must be at least as high as existing risk-based capital requirements.	DF § 171(b)(2).	To be determined through regulation	Yes
29.	5/09 (12)	Adopt counter-cyclical capital ratios	Dodd-Frank requires FSOC to conduct a study of contingent capital requirements and to make recommendations to the Fed about whether to adopt such standards for large banks and Fed-regulated NBFCS. Basel III proposes that banks maintain a counter-cyclical buffer of 0-2.5% of risk-weighted assets, though details of implementation have not yet been set.	DF § 115(c).	Being examined by Basel	Yes
30.	5/09 (14)	Focus Basel II reforms on strengthening Pillars II and III			Nothing in legislation or Basel III (to date)	N/A
31.	3/10 (7d)	Harmonize US capital requirements with international requirements	Dodd-Frank bill directs the president (or his designee), FSOC, the Treasury Secretary, and the Fed to coordinate with their international counterparts on matters of global systemic importance. This presumably includes capital standards, though there is no specific reference to international capital requirements.	DF § 175.	Yes	No
<b>Hedge Funds</b>						
32.	5/09 (16)	Consider the critical role of hedge funds when designing new regulations			Need to press for in regulation	Yes
33.	5/09 (17)	Adopt confidential reporting requirements for hedge funds	Dodd-Frank requires hedge funds to report 1) AUM and leverage (including off-balance sheet leverage), 2) counterparty credit risk exposure, 3) trading and investment positions, 4) valuation policies and practices, 5) asset types held, 6) side letters, 7) trading practices, and 8) other information deemed necessary by the SEC. This information reported to the SEC will be made available to the Financial Stability Oversight Council (FSOC). Both the SEC and the FSOC will be required to maintain the confidentiality of this information.	DF § 404.	Yes	Yes

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34.	5/09 (18)	Until the establishment of a USFSA, give the Fed temporary regulatory authority	Dodd-Frank does not create a USFSA and generally expands SEC regulatory authority over the hedge fund industry rather than giving this authority to the Fed. However, the FSOC could determine a hedge fund to be a systemically important NBFC and thus subject it to Fed supervision.	DF § 404; DF § 113(a)(1) (FSOC designation to Fed authority).	Not followed, SEC generally has jurisdiction	Yes
35.	5/09 (19)	Facilitate information sharing among national and supranational regulators	The G-20 has called for registration of and information disclosure from hedge funds. It supports development by the Financial Stability Board (FSB) of "mechanisms for cooperation and information sharing between relevant authorities."	"Declaration on Strengthening the Financial System," G-20, 3, 2 Apr. 2009.	Yes	Yes
36.	5/09 (20)	Make structural reforms to the hedge fund industry to increase the effectiveness of hedge fund operations and reduce an individual fund's susceptibility to becoming an instability risk to the financial system	Dodd-Frank gives Fed broad jurisdiction to impose a wide range of prudential regulations on systemically important hedge funds and to impose activities restrictions on funds whose activities create a perceived risk to financial stability.	DF § 171(a)-(b).	Partly, though Dodd-Frank does not address studies to improve effectiveness of hedge fund operations	Yes
<b>Private Equity</b>						
37.	5/09 (21)	Limit new PE regulation to information collection only	The new registration and reporting requirements that apply to hedge funds (detailed above) also apply to private equity funds (both are treated as "private funds"). The other major provision addressing private equity funds is the Volcker Rule, which to some degree restricts banks' ability to invest in private equity funds and imposes additional capital requirements on Fed-supervised NBFCs that engage in private equity activities.	DF § 404 (reporting); DF § 619 (Volcker Rule).	Regulation could still differentiate between hedge and private equity funds	Yes
38.	5/09 (22)	Relax acquisition standards under the BHCA and the SLHCA, provided there is adequate separation between the banking and commercial activities of the PE firm. (Do not require source of strength commitment beyond the banking silo of the PE fund complex for acquisition approval).	FDIC issued new Policy Statement on guidelines to private equity investors for bank acquisitions in August 2009.	FDIC, Final Statement of Policy on Qualifications for Failed Bank Acquisitions, Aug. 26, 2009, available at <a href="http://www.fdic.gov/news/board/Aug26no2.pdf">http://www.fdic.gov/news/board/Aug26no2.pdf</a> .	No	Yes

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<b>Money Market Mutual Funds (MMMFs)</b>						
39.	5/09 (23)	Introduce mechanisms for crisis and risk management, including heightened MMMF transparency, MMMF risk evaluations, and improved monitoring	SEC promulgated new rules for money market mutual funds in February 2010, which increase transparency, allow funds "breaking the buck" to temporarily suspend redemptions to facilitate orderly liquidation, and improve the risk-limiting conditions of existing Rule 2a-7.	SEC, Final Rule: Money Market Fund Reform, Feb. 23, 2010, available at <a href="http://www.sec.gov/rules/final/2010/ic-29132.pdf">http://www.sec.gov/rules/final/2010/ic-29132.pdf</a> .	Yes	No
40.	5/09 (24)	Study how to compensate for potentially ongoing taxpayer support			SEC and President's Working Group considering	Yes
<b>Resolution Process for Failed Financial Institutions</b>						
41.	5/09 (25) 4/10 (7)	Establish a single insolvency regime applicable to all financial companies	Dodd-Frank new orderly liquidation authority (§ 204(a)) is targeted only at large/systemically important financial companies.		No	No
42.	5/09 (28)	Authorize enhanced resolution powers for systemic risk	Dodd-Frank authorizes an orderly liquidation authority (with the FDIC as receiver) for systemically important institutions.	DF § 202-206.	Yes	Yes
43.	6/10 (1F)	Do not require Treasury Secretary approval of FDIC receivership for systemically important institutions	Dodd-Frank requires Treasury Secretary approval for receivership.	DF § 202 (a)(1)(A)(i); § 203(b).	No	No
44.	5/09 (26)	Provide adequate regulatory flexibility for resolution powers	Dodd-Frank grants significant flexibility to FDIC to promulgate rules governing the resolution process.	DF § 209.	Yes	Yes
45.	5/09 (27)	Subject all resolutions that do not pose a systemic risk to a least cost test	Dodd-Frank does not address non-systemic resolutions and presumably leaves least cost test criteria in place.		Probably, by virtue of existing least cost test requirement in non-systemic resolutions	Yes
46.	5/09 (29)	Consider financing methods that protect the taxpayer	Dodd-Frank sets up an orderly liquidation fund, which is financed by covered financial companies.	DF § 210(n).	Yes	Yes
47.	4/10 (7c) 6/10 (1H)	Do not pre-fund the Orderly Liquidation Fund	Dodd-Frank finances the orderly liquidation fund ex post by requiring the FDIC to issue obligations to the Treasury Department, which are later repaid with income from the liquidated assets of the covered financial company and, if necessary, charges for risk-based assessments by covered financial companies.	DF § 210(n)-(o).	Yes	Yes

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48.	5/09 (30)	Consolidate or coordinate cross-border insolvency proceedings	Dodd-Frank requires that the Fed and Administrative Office of US Courts conduct a study of international procedures for resolution of systemically important financial companies.	DF § 217(a)-(b).	Making progress	Yes
<b>Emergency Financial Stabilization Measures</b>						
49.	4/10 (5) 6/10 (1D)	In the case of Fed emergency lending, require full collateralization of loans and disclosure of accepted collateral	Dodd-Frank requires that the Fed determine the collateral for emergency lending is "sufficient to protect taxpayers from losses." It also provides that the Comptroller General of the United States can conduct audits of Fed emergency lending programs to determine, among other things, "the effectiveness of...collateral policies...in mitigating risk to the relevant Federal reserve bank and taxpayers."	DF § 1101(a)(6) (collateral requirements); § 1102(a) (audits of emergency Fed facilities).	Yes	Yes
50.	6/10 (1D)	Do not require the Fed to get Treasury Secretary approval before doing emergency lending	Dodd-Frank requires the Fed to get Treasury Secretary approval before starting an emergency lending program (but not before making emergency loans to particular institutions).	DF § 1101(a)(6).	No-- very bad departure	Yes
51.	4/10 (4)	Allow the FDIC to use guarantees to combat systemic risk, but not to prop up insolvent institutions	Dodd-Frank allows the FDIC to "create a widely available program to guarantee obligations of solvent insured depository institutions" or their holding companies (including affiliates) during crises, but these guarantees cannot include the provision of equity in any form.	DF § 1105(a).	Yes	Yes
52.	6/10 (1E)	Do not require the FDIC to get advance Congressional approval to guarantee debt to combat systemic risk	Dodd-Frank does require Congressional approval of guarantees. The Treasury Secretary sets the limit for guarantees. This limit is submitted to Congress by the president for approval. If Congress does not approve the limit, then FDIC cannot establish a guarantee.	DF § 1105(c).	No	Yes
<b>Reforming Securitization - Improving Originator Incentives</b>						
53.	5/09 (31)	Prohibit or restrict high-risk mortgage products and lending practices from entering the securitization market	Dodd-Frank grants the CFPB very broad authority to limit these practices at the loan origination phase.	DF § 1011(a).	Could be done by CFPB	Yes
54.	5/09 (32)	Strengthen representations, warranties, and repurchase obligations	Dodd-Frank requires CRAs to disclose for each issuance the representations and warranties available to investors, and requires securitizers to disclose any fulfilled and unfulfilled repurchase obligations.	DF § 943.	Disclosure but not strengthening	Yes

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55.	5/09 (33) 4/10 (2B)	Explore minimum risk retention to improve incentive alignment	Dodd-Frank requires that securitizers (including issuers and sellers or transferrers of assets) retain at least 5 percent of the credit risk of any asset sold or transferred and that they do not hedge away any of that credit risk. Dodd-Frank exempts farm credit system institutions, other federal programs, and securitizers of "qualified residential mortgages," a term to later be defined by the Federal banking agencies, HUD, the SEC, and the FHFA, that will specify certain mortgages as demonstrating a lower risk of default. Recent FDIC proposal also poses risk retention requirements. Securitizers can also retain less than 5% of an issue if the issue meets certain underwriting and due diligence standards, which will be specified by regulation.	DF § 941(a); FDIC, "Notice of Proposed Rulemaking with request for comments" 48, May 11, 2010, available at <a href="http://www.fdic.gov/news/news/press/2010/pr10112a.pdf">http://www.fdic.gov/news/news/press/2010/pr10112a.pdf</a> .	Flexible approach to retention, details left to regulation	Yes
56.	5/09 (34)	Enhance disclosure of retained economic interests	Dodd-Frank requires disclosure of the amount of risk retention by the originator and the securitizer of assets in an ABS.	DF § 942(b).	Yes	Yes
<b>Reforming Securitization – Disclosure</b>						
57.	5/09 (35) 4/10 (2B)	Amend Regulation AB to increase loan-level disclosures	Dodd-Frank requires that the SEC set new standards requiring asset-level disclosure for securitizations. Independently, the SEC had already proposed significant revisions to Regulation AB that would require, with some exceptions, "specified asset-level information about each of the assets" in a pool, as well as "the filing of a computer program of...contractual cash flow provisions."	DF § 942(b); SEC, Proposed Rule Revising Regulation AB, Apr. 7, 2010, available at <a href="http://www.sec.gov/rules/proposed/2010/33-9117.pdf">http://www.sec.gov/rules/proposed/2010/33-9117.pdf</a> .	Yes	Yes
58.	5/09 (36)	Study ways of improving the standardized disclosure package	Dodd-Frank requires two studies related to the new securitization requirements (one study on risk retention requirements, the other study on the macroeconomic impact of risk retention requirements on the housing market) - but there is no study required that directly addresses how to improve the standardized disclosure package.	DF § 941(c); 946.	No but SEC could do	Yes
59.	5/09 (37)	Eliminate the applicability of Section 15(d) (the less-than-300-holder reporting exemption)	Dodd-Frank does not require this, but recent SEC proposal does.	SEC, Proposed Rule Revising Regulation AB, Apr. 7, 2010, available at <a href="http://www.sec.gov/rules/proposed/2010/33-9117.pdf">http://www.sec.gov/rules/proposed/2010/33-9117.pdf</a> .	Yes	Yes
<b>Reforming Securitization - Credit Rating Agencies (CRAs)</b>						
60.	6/10 (3B)	Do not create a Credit Ratings Agency Board that would assign issuers to CRAs.	Dodd-Frank does not create a Credit Ratings Agency Board that would assign issuers to CRAs.	DF, § 939F.	Yes	No

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61.	5/09 (38)	Develop globally consistent standards	The G-20 has agreed 1) that all CRAs whose ratings are used for regulatory purposes should be regulated and registered, with IOSCO coordinating full compliance, 2) that CRAs should differentiate ratings for structured products and disclose ratings track records and methodologies, and that the oversight framework should be consistent across jurisdictions with information sharing among authorities, and 3) that the Basel Committee should consider whether there are adverse incentives in the role of external ratings in prudential regulation that need to be addressed.	"Declaration on Strengthening the Financial System," G-20, 6, 2 Apr. 2009.	Progress being made	Yes
62.	5/09 (39) 4/10 (2D)	Vest enforcement of CRA regulation at the highest government level (i.e. federal, and not state, in the US); Establish a separate office dedicated to enforcing new rating agency regulations	Dodd-Frank establishes the Office of Credit Ratings (OCR) within the SEC, which will administer the rules of the Commission relating to CRAs, and is required to conduct annual examinations of each CRA.	DF § 932(a)(8).	New office within SEC but no constraint on states	Yes
63.	5/09 (40)	Avoid government interference in the rating determination process	Dodd-Frank does not explicitly authorize government participation in the rating determination process, however, the wide authority of the OCR to promulgate rules regarding rating methodologies will likely expand the role of government in the rating process.	DF § 932(a)(8).	Yes but try to avoid OCR interference in future	Yes
64.	5/09 (41) 6/10 (3C)	Review references to ratings in regulatory frameworks	Dodd-Frank requires all agencies to remove from their regulations "any reference to or requirement of reliance on credit ratings and to substitute in such regulations such standard of credit-worthiness as each respective agency shall determine as appropriate for such regulations."	DF § 939A(b).	Stronger than we recommended but in right direction	Yes
65.	5/09 (42)	Increase disclosure as to how ratings are determined	Dodd-Frank requires that the OCR promulgate rules for disclosures of CRA methodologies to users of credit ratings.	DF § 932(a)(8).	Yes	Yes
66.	4/10 (2D)	Establish SOX-type governance controls for rating agencies	Dodd-Frank imposes new governance requirements on CRAs (that at least half of CRA boards must be independent) and creates the Office of Credit Ratings (analogous to the Public Company Accounting Oversight Board created by Sarbanes-Oxley) to enforce new governance standards for CRAs, among other duties.	DF § 932(a)(8).	Yes	Yes
67.	4/10 (2D) 6/10 (3A)	Do not mandate private rights of action against CRAs (or if so, do not change standards from those for other financial "gatekeepers")	Dodd-Frank lowers the pleading standard in private actions against CRAs, but does not lower the standard of liability (compared to other potential defendants under the PLSRA).	DF § 933(a)-(b).	Partially followed	No

<b>Rec.</b>	<b>Source</b>	<b>Recommendation</b>	<b>Actions Taken</b>	<b>Citation</b>	<b>Recommendation Followed?</b>	<b>Regulatory Action Required?</b>
<b>Enhancing Accounting Standards</b>						
68.	5/09 (43)	Study how fair value accounting (FVA) can be improved	IASB and FASB are currently conducting studies ahead of implementing new rules on fair value accounting.	IASB Staff, "Developing Common Fair Value Measurement and Disclosure Requirements in IFRS and US GAAP," Jul. 2010, available at <a href="http://www.ifrs.org/NR/rdonlyres/5179C9D9-F7D8-4742-939C-2B6677F75FF7/0/FVMpr ojectsummaryJuly2010.pdf">http://www.ifrs.org/NR/rdonlyres/5179C9D9-F7D8-4742-939C-2B6677F75FF7/0/FVMpr ojectsummaryJuly2010.pdf</a> .	Progress being made	Yes
69.	5/09 (44)	Supplement FVA with dual presentation of market and credit values	FASB has recently proposed dual presentation of financial instruments	FASB, "Proposed Accounting Standards Update: Financial Instruments," May 2010, available at <a href="http://www.fasb.org/cs/ContentServer?c=Document_C&amp;pagename=FASB%2FDocument_C%2FDocumentPage&amp;cid=1176156902130">http://www.fasb.org/cs/ContentServer?c=Document_C&amp;pagename=FASB%2FDocument_C%2FDocumentPage&amp;cid=1176156902130</a> .	Yes	Yes
70.	5/09 (45)	Allow the Fed to use a non-GAAP methodology	Dodd-Frank does not address, although bank regulators in some instances (e.g. treatment of mark-to-market valuation fluctuations in bank capital measurements) allow the use of non-GAAP methodology.		Dodd-Frank does not address, but status quo may be consistent with our proposal	No
71.	5/09 (46)	Implement FIN 46R	FASB has adopted FIN 46R and recently clarified the importance of control for consolidation of variable interest entities.	FASB, "Summary of Statement 167 - Amendments to FASB Interpretation No. 46(R)," available at <a href="http://www.fasb.org/cs/ContentServer?c=Pronouncement_C&amp;pagename=FASB%2FPronouncement_C%2FSummaryPage&amp;cid=1176156241421">http://www.fasb.org/cs/ContentServer?c=Pronouncement_C&amp;pagename=FASB%2FPronouncement_C%2FSummaryPage&amp;cid=1176156241421</a> .	Yes	No
<b>Regulation of Bank Activities</b>						
72.	5/09 (47)	Refrain from reimposing Glass-Steagall	Dodd-Frank does not reimpose Glass-Steagall.		Yes	No

<b>Rec.</b>	<b>Source</b>	<b>Recommendation</b>	<b>Actions Taken</b>	<b>Citation</b>	<b>Recommendation Followed?</b>	<b>Regulatory Action Required?</b>
73.	4/10 (9A) 6/10 (1A)	Do not pass the Volcker Rule on proprietary trading	Dodd-Frank does include the Volcker Rule, banning banking entities from proprietary trading and ownership of hedge funds and private equity funds. It also imposes additional capital requirements and other quantitative limits on Fed-supervised non-bank financial companies (NBFCs) that engage in these activities. Dodd-Frank makes exceptions for 1) trading in the obligations of the US, US agencies, or US government sponsored enterprises, 2) underwriting and market-making activities, 3) risk-mitigating hedging activities, 4) activities conducted on behalf of customers, 5) investments in small business investment companies, investments designed to promote the public welfare, and investments that are qualified rehabilitation expenditures, 6) trading by a regulated insurance company "directly engaged in the business of insurance for the general account of the company," 7) organizing and offering a private equity or hedge fund as long as the entity reduces its interest in the fund to 3 percent of the total ownership value within a year of the establishment of the fund and its total investment in such funds does not exceed 3 percent of its Tier I capital, 8) proprietary trading or purchasing of an interest in a hedge fund or private equity fund that occurs outside the United States by banking entities not organized under United States law, and 9) any other activities that the appropriate regulatory agencies determine would "promote the safety and soundness of the...entity and the financial stability of the United States."	DF § 619.	No but watered down from initial proposal. Should argue for narrow definition of prop trading in rule making	Yes
74.	4/10 (9B)	Do not impose size limits on financial institutions.	Under Dodd-Frank, a financial company may not acquire or merge with another financial company if this would cause the resulting entity to have over 10% of the aggregate liabilities of all US financial companies, with an exception for acquisitions of failing financial companies. Implementation of this directive is subject to Fed rulemaking.	DF § 622.	No	Yes
75.	5/09 (48)	Avoid regulatory direction of financial institutions' lending policies	Thus far, legislation and regulation have not explicitly attempted to direct financial institutions' lending policies.		Yes	No
<b>Reorganizing the U.S. Regulatory Structure</b>						
76.	4/10 (8B)	Create a Financial Stability Oversight Council (FSOC) to oversee systemic risk	Dodd-Frank establishes an FSOC for this purpose.	DF § 111–112.	Yes	Yes

<b>Rec.</b>	<b>Source</b>	<b>Recommendation</b>	<b>Actions Taken</b>	<b>Citation</b>	<b>Recommendation Followed?</b>	<b>Regulatory Action Required?</b>
77.	4/10 (8B) 6/10 (1C)	Use asset thresholds and not subjective judgments to determine systemically important institutions	Dodd-Frank employs both. The Fed receives special regulatory authority over bank holding companies with assets of \$50 billion or greater and other systemically important non-bank institutions (as designated by rule).	DF § 115(a)(2).	Partial success, FSOC could still use asset thresholds for NBFCS	Yes
78.	5/09 (49)	Retain only two or three regulatory bodies	While Dodd-Frank eliminates the OTS (dividing its powers among the OCC, the FDIC, and the Fed), it also creates the Federal Insurance Office (FIO), the FSOC, and the Consumer Financial Protection Bureau (CFPB). Thus, the bill actually increases the number of regulators.	DF § 111(a) (FSOC); DF § 312(b) (OTS); DF § 502 (FIO); DF § 1011(a) (CFPB).	No	No
79.	5/09 (50)	Increase the role of the Fed	Dodd-Frank increases the role of the Fed. The bill gives the Fed supervisory authority over systemically important institutions and delegates to it some of the OTS's existing bank supervisory authority. The bill also gives the Fed broad (albeit not complete) authority over derivatives. For example, the Fed, FSOC, SEC, and CFTC are all involved in regulating systemically important clearinghouses.	DF § 115(a)(2); DF § 312(b); DF § 805(a)(2).	Yes	No
80.	5/09 (51) 4/10 (8A)	Establish the USFSA	None		No	No
81.	5/09 (52)	Enhance the role of the Treasury Department, including making Treasury the coordinator of the Fed and the USFSA	Dodd-Frank gives Treasury numerous new authorities, including, most importantly, making the Treasury Secretary the chair of the FSOC. Dodd-Frank also establishes the new Office of Financial Research, which provides research and analytic support to the FSOC, within the Treasury Department.	DF § 111(a)(1)(A); § 152-53.	Moves in right direction	No
82.	5/09 (53)	Study possibilities for supervision of financial institutions among options of 1) shared Fed and USFSA supervision, 2) sole Fed supervision, 3) sole USFSA supervision	None		No	No
<b>Consumer Financial Protection</b>						
83.	5/09 (54) 4/10 (6)	Protect consumers and investors (possibly through a new agency)	Dodd-Frank creates the Consumer Financial Protection Bureau (CFPB).	DF Title X.	Yes. But only consumer not investor agency	Yes
84.	4/10 (6A) 4/10 (6C) 6/10 (4)	Do not establish the new consumer agency within the Fed or fund it from the Fed's budget	Dodd-Frank establishes the CFPB within the Federal Reserve, funding it from the Fed's budget.	DF § 1011(a) (establishment within the Fed); DF § 1017(a)(1) (funding).	No	No

<b>Rec.</b>	<b>Source</b>	<b>Recommendation</b>	<b>Actions Taken</b>	<b>Citation</b>	<b>Recommendation Followed?</b>	<b>Regulatory Action Required?</b>
85.	4/10 (6B)	Provide strong overrides on the new consumer agency in matters of systemic risk	Dodd-Frank allows the Financial Stability Oversight Council to override the CFPB with a two-thirds vote.	DF § 1023(c)(3)(A).	No, override difficult	No
86.	4/10 (6D)	Give the new consumer agency jurisdiction over both borrower <u>and</u> lender fraud	Dodd-Frank defines the CFPB's purpose as regulating the "offering and provision of consumer financial products or services under the Federal consumer financial laws;" the CFPB is designed to be a consumer protection agency.	DF § 1011(a).	No	No
<b>Facilitating International Regulatory Cooperation</b>						
87.	5/09 (55)	Support global regulatory reforms	The G-20 declared a strong global regulatory framework to be the first of the four pillars of its reform agenda.	G-20, Toronto Summit Declaration at 4, Jun. 26-27, 2010, available at <a href="http://www.g20.org/Documents/g20_declaration_en.pdf">http://www.g20.org/Documents/g20_declaration_en.pdf</a> .	Making progress	Yes
88.	5/09 (56)	Enable the IMF to play an early warning role	The IMF will work with the FSB to conduct "early warning exercises" to protect the global financial system from systemic risks.	IMF, "IMF-FSB Early Warning Exercise," Mar. 2010, available at <a href="http://www.imf.org/external/np/exr/facts/ewe.htm">http://www.imf.org/external/np/exr/facts/ewe.htm</a> .	Yes	No
89.	5/09 (57)	Strengthen regulatory dialogues	Since November 2008, the G-20 has held summits twice a year.		Yes	No