THIRD WAY

THIRD WAY TAKE *Published January 22, 2018 • 6 minute read*

A Rare Glimpse of Common Ground in Congress

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Dodd-Frank has done more to make the financial sector safer than any other legislation in the last 80 years. That's why Third Way has been such a strong supporter of it and a vocal opponent of attempts to overturn it, like the Financial CHOICE Act.

The goal of Dodd-Frank was to rein in the big banks and protect us from another calamity while still fostering growth and opportunity. We've achieved the first objective through the new rules that Dodd-Frank established to increase capital cushions, improve liquidity, and perform stress tests at the largest banks. But, with smaller banks, we may have done too much reining in. We can see that in the amount of small business lending, which as of June 30, 2017, is still 11% below its peak in 2008, whereas lending to big business is up 36%. Undoubtedly, there are other factors at play: the number of creditworthy small businesses is limited, and small banks have consolidated, for example. But the regulatory burden of some banking regulations is also an important factor to address.

We need to help community banks and credit unions lend without exposing Americans to financial risk. The question is:

How do we strike the right balance between safety and growth? Some on the far right want to embrace ideology with The Financial CHOICE Act, which would weaken our banking system and heap risk upon American families. But there is a very different approach happening in the Senate with the Economic Growth, Regulatory Relief and Consumer Protection Act (S. 2155). This bill, which recently passed through the Senate Banking Committee with bipartisan support, is designed to give community banks and credit unions more room to lend—while hardly affecting the six biggest U.S. banks.

First and foremost, the bipartisan Senate bill protects Dodd-Frank's most important reforms.

Since Dodd-Frank became law, Republicans have tried to dismantle the entire foundation upon which it is built. The CHOICE Act, for example, would strip the Consumer Financial Protection Bureau (CFPB) and the Financial Stability Oversight Council (FSOC) of any meaningful power. It would also completely remove entire pieces of Dodd-Frank, like Title II, which created Orderly Liquidation Authority to safely wind down failing megabanks, and Title VIII, which governs Financial Market utilities that back up the inner workings of the financial system.

The bipartisan Senate bill, on the other hand, keeps all of these essential Dodd-Frank reforms intact. There are no underhanded attempts to stop the CFPB or the FSOC from doing their jobs. Even though Barney Frank, the former Congressman and co-author of the Dodd-Frank law, has not endorsed every item in the legislation, he recently wrote that if the bipartisan Senate bill "became law tomorrow, well over 90% of the Wall Street Reform bill would be unchanged."

Second, the bipartisan Senate bill incorporates diverse perspectives.

Up until now, the way that Republicans have approached policymaking is to write legislation without any input from Democrats—and the results are so extreme that it is impossible to get any support from across the aisle. Just look at the tax bill, or the multiple attempts to destroy Obamacare.

The Senate compromise bill is different. Chairman Mike Crapo of the Senate Banking Committee brought Democrats to the table from the very beginning. He demonstrated a good-faith effort to find common ground through holding four hearings during the year with a wide spectrum of witnesses and soliciting comments from the public. This is in stark contrast to his counterpart, House Financial Services Committee Chairman Jeb Hensarling, who only planned one hearing on the Financial CHOICE Act until he was pressed by Committee Democrats to schedule another day of testimony.

The proof is in the pudding. Section 101 in the Senate bill bears a resemblance to the Democratic alternative to former Chairman Richard Shelby's deregulation agenda in the last Congress. Another section comes straight from a bill related to mortgages for small multifamily units made by credit unions that has seven Democrats among its nine co-sponsors, including some of the most progressive Senators in the chamber. Because Democrats got to be a part of the process in creating the Senate bill, it has earned the support of a dozen Senators in the minority—making it a truly bipartisan effort.

Third, the bipartisan Senate bill puts a cap on the size of banks that qualify for most of the bill's changes.

In the post-crisis regulatory regime erected by Dodd-Frank, most rules are scaled so that they get tougher as banks get bigger. The Senate bill took a page from Dodd-Frank in this regard. For each section of the bill that extends regulatory relief, there is a limit on how far it can go.

Take the Volcker Rule, for example. The Volcker Rule is incredibly important for protecting customer deposits at big banks that also had traders making bets on the market. Smaller banks generally don't do that kind of trading. But when the rule went into effect, every bank had to prove that it wasn't guilty, whether it had one branch or more than

1,000. The CHOICE Act would have repealed the Volcker Rule in total, letting every big bank go back to the old days before the crisis. In contrast, the Senate bill puts in a $10 billion asset threshold so that community banks are considered to be on the right side of the rule.

There are, of course, some aspects of the Senate bill where even the pro-rated regulations are controversial. There is a debate worth having about the changes it would make to designating banks as Systemically Important Financial Institutions (SIFIs). These banks are required to undergo two stress tests each year, file living wills, and maintain certain levels of liquidity. Right now, all banks with more than $50 billion in assets are automatically considered SIFIs. The new bill would raise the automatic trigger to $250 billion in assets, as well as include any domestic banks under that size that are considered globally important. Although banks in the $100 to $250 billion range would still have to do stress tests periodically and can still be designated as SIFIs on a case-by-case basis, the Senate bill could provide more clarity on these potential changes. Another possibility is to consider alternative ways to determine which banks are too big to fail, like the bipartisan proposal in the House that would use a five-factor test.

At the end of the day, the bipartisan Senate bill is a compromise. Neither side has gotten everything it wants in this bill. But supporting S. 2155 is the right thing to do to bring serious bipartisan policymaking back to Congress, maintain Dodd-Frank's position as the law of the land, and tap the benefits of more lending in the U.S. economy.