AMERICAN BANKER

BankThink No, the Senate reg relief bill isn't destroying Dodd-Frank

By
Rob Blackwell

Published
January 17 2018, 7:00am EST

It's time to panic.

That was the reaction Tuesday from some after The New York Times splashed an article about efforts to ease the Dodd-Frank Act on its front page. The article used mostly measured terms, but said the Senate regulatory relief bill "would roll back restrictions on swaths of the finance industry" and help "hundreds of smaller banks to avoid certain elements of federal oversight."

That was all it took to provoke condemnation from many progressives on social media, who alternately decried President Trump and Republicans for destroying bank safeguards and blamed the moderate Democrats who are supporting the Senate bill.

Emily Timm
@timm_emily

Why are @TheDemocrats supporting this? The LAST thing we need is another financial meltdown. Capitalism and Corporations aren't ethical. @SenWarren Aren't you our main proponent of consumer protections? #Confused #DoddFrank #TuesdayThoughts nytimes.com/2018/01/15/us/…

9:12 AM - Jan 16, 2018

2 See Emily Timm's other Tweets

puffin98
@puffin98

Let's remember why we have Dodd Frank... to protect consumers and stabilize the financial institutions. Undoing it means bamks could take excessive risks and we could have a repeat of Lehman Bros in 2008. Reafy to loose all your savings again? twitter.com/arappeport/sta...

8:24 AM - Jan 16, 2018

See puffin98's other Tweets

Many said lawmakers are trying to "gut" Dodd-Frank and help "Wall Street" banks. The most common refrain, however, was that banks large and small would be free to return to the bad old days before the financial crisis hit.

The problem with this narrative is that it's demonstrably false.

While the Senate regulatory relief bill would represent the most significant change to the Dodd-Frank Act, assuming it is ultimately passed into law, it hardly "guts" it. For starters, it doesn't help the biggest banks in any significant way. They continue to face the same higher capital requirements, the Federal Reserve's stress tests and all the other changes that occurred in the wake of Dodd-Frank. If the concern is what would happen if Wells Fargo or Citigroup were to fail, this bill doesn't make any changes to them.

The banks that would benefit the most are regional institutions with between $50 billion and $250 billion of assets. A year and a half after the bill is enacted, all banks in that category would no longer be considered systemically risky, and thus free of certain higher standards the Fed has imposed, including tougher capital standards and government-run stress tests. But that doesn't automatically make the system riskier — and the Fed would keep the power to reapply enhanced standards to banks with assets of more than $100 billion.

This is a far cry from helping "Wall Street" or "hundreds of" banks. There are less than 30 with assets between $50 billion and $250 billion — and few if any of them are considered Wall Street banks. Moreover, those banks would still have to conduct their own internal stress tests, and could theoretically still be subject to the Fed's Comprehensive Capital Analysis and Review test if the central bank feels it's necessary.

It's also notable that the whole push to raise the systemic threshold is widely supported on both sides of the aisle. Indeed, Democratically appointed regulators like Fed Chair Janet Yellen and former Fed Gov. Daniel Tarullo, the key architect of the Fed's post-crisis regulatory regime, have said they would accept a higher level.

Even former Rep. Barney Frank, a co-author of the Dodd-Frank Act, has previously called for raising the limit to $125 billion. Asked recently what he thought about the $250 billion level, he said it was probably too high, but "not an outrageous breach."

The vast majority of the Senate regulatory relief bill, meanwhile, is designed to help institutions well below $50 billion of assets. Institutions with $10 billion or less of assets would face simpler capital requirements, escape the Volcker Rule's ban on proprietary trading — an activity community banks rarely engaged in anyway — and have an easier time making "qualified mortgages" if they hold those loans in portfolio.

All told, the Senate bill is mostly changing Dodd-Frank around the margins — not gutting, repealing or upending it, as many apparently now believe.

To be sure, this is not the case with the House version of regulatory reform. The House Financial Choice Act proposes changes to virtually every part of the financial system, including allowing large and small banks to escape many Dodd-Frank regulations in return for holding higher capital. Unlike the Senate relief bill, which doesn't touch the Consumer Financial Protection Bureau, the Choice Act would strip the consumer agency of its ability to enforce laws and put it under congressional appropriations. It is a sweeping measure meant to significantly overhaul Dodd-Frank.

Love or hate that bill, however, the House legislation is highly unlikely to become law. That's mostly due to the Senate Democrats that many progressives — and even a New York Times reporter — were criticizing on social media.

Chairman Mike Crapo needed to win at least nine Democratic votes to pass his regulatory relief bill through the Senate Banking Committee. As a result, he crafted a compromise — one that falls far short of the broad changes envisioned in the House bill but probably wins him enough support when the bill comes to the floor in coming weeks. While the House may seek to make changes to the bill after it clears the Senate, it will be hard to make significant alterations without risking losing Democratic support.

That doesn't mean there is no dissent. Progressive lawmakers like Sens. Elizabeth Warren, D-Mass., and Sherrod Brown, D-Ohio, argue the bill still goes too far. As a political tactic, this approach makes sense, as those on the left have long worked to ensure that Dodd-Frank stays as intact as possible.

But the reality is that the Senate compromise bill doesn't go nearly as far as many banks — certainly any on Wall Street — would like.

By portraying fairly modest changes to Dodd-Frank as if the law is being eviscerated, progressives run the risk of hurting their own credibility during the next fight over the law. And make no mistake, there will be more — and higher stakes — debates.

What happens when a bill gains momentum that would actually ease restrictions on big banks or significantly weaken mortgage underwriting standards? If the reg relief bill already allegedly gutted Dodd-Frank, how can the law still be under threat? By sounding the alarm now, those on the left risk wearing their base out when it matters least.

For progressives and other defenders of Dodd-Frank, it may not be productive to panic quite yet.

Rob Blackwell

Rob Blackwell is the editor-in-chief of American Banker.