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## **Dodd Frank's long-distance paper chase**

By Gillian Tett

A couple of days ago, a senior banker in New York showed me a memo that he had just received from his lawyers about [the so-called Volcker rule](#) for proprietary trading. This stretched to 82 pages on an iPad, replete with dense charts.

And that was merely his summary document; the “full” explanation ran to several hundred more pages. “It’s mad!” he sighed, explaining that this was only one of several memos he had recently received on [Dodd-Frank](#) and Basel rules.

It is hard to disagree with that verdict. Almost two years ago, I wrote a column lamenting that the draft Dodd-Frank bill was some 1,300 pages long. After all, I observed then, almost nobody I knew had actually read those 1,300 pages in full; most people were simply too busy to wade through that paper, even as they prepared – or debated – that bill.

But now I realise that those 1,300 pages were the least of the problems. When the bill was finally passed 15 months ago, it had swelled to 2,600 pages, and since then, lawmakers have decided that they will need to make some 243 new rules to turn that bill into law, and conduct 65 studies. That has necessitated the formation of 100-odd committees, each of which is now spewing out consultation documents, which typically run to several hundred pages.

Those consultation documents, in turn, generate endless private sector legal memos. And the agencies are receiving more “feedback”, too. Officials from the Commodity Futures Trading Commission, for example, say that they have now received no fewer than 25,000 – yes, thousand – comments on the proposed rule reforms; some 15,000 relate to their reforms for [commodity trading limits](#). And the CFTC is only one of the agencies involved in this feedback process. By law, regulatory officials then have to read each and every comment before anything can be done; and those submissions can sometimes stretch – you guessed it – to several hundred pages each. That

1,300 page number, in other words, now multiplies a thousand-fold, if not ten-thousand-fold, across the system as a whole; it makes a collateralised debt obligation look almost simple.

Now, many people might argue that such complexity is inevitable. After all, the events of 2008 made an overwhelming case for financial reform, and many of the aims of Dodd-Frank, such as the move to embrace clearing houses, seem utterly laudable. Moreover, it is clearly a good thing to have democratic debate about these rules. And the hard reality is that in America's rules-based regulatory system, it is impossible to effect legislative change without discussing the details of rules. Paperwork, in other words, is not unique to Dodd-Frank. But I suspect Dodd-Frank has taken this paper chase to a level that has not even been seen in America before, particularly when it is overlaid with the Basel rules. And, as such, it poses at least three interrelated dangers. First, the sheer complexity and opacity of the reform process makes it hard for anyone to forecast with confidence exactly what their net impact will be.

Second, this bewildering process forms rich arbitrage opportunities for canny players. This week, for example, I attended a conference organised by the CME, where the gossip was about how some companies are now moving across borders to dodge rules.

But the third problem is a yawning democratic deficit. One reason why the financial system spun out of control before 2007 was that few non-financiers had any idea how finance worked; 21st century banking had become so complex and opaque, that there was little external oversight, and thus little common sense – and endless opportunity for arbitrage. The bitter irony of the current reform process is that these flaws are reappearing, in a new guise; instead of a world marred by the “CDO cubed”, there is now “complexity cubed”: complex financial products are colliding with complex reform processes run by leaders with complex (or unstated) reform goals. So it is no wonder that public frustration and cynicism about finance is high.

There is, of course, no easy solution to this. Personally I believe that, in an ideal world, it would have made far more sense three years ago to start the reform process by creating a simple global resolution system that could ensure that banks could safely fail – and then introduce measures to reduce the chance of such failures; a greater reliance on simple market discipline, in other words, would have been better than endless bureaucratic rules. But in the real world, it is probably too late to hope for this. Instead, the most practical, real-world question that I am now grappling with as a journalist –

and a concerned citizen – is how can anybody normal make sense of this complexity cubed and then explain whether it has made finance better, or not?

Suggestions can be added below and will work best if they are clear ... and short.