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Rules v. Markets: Who Governs Financial Markets Best?

By **Robin L. Wiessmann,** Secretary of Banking and Securities

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Learn more

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This Quarter

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Rules v. Markets: Who Governs Financial Markets Best?

by **Robin L. Wiessmann**, Secretary

Recently, a business reporter framed this question to me: "Banks and financial institutions have openly complained about the amount of regulation compliance they have to go through now due to the Dodd-Frank Act. What can the department do to help alleviate some of those burdens?"

I sense that there is a presumption behind this question and questions like it, which is that Dodd-Frank, Sarbanes-Oxley, and, in fact, most laws and government regulations are stifling the U.S. economy. While I do not agree with this presumption*, I recognize there are legitimate concerns on "Main Street" in Pennsylvania about what has been done by government regulators to rein in Wall Street.

So we ask: who should govern behavior in the financial services marketplace: regulators or industry?

The markets, we hear time and time again, are the best determinant of winners and losers in financial matters. However efficient the markets, I do not think that the markets always work to ensure a level playing field, where all participants have a fair and equal chance of succeeding. Without that level playing field and consequent certainty, the integrity of financial transactions will be threatened, and participants will leave the market or find other markets.

This is a particular timely subject, because next week marks the fifth anniversary of the law that created a new standard litmus test in the discussion of financial regulation. On July 21, 2010, President Obama signing the Dodd-Frank Wall Street Reform and Consumer Protection Act into law. On this anniversary I would like to highlight three critical issues that demonstrate how far we have come in the government's efforts to prevent another financial collapse similar to what occurred in 2008.

First, Dodd-Frank calls for the writing and implementation of an astounding 400 rules governing a wide range of financial transactions, practices, policies, and requirements. To date, 60 percent of these rules have been completed.

The completed rules were written in a transparent fashion, with industry input. While there may be disagreements between regulators and industry on the rules that have been written, the most critical issue – uncertainty – has been removed. Once all the rules are completed and implemented, the affected financial services industries will have their blueprint on how to move forward in compliance with the law and regulations.

This is what industry needs – to simply know what the rules are and how to follow them so they can focus on their clients and their bottom line. *continued >*

Second, Dodd-Frank created a compliance culture that many smaller businesses and community banks have complained is too burdensome. Many members of Congress have called for relief for these institutions. I support relief because "cookie-cutter" approaches to compliance benefit neither institutions nor their customers. I also think there is a groundswell of support in the regulatory community – especially among state financial regulators -- for "right-sized regulation." Moving forward, the challenge is to see how well regulators and industry and work together to find a compliance culture that "fits" institutions appropriately.

Third, Dodd-Frank created the Consumer Financial Protection Bureau (CFPB), which continues to be controversial. I think, however, that the CFPB has proven itself to be flexible, evidenced by the decision to pull attorneys off examination teams, responding to criticisms and suggestions regarding the Qualified Residential Mortgage (QM) rule, and, most recently, extending the deadline for implementation with the new TILA-RESPA Integrated Disclosure (TRID) rule. From my perspective, the CFPB is still a young organization that is not yet fully established. Its leadership is still learning and, more importantly, listening to both industry and consumers.

Good-faith arguments can be made regarding any of these three issues, but we must also ask if the financial system is more secure or more risky than it was in 2008. Regulated entities have largely either recovered from the recession, failed for business reasons, or been integrated or merged into other entities. The largest banks – to whom the most attention is paid by regulators -- have performed very well in the market (despite record fines and a seemingly endless stream of settlements for compliance violations), while some of the larger regional banks are undervalued.

I would argue that the financial system composed of regulated entities is, indeed, safer and less risky.

When Dodd-Frank became law five years ago, we had yet to see the rise of the nonbank lenders (the so-called "shadow banking" system) and cryptocurrencies (like Bitcoin). Both of these innovations – dubbed "fintech" or "alt finance" -- form challenges to traditional financial services, and are largely unregulated. Some argue that government oversight will only stifle these innovations. Others demand regulatory oversight in order to ensure that everyone is playing by the same rules.

This new chapter – regulatory oversight of fintech – is still being written. As it is being written, however, Governor Wolf and I want to ensure the integrity of Pennsylvania's marketplace. We want Pennsylvania to be the desired destination for financial transactions.

*Two days after Dodd-Frank became law, the Dow Jones Industrial Average stood at 10,424. Today, the DJIA stands above 17,000. In July 2010, the national unemployment rate stood at 9.6 percent. It now stands at 5.3 percent.

Department Continues Commitment to Protecting Seniors from Financial Abuse

Secretary of Banking and Securities Robin L. Wiessmann, advocates for senior citizens, and several state officials marked World Elder Abuse Awareness Day in an event at the Capitol on June 15. Flanked by lawmakers in both parties, officials and advocates discussed this serious and often under-reported problem.

Last year in Pennsylvania, more than 20,800 cases of suspected abuse and neglect were reported to the Department of Aging's older adults protective services program, which works with investigators from the state's 52 local Area Agencies on Aging to protect older Pennsylvanians.

Secretary Wiessmann called elder financial abuse "the crime of the 21st century," and spoke about outreach to financial professionals and the public to help them recognize and report financial fraud, and to be alert to signs of cognitive impairment and abuse. She added, "The Pennsylvania Department of Banking and Securities is committed to protecting seniors from financial abuse and exploitation."

In addition to financial exploitation, elder abuse takes the form of caregiver neglect, self-neglect, physical abuse, sexual abuse, and emotional and verbal abuse.

Anyone can report elder abuse by calling the Department of Aging's 24-hour hotline at 1.800.490.8505, or by contacting their local Area Agency on Aging. Pennsylvania law protects those who report suspected abuse from retaliation and civil or criminal liability; all calls are free and confidential.

For more information, or to file a complaint regarding financial transactions, call the Department of Banking and Securities toll-free hotline: **1.800.PA.BANKS** (800.722.2657).

Governor Wolf Visits Schools Across PA

Since taking office, Governor Wolf has visited more than 30 schools across Pennsylvania as part of the "Schools That Teach" tour.

Together with visits from First Lady Frances Wolf, his cabinet, and Lt. Gov. Mike Stack, the governor and his administration have visited over 60 schools on the "Schools That Teach" tour. Here, he and the First Lady, along with Philadelphia Mayor Michael Nutter, visit William H. Hunter School in Philadelphia.

Deputy Secretary Announced to Oversee Education, Outreach Efforts

Brian LaForme has joined the department in the newly created position of Deputy Secretary for Financial Services for Consumers and Business. With his arrival, the department will be creating a fourth deputate, dedicated to consumer, investor, and business outreach programs.

LaForme has extensive and varied financial management and education experience in both the public and private sectors. Previously, he served as a Chief Financial Officer and Business Manager for Charter Choices, a business services provider for schools, foundations, and nonprofits. He also served as an Associate Director on the PSECU board of directors.

He has previous experience in state government, having worked in both the Department of Education and the Treasury Department, where he served as the Director of Investments and Banking Operations.

Holly Petraeus to Lead Town Hall During 'Making $ense of Finance' Conference in Erie

Holly Petraeus will lead a town hall meeting during the PA Military Finance Alliance's fifth "Making $ense of Finance" conference on Saturday, August 22, at the Zem-Zem Shrine in Erie. The conference is designed to address the financial and investing challenges faced by members of the military and veterans.

Petraeus is head of the Office of Servicemember Affairs at the Consumer Financial Protection Bureau, where she acts as a financial advocate of servicemembers, who can be targeted by questionable and illegal financial schemes.

The "Making $ense of Finance" conference is free to members of the military, veterans, and their spouses. Breakfast, lunch, and parking are included. Space is limited; registration is required and **available online**.

"Making $ense of Finance" is made possible through the Pennsylvania Military Finance Alliance, a cooperative effort of the PA Department of Military and Veterans Affairs, the PA Department of Banking and Securities, the PA Office of Attorney General, Army OneSource, Better Business Bureau of Western Pennsylvania, Liberty USO, and Advantage Credit Counseling Services.

Cybersection

FFIEC Releases Cybersecurity Assessment Tool

The Federal Financial Institutions Examination Council (**FFIEC**) released a **Cybersecurity Assessment Tool** on June 30 to help financial institutions identify their risks and assess their cybersecurity preparedness.

Financial institutions of all sizes can use the assessment and other methodologies to perform a self-assessment and inform their risk management strategies.

Additionally, the FFIEC has also made available **resources institutions may find useful**, including an executive overview, a user's guide, an online presentation explaining the Assessment, and appendices mapping the Assessment's baseline maturity statements to the FFIEC Information Technology Examination Handbook, mapping all maturity statements to the National Institute of Standards and Technology's Cybersecurity Framework, and providing a glossary of terms.

The FFIEC is also encouraging institutions to comment on the Assessment through an upcoming Paperwork Reduction Act notice in the Federal Register.

The FFIEC membership includes representatives of the Federal Reserve, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Office of the Comptroller of the Currency, the Consumer Financial Protection Bureau, and a member of the State Liaison Committee (representing state financial regulators).

Department Pre-Approves Field of Membership for Credit Unions

The department has announced that state-chartered credit unions are pre-approved to include in their field of membership 12 types of associational groups:

- Alumni associations;
- Religious organizations, including churches or groups of related churches;
- Electric cooperatives;
- Homeowner associations;
- Labor unions;
- Scouting groups;
- Parent teacher associations (PTAs) organized at the local level to serve a single school district;
- Chamber of commerce groups (members only and not employees of members);
- Athletic booster clubs whose members have voting rights;
- Fraternal organizations or civic groups with a mission of community service whose members have voting rights;
- Organizations having a mission based on preserving or furthering the culture of a particular national or ethnic origin; and
- Organizations promoting social interaction or educational initiatives

State-chartered credit unions are not required to individually submit parity notices to the department in order to include members in their field of membership. More information on this announcement is available in an **Secretary's Letter** [PDF] issued on July 8, 2015.

ComplianceCorner | 2nd Quarter 2015 Enforcement Orders

The Department of Banking and Securities issued 12 enforcement orders during the second quarter of 2015. Final orders included fines and assessments of **$233,600**, including:

- Four Consent Agreement and Orders issued for violations of the Pennsylvania Securities Act of 1972, under which one individual was barred permanently from the industry and three individuals were barred for 6 months;
- Two Consent Agreement and Orders issued for violations of the Consumer Credit Code;
- Two Consent Agreement and Orders issued for violations of the Money Transmitter Act;
- One Consent Agreement and Order issued for violations of the Mortgage Licensing Act and the Consumer Discount Company Act;
- One Consent Agreement and Order issued for violations of the Mortgage Licensing Act; and
- One multi-state agreement issued for violations of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008.

The department also issued one Cease and Desist order for violations of the Loan Interest and Protection Law, the Consumer Discount Company Act, and the Pawnbrokers License Act.

Comprehensive lists of enforcement orders administered by the Department of Banking and Securities are available online at **dobs.pa.gov**. Consumers, businesses and investors can make inquiries or file a complaint against any company or individual regulated or licensed by the Department of Banking and Securities online or by calling **1.800.PA.BANKS** (800.722.2657).

Register for this FREE Event!

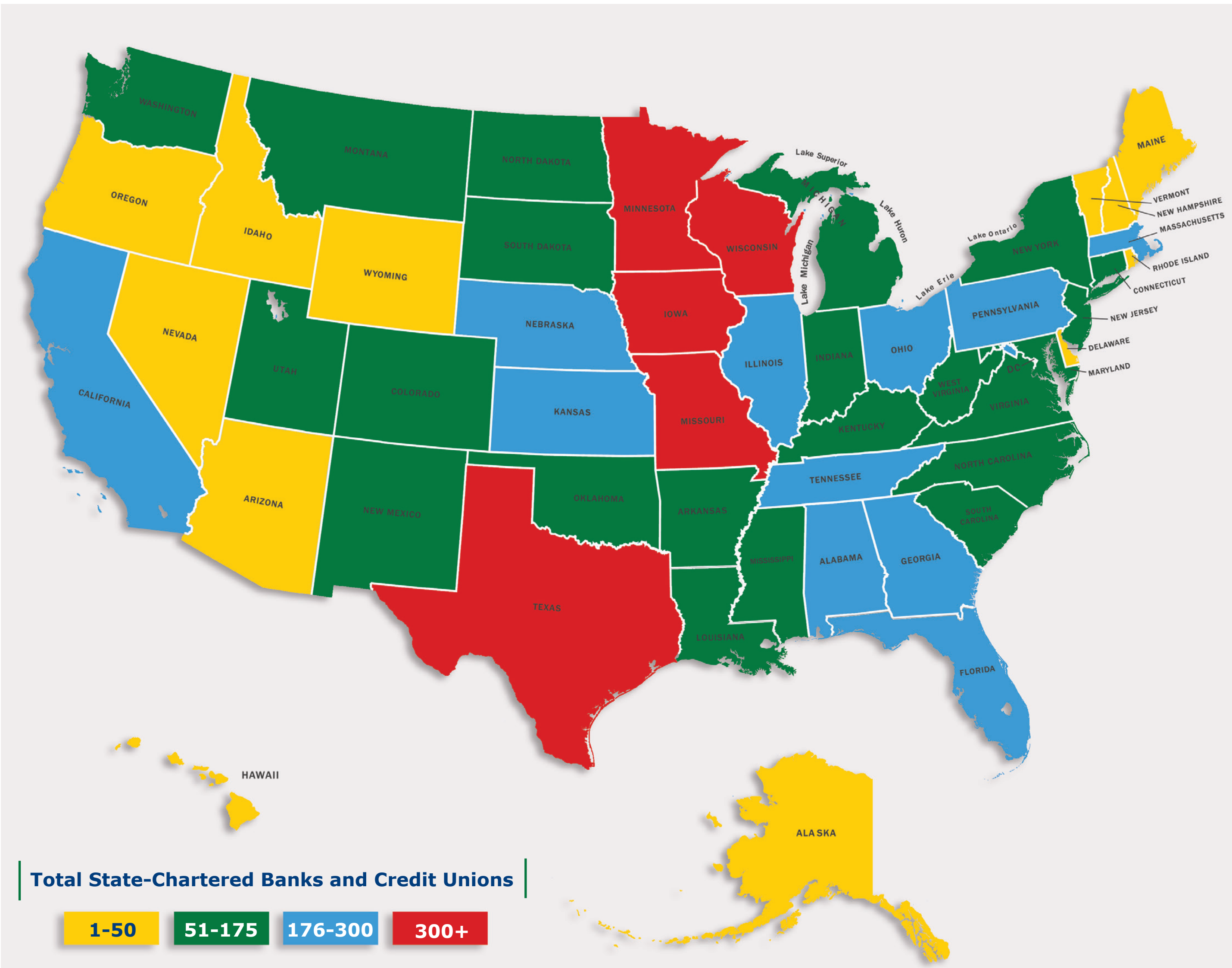
Service or guard members can be called to serve in a combat zone. This usually entails additional pay. Service members have some unique options to deposit and grow that money.

Military personnel in northwest Pennsylvania can learn about these options on August 22nd in Erie. Register now for "Making $ense of Finance", a FREE, non-commercial event. **Register here**.

ResearchRegion

State Comparisons

State-Chartered Banks and Credit Unions



Data Source: FDIC and NCUA