

TITLE VIII—Payment, Clearing & Settlement Supervision Act of 2010

Section	Title	Existing Law Added to/ Amended	To Provide/Study	Mandatory/ Permissive Rulemaking or Study	Regulator(s) Assigned	Due Date	Status
801-03	Payment, Clearing and Settlement Supervision Act of 2010 (Note: this is the short title of all of Title VIII)	New Law	To provide oversight and supervision of, and to manage risks created by, the payment and clearing activities of financial market utilities. (§802)	Mandatory Rulemaking	(1) Board of Governors (to provide standards); and (2) the federal agency that has primary jurisdiction over a designated financial market utility under Federal banking, securities, or commodity futures laws, including: (a) SEC, (b) Commodity Futures Trading Commission, (c) appropriate Federal banking agency, and (d) otherwise the Board of Governors. (§803(8))	Unspecified	In Process

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804	Designation of Systemic Importance	New Law	The Oversight Council shall designate financial market utilities or payment, clearing, or settlement activities that the Council determines are systemically important, taking into account (1) the aggregate money value of transactions processed by the financial market utility or carried out through the payment, clearing, or settlement activity, (2) the aggregate exposure of the utility or activity to its counterparties, (3) the relationship with other utilities or activities, and (4) the effect that a failure of or disruption to the utility or activity would have on critical markets, financial institutions, or the broader financial system. (§804)	None	Oversight Council	Unspecified	In Process

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805 (a)(1)	Standards for Systemically Important Financial Market Utilities and Payment, Clearing, or Settlement Activities	New Law	The Board of Governors shall prescribe risk management standards governing operations related to the payment, clearing and settlement activities of designated financial market utilities, and the conduct of designated activities by financial institutions (including operations related to payment clearing and settlement activities of such designated clearing entities and the conduct of “designated activities” by such financial institutions). “Designated activities” to be regulated are unspecified.	Mandatory Rulemaking	Board of Governors	Unspecified	In Process

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805 (a)(2)	Standards for Systemically Important Financial Market Utilities and Payment, Clearing, or Settlement Activities	New Law	<p>The CFTC and the Commission <i>may</i> prescribe regulations containing risk management standards for designated clearing entities and financial institutions engaged in designated activities.</p> <p>The Board of Governors may determine that existing prudential requirements of the CFTC with respect to clearing entities and financial institutions are insufficient to prevent or mitigate significant liquidity, credit, operational, or other risks to the financial markets or to the financial stability of the United States. If such decision is made by the Board of Governors, the CFTC or Commission shall respond within 60 days of notice and explain why existing requirements are sufficient. Upon an affirmative vote by the Council of not fewer than 2/3 of its members, the Council shall decide whether the CFTC response is sufficient or require the CFTC to prescribe additional risk management standards.</p> <p>The standards prescribed governing the conduct shall, where appropriate, establish a threshold as to the level of significance or engagement in the activity at which a financial institution will become subject to</p>	Permissive Rulemaking	Commodity Futures Trading Commission and the “Commission”	Unspecified	In Process

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806(a)	Operations of Designated Financial Market Utilities	New Law	The Board of Governors may authorize a Federal Reserve Bank to establish and maintain an account for a designated financial market utility and provide the services listed in section 11A(b) of the Federal Reserve Act. (§806(a))	Permissive Rulemaking	Board of Governors	Unspecified	Unspecified
806(b, c)	Operations of Designated Financial Market Utilities	New Law	<p>The Board of Governors may authorize a Federal Reserve bank under section 10B of the Federal Reserve Act to provide to a designated financial market utility discount and borrowing privileges only in unusual or exigent circumstances.</p> <p>The Federal Reserve Bank may pay earnings on balances maintained by or on behalf of a designated financial market utility.</p>	Permissive Rulemaking	(1) Board of Governors (2) Federal Reserve	Unspecified	Unspecified

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806(e)(1)	Operations of Designated Financial Market Utilities	New Law	Each Supervisory Agency shall prescribe regulations in consultation with the Board of Governors, shall prescribe regulations that define and describe the standards for determining when notice is required to be provided under 806 (a).	Mandatory Rulemaking	Supervisory Agency	Unspecified	In Process
807	Examination of and Enforcement Actions Against Designated Financial Market Utilities	New Law	<p>The Supervisory Agency shall conduct examinations of a designated market utility at least once annually.</p> <p>Where a service integral to the operation of a designated financial market utility is performed for the utility by another entity, the Supervisory Agency may examine whether the provision of that service is in compliance with applicable law, rules, orders, and standards to the same extent as if the designated financial market utility were performing the service on its own premises.</p>		Supervisory Agency (CFTC, SEC, or Board of Governors)	Unspecified	In Process

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809	Requests for Information, Reports, or Records	New Law	The Board of Governors may, upon an affirmative vote by a majority of the Council, prescribe regulations under this section that impose a recordkeeping or reporting requirement on designated clearing entities or financial institutions engaged in designated activities that are subject to standards that have been prescribed under section 805(a)(2).	Permissive Rulemaking	(1) Board of Governors; and (2) Oversight Council	Unspecified	In Process
810	Rulemaking	New Law	The Board of Governors, the Supervisory Agencies, and the Council are authorized to prescribe such rules and issue such orders as may be necessary to administer and carry out their respective authorities and duties granted under this title and prevent evasions thereof.	Permissive Rulemaking	Board of Governors, Supervising Agencies, and Council	Unspecified	In Process