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Introduction to Financial Services: International Regulation

While financial markets have become global, financial regulation and supervision is conducted by domestic agencies. Thus, domestic regulators take into account how financial institutions and markets they regulate are affected by international financial markets and foreign regulatory frameworks. In the absence of an international financial supervisor or regulator, countries negotiate voluntary international financial standards and best practices that domestic regulators may choose to implement.

The 2008 financial crisis underscored the interconnectedness of the global financial system as well as its weaknesses. After the crisis, international financial stability became a policy priority that transcends national boundaries—policies that lead to financial instability in one country can cause it to spill over into other countries. Even before the crisis, international standards were negotiated to (1) avoid a “race to the bottom” to attract financial firms to jurisdictions through lax regulatory standards and (2) coordinate regulation of financial firms with international operations. Despite these efforts, substantial differences exist among national regulations.

Congress grants U.S. financial regulators broad authorities to regulate financial markets to achieve particular policy objectives and has been interested in the extent to which international fora influence domestic regulation. This In Focus explains the general structure of the international organizations that set financial regulatory standards.

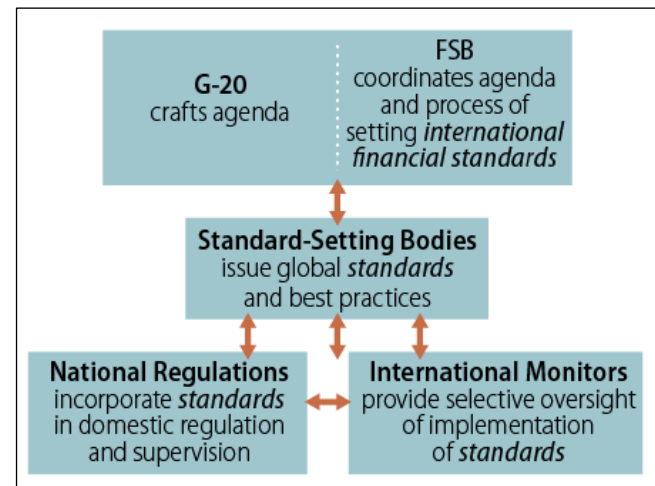
Background

In contrast to the rules-based system governing international trade, centered on the World Trade Organization (WTO), international financial regulation is a standard-setting system and fragmented, with regulatory and supervisory authority dispersed among a range of international and national institutions (see **Figure 1**).

The Group of 20 (G-20) and the Financial Stability Board (FSB) set the overall agenda for international regulatory frameworks, and more specialized international groups set standards for their respective financial markets. Domestic regulators and self-regulatory organizations participate in the international standard-setting bodies, where participants negotiate market or regulatory standards and agree to implement them domestically. The international agenda and standard-setting bodies operate on a consensual basis and have no legally binding authority. Because national regulators (or other authorities) cannot enter into treaties with other countries, agreements made at international fora or by regulators at standard-setting bodies require domestic legislation and/or rulemaking to be implemented. International financial institutions, such as the International Monetary Fund (IMF) and the Bank for International Settlements (BIS), provide overall surveillance of national

compliance with the agreed-upon international financial standards, among other functions.

Figure 1. International Financial Regulatory Architecture



Source: CRS.

Key Standard-Setting Institutions

The key international organizations involved in setting financial regulatory standards are:

- The **G-20** is an informal grouping of 19 major national economies (including the United States) and the European Union. Finance ministers and central bank officials work through the G-20 to agree on a global international financial regulatory agenda.
- The **FSB** is a technical body established by the G-20 to coordinate the G-20 agenda and set the priorities for the international financial standard-setting process. FSB members include the regulators from G-20 members, several international financial institutions, and the most important standard-setting bodies (e.g., accounting, banking, insurance). The primary U.S. representatives to the FSB are the Federal Reserve, the Securities and Exchange Commission (SEC), and the Treasury Department, with other U.S. agencies participating in FSB working groups and activities.
- The **Basel Committee on Banking Supervision (BCBS)** is part of the BIS and formulates standards, guidelines, and best practices in banking. BCBS members are the national banking regulators. The Federal Deposit Insurance Corporation (FDIC), the Federal Reserve, and the Office of the Comptroller of the Currency (OCC) are U.S. representatives.

- The **Committee on Payments and Market Infrastructure (CPMI)** sets standards for payment, clearing, and settlement systems. The Federal Reserve's board and Bank of New York are members.
- The **Financial Action Task Force (FATF)** develops standards and policies to combat money laundering and terrorism financing. Several U.S. agencies, including the Treasury and the SEC, are members.
- The **International Association of Deposit Insurers (IADI)** develops standards for deposit insurance institutions. The U.S. representative is the FDIC.
- The **International Association of Insurance Supervisors (IAIS)** is the international standard-setting body for the insurance sector. The U.S. representatives include the Federal Insurance Office (FIO), the Federal Reserve, and the National Association of Insurance Commissioners.
- The **International Financial Reporting Standards Foundation (IFRS)** is an independent, privately funded UK-based organization that develops international accounting and sustainability standards. After many years of discussion on international convergence, the U.S. Financial Accounting Standards Board (FASB) and the SEC have chosen to maintain the U.S. Generally Accepted Accounting Principles (GAAP) and not merge with IFRS. The SEC is an observer to the IFRS.
- The **International Organization of Securities Commissions (IOSCO)** develops and promotes securities regulatory standards. The U.S. representatives are the SEC and the Commodity Futures Trading Commission (CFTC).

Other international financial standard-setting bodies, such as the International Swaps and Derivatives Association (ISDA), have exclusively private sector members.

Congressional Interest in International Financial Standards

Generally, Congress sets overarching policy goals for financial regulation, and regulators have broad agency to formulate detailed standards that achieve those goals, such as increasing capital levels or enhancing consumer protections. Some domestic rules originate from international agreements when consistent with U.S. statutory authority. U.S. regulators have broadly embraced—and in many cases spearheaded—the international financial reform agenda, making it unlikely that reforms will be agreed to that they oppose—although Congress may be opposed. Nevertheless, given its leading role in these organizations, U.S. regulators may feel compelled to compromise on details to maintain international consensus, which in turn may result in foreign regulators conceding to some U.S. policy priorities. Thus, Congress may consider whether international standards align with its policy goals or whether it is appropriate to constrain regulatory authority.

For example, several U.S. regulators are members of the Central Banks and Supervisors Network for Greening the Financial System (NGFS), which is dedicated to sharing “best practices, contribute to the development of environment and climate risk management in financial sector, and to mobility mainstream finance to support the transition toward a sustainable economy.” Yet environmental policy is not mentioned in U.S. financial law, and Congress has not passed legislation mandating regulators to examine climate change. However, regulators do have general mandates to ensure financial stability, which regulators have interpreted to include indirect risks such as climate change, and Treasury has urged regulators to focus on climate risk.

Some Members of Congress have raised concerns that international agreements—such as Basel III, negotiated by the BCBS—are effectively superseding U.S. laws. Critics argue that when U.S. regulators propose rules to implement already negotiated agreements that have not been vetted by Congress or domestic stakeholders, it violates the spirit of the Administrative Procedure Act. However, domestic rules have deviated from international agreements on some details. For example, the Dodd-Frank Act requires banks to develop alternatives to credit ratings for use in capital requirements. Basel III, by contrast, makes extensive use of credit ratings, so U.S. implementation deviated from Basel III standards. Thus, discontent may ultimately stem from independent regulators pursuing their own policy priorities without congressional input, which are then reflected in international agreements, rather than international agreements trumping domestic law. Another concern is that the United States is placing itself at a competitive disadvantage when it implements international financial standards before international peers—although in some cases the United States has lagged behind.

The extensive volume of international financial standards has grown increasingly complex. Some observers contend that there is a limit to the progress that can be achieved by relying on a network of voluntary, non-binding international financial standards. This has led some observers to advocate for strengthening the role of international institutions and others to advocate for reducing their influence on national-level regulation.

The 118th Congress sought to enhance congressional oversight of regulatory activity at the international level. For example, provisions in both H.R. 4823 and H.R. 4790 would have (among other things) required regulators to provide the committees of jurisdiction with notice, testimony, and economic analysis before proposing or finalizing major rules recommended by international organizations such as the FSB, the BCBS, and the NGFS. The bills would have required the regulators to report to the committees on their interactions with those organizations annually and provide the committees information before meeting or engaging with them on climate-related financial risk. Other legislation would have required reports to Congress on regulatory interactions with BCBS (S. 2655) or prohibited implementation of the proposed Basel III Endgame rule (H.R. 7143).

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