

US

Morrison & Foerster

Happy birthday Dodd-Frank

By the time you read this, we will have commemorated the first anniversary of the passage of the Dodd-Frank Act. Any significant milestone brings with it the opportunity for evaluation. The Act required that approximately 380 rules be written, of which 28 have been finalised. Quite a number of rulemaking deadlines have been missed.

The rules that have been finalised relate to the whistleblower provisions and to various securitization-related issues. However, many of the biggest questions remain unanswered.

Market participants anxiously await additional guidance regarding systemic designation. The banking agencies have said that this summer they anticipate seeking comments on various matters related to regulatory capital. The comment periods for many proposed rules were deemed too brief to allow for adequate consideration and discussion. A number of agencies have extended the comment periods, or re-proposed rules.

Many agencies have acknowledged that a phased, or staged, implementation process is required given the possibility for disruption. This is especially true in the case of the regulations affecting OTC derivatives. In the meantime, as deadlines are extended out, and as the debate regarding competitiveness issues and the need for greater harmonisation gains strength, legislators are proposing measures that would roll back certain reforms effected by the Act.

With elections coming up, and with international reform measures dragging along, one cannot help but wonder whether the Pandora's box of regulatory reform will be reopened.

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