

**Transparency and Accountability Measures in the
 Dodd-Frank Wall Street Reform and Consumer Protection Act**

	POGO’S RECOMMENDATION¹	CONFERENCE ACTION²
Protections for Financial Industry Whistleblowers	<p>1) Keep the Senate’s proposal to extend whistleblower protections to financial industry employees who “caused to be provided” or are “about to provide or cause to be provided” information on a violation of consumer protection laws.</p> <p>2) Keep the Senate’s proposal to cover employees who make a disclosure to their employer.</p> <p>3) Keep the House’s proposal to cover employees who refuse to participate in any activity that they believe to be to be a violation of a law, rule, or regulation, or that they believe to be harmful to consumers.</p>	<p>1) Accepted (Section 1057(a)(1))</p> <p>2) Accepted (Section 1057(a)(1))</p> <p>3) Rejected - An employee who refuses to participate in an activity just because they believe it to be harmful to consumers is not protected; the employee would have to believe that the activity is a violation of a law, rule, or regulation under the Bureau’s jurisdiction. (Section 1057(a)(4))</p>

¹ Project On Government Oversight, “POGO letter to congressional conferees calling for accountability and transparency in financial regulatory reform legislation,” June 9, 2010. <http://www.pogo.org/pogo-files/letters/financial-oversight/fo-fra-20100609.html> (Downloaded June 29, 2010)

² “Dodd-Frank Wall Street Reform and Consumer Protection Act.”

http://financialservices.house.gov/Key_Issues/Financial_Regulatory_Reform/conference_report_FINAL.pdf (Downloaded July 14, 2010)

<p>GAO Audit of the Federal Reserve</p>	<p>1) Keep the House’s proposal to allow for an ongoing GAO audit.</p> <p>2) Keep the Senate’s proposal requiring the Fed to make key information about its emergency lending programs available online.</p>	<p>1) Partially accepted - The GAO can conduct ongoing audits of credit facilities authorized under Federal Reserve Act Section 13(3), open market transactions, and discount window lending programs, but only a one-time audit of other emergency lending facilities. Also, the GAO can’t disclose the names of the firms that participated in the Fed’s lending programs, even to Congress, until after the lending facility has been closed. (Sections 1102(a) and 1109(a))</p> <p>2) Accepted - In addition to emergency lending programs, the Fed would also be required to disclose key information about its open market transactions and discount window operations.</p> <p>The committee also scaled back a broad FOIA exemption that would have unnecessarily restricted the public release of information on the Fed’s lending programs, and passed an amendment introduced by Senator Leahy requiring the Fed Inspector General to examine how the exemption will limit the public’s ability to access information on these programs. (Sections 1103(b) and 1109(c))</p>
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<p>Consumer Financial Protections</p>	<p>1) Keep the House’s proposal to create an independent, stand-alone Consumer Financial Protection Agency with full authority to issues rules and regulations.</p> <p>2) Keep or strengthen the House’s proposal to roll back federal preemption.</p> <p>3) Keep the House’s proposal to allow state attorneys general to bring any action to enforce federal or non-preempted state laws against a national bank or thrift.</p> <p>4) Keep the House’s proposal to allow the Agency to issue regulations prohibiting or imposing conditions on mandatory arbitration agreements for consumer financial products.</p>	<p>1) Rejected - The Consumer Financial Protection Bureau will be created at the Fed. Any member of the Financial Stability Oversight Council can petition a rule issued by the Bureau, and upon a two-thirds vote of its members, the Council can permanently set aside a Bureau regulation. (Sections 1011(a) and 1023)</p> <p>2) Rejected - The committee kept the Senate’s proposal to allow for preemption by the Office of the Comptroller of the Currency under a legal standard set by a 1996 Supreme Court case, and rejected the House’s proposal to prohibit preemption unless federal law provides a “substantive standard” for regulating the activity in question. (Section 1044(a))</p> <p>3) Rejected - State attorneys general can only bring action in their home state. (Section 1042(a))</p> <p>4) Rejected - The Bureau has to conduct a study first. (Section 1028(a))</p>
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<p>Rewards and Protections for Whistleblowers Who Make Disclosures to the SEC and CFTC</p>	<p style="text-align: center;"><u>SEC</u></p> <p>1) Keep the Senate’s proposal to establish a minimum award level.</p> <p>2) Keep the Senate’s proposal to allow for judicial review of the bounty decisions.</p> <p>3) Remove the blanket FOIA exemption on information disclosed by the whistleblower to the SEC, and replace it with language similar to an amendment introduced by Senator Leahy that would strike an appropriate balance between whistleblower confidentiality, public access to information, and government accountability.</p>	<p style="text-align: center;"><u>SEC</u></p> <p>1) Accepted (Section 922(a))</p> <p>2) Partially accepted - Whistleblowers can appeal the agency’s decision, but not the reward amount. (Section 922(a))</p> <p>3) Partially accepted - This poison pill secrecy provision was replaced with a much narrower exemption to protect the identity of whistleblowers who provide the SEC with tips. In addition, the committee added a provision requiring the SEC Inspector General to conduct a wide-ranging study of the whistleblower reward program, including: whether the SEC is publicizing the program, whether it is prompt in communicating with whistleblowers, and whether the award levels are appropriate to encourage whistleblowers to come forward with tips. The IG is also required to study the impact of the FOIA exemption on incentivizing disclosures by whistleblowers and on public access to information, as was proposed in an amendment introduced by Senator Leahy. (Sections 922(a) and 922(d))</p> <p>The conference committee also added the House’s proposal to create a separate office at the SEC to administer the whistleblower reward program. (Section 924(d))</p>
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	<p style="text-align: center;"><u>CFTC</u></p> <p>1) Keep the Senate’s proposal to establish a minimum award level for a comparable whistleblower reward program at the CFTC.</p> <p>2) Keep the Senate’s proposal to allow for judicial review of the bounty decisions in the CFTC program.</p> <p>3) Remove the blanket FOIA exemption on information disclosed by the whistleblower to the CFTC.</p>	<p style="text-align: center;"><u>CFTC</u></p> <p>1) Accepted (Section 748)</p> <p>2) Accepted (Section 748)</p> <p>3) Partially accepted - This poison pill secrecy provision was replaced with a much narrower exemption to protect the identity of whistleblowers who provide the CFTC with tips. In addition, the committee passed an amendment introduced by Senator Leahy requiring the CFTC Inspector General to study the impact of the exemption on incentivizing disclosures by whistleblowers and on public access to information. (Section 748)</p>
<p>Sarbanes-Oxley Whistleblower Protections</p>	<p>1) Extend Sarbanes-Oxley whistleblower protections to employees of subsidiaries and affiliates of publicly traded companies.</p> <p>2) Keep the Senate’s proposal to extend these protections to (nationally recognized statistical rating organizations) NRSRO employees.</p>	<p>1) Accepted (Section 929A)</p> <p>2) Accepted (Section 922(b))</p>

Conflicts of Interest at Credit Rating Agencies	1) Keep the Senate’s proposal to create a Credit Rating Agency Board to address the basic conflict of interest arising from “ratings shopping.”	1) Rejected - The GAO has to conduct a study first. (Section 939F)
Independence of Financial Regulatory Agency Watchdogs	1) Keep the Senate’s proposal to strengthen the independence of designated federal entities (DFE) Inspectors General (IGs) by requiring these watchdogs to report to the entire board or commission at their agencies (rather than an individual agency head), and by requiring a two-thirds vote of the entire board or commission to remove a DFE IG.	1) Accepted (Sections 989B and 989D)
Conflicts of Interest at Federal Reserve Banks	1) Keep the Senate’s proposal to limit the influence of industry on Federal Reserve Banks by prohibiting Fed-supervised companies, subsidiaries, and affiliates from voting for members of the board of directors at FRBs, and by prohibiting past or current officers, directors, and employees of these companies from serving on Federal Reserve Bank boards.	1) Rejected – The GAO has to conduct a study first. (Section 1109(b))