

Opening Statement of Senator Evan Bayh
Senate Banking Committee
Executive Session on the “Restoring American Financial Stability Act”
November 19, 2009

Good morning. Before I begin, I would like to commend the Chairman for his continued attention and leadership on this monumental undertaking. Producing legislation on this scale is no easy assignment, so I thank you, and your staff, for the work and devotion put in to this effort so far. I look forward to what I trust will be a collaborative and cooperative dialogue as we move the reform package through Committee and onto the floor of the United States Senate.

My colleagues before me have all stressed the need to act, and the need to act wisely on behalf of consumer and the market---for both Wall Street and Main Street. Some have even addressed certain provisions of the bill and made excellent points. I am still digesting the magnitude and implications of the comprehensive legislation, and will reserve comment on any specific portion of the bill. Therefore, my remarks will be brief. However, I believe it is important to stress a few overarching priorities, that will serve as my foundation as the Committee navigates this critical and challenging terrain.

First and foremost, our reform efforts need to address the fundamental vulnerabilities in our markets and regulatory system. We cannot tolerate repetition of what occurred a year ago, nor can we afford to NOT learn the right lessons from this crisis. To those of you who are comfortable with the status quo, and would rather impede, than support efforts to reform our financial regulatory system---I say to you “We can’t NOT react.” That being said, I believe it is our duty to respond in a way that does not inhibit future growth and innovation--- We cannot overreact, either. As with most things, there is a healthy balance to be struck.

We have seen that markets without supervision move to excess and the relentless drive and motivation for profits can jeopardize the entire system. As a result, some may believe that more regulation is the cure to this problem. But sometimes “more” is just “more.” We need to be mindful and modest about Government’s ability to regulate efficiently and avoid overreaching. I am not advocating for “no regulation,” but rather efficient regulation that maximizes growth, while protecting taxpayers.

Last year, the American people watched as our government gave away their taxpayer dollars to institutions deemed “Too Big To Fail.” Frankly, that term needs to be removed from our lexicon and I plan on working to ensure that this regulatory reform legislation achieves that. There needs to be strict oversight of those specified institutions. If they cannot, or will not, abide by new stringent requirements, OR they begin to reach the point where their viability is intertwined with our market stability, our regulators need to break them up. That is not to imply that being a large institution is inherently unsound. I believe there is a place in our economy for dynamic institutions, and some would argue that scale is necessary to be able to compete in a global

economy. Ultimately, I would prefer that our regulators be vigilant overseers to prevent us from repeating our last crisis, rather than prematurely cap the size of a functioning organization. I am sure this will be one, of many, debates we will have as a part of enacting comprehensive regulatory modernization, and I look forward to developing a workable solution for the safety of our market and in the interest of the American taxpayer.

Lastly, I would like to stress the need for international coordination and harmonization of our regulatory schemes. Following the G20 summit, I chaired a subcommittee hearing on the international aspects of our reform effort. As I said then, any reform or rules we enact here, at some level should be matched or harmonized abroad to ensure capital does not gravitate to the lowest common denominator. Moving forward, we cannot permit a global “gaming of the system” any more than we can tolerate our American companies and financial institutions suffering from a competitive disadvantage with their counterparts abroad. That is why it may make sense for the new Systemic Risk Agency and Director to be tasked with monitoring these critical international regulatory developments and advising the Congress on the impact those developments might have on our markets and the effectiveness of our regulatory standards. This issue is critical to our global economic recovery and future success, and I, personally, plan to remain attentive in ensuring cohesive regulatory reform on a global scale.

Let me close by revisiting some of the sentiments I made as Congress passed the Emergency Economic Stabilization Act. Over a year ago, I said *“I’m not a cynic, but I am a skeptic about the way Washington can work in times like these. Congress will act in a moment of crisis, but once it has abated, the sense of urgency will dissipate. The forces of reform will not have the energy that they have today. All the interests will circle this place like hungry birds looking at carrion in order to prevent us from taking the steps that are necessary. We must not let that happen.”*

As we move forward through this process, we must maintain the sense of urgency for action, but we also need to maintain good judgment to know if, or when, we go too far. The issues addressed in the “Restoring American Financial Stability Act” are both complex and imperative. But I trust that the Chairman and my colleagues here on the Committee are willing to put in the work to enact meaningful reform for the long term. Our responsibility here is, without question, difficult, but profoundly necessary.

Mr. Chairman, I look forward to our upcoming consideration of this legislation, and engaging on these important issues. Thank You.