



# Dodd-Frank and Agriculture

Nicole Moran  
Senior Manager

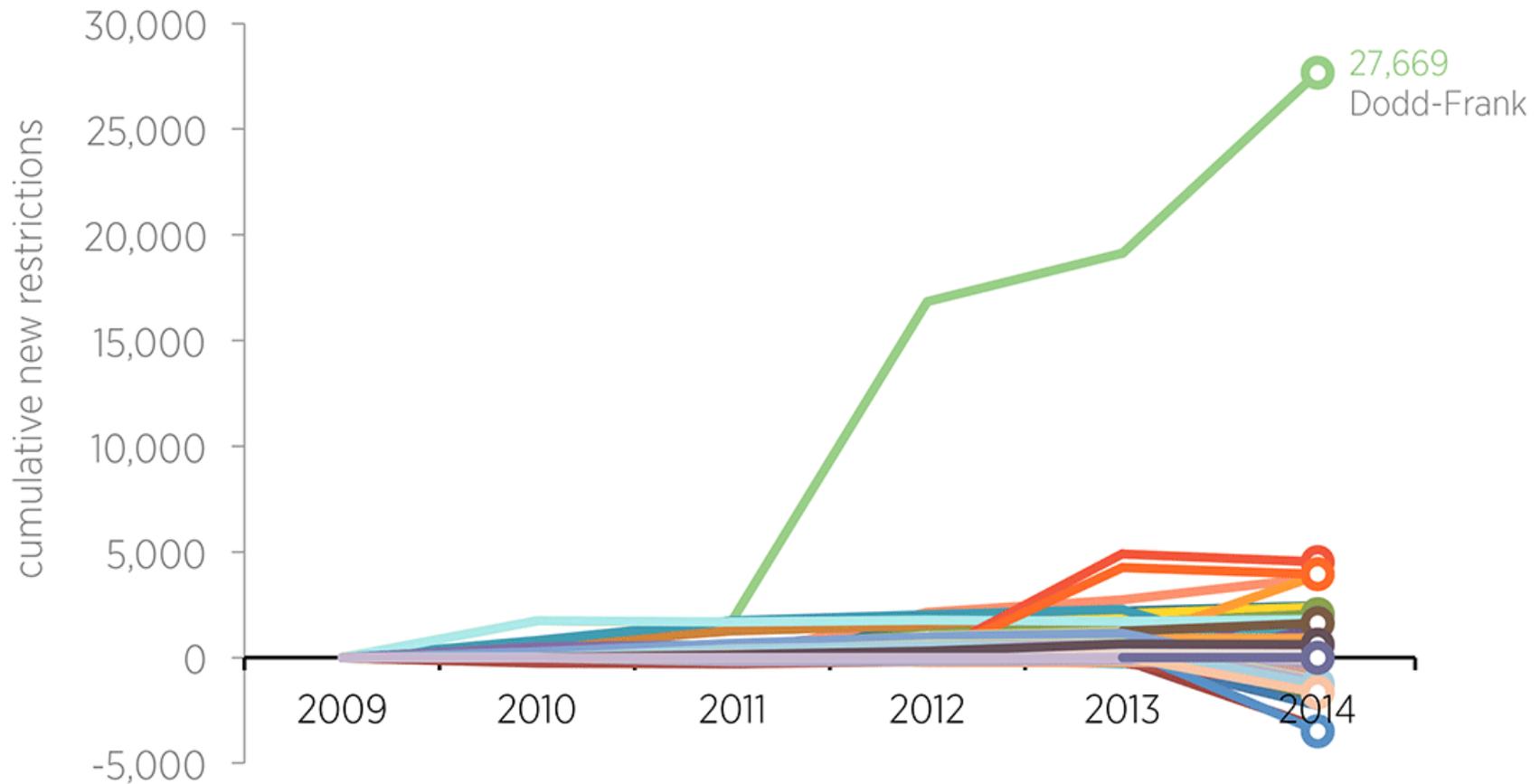
USDA's 94<sup>th</sup> Annual Agriculture Outlook Forum

*The Roots of Prosperity: Rules and Regulations Track*

*February 23, 2018*

# Dodd-Frank Wall Street Reform and Consumer Protection Act, July 21, 2010

New Regulatory Restrictions Associated with Each Law Passed During the Obama Administration



Source: RegData, <http://regdata.org>  
 Produced by Patrick A. McLaughlin and Oliver P. Sherouse, July 17, 2015.

# Dodd-Frank Signed into Law



# Commodity Futures Trading Commission (CFTC)

- The Dodd-Frank Act enhanced the CFTC's regulatory authority to oversee the more than \$400 trillion swaps market. Swaps were not previously regulated.
- Regulate swaps dealers
  - Capital and margin requirements
  - Business conduct
  - Recordkeeping and reporting
- Increase transparency and improve pricing in derivate marketplace
  - Traded on regulated exchanges or swap execution facilities
- Lower risk to American public
  - Central clearinghouses to guarantee transactions

## Statements by CFTC Chairman Giancarlo

“One of the starkest realizations I have come to understand is that many of the everyday working people I met on farms and in factories don’t know and don’t care what Washington does, as long as politicians and bureaucrats ***stay out of their way.*** They are concerned that increasing ill-conceived regulatory burdens on small operations are adding needless costs to their operations, which harm the producer community.”

CFTC Chairman Giancarlo



# Customer Protection Rule

Protection from MF-Global and Peregrine Financial Group's Failures



# Margin Requirements on Trading Accts (Rule 1.22)

## ORIGINAL RULE

- Required margin to be posted earlier by customers (start of the next business day).
  - This required pre-funding margin accounts or setting up lines of credit.
  - Increased hedging costs of trading / risk management by farmers and ranchers.

## REVISED RULE

- Did not change the timing for margin to be posted (remains close of business next business day).
  - CFTC determined costs outweighed benefits.

## Record Keeping (Rule 1.35)

### ORIGINAL RULE

- Required all communications leading to a futures or swap transaction to be recorded, including voice and text messages.
  - System costs thousands of dollars and were cost-prohibitive for small FCM's who work with farmers, ranchers, and small elevators.
  - Recordkeeping system were required to link all communications leading to the execution of a transaction to a particular transaction.

### REVISED RULE

- End-user exchange members that are not registered with the CFTC must only keep transaction records.
  - Text messages are also excluded from the recordkeeping requirement for end-users.
  - No particular recordkeeping system required.

# Number of Futures Commission Merchants Registered with the CFTC



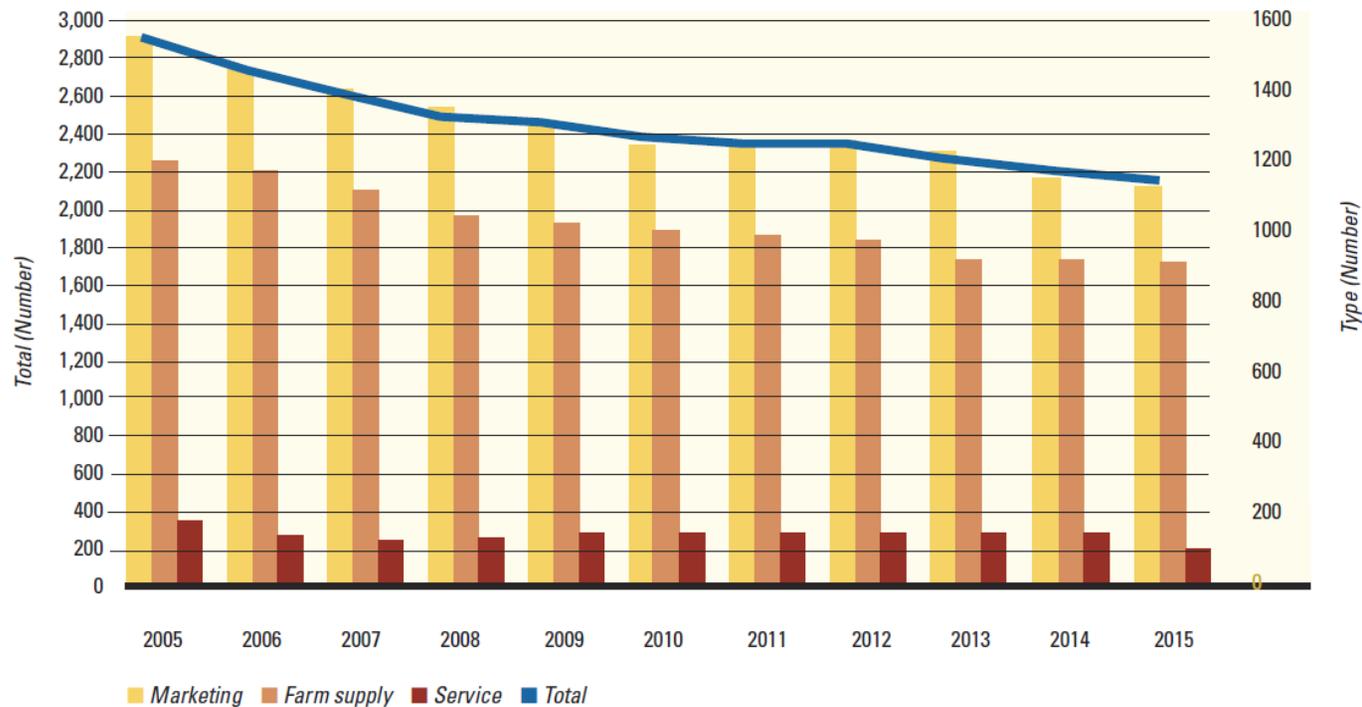
Source: CFTC, *Financial Data for FCMs*, <http://www.cftc.gov/MarketReports/financialfcmdata/index.htm> & CFTC, *Historical Futures Commissioner Merchants Financial Reports*, <http://www.cftc.gov/MarketReports/financialfcmdata/HistoricalFCMReports/index.htm>

**BROOKINGS**

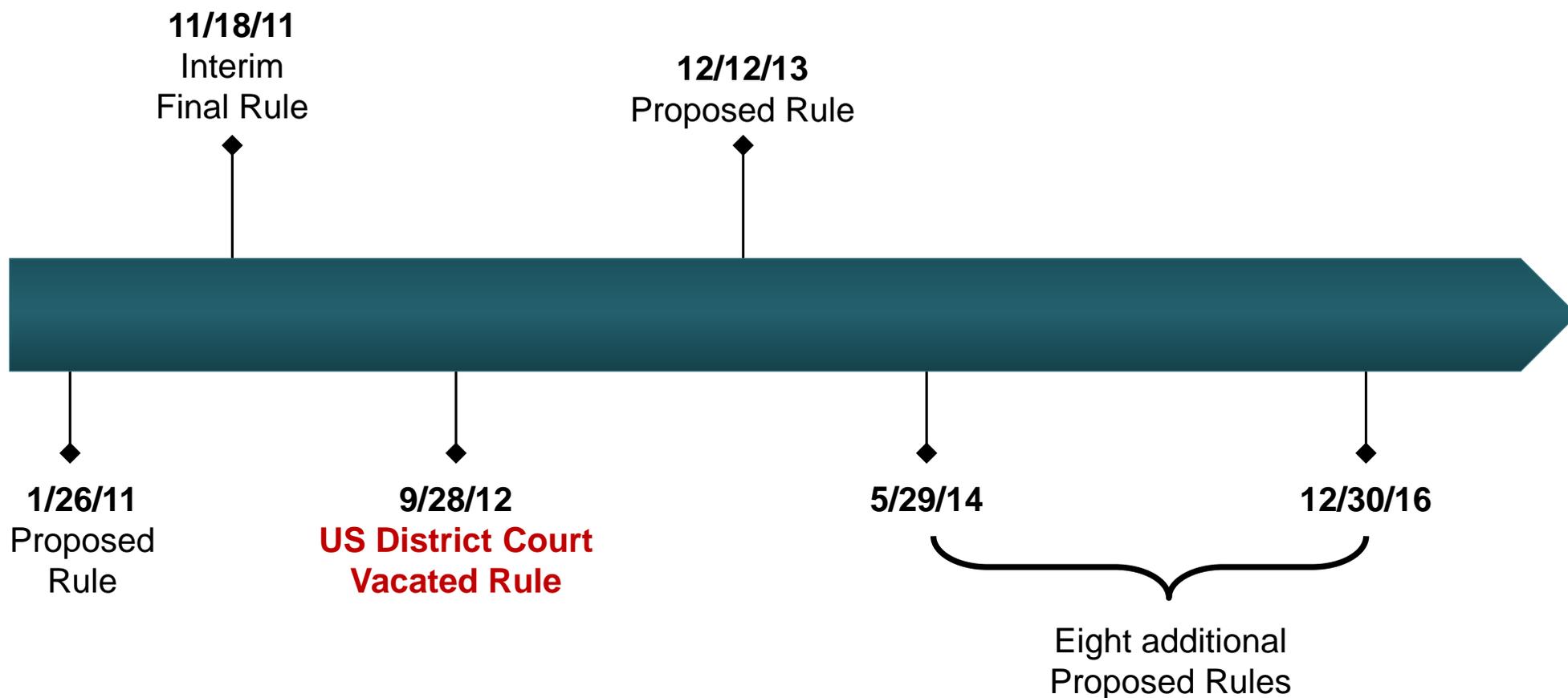
# Cooperatives Exemption

- Cooperatives are exempt from having to clear swaps if members are non-financial entities.
- In order for the swap to be exempt, it must be entered into to hedge risk in connection with a loan to members.

**FIGURE 1**—Number of U.S. ag co-ops, by operating type, 2005–2015



# Position Limit Rule...Turbulent



# Position Limits

- Position Limit Levels
  - All months
  - Single month
  - Spot month – use of deliverable supply
- Bona-fide hedging exemption for end-users
  - Restriction on anticipatory hedges, where the need is known but there is not yet a formal commitment to buy or sell the cash commodity.
  - Reporting requirements for exemptions.
- Aggregation of positions with complex corporate entities
  - All futures positions of separate divisions within the same company may be combined, or “aggregated,” into a single company-wide total.

## Position Limits (2)

- Although position limits are tool used by regulators to control speculation (1936 CEA), there is strong opposition from commercial hedgers.
- If large end users (e.g., grain elevators, meatpackers, dairy processors), are prevented from effectively managing risk, these risks may be passed along to farmers in the form of lower prices for the products they sell and higher prices for the supplies they buy.

“Let us agree on one thing: American farmers had absolutely nothing to do with the Financial Crisis. It would be the height of recklessness to expand the current position limits regime for agricultural products and impose a new flawed position limits ruleset at a time when our farmers are relying on the derivatives markets to manage the price risk of this year’s harvest.”

*CFTC Chairman Giancarlo.*

# CORNERSTONE RESEARCH

ECONOMIC AND FINANCIAL CONSULTING AND EXPERT TESTIMONY

[Boston](#) [Chicago](#) [London](#) [Los Angeles](#) [New York](#) [San Francisco](#) [Silicon Valley](#) [Washington](#)

[www.cornerstone.com](http://www.cornerstone.com)

