August 10, 2010

U.S. Financial Reform: The End of the Beginning, or Simply the End?

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On July 21, 2010, President Obama signed into law the long awaited “Dodd-Frank Wall Street Reform and Consumer Protection Act”. Press reports widely anointed it “the most sweeping financial reform since the Great Depression” and President Obama echoed that view, claiming that, among many other virtues, the law would bring about the end of tax-payer bailouts of “too big to fail” (TBTF) banks.

Yet, not everyone is convinced. Matt Taibbi was typically scathing: “… it was…ultimately a cop-out, a Band-Aid on a severed artery. If it marks the end of anything at all, it represents the end of the best opportunity we had to do something real about the criminal hijacking of America’s financial services industry…See you at the next financial crisis.”

An email message from a colleague summed this up succinctly: “News of the … bill was released; bank stocks rose – enough said.”

Still, something of value did happen in the protracted fight over financial reform. Robert Johnson of the Roosevelt Institute captured the spirit: “What is heartening is to see how so many people and organizations … have contributed the energy to learn and engage and push relentlessly for reforms against the monied odds… This is the first act of a many act play (emphasis added).” These included groups like the Americans For Financial Reform, a coalition of 250 labor, community and consumer groups, SAFER, a group of economists and other analysts, Demos, a progressive “thinktank”, Bankster USA, a media, and Roosevelt Institute, among others.

Nation columnist, William Greider, got it right: “Think of this as Round One. …Instead of congratulating Democrats for enacting timid measures, we should show them what we have in mind for Round Two.” He says to put forward the good ideas that were developed during the reform fight but were blocked, defeated or, “swiss cheesed to death”. These included the Brown-Kaufman “end TBTF” legislation to limit bank size and place a hard cap on bank leverage; the Mendez amendment that would force off-balance-sheet assets and liabilities back out into the light to try to avoid the situation where, for example, Lehman’s balance sheet looked great the quarter before it went
belly-up; a ban proposed by Senator Dorgan on “naked” credit default swaps to reduce the kind of massive gambling that helped to tank AIG; and there were others. I

In addition, Round Two should strengthen positive measures that did make it through, such as “The Consumer Financial Protection Bureau” that can reduce significant consumer financial abuse if a strong leader like Elizabeth Warren, is named to head it; the battered new regulatory framework that is supposed to bring the multi-trillion dollar derivatives market controlled by five major banks under control; the weakened “Volcker Rule” originally designed to eliminate trading by banks for their own accounts with tax-payer-supported money (deposits and bank access to Federal Reserve liquidity support) and to restrict banks’ investments in the gambling casinos of hedge funds and private equity firms; Senator Al Franken’s proposed legislation to eliminate conflicts of interest, increase oversight and rein in the credit rating agencies, which might not be implemented if the regulators can find a “better” alternative.

This exposes the round two rub in a nutshell: the Act deliberately left most of the details of the key reforms up in the air, to be decided by rule makings and studies during round two in over 10 different domestic agencies and in overseas bodies like the Basel Committee on Banking reform. Indeed, the Act calls for 243 rulemakings and 67 studies to be held over several years, with the final rules being in phased in over as many as 12 years.

How all this turns out depends on the balance of forces in this fight. And so far, things do not look great. While the financial lobby is strong and organized nationally and internationally, key progressive forces that fought for reform, including the crucial Americans For Financial Reform (AFR), has lost most of its funding and at best, has now splintered into multiple smaller and under-funded groups pushing for reform. It is important to remember that within the framework of the law itself there is currently the potential authority for breaking up the banks, outlawing dangerous derivatives, controlling dangerous compensation schemes, and ending tax payer bailouts. But if the bankers and their allies win, there is also the real possibility of just hitting the restart button and going back to the bad old days.

To prevent this, the Americans for Financial Reform, SAFER, and other groups need economists and other specialists to get involved in the analytical/educational fight. If you want to and are able to help, please contact: Wendi Wallace, Americans for Financial Reform, 202-263-4571.