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New calls are heard to curb size of nation's biggest banks

Despite federal law, 'too big to fail' banks are even bigger today

By Craig Torres and Cheyenne Hopkins February 4, 2013

WASHINGTON — Top U.S. bank regulators and lawmakers are pushing for tougher laws to regulate the size of banks to ensure that taxpayers won't again be forced to rescue a major financial institutions.

Officials leading the effort, including Federal Reserve Governor Daniel Tarullo, Dallas Fed President Richard Fisher and Sen. Sherrod Brown, share the view that the 2010 Dodd-Frank Act failed to curb the growth of large banks after promising in its preamble to "end too big to fail."

Strategies under consideration include new laws and regulations to cap the size of big banks and discourage mergers.

The push for revisiting the law or writing new rules "is absolutely driven by a sense that Dodd-Frank did not end 'too big to fail,'" said Mark Calabria, director of financial-regulation studies at the Cato Institute in Washington and a former congressional aide.

Three of the four largest U.S. banks — JPMorgan Chase, Bank of America and Wells Fargo — are bigger today than they were in 2007, heightening the risk of economic damage if one gets into trouble. JPMorgan's 2012 trading loss of more than $6.2 billion from a bet on credit derivatives raised questions anew about whether the largest institutions have grown too complex for oversight.

That loss is among events that "have proven 'too big to fail' banks are also too big to manage and too big to regulate," said Brown, an Ohio Democrat. "The question is no longer about whether these megabanks should be restructured, but how we should do it."

Brown and fellow Senate Banking Committee member David Vitter, a Louisiana Republican, are considering legislation that would impose capital levels on the largest banks higher than those agreed to by the Basel Committee on Banking Supervision and the Financial Stability Board, which set global standards. Brown also plans to reintroduce a bill he failed to get included in Dodd-Frank or passed in the last Congress that would cap bank size and limit non-deposit liabilities.

The two senators have asked the Government Accountability Office to look into the economic benefits including lower borrowing costs that banks with more than $500 billion in assets receive as a result of federal deposit insurance, access to the Fed's discount window and investor perceptions that they'll be rescued in times of trouble.

Momentum for revisiting Dodd-Frank, whose Democratic authors Sen. Christopher Dodd and Rep. Barney Frank are no longer in Congress, is driven by both parties. Still, lawmakers are nowhere near consensus on what approach to take — whether raising capital standards, limiting the size of institutions or curbing subsidies.

The push by regulators may encourage Congress to take another look at the law, said Camden Fine, chief executive officer of Independent Community Bankers of America, which represents about 5,000 small lenders.

"I think there's going to be a synergy here between the regulators and Congress," said Fine. "If regulators call for new authority, Congress will look for that. I would say that between now and probably the end of 2015 or 2016 you're going to see some significant step by both Congress and regulatory agencies to rein in the big banks."

The Dallas Fed's Fisher, who keeps a breeding bull named "Too Big to Fail" on his Texas ranch, proposed in a Jan. 16 speech that regulators be explicit about what kinds of banking the government will backstop. Deposit insurance and discount-window loans would be available only to a firm's commercial and consumer-banking operations. Fisher's proposal would push other risk-taking businesses, such as investment banking, away from government support, raising their cost of funding.

Dodd-Frank and the nation's banking regulators already have taken steps aimed at limiting the risk that a large bank will fail. The Fed conducts annual stress tests on the 19 largest financial firms to determine whether they need to boost capital and limit dividends. Banks file "living wills" to the FDIC describing how they could be wound down. The Fed also is focusing on how boards monitor risk and set compensation.

Big banks and their representatives in Washington inside Dodd-Frank is working and doesn't need an overhaul.

The notion that banks are "still somehow protected from market discipline" is "demonstrably false," Rob Nichols, CEO of the Financial Services Forum, a Washington-based lobbying organization, wrote recently in The Dallas Morning News.