AMERICANS FOR FINANCIAL REFORM
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Who Really Benefits From Senator Shelby's Financial Deregulation?

Earlier this year, Senate Banking Chair Richard Shelby introduced the "Financial Regulatory Improvement Act of 2015" -- a massive bill that gives a preview of the kind of regulatory rollbacks the financial industry will try to attach to end-of-year funding bills. In fact, Senator Shelby has already placed the entire bill into appropriations legislation that passed the relevant committee earlier this year.

Senator Shelby and others have attempted to portray this multi-hundred page bill as a relatively moderate set of changes to the financial reforms put in place by the Dodd-Frank Act. That's far from the truth. The legislation would weaken protections against the kind of mortgage lending abuses that were at the heart of the financial crisis, undermine consumer protections, and reverse improvements in the regulation of some of the largest financial institutions in the country.

But the most misleading claim made about the bill is that it is a 'community bank' bill. In fact, almost 90 percent of the bill is devoted to provisions that would mostly or exclusively affect some of the largest banks and financial institutions in the country. Only about 10 percent of the bill is devoted to provisions actually limited to community banks and credit unions. As so often happens, rhetoric about 'community banks' is being used to sell regulatory giveaways to big banks and other powerful financial interests.

Leaving aside technical corrections, the "Financial Regulatory Improvement Act" includes some sixty substantive legislative provisions and about 173 pages of legislative text. Of these:

- Only eight provisions and about 19 pages of text are devoted to provisions that *exclusively affect* smaller banks such as community banks and credit unions. (This count uses a very broad meaning of 'smaller', to include all banks with less than $10 billion in assets. Over 98 percent of banking institutions are below this threshold, while some 90 percent of all banks are below $1 billion in size).

- One provision and about 3 pages of text is devoted to a change that would *exclusively affect* 74 banks between $10 billion and $50 billion in size.

- Fully 59 pages of the bill are devoted to Titles II and III of the bill, which would *only* benefit a few dozen of the largest financial institutions in the country. Title II would significantly weaken regulatory oversight of about 30 large banks with assets between $50 billion and $500 billion. Title III would throw roadblocks in the way of heightened supervision of a handful of giant non-bank financial institutions that could be designated for enhanced supervision by the Financial Stability Oversight Council.

- Out of the remaining provisions, most are devoted to matters that would not affect small community banks at all, such as changes to insurance and securities regulation. Others roll back key Dodd-Frank financial oversight for *all* financial institutions, including, and in most cases especially, the giant Wall Street banks that are the major competitors of community banks and who did so much to cause the 2008 financial crisis.

To take one example of this last category, Section 106 of the bill would exempt all mortgages held in portfolio, even for a short period, from Dodd-Frank "ability to pay" rules designed to ensure proper mortgage underwriting. The CFPB has already granted a tailored exemption from these rules for community banks which hold mortgages on portfolio for an extended period of time. Therefore, the major effect of this change would be to also exempt much larger banks and non-banks that originate and sell mortgages, allowing them to escape from key rules designed to protect borrowers and the whole economy from the dangerous effects of making loans that borrowers cannot afford to repay.

Unfortunately ICBA president Cam Fine has recently joined those claiming that the Shelby bill has a "fairly narrow focus" on "consensus reforms" to regulation of small community banks. Based on examining the actual bill, we cannot agree. We don't think that Mr. Fine serves his community bank members well by endorsing legislation that is controversial precisely because of all the giveaways it includes for America's largest banks and financial institutions.

We do agree with another claim made by Mr. Fine: there is substantial bipartisan support for a set of regulatory changes that are in fact limited to community banks. Such provisions were included in the Democratic substitute to the Shelby bill. A reasonable measure genuinely limited to community banks could move through Congress on a bipartisan basis and be signed by the Administration. The major barrier to moving something like this forward is the insistence on coupling it with deregulation of big financial institutions – as Senator Shelby's legislation does.