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Fervent free-market ideology fuels Jeb Hensarling, the man who would slay Dodd-Frank reforms

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With the financial system imploding in 2008, Treasury Secretary Henry Paulson and Federal Reserve Chairman Ben Bernanke implored Congress to authorize $700 billion to bail out the banks or risk a total meltdown.

Rep. Jeb Hensarling would have none of it.

His actions then represented a key milepost on the Texas Republican's path to becoming a powerful House committee chairman and a pivotal player in the GOP effort to reduce financial regulation in the Trump era.

Hensarling was among the rebellious House conservatives who helped torpedo the first attempt to create the Troubled Asset Relief Program on Sept. 29, 2008, triggering a record stock market plunge.

As Wall Street nervously awaited a second vote four days later, he acknowledged that many Americans could lose their jobs and homes if Congress didn't act.

But the man who diverted beer money in college to subscribe to a leading libertarian journal said he had an even greater fear: the bailouts would put the nation on "the slippery slope to socialism."

"The thought of my children growing up in an America with less freedom, less opportunity, and a lower standard of living is a long-term pain I cannot and will not bear," Hensarling declared on the House floor.

He bucked his party's leaders and President George W. Bush — a fellow Texas conservative — and opposed the TARP legislation again.

This time, though, it was approved. The program has been credited with helping halt the crisis while cementing the belief that some institutions are too big to fail.

"He fought against it when others caved," said J.W. Verret, an assistant professor at George Mason University and expert on financial regulation.

Those votes highlighted the fervent free-market ideology that has made Hensarling, now chairman of the House Financial Services Committee, the proud leader of the drive by congressional Republicans to roll back tougher federal oversight of the financial system. Those rules were put in place to prevent another crisis.

The House took a major step in that effort Thursday when it passed legislation crafted by Hensarling — the Financial Choice Act — that would dismantle many of the Dodd-Frank regulatory reforms enacted in 2010. But the Senate is expected to draft a more moderate bill to try to draw Democrats needed to avoid a filibuster.

"Under Dodd-Frank, consumers are paying more and getting less. Their costs have gone up, and they have fewer choices, more hassles and less access to credit," Hensarling declared in introducing his legislation in April, decrying new regulations on credit cards, mortgages and other financial products.

"True consumer protection comes from competitive, transparent and innovative markets that are vigorously policed for fraud and deception," he said.

Hensarling — a polite and low-decibel conservative with a deadpan sense of humor and an occasionally sharp tongue — has become a tea party favorite by relentlessly striving to cut federal spending and shrink the federal government.

He preferred to let financial institutions fail in 2008 rather than risk taxpayer money to rescue them.

"How can we have capitalism on the way up and socialism on the way down?" he asked his colleagues in urging them to reject TARP. The program ultimately produced a modest profit for taxpayers.

He angered many businesses, including Boeing Corp. and General Electric Co., in 2015 by forcing a six-month shutdown of the Export-Import Bank, which provides loans and other financing to foreign buyers of U.S. products. Hensarling disparaged the taxpayer-backed aid as an example of crony capitalism.

And Hensarling has been the chief antagonist of the Consumer Financial Protection Bureau, created by Dodd-Frank to oversee credit cards, mortgages and other financial products. He views the agency as the epitome of government intrusion into the marketplace and has crusaded to reduce its authority and oust its powerful Democratic director.

That's in keeping with his overall philosophy.

"I have a great concern about the rise of an unaccountable administrative state," Hensarling said in an interview. "The fate of your paycheck, the fate of your small business should not rest on what side of the bed a Washington bureaucrat wakes up on."

Hensarling's supporters praise his ideological consistency and dedication to free markets.

"Jeb has strong values. It's the reason he got into government to begin with," said former Sen. Phil Gramm (R-Texas), who has been a mentor since Hensarling's college days. "He could leave government and make a pot full of money. He's not going to do anything he doesn't believe in."

Critics, however, say Hensarling is out-of-touch with the complex world of 21st century finance, where consumers need protection from predatory lenders and the financial system is vulnerable to gaming by sophisticated players.

"If you're going to have free markets, they've got to be fair," said Ed Mierzwinski, consumer program director at the U.S. Public Interest Research Group. "If you take apart the CFPB and leave it unable to do its job, then you're not going to have fair, free markets. You're going to have a system that is weighted completely on one side."

Hensarling sticks to his approach — even if that means risking a financial catastrophe, as in 2008.

"You don't ever really see him, when there's a financial interest or there's a big lobbying effort, where he abandons his principles," said Edward Mills, a financial policy research analyst with FBR Capital Markets & Co.

"There's a lot of frustration around town from those trade associations and different financial services lobbyists that he has been so beholden to his philosophy," said Mills, who was a staffer for the Financial Services Committee from 2007 to 2009.

The biggest contributors to Hensarling are employees and political action committees of banks, securities and investment firms and other financial companies, which have given him about $6.9 million since he first ran for Congress in 2002.

But in some financial industry sectors, Hensarling isn't even the top recipient of campaign contributions on his own committee.

He certainly doesn't have to worry about reelection in his district, which stretches from the Dallas suburbs into rural East Texas.

Hensarling's smallest margin of victory was 18 percentage points in his first race in 2002. In his last two campaigns, the Democrats didn't even put up a challenger. Last fall, he won reelection with 81% of the vote.

Although Democrats have painted him as being in the pocket of Wall Street, former Rep. Barney Frank (D-Mass.) said that's unfair.

"He's just a very rigid ideologue. I don't think he does it for the money," said Frank, the co-author of the Dodd-Frank legislation who sparred with Hensarling for years on the Financial Services Committee.

Hensarling challenges anyone accusing him of doing the bidding of contributors to look at his record, including his opposition to the Export-Import Bank and Wall Street's failure to embrace the Financial Choice Act.

"I've been dedicated to the proposition that there's been no greater wealth-creation system in the history of mankind than the American free enterprise system," he said in the interview.

Small banks are strong supporters of the bill because it scales back many of the Dodd-Frank rules that are much more expensive for them to comply with than the big banks that have large compliance operations.

But the biggest banks aren't thrilled with it.

A leading feature is the ability for any bank to avoid strict federal regulatory oversight if it holds capital of at least 10% of assets. The current requirement is 3% for most banks and 6% for institutions considered systemically important.

An analysis by the nonpartisan Congressional Budget Office estimated that the eight largest banks — including JPMorgan Chase & Co., Citigroup Inc. and Bank of America Corp. — would be unlikely to choose the option because they would have to raise large amounts of capital given their size.

Large banks would love to get a broad pass from Dodd-Frank's regulations, which are tougher on them because they pose a greater risk to the financial system than smaller banks.

The legislation also would eliminate the ability of regulators to shut down large financial firms if they were on the verge of failing if they threaten the stability of the financial system, a safety net that the big banks would like to keep in place.

Hensarling and other Dodd-Frank critics have called that ability— known as "orderly liquidation authority" — a bailout, even though any taxpayer money used is supposed to be recouped from the sale of the company's assets or an assessment on the financial industry.

He would replace the authority by enhancing bankruptcy laws that effectively would leave struggling banks to collapse, as he advocated in 2008 — removing any chance taxpayers would be on the hook for another bailout.

"In many respects, you can argue Dodd-Frank isn't even law. It's a license for unaccountable, un-elected officials to make law," Hensarling said in the interview. "There are many federal workers who I know to be good people, but none of them are accountable to the citizens of the Fifth District of Texas. My job contract comes up for renewal every two years."

Mills said the option for banks to raise capital to get a broad pass from oversight was a "total red herring." It allows Hensarling to tout that Wall Street doesn't like his bill even though there are other regulatory changes that would benefit them even if they reject the option.

Those include sharply reducing the authority of the CFPB and repealing the so-called Volcker Rule, which prohibits federally insured banks from trading for their own profit and limits their ownership of risky investments.

Rep. Maxine Waters (D-Los Angeles), the top Democrat on the Financial Services Committee, said Hensarling's goal is to make it easier for Wall Street and the banking industry to have their way.

“He believes that the banks should be able to operate in the fashion that they operate and somehow the kind of trickle-down theories will work for the average Americans and we should not interfere with that at all,” she said.

Hensarling grew up on his family’s poultry farm near College Station, Texas. He attended nearby Texas A&M University, where he was strongly influenced by Gramm, then an economics professor who taught a class on money and banking that Hensarling took.

“He stood out in the class. I took a special interest in him,” said Gramm, a free-market advocate whom critics blame for loosening bank and trading regulations that they say helped set up the financial disaster.

The 1999 Gramm-Leach-Bliley Act, signed by President Clinton, repealed what was left of Depression-era restrictions that effectively separated commercial banking from riskier investment banking.

Hensarling said Gramm “has loomed large in my life” and introduced him to the works of free-market economists such as Milton Friedman and Friedrich Hayek.

Hensarling felt so strongly about free markets that he said he spent $25 to subscribe to the academic journal produced by the libertarian Cato Institute.

“That was honest-to-God college beer money that I gave up to be associated with Cato, so you know about my commitment to the cause of liberty,” he said during a forum at the think tank last year.

Hensarling worked on Gramm’s Senate staff, mostly in Texas, from 1985 to 1989. Then Hensarling served as executive director of the National Republican Senatorial Committee, which works to get GOP candidates elected, while Gramm was its chairman.

He returned to the private sector in the early 1990s until winning his congressional seat in 2002.

Hensarling’s colleagues voted him into the House leadership for the 2011-12 session as head of the entire Republican caucus. But he gave up that position in 2013 to take the gavel on the House Financial Services Committee, which has allowed him to reshape regulatory policy.

The tougher rules and expanded regulatory powers in Dodd-Frank made it the perfect target for Hensarling.

He opposed the bill when it passed Congress in 2010 and last year produced his first version of the Financial Choice Act to dramatically scale it back. The legislation was approved by his committee. But major obstacles in the Senate and a surefire veto from then-President Obama helped keep the bill from even getting a vote by the full House.

Hensarling has made revisions to the bill and was open to suggestions from small bankers, said Camden Fine, president of the Independent Community Bankers of America. He estimated he’s had 15-20 meetings with Hensarling since he became chairman.

“At first I was a little apprehensive because he sort of has a reputation for being dogmatic,” Fine said. “But I have to say, genuinely, he’s always been very open with me, open to suggestions, and we’ve had good dialogues.”

Waters had a different experience. She said Hensarling wasn’t open to changes from Democrats on the committee.

The committee approved the legislation last month on a party line 34-26 vote. It passed the House on Thursday with a similar partisan breakdown — all but one Republican voted for it, while no Democrats did.