

## Don't Forget the Plumbing: Payment, Clearing, and Settlement Companies in the Dodd-Frank and Financial CHOICE Acts

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Large payment, clearing, and settlement (PCS) companies have always been systemically important. Should a large PCS company cease operations, the resulting disruption of retail or securities transactions could easily have severe economic and financial consequences.

Title VIII of Dodd-Frank aims to protect systemically important PCS companies, or Financial Market Utilities (FMUs), by subjecting them to heightened regulation and by giving them access to emergency liquidity at the Federal Reserve. Title VIII was deemed particularly necessary in the wake of Title VII, which mandated the clearing of most over-the-counter (OTC) derivatives.

The CHOICE Act proposes to repeal Title VIII, arguing that both designations and access to emergency liquidity increase moral hazard and, thereby, increase the likelihood that PCS companies will fail.

In this essay, we argue that the government will almost certainly intervene in the case of a failing FMU. Two implications follow. First, both the CHOICE Act and the implementation of Dodd-Frank to date unwisely neglect the need for a resolution plan for PCS companies. Second, permitting emergency liquidity from the Federal Reserve is reasonable. However, to avoid entrenching incumbents and stifling innovation, we recommend giving new PCS firms access to the Federal Reserve System as well, so long as they are subject to commensurate regulation.