

Rollback of Crisis-Era Rules Provides Regulatory Relief for Banks

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Financial institutions - including many community and regional banking organizations - have criticized certain aspects of the Dodd-Frank Act for being too onerous and applying a one-size-fits-all approach to banking regulation. In fact, portions of Dodd-Frank were criticized for seeking to fix aspects of the banking business that were not, in fact, broken.

In May, the federal government provided some relief from some of Dodd-Frank's provisions.

First, the much-discussed "Dodd-Frank Rollback"-the legislative effort by the U.S. Congress to loosen the bank regulatory standards enacted in response to the 2008 financial crisis-has begun. On May 24, the president signed the [Economic Growth, Regulatory Relief, and Consumer Protection Act](#) (referred to in the industry as the "Relief Act"), which represents the first significant legislative rollback of the "reforms" enacted under the Dodd-Frank Act in 2010.

Additionally, five federal regulatory agencies-the Federal Reserve, the Federal Deposit Insurance Corp., the Securities and Exchange Commission, the Office of the Comptroller of the Currency, and U.S. Commodity Futures Trading Commission-recently proposed a "simplified" [Volcker Rule](#), aimed at streamlining existing regulatory requirements relating to proprietary securities trading by banks.

The changes in the Relief Act and the simplified Volcker Rule proposal represent modest rollbacks of some of the more onerous requirements of the Dodd-Frank Act. These rollbacks apply to all types of banking organizations, but provide the most relief for small and mid-sized banks.

The Relief Act

While the Relief Act is far from a complete regulatory overhaul, the Relief Act includes several key provisions designed to provide regulatory relief for community and regional banking organizations.

Key changes in the Relief Act intended to benefit for community and regional banks include:

- **Loosened qualified mortgage standards:** Certain mortgages originated and retained by banks with under \$10 billion in assets will be deemed qualified mortgages.
- **Simplified capital standards:** Banks with under \$10 billion in assets that maintain a "community bank leverage ratio" will effectively be exempt from parts of the [Basel III capital standards](#).
- **Volcker Rule relief:** The Volcker Rule will no longer apply to banking entities with less than \$10 billion in total consolidated assets and trading assets and with trading liabilities of 5 percent or less of total assets. This change will result in reduced compliance costs for smaller entities, which previously had to invest

resources in documenting that their activities did not violate the rule.

- **Reduced exam schedule:** Institutions with less than \$3 billion in assets may be eligible for an 18-month examination cycle.
- **Reduced threshold for enhanced prudential standards:** The Relief Act raises the threshold for the applicability of enhanced prudential standards from \$50 billion in total consolidated assets to \$250 billion. This significantly reduces the number of banks covered under the rule.
- **Brokered deposit reform for reciprocal deposits** - In a departure from previous FDIC policy, banks with a CAMELS rating of 1 or 2 will be eligible to hold the lesser of \$5 billion or 20 percent of their total deposits in reciprocal deposits without having to treat them as brokered. This change will result in lower deposit insurance premiums for such banks.

In addition to these provisions, the Relief Act includes numerous other banking, mortgage and consumer protection provisions, including one that will allow consumers to "freeze" their credit files at the three major credit reporting bureaus without charge.

The act also includes several notable securities provisions:

- **Expanded A+ offering exemption:** Existing public reporting companies can now use Regulation A+, an offering exemption that allows issuers to raise up to \$50 million in one year under a more streamlined process than a fully registered public offering.
- **Expansion of exemption from state securities laws:** State securities registration and qualification laws will no longer apply to securities listed or authorized for listing on any national securities exchange.
- **Rule 701 threshold:** Companies may now sell up to \$10 million (increased from \$5 million) in connection with compensatory benefit plans in a 12-month period without having to provide certain additional disclosures, such as company financial statements.

The Relief Act also includes a number of other securities provisions aimed at providing regulatory relief for both operating companies and investment companies.

Proposed Changes to Volcker Rule

On May 30, five federal agencies issued a proposed rule to "simplify and tailor compliance requirements" related to the Volcker Rule. The proposed changes are separate from the Volcker Rule reforms in the Relief Act.

The proposed rule would, among other things:

- Tailor compliance requirements based on the size of a firm's trading assets and liabilities, with the most stringent requirements applied to firms with the most trading activity;
- Provide more clarity by revising the definition of "trading account" in the rule, in part by relying on commonly used accounting definitions;
- Clarify that firms that trade within appropriately developed internal risk limits are engaged in permissible market making or underwriting activity;
- Streamline the criteria that apply when a banking entity seeks to rely on the hedging exemption from the proprietary

trading prohibition; and

- Simplify the trading activity information that banking entities are required to provide to the agencies.

The changes made under the Relief Act and proposed with respect to the Volcker Rule come within weeks of other major regulatory changes on the U.S. and international fronts, with the [FinCEN beneficial ownership rule](#) taking effect on May 11 and the E.U.'s [GDPR implementation date](#) of May 25.

Barley Snyder regularly advises banking organizations on all aspects of regulation and compliance under federal and state law. If you have questions, please contact [Amanda Jabour Kowalski](#), [Paul Mattaini](#) or [Kim Decker](#).

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