

Committee on Capital Markets Regulation Proposes  
A Blueprint for Compromise on Financial Reform  
*It Focuses on Four Points for Potentially Productive Negotiation*

WASHINGTON, D.C., April 26, 2010—As Senator Dodd and Senator Shelby continue to meet and search for a bipartisan financial regulatory reform bill, the Committee on Capital Markets Regulation (CCMR), an independent, non-partisan research organization and proponent of broad financial regulatory reform, has sent congressional leaders a letter outlining a blueprint for a compromise that would achieve practical and effective financial reform legislation.

In the 37-page letter, the CCMR comprehensively evaluates all major elements in the financial reform proposals that have emerged from Senate committees, but focuses especially on four as areas ripe for compromise.

- **“Never” is bad public policy. Federal regulators must have the ability to use tax dollars (and recoup them later) to pay for the orderly resolution of failing institutions in cases where they judge the alternative would be national and/or international financial catastrophe.** However, the CCMR does not support the arbitrary \$50 billion fund in the proposed Dodd bill, since no one can or should try to guess the cost of such bailouts. A better solution: give the Secretary of the Treasury the power to use public money, and then recoup funds after any needed bailout, starting first by recovering bailout funds from the creditors of the failed bank.
- **No banks or non-banks should be labeled “systemically important.”** Such a label merely adds to moral hazard since creditors of firms so labeled will count on future bailouts and could give such firms unfairly lower costs of capital. Instead, the legislation could establish a number of asset thresholds, varying by industry, for Federal Reserve supervision of non-banking institutions. This is how the Senate bill currently handles banks, entrusting all banks with \$50 billion or more in assets to Federal Reserve supervision. This number is low enough to include a number of banks that are not systemically important, while probably including all that are. Constructive ambiguity could remain on whether a particular large bank would be rescued. The same approach could apply to non-banks, too.
- **Clarity about jurisdiction over the clearing and settlement of derivatives is crucial to reducing systemic risk, as is increasing these activities.** The clearinghouses envisioned in the legislation would be de facto “systemically important” entities. We see their oversight as a role for the Federal Reserve, given its central role in monitoring and responding to systemic risk. Assigning this task to a combined CFTC/SEC oversight team, where jurisdictional squabbles and lack of expertise could impair their effectiveness, exposes the system to added risk and taxpayers to more bailouts. We also oppose adoption of the

Agriculture Committee's proposal to prevent use of federal funds, including Federal Reserve lending, to firms engaged in derivatives operations. We are fooling ourselves if we think we will not rescue a highly interconnected derivatives affiliate in a potentially catastrophic emergency.

- **Finally, the proposed independent and transparently funded Consumer Financial Protection Bureau (CFPB) should be free of overriding authority except that of the Financial Stability Oversight Council (as provided in the Dodd Bill) and the Treasury Secretary (only when he or she is acting on matters of the “safety and soundness” of the financial system, as in matters of systemic risk).** The two-thirds vote of the Oversight Council required to override the Bureau is too high a threshold to adequately protect the safety and soundness of the financial system from any inadvertently dangerous CFPB policy move. Finally, placing the CFPB inside the Fed, as the Dodd Bill does, but giving the Fed no authority at all over its administration or policy is a thinly veiled excuse to access the net revenues of the Fed from its monetary policy trades and other services (roughly \$53.4 billion in 2009) to fund the Bureau. CFPB should be separately funded through the normal Congressional process, or given authority to fund itself by imposing fees on those it regulates.

The Committee's full letter can be found at: <http://www.capmksreg.org/>

The Committee on Capital Market Regulation is a non-profit, non-partisan group of independent U.S. business, financial, investor and corporate governance, legal, accounting and academic leaders. It began work in 2006 studying and reporting on ways to improve the regulation and global competitiveness of the U.S. capital markets.

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