Obama’s toothless banking overhaul to become law

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The US Senate on Thursday passed the administration’s financial regulatory overhaul, paving the way for Obama to sign the measure into law next week. The House of Representatives had passed the bill on June 30.

The vote on the bill was 60 to 39, with Republicans Scott Brown (Massachusetts), Susan Collins (Maine) and Olympia Snowe (Maine) joining 57 Democrats in voting “yes.” Senator Russ Feingold of Wisconsin was the only Democrat to vote against the bill, on the grounds that it was insufficiently tough.

The final bill, the product of intensive lobbying by the banking industry, is even weaker than the version approved by a House-Senate conference committee on June 25. In order to obtain the three Republican votes necessary to block a Republican filibuster and bring the bill to the floor for a vote, the administration and the Democratic congressional leadership agreed to drop a $19 billion levy on big banks and hedge funds to pay for the implementation of the bill, and to further water down restrictions on the ability of commercial banks to invest in hedge funds and private equity funds.

The resulting bill, widely described in the media as the most sweeping financial reform since the 1930s, represents a full-scale capitulation to Wall Street. Nearly two years after the major banks and financial firms drove the financial system and the economy as a whole into the ground through their reckless profiteering and speculation, the so-called “reform” avoids any genuine reform of the financial system and places no serious restraints on the activities of the most powerful financial companies.

In important respects, it increases the power of the biggest banks and sets the stage for even more frenzied speculation and risk-taking. As a former US Treasury official told *Newsweek* magazine last month, “We’ve consolidated the position of the five banks that were most central to the crisis.”

Obama hailed the passage of the bill Thursday afternoon, declaring, “Because of this reform, the American people will never again be asked to foot the bill for Wall Street’s mistakes. There will be no more taxpayer-funded bailouts—period.”

He hastened to reassure Wall Street, saying, “The financial industry is central to our nation’s ability to grow, to prosper and to innovate.”

Virtually nobody on Wall Street and few in Washington believe that the bill’s patchwork of half-measures will prevent further taxpayer bailouts down the road. The most important innovation contained in the measure is the establishment of a so-called “resolution authority,” whereby the Treasury and the Federal Reserve will be able to seize and wind down any large financial company whose failure would threaten the stability of the financial system as a whole.

The bill authorizes the allocation of pubic funds to pay for the operation, without congressional approval, with the proviso that the major banks would subsequently be taxed to defer some of the cost.

This amounts to the institutionalization of financial rescue operations, instead of the ad hoc methods employed in the fall of 2008. The procedure is being put into place precisely because the regulatory overhaul fails to impose any real restrictions on the speculative activities of the banks.

In assessing the bill, it is useful to start with what it does not do. It does not break up the mega-banks that control an ever-greater share of deposits, assets and profits.

It does not restore the legal wall between commercial banking and investment banking, a central reform carried out during the Depression of the 1930s to prevent deposit-taking commercial banks from engaging in the high-risk speculation that is the bread and butter of investment banks and brokerages. The weakening and final removal of this wall in 1999 during the Clinton administration encouraged the wave of speculation and swindling that led to the collapse in September 2008.

It does not cap executive compensation.

It does not eliminate or seriously limit trading in derivatives, the complex and opaque financial instruments that played a central role in the collapse of American International Group (AIG) and threatened to topple the entire banking system.

Instead, the bill sets up what some have called a Potemkin village of regulatory structures with little real substance, which Wall Street banks will have little difficulty manipulating and gaming. For the most part, the details concerning how much capital banks must hold in reserve, what percentage of their capital they can invest in hedge funds, which types of derivatives will be forced onto clearinghouses and exchanges and which will continue to be traded in the "shadow banking system," etc. will be determined by the various regulatory agencies.

The *Wall Street Journal* on Wednesday cited a law firm's estimate that the new bill mandates at least 243 new federal rule-makings. The US Chamber of Commerce puts the number at 533.

In practice, this means that any provisions that threaten to hamper the profit-making activities of the banks can, and in all likelihood will be watered down to the point of irrelevance in the rule-making process. As the *Journal* pointed out, the massive lobbying carried out thus far by the banks will only grow more intense in the rule-making phase that follows formal enactment of the bill into law.

The process of drafting the bill has exemplified the corruption and bribery that pervade the US political system, and the domination of Congress, the White House and both political parties by the financial elite. The banks have spent hundreds of millions of dollars to lobby congressmen and senators, and spent millions more to bribe them in the form of campaign donations. Much of the 2,300-page bill was directly or indirectly dictated by Wall Street lawyers and lobbyists in closed-door meetings with Democratic officials.

The measure is being referred to as the Dodd-Frank bill, after its main congressional sponsors—Senate Banking Committee Chairman Christopher Dodd (Democrat from Connecticut) and House Financial Services Committee Chairman Barney Frank (Democrat from Massachusetts). These two long-time legislators are among the biggest beneficiaries of the largess of the financial industry.

Dodd's single biggest campaign contributor has been Citigroup. The securities and investment industry has been his biggest source of funds, over $6 million during his Senate career.

Frank's top contributor has been the American Bankers Association, followed by JPMorgan Chase.

The *New York Times* on Thursday published an article that provides a sense of how pervasive and shameless the process of bribery and vote selling has been. It reports that the Office of Congressional Ethics is investigating eight congressmen—five Republicans and three Democrats—who raised a combined $405,000 from the financial sector in the six weeks leading up to the December 11, 2009 vote in the House of Representatives on the House's version of the bank regulation bill.

More than a third of this total ($140,000) was collected in the ten days before the vote. The article points out that the money was solicited by the lawmakers, who in some cases shifted their votes to accord with the desires of the banking lobby. Some congressmen went directly from debates in the House on the bill to fundraisers hosted by bank lobbyists.

The *Times* suggests that the eight congressmen being investigated were only the most flagrant in selling their votes for cash, and that such efforts were commonplace. The newspaper writes: "But the practice of soliciting donations in the midst of legislative debates remains common. In fact, dozens of members not included in the current ethics inquiry scheduled their own fund-raising events in the weeks before the House vote, many of them taking donations from financial services companies."

For more details on the bill, see:

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

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