



Insight

Modifying The Dodd-Frank Act

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As expected, a last minute flurry of negotiating activity beckons the end of another Congress, hoping to finish important business before heading home for the holidays.

But amid the \$1.1 trillion spending agreement are some financial services policy measures making changes to the Dodd-Frank Act. The major ones address ongoing issues related to swaps and derivatives. The spending bill includes changes to a Dodd-Frank rule which made it more difficult for banks to deal in and hold certain types of swaps – the idea being to remove these supposedly risky financial products from federally insured affiliates of bank holding companies. This rule has from the beginning been under fire and attacked as costly and unworkable.^[1]

Other riders include a Dodd-Frank cost benefit analysis directive for the Office of Management and Budget, and some changes to the Consumer Financial Protection Bureau's funding structure and oversight.

Legislatively separate from the overall funding package – but inextricably part of the same end-of-year activity – are a couple of measures in limbo for almost the entire year:

- (1) The Terrorism Risk Insurance Act, due to expire on December 31, will be extended for six years with incremental decreases in the federal government risk exposure (through changes in the deductible, trigger level, and recoupment provisions).
- (2) Yesterday, Congress approved a fix to the so-called “Collins amendment” which establishes a minimum capital and leverage requirement for those institutions supervised by the fed, either through their bank holding status or designation as systemically important financial institutions. The fix allows the Fed to tailor these requirements to more appropriately apply to insurance companies and insurance company subsidiaries under its supervision.

^[1] A related but separate rider in the TRIA widens the ever-growing exemption to the clearing requirement for certain derivatives. Taken together, they make it unclear whether the Volcker Rule will ever be a practical rule to implement, or even whether it will be able to have any teeth.