THE POLICY CIRCLE™
START THE CONVERSATION

Dodd-Frank: Discussion Guide

Agenda:

- Social Time (30 min)
- Within each group identify who will be:
  - **Timekeeper** to ensure that everyone has a chance to speak
  - **Scribe** to take a few notes of what has been discussed and post a summary on the Policy Circle website
  - **Reporter** who will report back to the bigger group what was discussed
  - **Facilitator** to keep the conversation going around the circle, asking some questions from this guide if necessary. The role of the facilitator is to invite each member to share her perspective and help focus the conversation on understanding the issue and how to become an influencer.
- #CircleUp: Circle discussion (45-60 min)
- Circle Recap (20 min): the reporter and the scribe report back to the larger group what was discussed.
- Next Steps (15 min):
  - Discuss how to influence policy making (e.g. attend town hall meetings, write op-eds).
  - Determine date for the next meeting.
  - Decide on topic for next meeting. The circle could go deeper on the topic covered, focus on state issue or use another brief available in the Year of Conversations from The Policy Circle website.

Questions for Discussion:

- How were you affected by the 2008-2009 financial crisis?
- How would you describe the cause of the housing crisis leading up to the financial crisis? Who was most at fault - government, ratings agencies, bankers, consumers?
- Should the government have stepped in to save Lehman Brothers?
- What is your opinion of how Dodd-Frank was legislated?
- What is your opinion of Fannie Mae and Freddie Mac?
- How has Dodd-Frank impacted smaller banks and how has this affected the economic activity?

- What role should government play in the banking industry?
- What changes would you like to see made to Dodd-Frank?

Key Facts:

- Leading up to 2008, regulations on banks ebbed and flowed, but government policies that led the way to subprime lending were a bipartisan staple.
- In 2008, the bottom fell out of the housing market as people were unable to pay their loans and could not sell their homes, as more houses flooded the market there was too much supply and not enough demand, exacerbating foreclosures.
- This crippled investment banks and other entities with vast holdings or investments in the mortgages. Housing lenders and guarantors failed, including banks, AIG, and government-backed agencies Fannie Mae and Freddie Mac.
- In response, on July 21, 2010, President Obama signed into law the Dodd-Frank Wall Street Reform and Consumer Protection Act (HR 4173).
- The bill passed the House 223-202 without a single Republican vote; it passed the Senate 59-39 with three Republicans supporting. The conference report garnered three Republican votes in each chamber.
- Dodd Frank called for the creation of 390 new regulations.
- Regulations included the creation of the CFPB, a consumer protection entity, that a federal appeals court recently ruled partially unconstitutional due to its vast powers and complete autonomy from checks and balances.
- Community banks have been hit hard by the double whammy of increased costly regulations and the less favorable position of not being considered "too-big-to-fail."

The Basics of the Dodd-Frank Act:

Dodd-Frank dramatically increased regulation on how banks run their businesses, forcing them to spend increased time and money on compliance versus on their core businesses of lending money to businesses and individuals. Dodd-Frank also created run-away government agencies with virtually unlimited power and no accountability for their decisions or results. Specifically, Dodd-Frank:

- ***Establishes the Consumer Financial Protection Bureau*** - a new, independent government office designed to protect consumers by regulating financial products.

- ***Establishes the Financial Stability Oversight Council (FSOC)*** - an interagency group headed by the Treasury Secretary to identify risks, respond to emerging threats to financial stability and promote market discipline regarding failing financial firms. (CRS)
- ***Increases capital requirements for banks of all sizes*** - this regulates how banks operate and how much they lend by requiring them to hold a higher percentage of liquid (easily accessible) assets to protect against a future crisis, such as loan defaults.
- ***Imposes stress test procedures that increase systemic risk reporting***. Financial institutions are now required to produce modeling and complicated micro and macro economic financial projections. This has forced them to hire additional PhDs and predictive analytical staff and can even force them to restructure their business based on government conjecture.
- ***All but stops proprietary trading for banks (Volcker Rule)*** - By Investopedia's definition, proprietary trading "occurs when a firm or bank invests for its own direct gain instead of earning commission dollars by trading on behalf of its clients." The American Action Forum (AAF) lists the Volcker rule as a really expensive solution looking for a problem. "Premised entirely on the false assumption that the crisis was caused by proprietary trading, Volcker is set to cost banks $4.3 billion according to the government's own estimates."
- ***Regulates derivatives trading*** (Institutional Investor) - As AAF puts it, "non-credit derivatives did not substantially contribute to nor cause the financial crisis. Yet the regulation that followed cracked down on them as if they were the sole source the meltdown. Most often referred to as the "push out" rule, Dodd-Frank required banks to "push out" swaps and other derivatives to bank affiliates so as to not be traded directly by the bank. This not only complicates things for bank customers who seek a "one stop shop" for their financial needs, but it makes banks more complex – one of the concerns Dodd-Frank specifically sought to curtail."

Principles of Reform:

A free market approach calls for Dodd-Frank to be repealed or vastly scaled back in order to eliminate the strangling regulation on banks and end government guarantees that skew the market away from market discipline and managed risk taking.

Broad, suggested fixes have included:

- Abolish or privatize Fannie Mae and Freddie Mac.
- Remove government ability to bail out big banks by amending the bankruptcy code to allow the biggest banks to go bankrupt without allowing the backstop of another bailout.
- Exempt community banks from unnecessary regulation and allow them to make new loans that spur economic growth.
- Fix rule-of-law problems by reducing the broad and unchecked reach of federal regulators at the FSOC and CFPB.

- Eliminate the ability of FSOC to designate firms as systemically important, or increase the threshold for a “big bank” from $50 billion to a higher value.
- Create a bipartisan board to run the CFPB (similar to other regulatory agencies) and abolish the CFPB’s current funding mechanism (a fixed percentage of the Federal Reserve’s operating budget) and subject it instead to congressional control.
- Provide the option for banks to meet a higher capital requirement in order to gain an off-ramp from other onerous Dodd-Frank regulations.