US House passes pro-Wall Street banking bill

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The US House of Representatives on Friday passed a bill, backed by the Obama administration, to revise government regulations covering banks and financial firms. The bill has been widely reported in the media as the most sweeping reform of bank regulations since the New Deal measures passed in the wake of the stock market crash of 1929. It is being cast as a rebuke to Wall Street for its role in precipitating the financial crash and recession, and a major tightening of government oversight of the banks.

In his weekly address on Saturday, President Barack Obama hailed passage of the House measure as a major step in restoring "free and fair markets in which recklessness and greed are thwarted." He used the bill's passage to strike a populist pose, decrying the "irresponsibility of large financial institutions on Wall Street that gambled on risky loans and complex financial products, seeking short-term profits and big bonuses with little regard for long-term consequences."

At the same time, he made a point of allocating blame for the economic crisis on the American people as a whole, chastising "millions of Americans" who "borrowed beyond their means, bought homes they couldn't afford, and assumed that housing prices would always rise and the day of reckoning would never come."

Despite having pointed to pervasive fraud and corruption on Wall Street, Obama made clear that his "reforms" would not bar financial speculation, but only ensure that "the kind of risky dealings that sparked the crisis would be fully disclosed and properly regulated."

As part of the Democrats' public relations effort to placate popular anger against Wall Street, Speaker of the House Nancy Pelosi said, "We are sending a clear message to Wall Street. The party is over. Never again."

Pelosi to the contrary, Wall Street's "party" continues unabated, notwithstanding the social devastation its profiteering has inflicted on the American and international working class. There can be little doubt that Obama and the House Democrats were determined to pass a bank regulation bill in advance of the announcement of year-end bonuses on Wall Street, which are likely to surpass $28 billion and, at least for some of the biggest banks, set new records.

The Democrats' claims for the administration's financial regulatory overhaul are fraudulent. The measure passed by the House does nothing to reverse the deregulation of banking carried out over the past three decades—which has dismantled the restrictions imposed in the 1930s—or introduce serious structural reforms to limit, let alone ban, the speculative practices that have become increasingly critical to the accumulation of profit and personal wealth by the American ruling class.

Obama and the congressional Democrats have rejected capping executive pay or reining in credit default swaps, collateralized debt obligations, structured investment vehicles and other exotic forms of speculation that played a major role in the financial crash.

Far from limiting the size and power of the big banks, they have used the crisis to encourage a further consolidation of the banking system. As a result of the disappearance of Bear Stearns, Lehman Brothers, Merrill Lynch, Wachovia and Washington Mutual—to name just the biggest bank failures—the four largest US banks today account for 70 percent of the country's bank assets, as compared to less than 50 percent at the end of 2000. The process of consolidation will accelerate under Obama's regulatory scheme.

Its most important innovation is the establishment of a "resolution" process giving the Treasury and the Federal Reserve Board unilateral authority, without congressional approval, to seize large bank and non-bank financial institutions before they fail. The cost of such rescue operations is to be borne in the first instance by taxpayers, with major banks subsequently to be charged fees totaling $150 billion. Even if the banks were forced to pay these fees, the payments could be stretched out over years.

The "resolution" provision amounts to the institutionalization of government bailouts of the banking system, as opposed to the ad hoc methods that were employed after the financial meltdown of 2008.

One provision of the bill, which has garnered little comment either by its official proponents or the media, would give the Federal Deposit Insurance Corporation (FDIC), with the consent of the treasury secretary and the Federal Reserve Board, the power to "extend credit or guarantee obligations … to prevent financial instability during times of severe economic distress."

The House bill passed by a vote of 223 to 202, with 37 Democrats joining all of the Republicans in voting "no." For the measure to become law, it must also be passed by the Senate. That chamber is currently considering its own version of a regulatory overhaul, and is not expected to vote on a bill until some time next year.

Indicative of the social interests that determined the substance of the House bill was the body's vote to reject an amendment which would have allowed bankruptcy judges to reduce the mortgage principals of homeowners facing foreclosure. More than 70 Democrats joined with the Republicans to kill the amendment, which has been fiercely opposed by the banking and mortgage lobbies. Obama has tacitly dropped his previous support for this revision of the bankruptcy laws, in deference to the banks.

In another open sop to the banks, the House bill significantly weakens the 2002 Sarbanes-Oxley Act, which was passed in the aftermath of the Enron and WorldCom scandals. Sarbanes-Oxley empowers the Securities and Exchange Commission (SEC) to conduct audits of the internal controls of publicly traded companies in order to detect the type of accounting and business fraud that contributed to the collapse of Enron, WorldCom and other corporations at the beginning of the decade.

The House bill contains a provision exempting companies with less than $75 million in publicly traded shares from such audits, a step that is seen on Wall Street as the precursor to similar exemptions for large corporations. The *Wall Street Journal* on Saturday hailed this provision in an editorial entitled “Sarbox Routed in House,” in which it urged the SEC to “consider relief for larger firms.”

Aside from the “resolution” authority provision, the House bill establishes a council of regulators, led by the Federal Reserve, to oversee major financial institutions. It requires so-called “too big to fail” institutions to increase their capital reserves as a hedge against future crises.

The much touted Consumer Financial Protection Agency to be established under the bill has been watered down to the point of near irrelevance. At the behest of the banks, the author of the bill, House Financial Services Committee Chairman Barney Frank (Democrat of Massachusetts), incorporated provisions exempting 98 percent of US banks from the agency’s oversight, as well as auto dealerships and retailers. He also included a provision giving the federal government the power to override more stringent state consumer protection laws.

Another major provision ostensibly brings the derivatives market under federal regulation. This currently unregulated market in credit default swaps and similar murky deals between banks, hedge funds and other corporations—estimated to total nearly $600 trillion—played a major role in the collapse of the insurance giant American International Group (AIG), which, in turn, nearly toppled the global financial system.

However, the House bill contains exemptions and caveats that, in practice, allow the major players in the derivatives market to continue to function without serious government oversight. The bill exempts so-called “customized” derivatives—among the most lucrative of such contracts—from oversight by federal regulators. Virtually all non-financial firms that employ derivatives are exempted. So-called “standard” derivatives are to be traded on privately owned and controlled clearing houses with close ties to Wall Street banks. The actual powers of federal agencies over the clearinghouses are tightly circumscribed.

The bill does not change the basic functioning of credit rating firms, which played a key role in the financial meltdown by awarding top ratings to mortgage-backed securities that were based on unviable sub-prime loans. These companies will continue to be paid, as before, by the very banks and financial firms whose securities they rate.

On executive pay, the bill includes a toothless provision for bank shareholders to cast an advisory vote on the compensation packages awarded to bank officials.

The legislative process that produced the House bill is a mockery of democracy. The banking industry has spent over $330 million to lobby House and Senate members on the regulatory scheme. Lobbyists have been hard at work for months wining and dining key legislators, whose elections were funded by millions in campaign contributions from the banks, insurance companies, hedge funds, etc.

Wall Street lawyers have helped draft the details of the House bill in closed-door meetings, while Obama and his top economic advisers have conferred repeatedly with the CEOs of the most powerful firms.

The character of the bill can be gleaned from the fact that both Treasury Secretary Timothy Geithner and Lawrence Summers, the director of the White House’s National Economic Council, were intimately involved in the deregulation of the banks that preceded the financial crash. Geithner was president of the Federal Reserve Bank of New York before being picked by Obama to become his treasury secretary. In his former post, he played a key role in orchestrating the bailout of the banks during the Bush administration.

Summers was treasury secretary under Bill Clinton and was instrumental in the repeal of the Depression-era Glass-Steagall Act, which separated commercial banking from investment banking, as well as the passage of a law deregulating the derivatives markets.

The guiding premise of the banking bills in the House and Senate is that the capitalist “free market” must at all costs be safeguarded, along with the personal fortunes of the financial oligarchy. The informing notion behind the proposed changes is to allow the banks to return to business as usual, recouping their gambling losses at the expense of this and future generations of working people, while setting in place mechanisms for the government to more effectively manage the next financial debacle.