House, Senate Democrats agree on pro-Wall Street bank “reform”

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The financial regulatory overhaul agreed to Friday by House and Senate conferees represents a total capitulation by the Obama administration and Congress to Wall Street.

The measure that was announced following a 20-hour negotiating session was even weaker than the largely token bills passed last December by the House of Representatives and by the Senate last month. It is expected to be voted on this week by the two congressional chambers.

Nearly 22 months after the worst financial crisis since the Great Depression, precipitated by reckless speculation and profiteering on the part of the major US banks, abetted by outright swindling and fraud, the White House and Democratic-led Congress have put together a patchwork of half-measures that avoids any structural reform or serious restraint on the activities of the most powerful financial firms.

Obama hailed the agreement Friday before leaving for the G20 meeting in Toronto. “We are poised to pass the toughest financial reform since the ones we created in the aftermath of the Great Depression,” he said, adding, “No longer will we have companies that are ‘too big to fail’.…”

In his weekly radio address Saturday, Obama adopted the pose of populist opponent of Wall Street, declaring, “In recent months, they’ve spent millions of dollars and hired an army of lobbyists to stop reform dead in its tracks. But because we refused to back down, and kept fighting, we now stand on the verge of victory….

“Put simply, we’ll end the days of taxpayer-funded bailouts, and help make sure Main Street is never again held responsible for Wall Street’s mistakes.”

Obama knows better, as does Wall Street. Bank stocks soared across-the-board Friday, as news leaked that the merged House-Senate bill included provisions for which the banks and hedge funds had lobbied furiously—including changes that watered down to virtual irrelevance proposals for limiting the banks’ gambling on risky derivatives and betting depositors’ money for their own profit.

On a day when the Dow declined slightly, Standard & Poor’s financial sector index rose 2.7 percent. Some of the biggest banks saw their shares rise even higher, including Citigroup (4.23 percent), JPMorgan Chase (3.7 percent) and Goldman Sachs (3.47 percent). Bank of America surged 2.66 percent and Wells Fargo rose 1.45 percent.

The *Financial Times* on Saturday summed up the general feeling on Wall Street, quoting a banker who said, “We are all breathing a sigh of relief here. It could have been much worse and, on balance, we can live with this.” The newspaper went on to say, “investors bet the historic overhaul in financial rules would not have a significant impact on the industry’s structure and profitability.”

The *New York Times*, even as it called the bill “historic” and claimed that it would “vastly increase” government power over Wall Street, admitted that “Industry analysts predicted that banks would most likely adapt easily to the new regulatory framework and thrive.”

Newsweek magazine quoted a former US Treasury official who said, “We’ve consolidated the position of the five banks that were most central to the crisis.”

Obama’s analogy to the banking reforms instituted in the 1930s, which has been echoed almost universally by the mass media, is specious. Franklin D. Roosevelt instituted significant structural reforms, including the Glass-Steagall Act, which established a legal wall between deposit-taking commercial banks and investment banks and brokerage firms. These and other reform measures forced some of the biggest financial powers, including the House of Morgan, to break apart.

Roosevelt’s reforms did not challenge private ownership of the banks or the basic profit interests of the ruling class. Rather, they were designed to end the most destructive practices of the banks and save the capitalist system from the threat of social revolution. They did, however, impose significant changes.

There is nothing of the kind in the so-called “reform” promoted by the White House and approved by the House and Senate conference committee. None of the banks that played key roles in the financial meltdown and ensuing global recession will be broken up. Nor will Glass-Steagall, which was repealed under the Clinton administration in 1999 (when Obama economic adviser Lawrence Summers was treasury secretary) be reinstated.

The *New York Times* on Saturday quoted Charles Geisst, a professor of finance at Manhattan College and a Wall Street historian, who said of the comparison to the New Deal reforms, “It doesn’t go anywhere near. It doesn’t change institutional behavior like that did. This is business as usual, with some moderation.”

The only questionable part of this assessment is the reference to moderation.

The entire process by which the financial regulation bill has been drafted testifies to the domination of both parties and the political system as a whole by a financial aristocracy, consisting of Wall Street CEOs and traders, billionaire investors and speculators of various sorts. The banks have spent hundreds of millions of dollars and employed an army of lobbyists to bribe and pressure congressmen and senators.

The operation has been shameless and open. Much of the bill approved Friday was undoubtedly drafted by Wall Street lawyers and lobbyists in closed-door sessions with Democratic legislators.

The *Times* indicated as much. Describing the marathon conference committee session that spanned Thursday and early Friday, it wrote: "While the televised proceedings at times provided a remarkable window into the minutiae of legislating, many of the deals to complete the bill were cut outside the conference room, in private discussions between Democratic lawmakers and the Obama administration, with some of Washington's most influential lobbyists trying to weigh in as best as they could.

"One major bank on Friday scrambled to figure out what happened to six words that to its surprise were apparently cut from an amendment on proprietary trading, potentially posing a threat to its business."

A group of Democratic legislators from New York at the last minute threatened to withhold support for the bill unless provisions barring banks from directly trading in derivatives and speculating with their own funds on their own account were scaled back to allow these practices to largely continue. They made no bones of the fact that they were acting in behalf of Wall Street interests.

"We wanted to make sure we didn't drive all the derivative business out of New York," said Representative Gregory W. Meeks, a Democrat from Queens on the conference committee.

The measure has been dubbed the Dodd-Frank bill, after its main authors and congressional sponsors—Senate Banking Committee Chairman Christopher Dodd (Democrat from Connecticut) and House Financial Services Committee Chairman Barney Frank (Democrat from Massachusetts). These two individuals exemplify the corrupt relationship between Wall Street and Congress.

According to the Center for Responsive Politics, Dodd's single biggest campaign contributor over the course of his Senate career has been Citigroup, which has donated $427,694. His top five donors include three banks. The biggest source of campaign funds has been the securities and investment industry, which has plowed over $6 million into his coffers. Included in his top five industries are insurance, real estate and commercial banks.

The Center for Responsive Politics reports that Frank's top contributor has been the American Bankers Association ($78,950). Ranked second is JPMorgan Chase ($74,500). His top five industries for campaign donations are real estate, securities and investment, insurance, lawyers/law firms and commercial banks.

It is hardly surprising that what has issued from such a process is a bill entirely compatible with the interests of the major banks and hedge funds. Its main elements include:

* A watered-down provision on derivatives trading that allows the banks to continue trading 90 percent of the instruments they are currently trading. The most risky derivatives, including credit default swaps, will have to be spun off into subsidiaries of the banks.

* A diluted version of the so-called Volcker Rule (named after the former Fed chairman and current Obama economic advisor). Initially, this provision would have banned commercial banks from investing in or owning hedge funds or private equity funds, and barred them from engaging in proprietary trading, i.e., speculating on their own account with their own funds (which includes the deposits of retail customers). As amended, banks can continue to own and manage hedge funds and private equity funds, and can invest up to 3 percent of their Tier One capital in such ventures, i.e., they can continue to engage in proprietary trading, within certain limits.

* A regulatory scheme for derivatives that excludes so-called "customized" credit default swaps—the most lucrative form of bank trading in derivatives—and employs clearinghouses that are largely owned and controlled by major Wall Street banks. The vast majority of derivatives trades—those by non-financial companies—are exempt from regulation.

* A Consumer Financial Protection Bureau within the Federal Reserve Board to oversee banking practices in regard to credit cards, mortgage loans, student loans and other forms of consumer credit. The bill exempts from the bureau's authority all banks with less than $10 billion in assets—some 98 percent of all banks in the US. It also exempts car dealerships. There is nothing to prevent banks from recouping lost revenues resulting from new consumer regulations by imposing other charges. Moreover, a panel of top financial regulators headed by the treasury secretary will have the power to overrule any regulations proposed by the bureau. And it is expected that no new rules will take effect for some seven years.

* A "resolution authority," whereby regulators, headed by the Treasury, will have the power, without a vote by Congress, to use taxpayer funds to seize and wind down a major financial firm whose failure threatens a systemic crisis. The conference committee bill omitted a provision in the House bill—fiercely opposed by the banks—that would have imposed an up-front levy on the big banks to establish a fund for potential use in a financial firm's "resolution." This essentially institutionalizes a mechanism for future bank bailouts. No one on Wall Street and few in Washington take seriously Obama's claim that this provision will prevent future bank rescues at public expense.

For the most part, these provisions are spelled out in vague terms in the bill. The actual drafting of rules and regulations and setting of critical limits—such as prescribed capital and liquidity reserves—is left to the regulatory bodies. This means that the banks' lobbying (and bribing) efforts will intensify, but under even more favorable conditions, since this phase of the "reform" will be carried out with even less media scrutiny.

As the *Wall Street Journal* noted Saturday: "There are more than 200 items in the bill where final details will be left up to regulators. 'The bottom line here is that this saga will continue,' said Timothy Ryan, chief executive of the Securities Industry and Financial Markets Association."

The banks are already mobilizing their corps of lawyers to devise ways to evade whatever rules are eventually decreed. "Wall Street has always been very skilled at getting around rules, and this law will be no different," Frank Partnoy, a professor of law at the University of San Diego and a former trader at Morgan Stanley, told the *New York Times*.