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## Dodd Charts Risky Course on Reg Reform

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WASHINGTON - When Senate Banking Committee Chairman Chris Dodd finally unveils his regulatory reform bill next week, the first gauge of pressure points in the Senate will emerge - and a flurry of deal-cutting will commence.

It is an unusual, and perhaps risky, strategy for Dodd, who typically lines up sufficient support behind the scenes before publicly introducing legislation.

With regulatory reform, however, few members of the committee know details of what's in the bill, including his Democratic colleagues, and talks with Alabama Republican Sen. Richard Shelby have at least temporarily broken down. Without Shelby, the Connecticut lawmaker will need the support of most of his 12 Democratic colleagues - many of whom have expressed concerns about key issues in this debate.

"You have a committee chairman who is going to work it out on the fly," said Jaret Seiberg, an analyst with the Washington Research Group, a division of Concept Capital. "There is no consensus in the Senate even among the Democrats of what a reform bill should look like, so this is going to be a much more fluid bill than what we saw in the House."

Even before bill language is out, at least three major sources of contention are likely to confront Dodd: creating a consumer financial protection agency, stripping bank supervision from the Federal Deposit Insurance Corp. and Federal Reserve Board and concentrating it in a single prudential regulator and gutting federal preemption for national banks and thrifts.

Among the Democratic members that Dodd will likely have to assuage on those points are Sens. Tim Johnson, Mark Warner, Evan Bayh and Jon Tester.

Consolidating regulation in one regulator is popular among both parties on the banking panel, but is fiercely opposed by community bankers and FDIC Chairman Sheila Bair. Their most likely ally is Johnson, a South Dakota Democrat who has frequently sided with small banks and the FDIC in the past.

Whether Johnson will seek to change the bill remains unclear, and likely depends on the specifics of the bill. Some observers said lawmakers could consolidate oversight of state-chartered banks in the FDIC, stripping it from the Fed, while all nationally chartered institutions would be overseen by a more powerful Office of the Comptroller of the Currency.

Similarly, the Senate could follow the House's lead and craft exemptions for small banks. A bill by House Financial Services Committee Chairman Barney Frank would create a new consumer agency, but exempt institutions with assets of \$10 billion or less from enforcement by the CFPB.

Johnson and other moderate Democrats, including Warner, are also expected to have problems with any provision that eliminates national bank preemption. Dodd is likely to start close to the Obama administration's plan, which would let states write and enforce their own laws against national and state banks. But most observers said he will almost certainly have to compromise on the issue to get support within his party.

Business-friendly Democrats are concerned that eliminating preemption could make it difficult for banks to operate nationwide, and effectively undo more than a century of precedent in the banking business.

The CFPA, too, has sparked concern among some Democrats, who worry about separating consumer protection from safety and soundness. Several observers said fellow Democrats have more leverage to negotiate changes now that the negotiations with Shelby fell through. If the two lawmakers had crafted a bill, there would have been pressure to get on board.

"Everything is on the table at some point," said one financial services lobbyist. "We'll see where Dodd wants to deal. There could be some kind of compromise and still be a CFPA."

Another financial services lobbyist agreed Dodd will be focusing on the Democrats this week.

"He's not done a lot of outreach," the lobbyist said. "He will try to take care of them in the next week. Each of them has things, but there will be deference given to the process and a political pitch to stick together, get this out of committee... he'll make changes down the road."

Dodd has used a similar tactic successfully in the past. Earlier this year, Dodd passed a credit card reform bill out of committee without any Republican support and the opposition of Johnson. Still, despite modifying the bill only slightly, Dodd was able to pass the bill with overwhelming bipartisan support in the full Senate.

"You could see an analogy as the credit card bill," said Mark Calabria, a former Shelby aide now the director of financial regulation studies at the Cato Institute. "He gets the bang for his buck for getting a good strong bill out of the committee and then negotiating from there as it goes to the floor. You could very much see the same process."

Dodd is hoping to have the committee begin debate on the bill before the Thanksgiving recess, but a final vote is not likely until December. Sources said Dodd plans to refine the bill further early next year before it goes to the full Senate.

Talks with Shelby broke down over several issues - including the CFPA, resolution powers, and systemic risk oversight - but there are signs a deal may still be reachable. "One of my big problems - and the Republicans' - is creating a free-standing consumer products division or other agency, because to separate consumer protections from the prudential regulator who looks after the safety and soundness of the bank first I think would be a horrible mistake," Shelby said in an interview last week.

An aide to Shelby said Thursday that it was Dodd who walked away from negotiations.

"The talks stopped because the Democrats walked away from the table, unwilling at this point to address the weaknesses and implications of their proposals on a range of issues," said a Shelby aide Thursday. "We would still be in the room with them now working to address those concerns if they wanted to ... . We remain hopeful that an overall agreement can ultimately be reached."

Most observers expect that if a deal with Republicans cannot be reached now, Dodd will work to pick up some GOP support before a bill goes to the Senate floor. Even with a 60-seat Democratic majority Republicans can still slow down the process and a bipartisan bill would strengthen Dodd's hand in negotiating with the House and the administration.

In the interview Shelby hinted the differences were not insurmountable. "I think we could bridge this if they want to do it in a bipartisan way," he said.

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