



Highlights of [GAO-10-410](#), a report to congressional committees

Why GAO Did This Study

The conference report accompanying the Consolidated Appropriations Act of 2010 directed GAO to assess the joint report of the Securities and Exchange Commission (SEC) and the Commodity Futures Trading Commission (CFTC) on harmonization of their regulatory approaches. In October 2009, CFTC and SEC issued this report in response to the Department of the Treasury's recommendation that the two agencies assess conflicts in their rules and statutes with respect to similar financial instruments. GAO's objectives were to review (1) how CFTC and SEC identified and assessed harmonization opportunities, (2) the agencies' progress toward implementing the joint report's recommendations, and (3) additional steps the agencies could take to reduce inconsistencies and overlap in their oversight.

To meet these objectives, GAO reviewed the joint report and related documentation, interviewed agency officials, and obtained and analyzed written comments on the report from market participants.

What GAO Recommends

GAO recommends that CFTC and SEC establish clearer goals for harmonization, including time frames for implementing the joint report's recommendations, and develop requirements for reporting and evaluating progress toward these goals. CFTC and SEC generally agreed with our conclusions and concurred with our recommendation.

View [GAO-10-410](#) or [key components](#). For more information, contact Orice Williams Brown at (202) 512-8678 or williamso@gao.gov.

FINANCIAL REGULATION

Clearer Goals and Reporting Requirements Could Enhance Efforts by CFTC and SEC to Harmonize Their Regulatory Approaches

What GAO Found

CFTC and SEC conducted joint analyses and sought public input to inform their efforts to identify and assess significant differences in their rules and statutes and develop recommendations to address such differences. The agencies obtained public input through joint public meetings and a public comment period and worked together to analyze this input. In drafting the joint report on harmonization of their regulatory approaches, CFTC and SEC focused their analysis on eight potential areas for harmonization and made at least one recommendation in all but one of these areas. The joint report also includes several recommendations to enhance coordination between the agencies. For example, the report recommended the creation of a Joint Advisory Committee to be tasked with considering and developing solutions to issues of common interest in the futures and securities markets. The joint report did not cover gaps in the agencies' authorities to oversee over-the-counter derivatives, which were the subject of congressional deliberation at the time of their study.

The joint report's recommendations for statutory changes have yet to be enacted, and the recommendations for agency action remain in the planning stages. According to agency staff, since issuing the joint report in October 2009, the agencies have been focused on working with Congress on drafting legislation to address recommended statutory changes. Congress authorized CFTC and SEC to fund the Joint Advisory Committee, as requested in the joint report, and proposed legislation includes provisions that would partially address recommended statutory changes in areas including oversight of exchange rules and enforcement. CFTC and SEC have drafted a charter for the Joint Advisory Committee and expect to have this committee functioning by early summer 2010. Agency staff said the agencies have not set firm timelines for the implementation of the other recommendations for agency action.

Additional harmonization opportunities exist beyond those addressed by the joint report's recommendations, and future efforts by CFTC and SEC to assess these opportunities could benefit from clearer goals and accountability requirements. With only a few months to complete their report, agency staff said the agencies could not address all differences in their rules and statutes through the joint report's recommendations. Market participants identified several areas they believe could benefit from additional harmonization efforts, including portfolio margining and investor definitions and categories. The agencies plan to coordinate future harmonization efforts through the Joint Advisory Committee, but they have not yet developed clear goals for harmonization or developed requirements for the agencies to evaluate and report their progress toward meeting such goals. Without a clearer vision to guide future harmonization efforts and mechanisms to ensure accountability for these efforts, CFTC and SEC may not be strategically positioned to implement the joint report's recommendations and address remaining harmonization opportunities.