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Technical Fixes Prompt Suspicion From Dodd-Frank Backers

By: Cheyenne Hopkins - December 10th, 2012

U.S. lawmakers and lobbyists who once backed repeal of the 2010 Dodd-Frank Act are now pushing for technical fixes to the law, and they're getting a skeptical reception from the measure's advocates.

While some alterations to the act have bipartisan support in Congress, many Democrats say they remain wary of measures that might undermine the law that created the Consumer Financial Protection Bureau and mandated regulations to curb risky behavior by financial institutions deemed too big to fail.

"There is general agreement that technical corrections on an 800-page bill would be appropriate," said Lauren Kulik, a spokeswoman for Senator Sherrod Brown, a Democrat from Ohio and a member of the Senate Banking Committee. At the same time, she said, Dodd-Frank supporters worry that a technical change could "morph into a substantive change."

"Technical corrections are in the eye of the beholder," said Senator Jack Reed, a Rhode Island Democrat who also sits on the committee.

Lawmakers and industry advocates are working on categorizing which of the many proposals for Dodd-Frank changes should be defined as technical, said James Ballentine, executive vice president of congressional relations and political affairs at the American Bankers Association.

“Easy and technical are not two words that go together in this environment,” Ballentine said. “A technical fix for some is a major issue for others and that’s what requires discussion.”

As that discussion evolves, proponents of change to Dodd- Frank say they see support growing in both parties.

‘Punishing’ Banks

“The biggest difference between today and two years ago is that lawmakers seem to be focused less on punishing the banks and more on how to get credit flowing again,” said Jaret Seiberg, senior policy analyst at Washington Research Group, a unit of Guggenheim Securities. “And that’s a bipartisan perspective that could open the door to Dodd-Frank reform.”

Lisa Donner, executive director of Americans for Financial Reform, which advocates tighter banking regulation, said the industry has disguised broad changes to Dodd-Frank as minor tweaks to gain support. She said no consensus exists for technical changes.

“People telling the story about how there’s a bipartisan consensus are actually campaigning for significant rollbacks of the law,” she said.

Among proposals with bipartisan support are alterations to the law’s derivatives provisions and a bill intended to limit distribution of confidential bank data obtained by the consumer bureau. Other changes, including a Republican proposal to replace the director of that bureau with a five-member commission, have lawmakers split along party lines.

Measures Advanced

The Republican-controlled House has already acted on some Dodd-Frank changes proposed by financial firms. The chamber approved a bill in March to exempt manufacturers and commercial swap-users from collateral requirements and ease regulations on inter-company trades. Other measures have won committee approval and are awaiting floor votes.

The Senate, controlled by Democrats, hasn't approved any of those Dodd-Frank changes.

"Leadership in the House should be able to pass a ham sandwich if they want," Seiberg said. "It's the Senate where the minority party and majority party have to work together if you want to get something passed."

Senate Banking Committee Chairman Tim Johnson, a South Dakota Democrat, has asked the banking industry to define the "technical changes" it would like to see, according to two people involved in the discussions.

'Unintended Consequences'

"I am open to the idea of improving Wall Street reform by making technical corrections and fixing unintended consequences, but in today's political environment there will need to be broad bipartisan support to get anything approved," Johnson said during a hearing in March.

"There are some reports from the Senate that they are willing to take a look at some of the reforms," said Representative Scott Garrett, a Republican from New Jersey who sits on the Financial Services Committee. "I welcome them to the table. They took the view for the last two years that nothing at all needed to be changed in Dodd-Frank despite the fact that members of their own party in the House voted on bills out of committee and onto the floor."

Senator Mark Warner, a Democrat from Virginia and Dodd-Frank supporter, said he would like to see several alterations to the law, including an independent leader to replace the Treasury secretary as head of the Financial Stability Oversight Council, a panel created to spot systemic risk, as well changes to derivatives rules.

'Repeal or Nothing'

"The political context is such that it is either repeal or nothing, which is an absurd way to approach any major legislative activity," he said of Dodd-Frank during a speech before the Bipartisan Policy Center on Oct. 18.

The focus on technical changes reflects a growing sense among Dodd-Frank opponents that the measure's repeal is all but dead.

“The election result means the idea of repealing Dodd- Frank is not going to happen,” said Phillip Swagel, a former Treasury assistant secretary in the administration of President George W. Bush and now an economics professor at the University of Maryland’s School of Public Policy. “With that discussion over, it should be more possible to make smaller changes.”

Mark Calabria, a former top Republican aide for the Senate Banking Committee who now directs financial regulation studies at the Cato Institute, said with Democrats’ gains in the election Republicans must “begrudgingly accept” Dodd-Frank and focus more on technical changes.

‘Gray Area’

“There’s certainly a gray area of what’s technical and what’s not and people will play that to their advantage,” Calabria said.

Dodd-Frank critics had hopes for a technical corrections bill even before law was signed by President Barack Obama. As the act was moving toward passage its Democratic authors, Senator Chris Dodd of Connecticut and Representative Barney Frank of Massachusetts, said there would be a future bill to make corrections. Dodd said any 2,000-page bill is bound to be followed by “a corrections bill that comes at some point,” and Frank said the next bill may go beyond “technical” fixes.

After the financial-overhaul law was enacted, Democrats and the administration attacked any effort amend the law. In May 2011, Treasury Secretary Timothy F. Geithner said “dark forces” are waging a “war of attrition” against Dodd-Frank.

Never Easy

The measure to limit how the consumer bureau shares confidential information it collects from banks is an example of the complications that await even bipartisan changes to Dodd- Frank.

Republican Senator Jim DeMint of South Carolina placed a “hold” or procedural block on the bill, which was endorsed by the consumer bureau, saying in July he would lift the obstacle in return for a vote to repeal all of Dodd-Frank.

DeMint, who is leaving the Senate at the end of the year to become president of the Heritage Foundation, told Politico last week that he would remove his “hold” without the repeal vote in light of the election results. Now, with DeMint leaving the Senate, it is unclear whether he will stop blocking the bill, clearing it for a quick vote. Wesley Denton, a spokesman for DeMint, has not returned repeated calls and e-mails for comment on the hold.