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Dodd-Frank: Four Years Later

Regulators and lawmakers take a look at how the four-year-old financial reform law is working—or not

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As the fourth anniversary of the Dodd-Frank Act's passage into law hit in late July, regulators and lawmakers aired their opinions about how the financial reform law is working—or not.

Former Senator Christopher Dodd said in mid-July that he believes the financial reform law that bears his name is “working pretty well,” and he warned lawmakers to be “extremely cautious” in reopening the law to changes.

However, Daniel Gallagher, commissioner at the Securities and Exchange Commission, opined a day after Dodd spoke that the SEC has been “distracted” by the slew of Dodd-Frank rulemakings that have nothing to do with the agency's core mission.

Speaking at a meeting held by the Bipartisan Policy Center in Washington titled “Dodd-Frank at Four: Making Progress, Meeting Challenges & Finding Solutions,” Dodd—who served in the Senate for 30 years and was chairman of the Senate Banking Committee—conceded that by “no means is Dodd-Frank a perfect law.” He said that the “political, financial and social environment today is vastly different” than it was when Dodd-Frank was drafted and passed into law on July 21, 2010, “in the aftermath of the worst financial crisis in history,” and that “opening up” the law today would create a “Pandora's box” and “cause more harm than good.”

Eugene Ludwig, founder and CEO of Promontory Financial Group and a former comptroller of the currency, agreed in his remarks at the BPC event that Dodd-Frank “has made the financial system safer and more stable.”

Dodd, who's now the chairman and CEO of the Motion Picture Association of America, said that because of Dodd-Frank, “the sense of confidence” in the “economic well-being and soundness of our nation's financial institutions is returning.” He added, however, that “we’re not entirely out of the woods yet,” noting that the rulemaking process at agencies “has slowed,” with agencies like the SEC having “far too many rules to implement.”

But Dodd expressed disappointment with what he said is a “purposeful lack of funding” for the Commodity Futures Trading Commission and the SEC by opponents of Dodd-Frank. He said a “goal” of his during the drafting of the law was to ensure self-funding for both agencies, and that the continued lack of funding starves the agencies' "ability to do their jobs and places the country at risk."

As to why Section 913 of Dodd-Frank gave the SEC the option to create a uniform fiduciary standard for brokers and didn't mandate a rule, Dodd said that when the law was drafted, that provision was made "optional because I was faced with a problem: If it was more than optional, the bill would die." Because of the interest and debate surrounding the fiduciary issue, Dodd said, "we did leave" that decision to the SEC.

Dodd added: "I'm watching what [the SEC] will do [regarding a fiduciary rule for brokers;] whether they will have the resources to do it I can't predict."

The BPC, which launched a bipartisan financial regulatory reform initiative in the fall of 2012 to propose changes and reforms to Dodd-Frank, released the same day a list of solutions for regulators and lawmakers on ways to "improve" upon the law. Since its inception, the initiative has proposed 100 recommendations, with more than 20 being adopted by regulators, but none by lawmakers.

SEC Commissioner Gallagher told attendees in mid-July at an event held jointly by the Cato Institute and the Mercatus Center at George Mason University at the Newseum in Washington that since the passage of Dodd-Frank four years ago, the law's rulemaking mandates have been an "unfettered distraction" for the securities regulator and that the agency has been on a "death march" to finish Dodd-Frank rulemakings that are unrelated to its core mission.

The event was titled "After Dodd Frank: The Future of Financial Markets."

"The amount of time consumed" at the SEC on Dodd-Frank rulemakings that are "entirely unrelated to the agency's core mission and entirely unrelated to what caused the financial crisis itself is a shame, and taxpayers should be horrified," Gallagher said.

He opined that the root cause of the financial crisis was "failed federal housing policy and loose monetary policy," none of which was addressed in Dodd-Frank.

SEC Chairwoman Mary Jo White noted in remarks a day after Gallagher's comments, however, that Dodd-Frank Act mandates that "stand apart" to her include "asset management, especially private fund advisors; proprietary activities by financial institutions; derivatives; clearance and settlement; credit rating agencies; asset-backed securities; municipal advisors; and executive compensation."

While the agency has completed 42 rulemakings out of 100 mandated ones, Gallagher added that it was a "silly notion" to think that the SEC could actually meet the one- to two-year deadlines imposed by Congress.

“Unfortunately,” he said, the SEC is “still getting lots of pressure to finish the remaining 58 rulemakings on its plate.”
