

FINANCIAL REGULATORY REFORM

2012
Report Card



CENTER FOR CAPITAL MARKETS
COMPETITIVENESS

Financial Regulatory Reform 2012 Report Card

About the Report Card:

This report card evaluates the progress being made by regulators and policy-makers to achieve modern, well-regulated, fair, transparent, and vibrant capital markets. It looks both at the implementation of The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (The Dodd-Frank Act) as well as key regulatory reform issues not addressed by the new law. By all accounts, regulatory reform is incomplete. So, for those unfinished reforms outlined in this report, CCMC assigns a grade, in addition to an incomplete, based on where progress stands now before regulators finalize rules. This report also provides suggestions on how regulators and Congress can **bring up the grade**—complete the task to ensure that the ultimate outcome of regulatory reform is a robust capital formation system that benefits consumers, investors, and job creators.

Failure to get it right will deprive job creators of the investments, loans, and other forms of credit they need. This report examines four areas critical to ensuring the vitality of our markets:

- ☐ Protecting the Diversity of Capital Formation
- ☐ Reforming Corporate Governance
- ☐ Ensuring U.S. Competitiveness Through Financial Regulatory Reform
- ☐ Preserving the Integrity of Accounting and Auditing

The grades given are based on progress even if not yet finalized, made by Congress and the regulators to modernize capital markets regulation, and lays out achievable steps that can be taken to improve key regulatory proposals, provide more certainty, mitigate the unintended consequences and ensure the final outcome is a capital formation system that benefits investors, consumers and job creators.

Introduction:

The engines that drive America's innovation economy are as diverse as our entrepreneurial spirit. Regardless of a business' size or industry, capital is the common and essential element that fuels these engines of economic growth and job creation. In the past, policymakers recognized the central role that capital plays in the lives of Americans every day. In overseeing our markets, they made decisions by balancing three important objectives: protecting investors and consumers, promoting fair and orderly markets, and facilitating capital formation.

Rapid changes over the past 25 years are challenging the traditional structures put in place more than 75 years ago to support our capital markets. The U.S. regulatory structure failed to keep up with these changes.

Recognizing this, before the 2008 crisis, the U.S. Chamber of Commerce Center for Capital Markets Competitiveness (CCMC) released a bipartisan blueprint calling for financial regulatory modernization. Since that period, the United States has experienced the most significant and disruptive financial crisis since the Great Depression. In response, regulators and Congress have scrambled to address the problem, often adopting “solutions” before objective and dispassionate analysis has been completed. The result—The Dodd-Frank Act—was an incomplete bill passed in haste in the middle of a crisis. It does not address many of the core causes of the financial crisis or the weaknesses of our financial regulatory structure. Instead, it adds new regulatory agencies and layers to an already over layered system while leaving critical areas unaddressed.

Now that regulators are implementing more than 400 required and suggested rules and studies, they are finding the task very challenging—and in some areas impossible. The business community is not trying to repeal the bill—but rather continues to seek answers to basic questions about how this is going to work and look for areas where improvements can be made.

At each stage of The Dodd-Frank Act implementation and within other areas of regulatory reform, business has been told “don’t worry, we will get this right.” Well, we are now down to implementation, and the rulemaking process and regulators have not “gotten it right.” They continue to fight among themselves, propose conflicting approaches to common issues, and otherwise make it impossible for honest market participants to know the rules of the road.

Regulation of our capital markets needs to be done right—it needs to protect the diversity of capital formation, strengthen the corporate governance system, ensure U.S. competitiveness, and preserve the integrity of accounting and auditing.

CCMC will continue to press regulators and provide evidence and input from the business community to help ensure that the right regulations are adopted. We want tough, fair, and coherent rules. Our appeal to regulators is simple: take your time, do it right, put politics aside, and think of the long-term health of the American capital formation system.

FINANCIAL REGULATORY REFORM: 2012 Report Card

Protecting the Diversity of Capital Formation

C

Consumer Financial Protection Bureau	I(C)
Derivatives Regulation	I(C)
Money Market Fund Reform	I(D)
The Volcker Rule	I(D)

Reforming Corporate Governance

B

Whistleblower Provisions	I(B)
Conflict Mineral Disclosures	I(C)
Executive Compensation	I(C)
Proxy Access	A

Ensuring U.S. Competitiveness Through Financial Regulatory Reform

C

Systemic Risk and Financial Stability Oversight Council	I(D)
Proxy Advisory Firms	I(C)
Basel III / Capital Standards	I(C)
Reforming the U.S. Securities and Exchange Commission	I(D)

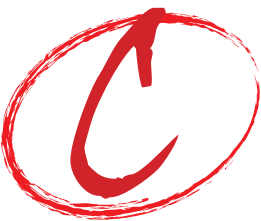
Preserving the Integrity of Accounting and Auditing

B

Financial Instrument Reporting	I(B)
Convergence	I(B)
FAS-5	A
Lease Accounting	I(C)
Mandatory Audit Firm Rotation	I(D)

- A:** Complete (or near-complete) and satisfied with the regulation/outcome
I(B): Incomplete, but moving in a positive direction
I(C): Incomplete, too soon to evaluate potential consequences
I(D): Incomplete, strong concerns about negative impact on the economy or specific industries
F: Economically harmful reform

Protecting the Diversity of Capital Formation



American businesses depend on deep, liquid markets that provide diverse, flexible financing options and a capital formation process that offers access to the capital necessary to grow the economy and create jobs.

CCMC continues to build campaigns that highlight the essential role of the financial services industry on Main Street and in consumer financing and, ultimately, in economic recovery and prosperity.

Protecting the Diversity of Capital Formation	
Consumer Financial Protection Bureau	I(C)
Derivatives Regulation	I(C)
Money Market Fund Reform	I(D)
The Volcker Rule	I(D)



Consumer Financial Protection Bureau—I(C)

101: A keystone of The Dodd-Frank Act was the creation of the Consumer Financial Protection Bureau (CFPB), an agency that has unprecedented power and authority to regulate the market for consumer financial products and services but lacks the traditional checks and balances built into other independent agencies. In January, President Obama sidestepped Congress and recess appointed Richard Cordray during a three-day recess between brief pro forma Senate sessions. These unique circumstances have already drawn legal challenges to the validity of the appointment. If the appointment is invalidated, all CFPB actions in the intervening period would be thrown out as well, leaving businesses to navigate a confusing period of regulatory uncertainty.

CCMC supports the CFPB’s efforts to combat fraud and to increase the transparency of consumer financial products. However, CCMC remains concerned that Bureau regulations and enforcement actions could limit access to credit in the marketplace for consumers and small businesses, and will continue to press for fundamental reforms to the CFPB. As the Bureau is still in formative stages, CCMC has set forth a set of common-sense guidelines that the Bureau can follow to mitigate harmful outcomes for consumers, small businesses, and the economy at large. There is a “right way” for the Bureau to go about its work and a “wrong way.”

To bring up the grade, the CFPB should do the following:

- ☐ Establish clear rules of the road informed by careful, cost-benefit analysis.
- ☐ Prevent duplicative and inconsistent regulation of Main Street businesses.
- ☐ Preserve individual and small business access to affordable credit.
- ☐ Ensure coordination with federal and state prudential regulators.

To bring up the grade, Congress should do the following:

- ☐ Increase the agency's accountability—
 - Replace the single director with a bipartisan commission.
 - Bring the CFPB on budget using the appropriations process.

Derivatives Regulation—1(C)

101: Even before the financial crisis, CCMC has supported efforts to bring transparency to the over-the-counter (OTC) derivatives market. The Dodd-Frank Act achieves the objectives of increased transparency and reduced systemic risks by moving the vast majority of the derivatives market toward clearing and, where possible, exchange trading. CCMC's goal continues to advocate for measures aimed at reducing systemic risk while preserving the ability of business end users to use customizable OTC derivatives at a reasonable price and without the burden of margin requirements. In addition, end users should be protected from onerous bank-like regulation that would divert precious working capital from job-creating activities, including research & development and business expansion.

There was unanimous bipartisan support for several end user supported bills that passed through the House Financial Services and Agriculture committees. The passage of these bills illustrates the strong support from both sides of the aisle for derivatives end users and that Congress is willing to hold regulators accountable for their work.

To bring up the grade, the CFTC, SEC, and banking regulators should do the following:

- ☐ Better coordinate on rules where there is a shared responsibility to ensure clear uniform guidelines, such as margin requirements and further definition of swap and other designations.
- ☐ Finalize rules that preserve the ability of commercial end users to use customizable OTC derivatives at a reasonable price and without the burden of margin requirements as Congress clearly intended.

To bring up the grade, Congress should do the following:

- ☐ Continue to conduct rigorous oversight of the derivatives rule-writing process to better assess the impacts on commercial end users.
- ☐ Pass bipartisan legislation that explicitly and clearly exempt commercial end users from government-imposed margin requirements.

Money Market Fund Reform—I(D)

101: Money market funds play a critical role in meeting the short-term capital and cash flow needs of American businesses. Following the financial crisis of 2008, the U.S. Securities and Exchange Commission (SEC) adopted new safeguards for money market funds, further regulating the quality, maturity, liquidity, and diversification of assets. Today, money market funds are well positioned to endure financial market stresses, including the recent domestic debt-ceiling crisis and the European sovereign debt crisis. However, regulators want to make additional changes to how money market funds work.

While CCMC supports the preservation and strengthening of money market funds as an imperative source of business financing and investment, CCMC believes that the SEC's January 2010 enhancements are working. Additional reforms are unnecessary and would fundamentally alter the effectiveness and efficiency of money market funds making them a less useful source of investing and financing for everyone—Main Street businesses, state and local governments, and other organizations.

To bring up the grade, the SEC, as part of FSOC, should do the following:

- ☐ Conduct a study to determine the effects of the 2010 reforms to rule 2a-7, and to identify vulnerabilities that remain.
- ☐ Conduct a thorough analysis to understand the operational and economic impact that the proposed changes would have on American businesses and the broader capital markets.
- ☐ Examine the impact on the investment decisions of both retail and commercial investors and the resulting implications on the ability of money funds to finance the commercial paper market.
- ☐ Ensure that any regulatory changes proposed meet the Commission's statutory responsibility to promote efficiency, competition, and capital formation.

The Volcker Rule—I(D)

101: The Volcker Rule, Section 619 of The Dodd-Frank Act, bans proprietary trading and certain investments by banks to limit and regulate the amount of risk they can take on. Proprietary trading occurs when a financial firm uses its own funds to trade financial instruments, such as stocks and currencies for profit, and to establish an inventory that enables faster transactions for clients. CCMC supports the intent to limit irresponsible risk taking. However, the release of The Volcker Rule was beset by serious procedural flaws, while the proposed rule went overboard and is unnecessarily complex. Although it targets financial institutions, the rule may have far-reaching negative consequences for non-financial businesses, harming their ability to access capital.

To bring up the grade, the prudential regulators should do the following:

- ☐ Hold a roundtable with stakeholders representing different market participants.
- ☐ Reconcile the differing comment periods among the five regulatory agencies to allow more time to find the least burdensome alternative on this complex, multidisciplinary, and interlocking rule.
- ☐ Use a uniform cost-benefit analysis among the five agencies involved in conformance with Executive Orders 13563 and 13579.
- ☐ Re-propose the rule to allow appropriate input to avoid unforeseen consequences.

Reforming Corporate Governance



Strong corporate governance standards are essential to a robust capital markets system, enabling all shareholders to have an equal voice while promoting healthy relationships between companies and their investors.

CCMC supports reforms that effectively improve shareholder value without advancing the agendas of special interests or mandates one-size-fits all approaches to governing public companies. CCMC continues to push back against the activist agenda that seeks to use the corporate governance process to gain benefit for minority shareholders with a political agenda at the expense of a majority of stakeholders.

Reforming Corporate Governance	
Whistleblower Provisions	I(B)
Conflict Mineral Disclosures	I(C)
Executive Compensation	I(C)
Proxy Access	A



Whistleblower Provisions—I(B)

101: As mandated by The Dodd-Frank Act, the SEC and the Commodity Futures Trading Commission (CFTC) created new whistleblower programs that award the whistleblower up to 30% of the total monetary sanction. Unfortunately, this incentivizes employees to circumvent companies’ internal complaint processes and report an issue directly to the SEC or CFTC. The SEC’s final rule published in May 2011 made an attempt to prevent circumventing internal compliance procedures. CCMC believes these changes did not go far enough and is supporting legislative action to preserve the integrity and enhance the effectiveness of corporate compliance programs, which are a critical component of sound corporate governance

To bring up the grade, Congress should do the following:

- ❑ Pass the pending legislation (H.R. 2483 Whistleblower Improvement Act) that would require internal reporting of alleged misconduct as a condition of eligibility for a monetary reward as a whistleblower.

Conflict Mineral Disclosures—I(C)

The Dodd-Frank Act imposes new reporting requirement on publicly traded companies that manufacture products for which “conflict minerals” are necessary to their functionality or production. Unintended consequences are already cropping up with some firms boycotting minerals from Africa and thousands of private and often times small companies being forced to comply if a manufacturer is trying to get ahead of the curve. In our increasingly high-tech global economy, materials and even trace materials are important to the manufacturing and operation of goods from medical devices to cell phones, automotive parts and other consumer products. Therefore, the proposed rules on conflict mineral disclosures may affect nearly every manufacturing sector and facet of the supply chain. To date, the SEC has not finalized the rules.

For this reason, CCMC believes it is important for the SEC to cultivate a comprehensive understanding of this rule’s pervasive impact on American industry and the investors who provide the capital used by those businesses.

To bring up the grade, the SEC should do the following:

- ❑ Adopt significant changes in the pending final rule, including allowing a five-year phase-in for affected companies; exemption of recycled materials; and a requirement for supply-chain due diligence.
- ❑ Determine the effects on vendors—many of which are small businesses—of public companies and minimize impacts on them.

Executive Compensation—I(C)

101: CCMC advocates for reasonable policies that allow pay for performance and promote long-term shareholder value and profitability but not constrain reasonable risk taking and innovation. A one-size-fits-all approach mandated by federal regulators or proxy advisors is not good governance and would undermine shareholder interests. As mandated by The Dodd-Frank Act or through other regulatory initiatives, the SEC is considering the following executive compensation rules: pay-ratio disclosure, incentive-based compensation regulation, and compensation committee and compensation advisor independence.

To bring up the grade, the SEC should do the following:

- ❑ **Pay-Ratio Disclosure:** Hold a roundtable discussion of experts and stakeholders to better understand the potential issues and unintended consequences that may flow from the implementation of the pay-ratio disclosure requirements.

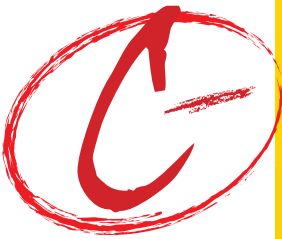
- ❑ **Pay-Ratio Disclosure:** Submit the proposed rule to the Office of Information and Regulatory Affairs (OIRA) review process to better understand the cost-benefit implications of the pay-ratio disclosure requirements.
- ❑ **Pay-Ratio Disclosure:** Consider engaging in negotiated rulemaking to ensure thorough and well-balanced input that minimizes unintended consequences.
- ❑ **Pay-Ratio Disclosure:** Follow the requirements as outlined in Executive Orders 13563 and 13579 to identify alternative approaches and choose the least burdensome means of implementing the rule.
- ❑ **Incentive-Based Compensation:** Ensure that the final rules do not mandate a one-size-fits-all approach and consider the consequences to capital formation and market efficiency as it finalizes the proposed rule.
- ❑ **Compensation Committees:** Establish a series of working groups with the Exchanges (that include issuers, investors, compensation consultants, Exchange staff, and other interested stakeholders) to better understand both the cost and benefits the rules are likely to impose on the various constituencies that will be affected by this.

Proxy Access—A

101:

In July 2011, in a big win for America's job creators and investors and just one day after the anniversary of The Dodd-Frank Act, the D.C. Circuit Court ruled to vacate the SEC's proxy access rule. The Chamber, along with the Business Roundtable, challenged the rule, which would have required a corporation to include in its proxy materials director nominees put forward by a shareholder that has owned 3% or more of company stock for at least three years. The D.C. Court's decision was a decisive blow to the SEC's first attempt at rulemaking under The Dodd-Frank Act, reiterating the importance for regulators to demonstrate that the benefits of regulation outweigh the costs.

Ensuring U.S. Competitiveness Through Financial Regulatory Reform



Historically, the depth and liquidity of the U.S. capital markets have been unmatched. Over the past 20 years, foreign market centers have developed regulatory policies, legal institutions, and other important structures that support the growth and development of domestic capital markets. This increased competition brings with it a wider range of products and services and a lower cost of capital for U.S. and foreign enterprises.

Given these developments, the critical challenge for U.S. policymakers is to chart a new course. This requires adopting modern legal and regulatory rules, systems, and structures to support today’s financial services activity. It also requires a new era of engagement with the international community to ensure that the U.S. capital markets do not become isolated and fall behind their international counterparts.

CCMC remains committed to revitalizing our capital markets by engaging with the business community, Congress, regulators, and the public to ensure rules promote a globally competitive regulatory system. By promoting a modern and effective regulatory structure, CCMC helps ensure that our capital markets can fully function in a 21st century economy.

Ensuring U.S. Competitiveness Through Financial Regulatory Reform	
Systemic Risk and Financial Stability Oversight Council	I(D)
Proxy Advisory Firms	I(C)
Basel III / Capital Standards	I(C)
Reforming the U.S. Securities and Exchange Commission	I(D)



Systemic Risk and Financial Stability Oversight Council—I(D)

101: The Financial Stability Oversight Council (FSOC), a creation of The Dodd Frank Act, is charged with the oversight of “systemically important financial institutions.” Over the past year FSOC has proposed a vague and expansive framework for designating such institutions. Final rules for designation of systemically important financial institutions are expected to be put in place by the end of the year in a two-tiered approach. The first tier of companies will be designated as systemically important and subject to heightened supervision by the Federal Reserve, and the second tier of companies will be placed on a watchlist for designation.

CCMC is still concerned with how companies will be deemed systemically risky. To that end, CCMC strongly recommends that FSOC heed caution and err on the side of non-designation as there are real negative consequences of designation. Designation as systemically important both implies “too big to fail” protection from the taxpayer and imposes heavier burdens on the designated company—and the U.S. economy.

To bring up the grade, the FSOC should do the following:

- ☐ Create a rule that makes good economic sense.
- ☐ Include a cost-benefit analysis in the final rule.
- ☐ Explain the legal significance of the proposed guidance.
- ☐ Comply with the Paperwork Reduction Act.
- ☐ Re-propose the rule to specifically provide confidential treatment to all documents submitted to FSOC, and for the Federal Reserve Board to adopt “safe harbor” regulations to exempt certain types or classes of nonbank financial companies from enhanced supervision.

Proxy Advisory Firms—I(C)

101: A proxy advisory firm is hired by institutional investors of public companies to recommend how the institutional shareholders should vote on items presented for shareholder vote in companies’ proxy statements. Proxy advisors also frequently cast votes on clients’ behalf, based on an off-the-shelf proxy voting policy.

With the increased use of institutional investors’ votes to influence social and economic policy, and proxy advisory firms’ tremendous influence on the outcome of proxy votes, the lack of transparency, balance, and oversight of the firms is a troubling regulatory gap. Proxy advisory firms have become the de facto regulators of corporate governance; yet they are not required to abide by any of the transparency and due process requirements followed by government regulators.

CCMC has called for reform of private organizations, such as proxy advisory firms, wielding quasi-governmental power, and highlighted the lack of transparency and accountability surrounding these powerful policymaking organizations. Failure to

establish rules of the road for proxy advisors will undermine corporate elections and annual shareholder meetings, which inevitably will harm investors and the economy. CCMC encourages regulators to recognize the crucial role proxy advisory firms play in shaping the future of corporate governance and that they enact internal policies and processes to increase transparency and accountability commensurate with their influence.

To bring up the grade, the SEC should do the following:

- ❑ Put in place the appropriate oversight to ensure the transparent development of voting policies and quality vote recommendations, consistent with preserving and enhancing share value.

Basel III / Capital Standards—I(C)

101: Basel III is a global regulatory standard on bank capital adequacy, stress testing, and market liquidity risk, agreed upon by the members of the Basel Committee on Banking Supervision that strengthens bank capital requirements and introduces new regulatory requirements on bank liquidity and bank leverage.

CCMC believes that appropriate capital requirements are necessary to promote financial stability, while excessive requirements would reduce the lending needed to fuel growth and innovation in the overall economy. However, the proposed capital surcharges come in addition to the Volcker Rule and other Dodd-Frank provisions including derivatives regulation, resolution authority and systemic risk regulation. These, in addition to other capital requirements could place American financial institutions at a competitive disadvantage.

To bring up the grade, the Federal Reserve should do the following:

- ❑ Undertake a study, both domestically and internationally, to ascertain the potential impacts of a capital surcharge upon the financial system and economy as a whole before any proposals are implemented.
- ❑ Craft capital adequacy standards that make good economic sense.

To bring up the grade, the Department of Treasury should do the following:

- ❑ Make certain that FSOC is judicious in determining the appropriate levels of bank capital necessary for ensuring financial stability while fostering economic growth and job creation.
- ❑ Urge the Basel Committee to proceed with caution and take into account both the current and impending financial reforms impacting the banking industry in the United States and abroad.

Reforming the U.S. Securities and Exchange Commission—(D)

101: For more than a decade, SEC regulatory and enforcement structures have failed to keep pace with rapidly changing markets. This can be attributed to structural and managerial inefficiencies at the Commission, rapidly evolving markets, the rise of intense global competition, and other factors. CCMC remains an active and constructive voice for positive change and will continue to work with all those who share the goal of maintaining the U.S. position as the world's preeminent, best-regulated capital market.

To bring up the grade, the SEC should do the following:

- ☐ Develop a bold and clear plan on how to make rulemaking, supervisory inspections, and enforcement more effective.
- ☐ Put someone in charge of implementing the plan.
- ☐ Remove statutory and practical obstacles to transformational reform.
- ☐ Put in place procedures to ensure that necessary technology improvements can be effectively incorporated in furthering the commission's core mission.

To bring up the grade, Congress should do the following:

- ☐ Tie increased funding and resources to the transformation process.
- ☐ Insist on timely and clear progress in implementing these reforms as a condition for expanded funding.
- ☐ Increase the size of the Commission from five to seven members and designate a deputy chairman for management among the commissioners to lead the day-to-day implementation of this turnaround program.
- ☐ Remove statutory and practical obstacles to transformational reform.

Preserving the Integrity of Accounting and Auditing



Accounting and auditing have a unique role in the economy. Unfortunately, for decades, standard setters have been operating under inadequate rules and guidance, resulting in the impairment of financial reporting. Businesses need and want strong financial reporting policies. Companies require investors and capital to grow and create jobs. Capital will only go where it is welcome and can act with legal certainty, coupled with a disclosure of the knowable risks involved. All parties must enter into transactions with a full understanding of the facts, and financial reporting is a key disseminator of that information. Credible financial reporting, which includes a global corporate financial reporting model, is one of the indispensable, active ingredients for capital formation, which fuels economic growth and job creation.

CCMC supports implementing a global corporate financial reporting model. The Financial Accounting Standards Board (FASB) and the International Accounting standards Board (IASB) are in the process of releasing eight major accounting standards to advance the goal of a single global accounting standard.

Preserving the Integrity of Accounting and Auditing	
Financial Instrument Reporting	I(B)
Convergence	I(B)
FAS-5	A
Lease Accounting	I(C)
Mandatory Audit Firm Rotation	I(D)

Financial Instruments Reporting—I(B)

101:

The Chamber leads the Financial Instruments and Reporting Convergence Alliance (FIRCA), a group of trade associations that recognize accurate and transparent financial reporting as a cornerstone of capital markets in the United States and globally. Along with FIRCA, CCMC supports the adoption of joint IASB and FASB global high-quality robust accounting standards. FIRCA and CCMC provide a wide range of input to assist standard setters and ensure the proper consideration of business operations and potential unintended consequences in the development and implementation of accounting standards. In addition, FIRCA and CCMC work with standard setters and decision makers to ensure that the financial instruments projects are conducted jointly to provide a comprehensive response to financial reporting policies.

To bring up the grade, FASB and IASB should do the following:

- ❑ Implement process reforms including public cost-benefit analysis, transparency regarding investor input, and pre- and post-implementation reviews.

Convergence—I(B)

101: FASB and IASB are in the process of releasing eight major accounting standards to advance the goal of a single global accounting standard, also known as the International Financial Reporting Standards (IFRS). CCMC continues to engage standard setters and regulators to ensure that these projects proceed in a deliberative open process and that the right standards that will serve the test of time are implemented.

FASB and IASB delayed the deadlines for the completion of the Financial Instruments, Leasing, and the Insurance and Revenue Recognition projects. This is a positive step, ensuring that new standards are done right, not in haste.

To bring up the grade, the FASB and IASB should do the following:

- ❑ Ensure that the convergence projects are released in a logical and sequential manner to enable a rational approach to this overhaul of accounting standards.

To bring up the grade, the SEC should do the following:

- ❑ Continue to promote and establish a single global accounting standard.
- ❑ Continue to engage key stakeholders in the convergence process.

FAS-5—A

101: CCMC asked FASB and IASB to withdraw their proposal to revise FAS-5 and IAS 37, respectively, which call for companies to disclose substantive information about the nature, magnitude, and timing of any loss contingencies—providing a road map to the plaintiffs’ lawyers. In November 2010, FASB and IASB voted to delay the issuance of final rules implementing proposed changes until after June 2011. Before FASB and IASB issued the delay, they extended the comment period per CCMC’s suggestion, which allowed additional comments from concerned corporations and investors to be filed. Redeliberations on loss contingencies are still pending.

Lease Accounting—I(C)

101: With a market of more than \$1 trillion, leases are an essential building block for many different sectors of the economy, including income-producing commercial real estate, construction, aerospace, transportation, office equipment, retail, and restaurants. As part of the international convergence effort, FASB and IASB released a *Proposed Accounting Standards Update on Leases* in May 2011. The new rules would dramatically alter existing financial reporting rules for transactions involving personal property, real estate, and leased equipment. It is estimated that the current proposals will cost 192,000 American jobs and companies \$10.2 billion annually. The FASB and IASB need to address both substantive and procedural concerns regarding the proposed standards. CCMC has organized a working group to ensure that the final standard is written and implemented in an effective way that does not disrupt companies' business plans.

To bring up the grade, the FASB and IASB should do the following:

- ☐ Fully re-expose the final proposed leasing standard for comprehensive public input and comment.
- ☐ Conduct a robust cost-benefit analysis of the proposal.
- ☐ Do field testing of the standards before implementation, including a disclosure of the pre- and post-implementation processes that FASB and IASB will undertake to identify and correct any potential unintended adverse consequences of the lease accounting proposal.
- ☐ In the event of re-exposure, FASB and IASB should commit to either releasing the entire lease accounting proposal for further comment, or if done in parts, for the sections of the standard to be released in a sequence that is understandable so that stakeholders can consider how each section will work on an interconnected basis.
- ☐ FASB and IASB should only finalize a fully converged standard that encompasses both lessor and lessee accounting.

Mandatory Audit Firm Rotation—I(D)

101: The Public Company Accounting and Oversight Board (PCAOB) released a Concept Release on auditor independence and audit firm rotation in August 2011. CCMC believes that businesses must have a strong system of internal controls and recognizes the crucial role external audits play in capital formation. However, the PCAOB's Concept Release that argues for mandatory audit firm rotation will harm investors, endanger the competitive position of American public companies, degrade audit quality, and take a path that has, in the past, been explicitly rejected by Congress and the SEC.

Further, the PCAOB has failed to present factual evidence that would justify the issuance of the Concept Release, particularly with more than 600 comment letters from businesses, audit committee members, investors, auditors and others commenting against the proposal and only 3 investors commenting in favor. While CCMC believes that improvements can be made to financial reporting, suggestions, ideas, and debates must be based upon hard facts and analysis and not on anecdotal information.

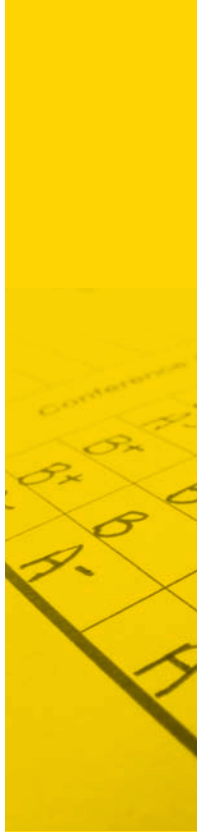
To bring up the grade, the PCAOB should do the following:

- ☐ Withdraw the Concept Release.
- ☐ Form a business advisory group to ensure input from all stakeholders.
- ☐ Create safeguards and transparency by having advisory groups follow the Federal Advisory Committee Act and for the PCAOB to follow the requirements of the Administrative Procedure Act in developing standards.

Significant risk looms over the U.S. economy—and it is an illusion that the steps taken since the financial crisis have solved the problems that led to that crisis. The dramatic changes introduced by Congress and regulators must not be confused with progress.

The response may have filled some of the gaps in the system, but this was accomplished with tremendous additional cost and reduced efficiency. Worse yet, some of the most significant changes undertaken by the United States were done unilaterally, creating an even greater gulf between the United States and other major financial centers around the world.

We have learned in stark terms that the health and vitality of our financial markets is closely linked to that of our entire economy. Individuals and companies rely on the multitude of financial products and services available in the marketplace. The U.S. Chamber of Commerce Center for Capital Markets Competitiveness is committed to exposing the weaknesses in our system and will continue to work toward crafting long-term solutions that **bring up the grade** and restore U.S. leadership in the global capital markets.





CENTER FOR CAPITAL MARKETS

C O M P E T I T I V E N E S S

U.S. Chamber of Commerce
Center for Capital Markets Competitiveness
1615 H Street, NW, Washington, DC 20062
Phone: 202-463-3162
www.centerforcapitalmarkets.com