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Consumer Unit Born of 2008 Crisis Would Be Shelby Target

By Cheyenne Hopkins - Oct 23, 2014

A Republican takeover of the U.S. Senate would be a case of back to the future for the Banking Committee, where Richard Shelby is in line to assume the helm.

Shelby, 80, who was chairman of the panel in the years leading up to the financial crisis when Republicans controlled Congress and the White House, would be seizing the gavel again in an environment reshaped by laws that he opposed.

He'd have to focus on issues with bipartisan support, current and former congressional aides say. Those include seeking to eliminate the director's job at the Consumer Financial Protection Bureau and requiring more disclosure by the Financial Stability Oversight Council. Both panels were created over his objections as part of the 2010 Dodd-Frank Act.

What Shelby won't do, they say, is pull bill after bill from the stack of 23 measures languishing since passing the Republican-run House that would unravel the stricter banking rules. Those would have little chance of passing a closely divided Senate or surviving a veto from President Barack Obama.

"I'm trying to lower people's expectations on what is realistically possible," said Joseph Engelhard, a former U.S. Treasury official and congressional staff member. "Even if Republicans take the Senate, it will likely just be a one- or two-person majority, and any major reform would have to overcome a veto or filibuster," said Engelhard, now senior vice president at Washington's Capital Alpha Partners LLC.

Backing Banks

During his 28 years in the Senate, including a stint as banking chairman from 2003 to 2007, Shelby of Alabama has taken actions that align with Wall Street such as opposing the Dodd-Frank Act four years ago. And since 2009, securities and investment firms as well as commercial banks including JPMorgan Chase & Co. (JPM) and Goldman Sachs Group Inc. (GS) have been among his top contributors, donating a total of $1.4 million.

Yet he's capable of surprises.

Shelby, who served as a Democrat before switching parties in 1994, split with Republicans by resisting the repeal of the 1933 Glass-Steagall provisions that built a firewall between investment and commercial banking. He openly opposed the 2008 Wall Street bailout and has backed an amendment that would shrink the biggest financial firms.

No 'Enemy'

"I don't think the banks are getting a steadfast ally but they also are not getting an enemy," said Brandon Barford, a partner at Beacon Policy Advisors, an independent financial policy research firm, and a former aide to Shelby. "They are getting someone who, when it fits with his beliefs on that issue, will fight alongside them and oppose them when the opposite is true."

At a September hearing, Shelby questioned why more people at big banks haven't been sent to jail for their actions in the run-up to the credit crisis.

Executives "shouldn't be able to buy their way out of culpability, especially when it's so strong it defies rationality," he said -- seconding a view expressed by Senator Elizabeth Warren, a Massachusetts Democrat viewed as his political opposite.

Shelby is "very good at keeping his feet in both camps -- of Wall Street banks and people who are concerned about Wall Street banks," said Ted Kaufman, a former Democratic senator from Delaware.

Shelby served four terms in the House before being elected in 1986 to the Senate. He's now the top Republican on the Appropriations Committee.

Home-State Projects

For much of his career he touted his ability to direct spending to home-state projects, known as earmarks, and he fought the ban on such measures. Monuments to his past success include the University of Alabama's Shelby Biomedical Research Building and the Shelby Center for Engineering Technology at Auburn University.

Shelby declined to comment for this story.

House Financial Services Committee Chairman Jeb Hensarling, a Texas Republican aligned with the small-government Tea Party movement, said he met with Shelby to discuss the banking legislative agenda in light of the possible Republican majority in the Senate.

Among the bills that have passed the House committee under Hensarling, an unwavering opponent of Dodd-Frank, is a measure that would allow banks to keep their derivatives business in their deposit-taking units. Another would exempt some products from the Volcker Rule ban on proprietary trading.

'Preliminary Discussions'

“I’ve already had a number of conversations with Senator Shelby, who might, and hopefully will, be the next Senate Banking Committee chairman, and we have had preliminary discussions about what he would like to achieve,” Hensarling said in a statement.

While neither Hensarling nor Shelby would discuss details of the meeting, people who have worked with Shelby said the Senate panel probably won’t follow Hensarling’s lead.

“There is extremism there that I don’t think Shelby shares,” said Barney Frank, a former Democratic congressman from Massachusetts who was House Financial Services chairman when Shelby was the top Republican on the Senate panel.

Mark Calabria, a former member of Shelby’s staff who is now director of financial-regulation studies at the libertarian Cato Institute, said the senator would have a different approach than Hensarling’s.

“You will not see the House method where you crank out 20 different bills,” Calabria said. “There will probably be one Dodd-Frank bill done.”

Six Seats

Republicans need a net gain of six seats in the Nov. 4 election to take the Senate majority. They probably won’t end up with the 60 seats they’d need to push through bills without Democratic backing, Calabria said.

Shelby is also up against a time limit: Under Republican rules, no senator can serve more than six years as committee chairman, meaning he would have two years left heading the banking panel. That’s why he’ll be looking to quickly find bipartisan support for ideas that can become law, Calabria said.

“His approach will be: How do you build unanimity on the committee?” Calabria said. “He just can’t run things out on a party-line basis.”

Shelby has signaled in speeches that he would revisit the consumer bureau. During the debate over Dodd-Frank, he voiced concern that the agency would have too much unchecked power if it were run by a director and funded outside of congressional appropriations. He later signed a letter pledging not to vote to confirm a director until such changes were made.

Warren’s Blueprint

Of the two issues, replacing the director with a board of commissioners is the more likely. That idea has had Democratic support, including from Warren, who proposed the commission structure in the initial blueprint for the agency she was responsible for establishing.

Another potential Shelby initiative would be enhancing transparency at the Financial Stability Oversight Council, a group of regulators established by Dodd-Frank to choose which non-banks receive more intensive oversight because of their importance to the stability of the financial system.

Such legislation already has Republican and Democratic backing. The bills seek to lift some of the secrecy around the council's decisions by giving firms early notice that they could be designated and opening deliberations to the public -- a practice that other regulators must follow.

Fed Oversight

A bipartisan bill would require the council to give firms early notice that they could be designated systemically important -- a status that puts them under Federal Reserve oversight to dispel any perception they are "too big to fail."

"Decisions by the Financial Stability Oversight Council dramatically affect the operations of companies that are designated as systemically important," said Representative Dennis Ross, a Florida Republican who introduced the bill along with Maryland Democrat John Delaney.

Shelby also would probably take up another idea with backing from lawmakers in both parties: Raising the threshold at which banks are automatically designated as systemically important from $50 billion in assets, said Lendell Porterfield, who served as an economist on the banking panel under Shelby.

Shelby's legislative tactics probably wouldn't be a big disappointment to the banking industry, which has made peace with the idea that lawmakers won't be repealing whole sections of Dodd-Frank, said Tom Quaadman, vice president of the Center for Capital Markets Competitiveness at the Chamber of Commerce.

Instead, Quaadman said, bankers and brokers are looking at the "art of the possible" -- bills that can pass both chambers, get signed by the president and become law.