

[Banking and Finance Law Daily Wrap Up, DODD-FRANK ACT— Treasury proposes regs related to Orderly Liquidation Authority, seeks comments, \(Jan. 6, 2015\)](#)

Banking and Finance Law Daily Wrap Up

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By Colleen M Svelnis, J.D.

The Secretary of the Treasury Department has issued a proposed rule in consultation with the Federal Deposit Insurance Corporation to help implement regulatory reforms contained in the Dodd-Frank Act because the banking regulatory agencies did not do so within the timeline prescribed under the Act.

The proposed rule would implement the qualified financial contract (QFC) recordkeeping requirements of the Dodd–Frank Act that require financial companies to maintain records to assist the FDIC as receiver for a covered financial company. The proposal “[Qualified Financial Contracts Recordkeeping Related to Orderly Liquidation Authority](#)” will be published in the *Federal Register* on Jan. 7, 2015, and comments are requested by April 7, 2015.

Background. The Dodd-Frank Act established a mechanism for the orderly resolution of a financial company whose failure and resolution under otherwise applicable federal or state law would have serious adverse effects on financial stability in the United States. In order to assess the options that would be available following its appointment as receiver for a financial company in liquidation, the FDIC needs detailed information about the covered financial company’s QFCs.

Recordkeeping. Under the proposed rule, the companies would be required to maintain detailed information about their QFC positions and be capable of providing this information to the regulatory agencies by request within 24 hours. The proposed rule would require recordkeeping with respect to positions, counterparties, legal documentation, and collateral. This information is necessary to assist the FDIC as receiver to:

- fulfill its obligations under the Dodd–Frank Act in deciding whether to transfer QFCs;
- assess the consequences of decisions to transfer, disaffirm or repudiate, or allow the termination of, QFCs with one or more counterparties; and
- determine if any financial systemic risks are posed by the transfer, disaffirmance or repudiation, or termination of such QFCs; and otherwise exercise its rights under the Act.

RegulatoryActivity: BankingOperations DoddFrankAct FinancialStability