



Insight

Undoing Dodd-Frank in 2017?

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With the upcoming term of President-elect Trump and a unified Republican Congress, attention has turned to using the Congressional Review Act (CRA) to quickly undo last-minute regulations from the Obama Administration. As the American Action Forum (AAF) [previously highlighted](#), there are at least 48 rules the next administration could overturn with the CRA.

But what about President Obama's two signature legislative achievements, Dodd-Frank and the Affordable Care Act? The latter has mostly been implemented and Congress will need to undertake formal legislation to repeal and replace most of the current system. However, there have been at least nine Dodd-Frank regulations issued during the CRA's "carryover" period that would allow Congress and President-elect Trump to rescind those measures. Combined, these rules could impose \$1.7 billion in costs and 1.2 million paperwork burden hours.

The Dodd-Frank Nine

Regulators have already implemented a majority of Dodd-Frank since passage in 2010. According to the last update (2013) by Davis-Polk, a law firm tracking implementation, regulators have finalized 62.9 percent of the law. That figure is higher today, as there have been at least [24 final rules](#) published since 2015. However, nine of those rules were published during the "carryover" period of the CRA, which allows Congress and President-elect Trump to rescind regulations issued during the last 60 session or legislative days of Congress. Such rules may not be reissued, "in substantially the same form," effectively rescinding them until Congress grants new authority. The chart below highlights the final nine rules.

<u>Rule</u>	<u>Cost (in millions)</u>	<u>Paperwork Hours</u>
Disclosure of Payments by Extraction Issuers	\$1,290	217,408
Standards for Clearing Agencies	\$233	4,337
Data from Swap Data Repositories	\$105	35,900
Dissemination of Swap Information	\$64	840,455
Recordkeeping for Orderly Liquidation	\$37	11,205
Verification of Swap Transactions	\$11.9	26,420

Amendments to Swap Data Recordkeeping	\$0.1	
Margin Requirements for Uncleared Swaps	\$0.6	170
Capital Requirements for Swap Entities		107,964
<u>Totals</u>	<u>\$1.7 billion in costs</u>	<u>1,243,859 hours</u>

Combined, Congress could review and repeal more than \$1.7 billion in recent Dodd-Frank burdens, and remove more than 1.2 million paperwork hours. The largest regulation, the Securities and Exchange Commission’s (SEC) Resource Extraction rule, was already [struck down](#) by federal courts, but SEC went back to finalize another version of the measure. SEC and the Commodity Futures Trading Commission (CFTC) published all of the eligible Dodd-Frank rules eligible for repeal.

Pending Rules

Beyond the nine rules eligible for repeal above, there are also pending measures from Dodd-Frank that could be published during the [midnight regulation period](#). According to AAF’s Reg Rodeo, there are six Dodd-Frank rulemakings still in proposed form that regulators could conceivably finalize before January 20, 2017. However, only one, the Consumer Financial Protection Bureau’s (CFPB) “[Arbitration Agreements](#)” proposal imposes costs. The rest merely tweak paperwork submissions and recordkeeping. The CFPB proposal could serve as a good candidate for scrutiny. The proposal was controversial in the industry, imposes more than \$350 million in costs and was published in May, leaving some time for regulators to publish a final rule in the next few weeks. According to the administration’s recent [Unified Agenda](#), a final rule is slated for February 2017, but it is not difficult to envision a scenario where the regulation is published before President-elect Trump takes the oath of office.

Conclusion

Dodd-Frank has already imposed more than [\\$36 billion in costs](#), with 74 million hours of paperwork that Americans must complete annually. Despite these impositions, it’s clear Congress and the next administration [seek reform](#) of the nation’s financial services industry in a manner that protects the security of the system, while lowering regulatory costs and encouraging investment. Repealing the last \$1.9 billion in Dodd-Frank from the Obama Administration might be the first step for Congress in a more comprehensive overhaul of the law.