United States Government Accountability Office

Report to Congressional Addressees

December 2016

DODD-FRANK REGULATIONS

Agencies' Efforts to Analyze and Coordinate Their Recent Final Rules

Accessible Version

GAO-17-188

GAO
Highlights

Highlights of GAO-17-188, a report to congressional addressees

December 2016

DODD-FRANK REGULATIONS

Agencies' Efforts to Analyze and Coordinate Their Recent Final Rules

Why GAO Did This Study

The Dodd-Frank Act requires or authorizes various federal agencies to issue hundreds of rules to implement reforms intended to strengthen the financial services industry. Congress included a provision in statute for GAO to study these financial services regulations annually. This sixth annual report discusses (1) the regulatory analyses federal agencies conducted for the 30 rules issued pursuant to the Dodd-Frank Act that became effective between July 2015 and July 2016, (2) coordination among the regulators on these rules, and (3) indicators of the impact of select Dodd-Frank Act rules on financial market stability.

GAO assessed the extent to which regulators followed OMB's cost-benefit guidance for five major rules selected because they covered a variety of agencies and topics. GAO also examined coordination for three rules selected because they involved extensive interagency coordination and covered many regulators required to coordinate under the Dodd-Frank Act. GAO also reviewed documentation and interviewed regulatory staff.

What GAO Recommends

GAO makes no new recommendations but continues to monitor the implementation of five prior recommendations intended to improve, among other things, financial regulators' cost-benefit analysis, interagency coordination, and impact analysis associated with Dodd-Frank regulations. Not all regulators have implemented these recommendations.

View GAO-17-188. For more information, contact Lawrance Evans, Jr. at (202) 512-8678 or evansl@gao.gov.

What GAO Found

Federal financial regulators reported conducting the required regulatory analyses for rules issued pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) as part of the rulemaking process. For example, of the 30 rules GAO reviewed, which became effective between July 2015 and July 2016, the regulators analyzed the paperwork burden imposed for 12 rules for which they determined this analysis was required. For the remaining 18 rules, they determined that this analysis was not required or applicable. For instance, in some cases they determined that no new collection of information was required. As independent regulatory agencies, the federal financial regulators are not subject to executive orders requiring federal agencies to conduct detailed cost-benefit analysis in accordance with Office of Management and Budget (OMB) guidance, but regulators told GAO that they generally follow this guidance in spirit. GAO reviewed five of the nine rules considered major—that is, rules likely to result in an annual impact on the economy of $100 million or more, among other things—and found that regulators addressed most key elements of OMB guidance in their regulatory analyses. For instance, these agencies generally quantified some costs related to these rules. However, they did not quantify benefits in each rule and noted data and other limitations to doing so. In 2011, GAO recommended that the regulators more fully incorporate OMB's regulatory guidance into their written rulemaking policies, but not all regulators have implemented this recommendation.

Regulators reported coordinating, as required or voluntarily, on 19 of the 30 rules GAO reviewed. The Dodd-Frank Act and the rulemaking process did not require regulators to coordinate on the remaining 11 rules. GAO focused in particular on coordination efforts involving three rulemakings: the Commodity Futures and Trade Commission's and the prudential regulators' rules on margin requirements for over-the-counter swaps, and the Bureau of Consumer Financial Protection's (CFPB) rule on integrated mortgage disclosures. For the swaps rules, regulators coordinated domestically and internationally and, according to regulators, they largely harmonized their respective rules. For the integrated mortgage disclosure rule, CFPB followed its internal guidance for coordinating with relevant agencies throughout the rulemaking process.

The full impact of the Dodd-Frank Act remains uncertain because some of its rules have not been finalized and insufficient time has passed to evaluate others. As of December 2016, regulators had issued final rules for about 75 percent of the 236 provisions of the act that GAO is monitoring. Using recently released data, GAO updated indicators from its prior reports, including those that monitor systemic risk characteristics of large U.S. bank holding companies. These indicators track changes in characteristics of these companies such as size, interconnectedness, leverage, and liquidity since the passage of the act to examine if the changes have been consistent with the goals of the act. While changes in the indicators are not necessarily evidence of the impacts of the act's provisions, trends in indicators suggested large bank holding companies have become larger but less vulnerable to financial distress.

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Abbreviations

AIG	American International Group, Inc.
CFPB	Consumer Financial Protection Bureau
CFTC	Commodity Futures Trading Commission
CRA	Congressional Review Act
Dodd-Frank Act	Dodd-Frank Wall Street Reform and Consumer Protection Act
E.O.	executive order
FDIC	Federal Deposit Insurance Corporation
Federal Reserve	Board of Governors of the Federal Reserve System
FHFA	Federal Housing Finance Agency
FRFA	final regulatory flexibility analysis
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
G-SIB	globally systemically important bank
GECC	General Electric Capital Corporation, Inc.
HUD	Department of Housing and Urban Development
IRFA	initial regulatory flexibility analysis
MetLife	MetLife, Inc.
NCUA	National Credit Union Administration
OCC	Office of the Comptroller of the Currency
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act of 1995
RFA	Regulatory Flexibility Act
SEC	Securities and Exchange Commission
SIFI	systemically important financial institution
USDA	Department of Agriculture
VA	Department of Veterans Affairs

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U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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December 29, 2016

Congressional Addressees

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) in response to the 2007–2009 financial crisis that disrupted the U.S. financial system. Under the Dodd-Frank Act, federal agencies are directed or have the authority to issue hundreds of regulations to implement the act's provisions.[1]

Agencies normally must comply with various federal rulemaking requirements as they draft and implement regulations. Many of the rulemakings include some form of regulatory analysis, which provides a formal way of organizing evidence to help in understanding the potential effects of new regulations. Certain statutes and executive orders require varying regulatory analyses, and the extent to which independent regulatory agencies, such as some of the federal financial regulators (financial regulators), are subject to the requirements varies.[2] For example, Executive Order (E.O.) 12,866 requires executive federal agencies to assess costs and benefits of proposed regulatory action and any alternatives. This order does not apply to independent regulatory agencies such as banking, securities, or futures regulators, or the Bureau of Consumer Financial Protection (commonly known as the Consumer

[1]Pub. L. No. 111-203, 124 Stat.1376 (2010). We identified 236 provisions of the act that require regulators to issue rulemakings. See GAO, *Financial Regulatory Reform: Regulators Have Faced Challenges Finalizing Key Reforms and Unaddressed Areas Pose Potential Risks,* GAO-13-195 (Washington, D.C.: Jan. 23, 2013).

[2]Independent regulatory agencies are identified as such in the Paperwork Reduction Act. They include, but are not limited to, the agencies to which we refer as federal financial regulators—the Board of Governors of the Federal Reserve System, Bureau of Consumer Financial Protection, Commodity Futures Trading Commission, Federal Deposit Insurance Corporation, Office of the Comptroller of the Currency, National Credit Union Administration, and Securities and Exchange Commission. 44 U.S.C. § 3502(5). In contrast to independent regulatory agencies, executive agencies are cabinet departments and other agencies that answer directly to the President.

Financial Protection Bureau, or CFPB).[3] However, CFPB has a separate requirement under the Dodd-Frank Act to consider the potential benefits and costs to consumers and covered persons as part of a rulemaking under a federal consumer financial law.[4] As agencies continue to develop and implement the regulations, some industry associations and others have reported on the potential impact, individually and cumulatively, on financial markets and nonfinancial institutions.

Section 1573(a) of the Department of Defense and Full-Year Continuing Appropriations Act of 2011 amends the Dodd-Frank Act and includes a provision for us to annually review financial services regulations, including those of CFPB.[5] We have previously issued five reports under this mandate.[6] This report discusses

[3]E.O. 12,866, 58 Fed. Reg. 51,735 (Sept. 30, 1993). For significant rules, the order requires agencies to prepare a detailed regulatory (or economic) analysis of anticipated benefits and costs of the regulation and the benefits and costs of potentially effective and reasonably feasible alternatives. More recently, E.O. 13,563 supplemented E.O. 12,866, in part by incorporating its principles, structures, and definitions. E.O.13,563, 76 Fed. Reg. 3,821 (Jan. 18, 2011). E. O. 12,866 contains 12 principles of regulation that direct agencies to perform specific analyses to identify the problem to be addressed, assess its significance, assess the benefits and costs of the intended regulation, design the regulation in the most cost-effective manner to achieve the regulatory objective, and base decisions on the best reasonably obtainable information available.

[4]Pub. L. No. 111-203, § 1022(b)(2)(A)(i), 124 Stat. 1376, 1980 (2010) (codified at 12 U.S.C. § 5512(b)(2)(A)(i)).

[5]Pub. L. No. 112-10, § 1573(a), 125 Stat. 38, 138-39 (codified at 12 U.S.C. § 5496b). We are to analyze (1) the impact of regulation on the financial marketplace, including the effects on the safety and soundness of regulated entities, cost and availability of credit, savings realized by consumers, reductions in consumer paperwork burden, changes in personal and small business bankruptcy filings, and costs of compliance with rules, including whether relevant federal agencies are applying sound cost-benefit analysis in promulgating rules; (2) efforts to avoid duplicative or conflicting rulemakings, information requests, and examinations; and (3) other matters related to the operations of financial services regulations deemed appropriate by the Comptroller General. The focus of our reviews is on the financial regulations promulgated pursuant to the Dodd-Frank Act.

[6]GAO, *Dodd-Frank Act Regulations: Implementation Could Benefit from Additional Analyses and Coordination*, GAO-12-151 (Washington, D.C.: Nov. 10, 2011); *Dodd-Frank Act: Agencies' Efforts to Analyze and Coordinate Their Rules*, GAO-13-101 (Washington, D.C.: Dec. 18, 2012); *Dodd-Frank Regulations: Agencies Conducted Regulatory Analyses and Coordinated but Could Benefit from Additional Guidance on Major Rules*, GAO-14-67 (Washington, D.C.: Dec. 11, 2013); *Dodd-Frank Regulations: Regulators' Analytical and Coordination Efforts*, GAO-15-81 (Washington, D.C.: Dec. 18, 2014); and *Dodd-Frank Regulations: Impacts on Community Banks, Credit Unions, and Systemically Important Institutions*, GAO-16-169 (Washington, D.C.: Dec. 30, 2015).

- the regulatory analyses conducted by the federal financial regulators in their Dodd-Frank Act rulemakings, including their assessments of which rules they considered to be major rules;[7]
- the coordination between and among federal regulators on these rulemakings; and
- indicators of the impact of selected Dodd-Frank Act provisions and their implementing regulations on financial market stability.

To examine the regulatory analyses conducted by the federal financial regulators, we focused our analysis on the final rules issued pursuant to the Dodd-Frank Act that became effective from July 23, 2015, through July 22, 2016, a total of 30 rules (see app. II).[8] To identify the rules, we used a website maintained by the Federal Reserve Bank of St. Louis that tracks Dodd-Frank Act regulations. We corroborated the data with staff at the financial regulators—CFPB, Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), Securities and Exchange Commission (SEC), and Commodity Futures Trading Commission (CFTC). We also asked these staff to identify any other rulemaking that should be included. We reviewed federal statutes, regulations, and GAO studies on these rules as well as *Federal Register* releases that contain information on the Paperwork Reduction Act of 1995 (PRA) and Regulatory Flexibility Act (RFA) analyses conducted by agencies and

[7]As defined by the Congressional Review Act (CRA), a major rule is generally one that the Office of Management and Budget finds has resulted in or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. Pub. L. No. 104-121, tit. II, § 251, 110 Stat. 868 (1996) (codified at 5 U.S.C. § 804(2)).

[8]We use rules, regulations, or rulemakings generally to refer to *Federal Register* notices of agency action pursuant to the Dodd-Frank Act, including final rules. These terms do not include orders, guidance, notices, interpretations, corrections, or policy statements. See GAO-12-151, GAO-13-101, GAO-14-67, GAO-15-81, and GAO-16-169.

their coordination efforts. [9] For PRA and RFA analyses, we reviewed *Federal Register* releases of the final rules for the regulator's determinations about whether they were required to conduct the analyses and the results of the analyses. Using GAO's Federal Rules database, we found that 9 of the 30 rules were identified as major rules, per the Office of Management and Budget (OMB) guidance, under the Congressional Review Act.[10] We developed a data collection instrument to compare and assess the regulatory analyses conducted for a judgmental sample of five of the major rules against the principles outlined in OMB Circular A-4, which provides guidance to federal agencies on the development of regulatory analysis.[11] To narrow the list from 9 major rules to the 5 rules subject for in-depth review, we determined to include rules that were from a variety of agencies, including one joint rule, and that covered varied topics.

To examine the coordination conducted by the federal financial regulators, we reviewed the Dodd-Frank Act and *Federal Register* releases to identify the interagency coordination or consultation requirements as required by the act for the 30 rules in our scope. We also asked the relevant financial regulators' staff to identify any instances of interagency coordination not specified in the *Federal Register* releases, and if they did not coordinate, to discuss the reasons why. We selected three rules for in-depth review of interagency coordination: CFTC's and the prudential regulators' respective rules on margin requirements for

[9]PRA requires agencies, including independent financial regulators, to minimize the paperwork burden of their rulemaking and evaluate whether a proposed collection is necessary for the proper performance of the functions of the agency. Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (codified as amended at 44 U.S.C. §§ 3501-3520). RFA requires that federal agencies consider the impact of certain regulations they issue on small entities and, in some cases, alternatives to lessen regulatory burden on small entities. Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. §§ 601-612).

[10]In our December 2013 report, we found that OMB, in coordination with the federal financial regulators, may not consistently determine which rules are considered major under the Congressional Review Act. We recommended that OMB issue additional guidance to help standardize processes for identifying major rules under CRA. As of November 2016, this recommendation remains open. See GAO-14-67.

[11]As independent regulatory agencies that are not required to follow the economic analysis requirements of E.O. 12,866, the financial regulatory agencies also are not required to follow OMB Circular A-4. However, Circular A-4 is an example of best practices for agencies to follow when conducting regulatory analyses, and the financial regulatory agencies have told us that they follow the guidance in spirit.

uncleared swaps and CFPB's rule on integrated mortgage disclosures.[12] We selected these rules based on the opportunity for extensive interagency coordination. For these rules, we interviewed agency staff and reviewed documentation to establish the extent and the outcome of interagency coordination.

To analyze the impact of the Dodd-Frank Act on financial market stability, we updated several indicators developed in our prior reports using data through the second quarter of 2016.[13] We updated indicators monitoring changes in size, complexity, leverage, liquidity, and interconnectedness of bank systemically important financial institutions (bank SIFI), as well as indicators monitoring changes in size, leverage, liquidity, and interconnectedness of nonbank financial institutions designated by the Financial Stability Oversight Council (FSOC) for supervision by the Federal Reserve, or designated nonbanks.[14] We also updated our indicators monitoring the extent to which certain swap reforms are consistent with the act's goals of reducing risk.[15] For those parts of our methodology that involved the analysis of computer-processed data from Bloomberg, the Federal Reserve Bank of Chicago, the Federal Reserve, the National Information Center, and the Bureau of Economic Analysis, we assessed the reliability of these data by reviewing relevant documentation and electronically testing the data for missing values, outliers, and invalid values. We determined the data were sufficiently

[12]The federal prudential regulators include the OCC, FDIC, Federal Reserve, and NCUA—the prudential regulators of the banking industry—as well as the Federal Housing Finance Agency and Farm Credit Administration. A swap is a type of derivative that involves an ongoing exchange of one or more assets, liabilities, or payments for a specified period. Financial and nonfinancial firms use swaps and other over-the-counter derivatives to hedge risk, or speculate, or for other purposes. Uncleared swaps are swaps that were not cleared by a derivatives clearing organization registered with or exempted by the CFTC and security-based swaps that were not cleared by a clearing agency registered with or exempted by the SEC.

[13]See GAO-13-101, GAO-14-67, GAO-15-81, and GAO-16-169.

[14]The Dodd-Frank Act does not use the term "systemically important financial institution." Academics and other experts commonly use this term to refer to bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies designated by FSOC for Federal Reserve supervision and subject to enhanced prudential standards under the Dodd-Frank Act. For this report, we refer to these bank and nonbank financial companies as bank SIFIs and designated nonbanks, respectively.

[15]Examples of swaps include interest rate swaps, commodity-based swaps, and broad-based credit default swaps. Examples of security-based swaps include single-name and narrow-based credit default swaps and equity-based swaps.

reliable for our purposes of monitoring changes in bank SIFIs and designated nonbanks and assessing the amount of margin collateral that over-the-counter derivatives counterparties used.[16] See appendix I for more information on our scope and methodology.

We conducted this performance audit from June 2016 to December 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

The financial regulatory system consists of numerous regulators with varying missions and functions. They promulgate regulations via federal rulemakings. In particular, the Dodd-Frank Act includes specific rulemaking and coordination requirements.

Financial Regulators

Prudential Regulators for the Banking Industry

In the banking industry, the specific regulatory configuration generally depends on the type of charter the banking institution chooses. Depository institution charter types include

- commercial banks, which originally focused on the banking needs of businesses but over time have broadened their services;
- savings associations (also known as thrifts), which include federal savings banks and certain state savings banks, and savings and loans and were originally created to serve the needs—particularly the mortgage needs—of those not served by commercial banks; and

[16] Margin is the collateral posted by an entity in a swap transaction.

- credit unions, which are member-owned cooperatives run by member-elected boards with a historical emphasis on serving people of modest means.[17]

All depository institutions that have federal deposit insurance have a federal prudential regulator, which generally may issue regulations and take enforcement actions against institutions within its jurisdiction. The prudential regulators are identified in table 1. Holding companies that own or control a bank or thrift are subject to Federal Reserve supervision. The Bank Holding Company Act of 1956 and the Home Owners' Loan Act set forth the regulatory frameworks for bank holding companies and savings and loan holding companies, respectively.[18] The Dodd-Frank Act made the Federal Reserve the regulator of savings and loan holding companies and amended the Home Owners' Loan Act and the Bank Holding Company Act to create certain similar requirements for bank and savings and loan holding companies.[19]

[17]Unless otherwise indicated, we use the term "banks" to refer to commercial banks and thrifts in this report.

[18]Bank Holding Company Act of 1956, Pub. L. No. 84-511, 70 Stat. 133 (codified as amended at 12 U.S.C. §§ 1841-1852); Home Owners' Loan Act, Pub. L. No. 73-43, 48 Stat. 128 (1933) (codified as amended at 12 U.S.C. §§ 1461-1470). Bank holding companies own or control a bank, as defined in the Bank Holding Company Act. 12 U.S.C. § 1841(a)(1),(c). Savings and loan holding companies directly or indirectly control a savings association. 12 U.S.C. § 1467a(a)(1)(D).

[19]For a more detailed discussion of the regulatory framework for bank holding companies and savings and loan holding companies, see GAO, *Bank Holding Company Act: Characteristics and Regulation of Exempt Institutions and the Implications of Removing the Exemptions*, GAO-12-160 (Washington, D.C.: Jan. 19, 2012).

Table 1: Federal Prudential Regulators for the Banking Industry and Their Basic Prudential Functions, as of November 2016

Agency	Basic function
Office of the Comptroller of the Currency	Charters and supervises national banks, federal savings associations (also known as federal thrifts), and federally chartered branches and agencies of foreign banks.
Board of Governors of the Federal Reserve System	Supervises state-chartered banks that opt to be members of the Federal Reserve System, bank and thrift holding companies, and the nondepository institution subsidiaries of those institutions, and nonbank financial companies designated by the Financial Stability Oversight Council for enhanced supervision. Also supervises Edge corporations pursuant to the Edge Act and certain designated financial market utilities (such as a clearinghouse) pursuant to the Dodd-Frank Act.[a] Also supervises state-licensed branches and agencies of foreign banks and regulates the U.S. nonbanking activities of foreign banking organizations.
Federal Deposit Insurance Corporation	Supervises insured state-chartered banks that are not members of the Federal Reserve System, as well as insured state savings associations and insured state chartered branches of foreign banks; insures the deposits of all banks and thrifts that are approved for federal deposit insurance; resolves all failed insured banks and thrifts; and may be appointed to resolve large bank holding companies and nonbank financial companies that are supervised by the Federal Reserve. Also, has backup supervisory responsibility for all federally insured depository institutions.
National Credit Union Administration	Charters and supervises federally chartered credit unions and insures savings in federal and most state-chartered credit unions.

Source: GAO. | GAO-17-188

[a]Edge Act corporations are established as separate legal entities and may conduct a range of international banking and other financial activities in the United States. Pub. L. No. 66-106, 41 Stat. 378 (1919) (codified as amended at 12 U.S.C. § 611).

Securities and Futures Regulators

The securities and futures markets are regulated under a combination of self-regulation (subject to oversight by the appropriate federal regulator) and direct oversight by SEC and CFTC, respectively.[20] SEC regulates the securities markets, including participants such as securities exchanges, broker-dealers, investment companies, and certain investment advisers and municipal advisors.[21] SEC's mission is to protect investors; maintain fair, orderly, and efficient markets; and facilitate capital formation. SEC also oversees self-regulatory organizations—including securities exchanges, clearing agencies, and the Financial Industry Regulatory Authority—that have responsibility for overseeing securities markets and their members; establishing standards under which their members conduct business; monitoring business conduct; and bringing disciplinary

[20]State government entities also oversee certain securities activities.

[21]Some smaller investment advisers are regulated by state government entities.

actions against members for violating applicable federal statutes, SEC's rules, and their own rules.[22]

CFTC is the primary regulator for futures markets, including futures exchanges and intermediaries, such as futures commission merchants.[23] CFTC's mission is to protect market users and the public from fraud, manipulation, abusive practices, and systemic risk related to derivatives subject to the Commodity Exchange Act, and to foster open, competitive, and financially sound futures markets. CFTC oversees the registration of intermediaries and relies on self-regulatory organizations, including the futures exchanges and the National Futures Association, to establish and enforce rules governing member behavior. CFTC and SEC jointly regulate security futures, which generally refers to futures on single securities and narrow-based security indexes.

In addition, Title VII of the Dodd-Frank Act expands regulatory responsibilities for CFTC and SEC by establishing a new regulatory framework for over-the-counter swaps. The act authorizes CFTC to regulate swaps and SEC to regulate security-based swaps with the goals of reducing risk, increasing transparency, and promoting market integrity in the financial system. CFTC and SEC share authority over mixed swaps—that is, security-based swaps that have a commodity component.

Consumer Financial Protection Bureau

The Dodd-Frank Act transferred consumer protection oversight and other authorities over certain consumer financial protection laws from multiple federal regulators to CFPB, creating a single federal entity to, among other things, help ensure consistent enforcement of federal consumer

[22]In the securities markets, self-regulatory organizations, such as a national securities exchange or association, are regulators that have responsibility for much of the day-to-day oversight of the securities markets and broker-dealers under their jurisdiction.

[23]Futures commission merchants are individuals, associations, partnerships, corporations, and trusts that solicit or accept orders for the purchase or sale of a commodity for future delivery, among other products, on or subject to the rules of any exchange and that accept payment from or extend credit to those whose orders are accepted. 7 U.S.C. § 1a(28). Firms and individuals trading futures with the public or giving advice about futures trading must be registered with the National Futures Association, the self-regulatory organization for the U.S. futures industry.

financial laws.[24] The Dodd-Frank Act charged CFPB with the following responsibilities, among others:

- ensuring that consumers are provided with timely and understandable information to make responsible decisions about financial transactions;
- ensuring that consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;
- monitoring compliance with federal consumer financial law and taking appropriate enforcement action to address violations;[25]
- identifying and addressing outdated, unnecessary, or unduly burdensome regulations;
- ensuring that federal consumer financial law is enforced consistently, in order to promote fair competition;
- ensuring that markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation; and
- conducting financial education programs.

Furthermore, the Dodd-Frank Act gave CFPB supervisory authority over certain nondepository institutions, including certain kinds of mortgage market participants, private student loan lenders, and payday lenders.[26]

[24]The Dodd-Frank Act defines Federal consumer financial laws to include the Consumer Financial Protection Act of 2010 (Title X of the Dodd-Frank Act) itself, and a number of other consumer laws and the implementing regulations. 12. U.S.C. § 5481 (14). For example, Federal consumer financial laws include the Equal Credit Opportunity Act, the Truth in Lending Act, the Fair Debt Collection Practices Act, and the Fair Credit Reporting Act.

[25]The Dodd-Frank Act gives the prudential regulators exclusive authority (relative to the CFPB) to enforce compliance with federal consumer financial laws with respect to insured depository institutions and insured credit unions with total assets of $10 billion or less. Pub. L. No. 111-203, § 1026(d)(1), 124 Stat. 1376, 1994 (2010) (codified at 12 U.S.C. § 5516(d)(1).

[26]The Dodd-Frank Act also gave CFPB supervisory authority over “larger participants” in markets for consumer financial products or services as CFPB defines by rule. Pub. L. No. 111-203, § 1024(a)(1)(B), 124 Stat. 1376, 1987 (2010) (codified at 12 U.S.C § 5514(a)(1)(B)). Title X also contains additional authorities and responsibilities for CFPB that are not outlined here.

Regulatory Analyses in Federal Rulemaking

Several regulatory analyses may apply to independent regulators, including the financial regulators. The regulators are subject to compliance with various requirements as part of their rulemakings, such as those in PRA; RFA, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996; and the Congressional Review Act.

- PRA requires federal agencies to (1) seek public comment on proposed collections and (2) submit proposed collections for review and approval by OMB. According to the Office of Information and Regulatory Affairs' PRA guidance, these actions must occur before federal agencies require or request information from the public.
- RFA requires that federal agencies consider the impact of certain regulations they issue on small entities and, in some cases, alternatives to lessen the regulatory burden on these entities.[27] In some cases, PRA and RFA also require agencies, including financial regulators, to assess various effects and costs, respectively, of their rules. However, RFA, like PRA, does not require the agencies to conduct formal benefit and cost analyses.
- The Small Business Regulatory Enforcement Fairness Act of 1996, which amended RFA, generally includes judicial review of compliance with certain provisions of RFA and requires agencies, including financial regulators, to develop one or more small entity compliance guides for each final rule or group of related final rules for which the agency must prepare a regulatory flexibility analysis.[28] In addition, the act requires CFPB to convene a small business review panel, when preparing an initial regulatory flexibility analysis in connection with a proposed rule, to gather recommendations and advice from representatives of small business entities about any projected increase in the cost of credit for small entities and any significant alternatives to the proposed rule.[29]

[27]Under RFA, agencies, including financial regulators, generally must prepare a regulatory flexibility analysis in connection with certain proposed and final rules, unless the head of the issuing agency certifies that the rule would not have a significant economic impact on a substantial number of small entities.

[28]Pub. L. No. 104-121, §§242, 212 (codified at 5 U.S.C. §§ 611, 601 note).

[29]5 U.S.C. § 609(b).

- Under the Congressional Review Act, before rules can take effect, agencies (including financial regulators) must submit their rules to Congress and the Comptroller General, and rules deemed major by OMB generally may not become effective until 60 days after the rules are submitted.[30]

In addition to these requirements, authorizing or other statutes require certain financial regulators to consider specific benefits, costs, and effects of their rulemakings (see table 2).

Table 2: Authorizing and Other Statutes That Apply to Financial Regulators and Their Implications for Benefit-Cost Considerations

Authorizing or other statute	Implications for agencies' consideration of benefits and costs
Commodity Exchange Act	The Commodity Futures Trading Commission must consider the benefits and costs of its action in light of (1) protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk-management practices; and (5) other public interest considerations.[a]
Consumer Financial Protection Act of 2010 (Title X of the Dodd-Frank Act)	The Consumer Financial Protection Bureau (CFPB) must consider the potential benefits and costs of its rules to consumers and entities that offer or provide consumer financial products and services, including potential reductions in consumer access to products or services.[b] CFPB also must consider the impact of proposed rules on insured depository institutions and credit unions with $10 billion or less in assets, and the impacts on consumers in rural areas.[c] CFPB must consult with the appropriate prudential regulators or other federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies.[d] When an initial Regulatory Flexibility Act (RFA) analysis is required, CFPB must describe any projected increase in the cost of credit for small entities, any significant alternatives which accomplish the stated objectives of applicable statutes and which minimize any increase in the cost of credit for small entities, and any advice and recommendations of small-entity representatives related to such projected increase or significant alternatives.[e]

[30]Pub. L. No. 104-121, tit. II, § 251, 110 Stat. 868 (1996) (codified at 5 U.S.C. §§ 801-808). The Congressional Review Act requires agencies to submit to both houses of Congress and the Comptroller General, before rules can become effective, a report containing (i) a copy of the rule, (ii) a concise general statement relating to the rule, including whether it is a major rule, and (iii) the proposed effective date of the rule. 5 U.S.C. § 801(a)(1)(A). Rules not classified as major take effect as otherwise provided by law after submission to Congress, while rules classified as major take effect on the later of 60 days after Congress receives the rule report, or 60 days after the rule is published in the *Federal Register*, as long as Congress does not pass a joint resolution of disapproval. 5 U.S.C. § 801(a)(3),(4). The Congressional Review Act also mandates that we provide a report to Congress for each major rule that includes an assessment of an agency's compliance with the Congressional Review Act process. We do not analyze or comment on the substance or quality of rulemaking. We must report to each house of Congress by the end of 15 calendar days after a rule's submission or publication date. 5 U.S.C. § 801(a)(2)(A).

Authorizing or other statute	Implications for agencies' consideration of benefits and costs
National Securities Markets Improvement Act of 1996 and the Securities Exchange Act of 1934, as amended	Whenever the Securities and Exchange Commission (SEC) is engaged in rulemaking and is required to consider or determine whether an action is necessary or appropriate in the public interest, the agency must consider, in addition to the protection of investors, whether a rule will promote efficiency, competition, and capital formation.[f] SEC also must consider the impact that any rule promulgated under the Securities Exchange Act of 1934 would have on competition.[g]
Electronic Fund Transfer Act, as amended by the Dodd-Frank Act regarding reasonable fees and rules for payment card transactions	The Board of Governors of the Federal Reserve System must prepare an analysis of the economic impact of regulations that considers the benefits and costs to financial institutions, consumers, and other users of electronic fund transfers.[h] The analysis must address the extent to which additional paperwork would be required, the effects on competition in the provision of electronic banking service among large and small financial institutions, and the availability of such services to different classes of consumers, particularly low-income consumers.
The Riegle Community Development and Regulatory Improvement Act of 1994	Each federal banking agency, when determining the effective date and administrative compliance requirements of new regulations that impose additional reporting, disclosure, or other requirements on insured depository institutions, must consider, consistent with the principles of safety and soundness and the public interest, any administrative burdens the regulations would place on depository institutions or customers of insured depository institutions and the benefits of such regulations.[i]

Source: GAO. | GAO-17-188

[a]Pub. L. No. 67-331, §15(a), 42 Stat. 998 (1922) (codified as amended at 7 U.S.C. § 19(a)).

[b]Pub. L. No. 111-203, § 1022(b)(2)(A)(i), 124 Stat. 1376, 1980-81 (codified at 12 U.S.C. § 5512(b)(2)(A)(i)).

[c]§ 1022(b)(2)(A)(ii), 124 Stat. at 1980-81 (codified at 12 U.S.C. § 5512(b)(2)(A)(ii)).

[d]Pub. L. No. 111-203, §1022(b)(2)(B) (codified at 12 USC 5512 (b)(2)(B).

[e]§ 1100G, 124 Stat. at 2112 (codified at 5 U.S.C. § 603(d)) (amending RFA).

[f]Pub. L. No. 104-290, § 106(a)-(c), 110 Stat. 3416, 3424 (1996) (codified as amended at 15 U.S.C. §§ 77b(b), 78c(f), 80a-2(c)). Conforming amendments to the Investment Advisers Act of 1940 were made in section 224 of the Gramm-Leach-Bliley Act. Pub. L. No. 106-102, § 224, 113 Stat. 1338, 1402 (1999) (codified at 15 U.S.C. § 80b-2(c)).

[g]Pub. L. No. 73-291, § 23(a)(2), 48 Stat. 881 (codified as amended at 15 U.S.C. § 78w(a)(2)).

[h]15 U.S.C. § 1693b(a)(2)(B).

[i]Pub. L. No. 103-325, § 302, 108 Stat. 2160, 2214 (codified at 12 U.S.C. § 4802).

In contrast, E.O. 12,866, supplemented by E.O. 13,563, requires executive agencies (which do not include independent regulators such as financial regulators), to the extent permitted by law and where applicable, to provide more formal cost-benefit analyses that (1) assess costs and benefits of available regulatory alternatives and (2) include both quantifiable and qualitative measures of benefits and costs in their analysis, recognizing that some costs and benefits are difficult to quantify. Such analysis, according to OMB, can enable an agency to learn if the benefits of a rule are likely to justify the costs and discover which possible alternatives would yield the greatest net benefit or be most cost-effective.

In 2003, OMB issued Circular A-4 to provide guidance to executive agencies on developing regulatory analysis as required by E.O. 12,866.[31] The circular defines good regulatory analysis as including a statement of the need for the proposed regulation, an assessment of alternatives, and an evaluation of the costs and benefits of the proposed regulation and the alternatives. It also standardizes the way costs and benefits of regulatory actions should be measured and reported. FSOC and the Department of the Treasury (Treasury), which are not financial regulators, are subject to E.O. 12,866 and Circular A-4. However, as we have reported, some independent agencies consult Circular A-4.

Interagency Coordination Requirements in Dodd-Frank Act Rulemakings

As we have noted in prior reports, effective coordination can help regulators minimize or eliminate staff and industry burden, administrative costs, conflicting regulations, unintended consequences, and uncertainty among consumers and markets.[32] The Dodd-Frank Act imposes interagency coordination or consultation requirements and responsibilities on regulators or in connection with certain rules, including the following examples:

- Under Title VII, SEC and CFTC must coordinate and consult with each other and with prudential regulators (for the purposes of Title VII, these regulators are the Federal Reserve, OCC, FDIC, Farm Credit Administration, and Federal Housing Finance Agency), to the extent possible, before starting a rulemaking or issuing an order on swaps, security-based swaps, swap entities, or security-based swap entities.[33] This requirement is designed to ensure regulatory consistency and comparability across the rules or orders, to the extent possible. Title VII also directs CFTC, SEC, and the prudential regulators, as appropriate, to coordinate with foreign regulators on

[31]Office of Management and Budget, *Circular A-4: Regulatory Analysis* (Washington, D.C.: Sept. 17, 2003). Circular A-4 replaced OMB's best practices guidance issued in 1996 and 2000. E.O. 13,579 encourages independent regulatory agencies to comply with E.O. 13,563. E.O. 13,579, 76 Fed. Reg. 41,587 (July 11, 2011).

[32]See GAO-13-101, GAO-14-67, and GAO-15-81.

[33]Section 712(a)(4) of the Dodd-Frank Act exempts from this requirement orders issued in connection with or arising from a violation or potential violation of any provision of the Commodities Exchange Act or the securities laws, or in certain administrative hearings.

establishing consistent international standards on the regulation of swaps, security-based swaps, swap entities, and security-based swap entities. In addition, the Dodd-Frank Act requires SEC and CFTC, in consultation with the Federal Reserve, to jointly adopt certain rules under Title VII, and if Title VII requires CFTC and SEC to issue joint regulations to implement a provision, any guidance on or interpretation of the provision is effective only if issued jointly and after consultation with the Federal Reserve.

- Under section 1022, before proposing a rule and during the comment process, CFPB must consult with the appropriate prudential regulators or other federal agencies on consistency with prudential, market, or systemic objectives administered by such agencies.

Agencies Reported Conducting Required Regulatory Analyses and for Select Major Rules, Generally Included Key Elements of Cost-Benefit Analysis

We found that for rules that were issued and became effective between July 23, 2015, and July 22, 2016, agencies reported conducting PRA and RFA analysis where required. In addition, although not required to do so, financial regulators told us that they generally follow OMB's guidance for developing regulatory analysis (Circular A-4). We found that the agencies included most of the key elements of OMB's guidance in their analyses for select major rules during this review period. We recommended in our December 2011 report that federal financial regulators more fully incorporate OMB's regulatory guidance into their rulemaking polices.[34]

[34] GAO-12-151. As a result of actions taken, we have closed this recommendation with CFPB, FDIC, OCC, and SEC but the recommendation remains open for the Federal Reserve and NCUA. NCUA staff told us they are nearing completion of internal agency policies that standardize and institutionalize the rulemaking process within NCUA. They said that these policies will document NCUA's current practice related to OMB's regulatory analysis guidance.

Agencies Reported Conducting Required Regulatory Analyses

Of the 30 Dodd-Frank Act rules within our scope, the agencies reported conducting regulatory analysis for PRA on 12 rules and conducted a regulatory analysis or provided a certification that such an analysis was not needed under RFA for 21 rules as part of their rulemaking process.[35] These rules were issued individually or jointly by CFTC, CFPB, FDIC, the Federal Reserve, OCC, and SEC.[36] (See app. II for a list of the regulations within the scope of our review.) In examining the regulatory analyses for the 12 rules, we found that the agencies reported conducting the regulatory analysis pursuant to PRA when required—that is, the agencies are required to minimize the paperwork burden of their rulemakings and evaluate whether a proposed collection is necessary for the proper performance of the functions of the agency. PRA analysis on all of the 12 rules included a discussion of the analysis the agencies performed and provided estimates of the paperwork burden on entities. For instance, for the joint rule on the registration and supervision of appraisal management companies, the regulators provided estimates on the total number of states and appraisal management companies affected and estimated total burden hours for reporting and recordkeeping requirements for these entities. In another rule, CFPB determined that permitting electronic filing of reports would result in a minimal one-time burden associated with a new method of submission but it estimated savings over time due to the reduction of paper filings each year. The rule allows land developers to choose whether to submit certain filings, such as annual reports, either by paper or via electronic means. For another rule on business conduct standards for security-based swap dealers and participants, SEC performed a PRA analysis in its proposed rule and updated certain estimates for security-based swap market participants and other entities for the final rule to reflect the most recent data available.

For the remaining 18 rules, the agencies determined that they were not required to conduct the regulatory analyses pursuant to PRA or that PRA was not applicable. In some cases, they determined that they were not

[35] For one of the rules, the regulator voluntarily undertook a regulatory flexibility analysis even though it was not applicable. See appendix II.

[36] The Farm Credit administration (FCA) and the Federal Housing Finance Agency (FHFA) were also involved in issuing the joint rules.

required to conduct regulatory analyses pursuant to PRA because they determined no new collection of information would be required. For instance, CFTC's rule on trade options stated that for PRA, CFTC determined that the final rule would not impose any new information collection requirements that require OMB's approval under PRA. In other cases, the agencies determined that the PRA was not applicable. For example, the Federal Reserve's rule on unfair or deceptive acts or practices stated that the final rule contains no requirements subject to the PRA.

Under the RFA, when an agency proposes a rule that would have a significant economic impact on a substantial number of small entities, the rule must be accompanied by an impact analysis, known as an initial regulatory flexibility analysis (IRFA) when it is published for public comment.[37] The agency must publish a final regulatory flexibility analysis (FRFA) with the final rule.[38] Alternatively, in the appropriate circumstances, an agency may certify that its rule will not have a significant economic impact on a substantial number of small entities. The certification must be published in the *Federal Register* "along with a statement providing the factual basis for such certification."[39]

In one instance, a regulator—CFPB—determined that the final rule on integrated mortgage disclosures would have a significant impact on a substantial number of small entities. It conducted the regulatory flexibility analysis and estimated the number of affected entities in certain mortgage transactions and the benefits and costs to small entities.[40] For 6 rules, the regulators conducted a FRFA and concluded that the rule would not have a significant economic impact on a substantial number of small entities. For example, the Federal Reserve, in a rule that established minimum margin and capital requirements for certain swap entities,

[37]5 U.S.C. §603.

[38]5 U.S.C. §604.

[39]5 U.S.C. §605(b).

[40]In prior work, we reviewed CFPB's process for conducting small business review panels pursuant to the Small Business Regulatory Enforcement Fairness Act. We found that for the integrated mortgage disclosure rule and several other rules we reviewed as part of that work, CFPB completed required steps for conducting the small business review panels and addressed required elements of the RFA during the rulemaking process. GAO, *Consumer Financial Protection Bureau: Observations from Small Business Review Panels*, GAO-16-647 (Washington D.C.: Aug. 10, 2016).

considered the potential impact on small entities in accordance with a FRFA, and based on its analysis, believed that the rule would not have a significant economic impact on a substantial number of small entities.

For 10 rules, the regulators stated that RFA was not applicable. For example, CFPB stated in its rule amending certain filing requirements under the Interstate Land Sales Full Disclosure Act that because no notice of proposed rulemaking is required, RFA does not require an initial or final regulatory flexibility analysis. In another example, FDIC determined that its rule on assessments relates directly to the rates imposed on insured depository institutions for deposit insurance. For this reason, it determined that the requirements of RFA do not apply. FDIC explained that certain types of rules, such as rules of particular applicability relating to rates or corporate or financial structures, or practices relating to such rates or structures, are expressly excluded from the definition of the term ‘‘rule’’ for purposes of RFA.

In the remaining cases, the regulators certified that the regulations would not have a significant economic impact on a substantial number of small entities per section 605(b) of the RFA. In doing so, each regulator provided a basis supporting its certification. For example, SEC's rule on business conduct standards for swap dealers and participants noted that because (1) large financial institutions generally were the entities engaged in the dealing activity involving security-based swaps, and (2) major security-based swap participants were not small entities, its security-based-swap entity registration rules and forms, as adopted, would not have a significant economic impact on a substantial number of small entities for purposes of RFA.

Finally, of the 30 regulations that were issued and became effective between July 23, 2015, and July 22, 2016, the agencies identified 9 as being major rules. Pursuant to the Congressional Review Act, a major rule is one that results in or is likely to result in an annual impact on the economy of $100 million or more, a major increase in costs or prices, or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Specifically, CFTC issued 1 major rule; CFPB issued 1 major rule; Federal Deposit Insurance Corporation issued 1 major rule; the Federal Reserve issued 1 major rule; SEC issued 4 major rules; and 1 major rule was issued jointly (Farm Credit Administration, FDIC, Federal Housing Finance Agency, Federal Reserve, and OCC).

Regulators Are Not Required to Follow OMB Guidance but Included Most Key Elements of Cost-Benefit Analysis

Independent federal financial regulators are not required to follow OMB's Circular A-4 when developing regulations, but they told us that they try to follow this guidance in principle or spirit. Regulators generally included the key elements of OMB's guidance in their regulatory analyses for these major rules.

To assess the extent to which the regulators follow Circular A-4, we examined 5 major rules (see table 3 for a description of these rules).[41] Specifically, we examined whether the regulators (1) identified the problem to be addressed by the regulation; (2) established the baseline for analysis; (3) considered alternatives reflecting the range of statutory discretion; and (4) assessed the costs and benefits of the regulation.

Table 3: Select Rules under the Dodd-Frank Act That Were Designated as Major and Became Effective between July 23, 2015, and July 22, 2016

Rule	Responsible regulator	Rule synopsis
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants	Commodity Futures Trading Commission (CFTC)	Provides for the establishment of margin requirements for uncleared swaps of swap dealers and major swap participants. Each swap dealer and major swap participant for which there is no prudential regulator must comply with CFTC's regulations governing margin.
Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)	Consumer Financial Protection Bureau (CFPB)	Provides for combining certain disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act.
Assessments	Federal Deposit Insurance Corporation (FDIC)	Provides for a surcharge on the quarterly assessments of insured depository institutions with total consolidated assets of $10 billion or more to fund the Deposit Insurance Fund.
Pay Ratio Disclosure	Securities Exchange Commission (SEC)	Provides for disclosure of the median of the annual total compensation of all employees of a registrant (excluding the chief executive officer), the annual total compensation of that registrant's chief executive officer, and the ratio of those two amounts.

[41]To narrow the list from 9 major rules to the 5 rules subject to in-depth review, we determined to include rules that were from a variety of agencies, including one joint rule, and that covered varied topics.

Rule	Responsible regulator	Rule synopsis
Margin and Capital Requirements for Covered Swap Entities	Joint Rule[a]	Provides for the establishment of minimum margin and capital requirements for uncleared swaps of registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the agencies is the prudential regulator.[a]

Source: GAO analysis of Federal Register notices. | GAO-17-188

[a]This rule was issued jointly by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, and Federal Housing Finance Agency.

Identification of the Problem to Be Addressed and Establishment of a Baseline for Analysis

We found that all five rules we reviewed were consistent with OMB Circular A-4, which states that a rule should clearly identify the specific problem that the proposed regulatory action is intended to address. For example, SEC stated in its rule on pay ratio disclosure that current disclosure rules required registrants to disclose compensation information for only certain employees in their SEC filings; as a result, shareholders cannot calculate a company-specific metric that they can use to evaluate the chief executive officer's compensation within the context of their own company. As another example, FDIC noted in its rule on assessments the need to reach the minimum reserve ratio to strengthen the fund, reduce the risk of the banking industry facing unexpected, large increases in assessment rates in a period of stress, and maintain stable and predictable bank assessments. Also, CFTC stated in its rule on margin requirements for uncleared swaps that the rule was intended to implement a specific provision of the Commodity Exchange Act, as amended by Title VII of the Dodd-Frank Act. As CFTC noted in the rule, Title VII intended to establish a comprehensive regulatory framework to reduce risk, increase transparency, and promote market integrity in the derivatives market.

In addition, all five rules identified the baseline for analysis. OMB Circular A-4 states that the baseline should be the best assessment of the way the world would look absent the proposed action. For example, CFTC stated in its rule on margin requirements for uncleared swaps that the baseline against which the costs and benefits associated with this rule will be compared is the uncleared swaps markets as it existed at the time the rule was finalized. SEC stated in its rule on pay ratio disclosure that the baseline is the current state of the market without a requirement for registrants to disclose pay ratio information. Similarly, CFPB stated in its rule on integrated mortgage disclosures that the baseline considers

economic attributes of the mortgage market and the existing regulatory structure.

Evaluation of Alternative Approaches

The regulators also provided alternative approaches to the proposed rules implementing the relevant provision of the Dodd-Frank Act and solicited comments. OMB Circular A-4 states that good regulatory analysis is designed to inform the public and other parts of the government of the effects of alternative actions. We found that all five rules that we assessed provided alternative approaches to the proposed rules. The agencies also asked for and received public comments, including possible alternatives to proposed requirements. For instance, in the joint rule on margin and capital requirements for covered swap entities, the prudential regulators identified and considered a number of alternatives raised by commenters and provided the rationale in their decision to a suggested approach. SEC stated in its rule on pay ratio disclosure that after considering all of the comments received on the proposed rule—and in particular, after considering specific suggestions from commenters on alternatives that could help to mitigate compliance costs and practical difficulties associated with the proposed rule—it was adopting a number of revisions to the final rule.

Analysis of Costs and Benefits of Major Rules

OMB Circular A-4 states that quantifying costs and benefits allows regulators to evaluate different regulatory options using a common measure. Additionally, OMB Circular A-4 recognizes that some important costs and benefits may be inherently too difficult to quantify given current data and methods and recommends a careful evaluation of qualitative costs and benefits. In prior work, we have noted some of the challenges to quantifying costs and benefits. For example, in our 2014 report, we found that federal financial regulators were constrained by several factors such as limited data or data unavailability and difficulties modeling and quantifying costs and benefits.[42]

However, we also found that by drawing on several sources, such as public comments on proposed rulemakings or data from other regulators, regulators are able to more effectively consider the costs and benefits of

[42]GAO-15-81.

the rulemakings. As shown in the following examples, the regulators generally quantified some costs in all five of their respective rules and in four instances they discussed some costs qualitatively.

- The preamble to CFTC's final rule on margin requirements for uncleared swaps stated it used industry data to construct its own estimates of costs, but noted that there were a number of challenges in conducting quantitative analysis of the costs associated with the rule. As a result, CFTC stated that the discussion of the costs and benefits is largely qualitative in nature since administrative costs are difficult to quantify.[43] For example, the preamble stated that the higher degree of harmonization between various regulators and jurisdictions in the final rule should result in lower administrative costs. Additionally, CFTC stated that longer lead times for industry to build compliance systems provided in the final rule will result in less operational error and costs.
- The joint rule on margin and capital requirements for uncleared swaps estimated the annual cost associated with initial margin requirements that will be required of U.S. swap entities and their counterparties once the requirements are fully implemented to range from $672 million to roughly $46 billion, depending on the specific initial margin estimate and incremental funding costs that is used to compute the estimate. The agencies noted the difficulty of estimating the costs associated with providing initial margin with any precision due to differences in marginal funding costs across different types of entities and over time, among other things.
- SEC's rule on pay ratio disclosure provided both quantitative and qualitative costs. SEC discussed direct compliance costs paid by registrants that are subject to the pay ratio disclosure. For example, SEC estimated that the average initial cost of compliance for a registrant with foreign operations is expected to be approximately $700,000 and for a registrant with U.S.-based operation only is expected to be approximately $150,000. In its pay ratio disclosure rule, SEC allows a company, in identifying the median employee, to use a cost-of-living adjustment for employees living in a jurisdiction other than the jurisdiction in which the chief executive officer resides. Thus, where a company has employees in countries whose cost-of-

[43]According to CFTC's final rule it requested comments in the rule proposal on the administrative costs involved in implementing its proposed margin rule; however, as it did not receive any quantitative data to assist it in its analysis, it determined to undertake a qualitative analysis.

living differs from the cost-of-living in the chief executive officer's country of residence, the cost-of-living adjustment may have an effect on the determination of the median employee and on the calculation of the pay ratio. SEC noted that it was limited in its ability to quantify the impact of the adjustment on the pay ratio calculation by lack of data on the countries where employees are located, the actual distribution of employee pay and the specific cost-of-living measure used. SEC stated that it qualitatively analyzed the main factors that may contribute to more significant effects of the cost-of-living adjustment on the determination of the median employee compensation and on the calculation of the pay ratio. It found that the effect of the cost-of-living adjustment could be potentially larger for registrants with a larger percentage of employees outside the chief executive officer's country of residence and for registrants with employees in countries with a cost-of-living that differs significantly from the chief executive officer's country of residence.

In addition, two of the five rules quantified some benefits and all of the rules included some qualitative information on benefits, such as their nature, timing, likelihood, location, and distribution. In one example, CFPB quantified some benefits in connection with its integrated disclosure rule. For example, CFPB estimated that the rule could result in savings of $130 million per year for employee time saved for mortgage transactions and stated that most of these savings are likely to be passed on to consumers. FDIC's assessment rule also quantified some benefits. FDIC stated that it will collect approximately $10 billion in surcharges and award approximately $1 billion in credits to small banks, although actual amounts will vary from these estimates. The three remaining rules did not quantify benefits and noted data and other limitations to not doing so.

The five rules provided a discussion of some qualitative benefits. FDIC's rule on assessments stated that imposing surcharges on assessments so that the deposit insurance fund reaches its target reserve ratio promptly strengthens the fund more quickly so that it can better withstand an unanticipated spike in losses from bank failures or the failure of one or more large banks. FDIC stated that reaching the target ratio early also reduces the risk of the banking industry facing unexpected, large increases in assessment rates in a period of stress. In another example, SEC stated in its rule on pay ratio disclosures that providing additional executive compensation information to shareholders provides new data points that shareholders may find relevant and useful when exercising

their certain voting rights.[44] However, SEC also stated that it could not quantify in monetary terms the benefit to shareholders. SEC stated that pay ratio disclosure is not tied to an immediate economic transaction, such as a sale of a security, and that the pay ratio disclosure is but one data point among many considerations that shareholders might find relevant when exercising their say-on-pay votes.

Regulators Coordinated on Rulemakings as Required

The agencies reported coordinating as required or voluntarily on 19 of the 30 regulations that became effective between July 23, 2015, and July 22, 2016. The Dodd-Frank Act stipulated coordination for 17 regulations, and agencies reported coordinating on these rules. For example, in its rule on business conduct standards for security-based swap dealers and major security-based swap participants, SEC reported consulting and coordinating with CFTC and the prudential regulators in accordance with the consultation mandate in the Dodd-Frank Act.[45] For 2 additional rules, the Dodd-Frank Act did not stipulate coordination, but the rules were jointly issued by two or more regulators, and thus, inherently required coordination.

For most of the other 11 rules, agency officials told us that they did not voluntarily coordinate because the rules were technical amendments or focused on areas solely within the agency's purview. For example, CFPB explained that it did not coordinate on several of its rules because they were threshold adjustments that were mechanical in nature and often tied to the Consumer Price Index. Similarly, FDIC did not coordinate on its rule on assessments because FDIC is solely responsible for deposit insurance assessments, so this is not an area promulgated in coordination with other entities. Appendix III provides a complete list of rulemakings, along with an explanation of whether coordination was required and the nature of any coordination.

[44]Section 951 of the Dodd-Frank Act requires public companies subject to the proxy rules to provide their shareholders with an advisory vote on executive compensation. These advisory votes are generally known as "say-on-pay" votes.

[45]The term "prudential regulators" refers to OCC, the Federal Reserve, and FDIC—prudential regulators of the banking industry—as well as the Federal Housing Finance Agency and Farm Credit Administration.

Of the 19 rules that we identified as having interagency coordination, we reviewed 3 rules in depth (see table 4).[46] Specifically, we examined when, how, and to what extent federal financial regulators coordinated on the CFTC's and the prudential regulators' respective rules on margin requirements for uncleared swaps, as well as CFPB's rule on integrated mortgage disclosures. For the margin requirements for uncleared swaps rules, we also examined the efforts taken by the prudential regulators and CFTC to harmonize their respective versions of the rule.

[46]We selected these rules to cover as many regulators as possible that were required to coordinate under the Dodd-Frank Act. In addition to selecting rules that cover each of the prudential regulators, CFTC, and CFPB, these rules also provided the agencies with the opportunity for significant coordination. In addition, the margin requirements for uncleared swaps rules allowed us to examine how agencies reconcile rules created by separate agencies, but aimed at regulating the same issue.

Table 4: Select Rules under the Dodd-Frank Act That Required Coordination and Were Effective between July 23, 2015, and July 22, 2016

Rulemaking	Agency	Dodd-Frank Act coordination requirement
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants	Commodity Futures Trading Commission (CFTC)	Requires CFTC to periodically consult with prudential regulators and the Securities and Exchange Commission (SEC) on minimum capital requirements and the minimum initial and variation margin requirements.
Margin and Capital Requirements for Covered Swap Entities	Joint Rule[a]	Requires the prudential regulators to work with CFTC and SEC to establish and maintain, to the maximum extent practicable, capital and margin requirements that are comparable, and to consult with CFTC and SEC periodically (but no less than annually) regarding these requirements.
Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Reg. X) and Truth in Lending Act (Reg. Z)	Consumer Financial Protection Bureau (CFPB)	Requires CFPB to consult with the appropriate prudential regulators or other federal agencies prior to proposing a rule and during the comment process regarding consistency with prudential, market, or systemic objectives administered by such agencies.

Source: GAO. | GAO-17-188

[a]This rule was issued jointly by the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, and Federal Housing Finance Agency.

According to regulators, most coordination for the rulemakings occurred throughout the rulemaking process. Agencies described coordinating through regularly scheduled meetings and conference calls, as well as through e-mail, telephone conversations, and sharing copies of drafts for comment.

Prudential Regulators, CFTC, and International Regulators Engaged in Recurring Coordination on the Swaps Rules

In developing their respective rules on margin requirements for uncleared swaps, staff from the prudential regulators and CFTC engaged in coordination domestically, staff from the banking regulators and CFTC engaged in coordination internationally.[47]

[47]For the purpose of examining coordination on these rules, we focused our review on the prudential regulators of the banking industry (banking regulators) that participated on these rules. Specifically, we interviewed OCC, the Federal Reserve, and FDIC, as well as CFTC.

Domestic Coordination

Staff from the banking regulators and CFTC said that throughout the rulemaking process, regulators scheduled recurring interagency meetings to coordinate their rules and engaged in additional coordination as needed.[48] Staff from the banking regulators and CFTC also said that before proposing their respective rules, they began holding regular meetings to discuss their ideas.[49] According to staff from the regulators, these meetings, which were typically held at least biweekly, continued throughout the rulemaking process, although regulatory staff from one agency said that the regulators would meet more frequently if there were issues that required more discussion. Federal Reserve staff created agendas for these recurring meetings. These agendas included discussion items such as revisions for specific sections and particular comments for the agencies to consider. Staff from CFTC and one banking regulator said that they continue to have biweekly conference calls to discuss the implementation of the rules and issues that may arise regarding them.

According to staff from CFTC and the banking regulators, their efforts to coordinate throughout the rulemaking process led to rules that are largely harmonized, particularly in key areas such as the initial and variation margin requirements, the timing for posting margin, and the parties that are required to post the margin.[50] CFTC staff said that one of the goals of

[48]In our November 2011 report, we found that agencies generally coordinated through informal methods of communication, such as conference calls and sharing drafts for review, but generally lacked formal written policies and procedures to facilitate interagency coordination. At that time, we recommended that FSOC work with the federal financial regulatory community to establish formal coordination policies that clarify issues such as when coordination should occur and the process that will be used to solicit and address comments. As of December 2016, CFPB and FDIC have addressed this recommendation. The recommendation remains open for FSOC and the other federal financial regulators. See GAO-12-151.

[49]SEC proposed a rule that addresses margin requirements for security-based swap dealers and major security-based swap participants in 2012, but has not yet finalized its rule. See Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers, 77 Fed. Reg. 70214 (Nov. 23, 2012).

[50]Initial margin is the collateral that is posted or collected in connection with an uncleared swap. Variation margin is collateral provided by one party to its counterparty to meet the performance of its obligations under one or more uncleared swaps between the parties as a result of a change in value of such obligations since the last time such collateral was provided.

coordinating with the other regulators was to harmonize the rules to the extent possible and avoid the potential for regulatory arbitrage.[51] Staff from CFTC and the banking regulators noted that the coordination process allowed them to resolve several areas where they had differences. For example, CFTC staff said that initially the prudential regulators and CFTC were considering setting different thresholds for the size of an entity that would be subject to the rules. However, they said that CFTC conducted an analysis that helped the regulators achieve a consensus on the appropriate threshold.

According to regulators, another area where the prudential regulators and CFTC initially differed was in their proposed margin requirements for the treatment of uncleared cross-border swap transactions—transactions involving swap entities operating in a foreign jurisdiction or organized as U.S. branches or agencies of foreign banks. In their respective final rules, CFTC and the prudential regulators came to a similar position regarding whether to allow entities to comply with comparable margin requirements in a foreign jurisdiction. The prudential regulators' rule permits certain swap entities to comply with a foreign regulatory framework for non-cleared swaps if the regulators jointly determine that the foreign regulatory framework is comparable to the regulators' rule. Similarly, CFTC allows entities, under certain circumstances, to rely on compliance with a foreign jurisdiction's margin requirements if CFTC determines they are comparable to CFTC's.[52] OCC staff noted that through the coordination process CFTC came to this determination, in part because much of the international swap dealer community is subject to the prudential regulators' rule rather than CFTC's rule.

While regulators noted that coordination helped them achieve comparability between the final rules in many key areas, they identified one area where differences remain—that of margin requirements for

[51]Regulatory arbitrage refers to institutions taking advantage of variations in how agencies implement regulatory responsibilities in order to be subject to less scrutiny.

[52]CFTC decided to address the cross-border application of its margin rules in a separate rulemaking. See Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants—Cross-Border Application of the Margin Requirements, 81 Fed. Reg. 34818 (May 31, 2016). According to CFTC, the rule is closely aligned with the cross-border margin requirements adopted by the prudential regulators.

uncleared swaps with affiliated entities (interaffiliate swaps).[53] Both final rules require swap entities covered by the rules to collect and post variation margin for uncleared swaps with affiliates on the same basis as for nonaffiliated counterparties. However, the final rules are different with respect to the collection of initial margin for interaffiliate transactions. While the prudential regulators' rule does require a swap entity to collect initial margin from an affiliate, subject to a threshold amount, CFTC generally does not impose a similar requirement to collect initial margin from an affiliate (although it stipulates such swaps must be subject to a centralized risk-management program that is designed to monitor and to manage the risks associated with such transactions).[54] CFTC's Chairman said in his statement of record that interaffiliate transactions are transactions within the consolidated entity, and not with a third party. As such, they do not increase the overall risk exposure of the consolidated entity. In its final rule, CFTC noted that, among other contributing factors, it considered the difference in mission and overall regulatory framework between the prudential regulators and CFTC in determining its initial margin requirement for interaffiliate transactions. CFTC and two banking regulators' staff noted that it was unclear at this time as to whether this difference in the final rules was going to affect interaffiliate transactions. Two regulators said the regulators will need to monitor potential effects as the margin rules are implemented. However, in finalizing CFTC's rule, one dissenting Commissioner said in her statement of record that CFTC's treatment of interaffiliate initial margin places the swap dealers CFTC

[53]CFTC's final rule defines a company as a margin affiliate of another company if: (1) either company consolidates the other on a financial statement prepared in accordance with U.S. Generally Accepted Accounting Principles, the International Financial Reporting Standards, or other similar standards, (2) both companies are consolidated with a third company on a financial statement prepared in accordance with such principles or standards, or (3) for a company that is not subject to such principles or standards, if consolidation as described in either (1) or (2) of this definition would have occurred if such principles or standards had applied. The prudential regulator's definition includes the three prongs of CFTC's rule, but it also considers a company an affiliate if a prudential regulator has determined that a company is an affiliate of other company, based on that regulator's conclusion that either company provides significant support to, or is materially subject, to the risks of losses of the other company.

[54]The prudential regulators' rule imposes an initial margin collection requirement for inter-affiliate transactions that is generally comparable to their requirement for nonaffiliated entities. According to two banking regulators, the approach set out by the prudential regulators takes into account the prudential safety and soundness considerations and links between the derivative activities of swap dealers and insured banks.

regulates and their customers at unnecessary risk in times of financial stress.[55]

International Coordination

The Dodd-Frank Act directs CFTC, SEC, and the prudential regulators to consult and coordinate, as appropriate, with foreign regulatory authorities on the establishment of consistent international standards for regulating swaps. Staff from CFTC, SEC, and several of the prudential regulators participated on the international working group that helped develop the international framework to regulate uncleared swaps, which was issued in September 2013 by the Basel Committee on Banking Supervision and the Board of the International Organization of Securities Commissions.[56] According to CFTC staff, the working group coordinated on issues such as the logistics for the collection of margin and how to treat transactions in emerging markets. Staff from two banking regulators and CFTC said that after the international standards were established, the regulators coordinated through their standing, biweekly meetings to reconcile their initial proposed rules with the international framework.

Coordination on the Integrated Mortgage Disclosure Rule Followed CFPB's Internal Guidance for Agency Consultation

With respect to the integrated mortgage disclosure rule, CFPB followed its formal consultation process for working with agencies to develop Dodd-Frank Act rules. As previously discussed, section 1022 of the Dodd-Frank Act requires CFPB to consult with the appropriate prudential

[55]The Commissioner stated that the complicated organizational structures of large financial institutions and the differences in political, financial, and legal systems across interconnected international affiliate webs make it difficult to predict how risk will unfold across a global entity in a period of severe financial stress. She said that by not requiring the collection of inter-affiliate initial margin for a significant number of trades, CFTC loses a vital financial shock absorber that is intended to help immunize institutions and the system against the risk of default.

[56]Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions, *Margin Requirements for Non-Centrally Cleared Derivatives* (September 2013). In March 2015, the Basel Committee on Banking Supervision and Board of the International Organization of Securities Commissions released a revised framework to (i) delay the implementation of requirements to exchange both initial margin and variation margin by 9 months; and (ii) adopt a phase-in arrangement for the requirement to exchange variation margin.

regulators or other federal agencies as part of the rulemaking process. In March 2012, CFPB developed internal guidelines that outline the minimum steps that it expects staff to follow during the consultation process. The guidelines state that while the process may vary depending on factors such as the nature, complexity, and deadlines of rulemakings, the process typically includes an opportunity for relevant agencies to coordinate with CFPB before it proposes its rule, after CFPB receives comments on its proposal, and before the final rule is issued. This coordination includes in-person briefings and solicitations for input on CFPB's approach to the particular rule.

In developing the integrated mortgage disclosure rule, CFPB staff said that they provided notification of a desire to consult on the rule to the prudential regulators, offered four briefings during the rulemaking process, and held other consultations as needed in accordance with its consultation process guidelines. While developing the proposed and final rules, CFPB staff provided outlines to the prudential regulators for their consultation and feedback. According to CFPB staff, when agencies provided comments in the proposal stage, CFPB staff sometimes updated the proposed rule to include a request for comment on their suggestions. For example, staff said that when FDIC suggested that CFPB improve the disclosures on annual percentage rates, CFPB included a request for comment in the proposed rule on ways to improve the disclosure.

Staff from CFPB and the prudential regulators said that the prudential regulators participated in CFPB's consultation process. For example, Federal Reserve staff said they participated in several interagency consultation meetings and calls that occurred throughout the proposed and final rulemakings. They said that CFPB staff consulted with them prior to proposing the rule and during the comment process on the rule's consistency with prudential, market, and systemic objectives administered by the Federal Reserve. In addition, Federal Reserve staff provided informal feedback to enhance the clarity of the rule and facilitate compliance. FDIC staff described CFPB's rulemaking process as flexible, allowing FDIC staff the opportunity to participate and understand CFPB's rulemaking process, putting FDIC staff in a better position to explain the rule to FDIC-supervised banks.

Indicators of the Impacts of the Dodd-Frank Act on SIFIs and Swaps

Financial regulators continue to implement reforms pursuant to the Dodd-Frank Act, but a number of factors make the full impact of the act uncertain. In particular, while many rules have been finalized, several rules have not been finalized or have not yet been started.[57] As of December 2016, regulators had issued final rules for over 75 percent of the 236 provisions of the act that we are monitoring. When the act's reforms are fully implemented, it can take time for the financial services industry to comply with the new regulations, which means additional time is needed to measure the impact of the rules. Moreover, isolating the Dodd-Frank Act's effect on the financial marketplace is difficult. Many other factors that can affect the financial marketplace, such as monetary policy, could have an even greater impact than the act.

Recognizing these limitations and difficulties, we developed an approach to analyze current data and trends that might indicate some of the Dodd-Frank Act's initial impacts. First, using data through the second quarter of 2016, we updated the indicators developed in our December 2012 and 2015 reports to monitor changes in certain characteristics of bank SIFIs, which are subject to enhanced prudential standards and oversight under the act.[58] Second, using data through the second quarter of 2016, we updated indicators of designated nonbanks that we developed in our December 2015 report that parallel our bank SIFI indicators. Third, using data through the second quarter of 2016, we updated indicators developed in our December 2013 report to monitor the extent to which certain of the act's swap reforms are consistent with the act's goals of

[57]As we have previously reported, federal financial regulators periodically conduct retrospective reviews of existing regulations under various statutes or voluntarily to assess their impact. To maximize the usefulness of these reviews, in our November 2011 report we recommended that federal financial regulators develop plans that determine how they will measure the impact of Dodd-Frank Act regulations—for example, determining how and when to collect, analyze and report needed data (GAO-12-151). As of November 2016, SEC, FDIC, CFTC, and CFPB have addressed this recommendation. In this same report, we also recommended that FSOC direct the Office of Financial Research to work with its members to identify and collect the data necessary to assess the impact of Dodd-Frank Act regulations on, among other things, the stability, efficiency, and competitiveness of U.S. financial markets. This recommendation remains open.

[58]GAO-13-101 and GAO-16-169. We updated our indicators through second quarter 2016 as that was the most recent data available at the time of our analysis.

reducing risk.[59] These analyses have limitations, which we discuss in the following sections.

Indicators Suggest Large Bank SIFIs Have Become Larger but Less Vulnerable to Financial Distress

According to the legislative history, the Dodd-Frank Act contains provisions intended to reduce the risk of failure of a large, complex financial institution and the damage that such a failure could do to the economy.[60] Such provisions include (1) authorizing FSOC to designate a nonbank financial company for Federal Reserve supervision if FSOC determines its material distress or financial activities could pose a threat to U.S. financial stability and (2) directing the Federal Reserve to impose enhanced prudential standards on bank holding companies with $50 billion or more in total consolidated assets (bank SIFI) and nonbank financial companies designated by FSOC (designated nonbanks).[61] The Federal Reserve has finalized rules imposing enhanced prudential standards on bank SIFIs, including capital, leverage, and liquidity requirements, and rules that require these firms to conduct resolution planning and stress testing, as well as proposed other rules. (See app. IV for a summary of provisions related to SIFIs and their rulemaking status.)

As we first reported in December 2012, the Dodd-Frank Act and its implementing rules may result in adjustments to the size, interconnectedness, complexity, leverage, or liquidity of bank SIFIs over time.[62] We updated the indicators we developed in our December 2012 and December 2015 reports to monitor changes in some of the

[59] GAO-14-67.

[60] GAO-14-67 and S. Rep. No. 111-176, at 4 (2010).

[61] The Dodd-Frank Act established FSOC to identify risks to the financial stability of the United States, promote market discipline, and respond to emerging threats to the stability of the U.S. financial system. FSOC consists of 10 voting and 5 nonvoting members and is chaired by the Secretary of the Treasury. The 10 voting members are the heads of the Department of the Treasury, CFPB, CFTC, FDIC, the Federal Reserve, the Federal Housing Finance Agency, NCUA, OCC, and SEC, and an independent member with insurance expertise.

[62] GAO-13-101.

characteristics of bank SIFIs.[63] The size, interconnectedness, and complexity indicators reflect the potential for financial distress or activities of a single bank SIFI to affect the financial system and economy (spillover effects). The leverage and liquidity indicators reflect a SIFI's resilience to shocks or its vulnerability to financial distress.

It is important to note however, that these indicators have limitations. For example, the indicators do not identify causal links between changes in SIFI characteristics and the act. Rather, the indicators track changes in the size, interconnectedness, complexity, leverage, and liquidity of SIFIs since the passage of the act to examine if the changes have been consistent with the goals of the act. However, other factors—including international banking standards agreed upon by the Basel Committee on Banking Supervision (Basel Committee) and monetary policy actions—also affect bank holding companies and, thus, the indicators.[64] These factors may have a greater effect than the Dodd-Frank Act on SIFIs. Furthermore, because several rules implementing provisions related to SIFIs have not been finalized or have not yet been started, our indicators include the effects of these rules only insofar as SIFIs have modified their behavior in response to issued rules or in anticipation of expected rules (see app. IV). In this regard, our indicators provide baselines against

[63]See GAO-13-101 and GAO-16-169. Our indicators analysis for our size, leverage, liquidity, and one of our interconnectedness indicators generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for one or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. Generally, a foreign banking organization is a company organized under the laws of a foreign country that engages in the business of banking and that operates a U.S. branch, agency, or commercial lending company subsidiary in the United States or controls a bank in the United States, and any company of which the foreign bank is a subsidiary. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2016. For our complexity indicators and one interconnectedness indicator, we used data on top-tier U.S. bank holding companies with total consolidated assets of $50 billion or more. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more. We defined large bank SIFIs as bank holding companies with total assets of $500 billion or more and we defined other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion. We defined non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

[64]The Basel Committee has agreed on a new set of risk-based capital, leverage, liquidity, and other requirements for banking institutions (Basel III requirements). Additionally, the Financial Stability Board and the Basel Committee have agreed on new capital and other requirements applicable to designated globally systemically important banks. U.S. banking regulators have implemented some of these requirements.

which to compare future trends. See appendix V for additional limitations of our indicators.

Table 5 summarizes the changes in our bank SIFI indicators from the second or third quarter of 2010 through the second quarter of 2016 (see app. V for more information). For example:

- Changes in some size and complexity indicators are consistent with increased potential spillover effects for large bank SIFIs (which we define as bank holding companies with $500 billion or more in assets), while changes in interconnectedness and other size and complexity indicators are consistent with decreased or no change in potential spillover effects for large bank SIFIs.
- Changes in size, interconnectedness, and complexity indicators are consistent with decreased or no change in potential spillover effects for other bank SIFIs (which we define as bank holding companies with at least $50 billion but less than $500 billion in assets).
- Changes in all of our leverage and liquidity indicators are consistent with increased resilience for both large bank SIFIs and for other bank SIFIs.

Table 5: Summary of Changes in Indicators for Bank Systemically Important Financial Institutions (Bank SIFI), from Second or Third Quarter 2010 through Second Quarter 2016

Characteristic	Indicator and description of change	What does the change in the indicator suggest about potential spillover effects or resilience?
Size. Size captures the amount of financial services or financial intermediation that an institution provides and is associated with the potential for its financial distress to affect the financial system and the broader economy (spillover effects).	*Numbers of SIFIs.* Between the third quarter of 2010 and the second quarter of 2016, the numbers of large bank SIFIs decreased and other bank SIFIs remained constant.	Decrease or no change in potential spillover effects for large bank SIFIs and for other bank SIFIs.
	Total assets. Between the third quarter of 2010 and the second quarter of 2016, median assets for large bank SIFIs increased while median assets of other bank SIFIs decreased.	Increased potential spillover effects for large bank SIFIs and decreased potential spillover effects for other bank SIFIs.
	Market share. Between the third quarter of 2010 and the second quarter of 2016, median market shares for large bank SIFIs increased while median market shares of other bank SIFIs decreased.	Increased potential spillover effects for large bank SIFIs with a decrease in potential spillover effects for other bank SIFIs.

Characteristic	Indicator and description of change	What does the change in the indicator suggest about potential spillover effects or resilience?
Interconnectedness. Interconnectedness captures direct or indirect linkages between financial institutions that may transmit distress from one institution to another (spillover effects).	*Gross notional amounts of credit default swaps outstanding for which the company is the reference entity.*[a] Between the third quarter of 2010 and the second quarter of 2016, median credit default swaps for large bank SIFIs and for other bank SIFIs decreased.	Decreased potential spillover effects for large bank SIFIs and for other bank SIFIs.
	Total debt outstanding (excluding deposits). Between the third quarter of 2010 and the second quarter of 2016, median debt for large bank SIFIs decreased and remained about the same for other bank SIFIs.	Decreased potential spillover effects for large bank SIFIs and no change for other bank SIFIs.
Complexity. Institutions that are more complex are likely to be more difficult to resolve and therefore cause significantly greater disruption to the wider financial system and economic activity if they fail (spillover effects).	*Numbers of legal entities*. Between the second quarter of 2010 and the second quarter of 2016, median numbers of legal entities for large bank SIFIs and for other bank SIFIs decreased.	Decreased potential spillover effects for large bank SIFIs and for other bank SIFIs.
	Numbers of foreign legal entities. Between the second quarter of 2010 and the second quarter of 2016, median numbers of foreign legal entities for large bank SIFIs increased while median numbers of foreign legal entities for other bank SIFIs decreased.	Increased potential for spillover effects for large bank SIFIs and decreased potential spillover effects for other bank SIFIs.
	Numbers of countries in which foreign legal entities are located. Between the second quarter of 2010 and the second quarter of 2016, median numbers of countries in which foreign legal entities are located for large bank SIFIs remained relatively constant, while median numbers of countries in which foreign legal entities are located for other bank SIFIs decreased.	No change in the potential for spillover effects for large bank SIFIs and decreased potential for spillover effects for other bank SIFIs.
Leverage. Leverage generally captures the relationship between an institution's exposure to risk and capital that can be used to absorb losses from that exposure and is associated with the likelihood that an institution will fail (resilience).	*Tangible common equity as a percentage of assets.*[b] Between the third quarter of 2010 and the second quarter of 2016, median tangible common equity as a percentage of assets for large bank SIFIs and for other bank SIFIs increased.	Increased resilience for large bank SIFIs and for other bank SIFIs.
	Total equity as a percentage of assets. Between the third quarter of 2010 and the second quarter of 2016, median total equity as a percentage of assets for large bank SIFIs and for other bank SIFIs increased.	Increased resilience for large bank SIFIs and for other bank SIFIs.

Characteristic	Indicator and description of change	What does the change in the indicator suggest about potential spillover effects or resilience?
Liquidity. Liquidity captures an institution's ability to fund assets and meet obligations as they come due and is associated with the likelihood that an institution will fail (resilience).	*Short-term liabilities as a percentage of total liabilities*. Between the third quarter of 2010 and the second quarter of 2016, median short-term liabilities as a percentage of total liabilities for large bank SIFIs and for other bank SIFIs decreased.	Increased resilience for large bank SIFIs and for other bank SIFIs.
	Liquid assets as a percentage of short-term liabilities. Between the third quarter of 2010 and the second quarter of 2016, median liquid assets as a percentage of short-term liabilities for large bank SIFIs and for other bank SIFIs increased.	Increased resilience for large bank SIFIs and for other bank SIFIs.

Source: GAO analysis of data from the Federal Reserve Bank of Chicago, the Bureau of Economic Analysis, the Federal Reserve Board, and Bloomberg. | GAO-17-188

Notes: Bank SIFIs refers to bank systemically important financial institutions. The changes in indicators are suggestive, meaning they are consistent with changes in resilience and the potential for spillover effects but cannot definitively establish the impact of the Dodd-Frank Act. Our analysis for our size, leverage, liquidity, and one of our interconnectedness indicators generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for 1 or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015. For our complexity indicators and one interconnectedness indicator, we used data on top-tier U.S. bank holding companies with total consolidated assets of $50 billion or more. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion, and non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets. We calculated each of our indicators for each bank holding company in our sample for each quarter from the first quarter of 2006 to the second quarter of 2016, with the exceptions of our complexity indicators, which we calculated only for bank SIFIs as of the second quarter of each year from 2010 to 2016, and one of our interconnectedness indicators, which we calculated only for bank SIFIs for each quarter from the third quarter of 2010 to the second quarter of 2016. We then calculated the median value of each indicator for each group of bank holding companies—large bank SIFIs, other bank SIFIs, all bank SIFIs, non-SIFI bank holding companies, and all bank holding companies, to the extent possible—and track the median values over time. Finally, we assess the changes in the median values of the indicators for large bank SIFIs and other bank SIFIs from the second or third quarter of 2010 and the second quarter of 2016, depending on the indicator. We say that an indicator has increased or decreased if it has changed by 5 percent or more, depending on the direction of the change, and we say that an indicator has remained about the same if it has changed by less than 5 percent. When stating the implications of the indicator on potential spillover effects, we assume all other things are held equal.

[a]A credit default swap is an agreement between two parties in which one party (the protection seller) agrees to provide payment to the other party (the protection buyer) should a credit event occur against a third party debt issuer (known as the reference entity), a specified debt (known as the reference obligation), a basket of debts (known as the reference pool), a credit index (known as the reference index), or any other swap underlying reference in exchange for periodic payments from the protection buyer. The maximum amount of protection provided by the protection seller is equal to the notional amount of the swap.

[b]Tangible common equity is a measure of a company's capital, which is used to evaluate a financial institution's ability to deal with potential losses. Tangible common equity is calculated by subtracting the sum of intangible assets and perpetual preferred stock (net of related Treasury stock) from the company's equity capital.

Indicators Suggest Designated Nonbanks Have Become More Resilient and Less Interconnected

We updated indicators associated with size, interconnectedness, leverage, and liquidity for institutions whose material financial distress or activities FSOC determines could pose a threat to U.S. financial stability and therefore should be subject to Federal Reserve supervision and enhanced prudential standards. During 2013 and 2014, FSOC designated four nonbank financial companies for Federal Reserve supervision pursuant to a determination that their material financial distress could pose a threat to U.S. financial stability. These included the American International Group, Inc. (AIG) in July 2013, General Electric Capital Corporation, Inc. (GECC) in July 2013, Prudential Financial, Inc. (Prudential) in September 2013, and MetLife, Inc. (MetLife) in December 2014. FSOC determined that each of these institutions was predominately engaged in financial activities (that is, at least 85 percent of their revenues were derived from, or more than 85 percent of their assets were related to, activities that were financial in nature). According to FSOC, at the time of the designations, AIG was the third-largest insurance company in the United States and one of the largest insurers in the world; GECC was one of the largest holding companies in the United States and a significant source of credit to commercial and consumer customers; Prudential was one of the largest financial services companies in the United States providing a wide array of financial services, including group and individual life insurance, annuities, retirement-related products and services, and asset management; and MetLife was the largest publicly traded U.S. insurance organization and one of the largest financial services companies in the United States. However, in March 2016, the U.S. District Court for the District of Columbia invalidated FSOC's designation of MetLife.[65] Then, in June 2016, after the reorganization of GECC, FSOC rescinded the nonbank's designation noting that divestures

[65]On March 30, 2016, the U.S. District Court for the District of Columbia invalidated FSOC's designation of MetLife. The court found that while MetLife may be deemed predominantly engaged in financial activities and therefore eligible for designation, the court found fundamental violations of administrative law and a designation process that was fatally flawed. *Metlife, Inc. v. Financial Stability Oversight Council,* 177 F. Supp. 3d 219 (D.D.C., 2016). On April 7, 2016 the Department of the Treasury announced that the government would appeal the court's ruling. Oral Arguments were heard before the Court of Appeals for the D.C. Circuit on October 24, 2016.

and organizational changes significantly reduced the potential for any material financial distress to threaten financial stability.[66]

As we first reported in December 2012, the Dodd-Frank Act and its implementing rules may result in adjustments to size, interconnectedness, leverage, and liquidity characteristics of designated nonbanks over time. Size and interconnectedness reflect the potential for the financial distress of a single designated nonbank to affect the financial system and economy, while leverage and liquidity reflect a designated nonbank's resilience to shocks or its vulnerability to financial distress. In our December 2015 report, we developed the following indicators based on the characteristics of companies that FSOC reviews as part of its process for designating nonbanks:

- **Size.** Our indicator of size is total consolidated assets.
- **Interconnectedness.** Our indicators of interconnectedness are gross notional amounts of credit default swaps outstanding for which the designated nonbank is the reference entity and total debt outstanding (excluding deposit liabilities).
- **Leverage.** Our indicator of leverage is total equity as a percentage of total assets, except separate accounts.[67]
- **Liquidity.** Our indicator of liquidity is short-term debt (excluding deposit liabilities) as a percentage of total assets, except separate accounts.[68]

[66]See GAO-16-169 for trends in our indicators for MetLife before its designation was invalidated and for GECC before its designation was rescinded.

[67]A life insurance company's invested assets are held in two types of accounts: the general account and one or more separate accounts. The general account consists of assets and liabilities of the insurance company that are not allocated to separate accounts. Separate accounts consist of funds held by a life insurance company that are maintained separately from the insurer's general assets. An insurer's general account assets are obligated to pay claims arising from its insurance policies, annuity contracts, debt, derivatives, and other liabilities. By contrast, for nonguaranteed separate accounts, the investment risk is passed through to the contract holder; the income, gains, or losses (realized or unrealized) from assets allocated to the separate account are credited to or charged against the separate account. Therefore, nonguaranteed separate account liabilities are not generally directly exposed to the insurer's credit risk because they are insulated from claims of creditors of the insurance company. However, in the case of separate account contracts supported by the general account through guarantees, holders of separate accounts may be directly exposed to the insurer's credit risk.

[68]GAO-16-169.

We calculated each indicator, for each quarter, for each of the currently designated nonbanks from the second quarter of 2012 to the second quarter of 2016. We also calculated the medians of each indicator for publicly traded banks and insurance companies with total consolidated assets of $50 billion or more to provide a frame of reference.

Like our indicators for bank SIFIs, our indicators for designated nonbanks have some limitations. For example, the indicators do not identify causal links between changes in designated nonbanks' characteristics and the Dodd-Frank Act. Rather, the indicators track changes in the size, interconnectedness, leverage, and liquidity of designated nonbanks since the passage of the act to examine if the changes have been consistent with the goals of the act. However, other factors, such as capital standards for large, internationally active insurance companies, may also affect designated nonbanks and, thus, the indicators. Furthermore, to the extent that a number of rules implementing provisions related to designated nonbanks have not yet been finalized, our indicators include the effects of these rules only insofar as designated nonbanks have changed their behavior in anticipation of expected rules. In this regard, our indicators provide baselines against which to compare future trends.

Figure 1 shows the indicators from the second quarter of 2012 through the second quarter 2016. In November 2011 and October 2012, the Federal Reserve issued specific rules requiring designated nonbank financial companies to conduct resolution planning and stress testing, respectively, and in June 2016 proposed rules that would establish corporate governance, risk-management, and liquidity risk-management standards for these firms.[69] Thus, the current values of our indicators are baselines against which to compare future trends as more rules for designated nonbanks are implemented.

Our indicators allow for the following observations:

- Based on their total assets, both designated nonbanks are relatively large. They are all larger than the median publicly traded bank or insurance company with assets of $50 billion or more.
- Gross notional amounts of credit default swaps outstanding (for which designated nonbanks are the reference entities) have decreased since the second quarter of 2012, suggesting that the designated

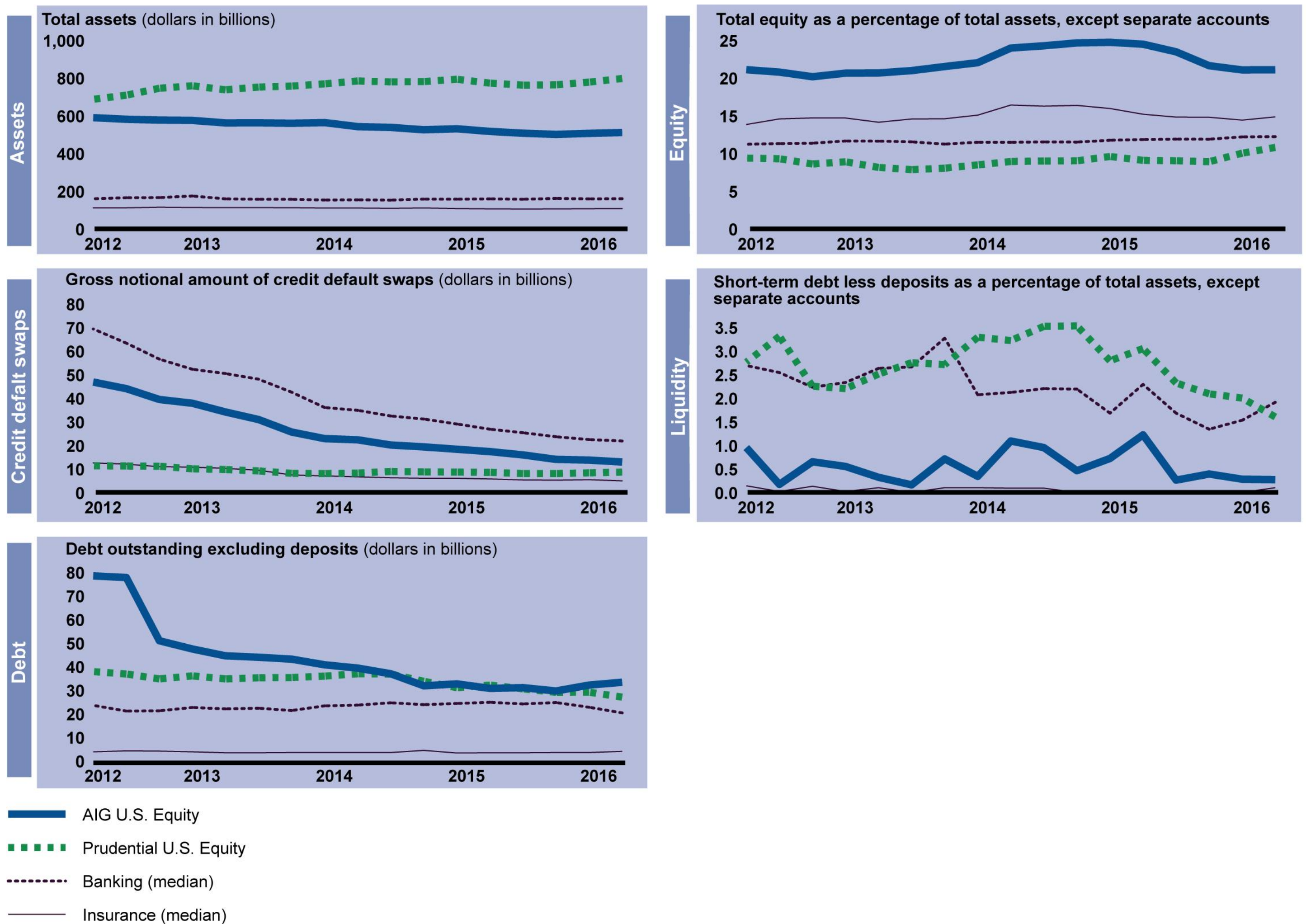
[69]See appendix IV for more information on these rules.

nonbanks are relatively less interconnected and thus have smaller potential spillover effects than in prior years by this measure, all else being equal.[70]

- Total debt outstanding (excluding deposits) for the two designated nonbanks has decreased since the second quarter of 2012. These trends suggest that the designated nonbanks have become less interconnected and thus have smaller potential spillover effects than in prior years based on this indicator, all else being equal.
- Total equity as a percentage of assets, except separate accounts, ranged from about 21 percent for AIG to about 11 percent for Prudential in the second quarter of 2016. This range in leverage suggests that the designated nonbanks have varying resilience to shocks and financial distress by this measure, all else being equal.
- Short-term debt as a percentage of assets, except separate accounts, decreased from the second quarter of 2012 to the second quarter of 2016. Decreases in short-term debt as a percentage of assets, except separate account ranged from about 71 percent for AIG to about 42 percent for Prudential. These trends suggest that the two designated nonbanks' resilience to shocks and financial distress has improved by this measure, all else being equal.

[70]A credit default swap is an agreement between two parties in which one party (the protection seller) agrees to provide payment to the other party (the protection buyer) should a credit event occur against a third-party debt issuer (known as the reference entity), a specified debt (known as the reference obligation), a basket of debts (known as the reference pool), a credit index (known as the reference index), or any other swap underlying reference in exchange for periodic payments from the protection buyer. The maximum amount of protection provided by the protection seller is equal to the notional amount of the swap.

Figure 1: Indicators for Designated Nonbanks and Large Publicly Traded Banks and Insurance Companies, Second Quarter 2012 through Second Quarter 2016



Source: GAO analysis of data from Bloomberg and the Bureau of Economic Analysis. | GAO-17-188

Notes: Designated nonbanks in the figure are American International Group, Inc. (AIG) and Prudential Financial, Inc. (Prudential). Insurance is the median value for publicly traded insurance companies with assets of $50 billion or more. Banking is the median for publicly traded bank holding companies with assets of $50 billion or more. Dollar amounts are adjusted for inflation and measured in millions of second quarter 2016 dollars. On March 30, 2016, the U.S. District Court for the District of Columbia invalidated the Financial Stability Oversight Committee's designation of MetLife, Inc. (MetLife). The Department of the Treasury subsequently announced that the government would appeal the court's ruling. Because of the court decision and current appeal, MetLife is not included in the figure as a designated nonbank or as a publicly traded insurance company.

Higher Percentages of Collateral for Swaps by Banks May Reduce Credit Loss

As we reported in December 2013, once fully implemented, some provisions in Title VII of the Dodd-Frank Act may help reduce systemic risks to financial markets in part by increasing margins posted for over-the-counter swaps.[71] In November 2015 and January 2016, respectively, the prudential regulators and CFTC published final rules on margin requirements for uncleared swaps, for swap dealers and major swap participants, pursuant to the Dodd-Frank Act.[72] As discussed previously, the final rules establish minimum initial and variation margin requirements. Using data through the second quarter of 2016, we updated the set of indicators that we developed in our December 2013 report and updated in our December 2014 and December 2015 reports to measure changes in the use of margin collateral for over-the-counter derivatives.[73] This set of indicators may shed light on changes in the use of margin collateral associated with Dodd-Frank Act swap reforms as they are implemented, but the indicators have several key limitations, as described later in this section.[74]

Our margin indicators measure the fair value of collateral pledged by counterparties to secure over-the-counter derivatives contracts as a percentage of net current credit exposure for those counterparties for

[71] GAO-14-67.

[72] See Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants; Final Rule, 81 Fed. Reg. 636 (Jan. 6, 2016) and Margin and Capital Requirements for Covered Swap Entities; Final Rule, 80 Fed. Reg. 74840 (Nov. 30, 2015).

[73] GAO-14-67, GAO-15-81, and GAO-16-169.

[74] See appendix VI of the Dodd-Frank Act rules on implementing central clearing, capital, and margin swap reforms.

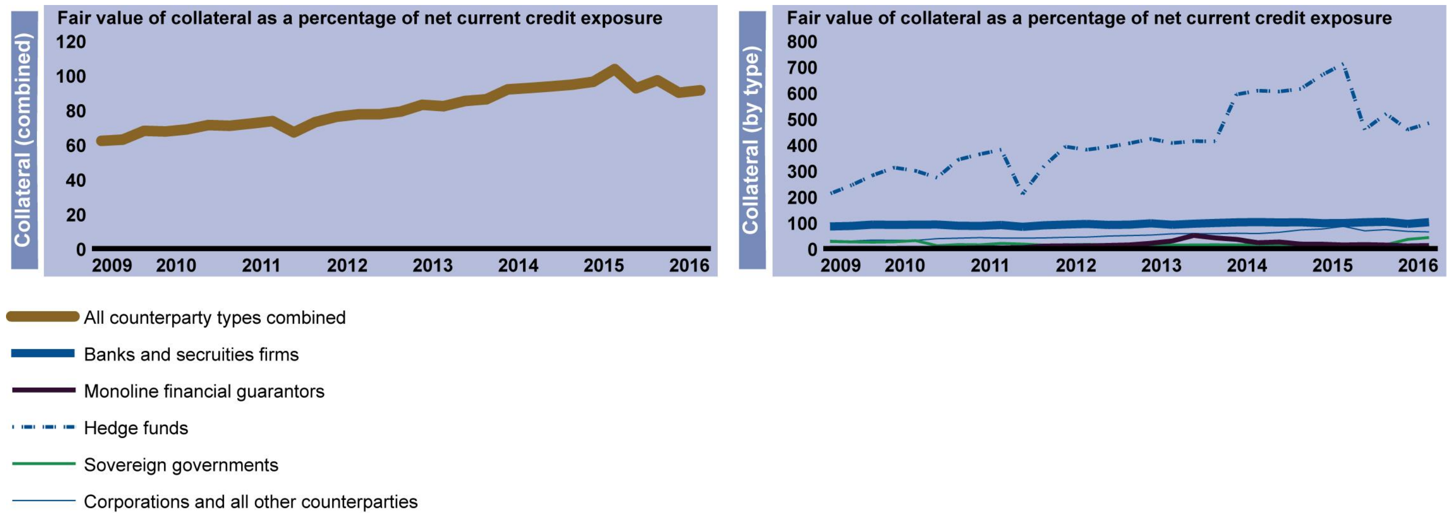
bank holding companies.[75] To protect itself from the loss it would incur if a counterparty defaulted on a derivatives contract, a swap entity could require counterparties to post margin collateral in an amount equal to or greater than its exposure to the contracts.[76] An increase in collateral as a percentage of credit exposure suggests that holding companies have required their counterparties to post a greater amount of collateral against their credit exposure due to derivatives contracts overall, which would be consistent with the purposes of the act's swap reforms.

Figure 2 shows trends in our margin indicators from the second quarter of 2009 through the second quarter of 2016. The rate of collateralization of net current credit exposure for all counterparties has increased from about 71 percent in the third quarter of 2010 to about 91 percent in the second quarter of 2016, suggesting that holding companies generally required their counterparties to post a greater amount of collateral against their derivatives contracts. However, as discussed later, aggregate measures of collateralization rates can mask differences in collateralization rates for different counterparty types.

[75]Our indicators use data collected by the Federal Reserve on Form FR Y-9C, which currently requires bank holding companies with $10 billion or more in assets to report their net current credit exposure to counterparties in over-the-counter derivatives contracts and the fair value of the collateral pledged by those counterparties to secure the contracts. The fair value of collateral is the amount that would be received if the collateral were sold in an orderly transaction between market participants in its principal market on the measurement date. The net current credit exposure approximates the credit loss that a bank, financial, or savings and loan holding company would suffer if its counterparties defaulted on their over-the-counter derivatives contracts. Net current credit exposure to counterparty is derived by first calculating the fair values of all derivatives contracts with that counterparty, where the fair value of a derivative contract is analogous to the fair value of collateral. If a legally enforceable bilateral netting agreement is in place, the fair values of all applicable derivatives contracts in the scope of the netting agreement with that counterparty are netted to a single amount, which may be positive, negative, or zero. Net current credit exposure across all counterparties is the sum of the gross positive fair values for counterparties without legal netting arrangements and the net current credit exposure for counterparties with legal netting agreements.

[76]A counterparty is one of the two people, companies, or organizations involved in a business transaction, as referred to by the other participant in the transaction.

Figure 2: Fair Value of Collateral as a Percentage of Net Current Credit Exposure for Over-the-Counter Derivatives Contracts for Counterparty Type and for All Counterparty Types Combined, from Second Quarter 2009 through Second Quarter 2016



Source: GAO analysis of data from the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago. | GAO-17-188

Notes: To calculate the fair value of collateral as a percentage of net current credit exposure for all counterparty types, we used quarterly data (from second quarter 2009 through second quarter 2016) on U.S. bank holding companies from Form FR Y-9C. For each quarter, we divided total fair value of collateral pledged by each counterparty type and by all counterparty types for all of these holding companies by total net current credit exposure to each counterparty type and to all counterparty types for all of these holding companies.

Collateral posted by type of counterparty—banks and securities firms, monoline financial guarantors, hedge funds, sovereign governments, and corporate and all other counterparties—increased (as a percentage of net credit exposure) between the second quarter of 2009 and the second quarter of 2016.[77] However, the rate of collateralization consistently differed by the type of counterparty, with hedge funds consistently posting more collateral as a percentage of credit exposure than other types of counterparties. As we reported in December 2013, according to OCC, the rates differ partly because swaps dealers may require certain counterparties to post both initial and variation margin and other counterparties to post only variation margin.[78] Under the prudential regulators' 2015 final rule and CFTC's 2016 final rule for uncleared swaps, minimum floors are set for both initial and variation margins and

[77]A monoline financial guarantor is a financial guaranty company that guarantees all scheduled interest and principal payments on its insured bonds and writes no other line of insurance.

[78]GAO-14-67.

as a result, the final rules may further contribute to higher rates of collateralization.

Our margin indicators, while suggestive, are subject to important limitations. First, they do not identify causal links between changes in collateralization and the Dodd-Frank Act, including its regulations. Rather, the set of indicators tracks changes in collateralization since the act's passage to examine if the changes were consistent with the act's goals for increasing collateralization. Second, both net current credit exposure and the fair value of collateral are as of a point in time because the fair values of derivatives contracts and collateral can fluctuate over time. Third, an average collateralization of 100 percent does not ensure that all current counterparty exposures have been eliminated because one counterparty's credit exposure may be overcollateralized and another's undercollateralized. Fourth, our indicators measure the fair value of the collateral held against net current credit exposures but do not necessarily measure the risk of uncollateralized losses. The fair value of net current credit exposure does not fully account for the riskiness of any single swap contract. If a party has entered into riskier swaps, it is possible for the rate of collateralization to increase while the risk of uncollateralized losses also increases. Fifth, our indicators are market aggregates that may not reflect the collateralization rate for any single company. Finally, these indicators do not reflect collateralization rates for companies, such as stand-alone broker-dealers, which have credit exposure to counterparties in over-the-counter derivatives contracts but are not affiliated with a bank holding company.

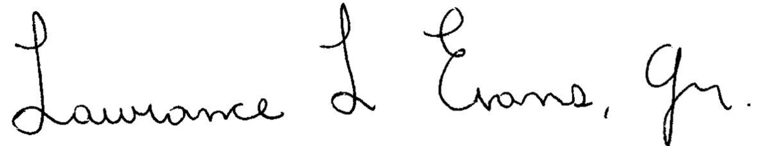
Agency Comments

We provided a draft of this report to CFPB, Federal Reserve, FDIC, OCC, NCUA, SEC, and CFTC for review and comment. The regulators provided technical comments, which we have incorporated, as appropriate.

We are sending copies of this report to the appropriate congressional committees and members and federal financial regulators. This report will also be available at no charge on our website at http://www.gao.gov.

Should you or your staff have questions concerning this report, please contact me at (202) 512-8678 or evansl@gao.gov. Contact points for our

Offices of Congressional Relations and Public Affairs may be found on the last page of this report. Key contributors to this report are listed in appendix VII.



Lawrance L. Evans, Jr. Director, Financial Markets and Community Investment

List of Addressees

The Honorable Mitch McConnell
Majority Leader
The Honorable Harry Reid
Minority Leader
United States Senate

The Honorable Paul Ryan
Speaker
The Honorable Nancy Pelosi
Minority Leader
House of Representatives

The Honorable Pat Roberts
Chairman
The Honorable Debbie Stabenow
Ranking Member
Committee on Agriculture, Nutrition and Forestry
United States Senate

The Honorable Thad Cochran
Chairman
The Honorable Barbara Mikulski
Ranking Member
Committee on Appropriations
United States Senate

The Honorable Richard Shelby
Chairman
The Honorable Sherrod Brown
Ranking Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable John Thune
Chairman
The Honorable Bill Nelson
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Mike Conaway

Chairman
The Honorable Collin Peterson
Ranking Member
Committee on Agriculture
House of Representatives

The Honorable Hal Rogers
Chairman
The Honorable Nita Lowey
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Committee on Appropriations
House of Representatives

The Honorable Fred Upton
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The Honorable Frank Pallone
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Jeb Hensarling
Chairman
The Honorable Maxine Waters
Ranking Member
Committee on Financial Services
House of Representatives

Appendix I: Objectives, Scope, and Methodology

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), various federal agencies are directed or have the authority to issue hundreds of regulations to implement the act's provisions.[1] This report discusses the

- regulatory analyses conducted by federal financial regulators (financial regulators) in their Dodd-Frank Act rulemakings, including their assessments of which rules they considered to be major rules;
- coordination between and among federal regulators on these rulemakings; and
- indicators of the impact of selected Dodd-Frank Act provisions and their implementing regulations on financial market stability.

The financial regulators are the Bureau of Consumer Financial Protection, also known as the Consumer Financial Protection Bureau (CFPB), the Board of Governors of the Federal Reserve System (Federal Reserve), Federal Deposit Insurance Corporation (FDIC), Office of the Comptroller of the Currency (OCC), National Credit Union Administration (NCUA), Commodity Futures Trading Commission (CFTC), and the Securities and Exchange Commission (SEC).

To examine the regulatory analyses conducted by the regulators, we focused our analysis on final rules issued pursuant to the Dodd-Frank Act that were effective between July 22, 2015, and July 23, 2016, a total of 30 rules (see app. II). We compiled these rules from a website maintained by the Federal Reserve Bank of St. Louis that tracks Dodd-Frank Act regulations, which we corroborated with officials from the agencies under review.[2] In examining the regulatory analyses of the agencies in our review, we reviewed federal statutes, regulations, GAO studies, and other material to identify the regulatory analyses the agencies had to conduct as part of their Dodd-Frank rulemakings, focusing on those analyses required under the Paperwork Reduction Act (PRA) and the Regulatory

[1] Pub. L. No. 111-203, 124 Stat. 1376 (2010).

[2] We use rules, regulations, or rulemakings generally to refer to Federal Register final rule notices of agency action pursuant to the Dodd-Frank Act.

Flexibility Act (RFA).[3] We reviewed *Federal Register* notices of final rules for the agencies' determinations of the applicability of PRA and RFA. In some instances, the regulators determined that the analysis was not required or not applicable and indicated this in their final rulemaking. Two analysts recorded the agencies' determination of whether PRA and RFA were required in a spreadsheet. Using GAO's Federal Rules database, we found that 9 of the 30 rules were identified as major rules, per the Office of Management and Budget (OMB) guidance, under the Congressional Review Act because they resulted in or are likely to result in an annual impact on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. For agencies subject to Executive Order (E.O.) 12,866, such major rules would be considered significant regulatory actions and subject to formal cost-benefit analysis.[4]

We also developed a data collection instrument to compare and assess the regulatory analysis conducted for the major rules against the principles outlined in OMB Circular A-4, which provides guidance to federal agencies on the development of regulatory analysis.[5] To conduct our analyses, we reviewed *Federal Register* releases of the final rules and the cost-benefit analyses they included in the final rules, and we interviewed agency staff from CFPB, CFTC, SEC, Federal Reserve, FDIC, NCUA, and OCC. We selected five rules for in-depth review, comparing the cost-benefit or similar analyses to specific principles in OMB Circular A-4. To narrow the list from 9 major rules to the 5 rules

[3]The PRA requires agencies to minimize the paperwork burden of their information collections and evaluate whether a proposed information collection is necessary for the proper performance of the functions of the agency. Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 109 Stat. 163 (codified as amended at 44 U.S.C. §§ 3501-3520). The RFA requires that federal agencies consider the impact on small entities of certain regulations they issue and, in some cases, alternatives to lessen the regulatory burden on small entities. Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164 (1980) (codified as amended at 5 U.S.C. §§ 601-612).

[4]The Congressional Review Act's definition of a major rule is similar, but not identical, to the definition of a "significant regulatory action" under E.O. 12,866.

[5]As independent regulatory agencies that are not required to follow the economic analysis requirements of E.O. 12,866, the financial regulatory agencies also are not required to follow OMB Circular A-4. However, Circular A-4 is an example of best practices for agencies to follow when conducting regulatory analyses, and the financial regulatory agencies have told us that they follow the guidance in spirit.

subject to in-depth review, we selected rules that were from a variety of agencies, including one joint rule, and that covered varied topics. In conducting each individual analysis, we reviewed *Federal Register* notices prepared by agencies during the course of the rulemaking.

To examine interagency coordination among the regulators, we reviewed the Dodd-Frank Act, *Federal Register* releases, and GAO reports to identify the interagency coordination and consultation requirements for the 30 rules in our scope. As part of this review, analysts looked for key words relating to consultation and coordination in the *Federal Register* releases and recorded this information in a spreadsheet. An attorney then independently evaluated each determination documented in the spreadsheet to reach concurrence on the assessment. (See app. III for a list of rules and determination of whether coordination was required). We also interviewed officials or staff from CFPB, CFTC, SEC, FDIC, NCUA, the Federal Reserve, and OCC to identify changes in the nature of interagency coordination and consultation. We also asked the financial regulators' staff to identify any instances of interagency coordination not specified in the *Federal Register* releases, and if they did not coordinate, to discuss the reasons why. We did not examine the effects of noncoordination on rulemakings, which was beyond the scope of our review.

We also selected three rules for in-depth review of interagency coordination: CFTC's and the prudential regulators' respective rules on margin requirements for uncleared swaps and CFPB's rule on integrated mortgage disclosures. We selected these rules based on the opportunity for extensive interagency coordination. We selected the rules on margin requirements for uncleared swaps because the prudential regulators and CFTC issued rules that required coordination among the prudential regulators as well as between the prudential regulators and CFTC. We selected the integrated mortgage disclosure rule because of CFPB's requirement to consult with the appropriate prudential regulators and other federal agencies on consistency with prudential, market, or systemic objectives administered by such agencies before proposing a rule. We interviewed the responsible agencies to discuss the outcomes of coordination and specific areas where coordination or harmonization of rules was a priority and obtained documentation of specific examples of interagency coordination and consultation.

To analyze the impact of the Dodd-Frank Act on financial market stability, we updated several indicators developed in our prior reports with data through the second quarter of 2016.[6] The indicators display trends in both banks that are systemically important financial institutions (bank SIFI) and nonbank financial institutions designated by the Financial Stability Oversight Council (FSOC) for supervision by the Federal Reserve. We updated indicators monitoring changes in size, interconnectedness, complexity, leverage, and liquidity of bank SIFIs. Since we began developing and tracking indicators for bank SIFIs, FSOC has designated three nonbank institutions for enhanced supervision by the Federal Reserve. As such, we updated indicators developed in our December 2015 report that are associated with the size, interconnectedness, leverage, and liquidity of these institutions.[7] Finally, we updated our indicators that monitor the extent to which certain swap reforms are consistent with the act's goals of reducing risk.[8] For those parts of our methodology that involved the analysis of computer- processed data from Bloomberg, the Federal Reserve Bank of Chicago, the Federal Reserve, the National Information Center, and the Bureau of Economic Analysis, we assessed the reliability of these data by reviewing relevant documentation and electronically testing the data for missing values, outliers, and invalid values. We determined the data were sufficiently reliable for our purposes of monitoring changes in bank SIFIs and designated nonbanks and assessing the amount of margin collateral that over-the-counter derivatives counterparties used.

We conducted this performance audit from June 2016 to December 2016 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that

[6]See GAO, *Dodd-Frank Act Regulations: Agencies' Efforts to Analyze and Coordinate Their Rules*, GAO-13-101 (Washington, D.C.: Dec. 18, 2012); *Dodd-Frank Regulations: Agencies Conducted Regulatory Analyses and Coordinated but Could Benefit from Additional Guidance on Major Rules*, GAO-14-67 (Washington, D.C.: Dec. 11, 2013); and *Dodd-Frank Regulations: Regulators' Analytical and Coordination Efforts*, GAO-15-81 (Washington, D.C.: Dec. 18, 2014).

[7]GAO, *Dodd-Frank Act Regulations: Impacts on Community Banks, Credit Unions, and Systemically Important Institutions*, GAO-16-169 (Washington, D.C.: Dec. 30, 2015).

[8]Swaps include interest rate swaps, commodity-based swaps, and broad-based credit default swaps. Security-based swaps include single-name and narrow-based credit default swaps and equity-based swaps.

the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix II: Dodd-Frank Act Rules Effective as of July 22, 2016

The following table lists the 30 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank-Act) rules that we identified as having effective dates during the scope of our review,—from July 23, 2015 through July 22, 2016. Nine rules were major.[1]

Table 6: Dodd-Frank Act Rules Effective from July 23, 2015 through July 22, 2016

		Critical dates			Agency stated it conducted analysis under			
Rulemaking	**Responsible Regulator[a]**	**Published**	**Effective[b]**	**Federal Register Number**	**Regulatory Flexibility Act[c]**	**Paperwork Reduction Act[c]**	**Dodd-Frank Act provision**	**Major rule**
Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants	SEC	5/13/2016	7/12/2016	81 FR 29960	Not required	Yes	DFA: 764	Yes
Assessments	FDIC	3/25/2016	7/1/2016	81 FR 16059	Not applicable[d]	Not required	DFA: 334	Yes
Amendments to Filing Requirements Under the Interstate Land Sales Full Disclosure Act (Regulations J and L)	CFPB	5/11/2016	6/10/2016	81 FR 29111	Not applicable	Yes[e]	DFA: 1061, 1022(b)(1),1098A	No
Definitions of "Portfolio Reconciliation" and "Material Terms" for Purposes of Swap Portfolio Reconciliation	CFTC	5/6/2016	5/6/2016	81 FR 27309	Not required	Yes	DFA: 731	No
Finalization of Interim Final Rules (Subject to Any Intervening Amendments) Under Consumer Financial Protection Laws	CFPB	4/28/2016	4/28/2016	81 FR 25323	Not applicable	Not required	DFA: 1061, 1002(14)	No

[1]As defined by the Congressional Review Act, a major rule is generally one that the Office of Management and Budget finds has resulted in or is likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic and export markets. 5 U.S.C. § 804(2).

Rulemaking	Responsible Regulator[a]	Critical dates: Published	Critical dates: Effective[b]	Federal Register Number	Agency stated it conducted analysis under: Regulatory Flexibility Act[c]	Agency stated it conducted analysis under: Paperwork Reduction Act[c]	Dodd-Frank Act provision	Major rule
Security-Based Swap Transactions Connected with a Non-U.S. Person's Dealing Activity That Are Arranged, Negotiated, or Executed by Personnel Located in a U.S. Branch or Office of an Agent; Security-Based Swap Dealer De Minimis Exception	SEC	2/19/2016	4/19/2016	81 FR 8598	Not required	Not required	DFA: 701 et. Seq.	Yes
Margin and Capital Requirements for Covered Swap Entities	Joint Rule (FCA, FDIC, FHFA, Federal Reserve, OCC)	11/30/2015	4/1/2016	80 FR 74840	Not required[f]	Yes	DFA: 731, 764	Yes
Trade Options	CFTC	3/21/2016	3/21/2016	81 FR 14966	Not required	Not required	DFA: 721	No
Unfair or Deceptive Acts or Practices (Regulation AA)	Federal Reserve	2/18/2016	3/21/2016	81 FR 8133	Yes	Not applicable	DFA: 1092	No
Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)	CFPB	12/31/2013	10/3/2015	78 FR 79730	Yes	Yes	DFA: 1098, 1100A, 1032	Yes
Technical Amendments	NCUA	1/27/2016	1/27/2016	81 FR 4575	Not required	Not required	DFA: 342	No
Truth in Lending (Regulation Z) Annual Threshold Adjustments (CARD ACT, HOEPA and ATR/QM)[g]	CFPB	9/21/2015	1/1/2016	80 FR 56895	Not applicable	Not applicable	DFA: 1100A, 1411, 1412, 1431	No

Rulemaking	Responsible Regulator[a]	Critical dates		Federal Register Number	Agency stated it conducted analysis under		Dodd-Frank Act provision	Major rule
		Published	Effective[b]		Regulatory Flexibility Act[c]	Paperwork Reduction Act[c]		
Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold	CFPB	12/23/2015	1/1/2016	80 FR 79673	Not applicable	Not applicable	DFA: 1094	No
Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold	CFPB	12/23/2015	1/1/2016	80 FR 79674	Not applicable	Not applicable	DFA: 1461	No
Extensions of Credit by Federal Reserve Banks	Federal Reserve	12/18/2015	1/1/2016	80 FR 78959	Yes	Yes	DFA: 1101, 1103	Yes
Amendments to the Capital Plan and Stress Test Rules	Federal Reserve	12/2/2015	1/1/2016	80 FR 75419	Yes[h]	Not applicable	DFA: 165	No
Consumer Leasing (Regulation M)	Joint Rule (CFPB and Federal Reserve)	11/27/2015	1/1/2016	80 FR 73945	Not applicable	Not applicable	DFA: 1029, 1061, 1100E	No
Truth in Lending (Regulation Z)	Joint Rule (CFPB and Federal Reserve)	11/27/2015	1/1/2016	80 FR 73947	Not applicable	Not applicable	DFA: 1029, 1061, 1100E	No
Fair Credit Reporting Act Disclosures	CFPB	11/20/2015	1/1/2016	80 FR 72711	Not applicable	Not applicable	DFA: 1061, 1088	No
Appraisals for Higher-Priced Mortgage Loans Exemption Threshold	CFPB, Federal Reserve, OCC	11/27/2015	1/1/2016	80 FR 73943	Not applicable	Not applicable	DFA: 1471	No
Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z)	CFPB	10/2/2015	1/1/2016	80 FR 59944	Not required	Not required	DFA: 1461, 1411, 1100A, 1061, 1022	No

Rulemaking	Responsible Regulator[a]	Critical dates		Federal Register Number	Agency stated it conducted analysis under		Dodd-Frank Act provision	Major rule
		Published	Effective[b]		Regulatory Flexibility Act[c]	Paperwork Reduction Act[c]		
Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies	Federal Reserve	8/14/2015	12/1/2015	80 FR 49082	Yes	Yes	DFA: 165	No
Pay Ratio Disclosure	SEC	8/18/2015	10/19/2015	80 FR 50104	Not required	Yes	DFA: 953	Yes
Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants	SEC	8/14/2015	10/13/2015	80 FR 48964	Not required	Yes	DFA: 764	Yes
Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)	CFPB	2/19/2015	10/3/2015	80 FR 8767	Not required	Not required	DFA: 1032, 1098, 1061, 1100A, 1405, 1021, 1022	No
Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service	CFPB	6/30/2015	8/31/2015	80 FR 37496	Not required	Not required	DFA: 1002, 1024	No
Minimum Requirements for Appraisal Management Companies	Joint Rule (CFPB, FDIC/FHFA/Federal Reserve/OCC)	6/9/2015	8/10/2015	80 FR 32658	Not required	Yes	DFA: 1473	No

Rulemaking	Responsible Regulator[a]	Critical dates		Federal Register Number	Agency stated it conducted analysis under		Dodd-Frank Act provision	Major rule
		Published	Effective[b]		Regulatory Flexibility Act[c]	Paperwork Reduction Act[c]		
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants	CFTC	1/6/2016	4/1/2016	81 FR 636	Not required	Yes	DFA: 731	Yes
Removal of Certain References to Credit Ratings and Amendment to the Issuer Diversification Requirement in the Money Market Fund Rule	SEC	9/25/2015	10/26/2015	80 FR 58124	Not required	Yes	DFA: 939A	No
2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Reg. X) and the Truth in Lending Act (Reg. Z) and Amendments; Delay of effective date	CFPB	7/24/2015	10/3/2015	80 FR 43911	Not required	Not required	DFA: 1022, 1032, 1098, 1100A	No

Source: GAO analysis of *Federal Register* notices and Congressional Review Act filings. | GAO-17-188

Note: In this report, we use the terms "rules," "regulations," or "rulemakings" generally to refer to *Federal Register* notices of agency action pursuant to the Dodd-Frank Act, including regulations or rules that are final. With this and our past five reports, we have reviewed all Dodd-Frank Act rules in effect as of July 22, 2016.

[a]Board of Governors of the Federal Reserve System (Federal Reserve); Bureau of Consumer Financial Protection (commonly known as the Consumer Financial Protection Bureau, or CFPB); Commodity Futures Trading Commission (CFTC); Federal Deposit Insurance Corporation (FDIC); Federal Housing Finance Agency (FHFA); National Credit Union Administration (NCUA); Office of the Comptroller of the Currency (OCC); Securities and Exchange Commission (SEC); and Department of Housing and Urban Development (HUD). The Department of the Treasury (Treasury) is included here due to its rulemaking authority.

[b]To determine our scope for this review, we considered the earliest effective date shown in the final *Federal Register* releases for each Dodd-Frank Act rulemaking. If the effective date shown fell within our scope, the rule was included even if subsequent rulemakings or agency decisions changed the effective date of the rule or if the rule contained subsequent effective dates.

[c]Instances in which the agency certified that the final regulation would not have a significant economic impact on a substantial number of small entities, and therefore a regulatory flexibility analysis undersection 604 of the Regulatory Flexibility Act was unnecessary are marked as not required. Instances in which the agency stated that no new collection of information would be required by the regulation are also marked as not required. Instances in which an agency determined that the Regulatory Flexibility Act or the Paperwork Reduction Act did not apply are marked as not applicable.

[d]FDIC stated that the requirements of the RFA did not apply since its rule was of a type expressly excluded from the definition of "rule" for purposes of the RFA. Nevertheless, FDIC voluntarily undertook a regulatory flexibility analysis.

[e]CFPB stated that while the rule did not add new collections of information or reduce the number of existing collections, it reduced the number of copies required to be submitted for certain paper filings. According to CFPB, should the developers switch from paper submissions to electronic submissions, the one-time burden associated with the switch was expected to be minimal.

[f]All of the listed agencies concluded that the final rule would not have a significant economic impact on a substantial number of small entities. OCC, FDIC, FHFA, and FCA provided a factual basis for their conclusions. See 5 U.S.C. 605(b). The Federal Reserve provided a final regulatory flexibility analysis in accordance with 5 U.S.C. 604.

[g]Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Ability To Repay and Qualified Mortgage Rule (ATR/QM).

[h]The Federal Reserve stated that based on its analysis, it believed that the final rule would not have a significant economic impact on a substantial number of small entities. "Nevertheless, the Board is publishing a final regulatory flexibility analysis." 80 Fed. Reg. at 75424.

Appendix III: Coordination for Dodd-Frank Act Rules Effective as of July 22, 2016

The following table lists the 30 Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) rules that we identified as having effective dates during the scope of our review (from July 23, 2015, through July 22, 2016), whether we found evidence of coordination during the rulemaking process, whether the Dodd-Frank Act required interagency or international coordination, and the nature of coordination, if any.[1]

Table 7: Evidence of Coordination on Dodd-Frank Act Rules Effective from July 23, 2015, through July 22, 2016

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Business Conduct Standards for Security-Based Swap Dealers and Major Security-Based Swap Participants	SEC	5/13/2016	7/12/2016	Yes	Yes	SEC consulted and coordinated with CFTC and the prudential regulators in accordance with the consultation mandate of the Dodd-Frank Act; SEC consulted with and coordinated with foreign regulatory authorities
Assessments	FDIC	3/25/2016	7/1/2016	No	No	None
Amendments to Filing Requirements Under the Interstate Land Sales Full Disclosure Act (Regulations J and L)	CFPB	5/11/2016	6/10/2016	Yes	Yes[d]	CFPB consulted or offered to consult with HUD and HUD's Office of Inspector General, including regarding consistency with any prudential market, or systemic objectives administered by such agencies.

[1]Our analysis of the coordination is based solely on review of the *Federal Register* notices and interviews with the responsible regulators. This approach would not cover any coordination activities not reported by the agencies in the *Federal Register* or reported to us by the agencies.

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Definitions of “Portfolio Reconciliation” and “Material Terms” for Purposes of Swap Portfolio Reconciliation	CFTC	5/6/2016	5/6/2016	No	No	None
Finalization of Interim Final Rules (Subject to Any Intervening Amendments) Under Consumer Financial Protection Laws	CFPB	4/28/2016	4/28/2016	Yes	Yes	CFPB has consulted, or offered to consult with, the prudential regulators, SEC, HUD, FHFA, FTC, and Treasury, including regarding consistency with any prudential, market, or systemic objectives administered by such agencies.
Security-Based Swap Transactions Connected with a Non-U.S. Person’s Dealing Activity That Are Arranged, Negotiated, or Executed by Personnel Located in a U.S. Branch or Office of an Agent; Security-Based Swap Dealer De Minimis Exception	SEC	2/19/2016	4/19/2016	Yes	Yes	SEC consulted and coordinated with CFTC and the prudential regulators as well as foreign regulatory authorities in accordance with the consultation mandate of the Dodd-Frank Act.
Margin and Capital Requirements for Covered Swap Entities	Joint Rule (FCA, FDIC, FHFA, Federal Reserve, OCC)	11/30/2015	4/1/2016	Yes	Yes	Joint Rule
Trade Options	CFTC	3/21/2016	3/21/2016	No	No	None
Unfair or Deceptive Acts or Practices (Regulation AA)	Federal Reserve	2/18/2016	3/21/2016	No	No	None

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Integrated Mortgage Disclosures Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z)	CFPB	12/31/2013	10/3/2015	Yes	Yes	CFPB has consulted or offered to consult with the prudential regulators and the FTC regarding consistency with any prudential, market, or systemic objectives administered by such agencies. CFPB also held discussions with or solicited feedback from USDA's Rural Housing Service, the Farm Credit Administration, the Federal Housing Administration, FHFA, HUD, and VA regarding the potential impacts of the final rule on those entities' loan programs.
Technical Amendments	NCUA	1/27/2016	1/27/2016	No	No	None
Truth in Lending (Regulation Z) Annual Threshold Adjustments (CARD ACT, HOEPA and ATR/QM)[e]	CFPB	9/21/2015	1/1/2016	No	No	None
Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold	CFPB	12/23/2015	1/1/2016	No	No	None
Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold	CFPB	12/23/2015	1/1/2016	No	No	None

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Extensions of Credit by Federal Reserve Banks	Federal Reserve	12/18/2015	1/1/2016	Yes	Yes	Sections 1101 and 1103 of the Dodd-Frank Act amend the emergency lending authorities provided in section 13(3) of the Federal Reserve Act. The amendments require the Board, in consultation with the Secretary of the Treasury, to establish by regulation policies and procedures with respect to such emergency lending.
Amendments to the Capital Plan and Stress Test Rules	Federal Reserve	12/2/2015	1/1/2016	Yes	Yes[f]	The Federal Reserve consulted with OCC and FDIC.
Consumer Leasing (Regulation M)	Joint Rule (CFPB and Federal Reserve)	11/27/2015	1/1/2016	Yes	No	Joint Rule
Truth in Lending (Regulation Z)	Joint Rule (CFPB and Federal Reserve)	11/27/2015	1/1/2016	Yes	No	Joint Rule
Fair Credit Reporting Act Disclosures	CFPB	11/20/2015	1/1/2016	No	No	None
Appraisals for Higher-Priced Mortgage Loans Exemption Threshold	OCC, Federal Reserve, CFPB	11/27/2015	1/1/2016	Yes	Yes	Joint Rule
Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act (Regulation Z)	CFPB	10/2/2015	1/1/2016	Yes	Yes	Dodd-Frank Act 1022(b) analysis. CFPB has consulted or offered to consult with the prudential regulators, FHFA, FTC, USDA, HUD, Treasury, VA , SEC, and the Census Bureau.

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Regulatory Capital Rules: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies	Federal Reserve	8/14/2015	12/1/2015	Yes	Yes	Sec 165 of the Dodd-Frank Act directs the Board to consider the extent to which the company is already subject to supervision. The Board consulted with the Council, which includes the primary regulators of the functionally regulated subsidiaries of bank holding companies regarding the final rule.
Pay Ratio Disclosure	SEC	8/18/2015	10/19/2015	No	No	None
Registration Process for Security-Based Swap Dealers and Major Security-Based Swap Participants	SEC	8/14/2015	10/13/2015	Yes	Yes	SEC consulted and coordinated with the CFTC and the prudential regulators in accordance with the consultation mandate of the Dodd-Frank Act.
Amendments to the 2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Regulation X) and the Truth in Lending Act (Regulation Z) and the 2013 Loan Originator Rule Under the Truth in Lending Act (Regulation Z)	CFPB	2/19/2015	10/3/2015	Yes	Yes	Dodd-Frank Act 1022(b)(2) analysis. CFPB has consulted or offered to consult with the prudential regulators, FHFA, FTC, USDA, HUD, Treasury, and VA.

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
Defining Larger Participants of the Automobile Financing Market and Defining Certain Automobile Leasing Activity as a Financial Product or Service	CFPB	6/30/5015	8/31/2015	Yes	Yes	Dodd-Frank Act 1022(b) analysis. CFPB has consulted or offered to consult with the prudential regulators, FTC, Federal Reserve Banks, FDIC, OCC, and NCUA.[g] Sec. 1015 requires that CFPB coordinate with other federal regulators to "promote consistent regulatory treatment" of consumer financial products and services.
Minimum Requirements for Appraisal Management Companies	Joint Rule (CFPB, FDIC, FHFA, Federal Reserve, OCC)	6/9/2015	8/10/2015	Yes	Yes	Joint Rule
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants	CFTC	1/6/2016	4/1/2016	Yes	Yes	Sec. 4s(e)(3)(D)(i) of the Commodity Exchange Act (as added by sec. 731 of the Dodd-Frank Act) provides that the prudential regulators, CFTC, and SEC shall periodically consult on minimum capital requirements and minimum initial and variation margin requirements.
Removal of Certain References to Credit Ratings and Amendment to the Issuer Diversification Requirement in the Money Market Fund Rule	SEC	9/25/2015	10/26/2015	No	No	None[h]

Rulemaking	Responsible regulator[a]	Published date	Effective date[b]	Evidence of coordination[c]	Required to coordinate	Nature of coordination
2013 Integrated Mortgage Disclosures Rule Under the Real Estate Settlement Procedures Act (Reg. X) and the Truth in Lending Act (Reg. Z) and Amendments; Delay of effective date	CFPB	7/24/2015	10/3/2015	Yes	Yes	Dodd-Frank Act 1022(b) analysis. CFPB has consulted or offered to consult with the prudential regulators, FHFA, FTC, USDA, HUD, HUD-Inspector General, Treasury, VA, and SEC.

Source: GAO analysis of Federal Register notices | GAO-17-188

[a]Board of Governors of the Federal Reserve System (Federal Reserve); Bureau of Consumer Financial Protection (commonly known as the Consumer Financial Protection Bureau, or CFPB); Commodity Futures Trading Commission (CFTC); Federal Deposit Insurance Corporation (FDIC); Federal Housing Finance Agency (FHFA); Federal Trade Commission (FTC); National Credit Union Administration (NCUA); Office of the Comptroller of the Currency (OCC); Securities and Exchange Commission (SEC); Department of Housing and Urban Development (HUD); and the Department of the Treasury (Treasury).

[b]To determine our scope for this review, we considered the earliest effective date shown in the final Federal Register releases for each Dodd-Frank Act rulemaking. If the effective date shown fell within our scope, the rule was included even if subsequent rulemakings or agency decision changed the effective date of the rule or if the rule contained subsequent effective dates.

[c]See Nature of Coordination for additional notes on evidence of coordination. The evidence presented in this column represents what was reported in *Federal Register* notices and to GAO by the agencies. We did not obtain documentation of the reported coordination.

[d]According to the CFPB, the manner and extent to which the provisions of 12 U.S.C. 5512(b)(2) applied to a rulemaking of this kind that did not establish standards of conduct were unclear. Nevertheless, “to inform this rulemaking more fully,” the Bureau performed the analysis and consultations described in those provisions of the Dodd-Frank Act.

[e]Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act), the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Ability To Repay and Qualified Mortgage Rule (ATR/QM).

[f]According to the Federal Reserve, it consulted with OCC and FDIC as required, pursuant to section 165(i) of the Dodd-Frank Act, with regard to the portion of the rule relating to stress testing. The Federal Reserve said it consulted voluntarily with OCC and FDIC with regard to the portion of the rule related to capital planning.

[g]According to the CFPB, the manner and extent to which the provisions of 12 U.S.C. 5512(b)(2) applied to a rulemaking of this kind that did not establish standards of conduct were unclear. Nevertheless, “to inform this rulemaking more fully,” the Bureau performed the analysis and consultations described in those provisions of the Dodd-Frank Act.

[h]SEC noted, in its final rule, that a number of other federal agencies had taken action to implement section 939A of the Dodd-Frank Act which requires Federal agencies, to the extent applicable, to remove from their regulations references to credit ratings, credit rating agencies, and nationally recognized statistical rating organizations (NSROs) and substitute a standard of creditworthiness. In its proposed rule, SEC listed the actions taken by the other federal agencies, including regulations proposed or adopted by CFTC, OCC, NCUA, FHFA, and the Department of Labor, and stated that it had considered the actions taken by these other agencies. See 79 Fed. Reg. 47986, 47987 (Aug. 14, 2014).

Appendix IV: Summary of Rulemakings Related to Selected Dodd-Frank Act Provisions Applicable to Designated Nonbanks and Systemically Important Banks

The Dodd Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) contains several provisions—including designation by the Financial Stability Oversight Council (FSOC) for supervision by the Board of Governors of the Federal Reserve System (Federal Reserve) and enhanced prudential standards—that apply to nonbank financial companies if FSOC determines that material financial distress at the company or the nature, scope, size, scale, concentration, interconnectedness, or mix of activities at the company could pose a threat to U.S. financial stability. Enhanced prudential standards also apply to bank holding companies with $50 billion or more in total consolidated assets. For this report, we refer to those nonbank financial companies as designated nonbanks and bank holding companies as systemically important banks (bank SIFIs), respectively. Table 8 summarizes some of the Dodd-Frank Act provisions and the rulemakings, including their status, to implement those provisions as of July 22, 2016.

Table 8: Rulemakings Implementing Selected Dodd-Frank Act Provisions Applicable to Designated Nonbanks and Bank Systemically Important Financial Institutions (Bank SIFI) and Their Status as of July 22, 2016

Dodd-Frank Act provision	Rulemaking status
Financial Stability Oversight Council (FSOC) designation of Nonbank Financial Companies for Board of Governors of the Federal Reserve System (Federal Reserve) supervision—Section 113 authorizes FSOC to determine that a nonbank financial company shall be subject to enhanced prudential standards and supervision by the Federal Reserve if FSOC determines that (i) material financial distress or (ii) the nature, scope, size, scale, concentration, interconnectedness, or mix of activities at the nonbank financial company could pose a threat to the financial stability of the United States. FSOC's final rule and interpretative guidance describe the manner in which FSOC intends to apply statutory considerations (related to a six-category framework for size, interconnectedness, substitutability, leverage, liquidity risk, and maturity mismatch), and the procedures FSOC intends to follow, when making a determination to designate a nonbank financial company for Federal Reserve supervision under section 113 of the act.	FSOC final rule and interpretative guidance, Authority to Require Supervision and Regulation of Certain Nonbank Financial Companies, 77 Fed. Reg. 21,637 (Apr. 11, 2012).

Dodd-Frank Act provision	Rulemaking status
Enhanced supervision and prudential standards—Sections 165 and 166 require the Federal Reserve to impose enhanced prudential standards and early remediation requirements on bank holding companies, including foreign banking organizations with total consolidated assets of $50 billion or more that are treated as bank holding companies for purposes of the Bank Holding Company Act of 1956, and nonbank financial companies designated by FSOC to prevent or mitigate risks to U.S. financial stability.[a] According to the Federal Reserve, the standards for foreign banking organizations and foreign nonbank financial companies supervised by the Federal Reserve are broadly consistent with the standards proposed for large U.S. bank SIFIs and designated nonbanks. The final rule requires foreign banking organizations with U.S. nonbranch assets, as defined in the final rule, of $50 billion or more to form a U.S. intermediate holding company and imposes enhanced risk-based and leverage capital requirements, liquidity requirements, risk-management requirements, and stress-testing requirements on the U.S. intermediate holding company. In November 2015, the Federal Reserve proposed to require a U.S. top tier bank holding company identified by the Federal Reserve as a global systemically important banking organization, as well as a top tier U.S. intermediate holding company of a global systemically important foreign banking organizations with $50 billion or more in U.S. non-branch assets, to maintain an outstanding a minimum amount of loss-absorbing instruments, including a minimum amount of unsecured long-term debt, and related buffer. 80 Fed. Reg. 74926 (Nov. 30, 2015), proposed rule. The Federal Reserve also has proposed prudential standards of corporate governance, risk-management, and liquidity risk-management for nonbank financial companies with significant insurance activities (systemically significant insurance companies). 81 Fed. Reg. 38610 (June 14, 2016), proposed rule. The Federal Reserve has asked for comments on a consolidated approach to regulatory capital requirements for systematically significant insurance companies that would categorize insurance liabilities, assets, and certain other exposures into risk segments and determine consolidated required capital by applying risk factors to the amounts in each segment. 81 Fed. Reg. 38631 (June 14, 2016), advance notice of proposed rulemaking.	Federal Reserve final rule, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17,240 (Mar. 27, 2014). The March 2014 final rule does not impose enhanced prudential standards on nonbank financial companies designated by FSOC for supervision by the Federal Reserve.
Enhanced risk-based capital and leverage requirements required under section 165(b)(1)(A)(i)—capital plans: Bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies designated by FSOC must comply with the requirements of any regulations adopted by the Federal Reserve on capital plans and stress tests, including the Federal Reserve's capital plan rule, which requires such companies to submit an annual capital plan to the Board for review that, together with the stress test requirements (below), would demonstrate to the Board that the company has robust, forward-looking capital planning processes that account for their unique risks and permit continued operations during times of stress.[b] Intermediate holding companies of foreign banking organizations generally are subject to the same U.S. risk-based and leverage capital standards that apply to a U.S. bank holding company. An intermediate holding company of a foreign banking organization with total consolidated assets of $50 billion or more is subject to the Federal Reserve's capital plan rule.	Federal Reserve final rule, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17,240 (Mar. 27, 2014). The March 2014 final rule does not impose enhanced prudential standards on nonbank financial companies designated by FSOC for supervision by the Federal Reserve. Federal Reserve final rule, Capital Plan and Stress Test Rules, 79 Fed. Reg. 64,026 (Oct. 27, 2014).

Dodd-Frank Act provision	Rulemaking status
Enhanced risk-based capital and leverage requirements required under section 165(b)(1)(A)(i)—capital surcharges: The Federal Reserve issued a rule requiring the largest, most systemically important U.S. bank holding companies to further strengthen their capital positions. Under the rule, a firm that is identified as a global systemically important bank holding company, or GSIB, will have to hold additional capital to increase its resiliency in light of the greater threat it poses to the financial stability of the United States. The final rule establishes the criteria for identifying a GSIB and the methods that those firms will use to calculate a risk-based capital surcharge, which is calibrated to each firm's overall systemic risk.[c] The final rule does not apply the GSIB framework to nonbank financial companies supervised by the Board.	Federal Reserve Final Rule, Regulatory Capital Rule: Implementation of Risk-Based Capital Surcharges for Global Systemically Important Bank Holding Companies, 80 Fed. Reg. 49082 (Aug. 14, 2015).
Enhanced liquidity requirements required under section 165(b)(1)(A)(ii)—liquidity risk management standards: Bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies designated by FSOC would be subject to liquidity risk-management standards that require those companies to, among other things, project cash flow needs over various time horizons, stress test the projections at least monthly, determine a liquidity buffer, and maintain a contingency funding plan that identifies potential sources of liquidity strain and alternative sources of funding. Large foreign banking organizations with combined U.S. assets of $50 billion or more must meet liquidity risk-management standards that are broadly similar to the standards proposed for U.S. firms.	Federal Reserve final rule, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17,240 (Mar. 27, 2014). The March 2014 final rule does not impose enhanced prudential standards on nonbank financial companies designated by FSOC for supervision by the Federal Reserve.
Enhanced liquidity requirements required under section 165(b)(1)(A)(ii)—Basel liquidity ratios: The banking agencies have adopted a final rule that implements a quantitative liquidity requirement consistent with the liquidity coverage ratio standard established by the Basel Committee. The rule applies to large, internationally active banking organizations, generally, bank holding companies, certain savings and loan holding companies, and depository institutions with more than $250 billion in assets or $10 billion or more in on-balance sheet foreign exposure and their consolidated subsidiary depository institutions with $10 billion or more in total consolidated assets. The Federal Reserve is separately adopting a modified liquidity coverage ratio for bank holding companies without significant insurance or commercial operations that have $50 billion or more in total consolidated assets but that are not internationally active.	Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and Office of the Comptroller of the Currency (OCC) final rule, Liquidity Coverage Ratio: Liquidity Risk Measurement Standards, 79 Fed. Reg. 61,440 (Oct. 10, 2014).
Credit exposure reports required under section 165(d)(2): Section 165 also requires the Federal Reserve to impose credit exposure reporting requirements on bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC. The joint proposed rule would require those companies to report credit exposures to other covered companies and credit exposures that other covered companies have to that company.	Federal Reserve and FDIC proposed rule, Resolution Plans and Credit Exposure Reports Required, 76 Fed. Reg. 22,648 (Apr. 22, 2011).
Concentration limits required under section 165(e): As required by the act, the Federal Reserve would prohibit bank holding companies with $50 billion or more in total consolidated assets, certain large foreign banking organizations and intermediate holding companies, and nonbank financial companies designated by FSOC from having credit exposure to any unaffiliated company that exceeds 25 percent of the company's capital stock and surplus or total consolidated regulatory capital. The Federal Reserve proposed a more stringent credit exposure limit of 10 percent between the largest, more complex financial institutions.	Proposal included in January. 5, 2012, proposed rule and December. 28, 2012, proposed rule.

Dodd-Frank Act provision	Rulemaking status
Stress tests required under section 165(i): Bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC are required by the act to conduct semi-annual company-run stress tests, and the Federal Reserve is required to conduct an annual stress test on each of those companies.[d] The final rule builds on the stress tests required under the capital plans that large, complex bank holding companies submitted to the Federal Reserve for supervision under the Supervisory Capital Assessment Program in 2009, the subsequent Comprehensive Capital and Analysis Review in 2011, and the capital plan rule effective December. 30, 2011. Bank holding companies that have total combined assets of $50 billion or more no longer have to demonstrate their ability to maintain a common capital ratio of 5 percent of risk-weighted assets under expected and stressed scenarios. Furthermore, to the extent that these companies are required to include acquisitions in their balance sheet projections, they are required to include stock issuances associated with the acquisitions in their stress tests. The companies also are required to assume that they pay planned dividends on issuance of stock related to expensed employee compensation. 80 Fed. Reg. 75419 (Dec. 2, 2015).	Federal Reserve final rule for U.S. bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies designated by FSOC for Federal Reserve supervision, Company-Run Stress Test Requirements, 77 Fed. Reg. 62,378 (Oct. 12, 2012). Federal Reserve final rule for foreign banking organizations, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17, 240 (Mar. 27, 2014). Federal Reserve final rule, Capital Plan and Stress Test Rules, 79 Fed. Reg. 64,026 (Oct. 27, 2014). FDIC final rule, Annual Stress Test, 79 Fed. Reg. 69, 365 (Nov. 21, 2014). OCC final rule, Annual Stress-Test—Schedule Shift and Adjustments to Regulatory Capital Projects, 79 Fed. Reg. 71,630 (Dec. 3, 2014). FHFA final rule, Stress Testing of Regulated Entities, 78 Fed. Reg. 59219 (Sept. 26, 2013).
Resolution plans required under section 165(d)(1): Section 165 also requires the Federal Reserve to require resolution plans from bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC. The joint final rule requires each plan to include, information about the company's ownership structure, core business lines, and critical operations, and a strategic analysis of how the SIFI can be resolved under the U.S. Bankruptcy Code in a way that would not pose systemic risk to the financial system.	Federal Reserve and FDIC final rule, Resolution Plans Required. 76 Fed. Reg. 67,323 (Nov. 1, 2011).
Debt-to-equity limits under section 165(j): Section 165(j) provides that the Federal Reserve must require bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies supervised by the Federal Reserve to maintain a debt-to-equity ratio of no more than 15-to-1, upon a determination by the Council that (i) such company poses a grave threat to the financial stability of the United States and (ii) the imposition of such a requirement is necessary to mitigate the risk that the company poses to U.S. financial stability. The final rules implement the 15-to-1 debt-to-equity limitation for U.S. bank holding companies and foreign banking organizations for which FSOC has made the grave-threat determination.	Federal Reserve final rule, Enhanced Prudential Standards for Bank Holding Companies and Foreign Banking Organizations, 79 Fed. Reg. 17, 240 (Mar. 27, 2014). The March 2014 final rule does not impose enhanced prudential standards on nonbank financial companies designated by FSOC for supervision by the Federal Reserve.
Early remediation requirements under section 166: Section 166 requires the Federal Reserve, in consultation with FSOC and FDIC, to prescribe regulations to provide for the early remediation of financial distress of bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC. The proposed requirements would include a number of triggers for remediation, including capital levels, stress test results, and risk-management weaknesses. In certain situations, the Federal Reserve would impose restrictions on asset growth, acquisitions, capital distributions, executive compensation, and other activities that the Federal Reserve deems appropriate. The proposed rule for foreign banking organizations adapts these requirements to their U.S. operations, tailored to address the risks to U.S. financial stability posed by the U.S. operations of foreign banking organizations and taking into consideration their structure.	Proposal included in January 5, 2012, proposed rule and December 28, 2012, proposed rule.

Dodd-Frank Act provision	Rulemaking status
FDIC Orderly Liquidation Authority—Title II gives FDIC new orderly liquidation authority to act as a receiver in the event of a failure of certain systemically important financial companies, including certain bank holding companies and nonbank financial companies that pose significant risk to the financial stability of the United States. The rule establishes a more comprehensive framework for the implementation of the liquidation authority and is intended to provide greater transparency to the process.	FDIC final rule, Certain Orderly Liquidation Authority Provisions under Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act, 76 Fed. Reg. 41,626 (July 15, 2011).
Federal Reserve authority to impose mitigatory actions on certain nonbank financial companies determined to pose a grave threat to financial stability— Section 121(a) allows the Federal Reserve, with a two-thirds vote by FSOC, to impose certain additional restrictions on bank holding companies with $50 billion or more in total consolidated assets and nonbank financial companies designated by FSOC determined to pose a grave threat to the financial stability of the United States, including limiting mergers and acquisitions, requiring the company to terminate activities, or requiring the company to sell or transfer assets or off-balance-sheet items to unaffiliated entities.	No rules proposed or issued.
Collins Amendment—Section 171(b) requires the appropriate federal banking agencies to establish permanent minimum risk-based capital and leverage floors on insured depository institutions, depository institution holding companies, and nonbank financial companies designated by FSOC. Under the final rule, these institutions must calculate their floors using the minimum risk-based capital and leverage requirements under the prompt corrective action framework implementing section 38 of the Federal Deposit Insurance Act. The Federal Reserve has asked for comments on a consolidated approach to regulatory capital requirements for systemically significant insurance companies that would categorize insurance liabilities, assets, and certain other exposures into risk segments and determine consolidated required capital by applying risk factors to the amounts in each segment. 81 Fed. Reg. 38631 (June 14, 2016), advance notice of proposed rulemaking.	Federal Reserve, FDIC, and OCC final rule, Risk-Based Capital Standards: Advanced Capital Adequacy Framework—Basel II; Establishment of a Risk-Based Capital Floor, 76 Fed. Reg. 37,620 (June 28, 2011).
Concentration limit/ liability cap on large financial institutions—Section 622 establishes, subject to recommendations by FSOC, a financial sector concentration limit that generally prohibits a financial company from merging or consolidating with, acquiring all or substantially all of the assets of, or otherwise acquiring control of another company if the resulting company's consolidated liabilities would exceed 10 percent of the aggregate consolidated liabilities of all financial companies.	Federal Reserve final rule, Concentration Limits on Large Financial Companies, 79. Fed. Reg. 68,095 (Nov. 14, 2014)

Source: GAO analysis. | GAO-17-188

[a]Section 165 of the Dodd-Frank Act directs the Federal Reserve to impose enhanced prudential standards for bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC regarding overall risk management, which also were proposed in the January 5, 2012 rule. Section 115 of the act authorizes FSOC to recommend to the Federal Reserve additional enhanced prudential standards for bank holding companies with $50 billion or more in total consolidated assets, certain foreign banking organizations, and nonbank financial companies designated by FSOC.

[b]Bank SIFIs already must comply with the capital plan rule. The Federal Reserve issued its final capital plans rule on December 1, 2011 (see Capital Plans,76 Fed. Reg. 74,631). On September 30, 2013, the Federal Reserve issued an interim final rule that amends the capital plan and stress test rules and clarifies how bank SIFIs must incorporate the new U.S. Basel III-based final capital rules into their capital plan submissions and stress tests. See Regulations Y and YY: Application of the Revised Capital Framework to the Capital Plan and Stress Test Rules, 78 Fed. Reg. 59,779.

[c]In November 2011, the Financial Stability Board identified 29 G-SIBs and indicated it would update this list annually each November. The Financial Stability Board last updated this list on November 11,

2013. The updated list contains 29 G-SIBs; the same eight U.S, bank SIFIs were designated as GSIBs in 2011, 2012, and 2013.

[d]Section 165(i)(2) of the act requires that any bank holding company with more than $10 billion in total consolidated assets and that is regulated by a federal financial regulatory agency also be subject to company-run stress tests. The Federal Reserve issued a separate rule to implement this requirement. See Annual Company-Run Stress Test Requirements for Banking Organizations With Total Consolidated Assets Over $10 Billion Other Than Covered Companies,77 Fed. Reg. 62,396 (Oct. 12, 2012).

Appendix V: Trends in GAO Indicators for Bank Systemically Important Financial Institutions

We updated indicators to monitor changes in the size, interconnectedness, complexity, leverage, and liquidity of bank holding companies with $50 billion or more in total consolidated assets—bank systemically important financial institutions or bank SIFIs). As we first reported in December 2012, some provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) and related rules may result in adjustments to the these characteristics of bank SIFIs over time.[1] The size, interconnectedness, and complexity indicators are intended to capture the potential for a bank SIFI's financial distress to affect the financial system and economy (spillover effects). The leverage and liquidity indicators are intended to capture a bank SIFI's resilience to shocks or its vulnerability to financial distress.

Data

We used the following data to construct our indicators:

- quarterly data on the price index for gross domestic product, which we obtained from the Bureau of Economic Analysis for the period from the second quarter of 2006 to the second quarter of 2016;
- annual data on numbers and locations of legal entities for holding companies obtained from the Board of Governors of the Federal Reserve System (Federal Reserve) for the period from the second quarter of 2010 to the second quarter of 2016;
- quarterly data on second-tier bank holding companies, which we obtained from the Federal Reserve via the National Information Center for the period from the second quarter of 2009 to the second quarter of 2016;
- quarterly balance sheet and income statement data that bank holding companies report on Form FR Y-9C, which we obtained from the Federal Reserve Bank of Chicago for the period from the second quarter of 2009 to the second quarter of 2016; and
- quarterly data on gross notional amounts of credit default swaps outstanding by reference entity, which we obtained from Bloomberg for the period from the third quarter of 2010 to the second quarter of 2016.

[1] GAO-13-101.

Sample

Our analysis for our size, leverage, liquidity, and one of our interconnectedness indicators generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for one or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015.[2] For our complexity indicators and one interconnectedness indicator, we used data on top-tier U.S. bank holding companies with total consolidated assets of $50 billion or more. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more. We defined large bank SIFIs as bank holding companies with total assets of $500 billion or more, and we defined other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion. We defined non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

Methodology

We calculate each of our indicators for each bank holding company in our sample for each quarter from the first quarter of 2006 to the second quarter of 2016, with the exceptions of our complexity indicators, which we calculate only for bank SIFIs as of the second quarter of each year from 2006 to 2016, and one of our interconnectedness indicators, which we calculate only for bank SIFIs for the period from the third quarter of 2010 to the second quarter of 2016. We then calculate the median value of each indicator for each group of bank holding companies—large bank SIFIs, other bank SIFIs, all bank SIFIs, non-SIFI bank holding companies, and all bank holding companies, to the extent possible—and track the median values over time. Finally, we assess the changes in the median values of the indicators for large bank SIFIs and other banks SIFIs between the second or third quarter of 2010 and the second quarter of 2016, depending on the indicator. We say that an indicator has increased or decreased if it has changed by 5 percent or more, depending on the

[2]Between 2006 and 2014, top-tier bank holding companies with assets of $500 million or more were generally required to file Form FR Y-9C. However, the Federal Reserve raised the threshold to $1 billion starting in the first quarter of 2015.

direction of the change, and we say that an indicator has remained about the same if it has changed by less than 5 percent. When stating the implications of the indicator on potential spillover effects, we assume all other things are held equal.

Limitations

Our indicators analysis has limitations. For example, the indicators do not identify causal links between changes in bank SIFI characteristics and the act. Rather, the indicators track changes in the size, interconnectedness, complexity, leverage, and liquidity of bank SIFIs since the Dodd-Frank Act was passed to examine whether the changes were consistent with the act. However, other factors—including the economic downturn, international banking standards agreed upon by the Basel Committee on Banking Supervision (Basel Committee), and monetary policy actions—also affect bank holding companies and, thus, the indicators.[3] These factors may have a greater effect on bank SIFIs than the Dodd-Frank Act. In addition, some rules implementing provisions related to bank SIFIs have not yet been finalized or fully implemented. Thus, changes in our indicators include the effects of these rules only insofar as bank SIFIs have changed their behavior in response to issued rules and in anticipation of expected rules. In this sense, our indicators provide baselines against which to compare future trends. Furthermore, each indicator has its own specific limitations, which we expand on in the following sections.

Indicators

Size

An institution's size is associated with the potential for its financial distress to affect the financial system and the broader economy (spillover effects). We developed three indicators of size: (1)—the number of bank holding companies with assets of $50 billion or more, (2) total assets of the consolidated bank holding company as reported on its balance sheet (adjusted for inflation and measured in billions of second quarter 2016

[3]The Basel Committee has agreed on a new set of risk-based capital, leverage, liquidity, and other requirements for banking institutions (Basel III requirements). Additionally, the Financial Stability Board and the Basel Committee have agreed on new capital and other requirements applicable to designated globally systemically important banks. U.S. banking regulators have implemented some of these requirements.

dollars), and (3) the market share of the bank holding company (equal to its total assets as a percentage of the total assets of all of the holding companies we analyzed).

These indicators do not include an institution's off-balance-sheet activities and thus may understate the amount of financial services or intermediation an institution provides. Also, asset size alone is not an accurate determinant of systemic significance because an institution's systemic significance also depends on other factors, such as its complexity and interconnectedness. Furthermore, some bank SIFIs are U.S.-based bank holding company subsidiaries of foreign banking organizations, and the size of these bank SIFIs may not reflect the potential for the parent company's financial distress to affect the financial system and the economy.

We observed the following changes in our size indicators over the period from the third quarter of 2010 to the second quarter of 2016 (see table 9):

- The number of bank SIFIs decreased by one between the third quarter of 2010 and the second quarter of 2016. The number of large bank SIFIs decreased by one, and the number of other bank SIFIs was the same.
- Median assets of bank SIFIs decreased by about 16 percent. Median assets of large bank SIFIs increased by about 38 percent, while median assets of other bank SIFIs decreased by about 10 percent.
- Median market shares of bank SIFIs decreased by about 13 percent. Median market shares of large bank SIFIs increased by about 42 percent while median market shares of other bank SIFIs decreased by about 7 percent.

Table 9: Indicators of Size for U.S. Bank Holding Companies, from Third Quarter 2010 to Second Quarter 2016

Numbers of bank SIFIs

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	7	29	36	428	464
2011 Q2	7	27	34	434	468
2012 Q2	7	27	34	448	482
2013 Q2	6	27	33	454	487
2014 Q2	6	27	33	469	502
2015 Q2	6	27	33	485	518

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2016 Q2	6	29	35	509	544
Median assets (billions of second quarter 2016 dollars)					
Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	1339.01	146.49	180.28	2.10	2.32
2011 Q2	1358.61	141.18	178.79	2. 01	2.23
2012 Q2	1416.91	124.16	173.18	2.11	2.24
2013 Q2	1735.64	123.35	157.27	2.12	2.24
2014 Q2	1795.33	121.81	153.46	2.14	2.28
2015 Q2	1796.73	133.38	158.39	2.25	2.44
2016 Q2	1854.00	132.01	151.71	2.21	2.40
Median market shares (percentage)					
Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	7.39	0.81	0.99	0.01	0.01
2011 Q2	7.60	0.79	1.00	0.01	0.01
2012 Q2	8.09	0.71	0.99	0.01	0.01
2013 Q2	10.32	0.73	0.94	0.01	0.01
2014 Q2	10.43	0.71	0.89	0.01	0.01
2015 Q2	10.51	0.78	0.93	0.01	0.01
2016 Q2	10.52	0.75	0.86	0.01	0.01

Source: GAO analysis of data from the Board of Governors of the Federal Reserve System, the Bureau of Economic Analysis, and the Federal Reserve Bank of Chicago. | GAO-17-188

Notes: Bank SIFIs refers to bank systemically important financial institutions. Our indicators analysis generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for 1 or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion, and non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

Interconnectedness

Interconnectedness reflects direct or indirect linkages between financial institutions that may transmit distress from one financial institution to another (spillover effects). We developed two indicators of interconnectedness based on those that the Financial Stability Oversight Council uses in the first stage of its process for designating nonbank SIFIs (1)—gross notional amount of credit default swaps outstanding for which the institution is the reference entity (adjusted for inflation and

measured in millions of second quarter 2016 dollars) and (2) total debt outstanding (adjusted for inflation and measured in second quarter 2016 dollars).[4] We measure total debt outstanding as the difference between total liabilities and total deposits.

We observed the following changes in our interconnectedness indicators over the period from the third quarter of 2010 to the second quarter of 2016 (see table 10):

- Median credit default swaps gross notional amounts among bank SIFIs that are reference entities decreased by about 65 percent. Median credit default swaps gross notional amounts for large bank SIFIs that are reference entities have decreased by about 62 percent, while median credit default swaps gross notional amounts for other bank SIFIs that are reference entities decreased by about 80 percent. We note that few bank SIFIs are reference entities—only six or seven large bank SIFIs are reference entities, and only three or four other bank SIFIs are reference entities in any one quarter.
- Median total debt outstanding for bank SIFIs decreased by about 19 percent. Median debt outstanding for large bank SIFIs decreased by about 23 percent, while median debt outstanding for other bank SIFIs remained about the same.

Table 10: Indicators of Interconnectedness for U.S. Bank Systemically Important Financial Institutions (bank SIFIs), from Third Quarter 2010 to Second Quarter 2016

Median gross notional amounts of credit default swaps outstanding for which the company is the reference entity (billions of second quarter 2016 dollars)

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	71.13	29.28	62.50		
2011 Q2	73.93	29.00	63.21		

[4]A credit default swap is an agreement between two counterparties in which one party, the protection seller, agrees to provide payment (the protection leg) to the other party, the protection buyer, should a credit event occur against a specified debt (known as the reference obligation), a basket of debts (known as the reference pool), a debt issuer (known as the reference entity), a credit index (known as the reference index), or any other swap underlying reference in exchange for periodic payments (the fee leg) from the protection buyer. The maximum amount of protection provided by the protection seller is equal to the notional amount of the swap.

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2012 Q2	80.73	25.31	65.59		
2013 Q2	59.78	18.79	50.38		
2014 Q2	43.64	12.95	39.09		
2015 Q2	31.75	10.28	29.91		
2016 Q2	26.73	5.79	21.76		

		Median total debt outstanding (billions of second quarter 2016 dollars)			
Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	870.93	23.30	40.75	0.22	0.24
2011 Q2	889.44	22.84	42.02	0.19	0.21
2012 Q2	865.61	23.48	31.91	0.16	0.17
2013 Q2	803.30	17.37	30.48	0.16	0.18
2014 Q2	732.66	21.38	30.20	0.16	0.19
2015 Q2	689.92	21.19	27.64	0.18	0.19
2016 Q2	667.01	22.75	32.88	0.17	0.20

Source: GAO analysis of data from Bloomberg, the Board of Governors of the Federal Reserve System, the Bureau of Economic Analysis, and the Federal Reserve Bank of Chicago. | GAO-17-188

Notes: Bank SIFIs refers to bank systemically important financial institutions. For our analysis of gross notional amounts of credit default swaps outstanding for which the company is the reference, we used data on top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $50 billion or more. For our analysis of total debt outstanding, we used data on top-tier U.S. bank holding companies, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for one or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015. We defined bank SIFIs as bank holding companies with total of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion, and non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

Complexity

Institutions that are more complex are likely to be more difficult to resolve and therefore cause significantly greater disruption to the wider financial system and economic activity if they fail (spillover effects). Resolution via a bankruptcy or under the backstop orderly liquidation authority in Title II of the Dodd-Frank Act may be more difficult if a large number of legal

entities or legal systems are involved.[5] For example, a SIFI with a large number of legal entities—particularly foreign ones operating in different countries under different regulatory regimes—may be more difficult to resolve than a SIFI with fewer legal entities in fewer countries. We developed three indicators of this type of complexity (1)—the number of a bank SIFI's legal entities, (2) the number of a bank SIFI's foreign legal entities, and (3) the number of countries in which a bank SIFI's foreign legal entities are located.

A key limitation of our indicators is that they may not capture all relevant aspects of the complexity of a SIFI, such as complexity that could result from being a subsidiary of a foreign company.

We observed the following changes in our complexity indicators over the period from the second quarter of 2010 to the second quarter of 2016 (see table 11):

- Median numbers of legal entities for bank SIFIs decreased by 37, or about 28 percent. Median numbers of legal entities for large bank SIFIs decreased by 1016, or about 37 percent, and median numbers of legal entities for other bank SIFIs decreased by 26, or about 24 percent.
- Median numbers of foreign legal entities for bank SIFIs decreased by 1, or about 11 percent. Median numbers of foreign legal entities for large bank SIFIs increased by 131, or about 20 percent, and median numbers of foreign legal entities for other bank SIFIs decreased by 2, or about 33 percent.
- Median numbers of countries in which foreign legal entities are located for bank SIFIs decreased by 1, or about 20 percent. Median numbers of countries in which foreign legal entities are located for large bank SIFIs remained about the same (increased by 1, or about 2 percent), and median numbers of countries in which foreign legal entities are located for other bank SIFIs decreased by 1, or about 25 percent.

[5]Congress created the Orderly Liquidation Authority (OLA) as part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Under OLA, the Secretary of the Treasury may appoint the Federal Deposit Insurance Corporation (FDIC) as a receiver for certain insolvent financial companies that pose a risk to the financial stability of the United States. The Dodd-Frank Act requires FDIC to liquidate certain financial companies to maximize the value of the companies' assets, minimize losses, mitigate systemic risk, and minimize moral hazard. Pub. L. No. 111-203, 124 Stat. 1376 (2010).

Table 11: Indicators of Complexity for U.S. Bank Systemically Important Financial Institutions (Bank SIFI), from Second Quarter 2010 to Second Quarter 2016

Median Numbers of Legal Entities

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs
2010 Q2	2753	108	130
2011 Q2	2268	122	167
2012 Q2	2059	97	150
2013 Q2	2605	94	124
2014 Q2	2454	93	99
2015 Q2	2219	84	105
2016 Q2	1737	82	93

Median Numbers of Foreign Legal Entities

Year/Quarter	Year/Quarter	Year/Quarter	Year/Quarter
2010 Q2	663	6	9
2011 Q2	590	8	12
2012 Q2	652	5	12
2013 Q2	858	5	9
2014 Q2	832	5	9
2015 Q2	806	4	9
2016 Q2	532	4	8

Median Numbers of Countries in Which Foreign Legal Entities Are Located

Year/Quarter	Year/Quarter	Year/Quarter	Year/Quarter
2010 Q2	50	4	5
2011 Q2	51	4	6
2012 Q2	52	4	6
2013 Q2	53	4	5
2014 Q2	52	4	5
2015 Q2	52	3	5
2016 Q2	51	3	4

Source: GAO analysis of data from the Board of Governors of the Federal Reserve. | GAO-17-188

Notes: Bank SIFIs refers to bank systemically important financial institutions. We used data on top-tier U.S. bank holding companies with total consolidated assets of $50 billion or more. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, and other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion.

Leverage

Leverage generally captures the relationship between an institution's exposure to risk and capital that can be used to absorb losses from that exposure (resilience). Institutions with more capital to absorb losses are less likely to fail, all else being equal. We track two indicators of leverage—(1) a bank SIFI's tangible common equity as a percentage of total assets and (2) a bank SIFI's total bank holding company equity as a percentage of total assets. Tangible common equity is calculated by subtracting the sum of intangible assets and perpetual preferred stock (net of related Treasury stock) from the company's equity capital.

A limitation of both indicators is that they may not fully reflect an institution's exposure to risk because total assets do not reflect an institution's risk exposure from off-balance-sheet activities and generally treat all assets as equally risky.

We observed the following changes in our leverage indicators over the period from the third quarter of 2010 to the second quarter of 2016 (see table 12):

- Median tangible common equity as a percentage of assets for bank SIFIs increased by about 34 percent. Median tangible common equity as a percentage of assets for large bank SIFIs increased by about 23 percent, and median tangible common equity as a percentage of assets for other bank SIFIs increased by about 32 percent.
- Median total equity as a percentage of assets for bank SIFIs increased by about 15 percent. Median total equity as a percentage of assets for large bank SIFIs increased by about 27 percent, and median total equity as a percentage of assets for other bank SIFIs increased by about 11 percent.

Table 12: Indicators of Leverage for U.S. Bank Holding Companies, from Third Quarter 2010 to Second Quarter 2016

Median tangible common equity as a percentage of total assets

Year/quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	6.26	6.83	6.49	7.24	7.18
2011 Q2	5.67	7.24	6.99	7.88	7.77
2012 Q2	6.60	7.98	7.62	8.32	8.25
2013 Q2	6.85	8.19	8.06	8.35	8.34

Year/quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2014 Q2	7.35	8.83	8.44	8.70	8.69
2015 Q2	7.58	8.60	8.37	8.67	8.66
2016 Q2	7.67	9.00	8.69	8.92	8.89

		Median total equity as a percentage of total assets			
Year/quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	8.21	11.55	10.64	9.29	9.41
2011 Q2	8.14	11.13	10.88	9.58	9.72
2012 Q2	8.40	11.76	11.14	9.85	10.04
2013 Q2	9.49	12.12	11.61	9.87	9.98
2014 Q2	10.21	12.16	11.43	10.28	10.34
2015 Q2	10.60	12.57	12.00	10.33	10.42
2016 Q2	10.46	12.79	12.22	10.39	10.46

Source: GAO analysis of data from the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago. | GAO-17-188

Notes: Bank-SIFIs is used for bank systemically important financial institutions. Our indicators analysis generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for 1 or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion, and non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

Liquidity

Liquidity represents the ability to fund assets and meet obligations as they become due, and liquidity risk is the risk of not being able to obtain funds at a reasonable price within a reasonable time period to meet obligations as they become due. Institutions with more liquidity (and less liquidity risk), are less likely to fail, all else being equal (resilience). We developed two indicators of liquidity: (1)—short-term liabilities as a percentage of total liabilities and (2) liquid assets as a percentage of short-term liabilities. Short-term liabilities reflect an institution's potential need for liquidity in the immediate future. We measure short-term liabilities as the sum of federal funds purchased and repurchase agreements, trading liabilities (less derivatives with negative fair value), other borrowed funds, deposits held in foreign offices, and jumbo time deposits (deposits of $100,000 or more) held in domestic offices. Liquid assets are assets that can be sold easily without affecting their price and, thus, can be

converted easily to cash to cover debts that come due. Accordingly, liquid assets as a percentage of an institution's short-term liabilities are a measure of an institution's capacity to meet potential upcoming obligations. We measure liquid assets as the sum of cash and balances due from depository institutions, securities (less pledged securities), federal funds sold and reverse repurchases, and trading assets.

A limitation of both indicators is that they do not include off- balance-sheet liabilities, such as callable derivatives or other potential derivatives-related obligations. The second indicator also does not include off-balance-sheet liquid assets, such as short-term income from derivative contracts. Because these limitations affect both the numerator and the denominator of our indicators, we cannot determine whether the exclusion of off-balance-sheet items results in an under- or overstatement of an institution's liquidity need and access.

We observed the following changes in our liquidity indicators over the period from the third quarter of 2010 and to the second quarter of 2016 (see table 13):

- Median short-term liabilities as a percentage of total liabilities for bank SIFIs decreased by about 12 percent. Median short-term liabilities as a percentage of total liabilities for large bank SIFIs decreased by about 26 percent, and median short-term liabilities as a percentage of total liabilities for other bank SIFIs decreased by about 20 percent.
- Median liquid assets as a percentage of short-term liabilities for bank SIFIs increased by about 66 percent. Median liquid assets as a percentage of short-term liabilities for large bank SIFIs increased by about 54 percent, and median liquid assets as a percentage of short-term liabilities for other bank SIFIs increased by about 61 percent.

Table 13: Indicators of Liquidity for U.S. Bank Holding Companies, from Third Quarter 2010 to Second Quarter 2016

Median Short-term Liabilities as a Percentage of Total Liabilities

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	55.10	25.55	28.90	24.47	24.70
2011 Q2	52.04	23.14	26.27	22.27	22.59
2012 Q2	46.41	22.66	25.63	19.96	20.03
2013 Q2	52.00	20.82	23.61	18.99	19.09
2014 Q2	47.25	20.48	24.12	18.17	18.34
2015 Q2	43.86	17.57	24.49	18.09	18.18
2016 Q2	41.02	20.40	25.30	18.42	18.73

Median liquid assets as a percentage of short-term liabilities

Year/Quarter	Large bank SIFIs	Other bank SIFIs	All bank SIFIs	Non-SIFI bank holding companies	All bank holding companies
2010 Q3	100.75	78.90	79.26	67.43	69.17
2011 Q2	109.51	93.23	98.10	81.46	84.46
2012 Q2	124.22	102.58	106.89	99.46	102.61
2013 Q2	136.50	104.89	110.16	101.27	102.42
2014 Q2	150.67	111.43	112.52	88.90	92.18
2015 Q2	152.05	126.15	134.94	82.70	85.06
2016 Q2	155.31	126.92	131.77	76.62	80.05

Source: GAO analysis of data from the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of Chicago. | GAO-17-188

Notes: Bank-SIFIs is used for bank systemically important financial institutions. Our indicators analysis generally includes all top-tier U.S. bank holding companies, including any U.S.-based bank holding company subsidiaries of foreign banking organizations, with total consolidated assets of $1 billion or more that filed Form FR Y-9C for 1 or more quarters during the period from the first quarter of 2006 to the second quarter of 2016. We chose the threshold of $1 billion in assets to match the threshold for reporting Form FR Y-9C starting in the first quarter of 2015. We defined bank SIFIs as bank holding companies with total assets of $50 billion or more, large bank SIFIs as bank holding companies with total assets of $500 billion or more, other bank SIFIs as bank holding companies with total assets of at least $50 billion but less than $500 billion, and non-SIFI bank holding companies as bank holding companies with less than $50 billion in total assets.

Appendix VI: Dodd-Frank Rules Implementing Central Clearing, Capital, and Margin Swap Reforms

The following tables list select rules that implement sections of Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) related to central clearing requirements for swaps and security-based swaps, and margin and capital requirements for swaps entities, as of July 22, 2016.

Table 14: Select Dodd-Frank Act Rules Implementing Central Clearing Swap Reforms Final as of July 22, 2016

Rulemaking	Responsible regulator	Published date	Effective date
Process for Review of Swaps for Mandatory Clearing	CFTC	7/25/2011	9/26/2011
Derivatives Clearing Organization Operations, Standards, and Risk Management	CFTC	11/8/2011	1/9/2012
Derivatives Clearing Organization General Provisions and Core Principles	CFTC	11/8/2011	1/9/2012
Customer Clearing Documentation, Timing of Acceptance for Clearing, and Clearing Member Risk Management	CFTC	4/9/2012	10/1/2012
Process for Submissions for Review of Security-Based Swaps for Mandatory Clearing and Notice Filing Requirements for Clearing Agencies	SEC	7/13/2012	8/13/2012
End-User Exception to the Clearing Requirement for Swaps	CFTC	7/19/2012	9/17/2012
Swap Transaction Compliance and Implementation Schedule: Clearing Requirement under Section 2(h) of CEA	CFTC	7/30/2012	9/28/2012
Clearing Agency Standards	SEC	11/2/2012	1/2/2013
Clearing Requirement Determination under Section 2(h) of CEA	CFTC	12/13/2012	2/11/2013
Clearing Exemption for Swaps between Certain Affiliated Entities	CFTC	4/11/2013	6/10/2013
Core Principles and Other Requirements for Swap Execution Facilities	CFTC	6/4/2013	8/5/2013
Enhanced Risk Management Standards for Systemically Important Derivatives Clearing Organizations	CFTC	8/15/2013	10/15/2013
Clearing Exemption for Certain Swaps Entered into by Cooperatives	CFTC	8/22/2013	9/23/2013
Regulatory Capital Rules: Regulatory Capital, Implementation of Basel III, Capital Adequacy, Transition Provisions, Prompt Corrective Action, Standardized Approach for Risk-weighted Assets, Market Discipline and Disclosure Requirements, Advanced Approaches Risk-Based Capital Rule, and Market Risk Capital Rule	Federal Reserve, OCC	10/11/2013	1/1/2014
Derivatives Clearing Organizations and International Standards	CFTC	12/2/2013	12/31/2013
Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds	CFTC	1/31/2014	4/1/2014
Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds	FDIC, Federal Reserve, OCC, SEC	1/31/2014	4/1/2014
Application of ‘‘Security-based Swap Dealer’’ and ‘‘Major Security-Based Swap Participant’’ Definitions to Cross-Border Security-Based Swap Activities	SEC	7/9/2014	9/8/2014

Rulemaking	Responsible regulator	Published date	Effective date
Regulation SBSR—Reporting and Dissemination of Security-Based Swap Information	SEC	3/19/2015	5/18/2015
Security-Based Swap Data Repository Registration, Duties, and Core Principles	SEC	3/19/2015	5/18/2015

Source: GAO analysis of Dodd-Frank Act, Federal Register documents. | GAO-17-188

Note: CFTC is the Commodity Futures Trading Commission, FDIC is the Federal Deposit Insurance Corporation, Federal Reserve is the Board of Governors of the Federal Reserve System, OCC is the Office of the Comptroller of the Currency, SEC is the Securities and Exchange Commission, and CEA is the Commodity Exchange Act.

Table 15: Select Dodd-Frank Rules Implementing Capital and Margin Swap Reforms Proposed or Finalized as of July 22, 2016

Rulemaking	Responsible regulator	Rule status	Published date
Capital Requirements of Swap Dealers and Major Swap Participants	CFTC	Proposed	5/12/2011
Swap Transaction Compliance and Implementation Schedule: Trading Documentation and Margining Requirements under Section 4s of CEA	CFTC	Proposed	9/20/2011
Capital, Margin, and Segregation Requirements for Security-Based Swap Dealers and Major Security-Based Swap Participants and Capital Requirements for Broker-Dealers	SEC	Proposed	11/23/2012
Margin and Capital Requirements for Covered Swap Entities[a]	Farm Credit Administration, FDIC, FHFA, Federal Reserve, OCC	Finalized	11/30/2015
Margin Requirements for Uncleared Swaps for Swap Dealers and Major Swap Participants	CFTC	Finalized	1/6/2016

Source: GAO analysis of Dodd-Frank Act, Federal Register documents. | GAO-17-188

Note: CFTC is the Commodity Futures Trading Commission, FDIC is the Federal Deposit Insurance Corporation, FHFA is the Federal Housing Finance Agency, Federal Reserve is the Board of Governors of the Federal Reserve System, OCC is the Office of the Comptroller of the Currency, SEC is the Securities and Exchange Commission, and CEA is the Commodity Exchange Act.

[a]The agencies issued an interim final rule exempting, pursuant to section 302 of the Terrorism Risk Insurance Program Reauthorization Act of 2015, Pub. L. No. 114–1, 129 Stat. 3, non-cleared swaps and non-cleared security-based swaps from the agencies' final rule implementing margin requirements. See Margin and Capital Requirements for Covered Swap Entities, 80 Fed. Reg. 74916 (Nov. 30, 2015).

Appendix VII: GAO Contact and Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Stefanie Jonkman (Assistant Director), Janet Fong (Analyst-in-Charge), Farrah Graham, Donald Hirasuna, Courtney LaFountain, John McGrail, Marc Molino, Jennifer Schwartz, and Shannon Smith made key contributions to this report.

Appendix VIII: Accessible Data

Data Tables

Data tables for Figure 1: Indicators for Designated Nonbanks and Large Publicly Traded Banks and Insurance Companies, Second Quarter 2012 through Second Quarter 2016

Table 1. Size indicator - total consolidated assets, adjusted for inflation and measured in billions of 2016Q2 dollars.

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q2	588.9	686.6	110.6	159.2
2012Q3	580.6	708.1	111.2	164.5
2012Q4	576.2	744.9	114.6	165.4
2013Q1	574.4	757.8	113.0	173.9
2013Q2	561.2	736.8	112.3	158.6
2013Q3	561.7	751.2	112.3	156.4
2013Q4	559.4	756.2	111.7	156.2
2014Q1	562.9	768.3	110.0	152.7
2014Q2	541.5	783.5	110.0	153.5
2014Q3	537.3	778.8	108.5	152.1
2014Q4	524.8	780.3	110.4	157.4
2015Q1	530.0	792.6	107.3	156.9
2015Q2	516.2	772.1	105.7	158.7
2015Q3	506.5	761.4	104.9	156.6
2015Q4	500.4	762.7	105.4	161.0
2016Q1	505.7	777.4	106.6	158.6
2016Q2	510.3	796.5	107.3	159.6
% change, 2012Q2-2016Q2	-13.3	16.0	-3.0	0.3

Table 2. Interconnectedness indicator - gross notional amount of CDS outstanding for which company is the reference entity (adjusted for inflation and expressed in billions of 2016Q2 dollars).

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q2	46.8	11.3	12.5	69.3

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q3	44.0	11.2	12.0	63.3
2012Q4	39.4	11.1	10.9	56.5
2013Q1	37.8	10.0	10.7	52.2
2013Q2	34.1	9.7	10.2	50.4
2013Q3	30.9	9.1	9.4	48.0
2013Q4	25.6	8.1	7.4	42.5
2014Q1	22.8	8.0	7.0	36.0
2014Q2	22.3	8.2	6.6	34.8
2014Q3	20.1	8.9	6.2	32.4
2014Q4	19.3	8.7	6.0	31.1
2015Q1	18.3	8.6	6.0	29.0
2015Q2	17.3	8.5	5.7	26.8
2015Q3	15.9	8.0	5.3	25.3
2015Q4	14.0	8.0	5.2	23.6
2016Q1	13.7	8.3	5.4	22.4
2016Q2	12.9	8.6	4.9	21.8
% change, 2012Q2-2016Q2	-72.4	-24.3	-61.0	-68.6

Note: smaller potential spillover effects than in prior years based on this indicator, all else being equal.

Table 3. Interconnectedness indicator - Total debt outstanding (excluding deposits) (adjusted for inflation and expressed in billions of 2016Q2 dollars).

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q2	78.4	37.8	3.8	23.5
2012Q3	77.7	36.8	4.2	21.1
2012Q4	50.9	34.7	4.1	21.2
2013Q1	47.4	36.0	3.8	22.6
2013Q2	44.5	34.7	3.4	22.0
2013Q3	43.9	35.2	3.4	22.3
2013Q4	43.1	35.3	3.5	21.3
2014Q1	40.7	35.9	3.5	23.3
2014Q2	39.3	36.9	3.5	23.6

Date	AIG	Prudential	Insurance (median)	Banking (median)
2014Q3	36.9	36.8	3.5	24.6
2014Q4	31.8	33.7	4.4	23.8
2015Q1	32.6	31.0	3.3	24.3
2015Q2	30.7	32.1	3.4	24.8
2015Q3	31.0	30.5	3.4	24.1
2015Q4	29.6	29.0	3.5	24.7
2016Q1	32.1	29.1	3.5	22.7
2016Q2	33.3	27.0	4.0	20.3
% change, 2012Q2-2016Q2	-57.5	-28.6	4.4	-13.4

Table 4. Leverage indicator - total equity as a percentage of total assets less separate account assets (%).

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q2	21.08	9.37	13.82	11.20
2012Q3	20.76	9.28	14.56	11.29
2012Q4	20.15	8.58	14.69	11.34
2013Q1	20.62	8.88	14.68	11.64
2013Q2	20.65	8.13	14.12	11.62
2013Q3	20.96	7.84	14.55	11.52
2013Q4	21.50	8.03	14.58	11.22
2014Q1	22.01	8.47	15.06	11.47
2014Q2	23.95	8.92	16.40	11.46
2014Q3	24.25	8.98	16.25	11.51
2014Q4	24.63	9.01	16.35	11.49
2015Q1	24.71	9.58	15.94	11.73
2015Q2	24.46	9.07	15.18	11.83
2015Q3	23.45	9.02	14.80	11.88
2015Q4	21.61	8.89	14.78	11.87
2016Q1	21.05	10.02	14.40	12.18
2016Q2	21.07	10.78	14.83	12.21
% change, 2012Q2-2016Q2	-0.1	15.1	7.3	9.0

Table5. Liquidity indicator – nondeposit short term debt as a percentage of total assets less separate account assets (%).

Date	AIG	Prudential	Insurance (median)	Banking (median)
2012Q2	0.95	2.76	0.14	2.69
2012Q3	0.17	3.31	0.02	2.54
2012Q4	0.65	2.25	0.13	2.23
2013Q1	0.55	2.20	0.02	2.33
2013Q2	0.32	2.51	0.10	2.63
2013Q3	0.16	2.75	0.00	2.66
2013Q4	0.71	2.71	0.10	3.27
2014Q1	0.34	3.29	0.10	2.07
2014Q2	1.09	3.22	0.09	2.12
2014Q3	0.95	3.52	0.09	2.20
2014Q4	0.46	3.53	0.00	2.19
2015Q1	0.72	2.79	0.02	1.68
2015Q2	1.22	3.05	0.00	2.29
2015Q3	0.26	2.32	0.02	1.68
2015Q4	0.39	2.09	0.03	1.34
2016Q1	0.28	2.00	0.00	1.53
2016Q2	0.27	1.60	0.10	1.91
% change, 2012Q2-2016Q2	-71.2	-41.9	-32.7	-29.1

Data tables for Figure 2: Fair Value of Collateral as a Percentage of Net Current Credit Exposure for Over-the-Counter Derivatives Contracts for Counterparty Type and for All Counterparty Types Combined, from Second Quarter 2009 through Second Quarter 2016

Quarter	All Counterparties Combined
2009q2	62.2
2009q3	62.9
2009q4	68.0
2010q1	67.6
2010q2	68.8
2010q3	71.3
2010q4	70.9

Quarter	All Counterparties Combined
2011q1	72.2
2011q2	73.6
2011q3	67.1
2011q4	73.0
2012q1	76.1
2012q2	77.5
2012q3	77.5
2012q4	79.1
2013q1	83.0
2013q2	82.2
2013q3	85.2
2013q4	86.2
2014q1	91.9
2014q2	92.7
2014q3	93.6
2014q4	94.6
2015q1	96.3
2015q2	103.6
2015q3	92.52972
2015q4	97.15759
2016q1	90.00975
2016q2	91.37364

Quarter	Banks and Securities Firms	Monoline Financial Guarantors	Hedge Funds	Sovereign Governments	Corporations and All Other Counterparties
2009q2	85.3	1.2	211.3	27.5	31.3
2009q3	87.2	1.2	243.9	26.0	29.0
2009q4	92.4	1.2	282.4	24.9	32.9
2010q1	91.4	1.0	311.8	26.2	31.9
2010q2	92.1	1.6	299.3	30.8	31.6
2010q3	92.6	1.7	272.9	11.2	38.3
2010q4	88.0	1.7	342.5	15.6	40.3
2011q1	87.2	3.2	363.3	14.6	42.3
2011q2	90.9	3.2	380.6	20.1	40.7
2011q3	83.9	3.9	209.9	17.5	40.3
2011q4	89.7	9.9	317.1	13.6	41.2

Quarter	Banks and Securities Firms	Monoline Financial Guarantors	Hedge Funds	Sovereign Governments	Corporations and All Other Counterparties
2012q1	92.4	10.9	392.5	14.6	43.4
2012q2	94.9	10.2	380.5	16.2	44.4
2012q3	91.2	12.3	391.2	14.8	48.3
2012q4	92.2	14.3	405.3	13.7	50.2
2013q1	97.3	20.7	422.2	12.8	52.2
2013q2	91.8	29.4	406.3	13.5	57.1
2013q3	95.8	50.7	413.4	14.3	58.0
2013q4	98.6	41.4	413.3	14.9	57.4
2014q1	101.0	35.5	593.3	14.1	59.1
2014q2	102.1	22.7	607.7	16.0	57.9
2014q3	100.6	25.5	604.5	14.9	62.8
2014q4	101.4	17.5	614.4	11.3	71.8
2015q1	97.8	17.1	667.9	17.0	75.5
2015q2	98.2	14.0	711.0	14.2	85.5
2015q3	101.3621	15.58938	457.471	16.15893	68.35493
2015q4	103.2278	13.65154	518.7488	15.26224	73.20222
2016q1	95.2894	10.6331	457.9328	35.4687	66.28075
2016q2	101.7282	12.03358	482.7627	42.69391	64.25858

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