

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

June 2, 2017 (IN10695)

Related Author

- [Marc Labonte](#)
-

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. [H.R. 10](#) was reported by the House Committee on Financial Services on May 25, 2017. The Rules Committee has scheduled a hearing on [H.R. 10](#) on June 6, 2017. The bill as amended 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. For a more detailed analysis of [H.R. 10](#), see CRS Report R44839, [The Financial CHOICE Act in the 115th Congress: Selected Policy Issues](#), by Marc Labonte et al.

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, enhanced prudential regulation (if the bank has more than \$50 billion in assets), 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](#), [fiduciary rule](#), and risk retention requirements for non-mortgage asset-backed securities. Some provisions are targeted at small financial institutions or issuers, whereas others provisions are applied across the board.
- **Too Big To Fail**—repealing enhanced prudential regulation for firms designated as [systemically important financial institutions](#); restricting the authority of the Federal Reserve, Treasury, and Federal Deposit Insurance Corporation to provide federal emergency assistance during a crisis; and replacing the Orderly Liquidation Authority, 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, amending the [Congressional Review Act](#) to require 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. The new agency would not have the CFPB's examination or supervisory powers, but would have many of the same enforcement powers. Its director would be removable at-will by the President.
- **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](#).

The FCA as reported by the House Financial Services Committee included a provision that would have repealed the [Durbin Amendment](#), which caps debit card interchange fees. An [amendment in the nature of a substitute](#) posted on the Rules Committee website on May 26, 2017, does not include this provision.

FCA Changes to the Dodd-Frank Act

Much of [H.R. 10](#) is presented as an alternative 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 enacted in response to the financial crisis that initiated the most significant changes 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](#) would make 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	Eliminates Office of Financial Research and SIFI designations; modifies FSOC's authority, funding, procedures, and structure; exempts firms 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 and 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
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.