

Are You Occupied by Dodd-Frank?

By Jan Bissett and Margi Heinen

Reform in the United States takes time. The outrage over the financial crisis that began in 2007¹ continues today in cities across the nation with the Occupy Wall Street protests and in Washington where agencies are still mired in the reform vehicle called the Dodd-Frank Wall Street Reform and Consumer Protection Act.² While Occupy Wall Street engages the time of First Amendment experts and litigators, business attorneys have their hands full trying to monitor and understand the avalanche of regulation in the wake of the passage of Dodd-Frank. The legislation, designed to maintain the stability of the financial system and provide consumer protections, enables rulemaking and other guidance by various agencies, including the newly created Financial Stability Oversight Council and the Bureau of Consumer Financial Protection. And, oh, what rulemaking: 400 regulations, 200 of which have been proposed while almost one-quarter have been finalized according to the November 2011 Dodd-Frank Rulemaking Progress Report.³ What's a researcher to do?

For those who practice or research in a Dodd-Frank context daily—banking, financial services, securities litigation, mortgage brokers, and payday lenders—these regulations are an accepted part of the landscape. But for those of us who are unfamiliar or spend limited research time with Dodd-Frank, the staggering amount of proposed, commented, issued, or finalized legislation is dizzying. Our traditional research strategies can work here: checking the agency website or Regulations.gov⁴ can yield successful results. But in addition to these familiar strategies, federal agencies, law firms, legal publishers, and professional associations have developed “tracker” materials in-

valuable to identifying Dodd-Frank regulatory action. This column will take a look at several of these trackers and what they offer to those interested in this vast rulemaking process.

The American Bankers Association offers a Dodd-Frank Tracker⁵ providing “current information on the implementation of the Dodd-Frank Act” in banking-related areas. The site includes blog entries; a calendar noting legislative and regulatory hearings, comment deadlines on proposed rules, and effective dates of the act and regulations; and pages of Dodd-Frank-related regulatory proposals, final regulations, and issued guidance. Topical feeds in 17 categories are also available to researchers through RSS feed or e-mail.

The Federal Reserve Bank of St. Louis provides the Dodd-Frank Act Regulatory Reform Rules: A Roadmap for Tracking the Rulemaking Process from Start to Finish.⁶ The information is sorted into status sections—Open for Comment, Proposed, Interim Rule, and Final Rules and Notices. Each section contains tables with columns sortable by regulatory publication date; comment or effective date; rule/description, including agency; and topic, including Dodd-Frank Act reference. The home page lists the most recent rule activity. The Securities and Exchange Commission offers its own take on the reg-

ulatory reform progress with its Implementing the Dodd-Frank Wall Street Reform and Consumer Protection Act⁷ web page, outlining rules it has proposed or adopted.

Davis Polk's *Dodd-Frank Progress Report*⁸ is ideal for those who need a summary approach to bring them up to speed at a glance. It is a monthly update outlining deadlines, regulations, and reports due in bullet-point fashion. The full report, which has vibrant graphs and charts rather than lengthy prose, may be just the ticket for researchers who are visually oriented. Real-time regulatory tracking is also available by subscription.

Sometimes the need to fully understand the workings of this reform bill requires more of a continuing legal education effort. The Practising Law Institute, which has provided that angle on topics for years, now offers the PLI Securities Law Practice Center: Dodd-Frank.⁹ Although PLI charges for access to its seminar materials in many cases, most provide CLE credits, and you can launch seminars on your computer for easy access. Note that registration is required.

A newer entry into the legal research market, the Practical Law Company, provides materials on the Dodd-Frank regulatory scheme via its subscription service. This vendor has both static and “maintained” sources in its databases; if you are looking

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for current materials, be sure to choose the maintained source to get the latest updates. Alternatively, in the avalanche of new material on Dodd-Frank, this site might be just the place for hard-to-find older items as other sources continually push updates.

Several other Dodd-Frank sources can help researchers track changes and additions to the regulatory reform law. The Harvard Law School Forum on Corporate Governance and Financial Regulation¹⁰ regularly tags Dodd-Frank Act or financial stability act posts and alerts its readers to the availability and progress of rulemaking.¹¹ The Law Librarians' Society of Washington, D.C.¹² continues to aid researchers with the addition of a legislative history compilation of bill versions, proposed legislation, regulatory reform proposals, Congressional Research Service reports, and selected web-based summaries and commentaries on the act.

Of course, the deal isn't done once the regulations are in place. In December 2011, a lawsuit¹³ was filed over U.S. Commodity Futures Trading Commission (CFTC) regulations¹⁴ that had been finalized in October.¹⁵ In fact, the language of the lawsuit claims, "The Position Limits Rule as adopted by the CFTC was poorly crafted based on an incorrect reading of the law, and absent any sound economic or cost benefit analysis...."¹⁶ Researchers should take particular care when dealing with Dodd-Frank to check for complaints hitting the courts about the final rules. Many of these objections will be reported in blogs or trackers described earlier in this article. The massive regulation development caused by the passage of Dodd-Frank will continue for some time. Business and corporate attorneys need to be aware of the changing landscape; keeping a frequent watch on one or more of the Dodd-Frank trackers and websites will help. ■

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FOOTNOTES

1. Federal Reserve Bank of St. Louis, Timeline, *The Financial Crisis: A Timeline of Events and Policy Actions* <<http://timeline.stlouisfed.org/index.cfm?p=timeline>>. All websites cited in this article were accessed January 9, 2012.
2. Pub L No. 111-203.
3. November 2011 Dodd-Frank Rulemaking Progress Report, *The Harvard Law School Forum on Corporate Governance and Financial Regulation* <<http://blogs.law.harvard.edu/corpgov/2011/11/08/november-2011-dodd-frank-rulemaking-progress-report/>>, citing

the Davis Polk Dodd-Frank Progress Report <http://www.davispolk.com/files/Publication/e3379fb6-ab9d-4ed8-b873-0877696a8005/Presentation/PublicationAttachment/690130be-02e6-4037-88e8-01648c94664f/November2011_Dodd.Frank.Progress.Report.pdf>.

4. <<http://www.regulations.gov/#!home>>.
5. <<http://regreformtracker.aba.com/>>.
6. Dodd-Frank Act Regulatory Reform Rules <<http://www.stlouisfed.org/regreformrules/>>.
7. <<http://www.sec.gov/spotlight/dodd-frank.shtml>>.
8. Dodd-Frank Resource Center <<http://www.davispolk.com/dodd-frank/>>.
9. <<http://seclawcenter.pli.edu/category/dodd-frank-act/>>.
10. <<http://blogs.law.harvard.edu/corpgov/>>.
11. <<http://blogs.law.harvard.edu/corpgov/tag/financial-stability-act/>>.
12. Law Librarians' Society of Washington, D.C., *Dodd-Frank Wall Street Reform and Consumer Financial Protection Act: A Brief Legislative History with Links, Reports and Summaries* <<http://www.llsdc.org/Dodd-Frank-Act-Leg-Hist/>>.
13. Brief of Petitioner, *Int'l Swaps and Derivatives Ass'n v US Commodity Futures Trading Comm*, No. 1:11-1469, 2012 (CA Dist DC, December 2, 2011).
14. Commodity Futures Trading Commission, 76 Fed Reg 71626 (November 18, 2011) (to be codified at 17 CFR 151.4(2)(a)), available at <<http://www.cftc.gov/ucm/groups/public/@lrfederalregister/documents/file/2011-28809a.pdf>>.
15. Reuters, Paraskeva, *Cost-Benefit Lawsuits Snarl Dodd-Frank Implementation* <<http://blogs.reuters.com/financial-regulatory-forum/2011/12/09/cost-benefit-lawsuits-snarl-dodd-frank-implementation/>>.
16. *Id.*