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Reg Reform: Concession Time's Only Just Begun

By Stacy Kaper, American Banker
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WASHINGTON — House leaders were forced to significantly weaken regulatory reform legislation to get it passed last week, and the Senate is likely to water it down further.

Analysts had long said that the strongest possible version of reform was likely to emerge in the House. But Financial Services Chairman Barney Frank, D-Mass., had to make a series of concessions — including amendments that carved out whole industries from oversight by a new consumer protection agency.

Many moderate House Democrats fought for even more limitations right up until the final vote, pushing for an amendment that would have scrapped the new consumer agency and replaced it with a council empowered only to write new rules.

Although that amendment failed, it was a clear signal that holding Democratic support together on key provisions — which is even more vital in the closely divided Senate — is proving to be a challenge. As a result, Senate Banking Committee Chairman Chris Dodd will likely have to compromise even further in order to attract enough support to pass a bill, observers said.

"Given the fact you have had so much problem getting the moderate Democrats on the bill in the House, I think that's a real signal that the move to moderate gains traction in the Senate," said Mark Calabria, a former Senate Banking Committee Republican aide who is now the director of financial regulation studies at the Cato Institute.

The House approved the bill 223 to 202 on Friday after three days of debate with no Republican support and 27 Democrats voting against it.

Although the bill would do a number of things, including giving the Federal Reserve Board systemic-risk oversight and allowing the government to break up and resolve firms deemed to be a threat to the economy, it was the proposed consumer agency that attracted much of the attention during debate.

Led by Rep. Walter Minnick, D-Idaho, a junior member of the House Financial Services Committee, 33 Democrats voted along with all present Republicans to eliminate the agency entirely.

Under his amendment, a council of regulators would have written new consumer and safety and soundness rules.

Jaret Seiberg, an analyst with the Washington Research Group division of Concept Capital, said the vote showed how unpopular the consumer agency remains with moderate Democrats, who have significant sway in the Senate. If the new agency is part of the Senate bill, he said he expects it to be significantly watered down.

"The way it looks now, to get CFPA through the Senate, it's going to be a writer of rules and not an enforcer of rules," Seiberg said.

Although he was unable to win any Republican support for his bill, Frank said he senses much less ideological resistance to a reform bill among Senate GOP members

"I do believe that in the Senate you see less of that ideological tight grip, and there is some more flexibility there," he said in an interview with CNBC.

Dodd is under pressure to show progress before Congress adjourns for the year to prove the administration and lawmakers are on top of straightening out the economy and cracking down on Wall Street.

But the discussion draft the Connecticut Democrat laid out on Nov. 10 took a significantly more controversial approach on virtually ever major issue than even the House's starting point. Members from both sides of the political aisle urged Dodd at a hearing last month to reopen bipartisan discussions and foster a consensus approach.

Since then Dodd has broken off key issues to bipartisan teams of lawmakers. Resolution authority and systemic-risk oversight were given to Sens. Mark Warner, D-Va., and Bob Coker, R-Tenn., while derivatives regulation and credit rating agency reform were to be handled by Sens. Jack Reed, D-R.I., and Judd Gregg, R-N.H. Sens. Charles Schumer, D-N.Y., and Mike Crapo, R-Idaho, were in charge of executive compensation and corporate governance, while Dodd left consumer protection and prudential regulation issues for himself and the panel's lead Republican, Sen. Richard Shelby.

Sources close to the situation said that the discussions between Warner and Corker and Reed and Gregg were the most advanced and that ideally Dodd would like the group of eight to reach an agreement in principle before the Senate adjourns for the year.

A more likely outcome, however, is that Dodd offers a progress report at the committee vote Thursday on Ben Bernanke's reconfirmation as Federal Reserve Board Chairman and perhaps sets forth some target dates for further committee action in the new year.

In separate interviews two weeks ago, several committee members said that there was much work ahead and members were still in the early stages of wrestling with major issues.

The Dodd draft calls for consolidating all prudential supervision to one national bank regulator that would oversee state and national banks, gutting prudential supervision of the Fed and Federal Deposit Insurance Corp. His bill also calls for a separate consumer protection agency that lets the states set and enforce tougher standards.

Sen. Jon Tester, D-Mont., said he is particularly concerned about community banks and favored preserving the FDIC's state banking supervision and exempting community banks from enforcement by the consumer agency.

"My concern is about community banks and how we are going to handle them and make sure we don't put undue regulation on them, but rather more common sense regulation," he said. "We're going to be working to carve out some of the CFPA ability and working to keep the dual banking system too."

Tester added that he felt it was unlikely significant progress would occur before next year.

"There are eight members that are trying hard to find common ground," he said. "I don't think it's important we have a new draft this year."

Crapo said negotiations were ongoing but no breakthroughs have been achieved.

"We are in the stage of slogging through that process," he said. "We are starting from a clean slate if you will.

"There is a lot of work product out there also and so really the bottom line is here we are taking it issue by issue and we are seeing whether there is an ability to develop a bipartisan set of common ground concepts that we could then draft into legislation."

Crapo said that rumors Republicans do not want to deal are false.

"Absolutely untrue," he said. "I've never had any kind of conversation like that with [Senate Minority Leader Mitch] McConnell or any other member of the committee. In fact I've found the opposite. We'd like to find a way to move to a good solution here."