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Reg Reform 90% Done; Consumer Issues Are Hurdle

By Stacy Kaper, *American Banker*
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WASHINGTON — The regulatory reform debate has now come full circle.

When the Obama administration first unveiled a reform plan last summer, one of the most controversial proposals was a drive to create a new consumer protection agency. As Senate Banking Committee leaders put the final touches on a deal on regulatory reform legislation, that issue continues to be the most problematic.

As reported in American Banker on Thursday, Senate Banking Committee Chairman Chris Dodd and Sen. Bob Corker, R-Tenn., have agreed on many key issues, including the creation of a powerful new banking regulator, the structure and powers of a systemic-risk council and a new bankruptcy process for bank holding companies.

But the details of exactly how consumer protection should be beefed up remain in flux and are the source of continuing debate between lawmakers, the Obama administration and the industry.

Sen. Richard Shelby, the Banking Committee's lead Republican, said he and Dodd are negotiating again after talks broke down two weeks ago, but said the consumer issue is the primary sticking point.

"We're talking again, which is good. … We're trying to figure out a way to move forward," Shelby said.

"Conceptually I think Sen. Dodd and I probably agree on 90% of just about everything. We are just trying to work that out and of course one of the big stumbling blocks has been the consumer finance bureau."

Senators have long since abandoned a stand-alone agency for consumer protection, but are focused on a division that would be housed at the new banking regulator or the Treasury Department.

Some sources said the Dodd-Corker bill was likely to put the new division into the proposed Financial Institutions Regulatory Administration, but give it a presidentially appointed director. But that appeared to still be in play Thursday, with sources suggesting that the two lawmakers could also put the bureau into Treasury. But questions remain over how much authority the division should have.

"It's going to be a big battle," said Mark Calabria, a former top aide to Shelby and now the director of financial regulation studies at the Cato Institute. "You might be able to set up some kind of a compromise where it is like OTS or OCC where it is Treasury authority but arguably independent. … But if you have this so it's under a career appointee in the chain, I think it's a nonstarter with Shelby and probably with Corker too."

The Obama administration, meanwhile, is less focused on where the new division is housed than what powers it should have. During a meeting with trade group representatives on Thursday, Treasury Secretary Tim Geithner made it clear that consumer protection is a top priority for President Obama.

His focus, according to participants, is on whether the consumer division would have independent rulemaking power and enforcement authority to oversee banks and nonbanks.

Ed Yingling, the president of the American Bankers Association, said details of the issue were not hashed out, but that Geithner "made a strong pitch" for a new consumer agency.

"He talked about the fact that it needed independent enforcement authority," Yingling said. "That was one of the things he stressed but we didn't get into a debate over it."

Industry representatives said the debate remains ongoing.

"We are going to have to do a lot of give and take," said Steve Bartlett, the president of the Financial Services Roundtable. "In our view there are several different structures" for a consumer division. "We are not frozen or stuck."

Geithner also warned that if the final bill was not strong enough, he would recommend that the president reject it.

Although multiple participants said the meeting was cordial, Geithner made it clear that even if reform efforts stalled, the issue would not go away.

"We intend to throw the full weight of the administration behind a strong bill because uncertainty leaves us all vulnerable," he said, according to participants. "But make no mistake, whether we get a bill now or later, we are going to keep fighting hard for financial reform — and we will never give up."