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Congressional Addressees

Financial Services Regulations: Status of GAO Recommendations to Enhance Regulatory Analyses and Interagency Coordination

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) provided for federal agencies to issue hundreds of regulations to implement the act's requirements. The act responded to the 2007-2009 financial crisis that disrupted the U.S. financial system and threatened the solvency of some large financial institutions and the health of the U.S. economy. Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011, amended the Dodd-Frank Act and required us to conduct an annual study of financial services regulations.¹ We have previously issued eight reports under this mandate and have made a total of 37 recommendations to seven of the financial regulators, the Financial Stability Oversight Council (FSOC), the Office of Financial Research (OFR), and the Office of Management and Budget (OMB).² This report describes the status of these recommendations, including information about recommendations that have not yet been fully implemented.

The seven financial regulators are the Board of Governors of the Federal Reserve System (Federal Reserve), the Commodity Futures Trading Commission (CFTC), the Consumer Financial Protection Bureau (CFPB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), and the Securities and Exchange Commission (SEC).

To determine the status of the agencies' and organizations' implementation of GAO's recommendations, we reviewed relevant documentation and interviewed officials from the agencies and the organization (FSOC) that had recommendations that had not yet been fully implemented, as of April 2019. These agencies include the Federal Reserve, CFTC, CFPB,

¹Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (2011) (codified at 12 U.S.C. § 5496b). We are directed to analyze (1) the impact of regulation on the financial marketplace, including the effects on the safety and soundness of regulated entities, cost and availability of credit, savings realized by consumers, reductions in consumer paperwork burden, changes in personal and small business bankruptcy filings, and costs of compliance with rules, including whether relevant federal agencies are applying sound cost-benefit analysis in promulgating rules; (2) efforts to avoid duplicative or conflicting rulemakings, information requests, and examinations; and (3) other matters related to the operations of financial services regulations deemed appropriate by the Comptroller General. The focus of our reviews has been on the financial regulations promulgated pursuant to the Dodd-Frank Act.

²GAO, *Dodd-Frank Regulations: Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks*, GAO-19-158 (Washington, D.C.: Dec. 21, 2018); *Financial Services Regulations: Procedures for Reviews under Regulatory Flexibility Act Need to Be Enhanced*, GAO-18-256 (Washington, D.C.: Jan. 30, 2018); *Dodd-Frank Regulations: Agencies' Efforts to Analyze and Coordinate Their Recent Final Rules*, GAO-17-188 (Washington, D.C.: Dec. 29, 2016); *Dodd-Frank Regulations: Impacts on Community Banks, Credit Unions and Systemically Important Institutions*, GAO-16-169 (Washington, D.C.: Dec. 30, 2015); *Dodd-Frank Regulations: Regulators' Analytical and Coordination Efforts*, GAO-15-81 (Washington, D.C.: Dec. 18, 2014); *Dodd-Frank Regulations: Agencies Conducted Regulatory Analyses and Coordinated but Could Benefit from Additional Guidance on Major Rules*, GAO-14-67 (Washington, D.C.: Dec. 11, 2013); *Dodd-Frank Act: Agencies' Efforts to Analyze and Coordinate Their Rules*, GAO-13-101 (Washington, D.C.: Dec. 18, 2012); and *Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination*, GAO-12-151 (Washington, D.C.: Nov. 10, 2011).

FDIC, OCC, OMB, and SEC.³ Our review examined the agencies' and FSOC's actions taken to implement our recommendations, as of October 15, 2019. We will continue to update the status of these recommendations throughout the year at our website <https://www.gao.gov/reports-testimonies/recommendations-database/>.

We conducted this performance audit from April 2019 to December 2019 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In summary, we found the following:

Of the 37 recommendations made to the agencies and organizations under this mandate, the agencies and organizations have taken actions to implement 32, and some agencies have not taken actions to fully implement five recommendations, as of October 15, 2019 (see table 1). Of the five recommendations not yet fully implemented, the agencies generally agreed with four and one agency neither agreed nor disagreed with one.

Table 1: Status of Recommendations from Prior GAO Annual Reports on Financial Services Regulations, as of October 15, 2019

Number of Recommendations	
Recommendations made ^a	37
Recommendations implemented	32
Recommendations not yet implemented	5

Source: GAO | GAO-20-114R

Note: This work was completed pursuant to Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (2011) (codified at 12 U.S.C. § 5496b)).

^aFor instances when the same recommendation was made to multiple agencies, this count reflects a number of individual recommendations that is equal to the number of agencies to whom the recommendation was made. For example, when the same recommendation was made to seven agencies, it resulted in seven individual recommendations.

The first enclosure to this report presents information about the status of all 37 recommendations. The second enclosure to this report presents information about actions financial regulators have taken or plan to take in response to the five remaining recommendations that have not yet been fully implemented.

³As of April 2019, NCUA and OFR had implemented all of the recommendations directed to them from the prior eight reports.

Agency Comments

We provided a draft of this product to the Federal Reserve, CFTC, CFPB, FDIC, FSOC, OCC, OMB, and SEC for review and comment. The Federal Reserve and SEC provided technical comments on the draft that we incorporated as appropriate. CFTC, CFPB, FDIC, FSOC, OCC, and OMB had no comments.

We are sending copies of this report to the appropriate congressional committees and members and financial regulators. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or ClementsM@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report were John Fisher (Assistant Director), Philip Curtin (Analyst-in-Charge), Isidro Gomez, Emily Bond, Jena Sinkfield, and Kirsten Noethen.



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Enclosures - 2

Enclosure I: Status of Recommendations from Annual GAO Reports on Financial Services Regulations, as of October 2019

The following table summarizes the status of recommendations from our annual reports on financial services regulations, as of October 15, 2019. We classify each recommendation as (1) implemented or (2) not yet implemented (the agency has not taken actions to fully implement the recommendation). The recommendations are listed by report.

Table 2: GAO Recommendations from Annual Reports on Financial Services Regulations, as of October 2019

	GAO Recommendation	Status and Count of Individual Recommendations to Target Agencies
<p><i>Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination.</i> GAO-12-151. Washington, D.C.: November 10, 2011.</p>	<p>The federal financial regulators should take steps to better ensure that OMB guidance on regulatory analyses is more fully incorporated into their rulemaking policies.</p>	<p>Implemented (7): CFPB, CFTC, Federal Reserve, FDIC, NCUA, OCC, SEC</p>
	<p>The federal financial regulators should develop plans for how they will measure the impact of Dodd-Frank Act regulations, such as how and when they will collect, analyze, and report needed data.</p>	<p>Implemented (7): CFPB, CFTC, Federal Reserve, FDIC, NCUA, OCC, SEC</p>
	<p><i>Priority Recommendation^a</i> – FSOC should direct the Office of Financial Research to work with its members to identify and collect the data necessary to assess the impact of the Dodd-Frank Act regulations on, among other things, the stability, efficiency, and competitiveness of the U.S. financial markets.</p>	<p>Implemented (2): FSOC, Office of Financial Research</p>
	<p>FSOC should work with the federal financial regulators to establish formal coordination policies that clarify issues, such as when coordination should occur and FSOC’s role in facilitating coordination.</p>	<p>Implemented (8): CFPB, CFTC, Federal Reserve, FDIC, FSOC, NCUA, OCC, SEC</p>
<p><i>Dodd-Frank Regulations: Agencies Conducted Regulatory Analyses and Coordinated but Could Benefit from Additional Guidance on Major Rules.</i> GAO-14-67. Washington, D.C.: December 11, 2013.</p>	<p>OMB should issue additional guidance to help standardize processes for identifying major rules under the Congressional Review Act (CRA), including on the extent to which agencies should submit rules to OMB for review, such as whether agencies should submit only those rules their analyses indicate are major or all rules.</p>	<p>Implemented (1): OMB</p>

	GAO Recommendation	Status and Count of Individual Recommendations to Target Agencies
	OMB should issue additional guidance to help standardize processes for identifying major rules under CRA, including on how agencies should apply CRA's major rule criteria in their analyses.	Implemented (1): OMB
<p><i>Financial Services Regulations: Procedures for Reviews under Regulatory Flexibility Act Need to Be Enhanced.</i> GAO-18-256. Washington, D.C.: January 30, 2018.</p>	The federal financial regulators should develop and implement policies and procedures for complying with Regulatory Flexibility Act (RFA) requirements and key aspects of Office of Advocacy and OMB guidance.	Implemented (3): FDIC, OCC, SEC Not Yet Implemented (3): CFPB, CFTC, Federal Reserve
	FDIC, Federal Reserve, and OCC should coordinate with the Office of Advocacy to determine whether the review process included in the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) satisfies the requirements of section 610 of RFA and, if not, what steps should be taken to align the process with section 610 requirements.	Implemented (3): FDIC, Federal Reserve, OCC
	SEC should publicly disclose its section 610 reviews, or summaries of the reviews, with the basis for any conclusions. Such disclosure could include publishing results in the <i>Federal Register</i> or on the agency's website.	Not Yet Implemented (1): SEC
<p><i>Dodd-Frank Regulations: Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks.</i> GAO-19-158. Washington, D.C.: December 21, 2018.</p>	CFPB should implement a systematic process for prioritizing risks to consumers and considering how to use the bureau's available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks.	Not Yet Implemented (1): CFPB

Legend:

CFTC = Commodity Futures Trading Commission

CFPB = Consumer Financial Protection Bureau

FDIC = Federal Deposit Insurance Corporation

Federal Reserve = Board of Governors of the Federal Reserve System

FSOC = Financial Stability Oversight Council

NCUA = National Credit Union Administration

OCC = Office of the Comptroller of the Currency

OMB = Office of Management and Budget

SEC = Securities and Exchange Commission

Source: GAO | GAO-20-114R

Note: This work was completed pursuant to Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (2011) (codified at 12 U.S.C. § 5496b)).

^aPriority recommendations are those we believe warrant priority attention from heads of key departments and agencies.

Enclosure 2: GAO Recommendations Not Yet Implemented from Annual Reports on Financial Services Regulations, as of October 2019

The following table presents recommendations that have not yet been implemented from our annual reports on financial services regulations, as of October 15, 2019. The recommendations are listed by report.

Table 3: GAO Recommendations Not Yet Implemented from Annual Reports on Financial Services Regulations, as of October 2019

	GAO Recommendation	Agency	Status
<i>Financial Services Regulations: Procedures for Reviews under Regulatory Flexibility Act Need to Be Enhanced.</i> GAO-18-256. Washington, D.C.: January 30, 2018.	The federal financial regulators should develop and implement policies and procedures for how they will consistently comply with Regulatory Flexibility Act (RFA) requirements and key aspects of the Small Business Administration (SBA) Office of Advocacy and OMB guidance that include elements such as processes for considering to the extent practicable a rule's potential economic impact on small entities.	Consumer Financial Protection Bureau (CFPB)	In June 2019, CFPB staff told us that they are in the process of amending their regulatory analysis policy document to address this recommendation. They plan to make changes that will address the three elements of the recommendation. CFPB needs to finalize this document to fully address this recommendation.
		Commodity Futures Trading Commission (CFTC)	In June 2019, CFTC staff told us that they formed a working group to enhance its implementation of RFA requirements. While this working group has begun drafting compliance procedures for RFA reviews, the procedures are incomplete and CFTC staff said the group will have to finish updating the "small entity" definition before it can complete these procedures. CFTC staff told us that the working group has focused much of its work on updating the agency's definition of "small entity" because the definition was outdated. The identification of "small entity" is an important preliminary step for RFA analysis. CFTC staff does not expect to publish a proposal to amend the "small entity" definition until the summer of 2020. CFTC needs to finalize and implement the new procedures for RFA reviews to fully address this recommendation.

GAO Recommendation	Agency	Status
	Board of Governors of the Federal Reserve System (Federal Reserve)	In June 2019, Federal Reserve staff told us that they are continuing to review their policies and procedures to ensure compliance with RFA requirements. While Federal Reserve staff said that they use an RFA handbook developed by the SBA Office of Advocacy to support their analyses, the Federal Reserve has not made changes to its policies and procedures based on our recommendations. The Federal Reserve needs to develop and implement RFA policies and procedures to fully address this recommendation.
SEC should publicly disclose its section 610 reviews, or summaries of the reviews, with the basis for any conclusions. Such disclosure could include publishing results in the <i>Federal Register</i> or on the agency's website.	Securities and Exchange Commission (SEC)	In March 2019, SEC provided us with supplemental policies and procedures it developed for compliance with the RFA, including section 610 reviews. The procedures require staff to publish on SEC's website a notice that section 610 reviews have been completed. Also, if a determination is made that regulatory action is necessary with respect to a particular rule, the action will be included on SEC's semi-annual RFA agenda, which is published as part of the federal government's Unified Agenda. If these procedures are implemented as required, the notices will communicate with interested entities about the status of ongoing as well as completed section 610 reviews. According to SEC, the procedures can also help provide some transparency into future regulatory actions that may result from SEC's retrospective reviews. However, the procedures do not provide for disclosure of the basis for SEC's conclusions during its section 610 reviews. Therefore, SEC's actions do not fully implement GAO's recommendation.

	GAO Recommendation	Agency	Status
<i>Dodd-Frank Regulations: Consumer Financial Protection Bureau Needs a Systematic Process to Prioritize Consumer Risks.</i> GAO-19-158. Washington, D.C.: December 21, 2018.	CFPB should implement a systematic process for prioritizing risks to consumers and considering how to use the bureau's available policy tools—such as rulemaking, supervision, enforcement, and consumer education—to address these risks. Such a process could incorporate principles from the prior One Bureau process, such as an assessment of the extent of potential harm to consumers in financial markets, to prioritize the most significant risks.	CFPB	In October 2019, CFPB staff told us that the CFPB Director approved a proposal to implement a short-term policy prioritization exercise. According to a memorandum describing this exercise, CFPB anticipates that it will involve CFPB's Strategy Office engaging members of cross-bureau working groups to review and update priorities related to addressing risks to consumers. According to CFPB staff, the working groups will need up to a few months to complete this work, and the results should be available in the second quarter of 2020. To fully address this recommendation, CFPB needs to make further progress in implementing this planned prioritization exercise, including demonstrating steps taken to prioritize risks to consumers and considering how to use CFPB's various policy tools to address these risks.

Source: GAO | GAO-20-114R.

Note: This work was completed pursuant to Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (2011) (codified at 12 U.S.C. § 5496b)).

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