New American

Written by William P. Hoar on April 3, 2017
Published in the April 3, 2017 issue of the New American magazine. Vol. 33, No. 07

# Correction Please!

## Dodd-Frank Act: a 2,500-page Billionaire Protection Measure

**ITEM:** USA Today, in an editorial for July 12, 2016, wondered why — especially before an election — any politicians would be speaking against the Dodd-Frank Act. The newspaper's editors acknowledged in passing that it has "its flaws," but maintained that "by and large it has made Wall Street less like Las Vegas." Its conclusion: "Given Wall Street's deceptions and miscalculations in creating the financial crisis, it's a wonder that anyone would think it needs regulatory relief."

**ITEM:** Following the elections, the New York Times, in a January 30 piece entitled "Republicans' Paths to Unraveling the Dodd-Frank Act," noted that both President Trump and GOP members on Capitol Hill were moving against the "law that overhauled financial regulation after the 2008 financial crisis."

After setting up a straw man, the Times news report proclaimed: "In reality, the president cannot unravel Dodd-Frank with a stroke of a pen, and congressional Republicans will find it easier to chip away at the law than to repeal it altogether."

**ITEM:** Reuters reported on February 28 that "congressional Republicans are taking aim at the regulatory process through which some financial institutions become subject to heightened regulation because they are deemed too big to fail." The congressional report in question, prepared by Republicans in the House Financial Services Committee, is going to be used as part of a move "to overhaul the Dodd-Frank financial reform law," said the wire service.

The Dodd-Frank law, noted Reuters, also set up the Financial Stability Oversight Council (FSOC), which "labels some financial companies as 'systemically important.' Those are the ones that face heightened capital requirements from the Federal Reserve and other regulators."

**ITEM:** CNBC reported on February 28: "Smaller banks may be under significant burden from federal regulations, but not all of them came from the 2010 Dodd-Frank financial reform act, Barney Frank told CNBC…. The Democratic former U.S. representative from Massachusetts pushed back against Republican lawmakers' criticism that Dodd-Frank restricts small banks' ability to lend to lower-income loan seekers."

**ITEM:** The Los Angeles Times, in a piece on February 26, declared: "Experts said some changes to Dodd-Frank could be helpful, but that its regulations, including tighter lending standards, have made the financial system safer."

**CORRECTION:** It is not surprising that those who think utopia can be attained by passing larger and more intrusive laws and regulations would be defenders of the Dodd-Frank Act.

After all, these are the same charlatans who claimed that the financial crisis in 2008 that engendered Dodd-Frank was caused by deregulation — when it was multitudinous and misguided rules and regulations that were largely at fault. That didn't stop President Obama from calling for a financial regulatory "transformation on a scale not seen since the reforms that followed the Great Depression."

We've met these folks before: They pat you on the back because they want you to cough something up — usually your money and your liberty.

Disasters represent openings for such opportunists. As one Obama acolyte famously put it: You never

want a serious crisis to go to waste. Dodd-Frank (or "Dodd-Frankenstein" in the *Economist's* words) was born of such a crisis. The law, which did turn out to be a horror story, was a product of its Democrat cosponsors, Connecticut Senator Chris Dodd and Massachusetts Congressman Barney Frank.

Douglas Holtz-Eakin, the former chairman of the Congressional Budget Office, last year reviewed some of the actual culprits of the financial crisis — including

over-regulation (e.g., the affordable housing standards imposed on Fannie Mae and Freddie Mac) … and poor regulation…. In the process, Dodd-Frank was also filled with provisions that had nothing to do with the crisis per se, whether it is the expensive Volcker Rule (which limits proprietary trading that had nothing to do with the crisis) or the conflict minerals rule (which has served only to inflict economic damage on the Congo).

The Congo reference is an example of how far afield Dodd-Frank reaches — literally, many thousands of miles. The law requires companies to report about whether they have received any "conflict minerals" from the Democratic Republic of the Congo. As a result, the government in the DR Congo restricted and even shut down its own industry for a time. As of 2011, just 11 of the 900-plus mines in South Kivu province were found to meet the standards of Dodd-Frank. As a result, noted the American Action Forum, more than "11 million people who were employed in the mines" had been "forced to find work elsewhere — oftentimes with an armed militia."

Meanwhile, in this country — despite the claims of some — the banking system was really not rendered safer because of the new rules. Even Harvard economist Larry Summers, an enthusiastic backer of Dodd-Frank, admitted in a September 2016 paper that, "to our surprise," capital market information was "inconsistent with the view that banks are far safer today than they were before the crisis. If anything, measures of volatility appear to be higher post-crisis than they were pre-crisis."

The law was passed in a highly partisan vote led by Democrats and opposed by Republicans. At the time, then-Senate Minority Leader Mitch McConnell (R-Ky.) predicted: "The White House will call this a victory. But as credit tightens, regulations multiply, and job creation slows even further as a result of this bill, they'll have a hard time convincing the American people that this is a victory for them."

The law grew exponentially over the years — since it essentially directed bureaucrats "to make still more regulations and create more bureaucracies," as explained by Jonathan Macey of Yale Law School. *The Economist* in London charted the convoluted "plethora of new government powers and agencies" that were given "authority over areas of the American financial system and economy affecting veterans, students, the elderly, minorities, investor advocacy and education, whistle-blowers, credit-rating agencies, municipal securities, the entire commodity supply chain of industrial companies, and more."

Not surprisingly, adding more rules to a regulatory problem made matters worse, not better. And just as President Trump said in late January (the denials of the left-wing media notwithstanding), the law did make it more difficult for start-up businesses and for many seeking loans — all of which tends to restrain the economy. As noted by John Berlau, a senior fellow at the Competitive Enterprise Institute, the "Dodd-Frank so-called financial reform law has been a huge burden to community banks, credit unions, and consumers."

Not everyone in the industry is unhappy with living in a byzantine world. No, the billionaires and the largest banks are not shedding tears over the fact that the law makes it more difficult for small community banks to compete. House Financial Services Chairman Jeb Hensarling (R-Texas), who

opposes Dodd-Frank, has rightly observed that the law "confers a competitive advantage on those large financial institutions that have the resources to navigate its mind-numbing complexity."

The official name of the massive law is the Dodd-Frank Wall Street Reform and Consumer Protection Act. However, if Congress had to comply with federal labeling requirements, it might well have been named the Billionaire and Big Bank Protection Act. Nor did the supposed solution to the financial crisis end the notion of "too-big-to-fail" banks; rather, it made that a law — and guaranteed that you and I will pay for a future bailout if these banks fail.

A new book by William Cohan, entitled *Why Wall Street Matters*, argues for the junking of Dodd-Frank. The author points to the complications and overreaching of the measure, noting that the law itself is 2,300 pages long and its implementing rules add another 22,000 more pages. Little wonder that, as he puts it, the "job of nearly one out of every five people working on Wall Street these days is to watch what the other four people do all day long."

The law has engendered numerous free-enterprise critiques. Tho Bishop correctly pointed out for the Mises Institute that this response wound up increasing "costs on consumers while further undermining the stability of the banking sector by making the 'Too Big to Fail' banks bigger." The nation, he wrote in early February, "faces dangerous bank consolidation due to the mountains of red tape Dodd-Frank has created for lenders, forcing many small and community banks to merge with larger financial institutions. Since Dodd-Frank has passed, only three banks have been chartered in the U.S."

The Democratic big-government solution, as explained in a policy document prepared by Mark Calabria for the Cato Institute, "expands the bank safety net and continues using the banking system as an avenue to redistribute wealth. Dodd-Frank will likely increase both the frequency and severity of financial crises by further reducing market discipline and increasing the political control of our financial system."

One section of the law in particular (Section 619) — which has been dubbed the Volcker Rule, after former Federal Reserve Chairman Paul Volcker — has been roasted by Norbert Michel, a research fellow specializing in financial regulations for the Heritage Foundation's Roe Institute for Economic Policy Studies. As Michel observed, this rule

represents perhaps the single largest wasted federal effort of the 21st century. Ostensibly, it prohibits federally insured banks from engaging in what's known as proprietary trading — that is, making risky investments solely for their own profit.

It may sound logical to stop banks from taking "risky bets" with federally insured deposits, but that's exactly the business they're in. To stop banks from making risky bets with insured deposits, regulators would have to stop banks from (among other things) making commercial loans, buying or selling all kinds of bonds, using derivatives that reduce risk, making home mortgages, consumer loans, and even working capital loans to small businesses.

The fact that banking regulators limited all of these activities long before the 2008 financial crisis, along with the fact that Lehman Brothers, Bear Stearns, and American International Group were not insured depository institutions, underscores the sheer insanity of this effort.

The [Trump administration] can do the economy a huge favor by announcing its support for repealing the Volcker Rule.

This rule is apparently the Obama/Democrat way of doing business. It was brought to task by the *Economist* article cited previously ("Too big not to fail," dated February 18, 2012). That exposé revealed that in November of 2011, "four of the five federal agencies charged with enacting this rule jointly put forward a 298-page proposal which is, in the words of a banker publicly supportive of Dodd-Frank, 'unintelligible any way you read it.'"

The document "includes 383 explicit questions for firms which, if read closely, break down into 1,420 subquestions, according to Davis Polk, a law firm. The interactive Volcker 'rule map' Davis Polk has produced for its clients has 355 distinct steps." You could get asphyxiated with such a business-friendly inundation.

There are plenty of reasons why the law should be drastically slashed if not repealed outright. As it is, as the *Wall Street Journal* put it in February, the law has transformed "banks into regulated utilities."

Accordingly, the new president has already ordered a review of the law. Gary Cohn, who runs the president's National Economic Council, has acknowledged that the law's "costs and complexity have restrained bank lending." The Democrats wrote the law, said the paper, "with enough ambiguity so the feds could regulate as they please. But this means a new government can ease those burdens without Congress."

Then there is the Financial Stability Oversight Council, the part of the law that authorized the government to designate "systemically important financial institutions" (SIFIs). While the SIFIs are burdened "with onerous regulations," they also "carry an implicit taxpayer guarantee," pointed out the *Journal*. The paper continued:

Big banks that accept taxpayer-insured deposits are obvious SIFI candidates, but the Obama FSOC also tagged AIG, MetLife and Prudential Financial as SIFIs. These insurers are burdened with bank-style regulations that don't fit their business model. MetLife sued to rescind the arbitrary designation, and a federal judge has ruled in its favor. The Trump Administration could drop the government's appeal and settle with MetLife in a way that exempts insurers from the SIFI label.

That would cause considerable squealing on the political Left.

"Progressive" lawmaking does not necessarily represent progress. In 1864, the law setting up the nation's banking system totaled 29 pages.

— William P. Hoar

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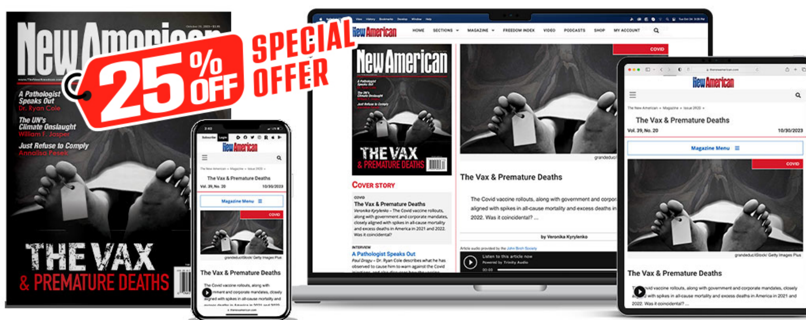


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