

The Financial CHOICE Act (H.R. 10) and the Dodd-Frank Act

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Related Author

- [Marc Labonte](#)
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Marc Labonte, Specialist in Macroeconomic Policy (mlabonte@crs.loc.gov, 7-0640)

Representative Jeb Hensarling, chairman of the House Committee on Financial Services, introduced the [Financial CHOICE Act](#) of 2017 ([H.R. 10](#)) on April 26, 2017. The House Committee on Financial Services has scheduled a markup of [H.R. 10](#) on May 2, 2017. The bill is a wide-ranging proposal with 12 titles that would alter many parts of the financial regulatory system. [H.R. 10](#) is similar to, but has several major differences from, [H.R. 5983](#) from the 114th Congress (called the Financial CHOICE Act of 2016).

The next section highlights major proposals included in the bill, as introduced. It is not a comprehensive summary.

Major Provisions

In general, the changes proposed by the FCA can be divided into two categories: (1) changes to financial policies and regulations and (2) changes to the regulatory structure and rulemaking process.

Major policy-related changes proposed by the FCA include the following:

- **Leverage Ratio**—allowing a banking organization to choose to be subject to a higher, 10% [leverage ratio](#) in exchange for being exempt from risk-weighted capital ratios, liquidity requirements, and other regulations.
- **Regulatory Relief**—providing [regulatory relief](#) throughout the financial system to banks, consumers, and capital market participants, including by repealing the [Volcker Rule](#), [Durbin Amendment](#), [fiduciary rule](#), and risk retention requirements for non-mortgage asset-backed securities.
- **Too Big To Fail**—repealing the designation of [systemically important financial institutions](#) and the ability to provide federal emergency assistance during a crisis, and replacing an option for winding down systemic institutions with a new chapter in the Bankruptcy Code that is tailored to financial firms.

[H.R. 10](#) also includes structural and procedural changes that affect the balance between regulator [independence from and accountability to Congress](#) and the judiciary, including

- **Funding**—subjecting regulators that currently set their own budgets to the traditional congressional

appropriations process.

- **Rulemaking**—requiring regulators to perform more detailed [cost-benefit analysis](#) when issuing new rules and to use cost-benefit analysis to review existing rules, as well as requiring congressional approval for a major rule to come into effect.
- **Judicial Review**—requiring courts to apply a heightened judicial review standard for agency actions taken by financial regulators rather than applying varying levels of deference to the agencies' interpretations of the law.
- **Enforcement**—increasing the maximum civil penalties that could be assessed for violations of certain banking and securities laws and restraining certain agency enforcement powers.
- **CFPB**—replacing the [Consumer Financial Protection Bureau](#) with the Consumer Law Enforcement Agency and modifying its powers, leadership, mandate, and funding.
- **Federal Reserve**—requiring a [GAO audit](#) of the Fed, restricting [emergency lending](#), and requiring the Fed to compare its monetary policy decisions to a [mathematical rule](#).

FCA Changes to the Dodd-Frank Act

Much of [H.R. 10](#) is in response to the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act; [P.L. 111-203](#)), a broad package of regulatory reform that initiated the largest change to the financial regulatory system since at least 1999. Many of the provisions of the FCA would modify or repeal provisions from the Dodd-Frank Act, although others would address long-standing or more recent issues.

[Table 1](#) provides a brief overview of selected changes that [H.R. 10](#) makes to the Dodd-Frank Act on a title-by-title basis for the 16 titles in the Dodd-Frank Act. For more information on the content of each Title of the Dodd-Frank Act, see CRS Report R41350, [The Dodd-Frank Wall Street Reform and Consumer Protection Act: Background and Summary](#), coordinated by Baird Webel.

Table 1. Selected Changes to the Dodd-Frank Act in the Financial CHOICE Act of 2017

Title Number	Subject of Title	Selected Changes
I	Financial Stability	Repeals Office of Financial Research, SIFI designations; modifies FSOC authority, funding, procedures, and structure; exempts from enhanced regulation if 10% leverage ratio
II	Orderly Liquidation Authority	Repeals entire title
III	Office of Thrift Supervision	No changes
IV	Advisers to Hedge Funds	Repeals changes to definition of accredited investor
V	Insurance	Creates new office combining FSOC insurance expert and Federal Insurance Office

VI	Regulation of Depository Institutions	Repeals Volcker Rule, non-bank concentration limits
VII	Derivatives	Requires SEC-CFTC harmonization of rules; modifies requirements on swaps between affiliates
VIII	Payment, Clearing, and Settlement Supervision	Repeals entire title
IX	Investor Protections	Repeals SEC reserve fund, certain provisions affecting credit agencies, various executive compensation requirements. Exempts securities from risk retention rules that are not residential mortgages
X	Bureau of Consumer Financial Protection	Modifies CFPB authority, structure, and funding. Repeals Durbin Amendment
XI	Federal Reserve	Repeals FDIC authority to provide emergency guarantees, narrows Fed's emergency lending authority
XII	Access to Mainstream Financial Institutions	No changes
XIII	TARP funding	No changes
XIV	Mortgage Reform	Modifies mortgage rules, including manufactured housing, points and fees, and portfolio lending
XV	Miscellaneous Provisions	Repeals provisions on conflict minerals, mine safety, and resource extraction disclosure
XVI	Section 1256 Contracts	No Changes

Source: Created by CRS.