Financial Regulatory Improvement Act Included in Senate Appropriations Bill

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This *Insight* highlights some of the major policy proposals included in S. 1484, as reported by the Senate Banking Committee on June 2, 2015. The text of the bill was among the financial regulatory changes included in the FY2016 Financial Services and General Government Appropriations Act (S. 1910), reported by the Senate Appropriations Committee on July 30, 2015. S. 1484 encompasses a broad package of reforms to the financial regulatory system, including some changes to the Dodd-Frank Act (P.L. 111-203).

Regulatory Relief

Some provisions of S. 1484 are intended to provide regulatory relief for financial institutions and, supporters argue, expand consumers' access to credit. Regulatory relief may face tradeoffs between reducing regulatory burden and potentially reducing the benefits of regulation (e.g., safety and soundness, consumer and investor protection, and financial stability). Some of the reforms are aimed at assisting community banks, whereas others would apply to all institutions that perform certain regulated activities, regardless of size and whether they are banks or nonbanks. S. 1484 would increase certain exemptions and make modifications to certain definitions in Consumer Financial Protection Bureau (CFPB) mortgage rules to make it easier for institutions to comply. It would also expand exemptions from certain rules issued by the federal banking regulators, such as banks with under $10 billion in assets from the Volcker Rule. Some provisions would provide banks relief from specific regulations, whereas others would provide relief from supervisory processes, such as exams and call reports.

Financial Stability Oversight Council

The Dodd-Frank Act created the Financial Stability Oversight Council (FSOC), a council composed primarily of heads of financial regulators and chaired by the Treasury Secretary. For agencies headed by a commission or board, only the agency chair has membership on FSOC. S. 1484 would permit other agency commissioners to attend FSOC meetings and access FSOC information. This proposal is part of the broader debate about balancing the relative authority of agency chairs compared with other commission members, who may have different political affiliations.

Enhanced Regulation of Large Financial Firms

To address the "too big to fail" issue, the Dodd-Frank Act created an enhanced prudential regulatory regime administered by the Federal Reserve (Fed) for all bank holding companies (BHCs) with more than $50 billion in assets, which comprise fewer than 1% of all BHCs. "Regional banks" have argued that they are not a source of systemic risk and should not automatically be subject to enhanced regulation. S. 1484 would increase the $50 billion threshold to $500 billion and allow FSOC (by two-thirds vote, including the chair) to designate banks with between $50 billion and $500 billion in assets that have been referred by the Fed as systemically important and subject them to enhanced regulation. The designation process is modeled on the existing nonbank designation process.

FSOC can designate nonbanks as systemically important financial institutions (SIFIs) subject to prudential regulation by the Fed. To date, four institutions have been so designated. Some fear that SIFI designation will prove to be irrevocable, even if systemic importance declines. S. 1484 would require FSOC to provide more information to institutions and give them more opportunities to take actions to avoid or reverse SIFI designation. It would increase public disclosure requirements surrounding the designation process. A consideration for creating a designation process for banks is that it has proven time consuming for nonbanks in practice, and additional requirements could lengthen it further.

Insurance

Insurance is largely regulated by the states, and the policy debate is often focused on the balance between state and federal roles. S. 1484 would generally reinforce the primary role of the states. Paralleling current law for BHCs, it would require the specific consent of individual state insurance regulators before insurance company assets could be moved as part of Fed oversight of thrift holding companies. In addition, it would limit the FDIC's authority to access insurance company assets through liens as part of the orderly liquidation of a financial institution under the Dodd-Frank Act. It would also require additional reporting and consultative measures on the part of the Treasury and Federal Reserve regarding ongoing international negotiations to create insurance regulatory standards.

Federal Reserve

S. 1484 focuses on increasing the oversight and transparency of the Fed. For example, it would increase the frequency and specificity of information that the Fed provides Congress on monetary policy decisions, reduce the lagged release of Federal Open Market Committee (FOMC) transcripts from five years to three, and require a vote by the board on bank enforcement actions exceeding $1 million. Congress has attempted to balance greater Fed oversight and accountability with a desire to maintain the Fed's independence.

S. 1484 also modifies the Fed's governance structure. For example, it would allow Fed governors other than the chair to hire personal staff, make the president of the New York Fed subject to presidential appointment and Senate confirmation, shift authority on setting the interest rate on reserves from the board to the FOMC, and create an independent commission to recommend structural changes to the Federal Reserve System.

Securities

The securities policy debate is often focused on the balance between investor protection and regulatory burden. S. 1484 would make it easier for certain thrift holding companies and emerging growth companies to raise capital by reducing registration requirements. It would also reduce the disclosure requirements for compensatory benefit plans. S. 1484 would repeal a Dodd-Frank requirement that foreign regulators indemnify a U.S.-based swap data repository for any litigation expenses related to a data request.

Fannie Mae and Freddie Mac

S. 1484 includes several provisions related to Fannie Mae and Freddie Mac, two government-sponsored enterprises (GSEs) that play a significant role in the housing finance system. Housing finance reform is one of the unresolved issues since the financial crisis, and S. 1484 would address issues related to the operation of the GSEs while they remain in government conservatorship. For example, S. 1484 would require the GSEs to share more risk each year with the private sector, and it would prohibit the government from selling its ownership stake in the GSEs to private investors. It would prohibit some of the fees that the companies charge from being used as offsets for legislation unrelated to housing finance reform.