Financial Crisis Inquiry Commission

In May 2009 Congress passed and President Obama signed the Fraud Enforcement and Recovery Act (FERA). Among other things, the Act established a Financial Crisis Inquiry Commission (FCIC) and charged it with "examin[ing] the causes, domestic and global, of the current financial and economic crisis in the United States." The law instructs the Commission to investigate the role of 22 specified factors in precipitating the crisis and look into the collapse of each major financial firm that failed or would have failed without extraordinary government assistance between August 2007 and April 2009. The Commission received broad subpoena power, an open-ended mandate to gather information from government agencies and private entities and the authority to refer cases for federal or state prosecution.

The Commission consists of six members appointed by Democratic congressional leaders and four members appointed by their Republican counterparts. Former California state treasurer Phil Angelides serves as chairman of the FCIC; former House Ways and Means Committee chairman Bill Thomas (R-CA) was named vice chairman. In September 2009, the Commission selected Thomas Greene, a career prosecutor in the California Attorney General's office, as its executive director.

The Commission held its first public meeting on September 17. At that session, Chairman Angelides and other members presented prepared statements about the FCIC's objectives. In addition, the panel announced its intention to send document retention letters to financial firms and government agencies by the end of October. Interviews with agency officials and financial executives will begin in November and the Commission reportedly plans to launch public hearings by the end of 2009. Under FERA, the panel is required to report its findings in December 2010.

Many observers have drawn comparisons between the Commission and the Stock Exchange Practices hearings conducted by the Senate Banking Committee between 1932 and 1934. Popularly known as the Pecora Hearings, after the Committee's special counsel Ferdinand Pecora, this investigation looked into financial industry practices that helped trigger the Great Depression and provided a documentary record, a clear narrative and a forum for public education that were critical to building the framework of financial regulation and supervision that emerged from the New Deal.

Due to the gravity of its subject matter and the broad scope of its inquiry the FCIC has commanded substantial attention from the media and portions of the public. For example, external groups have petitioned the Commission to use its authority aggressively, sought out citizen complaints for the panel to investigate and unveiled plans to monitor the FCIC's ongoing work.

Unsurprisingly, financial firms have also demonstrated a keen interest in the Commission's plans. In a perceptive report about the FCIC's early activities, attorneys from Gibson, Dunn & Crutcher noted that the panel's inquiry "likely will produce embarrassing fact patterns, even for institutions that consider themselves best-in-class." According to Gibson Dunn – a firm that has long maintained a large financial industry clientele and strong ties to the Republican Party – "revelations about the interactions of those responsible for corporate governance with those responsible for risk management may be particularly damaging for some institutions."

As the Commission embarks on its investigation, SAFER intends to weigh in with additional information, analysis and commentary on the inquiry. Please check this page for updates.

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