

# CRS Insights

Senate Banking: Financial Regulatory Improvement Act

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May 19, 2015 (IN10278)

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This *Insight* highlights some of the major policy proposals included in a May 12, 2015 [discussion draft](#) released by Senator Richard Shelby that is scheduled for [markup](#) by the Senate Banking Committee. The draft 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 the draft 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. The draft 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. The draft also would expand exemptions from certain rules issued by the federal banking regulators, such as highly rated 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. The draft 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 comprises 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. The discussion draft 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. The draft 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. The draft would generally reinforce the primary role of the states. 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 or accessed through liens as part of the FDIC's orderly liquidation of a financial institution under the Dodd-Frank Act. The thrift holding company language parallels current law for BHCs. It would also require additional reporting and consultative measures surrounding ongoing international negotiations to create insurance regulatory standards.

## Federal Reserve

The draft 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.

The draft 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. The draft 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. The draft 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

The draft 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 the draft would address issues related to the operation of the GSEs while they remain in government [conservatorship](#). For example, the draft 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.