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DODD-FRANK ACT REGULATIONS

Implementation Could Benefit from Additional Analyses and Coordination

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Highlights

Highlights of GAO-12-151, a report to congressional addressees

Why GAO Did This Study

The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) requires or authorizes various federal financial regulators to issue hundreds of rules to implement reforms intended to strengthen the financial services industry. GAO is required to annually study financial services regulations. This report examines (1) the regulatory analyses, including cost-benefit analyses, financial regulators have performed to assess the impact of selected final rules issued pursuant to the Dodd-Frank Act; (2) how financial regulators consulted with each other in implementing the selected final rules to avoid duplication or conflicts; and (3) what is known about the impact of the final rules. GAO examined the 32 final Dodd-Frank Act rules in effect as of July 21, 2011; the regulatory analyses conducted for 10 of the 32 rules that allowed for some level of agency discretion; statutes and executive orders requiring agencies to perform regulatory analysis; and studies on the impact of the Dodd-Frank Act. GAO also interviewed regulators, academics, and industry representatives.

What GAO Recommends

GAO is making four recommendations to the regulators and FSOC to strengthen the prospective and retrospective analyses of the impact of Dodd-Frank Act regulations on financial markets and improve coordination among financial regulators on rulemaking. Regulators and FSOC generally agreed with the report's findings but most neither agreed nor disagreed with the report's recommendations.

View GAO-12-151. For more information, contact A. Nicole Clowers at (202) 512-8678 or clowersa@gao.gov

What GAO Found

Federal financial regulators are required to conduct a variety of regulatory analyses, but the requirements vary and none of the regulators are required to conduct benefit-cost analysis. All financial regulators must analyze the paperwork burden imposed by their rules and consider the impact of their rules on small entities as part of their rulemaking process. The Commodity Futures Trading Commission and the Securities and Exchange Commission are also required under their authorizing statutes to consider certain benefits and costs of their rules. As independent regulatory agencies, the federal financial regulators are not subject to executive orders requiring federal agencies to conduct detailed benefit-cost analysis in accordance with a guidance issued by the Office of Management and Budget (OMB). Financial regulators are not required to follow OMB's guidance, but most told GAO that they attempt to follow the guidance in principle or spirit. GAO's review of regulators' rulemaking policies and 10 final rules found inconsistencies in the extent to which OMB's guidance was reflected. GAO recommends that to the extent the regulators strive to follow OMB's guidance, they should take steps to more fully incorporate the guidance into their rulemaking policies and ensure that it is consistently followed.

Although federal financial regulators have coordinated their rulemaking, they generally lacked formal policies to guide these efforts. The Dodd-Frank Act establishes interagency coordination requirements for certain agencies and for specific rules or subject matters. However, for other rules, the regulators have discretion as to whether interagency coordination should occur. The Financial Stability Oversight Council (FSOC) is tasked with facilitating coordination among member agencies but, to date, has played a limited role in doing so beyond its own rulemakings as it continues to define its role. Several regulators voluntarily coordinated with each other on some of the rules GAO reviewed. However, most of the regulators, including the Bureau of Consumer Financial Protection, lacked written protocols for interagency coordination, a leading practice that GAO has previously identified for interagency coordination. GAO recommends that FSOC work with the financial regulators to develop such protocols for Dodd-Frank Act rulemaking.

Little is known about the actual impact of the final Dodd-Frank Act rules, given the short amount of time the rules have been in effect. Regulators are required to conduct reviews of existing regulations to assess their impact, but some have not yet developed plans to review their Dodd-Frank Act rules. To maximize the usefulness of these reviews, GAO recommends that the regulators identify what data will be needed to retrospectively assess the impact of the rules in the future. FSOC is also required to examine, among other things, financial market and regulatory developments and make recommendations to enhance the efficiency, competitiveness, and stability of U.S. financial markets. Although FSOC officials said that FSOC plans to include an impact analysis of the Dodd-Frank Act rules in its future reports, it has not yet begun identifying and collecting the data needed for this type of analysis. GAO recommends that FSOC direct the Office of Financial Research, an entity created to support the research needs of FSOC, to work with the regulators to identify and begin collecting data needed for future analyses.