CRS Insights

How Have Small Banks Been Affected by Financial Reform?

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May 14, 2015 (IN10276)

Congress is considering providing regulatory relief for small banks. Proponents argue that regulatory relief is needed, in part, because of the increase in regulatory burden resulting from new rules introduced in response to the financial crisis. But how have small banks been affected by recent rules? A comprehensive evaluation is hindered by both the sheer number of new rules and the fact that the effects of rules cannot easily be compared or aggregated, because some rules have large effects on banks and others have small effects. This *Insight* summarizes a CRS analysis of major rules issued since 2010 by banking regulators pursuant to the Dodd-Frank Act (P.L. 111-203) or Basel III. Of the 14 major rules in **Table 1**, 13 either contain exemptions or are tailored (e.g., simplified compliance requirements) for small banks. Some rules base exemptions and tailoring on asset size, whereas others are based on activity volume; a consistent size threshold is not used across rules.

Table 1. Treatment of Small Banks in Recent "Major Rules" Issued by Banking Regulators Pursuant to the Dodd-Frank Act or the Basel Accords

Subject	Regulation Identifier Number	Differential Treatment of Small Banks
Rules Issued by Federal Deposit Insurance Corporation, Federal Reserve, or Office of Comptroller of the Currency		
(1) Liquidity Coverage Ratio	1557-AD74	Does not apply to banks with less than $50 billion in total assets.
(2) Supplementary Leverage Ratio	1557-AD74	Does not apply to banks with less than $250 billion in total consolidated assets or $10 billion in total on-balance sheet foreign exposure.
(3) "Volcker Rule"	7100-AD82	Applies to all banks, but streamlined compliance policies and procedures for banks with less than $10 billion in assets.
(4) Treatment Of CDO-TruPs in the "Volcker Rule"	1557-AD79	Applies to all banks that hold collateralized debt obligations backed by trust preferred securities (CDO-TruPs), including small banks.
(5) Regulatory Capital Rules: Basel III	1557-AD46, 3064-AD95	This rule has many provisions that apply to small banks (but not bank holding companies under $1 billion in assets). However, banks with less than $250 billion in total assets or $10 billion in foreign exposure are provided an additional year to implement the rule and are exempt from parts of it, including the "advanced approaches" and the countercyclical capital buffer. Banks with less than $15 billion in assets received grandfathered treatment of TruPs.
(6) Risk-Based Capital Guidelines:	1557-AC99	Does not apply to banks with aggregated trading assets and trading liabilities less than

Basel II.5		$1 billion or 10% of total assets.
(7) Debit Card Interchange Fees	7100-AD63	Does not apply to banks that do not issue debit cards. Does not apply to issuers that, together with affiliates, have $10 billion or less in assets.
(8) Enhanced Prudential Standards	7100-AD86	Does not apply to banks with less than $10 billion in assets. Most provisions do not apply to banks with less than $50 billion in assets.
(9) Assessments on Large Banks and Non-Bank SIFIs	7100-AD95	Does not apply to banks with less than $50 billion in assets.
Rules Issued by Consumer Financial Protection Bureau[a]		
(10) Ability-To-Repay And Qualified Mortgage Standards	3170-AA17	Has additional compliance options and more lenient thresholds for certain additional legal protections for some banks that have less than $2 billion in assets and originating 500 or fewer mortgages in the previous year.
(11) Electronic Fund Transfers	3170-AA15	Banks that send 100 or fewer remittances annually are not covered by the rule.
(12) Loan Originator Compensation Requirements	3170-AA13	Limited exemption from some requirements for individual loan originators (who may work for a bank) that originate 10 or fewer loans in a 12-month period.
(13) Mortgage Servicing Rules (Regulation Z)	3170-AA14	Exemptions from some requirements for banks that service 5,000 or fewer mortgages loans and only service mortgages that it or an affiliate originates.
(14) Mortgage Servicing Rules (Regulation X)	3170-AA14	Exemptions from some requirements for banks that service 5,000 or fewer mortgages loans and only service mortgages that it or an affiliate originates.

Source: CRS analysis.

Notes: For details on the content of the rules, click on the hyperlinks in the table. For details on sources and methodology, see CRS Report R43999, *An Analysis of the Regulatory Burden on Small Banks*.

a. The CFPB's rules, in general, apply to banks and nonbanks that perform the activity covered by the rule. This table only discusses the treatment of banks.

The five rules issued by the CFPB apply only to those entities involved in certain activities. Small banks would be exempt from CFPB rules, therefore, if they did not perform the activity covered by the rule. In addition, all five rules have some form of exemption or tailoring for small banks that perform the covered activity based on activity volume (and, in one case, asset size), although some of the exemptions and tailoring are limited.

Six of the nine major rules issued by the other banking regulators have size threshold exemptions that prevent those rules from applying to small banks at all. Two of the nine are tailored to reduce the compliance costs for small banks. The only rule (#4) that does not have an exemption or tailoring for small banks modified the *Volcker Rule* to make it easier for banks to hold "CDO-TruPs"— securities backed by a form of capital frequently issued by small banks.

The presence of an exemption or tailoring in a rule does not in and of itself mean that the rule is optimally structured to achieve its regulatory goal while simultaneously minimizing burden. The table does show, however, that because most major rules treat small and large banks differently, it could be argued that there is not a "one-size-fits-all" approach to bank regulation.

The table may be useful for understanding which major rules related to financial reform apply to small banks, but it provides a limited perspective on the effect of recent rulemaking on small banks more broadly. It is subject to several limitations and caveats that are discussed in CRS Report R43999, *An Analysis of the Regulatory Burden on Small Banks*.