RSC Republican Study Committee
Financial Services Working Group
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The Lame Duck Edition

Dodd-Frank – The full analysis

We had to pass it, to find out what was in it…

What really was in Dodd-Frank?

New Taxes – Dodd-Frank originally contained a $20 billion new tax that was slipped in while many Americans were sleeping, to be levied on large financial institutions over the next 5 years to fund the massive new bureaucracies created. After scrutiny they reopened the conference and replaced this tax with a new and improved "lending tax" with a new accounting gimmick allocating accounted for TARP funds and increasing the FDIC reserve ratio to pay for the new government programs.

Bailouts, Bailouts, and more Bailouts – Dodd-Frank makes bailouts permanent by giving bureaucrats the authority to pay off the creditors of failed institutions, and to treat similarly situated creditors differently, perpetuating a system in which government officials pick winners and losers in the market place.

More bailout authority is found in sections 204 and 210. In Section 204 the FDIC is permitted, among others things, to lend to a failing firm, purchase their assets, and guarantee their obligations. In Section 210 the FDIC is authorized to borrow up to 10% of the book value of failed firm's total consolidated assets in the thirty days immediately following its appointment as receiver. After 30 days, it just gets worse.

Wage Controls – Dodd-Frank will make the compensation for every employee of a financial firm subject to rules set by a government overseer. All employees, including bank tellers and clerical staff, will be subject to regulated pay controlled by a federal bureaucrat.

Job Killing Mandates – Dodd-Frank includes a derivatives provision that has the potential to do more lasting harm to the U.S. economy than perhaps anything else in the 2,315 pages of this legislation. It has been estimated that this will redirect as much as $1 trillion from productive activities and require it to be posted as collateral. This will make it more difficult and more expensive for Main Street Companies to use derivates to manage risk. In the end, the requirement drains capital out of the economy that could be used for loans and job creation.

Soviet Style Product and Price Controls – The so-called consumer protection agency actually does more to restrict consumers and their ability to make choices. It is nothing more than a new, cumbersome and costly bureaucracy to review and approve consumer financial products and ration consumer credit. The bureau will also have unprecedented, and virtually unchecked, authority to restrict product choices for consumers, while imposing fees and other assessments on providers of financial products. Instead of "protecting consumers" these provisions apply unnecessary new regulations and restrictions on both consumers and businesses that will place increased burdens on the economy and limit the ability to grow and create jobs.

Where does Dodd-Frank fail?

- Fails to reform Fannie Mae and Freddie Mac, the root cause of the housing meltdown and financial crisis
- Fails to stop the Democrats taxpayer-funded permanent bailouts for their Wall Street allies
- Fails to empower businesses small and large to create jobs and spur economic growth
- Fails to demand accountability from failed federal regulators and bureaucrats

Our Solution for the 112th

In the 112th Congress we should have an opportunity to make some much needed reform to the Dodd-Frank legislation. Any legislation we pass must focus on 3 main principles:

- **No More Bailouts –** We must ensure taxpayers are never again asked to pick up the tab for bad bets on Wall Street while some creditors and counterparties of failed firms are made whole
- **Ending the Government's Practice of Picking Winners and Losers** – Insolvent firms will be permitted to fail rather than become wards of the state
- **Restore Market Discipline –** Financial firms must understand there will be consequences for imprudent business decisions.

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*Dodd-Frank analysis provided by Financial Services Committee, Minority Staff

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THE WALL STREET JOURNAL

The Fed's Bailout Files

Which banks were too big to fail? All of them.

Lender of last resort indeed. The Federal Reserve pulled back the curtain yesterday on its emergency lending during the financial panic of 2008 and 2009, and the game to play at home with the kids is: Who didn't get a bailout?

If you can find a big financial player who declined the Fed's cash, you're doing better than we did yesterday afternoon.

The documents aren't another WikiLeaks dump but are due to Vermont Senator Bernie Sanders, who insisted that the Dodd-Frank financial bill require more transparency about how the Fed allocated capital during the panic. The release of this data on some 21,000 Fed transactions over the last three years is one of the rare useful provisions in Dodd-Frank, but kudos to our favorite Socialist for demanding it.

We learn, for example, that the cream of Wall Street received even more multibillion-dollar assistance than previously advertised by either the banks or the Fed. Goldman Sachs used the Primary Dealer Credit Facility 85 times to the tune of nearly $600 billion. Even in Washington, that's still a lot of money. Morgan Stanley used the same overnight lending program 212 times from March 2008 to March 2009. This news makes it impossible to argue that either bank would have survived the storm without the Fed's cash.

The same goes for General Electric, which from late October to late November 2008 tapped the Fed's Commercial Paper Funding Facility 12 times for more than $15 billion. Thanks to the FDIC's debt-guarantee program, GE also sold $60 billion of government-guaranteed debt (with a balance left of $55 billion). The company finished a close second to Citigroup as the heaviest user of that program from November 2008 to July 2009. GE is lucky it was too big to fail, or it might have failed as smaller business lender CIT did.

The blogosphere was hurling pitchforks yesterday because some foreign banks also took the Fed's money, including such prominent names as UBS, Barclays and BNP Paribas, and even names like Dexia and Natixis that most Americans might confuse with pharmaceuticals marketed on TV. But this was inevitable given the interconnectedness of the global financial system, and the fact that these foreign banks had U.S. subsidiaries. The Fed could not have quelled the panic by offering only U.S. banks access to these loan facilities.

Fed officials were crowing yesterday that it hasn't lost a dime so far on this lending, which reached $3.3 trillion at its peak. The Fed could still lose money on some of the assets it guaranteed from the likes of Bear Stearns, or from the low quality mortgage-backed securities it also bought during the crisis and is still holding. But considering the magnitude of the intervention, taxpayers can consider themselves lucky to have escaped unharmed so far.

While it's interesting to see a fuller picture of how the Fed intervened in the panic, what the documents don't tell us is why. Yes, we know, to stop "systemic risk." But that still doesn't explain specific acts of intervention that may well have exacerbated the panic.

For example, why did then New York Fed President Timothy Geithner and Fed Chairman Ben Bernanke believe in March 2008 that an also-ran investment bank, Bear Stearns, was a systemic risk?

Why did Messrs. Geithner and Bernanke insist on bailing out AIG, despite apparent resistance within the Fed? The central bank still refuses to release a memo to Mr. Bernanke from the Fed staff, which Senator Jim Bunning has said made the case that an AIG bankruptcy was not a systemic risk. The Fed and other regulators have continued to stonewall document requests on these cases.

Our guess is that this is in part because Messrs. Geithner and Bernanke believe that systemic risk is whatever they say it is, and that they know it when they see it. If Mr. Sanders and other lawmakers are interested in shining more light on the Fed, they might pursue those documents—especially since the Financial Crisis Inquiry Commission seems uninterested and may well be a colossal bust.

The authors of Dodd-Frank claim that their bill ends this bailout discretion, but that's not how we or the regulators read it. One task for the new House Republican majority is to explore how to tighten the too-big-to-fail criteria. If there is one overwhelming lesson of the Fed's bailout files, it should be that we never want to do this again.

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