

## EXPERT ANALYSIS

### President Trump's Financial Regulation Executive Order – This Is Just the Beginning

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On February 3, President Trump issued an Executive Order titled "Core Principals for Regulating the United States Financial System."

This Order outlines the President's policy for the regulation of the U.S. financial system and directs the Secretary of the Treasury to report how the aforementioned policy is being promoted in current "laws, treaties, regulations, guidance, reporting and recordkeeping requirements, and other Government policies."

The Order itself has very little to no immediate effect on the regulation of the U.S. financial services industry, however, the Order is a great way to gain insight as to what is to come over the next four years under the Trump administration.

President Trump's order defines seven very broad principals which will drive his administration's policy governing the regulation of the financial services industry:

- Empower Americans to make independent financial decisions and informed choices in the marketplace, save for retirement, and build individual wealth;
- Prevent taxpayer-funded bailouts;
- Foster economic growth and vibrant financial markets through more rigorous regulatory impact analysis that addresses systemic risk and market failures, such as moral hazard and information asymmetry;
- Enable American companies to be competitive with foreign firms in domestic and foreign markets;
- Advance American interests in international financial regulatory negotiations and meetings;
- Make regulation efficient, effective, and appropriately tailored; and
- Restore public accountability within federal financial regulatory agencies and rationalize the federal financial regulatory framework.

The Order fails to mention the Dodd-Frank Act by name, however these principals could all serve to carry out President's Trump campaign promises to roll back or possibly dismantle large sections of the Dodd-Frank Act. The language of the policy closely aligns with the stated principals of The Financial CHOICE Act.

On the day the Order was issued, the House Financial Services Committee Chairman Jeb Hensarling (R-TX) (author of the Financial CHOICE Act) issued a statement saying, "I'm very pleased that President Trump signed this executive action, which closely mirrors provisions that are found in



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the Financial CHOICE Act to end Wall Street bailouts, end ‘too big to fail,’ and end top-down regulations that make it harder for our economy to grow and for hardworking Americans to achieve financial independence.”

Two of the centerpieces of the Dodd-Frank Act that are believed to be targeted by this Order and known to be targeted by the Financial CHOICE Act are the Consumer Financial Protection Bureau (CFPB) and the Volcker Rule.

The CFPB was created by Title X of the Dodd-Frank Act, which structured the CFPB with one independent director, a mission to focus solely on consumer risk, and funding granted as a percentage of the Federal Reserve’s budget.

Critics of the CFPB allege that it’s this structure that allows the CFPB to operate in such an aggressive manner in regards to rule promulgation, supervision and enforcement activity.

The argument is that this aggressive approach adds unnecessary compliance costs and overly burdensome regulation, which leads to slow growth and limited access to credit.

As such, these critics would like to restructure the CFPB into a commission, task it with the dual mission of consumer protection and competitive markets, and subject the Bureau’s budget to oversight.

The Volcker Rule is found in Section 619 of the Dodd Frank Act and is another possible target of this order.

The rule prohibits commercial banks from (A) engaging in proprietary trading; or (B) acquiring or retaining any equity, partnership, or other ownership interest in or sponsor a hedge fund or a private equity fund.

Although designed to limit systemic risk, the rule is often criticized for hindering banks’ ability to efficiently manage risk by hedging said risk through the use of proprietary trading.

The Final CHOICE Act also cites the Volcker Rule as limiting capital formation and calls for its repeal.

While President Trump’s order does not have any immediate effect on existing regulations, it very clearly issues instructions to both the legislature and the financial services regulatory bodies as to this administration’s priorities when it comes to the regulatory reform in the financial services industry.

It should also allow for an easier path to congressional approval for legislation such as the aforementioned Financial CHOICE Act.



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