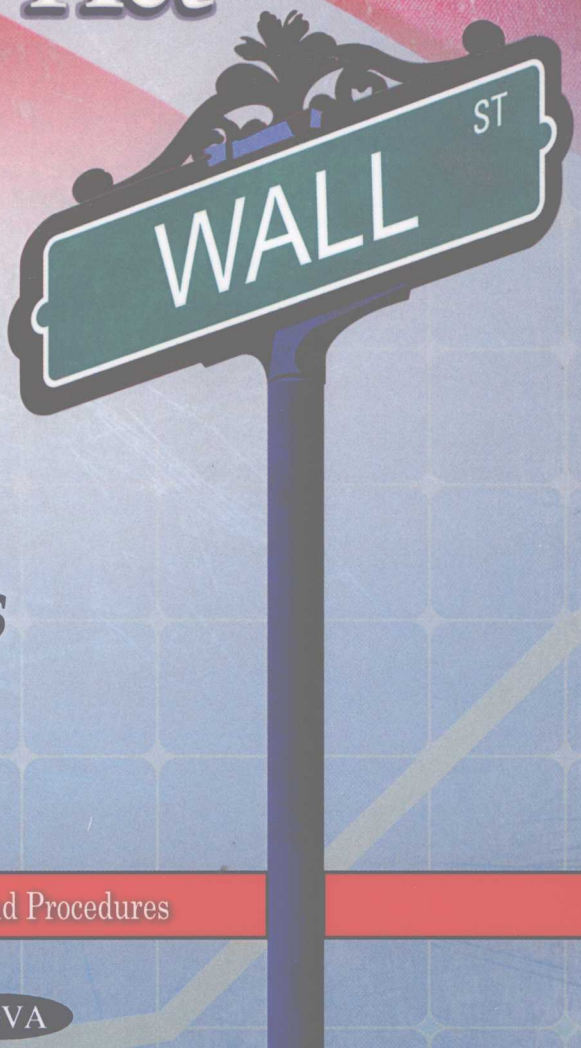
The Dodd-Frank Wall Street Reform and Consumer Protection Act



Nathan L. Morris
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Editors

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CONGRESSIONAL POLICIES, PRACTICES AND PROCEDURES

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT

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PREFACE

Beginning in 2007, U.S. financial conditions deteriorated, leading to the near collapse of the U.S. financial system in September 2008. Major banks, insurers, government-sponsored enterprises and investment banks either failed or required hundreds of billions in federal support to continue functioning. Congress responded to the crisis by enacting the most comprehensive financial reform legislation since the 1930s. The Dodd-Frank Act creates a new regulatory umbrella group with authority to designate certain financial firms as "systemically significant" and subjecting them to increased prudential regulation, including limits on leverage, heightened capital standards and restrictions on certain forms of risky trading. This new book reviews issues related to financial regulation and provides brief descriptions of major provisions of the Dodd-Frank Act.

Chapter 1- Beginning in 2007, U.S. financial conditions deteriorated, leading to the near collapse of the U.S. financial system in September 2008. Major banks, insurers, government-sponsored enterprises, and investment banks either failed or required hundreds of billions in federal support to continue functioning. Households were hit hard by drops in the prices of real estate and financial assets, and by a sharp rise in unemployment. Congress responded to the crisis by enacting the most comprehensive financial reform legislation since the 1930s.

Chapter 2- Years without accountability for Wall Street and big banks brought us the worst financial crisis since the Great Depression, the loss of 8 million jobs, failed businesses, a drop in housing prices, and wiped out personal savings.

The failures that led to this crisis require bold action. We must restore responsibility and accountability in our financial system to give Americans confidence that there is a system in place that works for and protects them. We must create a sound foundation to grow the economy and create jobs.

Chapter 3- The recent financial crisis contained a number of systemic risk episodes, or episodes that caused instability for large parts of the financial system. The lesson some policymakers have taken from this crisis is that a systemic risk or "macroprudential" regulator is needed to prevent similar episodes in the future. But what types of risk would this new regulator be tasked with preventing, and is it the case that those activities are currently unsupervised?

Chapter 4- The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, P.L. 111-203, has as its main purpose financial regulatory reform. Titles III and VI effectuate changes in the regulatory structure governing depository institutions and their holding companies and, thus, constitute a substantial component of the reform effort. Under Title III,

there will no longer be a single regulator of federal and state-chartered savings associations, also known as thrifts or savings and loan associations. Title III abolishes the Office of the Thrift Supervision (OTS) and contains extensive provisions respecting the rights of affected employees as well as other administrative matters. It allocates the OTS functions among three existing regulators: the Comptroller of the Currency (OCC) will regulate federally chartered thrifts; the Federal Deposit Insurance Corporation (FDIC), state-chartered thrifts; and the Board of Governors of the Federal Reserve System (FRB), savings and loan holding companies. Title III also makes certain changes to deposit insurance: it makes permanent the increase of deposit insurance coverage to $250,000, and makes that increase retroactive to January 1, 2008. It extends full insurance coverage of non-interest bearing checking accounts for two additional years and authorizes a similar program for credit unions. Included in Title III is also a requirement that the Department of the Treasury and each federal financial regulatory agency establish an office of Minority and Women Inclusion.

Chapter 5- Hedge funds have received a great deal of media coverage in the past several years because large sums of money have been gained or lost in a relatively short time by some hedge funds. Most hedge funds are not required to register with the Securities and Exchange Commission (SEC) under the Investment Company Act of 1940 or the Investment Advisers Act of 1940. In 2004, the SEC implemented a rule that would have required all hedge fund advisers to register with the SEC under the Investment Advisers Act. Hedge funds challenged the rule in federal court, arguing that the SEC had misinterpreted provisions of the Investment Advisers Act. The U.S. Court of Appeals for the D.C. Circuit agreed with the hedge funds and struck down the SEC's rule. Following that decision, it appeared that congressional action would be necessary to require all hedge funds to register.

Chapter 6- Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203, July 21, 2010) consolidates many federal consumer protection responsibilities into a new Bureau of Consumer Financial Protection (often referred to as the Consumer Financial Protection Bureau, or CFPB) within the Federal Reserve System. The act transfers supervisory and enforcement authority over a number of consumer financial products and services to the Bureau on a still-tobe-determined transfer date during calendar year 2011. Title X and Title XIV of the act contain numerous provisions that require or permit the CFPB to issue regulations implementing the statute's provisions. This report describes those provisions, notes that certain regulatory oversight tools will not be available for CFPB rules, and discusses the authority of a council of bank regulators to "set aside" the Bureau's rules.

Chapter 7- The financial crisis implicated the unregulated over-the-counter (OTC) derivatives market as a major source of systemic risk. A number of firms used derivatives to construct highly leveraged speculative positions, which generated enormous losses that threatened to bankrupt not only the firms themselves but also their creditors and trading partners. Hundreds of billions of dollars in government credit were needed to prevent such losses from cascading throughout the system. AIG was the best-known example, but by no means the only one.

Chapter 8- The U.S. financial system processes millions of transactions each day representing daily transfers of trillions of dollars, securities, and other assets to facilitate purchases and payments. Concerns had been raised, even prior to the recent financial crisis, about the vulnerability of the U.S. financial system to infrastructure failure. These concerns about the "plumbing" of the financial system were heightened following the market disruptions of the recent crisis.

Chapter 9- Title IX of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) contains 10 subtitles and 113 separate sections amending federal securities laws intended to improve investor protection. The range of Title IX's provisions is very broad: some sections will bring significant changes to the securities business, while others are little more than technical clarifications of the Securities and Exchange Commission's (SEC's) authority. This report provides brief summaries of those provisions that create new SEC authority, that were controversial during the legislative process, or that appear likely to have far-reaching consequences.

Chapter 10- As part of their financial regulatory reform legislation, both the House and the Senate passed bills with provisions applying to executive compensation. The House- and Senate-passed executive compensation provisions differed, in some cases significantly.

The House and Senate conferees on Wall Street reform passed an executive compensation subtitle. On June 30, 2010, the House agreed to the conference report for H.R. 4173, now referred to as the Dodd-Frank Wall Street Reform and Consumer Protection Act. The Senate agreed to the conference report on July 15, 2010. The President signed the bill into law as P.L. 111-203 on July 21, 2010.

Among the provisions of the bill are say-on-pay requirements, the establishing of independent compensation committees, the clawback of unwarranted excessive compensation, and requirements on the executive compensation at financial institutions.

On October 18, 2010, the Securities and Exchange Commission (SEC or Commission) proposed rules to implement Dodd-Frank's executive compensation provisions.

Chapter 11- In the wake of what many believe is the worst U.S. financial crisis since the Great Depression, the Obama Administration proposed sweeping reforms of the financial services regulatory system— including the creation of an executive agency with authority over consumer financial issues, the broad outline of which has been encompassed in a document called the Administration's White Paper (the White Paper). The House of Representatives began consideration of bills seeking similar reform, which in large part were shepherded by Representative Barney Frank, Chairman of the Committee on Financial Services. On December 11, 2009, the House approved H.R. 4173, the Wall Street Reform and Consumer Protection Act of 2009. On May 20, 2010, the Senate approved its own financial reform measure, H.R. 4173, the Restoring American Financial Stability Act of 2010. (For an analysis of the consumer protection provisions of these proposals and how they varied, see CRS Report R40696, *Financial Regulatory Reform: Consumer Financial Protection Proposals*, by David H. Carpenter and Mark Jickling; for an overview of the overall financial reform proposals, see CRS Report R40975, *Financial Regulatory Reform and the 111th Congress*, coordinated by Baird Webel.)

Chapter 12- Brokers and dealers and investment advisers have been held to different standards of conduct in their dealings with investors. In very general terms, a broker-dealer is held to a suitability standard, and an investment adviser is held to a fiduciary duty standard. With passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203), which tasks the Securities and Exchange Commission (SEC) with issuing rules concerning the standards of conduct for brokers, dealers, and investment advisers, the current standards may be changed.

Chapter 13- The Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203, July 21, 2010) contains more than 300 provisions that expressly indicate in the text that rulemaking is required or permitted. However, it is unclear how many rules will

ultimately be issued pursuant to the act because, among other things, (1) most of the provisions appear to be discretionary (e.g., stating that an agency "may" issue a rule); (2) individual provisions may result in multiple rules; (3) some provisions appear to provide rulemaking authorities to agencies that they already possess; and (4) rules may be issued to implement provisions that do not specifically require or permit rulemaking.

Chapter 14- A severe credit crunch in the United States in 2007 marked the beginning of a global financial crisis, which was symbolized by a series of surprising bank acquisitions and failures.[1] In spite of repeated efforts by the United States Federal Reserve Board and Federal Open Markets Committee to boost liquidity by lowering the primary credit rate and the Federal funds rate target, the American economy slid into a deep recession beginning in December 2007 (National Bureau of Economic Research, 2008). In 2008, Bear Stearns and Merrill Lynch, two investment banks in business for a century, collapsed and were bought out. In September of that year, the financial services firm Lehman Brothers, founded in 1850, filed for Chapter 11 bankruptcy protection. Because the Federal National Mortgage Corporation (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) were deeply involved in the home mortgage derivatives market, which lay at the heart of the financial crisis, the Federal Government took conservatorship of both, and it acquired an ownership stake in American International Group (AIG) to provide confidence to the financial system. In the agricultural sector, the credit squeeze, in combination with a concurrent price boom in commodities markets, may have contributed to difficulties for some established cotton merchants to finance *margin calls*,[2] forcing them into bankruptcy or mergers.

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Chapter 1

THE DODD-FRANK WALL STREET REFORM AND CONSUMER PROTECTION ACT: ISSUES AND SUMMARY*

Baird Webel

SUMMARY

Beginning in 2007, U.S. financial conditions deteriorated, leading to the near collapse of the U.S. financial system in September 2008. Major banks, insurers, government-sponsored enterprises, and investment banks either failed or required hundreds of billions in federal support to continue functioning. Households were hit hard by drops in the prices of real estate and financial assets, and by a sharp rise in unemployment. Congress responded to the crisis by enacting the most comprehensive financial reform legislation since the 1930s.

Treasury Secretary Timothy Geithner issued a reform plan in the summer of 2009, which served as a template for legislation in both the House and Senate. House committees reported a number of bills on an issue-by-issue basis, which were then consolidated into a comprehensive bill, the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173). H.R. 4173, as passed by the House on December 11, 2009, contained elements of H.R. 1728, H.R. 2571, H.R. 2609, H.R. 3126, H.R. 3269, H.R. 3817, H.R. 3818, H.R. 3890, and H.R. 3996. On May 20, 2010, the Senate passed H.R. 4173, after substituting the text of Senator Christopher Dodd's bill, the Restoring American Financial Stability Act of 2010 (S. 3217), as amended. Following a conference committee, the House accepted changes to H.R. 4173, now titled the Dodd-Frank Wall Street Reform and Consumer Protection Act, on June 30, 2010, and the Senate followed suit on July 15, 2010. President Obama signed the bill, now P.L. 111-203, on July 21, 2010.

Perhaps the major issue in financial reform has been how to address the systemic fragility that was revealed by the crisis. The Dodd-Frank Act creates a new regulatory umbrella group chaired by the Treasury Secretary—the Financial Stability Oversight Council—with authority to designate certain financial firms as "systemically significant"

* This is an edited, reformatted and augmented version of a Congressional Research Services publication, dated July 29, 2010.

and subjecting them to increased prudential regulation, including limits on leverage, heightened capital standards, and restrictions on certain forms of risky trading. These firms will also be subject to a special resolution process similar to that used in the past to address failing depository institutions.

Other aspects of financial reform address particular sectors of the financial system or selected classes of market participants. The Dodd-Frank Act consolidates consumer protection responsibilities in a new Bureau of Consumer Financial Protection within the Federal Reserve. The act consolidates bank regulation by merging the Office of Thrift Supervision (OTS) into the Office of the Comptroller of the Currency (OCC). It requires more derivatives to be cleared and traded through regulated exchanges, and it mandates reporting for derivatives that remain in the over-the-counter market. Hedge funds have new reporting and registration requirements. Credit rating agencies are subject to greater disclosure and legal liability provisions, and references to credit ratings will be removed from statute and regulation. A federal office is created to collect insurance information. Executive compensation and securitization reforms attempt to reduce incentives to take excessive risks. Intermediaries who provide investment advice to retail investors and municipalities may be subject to a fiduciary duty. The Federal Reserve's emergency authority is amended and its activities are subject to greater public disclosure and oversight by the Government Accountability Office (GAO).

This report reviews issues related to financial regulation and provides brief descriptions of major provisions of the Dodd-Frank Act.

INTRODUCTION

Comprehensive Financial Reform Proposals

The 111th Congress considered several proposals to reorganize financial regulators and to reform the regulation of financial markets and financial institutions. Following House committee markups on various bills addressing specific issues, House Committee on Financial Services Chairman Barney Frank introduced the Wall Street Reform and Consumer Protection Act of 2009 (H.R. 4173), incorporating elements of numerous previous bills.[1] After two days of floor consideration, the House passed H.R. 4173 on December 11, 2009, on a vote of 232-202.

Chairman Christopher Dodd of the Senate Committee on Banking, Housing, and Urban Affairs issued a single comprehensive committee print on November 16, 2009, the Restoring American Financial Stability Act of 2009.[2] This proposal was revised over the following months and a committee print of the Restoring American Financial Stability Act of 2010[3] was issued on March 15, 2010. This bill was amended in committee on March 22, 2010, and was reported as S. 3217 on April 15, 2010. The full Senate took up S. 3217 and amended it several times, finishing consideration on May 20, 2010, when it substituted the text of S. 3217 into H.R. 4173. The Senate then passed its version of H.R. 4173 on a vote of 59-39.

Following a conference committee, the House on June 30, 2010, agreed to the H.R. 4173conference report—now titled the Dodd-Frank Wall Street Reform and Consumer Protection Act—by a vote of 237-192. The Senate agreed to the report on July 15, 2010, by a vote of 60-39. The legislation was signed into law on July 21, 2010, as P.L. 111-203.

In addition to Chairman Dodd's and Chairman Frank's bills, other proposals were made but not scheduled for markup. For example, House Financial Services Committee Ranking

Member Spencer Bachus introduced a comprehensive reform proposal, the Consumer Protection and Regulatory Enhancement Act (H.R. 3310), and offered a similar amendment (H.Amdt. 539) during House consideration of H.R. 4173.[4] In March 2008, Treasury Secretary Hank Paulson issued a "Blueprint for a Modernized Financial Regulatory Structure."[5] The Obama Administration released "Financial Regulatory Reform: A New Foundation" in June 2009, and followed this with specific legislative language that provided a base text for congressional consideration.[6]

This report discusses related major provisions of the enacted version of the Dodd-Frank Act.

Understanding the fabric of financial reform proposals requires some analysis both of the Panic of 2008, as well as of more enduring concerns about risks in the financial system. This report begins with that analysis.

The Panic of September 2008[7]

The financial disruptions that peaked in September 2008 focused policy attention on systemic risk, which had previously been a subject of interest to academics and central bankers, but was not seen as a significant threat to economic stability. The last major systemic risk episode was bank runs in the Great Depression; the main elements of the current bank regulatory regime and federal safety net were put in place to prevent its recurrence. Between the end of the Great Depression and the early 2000s, the financial system weathered numerous shocks, failures, and crashes, with limited spillover into the real economy. Typically, the Federal Reserve (Fed) would announce that it stood ready to provide liquidity to the system, and that proved sufficient to stem panic. The idea that a financial shock could cause the entire system to spin out of control and collapse, and that the flow of credit might stop altogether, seemed to many to be a remote prospect. De facto policy was to rely on the Fed to deal with crises after the fact.

The events of 2007 and 2008 caused a sharp reassessment of the robustness and the self-stabilizing capacity of the financial system. As Treasury Secretary Timothy Geithner noted in written testimony delivered to the House Financial Services Committee on September 23, 2009, "The job of the financial system ... is to efficiently allocate savings and risk. Last fall, our financial system failed to do its job, and came precariously close to failing altogether."[8]

A number of discrete failures in individual markets and institutions led to global financial panic. U.S. financial firms suffered heavy losses in 2007 and 2008, primarily because of declines in the value of mortgage-related assets. During September 2008, Fannie Mae and Freddie Mac were placed in government conservatorship. Merrill Lynch was sold in distress to Bank of America in a deal supported by the Fed and Treasury. The Fed and Treasury failed to find a buyer for Lehman Brothers, which subsequently filed for bankruptcy, disrupting financial markets. A money market mutual fund (the Reserve Primary Fund) that held Lehman-related paper announced losses, triggering a run on other money market funds, and Treasury responded with a guarantee for money market funds. The American International Group (AIG), an insurance conglomerate with a securities subsidiary that specialized in financial derivatives, including credit default swaps, was unable to post collateral related to its derivatives and securities lending activities. The Fed intervened with an $85 billion loan to prevent bankruptcy and to ensure full payment to AIG's counterparties. In response to the

general panic, Congress approved the $700 billion Troubled Asset Relief Program (TARP); the Fed introduced several lending facilities to provide liquidity to different parts of the financial system; and the Federal Deposit Insurance Corporation (FDIC) introduced a debt guarantee program for banks. The panic largely subsided through the latter part of 2008, although confidence in the financial system returned very slowly.

It was widely understood that the panic had its roots in the subprime mortgage market, in which years of double-digit housing price increases had fed a bubble mentality and caused lenders to relax their customary prudence. That the housing market would cool, as it began to do in 2006, was not a great surprise. What was generally unexpected was the way losses caused by rising foreclosures and bad loan rippled through the system. Major financial institutions had constructed highly leveraged speculative positions that magnified the subprime shock, so that a setback in a $1 trillion segment of the U.S. housing market generated many times that amount in financial losses.

Giant financial institutions were shown to be vulnerable to liquidity runs, and many failed or had to be rescued as short-term credit dried up. The value of complex financial instruments created through securitization became completely uncertain, and market participants lost confidence in each others' creditworthiness. Risks that were thought to be unrelated became highly correlated; a negative spiral that showed all financial risk taking to be interconnected and all declines to be self-reinforcing took hold. Doubts about counterparty exposure were magnified by opacity in derivatives markets.

Disruption to the financial system exacerbated recessionary forces already at work in the economy. Asset prices plunged and consumers suffered sharp losses in their retirement and college savings accounts, as well as in the value of their homes. The financial crisis accelerated declines in consumption and business investment, which in turn made banks' problems worse. Overall, the recession proved to be the deepest and longest since the Great Depression.

Against this background, Congress took up financial reform legislation in 2009. The legislation included measures to improve systemic stability, improve policy options for coping with failing financial firms, increase transparency throughout financial markets, and protect consumers and investors. By the time of final passage, the Dodd-Frank Act included provisions that affect virtually every financial market and to amend existing or grant new authority and responsibility to nearly every federal financial regulatory agency.

THE DODD-FRANK ACT (P.L. 111-203)

Systemic Risk

Policy Issues[9]

Systemic risk refers to sources of instability for the financial system as a whole, often through "contagion" or "spillover" effects that individual firms cannot protect themselves against.[10] Although regulators took systemic risk into account before the crisis, and systemic risk can never be eliminated, analysts have pointed to a number of ostensible weaknesses in the regulatory regime's approach to systemic risk. First, there has been no regulator with overarching responsibility for mitigating systemic risk. Some analysts argue that systemic

risk can fester in the gaps in the regulatory system where one regulator's jurisdiction ends and another's begins. Second, the crisis revealed that liquidity crises and runs were not just a problem for depository institutions. Third, the crisis revealed that nonbank, highly leveraged firms, such as Lehman Brothers and AIG, could be a source of systemic risk and "too big (or too interconnected) to fail." Finally, there were concerns that the breakdown of different payment, clearing, and settlement (PCS) systems, which are not regulated consistently (or, in some cases, at all), would be another source of systemic risk.

Provisions in the Dodd-Frank Act (Titles I and VIII)

The Dodd-Frank Act does not create a dedicated systemic risk regulator with powers to neutralize sources of systemic risk as they arise. Instead, it creates a Financial Services Oversight Council (FSOC), chaired by the Treasury Secretary and consisting of eight heads of federal regulatory agencies (including the newly created Consumer Financial Protection Bureau) and a presidential appointee with insurance experience. The act creates an Office of Financial Research to support the council. The council is authorized to identify and advise regulators on sources of systemic risk and "regulatory gap" problems, but would have no rulemaking, examination, or enforcement powers of its own. The council is to identify systemically important financial firms regardless of their legal charter, and the Fed will subject them to stricter prudential oversight and regulation, including short-term debt limits, a 10% liability concentration limit, counterparty exposure set at 25% of total capital, risk-based capital requirements (that account for off-balance sheet activities), annual stress tests, and a 15-to-1 leverage limit. The details of this stricter oversight will be determined by the Fed in yet-to-be issued implementing rules. Many large firms are already regulated by the Fed for safety and soundness because they are bank holding companies; the act prevents a firm from changing its charter in order to escape Fed regulation. In addition, the Dodd-Frank Act includes mechanisms by which the Fed would be empowered to curb the growth or reduce the size of large firms to prevent systemic risk.

The Dodd-Frank Act (Section 619) puts limits on commercial banks' proprietary trading activities and investments in hedge funds or private equity firms.[11] It also provides for many PCS systems and activities deemed systemically important by the council to be regulated by the Fed, unless those systems are registered with the Securities and Exchange Commission (SEC) or the Commodities Futures Trading Commission (CFTC), in which case the system would be regulated by those entities. Title XI would also allow the FDIC to set up emergency liquidity programs to guarantee the debt of bank holding companies, similar to the 2008 Temporary Liquidity Guarantee Program.

Federal Reserve Emergency Authority and Congressional Oversight

Policy Issues[12]

During the recent financial turmoil, the Fed engaged in unprecedented levels of emergency lending to nonbank financial firms through its authority under Section 13(3) of the Federal Reserve Act. This statute states that "in unusual and exigent circumstances, the Board of Governors of the Federal Reserve System, by the affirmative vote of not less than five members, may authorize any Federal reserve bank ... to discount for any individual, partnership, or corporation, notes, drafts, and bills of exchange...."[13]

Such loans can be made only if secured to the Fed's satisfaction and if the targeted borrower is unable to obtain the needed credit through other banking institutions. In addition to the level of lending, the form of the lending has been novel, particularly the creation of three limited liability corporations controlled by the Fed, to which the Fed lent a total of $72.6 billion to purchase illiquid assets from Bear Stearns and AIG. The Fed's recent actions under Section 13(3) generated debate in Congress about whether measures were needed to amend the institution's emergency lending powers.

Provisions in the Dodd-Frank Act (Title XI)

The Dodd-Frank Act includes several provisions related to Federal Reserve lending authority. In particular, this legislation stipulates that, although the Fed may authorize a Federal Reserve Bank to make collateralized loans as part of a broadly available credit facility, it may not authorize a Federal Reserve Bank to lend to only a single and specific individual, partnership, or corporation. When using emergency authority, the Fed will be required to seek approval from the Treasury Secretary. In addition, the Dodd-Frank Act allows the Government Accountability Office (GAO) to audit the Fed's lending facilities and open market operations for internal controls and risk management, and it calls for a GAO audit of the Fed's actions during the crisis. The act requires disclosure of Fed borrowers and borrowing terms, with a lag. The act also prohibits firms regulated by the Fed from participating in the selection of directors of the regional Federal Reserve Banks.

Resolution Regime for Failing Firms

Policy Issues[14]

Most companies that fail in the United States are resolved in accordance with the bankruptcy code. Depository institutions that hold FDIC-insured deposits are subject to a special resolution regime, called a conservatorship or receivership. Under normal circumstances, bankruptcies are judicial in nature with no additional public resources available to support the process. The FDIC's conservatorship/receivership regime is a largely nonjudicial, administrative process, requiring the FDIC to resolve depositories such that the total to be expended will cost the Deposit Insurance Fund less than any other possible method. Under limited circumstances, the FDIC may waive this "least-cost resolution" requirement in order to minimize systemic risk.[15] Some believe that the speed and discretion available in the FDIC's conservatorship/receivership regime is a useful model for resolving other types of systemically important financial firms. The collapse of Lehman Brothers (and the near collapse of AIG, Bear Stearns, and others) during the recent financial crisis has focused congressional attention on policy options for resolving systemically significant nondepository financial institutions.[16] Proponents argue that creating a special resolution regime for such firms would make future taxpayer bailouts unnecessary. Opponents argue that it would provide a way for policymakers to provide "backdoor bailouts" to favored creditors and counterparties of failing firms.