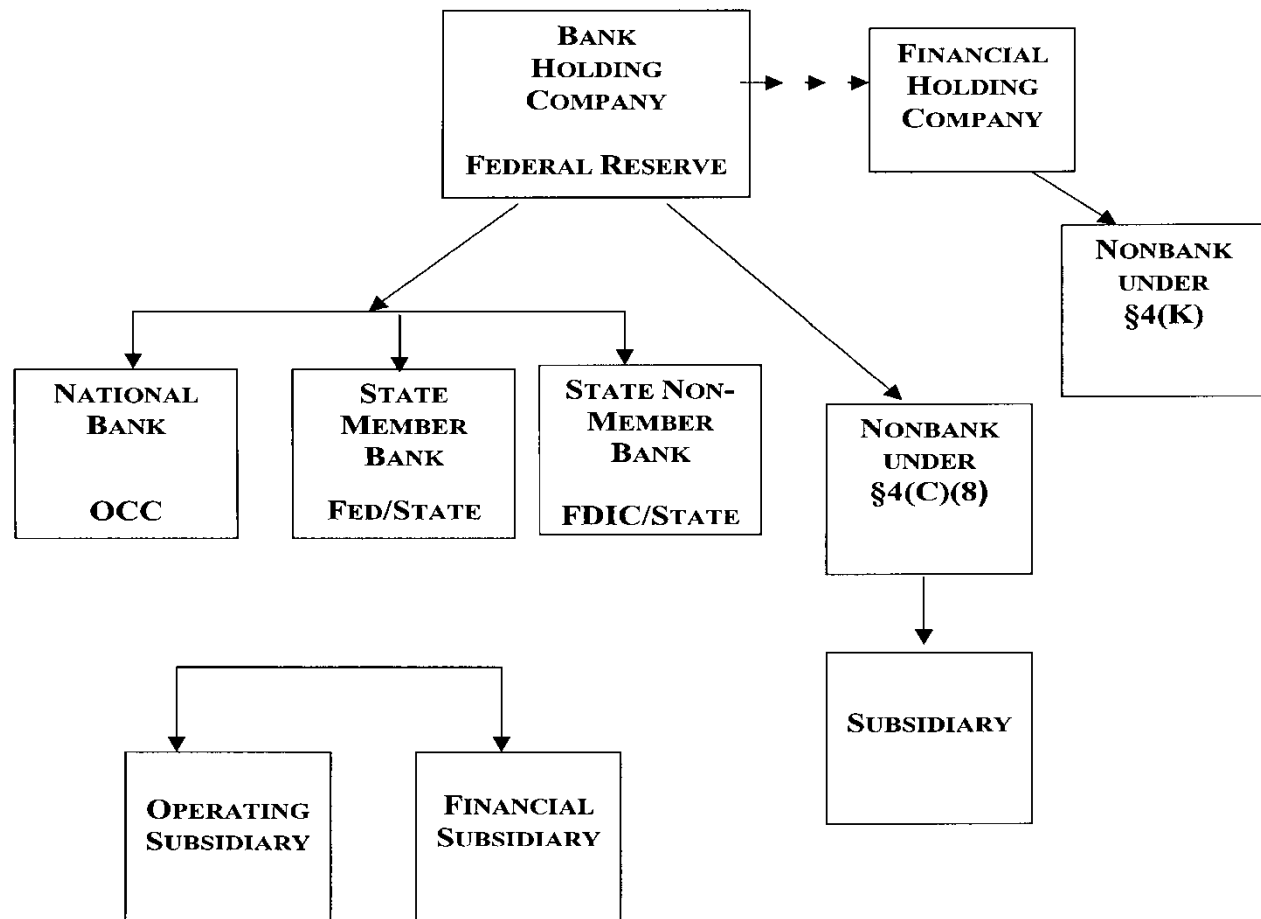


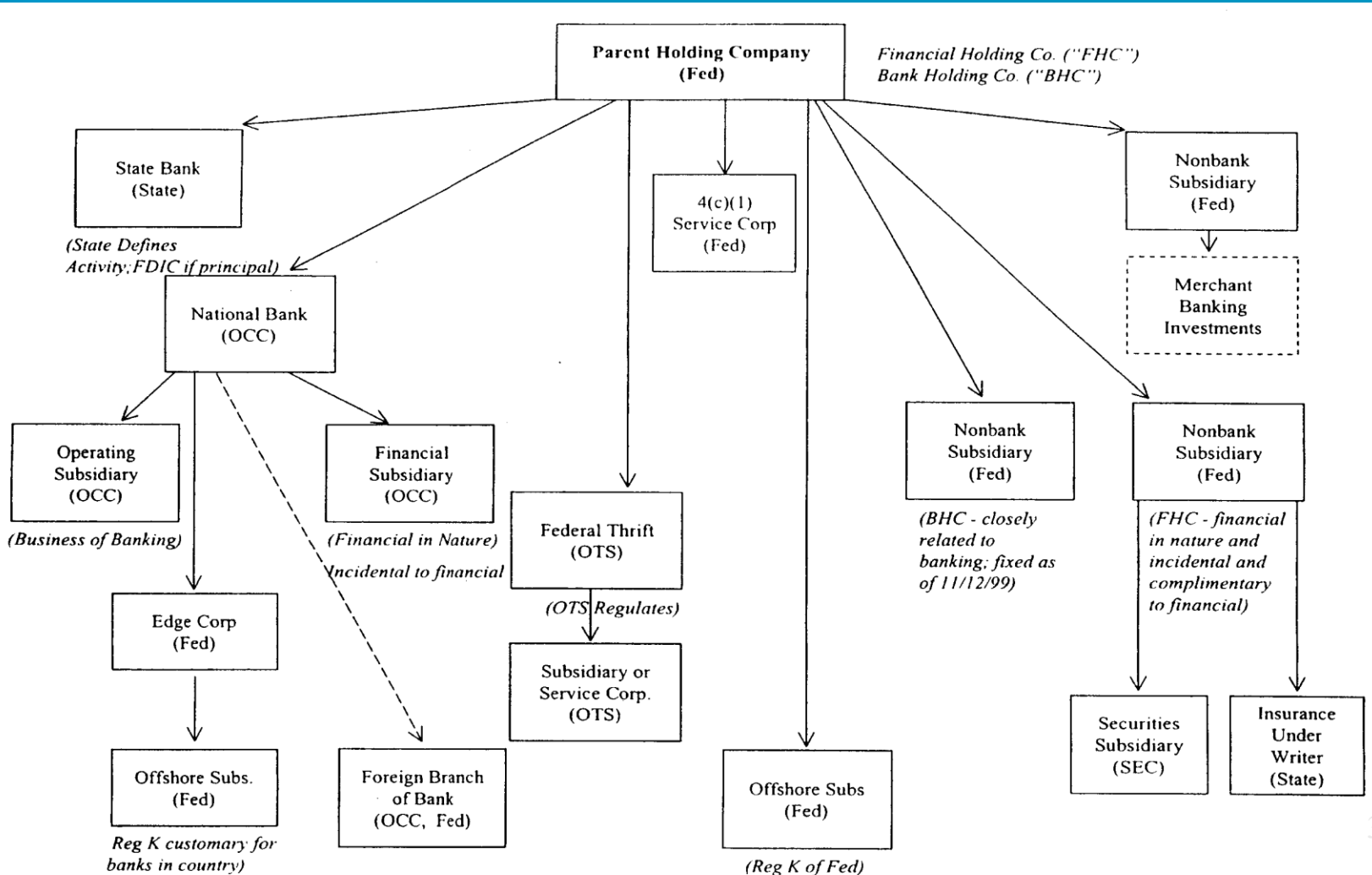
**OVERVIEW OF BANK REGULATORY
STRUCTURE AND LAW**

KAROL SPARKS

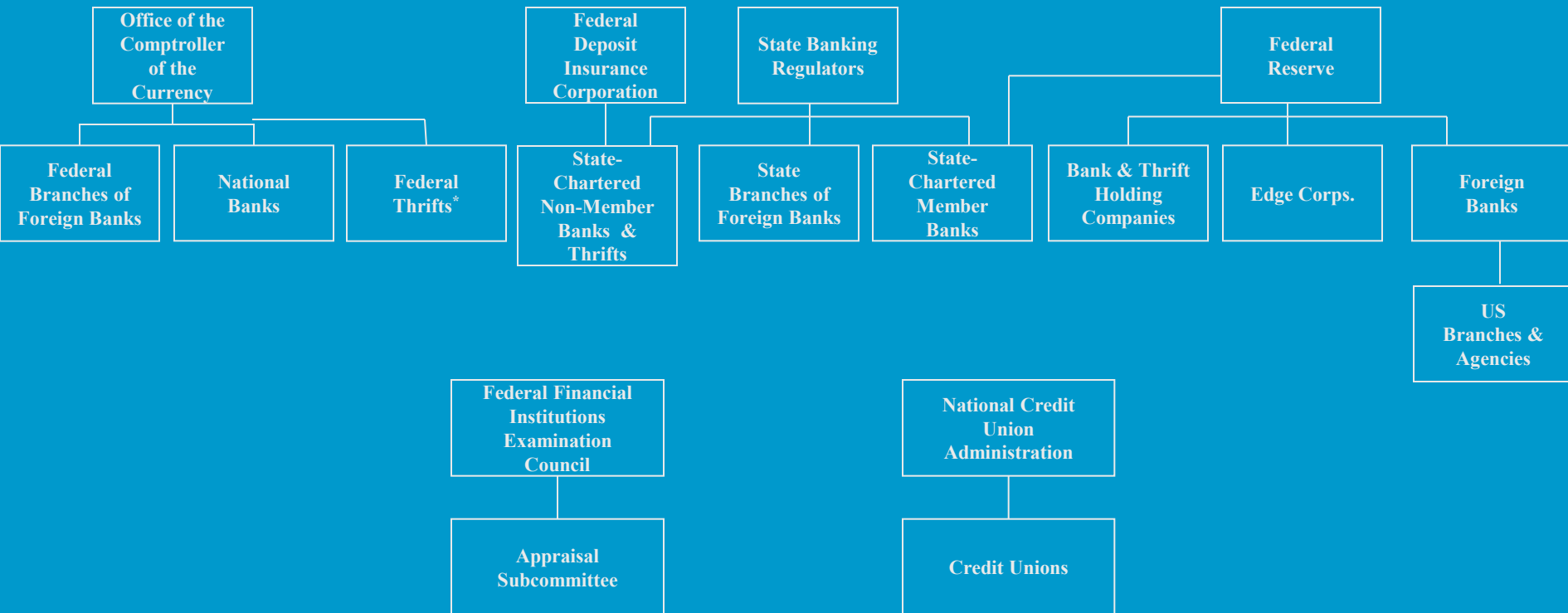
INTRODUCTION TO THE BANK FAMILY



FUNCTIONAL REGULATION AFTER GRAMM-LEACH-BLILEY

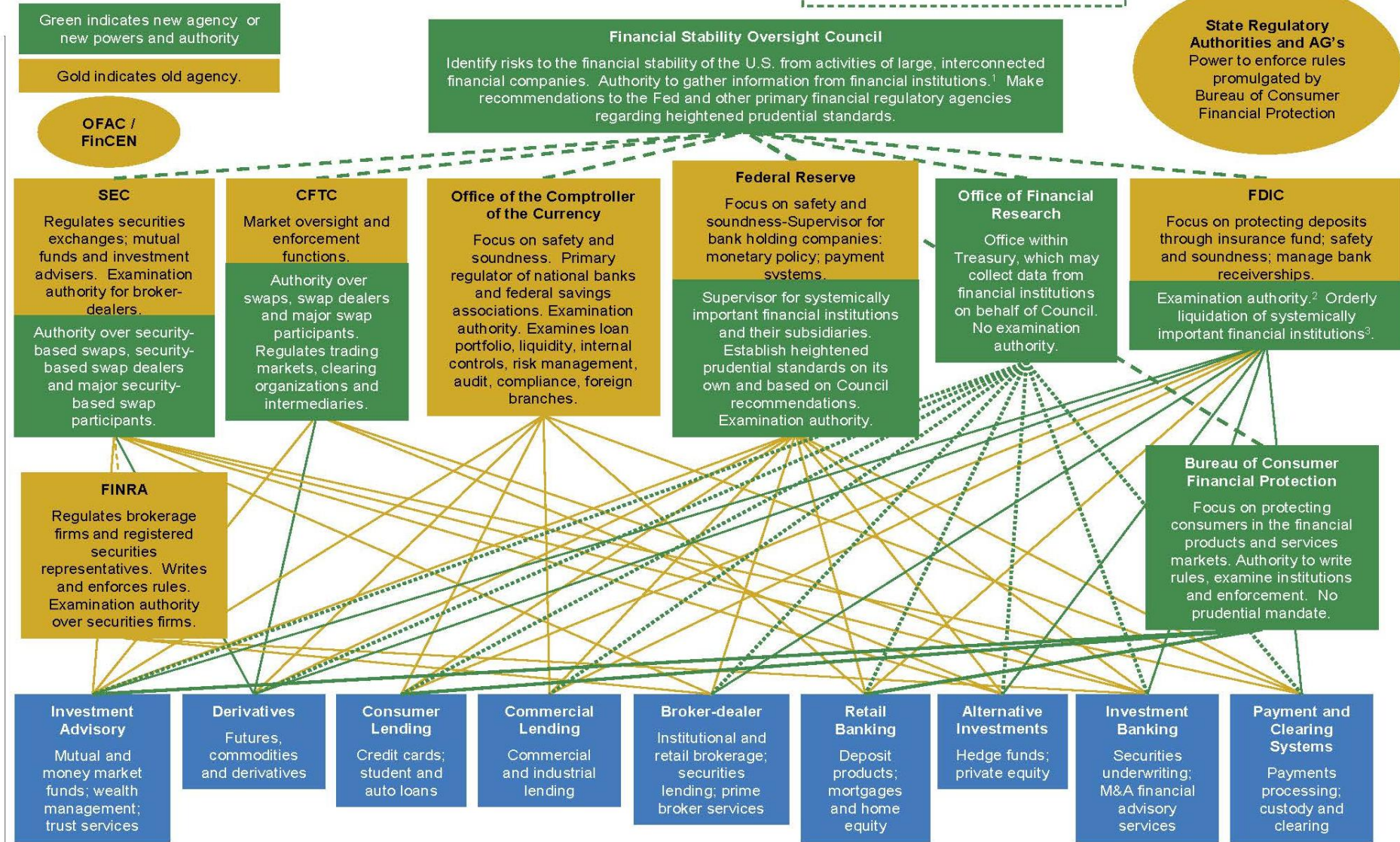


STRUCTURE OF U.S. BANKING SYSTEM



* A thrift is a savings and loan association or a savings bank.

...but this is not the optimal way to run a robust financial system – oversight needs to be simple, transparent, coordinated and consistent



Dotted line indicates authority to request information, but no examination authority.

This chart assumes these activities are conducted in a systemically important bank holding company (BHC)

¹ The Council, through Office of Financial Research, may request reports from systemically important BHCs

² FDIC may conduct exams of systemically important BHCs for purposes of implementing its authority for orderly liquidations, but may not examine those in generally sound condition

³ The Dodd-Frank Act expanded the FDIC's authority when liquidating a financial institution to include the bank holding company, not just entities that house FDIC-insured deposits

WHY?????

“The answer to this is obvious: the current bank regulatory structure offends all of our aesthetic and logical instincts. It’s complicated; it’s irrational; it probably has inefficiencies; and it takes a great deal of explaining.

“It’s the product of historical accident, improvisation, and expediency, rather than a methodically crafted plan.

“It reflects the accretion of legislative enactments, each passed at a very different time –and under different circumstances – in our history.”

The “accretion of legislative enactments” began as our country began:

AFTER THE REVOLUTIONARY WAR:

There were state banks organized under the authority of various state legislatures

- Deposit takers and short-term commercial lenders
- Issued notes backed by gold/silver/customer notes
- Bank of New York (1784/1791); Manhattan Company (1799)
- No state supervision until 1829 (New York)
- 88 state banks by 1811

AFTER THE REVOLUTIONARY WAR:

Two attempts at a bank of the U.S., operating as a central bank and modeled after the Bank of England, failed after 20 year stints.

- First Bank of the United States (1791-1811)—tension between Jefferson and Hamilton
- Second Bank of the United States (1816-1836)—riddled with insider abuse and a campaign issue for the presidential run by Andrew Jackson

CIVIL WAR -1863

IMPORTANT BANKING LEGISLATION

National Bank Act of 1864

(Chapter 106, 13 STAT. 99).

In response to the civil war financing needs, the NBA established a national banking system and the chartering of national banks; established the **Office of the Comptroller of the Currency (OCC)**.

PANIC OF 1907

IMPORTANT BANKING LEGISLATION

Federal Reserve Act of 1913

(P.L. 63-43, 38 STAT. 251, 12 USC 221).

In response to a financial panic and the need for a central bank, the FRA established the **Federal Reserve System** as the central banking system of the U.S.

IMPORTANT BANKING LEGISLATION

To Amend the National Banking Laws and the Federal Reserve Act (1927)

(P.L. 69-639, 44 STAT. 1224).

Also known as **The McFadden Act**.

Prohibited interstate banking of national banks,
unless permitted for state banks.

THE GREAT DEPRESSION- 1928

IMPORTANT BANKING LEGISLATION

Home Owners Loan Act of 1932.

Established the thrift charter, with focus on retail saving and home ownership. Created the **Federal Home Loan Bank Board (FHLBB)** as the federal regulator.

IMPORTANT BANKING LEGISLATION

Banking Act of 1933

(P.L. 73-66, 48 STAT. 162).

Also known as the **Glass-Steagall Act**.

The first major post-depression legislation, Glass-Steagall, established the FDIC as a temporary agency. Separated commercial banking from investment banking, establishing them as separate lines of commerce.

IMPORTANT BANKING LEGISLATION

Banking Act of 1935

(P.L. 74-305, 49 STAT. 684).

Established the **FDIC** as a permanent agency of the government.

**LET THE GOOD TIMES ROLL -
INNOVATION – 1950's**

IMPORTANT BANKING LEGISLATION

Bank Holding Company Act of 1956 (BHCA)

(P.L. 84-511, 70 STAT. 133) (and Amendments of 1970).

Required Federal Reserve Board approval for the establishment of a bank holding company. Prohibited bank holding companies headquartered in one state from acquiring a bank in another state.

Only multiple bank holding companies covered in 1956; one bank holding companies covered in 1970 amendments.

IMPORTANT BANKING LEGISLATION

Savings and Loan Holding Company Act of 1959

Established the regulatory framework for holding companies that owned more than one thrift, creating the exception for “unitary thrift holding companies” to engage in any activity .

THRIFT CRISIS – 1979 much higher interest rates, culminating in crisis in late 1980's

IMPORTANT BANKING LEGISLATION

Depository Institutions Act of 1982

(P.L. 97-320, 96 STAT. 1469).

Also known as Garn-St Germain.

Expanded FDIC powers to assist troubled banks.
Established the Net Worth Certificate program. Expanded the powers of thrift institutions and limited the insurance powers of bank holding companies.

IMPORTANT BANKING LEGISLATION

Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA)

(P.L. 101-73, 103 STAT. 183).

FIRREA's purpose was to restore the public's confidence in the savings and loan industry. FIRREA abolished the Federal Savings & Loan Insurance Corporation (FSLIC), and the FDIC was given the responsibility of insuring the deposits of thrift institutions in its place. The FDIC insurance fund created to cover thrifts was named the Savings Association Insurance Fund (SAIF), while the fund covering banks was called the Bank Insurance Fund (BIF).

FIRREA also abolished the Federal Home Loan Bank Board. Two new agencies, the Federal Housing Finance Board (FHFB) and the **Office of Thrift Supervision** (OTS), were created to replace it.

IMPORTANT BANKING LEGISLATION

Federal Deposit Insurance Corporation Improvement Act of 1991 (FDICIA)

(P.L. 102-242, 105 STAT. 2236).

FDICIA greatly increased the powers and authority of the FDIC. Major provisions recapitalized the Bank Insurance Fund and allowed the FDIC to strengthen the fund by borrowing from the Treasury. The act mandated a least-cost resolution method and prompt resolution approach to problem and failing banks and ordered the creation of a risk-based deposit insurance assessment scheme. Brokered deposits and the solicitation of deposits were restricted, as were the non-bank activities of insured state banks. FDICIA created new supervisory and regulatory examination standards and put forth new capital requirements for banks. It also expanded prohibitions against insider activities and created new Truth in Savings provisions.

FDICIA also limited the authority of state banks and their subsidiaries to act as principal in activities prohibited to national banks without approval of the FDIC and prohibited insurance underwriting through state banks, except to the extent permitted to national banks.

**LET THE GOOD TIMES ROLL -
INNOVATION – 1990's**

IMPORTANT BANKING LEGISLATION

Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994

(P.L. 103-328, 108 STAT. 2338)

Permits adequately capitalized and managed bank holding companies to acquire banks in any state one year after enactment. Concentration limits apply and CRA evaluations by the Federal Reserve are required before acquisitions are approved. Beginning June 1, 1997, allows interstate mergers between adequately capitalized and managed banks, subject to concentration limits, state laws and CRA evaluations. Extends the statute of limitations to permit the FDIC and RTC to revive lawsuits that had expired under state statutes of limitations.

IMPORTANT BANKING LEGISLATION

Gramm-Leach-Bliley Act of 1999 (GLBA)

(P.L. 106-102, 113 STAT 1338)

Repeals last vestiges of the Glass Steagall Act of 1933. Modifies portions of the Bank Holding Company Act to allow affiliations between banks and insurance underwriters. While preserving authority of states to regulate insurance, the act prohibits state actions that have the effect of preventing bank-affiliated firms from selling insurance on an equal basis with other insurance agents. Law creates a new financial holding company under section 4 of the BHCA, authorized to engage in: underwriting and selling insurance and securities, conducting both commercial and merchant banking, investing in and developing real estate and other "complimentary activities." There are limits on the kinds of non-financial activities these new entities may engage in.

Restricts the disclosure of nonpublic customer information by financial institutions. All financial institutions must provide customers the opportunity to "opt-out" of the sharing of the customers' nonpublic information with unaffiliated third parties. The Act imposes criminal penalties on anyone who obtains customer information from a financial institution under false pretenses.

GLOBAL FINANCIAL CRISIS - 2008

IMPORTANT BANKING LEGISLATION

Dodd Frank Wall Street Reform and Consumer Protection Act of 2010 (“Dodd-Frank” or “DFA”)

Pub. Law 111-203 (2010)

DFA boasts 16 titles and creates 13 new Federal offices, including the **Financial Stability Oversight Council** with its principal mission to prevent systemic risk from threatening the financial system. In so doing, the Oversight Council will fill gaps in supervision, monitor financial market developments, identify emerging risks in firms and market activities, and facilitate coordination of interagency policy and resolution of disputes. The Federal Reserve will create a single point of accountability over financial firms, the failure of any of which could pose a threat to financial stability, regardless of whether they own banks. This will include nonbank firms designated by the Council, as well as all bank holding companies with total consolidated assets equal to or greater than \$50 billion.

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IMPORTANT BANKING LEGISLATION

Dodd-Frank Continued:

Eliminated the OTS by merging it into the OCC and gave the Federal Reserve jurisdiction over thrift holding companies.

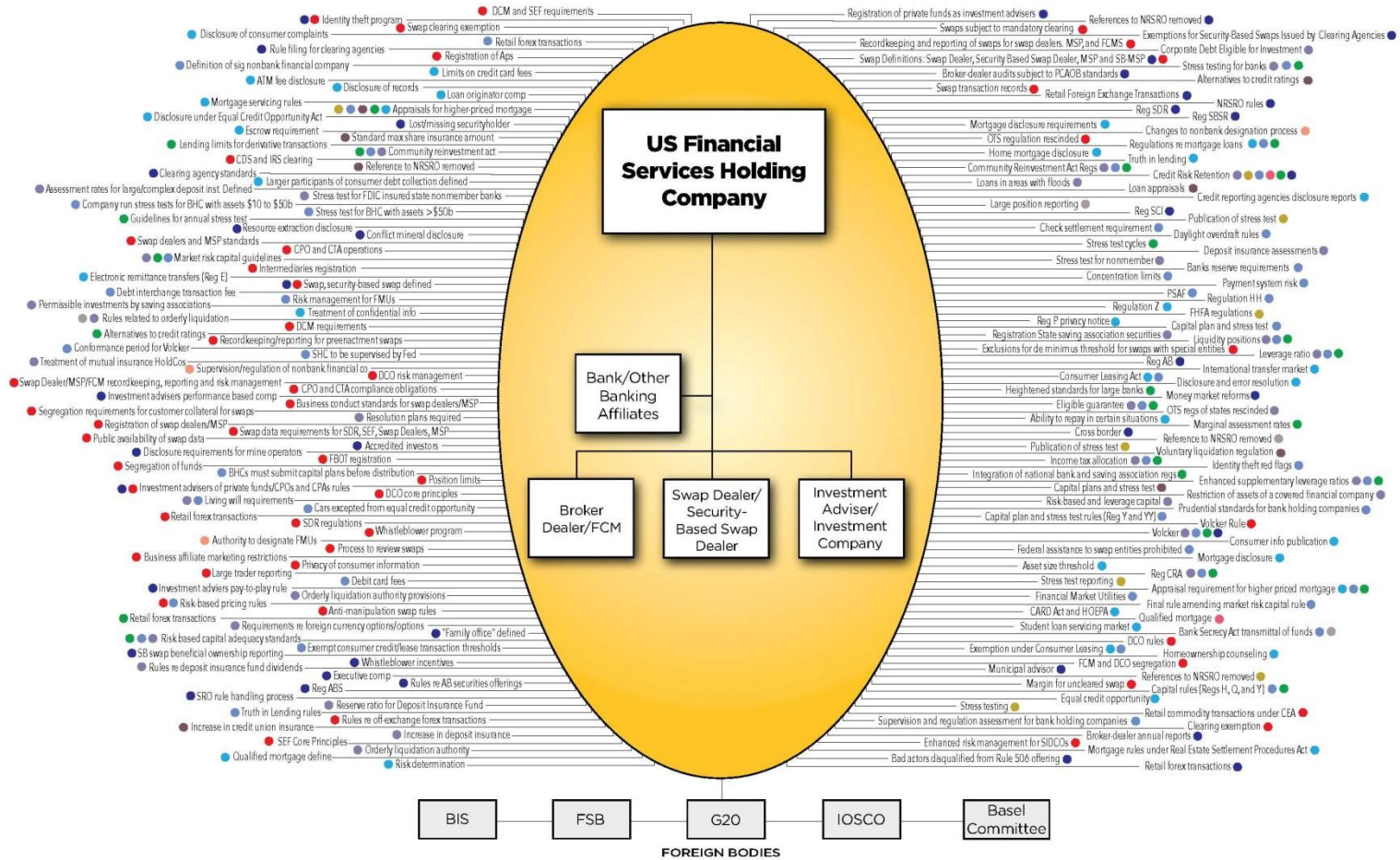
Title VI eliminated GLBA functional regulation, removing Section 10A from the Bank Holding Company Act, which limited the Federal Reserve's rulemaking and enforcement over functionally regulated affiliates.

In order to protect consumers, Title X of Dodd-Frank created the **Bureau of Consumer Financial Protection** (the “CFPB”) housed independently within the Federal Reserve that has supervisory, examination, and enforcement authority over consumer-related financial services offered by financial entities. These services include mortgages and other credit or payment products.

Required BHC capital rules, limited mergers to well-capitalized institutions, broadened de novo branching, subjected derivative and repo exposure to 23 A and B, ...

SEC Commissioner Daniel M. Gallagher

Rules Applicable to U.S. Services Financial Holding Companies Since July 2010



Relevant Regulators Not Depicted

- US SROs (e.g., FINRA, MSRB, NFA)
- Foreign country regulation of domestic activity
- US States

LEGEND	
● SEC-Securities and Exchange Commission	● NCUA-National Credit Union Administration
● CFTC-Commodity Futures Trading Commission	● FSOC-Financial Stability Oversight Council
● OCC-Office of the Comptroller of the Currency	● FHFA-Federal Housing Finance Agency
● FDIC-Federal Deposit Insurance Corporation	● FRB-Federal Reserve Board of Governors
● Treasury-Treasury Department	● HUD-US. Department of Housing and Urban Development
● CFPB-Consumer Financial Protection Bureau	● FFIEC-Federal Financial Institutions Examination Council
● OFR-Office of Financial Research	● FinCEN-Financial Crimes Enforcement Network

**LET THE GOOD TIMES ROLL –
2018???**

IMPORTANT BANKING LEGISLATION

Economic Growth, Regulatory Relief and Consumer Protection Act of 2018 (“Reg Relief” or “Crapo”).

Roles back a number of Dodd-Frank provisions, especially dealing with community and regional banks. SIFI test increased to \$250 billion (from \$50 billion); less than \$10 billion generally exempt from Volcker Rule and risk committee requirement; between \$50 billion and \$100 billion exempt from enhanced prudential standards (resolution planning, stress tests, single party credit limits) immediately and no longer subject to stress testing; less than \$10 billion may adopt leverage ratio only (off-ramp for Basel III) of 8-10% (as set by agencies); small BHC rules may apply to \$3 billion and less); mortgage relief.

WHERE TO FIND THE LAW?

Statutes:

- **National Bank Act 1864 (NBA)** 12 U.S.C. § 1
- **Federal Reserve Act of 1913** 12 U.S.C. § 241
- **McFadden Act 1927, 1933**
- **Home Owners' Loan Act** 12 U.S.C. § 1462
- **Federal Credit Union Act** 12 U.S.C. § 1752
- **Glass-Steagall Act 1933**
- **Federal Deposit Insurance Act 1935, 1950 (FDIA)** 12 U.S.C. § 1811
- **Bank Holding Company Act of 1956, 1970 (BHCA)** 12 U.S.C. § 1841

WHERE TO FIND THE LAW?

- Community Reinvestment Act of 1978
- **International Banking Act of 1978** **12 U.S.C. § 1301**
- Garn-St Germain Act 1992
- Money Laundering Control Act of 1986
- Competitive Equality Act of 1987
- Financial Institutions Reform, Recovery & Enforcement Act of 1989
- Federal Deposit Insurance Corporation Improvement Act of 1991
- Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994
- Gramm-Leach-Bliley Act of 1999
- Emergency Economic Stability Act of 2008
- Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010

WHERE TO FIND THE LAW?

Regulations:

- 12 CFR 1-199 Comptroller of the Currency
- 12 CFR 200's (A, B) Federal Reserve System
- 12 CFR 300's FDIC
- **12 CFR 500's** **Office of Thrift Supervision**
- 12 CFR 700's National Credit Union Authority
- 12 CFR 1000's Bureau of Consumer Fin'l Protection

WHERE TO FIND THE LAW?

Federal Reserve:

- Federal Reserve uses letters of the alphabet based on the order in the alphabet – Regulation D is 12 CFR § 204 (4th letter of the alphabet)

CFPB:

- Codified former Fed regulations the same way, except in the 1000's – Regulation E is now 12 CFR § 1005 (5th letter of the alphabet)

WHERE TO FIND THE LAW?

Interpretations, guidelines, bulletins, etc:

- www.occ.treas.gov
- www.federalreserve.gov
- www.fdic.gov
- www.ncua.gov
- www.consumerfinance.gov