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Congressional Democrats will face their first test against Trump before he's even inaugurated

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Since the election, grassroots Democrats have urged their leaders in Congress to exhibit fierce resistance against Donald Trump and the Republican agenda.

The first test will come this week, nearly two months before Trump is inaugurated as president.

As early as Wednesday, the House will take up H.R. 6392, the Systemic Risk Designation Improvement Act.

This bill would lift mandatory Dodd-Frank regulatory supervision for all banks with more than $50 billion in assets, meaning those financial giants would no longer be subject to blanket requirements regarding capital and leverage, public disclosures and the production of "living wills" to map out how to unwind during a crisis.

Instead, the Financial Stability Oversight Council (FSOC), the new super-regulator charged with monitoring systemic risk, would have to affirm that individual institutions require this enhanced supervision because they "could pose a threat to the financial stability of the United States." A vote of two-thirds of the FSOC's 10 voting members would be needed for designation.

Eight so-called "global systemically important banks" would be automatically subject to the standards: Citigroup, JPMorgan Chase, Bank of America, Goldman Sachs, Wells Fargo, Bank of New York Mellon, Morgan Stanley and State Street Bank. So this bill, authored by Missouri Republican Blaine Leutkemeyer, isn't about protecting the biggest banks, but the relatively smaller regional players — firms like PNC Bank, Capital One and SunTrust. An estimated 28 institutions would be affected.

Don't think that just because a nice-sounding "regional bank" isn't Wells Fargo, this bill makes some sense. Given the extreme interconnectedness of the financial system, relaxing policing of banks with about $4.5 trillion in assets severely hampers overall stability. After all, while the 2008 financial crisis is remembered for the collapse of Lehman Brothers and Bear Stearns, regional banks like Washington Mutual and Wachovia also came crashing down.

You can see with this bill’s framework how financial regulation in the Trump era will be relaxed, not by outright repeal but through deliberate atrophy. Republicans want to replace any mandatory rules for regulation with discretionary ones. That way they can claim that they’re merely improving the system by putting the decisions in the hands of the experts instead of members of Congress.

The second step in that process, of course, would be to hire regulators dedicated to not paying attention to anything the financial industry does. In this case, the chair of FSOC is the Treasury Secretary. Two of the rumored selections for that position in the Trump administration have current or former allegiances to banks that would be subject to an FSOC determination on enhanced supervision.

John Allison was for 19 years the CEO of BB&T Bank, the nation’s 15th largest, with $221 billion in assets. Allison, former head of the libertarian Cato Institute, has endorsed a repeal of 95 percent of all financial regulations. Steven Mnuchin, Trump’s national finance chair and the most likely choice for Treasury, still sits on the board of directors of CIT, which also carries over $50 billion in assets. Another bank affected by this is Deutsche Bank’s North American operation, also known as Donald Trump’s main lender on commercial real estate projects.

Does anyone expect that the Trump administration would designate its friends and colleagues and business partners as requiring extra supervision? And the rest of the FSOC board, made up of banking regulators and presidential appointees, would likely share the same *laissez-faire* philosophy.

This will be the modus operandi of the next four years on bank regulation. Why eliminate FSOC or the Consumer Financial Protection Bureau when you can neuter them with appointments? Why reverse derivatives trading rules in Congress when conservatives on the Commodity Futures Trading Commission can do it themselves? Why repeal the Volcker rule, which bars many types of proprietary gambling with depositor funds, if you can just not enforce it?

President Obama would almost certainly veto this bill, even if it miraculously passed the Senate. But there’s a reason Republicans plan to roll it out this week instead of waiting for Trump to enter the Oval Office. They want to gauge just how much Democrats have been cowed by the election loss.

In fact, the phrase “regional banks” has a totemic power to turn Democrats’ resolve to jelly. Wall Street-friendly caucus members have already endorsed tailoring Dodd-Frank rules away from the regionals, even though that phrase minimizes the sheer size of banks with $250 billion in assets. Because Democrats can say that JPMorgan and Goldman Sachs are unaffected by this change, you might see them support it. Indeed, in the Financial Services Committee, eight Democrats voted for the bill(while the linked scorecard references HR 1309, the bill is the same; only the number has changed).

This is really a moment of truth for those Democrats. If Republicans put up a big bipartisan vote in the House for this, the Senate will be more inclined to try to pass it down the road. And it will serve as a test case for Democratic resolve more generally. Will they submit to donors and lobbyists and play ball with the Trump deregulatory agenda, or will they recognize the harms that would cause?

In particular, watch the Congressional Black Caucus' posture. Five members of the caucus — David Scott, Emanuel Cleaver, Gwen Moore, Terri Sewell and Joyce Beatty — voted for this deregulation in committee. Will they follow suit on the House floor?

Will they encourage their colleagues to do the same? The CBC has been fighting amongst itself for years over some of its influential members doing their part to dismantle Dodd-Frank, one of President Obama's signature pieces of legislation. At a time when their constituencies in particular are demanding a fight against Trump, will they sell out the economy to the lords of finance?

Deregulation historically has never been a partisan game. Democrats and Republicans have typically worked together to roll back rules and open up the Wall Street casino for business. H.R. 6392 could represent a return to those times, or the moment when Democrats join together and say no, forcing Republicans to funnel victories to the banking industry on their own.

If I were a Democratic member of Congress, I know what I'd rather have on my conscience.