

Banking Opening Statement – Financial Regulatory Reform Mark-Up

I appreciate the opportunity to offer comments on Chairman Dodd's 1,336 page bill aimed at reforming our nation's financial system.

Fixing our country's regulatory structure is an end goal that I am quite confident most everyone on this committee shares.

We all want to end "too big to fail." No firm should ever be allowed to operate with the assumption that the government will bail them out when in trouble because they are so large.

We all want to better monitor systemic risk. If a business is so interconnected as to possess the ability to bring down our entire financial industry, regulators need to closely monitor it, sufficiently proscribe capital and leverage standards, and properly understand all areas of a business.

We all want to develop a resolution regime that will protect taxpayers if another economic crisis arises. Taxpayers must never be on the hook again for poor business decisions.

We all want to enhance consumer protections. An element that precipitated this last crisis was the housing market – too many people were lured into homes they couldn't afford. We can't ignore this fact.

We all want more transparency in the derivatives market. AIG personified the problems in the Over-the-Counter marketplace.

Counterparty information must be available to the regulators so that they are able to better monitor the system.

We are still far from agreement on how to best achieve these goals, and unfortunately, the bill before us does not get us there.

There are too many holes, too many extraneous provisions, too many questions for the economy if this bill was to become law.

I would like to briefly discuss some of my main concerns.

1. The bill does NOT end too big to fail and I respectfully disagree with the Chairman's assertion that it does.
 - The resolution regime leaves too much discretion to the regulators.
 - If last fall taught us anything, it is that in a moment of crisis, the government will bail out a company with taxpayer money.
 - The current draft gives receivership power to the FDIC, but the language says the FDIC may liquidate a failing firm. There should be no MAY about it. If you are placed in resolution, you are done. You will be liquidated, and your shareholders will not be shielded with taxpayer dollars. Period.
 - There is no time period for resolving a failed firm. This is a mistake. We have to give the market certainty that the resolution process will be as swift a process as possible. An open ended time period provides a failed firm with time they don't deserve.

- Predesignating which firms will have to pay into the resolution pre-fund only sends a signal to the market which firms are “too big to fail.”

2. The bill focuses much energy on things that are unrelated to the crisis, but fails to even mention critical areas such as Fannie Mae and Freddie Mac and underwriting standards.

- Several contributing causes of the last crisis are left untouched.
- Instead, the bill has an entire section on how to transform typically state corporate governance laws into a federal regime.
- That section alone deserves additional hearings and analysis; unfortunately, it is thrown into the thousand-plus page mix.
- The bill should focus on the key elements – streamline the most important pieces and delete the grab bag of unrelated items.

3. The consumer protection piece of the bill is the wrong approach. By failing to take into consideration safety and soundness considerations, we will have substituted one imbalance (inadequate consumer protections) with another (sub-standard safety and soundness considerations). I do think we need to elevate consumer protections; however, in doing so, we cannot compromise safety and soundness.

4. Going into a mark up with the understanding that over 200 pages are simply a placeholder is irresponsible. I am glad that Senators Reed and Gregg continue to make progress on a

bipartisan derivatives title, but why in the world wouldn't we wait for them to finish their work instead of charging ahead with an artificial mark-up deadline?

- The derivatives title as it stands is unworkable. Such rigid rules will have significant and unnecessary economic costs at a time when our businesses can least afford them.
- I believe that we need to have an exemption for end users. And to those who say this is a loophole, I disagree. Those who use derivatives to manage their risk are not the speculators gambling for profit. End users do not create systemic risk – therefore this provision fails to advance the often cited goal of this legislation to address systemic risk.
- There must be recognition that the benefits provided through the use of derivatives as important risk management tools in the form of increased stability and reduced volatility for these companies, their employees, their shareholders and the economy at large.
- We also need a grandfathering provision for existing derivatives. I am fully supportive of a reporting mandate for all contracts, but to try to open up all of these contracts and impose new burdens and capital mandates will be incredibly burdensome and quite possibly unconstitutional.

5. The community banks in my state didn't cause this last crisis. They operated in a way that for the most part demonstrated conservative lending values and practical business decisions. So why then would we limit their charter choice by removing the Federal Reserve as one of their regulators? A supervisory agency that focuses only on the largest banking institutions, without knowledge of community banks, would have a limited

and potentially distorted picture of what is happening in our banking system as a whole. I think it is a mistake to focus only on Wall Street at the expense of Main Street.

- I am hopeful the final draft will contain my amendment that reinstates the Federal Reserve's supervision over state banks.

There is no question that Washington is the most partisan it has been in quite some time. With the passage of the health care bill last night, tensions are running high. However, it is my hope that the Banking Committee will be able to rise above these partisan divides and work TOGETHER on a comprehensive bill.