Senate Democrats unveil toothless bank regulation bill

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17 March 2010

Christopher Dodd, chairman of the Senate Banking Committee, on Monday unveiled a new draft of an Obama administration-backed bill to overhaul the regulation of the US financial system.

Like the bill passed last December by the House of Representatives, the Senate Democratic measure proposes certain marginal changes in the way government agencies monitor financial firms, but does nothing to reverse the deregulation of banking carried out over the past three decades, which dismantled restrictions imposed during the Great Depression. It introduces no structural reforms to limit, let alone ban, the speculative practices that have become increasingly central 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 and global recession.

The most important innovation in Dodd's bill, as well as the House measure, is the establishment of a procedure for the government to wind down large financial firms, including insurance companies and other non-bank entities, whose failure could trigger a systemic collapse. This is being billed as an end to "too-big-to-fail" financial companies and a guarantee against future taxpayer-funded bailouts.

It is nothing of the kind. The proposals in the House bill and Dodd's legislation would institutionalize government rescue operations to protect the interests of bank executives, shareholders and creditors and the wealth of the financial elite as a whole, ultimately at public expense. It is designed to keep the banking system in private hands while preparing for the inevitable consequences of allowing the banks and big investors to continue "business as usual," i.e., another financial crisis on the order of the crash of 2008.

One provision of the House version of this so-called "resolution authority" would give the Federal Deposit Insurance Corporation, with the consent of the treasury secretary and the Federal Reserve, but no input from Congress, the power to "extend credit or guarantee obligations … to prevent financial instability during times of severe economic distress." This amounts to a blank check to use taxpayer funds for future bailouts.

As Dodd himself stated in presenting his bill on Monday, "This legislation will not stop the next crisis from coming. No legislation can, of course." The latter claim is true only insofar as legislation is based on defending private ownership of the financial system and eschews any challenge to the profit interests of the financial elite.

Adopting his populist mode, Obama said of the Dodd bill, "We cannot wait any longer for real financial reform that brings accountability to the financial system and makes sure that the American taxpayer is never again asked to bail out the irresponsibility of our largest banks and financial institutions."

This is a fraud. The bill Dodd unveiled Monday is even more timid than one he introduced last November. That bill would have stripped the Federal Reserve Board of oversight of the nation's banks and established a Consumer Financial Protection Agency along the lines of the agency proposed in the bill passed by the House.

Under pressure from the banks, which have spent over $300 million to lobby Congress on financial regulation, and the Republicans, Dodd scrapped his proposal to shift regulation out of the hands of the Fed and watered down his consumer protection provision, proposing instead a Consumer Financial Protection Bureau within the Federal Reserve.

The consumer protection agency in the House bill is itself a token measure. It excludes from the new agency's mandate 98 percent of the nation's banks as well as car dealerships, and allows the federal government to override state consumer protection laws that are tougher than federal regulations. Dodd's bill goes one step further. It gives federal bank regulators the power to veto any consumer protection regulations proposed by his Consumer Financial Protection Bureau.

Dodd's new bill, in addition, further weakens already weak provisions for regulating the financial derivatives market, a $600 trillion market in highly speculative deals that provides outsized profits for Wall Street banks, and played a major role in the collapse of the insurance giant American International Group and freezing of world credit markets in September of 2008.

The House bill exempts most derivatives from having to be cleared by clearinghouses (privately owned) and traded on exchanges. *Newsweek* said of the House measure, "But thanks to weeks of intense pressure from Wall Street banks and their customers in corporate America, the bill that was approved on Thursday by Rep. Barney Frank's Financial Services Committee is riddled with exceptions and loopholes, many critics say. If it becomes law, Wall Street's finest could be driving truckloads of new derivatives products through those loopholes for years to come."

In another sop to the banks, the House bill weakens the 2002 Sarbanes-Oxley Act, which was passed in the aftermath of the Enron and WorldCom scandals, giving the Securities and Exchange Commission the power to conduct audits of the internal controls of publicly traded companies. The House bill exempts companies with less than $75 million in publicly traded shares from such audits, a step that is seen on Wall Street as a precursor to similar exemptions for large corporations.

Dodd's bill claims to incorporate the so-called "Volcker rule." This refers to a measure proposed by Obama in January to bar depository banks from using their own money to trade in speculative assets, so-called proprietary trading, or to own or invest in hedge funds or private equity firms. Obama announced the measure largely for political purposes, knowing that it has little chance of being adopted by Congress.

He did so in advance of the release of bank bonus reports and the special Senate election in Massachusetts to replace deceased Senator Edward Kennedy. The election was shaping up as an expression of growing popular disenchantment with Obama and a debacle for the Democratic Party, which the White House sought to avert—unsuccessfully—with a burst of anti-Wall Street demagogy.

In Dodd's bill, however, the "Volcker rule" restrictions are to be applied at the discretion of bank regulators and only on a case-by-case basis.

Other provisions of the Dodd bill include:

• A Financial Stability Oversight Council, chaired by the treasury secretary and consisting of the heads of the various regulatory agencies, to monitor risks to the financial system.

• Placing the credit rating agencies under the supervision of the Securities and Exchange Commission. However, no change is proposed in the present system whereby the credit rating agencies are paid by the banks they are evaluating.

• Eliminating the Office of Thrift Supervision. Extending the authority of the Federal Reserve to major non-bank financial firms while limiting its banking oversight to banks with $50 billion or more in assets. Placing smaller banks under the supervision of the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency,

• Having the president appoint the head of the Federal Reserve Bank of New York, rather than his being appointed by the bank's board of directors.

The measure Dodd unveiled Monday will likely be the starting point for further revisions in line with the demands of the banks before any bill is brought to the floor of the Senate for a vote. Despite weeks of attempting to win Republican support for a bipartisan bill, no Republicans on the banking committee have signed off on it. However, Tennessee Senator Bob Corker, with whom Dodd has been working intensively, called the new bill "a huge improvement" over Dodd's proposal of last November.

The American Bankers Association issued a statement Monday on Dodd's proposal calling for changes "in a number of areas." Edward Yingling, the president of the association, said, "We oppose this bill because it will subject traditional banks, which did not cause this crisis, to heavy new regulation, while non-banks will have even further competitive advantage."

This sums up the position of the financial oligarchy, which opposes even token restrictions on its parasitic activities.