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Survey of Two Dodd-Frank Problems: the Effective Date and the Definitions

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A memorandum *“Two Dodd-Frank Problems: the Effective Date and the Definitions / Contingency Planning in the Absence of a Regulatory Structure”* first explains the July 16, 2011 problem that will arise because the Dodd-Frank derivatives legislation (Title VII of the statute) goes into effect without either a ready regulatory plan or an operating market structure. The effective date problem is made worse because of drafting problems in Dodd-Frank, including the flawed definition of the single most important term in all of the statute: “swap.” The effective date problems will not be resolved on July 16, 2011. July 16, 2012 will bring another set of problems due to a deadline that cannot be achieved and should not be targeted.

At best, we will be operating, from July 16, under a law that is far from being implemented, if it can be implemented at all, on the basis of likely-incomplete regulatory exemptions the effectiveness of which depends on statutory language that is itself uncertain.

Survey of Title VII Implementation

At the Center for Financial Stability (CFS), we seek to offer a nonpartisan and independent forum to discuss the implementation of Dodd-Frank. Input from practitioners, academics, and officials is essential. Hence, we seek comment on the following questions:

1. One of the problems coming up is that a law giving swaps their legal status is expiring before DF is ready. Should that law be extended and, if so, until when?
2. Should Congress push off the effective date of DF and, if so, until when?
3. What would be a reasonable length of time to adopt implementing rules, given the need to seek comment and to coordinate between regulators?
4. How much and what type of legal staffing would the regulators require?
5. How would one form estimates of the above?
6. How much time would industry require to implement the rules?
7. How much staffing and what type would be required?
8. How would one form estimates of the above?

You may email your response to slofchie@the-cfs.org.



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