



Americans for Financial Reform
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United States Senate
Washington, DC 20510

April 21, 2010

Dear Senator,

The over 250 consumer, employee, investor, community and civil rights groups who are members of the Americans for Financial Reform (AFR) agree with former Federal Reserve chairman Alan Greenspan's warning: "If they're too big to fail, they're too big." That is why we urge you to support Sens. Sherrod Brown and Ted Kaufman's bill, the SAFE Banking Act. It builds on the financial reform bill by adding a common-sense proposal to require America's largest banks to limit their size and debt levels.

Current Policies Have Made Risky Banks "Too Big to Fail". The 2008 financial crisis was met with the most extreme and sustained government intervention in the market that we have seen since the New Deal era. Policymakers on both sides of the aisle have recognized that the dramatic actions by the U.S. government to prop up the financial system may have succeeded in pulling us back from the abyss, but introduced a whole new era of moral hazard. Many U.S. financial services institutions have been deemed "too big to fail" (TBTF) and have been granted the implicit guarantee of the U.S. government for the foreseeable future. For the first time, this federal backstop has been granted to investment banks engaged in speculative activities, not just traditional commercial banks.

"Too Big to Fail" Hurts Community Banks and Small Businesses. The SAFE Banking Act will restore an even playing field for community banks, which account for 54 percent of all small business lending.¹ The current TBTF guarantee distorts the market, privileging the 18 largest banks with a funding advantage over smaller banks that is valued at \$34 billion annually.² This hidden subsidy to large, Wall Street banks is particularly indefensible because these banks have sharply curtailed their lending to Main Street since – and despite – the billions in taxpayer bailouts. For example, the three largest banks slashed their SBA lending by 86% from 2008-2009, while increasing their Wall Street trading by 23%.³

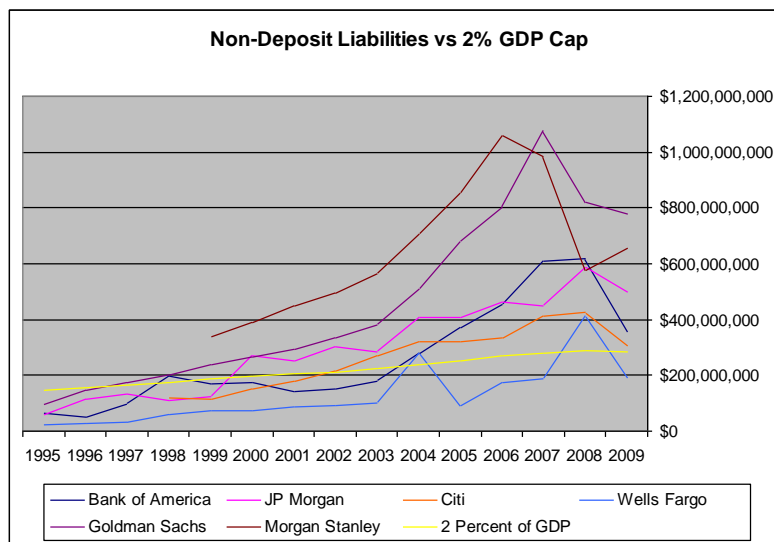
¹ Stacy Mitchell, "Banks and Small Business Lending," New Rules Project, Feb. 2010, available at <http://www.newrules.org/banking/news/banks-and-small-business-lending>

² This subsidy was responsible for as much as 46 percent of Bank of America's 2009 profits. Dean Baker and Travis McArthur, "The Value of the 'Too Big to Fail' Bank Subsidy," CEPR, Sept. 2009, available at: <http://www.cepr.net/documents/publications/too-big-to-fail-2009-09.pdf>

³ Small Business Association 7(a) Reporting; FDIC Quarterly Banking Profiles, 2008-2009.

The SAFE Banking Act Builds on Principles in the Financial Reform Bill. The Restoring Financial Stability Act addresses the TBTF problem by providing a mechanism for liquidating failing bank and non-bank financial companies, and by directing the Federal Reserve to issue tougher standards (including leverage ratios) for systemically dangerous financial companies, hopefully making it more expensive to be TBTF. However, we believe that the SAFE Banking Act will provide greater market certainty than will the regulatory discretion afforded in the bill. Limiting bank size will also make the bill’s orderly liquidation authority more effective.

Size and Risky Funding Sources have Increased with Deregulation. The table below graphically illustrates the sharp—and unsustainable—increase:



Source: CEPR 2010

Since Congress passed the Riegle-Neal Interstate Banking Act of 1994, the largest banks have swelled to mammoth proportions. In 1994, the six largest banks had assets equal to 17 percent of Gross Domestic Product (GDP). They now have assets estimated to be over 60 percent of GDP.⁴ In addition, after Congress allowed for the combination of commercial and investment banking in 1999 with the Gramm-Leach-Bliley Act, a particularly volatile source of funding – non-deposit liabilities – skyrocketed. Traditionally, banks relied on deposits (safe, relatively illiquid) to fund their activities; today, short-term wholesale funding such as repurchase (“repo”) agreements and commercial paper predominate. The combination of increased risk and increased size relative to our nation’s GDP makes “Too Big to Fail” institutions systemically dangerous.

This is why Americans for Financial Reform strongly supports the proposal by Senator Sherrod Brown and Senator Ted Kaufman to limit the size of TBTF institutions. These size limits would give the largest banks three years to transform themselves into leaner, more sustainable institutions – while maximizing shareholder

⁴ Simon Johnson, BaselineScenario.com

value and without sacrificing any of the economies of scale. Importantly, a hard cap will also *prevent* new financial services firms from growing too large in the future.

The Brown-Kaufman bill would:

- **Impose a strict 10 percent cap** on any bank holding or thrift holding company's share of the total amount of deposits of insured depository institutions in the United States. The Riegle-Neal Banking Act of 1994 established this type of cap for mergers and acquisitions. This bill would extend the cap to organic growth as well. At the moment, this would affect only three of the largest institutions, which exceeded the cap on mergers and acquisitions at the height of the crisis.
- **Impose a limit on the non-deposit liabilities** (including off-balance-sheet ones) of a bank holding company or thrift holding company of 2 percent of GDP (about \$280 billion.) Currently Bank of America holds non-deposit liabilities in excess of 7 percent of GDP.⁵ This would only affect the 5 largest bank holding companies. 8,000 other U.S. banks would be unaffected, except to benefit from a less distorted marketplace.
- **Impose a limit on the overall liabilities** (including off-balance-sheet ones) of any non-bank financial institution regulated by the Federal Reserve – i.e. one that the proposed Financial Stability Oversight Council deems a risk to the financial system – of 3 percent of GDP. This would apply to investment firms and other entities whose enormous size could also pose a threat to the financial system.
- **Institute a statutory leverage ratio.** Members on both sides of the aisle have pointed to the importance of increasing capital requirements and limiting leverage. Unfortunately the Senate bill kicks the can indefinitely down the road to future regulators and international agreements, giving Congress no say over these decisions. The Brown-Kaufman amendment codifies a six percent (or \$16.67 to \$1) maximum leverage-to-capital ratio for bank holding companies and selected nonbank financial institutions. The current leverage ratio is just 4 percent (or \$25 to \$1).

For the above reasons we strongly support this proposal and hope that you will consider these common-sense solutions to the problem of “Too Big to Fail.” For more information, please contact Heather McGhee at hmcghee@demos.org or (202) 559-1543.

⁵ Bank of America 2010 Q1 SEC filings.

Sincerely,

A New Way Forward
AFL-CIO
Americans for Financial Reform
Bold Nebraska
California Reinvestment Coalition
Campaign for America's Future
Center for Media and Democracy
Consumer Watchdog
Consumers Union
Demos
International Brotherhood of Teamsters
Jobs with Justice
National People's Action
Neighborhood Economic Development Advocacy Project (NEDAP-NY)
Public Citizen
Service Employees International Union (SEIU)
U.S. Public Interest Research Group (PIRG)
Union Plus

Following are the partners of Americans for Financial Reform.

All the organizations support the overall principles of AFR and are working for an accountable, fair and secure financial system. Not all of these organizations work on all of the issues covered by the coalition or have signed on to every statement.

National Organizations

- A New Way Forward
- AARP
- Accountable America
- AARP
- Accountable America
- ACORN
- Adler and Colvin
- AFL-CIO
- AFSCME
- Alliance For Justice
- American Family Voices
- American Income Life Insurance
- Americans for Democratic Action, Inc.
- Americans for Fairness in Lending

- American Sustainable Business Council
- Americans United for Change
- Business for Shared Prosperity
- Calvert Asset Management Company, Inc.
- Campaign for America's Future
- Campaign Money
- Center for Digital Democracy
- Center for Economic and Policy Research
- Center for Economic Progress
- Center for Responsible Lending
- Center for Justice and Democracy
- Center of Concern
- Change to Win
- Clean Yield Asset Management
- Coastal Enterprises Inc.
- Color of Change
- Common Cause
- Communications Workers of America
- Community Development Transportation Lending Services
- Community Law Center
- Consumer Action
- Consumer Association Council
- Consumers for Auto Safety and Reliability
- Consumer Federation of America
- Consumer Watchdog
- Consumers Union
- Corporation for Enterprise Development
- CREDO
- CTW Investment Group
- Demos
- Economic Policy Institute
- Essential Action
- Green America
- Greenlining Institute
- Good Business International
- Help Is On the Way, Inc
- HNMA Funding
- Home Actions
- Housing Counseling Services
- Information Press
- Institute for Global Communications
- Institute for Policy Studies: Global Economy Project
- International Brotherhood of Teamsters
- Institute of Women's Policy Research
- Keystone Research Center
- Krull & Company

- Laborers' International Union of North America
- Lake Research Partners
- Lawyers' Committee for Civil Rights Under Law
- Leadership Conference on Civil Rights
- MoveOn.org Political Action
- NAACP
- NASCAT
- National Association of Consumer Advocates
- National Association of Investment Professionals
- National Association of Neighborhoods
- National Coalition for Asian Pacific American Community Development
- National Community Reinvestment Coalition
- National Consumer Law Center (on behalf of its low-income clients)
- National Consumers League
- National Council of La Raza
- National Fair Housing Alliance
- National Federation of Community Development Credit Unions
- National Housing Institute
- National Housing Trust
- National Housing Trust Community Development Fund
- National NeighborWorks Association
- National Peoples Action
- National Council of Womens Organizations
- National Workright Institute
- Next Step
- OMB Watch
- Opportunity Finance Network
- Partners for the Common Good
- National People's Action (NPA)
- PICO
- Progress Now Action
- Progressive States Network
- Poverty and Race Research Action Council
- Public Citizen
- Responsible Endowments Coalition
- Sargent Shriver Center on Poverty Law
- Scam Victims United
- SEIU
- State Voices
- Taxpayer's for Common Sense
- The Association for Housing and Neighborhood Development
- The Carrots and Sticks Project
- The Fuel Savers Club
- The Seminal
- UNET
- Union Plus

- United for a Fair Economy
- U.S. PIRG
- Unitarian Universalist for a Just Economic Community
- United Food and Commercial Workers
- United States Student Association
- USAction
- Veris Wealth Partners
- Veterans Chamber of Commerce
- We The People Now
- Western States Center
- Woodstock Institute
- Working America
- World Business Academy
- World Privacy Forum

State Organizations

- 207 CCAG
- 9 to 5, the National Association of Working Women (CO)
- AARP Rhode Island
- Alaska PIRG
- Arizona PIRG
- Arizona Advocacy Network
- Arizonans for Responsible Lending
- Arkansas Community Organizations
- Arkansas Public Policy Panel
- Association for Neighborhood and Housing Development (NY)
- Audubon Partnership for Economic Development LDC (New York, NY)
- Aurora NAACP
- BAC Funding Consortium Inc. (Miami, FL)
- Beech Capital Venture Corporation (Philadelphia, PA)
- Bell Policy Center (CO)
- California PIRG
- California Reinvestment Coalition
- Center for Media and Democracy
- Center for NYC Neighborhoods
- Century Housing Corporation (Culver City, CA)
- Changer(NY)
- Chautauqua Home Rehabilitation and Improvement Corporation (NY)
- Chicago Community Loan Fund (Chicago, IL)
- Chicago Community Ventures (Chicago, IL)
- Chicago Consumer Coalition
- Citizen Potawatomi CDC (Shawnee, OK)
- Coalition on Homeless Housing in Ohio
- Colorado AFL-CIO
- Colorado Center on Law and Policy

- Colorado Immigrants Rights Coalition
- Colorado PIRG
- Colorado Spring NAACP
- Colorado Center on Law and Policy
- Community Action of Nebraska
- Community Capital Development
- Community Capital Fund (Bridgeport, CT)
- Community Capital of Maryland (Baltimore, MD)
- Community Development Financial Institution of the Tohono O'odham Nation (Sells, AZ)
- Community Redevelopment Loan and Investment Fund, (Atlanta, GA)
- Community Reinvestment Association of North Carolina
- Community Resource Group (Fayetteville, AR)
- Connecticut Association for Human Services
- Connecticut Citizen Action Group
- Connecticut PIRG
- Consumer Assistance Council
- Cooper Square Committee (New York, NY)
- Cooperative Fund of New England (Wilmington, NC)
- Corporacion de Desarrollo Economico de Ceiba (Ceiba, PR)
- CWA 7777 (CO)
- Delta Foundation, Inc. (Greenville, MS)
- Economic Opportunity Fund (EOF) (Philadelphia, PA)
- Empire Justice Center (NY)
- Enterprises, Inc., Berea KY
- Fair Housing Contact Service OH
- Federation of Appalachian Housing Enterprises, Inc. (Berea, KY)
- Fitness and Praise Youth Development, Inc. (Baton Rouge, LA)
- Florida Consumer Action Network
- Florida PIRG
- Forward Community Investments (Madison, WI)
- Funding Partners for Housing Solutions (Ft. Collins, CO)
- Georgia PIRG
- Grow Iowa Foundation (Greenfield, IA)
- Homewise, Inc. (Santa Fe, NM)
- Humanitas Community Development Corporation
- Idaho Chapter, National Association of Social Workers
- Idaho Community Action Network
- Idaho Nevada CDFI (Pocatello, ID)
- Illinois PIRG
- Impact Capital (Seattle, WA)
- Indiana PIRG
- Indiana University PIRG
- Information Press (CA)
- Iowa PIRG
- Iowa Citizens for Community Improvement

- JobStart Chautauqua, Inc. (Mayville, NY)
- Keystone Research Center
- La Casa Federal Credit Union (Newark, NJ)
- Low Income Investment Fund (San Francisco, CA)
- Long Island Housing Services NY
- MaineStream Finance (Bangor, ME)
- Maryland PIRG
- Massachusetts Consumers' Coalition
- Massachusetts Fair Housing Center
- MASSPIRG
- Michigan PIRG
- Midland Community Development Corporation (Midland, TX)
- Midwest Minnesota Community Development Corporation (Detroit Lakes, MN)
- Mile High Community Loan Fund (Denver, CO)
- Missouri PIRG
- Montana Community Development Corporation (Missoula, MT)
- Montana PIRG
- Mortgage Recovery Service Center of L.A.
- Neighborhood Economic Development Advocacy Project
- New Hampshire PIRG
- New Jersey Community Capital (Trenton, NJ)
- New Jersey Citizen Action
- New Jersey PIRG
- New Mexico PIRG
- New York PIRG
- New York City AIDS Housing Network
- Next Step (MN)
- NOAH Community Development Fund, Inc. (Boston, MA)
- Nonprofit Finance Fund (New York, NY)
- Nonprofits Assistance Fund (Minneapolis, MN)
- North Carolina Association of Community Development Corporations
- North Carolina PIRG
- Northern Community Investment Corporation (St. Johnsbury, VT)
- Northside Community Development Fund (Pittsburgh, PA)
- Ohio Capital Corporation for Housing (Columbus, OH)
- Ohio PIRG
- Oregon State PIRG
- Our Oregon
- PennPIRG
- Piedmont Housing Alliance (Charlottesville, VA)
- Rhode Island PIRG
- Rights for All People
- The Rocky Mountain Peace and Justice Center
- Rural Community Assistance Corporation (West Sacramento, CA)
- Rural Organizing Project OR
- San Francisco Metropolitan Transportation Authority

- Seattle Economic Development Fund dba Community Capital Development
- SEIU Local 105 (Colorado)
- SEIU Rhode Island
- Siouxland Economic Development Corporation (Sioux City, IA)
- Southern Bancorp (Arkadelphia, AR)
- TexPIRG
- The Association for Housing and Neighborhood Development
- The Fair Housing Council of Central New York
- The Help Network
- The Loan Fund (Albuquerque, NM)
- Third Reconstruction Institute (NC)
- V-Family, Inc.
- Vermont PIRG
- Village Capital Corporation (Cleveland, OH)
- Virginia Citizens Consumer Council
- Virginia Poverty Law Center
- War on Poverty – Florida
- Washington Community Action Network
- WashPIRG
- Westchester Residential Opportunities Inc. NY
- Wigamig Owners Loan Fund, Inc. (Lac du Flambeau, WI)
- WISPIRG

Businesses

- Blu
- Bowden-Gill Environmental
- Diversified Env. Planning
- Hayden & Craig, PLLC\
- The Holographic Repatterning Institute at Austin
- Mid City Animal Hospital (Phoenix, AZ)
- UNET